

CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT

THIS CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT (this "Mortgage") is made as of October 18, 1988 by H AND P INVESTMENTS, an Illinois general partnership ("Borrower"), with a mailing address at 222 South Morgan, Suite 1D, Chicago, Illinois 60607 to RIVER VALLEY SAVINGS BANK, ("Lender"), with a mailing address at 645 North Michigan Avenue, Suite 540, Chicago, Illinois 60611, and pertains to the real estate described in Exhibit "A" attached hereto and made a part hereof.

I

RECITALS

WHEREAS, Borrower and Lender have entered into that certain Revolving Credit Loan Agreement dated October 18, 1988 (the "Loan Agreement"); and

WHEREAS, pursuant to the terms of the Loan Agreement, Borrower has executed and delivered to Lender a Revolving Credit Note (the "Note") dated October 18, 1988 wherein Borrower promises to pay to the order of Lender the principal amount Five Hundred Thousand and No/100 Dollars (\$500,000.00) in repayment of a loan (the "Loan") from Lender to Borrower in like amount, or so much thereof as may now or hereafter be disbursed by Lender under the Note, together with interest thereon, in payments as set forth in the Note, the entire unpaid principal balance being due and payable on October 31, 1989; and

WHEREAS, as security for the repayment of the Loan, in addition to this Mortgage, certain other loan documents have been executed and delivered to Lender (the Loan Agreement, the Note, this Mortgage and all other documents which are executed and delivered as additional evidence of or security for repayment of the Loan, whether now or hereafter existing, are hereinafter collectively referred to as the "Loan Documents"); and

WHEREAS, as security for the repayment of the Loan in addition to the other Loan Documents, Lender has required Borrower to execute and deliver to Lender this Mortgage.

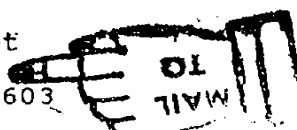
II

THE GRANT

NOW, THEREFORE, to secure (i) the payment of the principal amount of the Note and interest thereon and the performance of the agreements contained herein and in the other Loan Documents, (ii) the payment of any and all other indebtedness, direct or contingent, that may now or hereafter become owing from Borrower to Lender under the Loan Documents, and (iii) the performance of all other obligations under the Loan Documents, and in consideration of the matters recited hereinabove, Borrower hereby grants, bargains, sells, conveys and mortgages to Lender and its successors and assigns forever all of its estate, right, title and interest, whether now or hereafter acquired, in and to that certain real estate situated in the County of Cook, State of Illinois, as more particularly described in Exhibit "A" attached hereto and made a

This document prepared by, and after recording should be returned to:

Peter E. Manis, Esq.
Holleb & Coff
55 East Monroe Street
Suite 4100
Chicago, Illinois 60603



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Unit X

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part hereof (the "Premises"), together with the following described property (the Premises and the following described property being hereinafter referred to collectively as the "Mortgaged Property"), all of which other property is hereby pledged on a parity with the Premises and not secondarily:

(a) all buildings and other improvements of every kind and description now or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repair of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Mortgaged Property immediately upon the delivery thereof to the Premises; (b) all right, title and interest of Borrower, including any after-acquired title or reversion, in and to the beds of the ways, streets, avenues, sidewalks and alleys adjoining the Premises; (c) each and all of the tenements, hereditaments, easements, appurtenances, passages, riparian rights and any and all other rights, liberties and privileges of the Premises or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity, as well as any after-acquired title, franchise or license and the reversions and remainders thereof; (d) all rents, issues, deposits and profits accruing and to accrue from the Premises and the avails thereof; and (e) all fixtures, appliances and personal property now or hereafter owned by Borrower and attached to or contained in and used in connection with the Premises or the aforesaid improvements thereon, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same be attached to such improvements, it being agreed that all such property owned by Borrower and placed on the Premises or used in connection with the operation or maintenance thereof shall, so far as permitted by law, be deemed for the purpose of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage.

To have and to hold the same unto Lender and its successors and assigns forever, for the purposes and uses herein set forth.

Provided, however, that if and when Borrower has paid that portion of the principal amount of the Note attributable to the Mortgaged Property under the terms of the Loan Agreement, together with all interest thereon and any and all other amounts required under the Loan Documents, and has performed all of the agreements contained in the Loan Documents with respect to the Mortgaged Property, then this Mortgage shall be released at the cost of Borrower, but otherwise shall remain in full force and effect.

III

GENERAL AGREEMENTS

3.01 Principal and Interest. Borrower shall pay promptly when due the principal and interest on the indebtedness evidenced by the Note at the times and in the manner provided in the Note, this Mortgage, or any of the other Loan Documents.

3.02 Other Payments. Upon Lender's written request, Borrower shall deposit with Lender, in addition to the monthly payments required by the Note, monthly payments in an amount reasonably required by Lender to cover all real estate taxes and assessments ("taxes") due on the Mortgaged Property, as well as all insurance premiums that will become due and payable to renew the insurance as required in Paragraph 3.05 hereof, each installment to be in an amount such that the payment of approximately equal installments will result in the accumulation

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of sufficient sum of money to pay said taxes and premiums at least one (1) month prior to when due. All such payments described in this Paragraph 3.02 shall be held by Lender or a depository designated by Lender in trust, without any obligation arising for the payment of any interest thereon. If the funds so deposited are insufficient to pay all taxes and premiums as aforesaid when due, Borrower shall, within ten (10) days after receipt of demand therefor from Lender, deposit such additional funds as may be necessary to pay such taxes and premiums. If the funds so deposited exceed the amounts required to pay such items, the excess shall be applied on a subsequent deposit or deposits.

3.03 Property Taxes. Borrower shall pay immediately, when first due and owing, all general taxes, special taxes, special assessments, water charges, sewer charges, and any other charges that may be asserted against the Property or any part thereof or interest therein. Borrower may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that: (i) such contest shall have the effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of the Mortgaged Property or any part thereof or interest therein to satisfy the same, and (ii) Borrower has deposited with Lender a sum of money or other security acceptable to Lender sufficient, in Lender's sole judgment, to pay in full such contested tax and assessment and all penalties and interest that might become due thereon. In the event Borrower fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as hereinabove provided, Lender may, at its option, apply the monies and liquidate any securities deposited with Lender in payment of, or on account of, such taxes and assessments, including all penalties and interest thereon.

3.04 Payments by Lender. Lender is hereby authorized to make or advance, in the place and stead of Borrower, any payment relating to taxes, assessments, water and sewer charges, and other governmental charges, fines, impositions or liens that may be asserted against the Property or any part thereof, and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy or validity thereof. Lender is further authorized to make or advance, in the place and stead of Borrower, any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim, charge or payment, as well as take any and all actions which Lender deems necessary or appropriate on Borrower's behalf whenever, in Lender's sole discretion, such payments and/or actions seem necessary or desirable to protect the full security intended to be created by this Mortgage. All payments, costs and other expenses incurred by Lender pursuant to this Paragraph 3.04, including without limitation attorneys' fees and court costs, shall constitute additional indebtedness secured hereby and shall be repayable by Borrower upon demand with interest at the "Default Interest Rate" (as that term is defined in the Note).

3.05 Insurance.

(a) Hazard. (1) Borrower shall keep the improvements now existing or hereafter erected on the Mortgaged Property insured under a replacement cost form of insurance policy (without depreciation and without co-insurance) against loss or damage resulting from fire, windstorm and other hazards as may be required by Lender, and to pay promptly, when due, any premiums on such insurance. All such insurance shall be in form and of content and shall be carried in companies approved in writing by Lender, and all such policies and renewals thereof (or certificates evidencing the same), marked "paid," shall be delivered to Lender at least thirty

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(30) days before the expiration of then existing policies and shall have attached thereto standard noncontributing mortgagee clauses entitling Lender to collect any and all proceeds payable under such insurance, as well as standard waiver of subrogation endorsements. Borrower shall not carry any separate insurance on such improvements concurrent in kind or form with any insurance required hereunder or contributing in the event of loss, unless each such policy includes a standard noncontributing mortgagee clause entitling Lender to collect any and all proceeds thereunder, as well as a standard waiver of subrogation endorsement.

(ii) In case of loss, Lender (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized to either: (1) settle and adjust any claim under any insurance policies without the consent of Borrower, or (2) allow Borrower to agree with the insurance company or companies on the amount to be paid upon the loss, provided, however, that Lender shall not have the right to exercise the powers granted in this sentence unless there is then existing an event of default hereunder or there has been entered a decree of foreclosure. In either case Lender is authorized to collect and receipt for any such insurance money. In case of any such loss, if, in Lender's sole judgment and determination, either the improvements to the Premises cannot be restored or the funds collected from any such insurance settlements are insufficient to pay for the full restoration and repair of such damage, Lender shall have the right to collect any insurance proceeds and apply the same toward payment of the indebtedness secured hereby, after deducting all expenses and fees of collection. In the event the net insurance proceeds are insufficient to pay the then existing indebtedness secured hereby, together with all accrued interest, fees and charges, Lender may, at its sole election, declare the entire unpaid balance to be immediately due and payable.

In case of any loss after foreclosure proceedings have been instituted, all insurance proceeds shall, at Lender's option, be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same, or as the court may direct. In the event of foreclosure sale, Lender is hereby authorized, without the consent of Borrower, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Lender may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

(iii) In the event Lender is obligated or elects to apply such proceeds toward repairing, restoring and rebuilding such improvements, such proceeds shall be made available, from time to time, upon Lender's being furnished with satisfactory evidence of the estimated cost of such repairs, restoration and rebuilding and with such architect's and other certificates, waivers of lien, certificates, contractors' sworn statements and other evidence of the estimated cost thereof and of payments as Lender may reasonably require and approve, in accordance with plans and specifications for such repairs, restoration and rebuilding as Lender may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety (90%) percent of the value of the work performed from time to time, and at all times the undisbursed balance of such proceeds remaining in the hands of Lender shall be at least sufficient

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to pay for the cost of completion of the work, free and clear of any liens.

(b) Liability. Borrower shall carry and maintain such comprehensive public liability and workmen's compensation insurance as may be required from time to time by Lender in form and of content, in amounts and with companies approved in writing by Lender; provided, however, that the amounts of coverage shall not be less than Five Hundred Thousand and No/100 Dollars (\$500,000.00) single limit liability and that the policies shall name Lender as an additional insured party thereunder. Certificates of such insurance, premiums prepaid, shall be deposited with Lender and shall contain provision for thirty (30) days' notice to Lender prior to any cancellation thereof.

(c) Other Insurance. Upon Lender's written request, Borrower shall carry and maintain such other insurance coverage(s) as Lender may, in its sole discretion, deem necessary or appropriate in such amounts, with such companies and in such form as Lender deems satisfactory, all at Borrower's sole expense.

3.06 Condemnation and Eminent Domain. Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Mortgaged Property by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Mortgaged Property, any improvement located thereon or any easement thereon or appurtenance thereof are hereby assigned by Borrower to Lender, which awards Lender is hereby authorized to negotiate, collect and receive from the condemnation authorities, and Lender is hereby authorized to give appropriate receipts and acquittances therefor. At Lender's option, any such award may either be applied toward the indebtedness secured by this Mortgage or applied toward restoring the improvements, in which event the same shall be paid out in the same manner as is provided with respect to insurance proceeds in Paragraph 3.05(a) hereof.

3.07 Maintenance of Property. No building or other improvement on the Premises shall be altered, removed or demolished without the prior written consent of Lender. Borrower shall promptly repair, restore or rebuild any building or other improvement now or hereafter situated on the Premises that may become damaged or be destroyed. Any such building or other improvement shall be so repaired, restored or rebuilt so as to be of at least equal value and of substantially the same character as prior to such damage or destruction.

Borrower further agrees not to permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or any part thereof; to keep and maintain the Mortgaged Property and every part thereof in good repair and condition; to effect such repairs as Lender may reasonably require, and, from time to time, to make all necessary and proper replacements thereof and additions thereto so that the Premises and such buildings, other improvements, fixtures, chattels and articles of personal property will at all times be in good condition.

3.08 Compliance with Laws. Borrower shall comply with all statutes, ordinances, regulations, rules, orders, decrees and other requirements relating to the Mortgaged Property or any part thereof by any federal, state or local authority; and shall observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses and permits applicable to the Mortgaged Property.

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3.09 Liens and Transfers. Without Lender's prior written consent, Borrower shall not create, suffer or permit to be created or filed against the Mortgaged Property or any part thereof hereafter any mortgage lien or other lien, whether superior or inferior to the lien of this Mortgage, provided that Borrower may, within ten (10) days after the filing thereof, contest any lien claim arising from any work performed, material furnished or obligation incurred by Borrower upon furnishing Lender security and indemnification satisfactory to Lender for the final payment and discharge thereof. In the event Borrower hereafter creates, suffers or permits any superior or inferior lien to be attached to the Mortgaged Property or any part thereof without such consent, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance thereof and all interest accrued thereon to be immediately due and payable, without notice to Borrower.

If Borrower, without Lender's prior written consent, sells, transfers, conveys, assigns, pledges, hypothecates or otherwise disposes the title to all or any portion of the Mortgaged Property, whether by operation of law, voluntarily or otherwise, or any interest thereto, including without limitation any assignment (either collateral or outright) of all or any part of the beneficial interest of any trust holding legal title to the Premises, or enters into any agreement to do any of the foregoing, Lender shall have the unqualified right, at its option, to accelerate the maturity of the Note, causing the entire principal balance, accrued interest and prepayment premium, if any, to be immediately due and payable, without notice to Borrower. Without limiting the generality of the foregoing, any sale, conveyance, assignment or other transfer of all or any portion of the partnership interest of any partner of Borrower shall be deemed to be a transaction prohibited by the foregoing sentence.

3.10 Lender's Dealings with Transferee. In the event of the sale or transfer, by operation of law, voluntarily or otherwise, of all or any part of the Mortgaged Property, Lender shall be authorized and empowered to deal with the vendee or transferee with regard to the Mortgaged Property, the indebtedness secured hereby and any of the terms or conditions hereof as fully and to the same extent as it might with Borrower, without in any way releasing or discharging Borrower from its covenants hereunder, specifically including those contained in Paragraph 3.09 hereof.

3.11 Change in Tax Laws. In the event of the enactment, after the date of this Mortgage, of any law of Illinois deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon, or imposing upon Lender the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Borrower, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Borrower's interest in the Mortgaged Property, or in the manner of collection of taxes, so as to affect this mortgage or the indebtedness secured hereby or the holder thereof, then Borrower, upon demand by Lender, shall pay such taxes, assessments, charges or liens, or reimburse Lender therefor; provided, however, that if, in the opinion of counsel for Lender, it might be unlawful to require Borrower to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Lender may elect, by notice in writing given to Borrower, to declare all of the indebtedness secured hereby to become due and payable thirty (30) days after the giving of such notice.

3.12 Inspection of Property. Borrower shall permit Lender and its representatives and agents to inspect the Mortgaged Property from time to time during normal business hours.

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3.13 Inspection of Books and Records. Borrower shall keep and maintain full and correct books and records showing in detail the income and expenses of the Mortgaged Property and, upon reasonable notice shall permit Lender or its agents to examine such books and records and all supporting vouchers and data at any time and from time to time on request at its offices.

3.14 Certified Annual Operating Statements. Borrower shall furnish to Lender, within thirty (30) days after the close of each calendar quarter, a quarterly operating statement of income and expenses of the Mortgaged Property and of Borrower, signed and certified by Borrower. Such report shall contain such detail and embrace such items as Lender may reasonably require.

3.15 Other Amounts Secured; Maximum Indebtedness. This Mortgage secures the entire principal amount of the Loan and interest accrued thereon, regardless of whether any or all of the Loan proceeds are disbursed on or after the date hereof, and regardless of whether the Loan is repaid in part and future advances made at a later date, as well as any amounts owed to Lender pursuant to Paragraphs 3.04 and 3.05 hereof, any and all litigation and other expenses pursuant to Paragraphs 4.04 and 4.05 hereof and any other amounts as provided herein or in any of the other Loan Documents, all of which amounts shall be entitled to the same priority as if all such amounts were disbursed as of the date hereof. Under no circumstances, however, shall the total indebtedness secured by this Mortgage exceed the sum of three (3) times the original principal amount of the Note.

3.16 Security Instruments. Borrower shall execute, acknowledge and deliver to Lender, within ten (10) days after request by Lender, any and all security agreements, financing statements and any other similar security instruments required by Lender, in form and of content satisfactory to Lender, covering all property of any kind whatsoever owned by Borrower that, in the sole opinion of Lender, is essential to the operation of the Mortgaged Property and concerning which there may be any doubt whether title thereto has been conveyed, or a security interest therein perfected, by this Mortgage under the laws of the state in which the Premises are located. Borrower shall further execute, acknowledge and deliver any financing statement, affidavit, continuation statement, certificate or other document as Lender may request in order to perfect, preserve, maintain, continue and extend such security instruments, and shall pay all costs and expenses incurred by Lender in connection with the preparation, execution, recording, filing and refiling of any such document.

3.17 Releases. Lender, without notice and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens thereon, may release from the lien all or any part of the Mortgaged Property, or release from liability any person or entity obligated to repay any indebtedness secured hereby, without in any way affecting the liability of any party to any of the Note, this Mortgage or any of the other Loan Documents, including without limitation any guaranty given as additional security for the indebtedness secured hereby, and without in any way affecting the priority of the lien of this Mortgage, and may agree with any party liable therefor to extend the time for payment of any part or all of such indebtedness. Any such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the indebtedness secured hereby, but shall extend the lien hereof as against the title of all parties having any interest, subject to the indebtedness secured hereby, in the Mortgaged Property.

3.18 Interest Laws. It being the intention of Lender and Borrower to comply with the laws of the State of Illinois, it is

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agreed that notwithstanding any provision to the contrary in the Note, this Mortgage or any of the other Loan Documents, no such provision shall require the payment or permit the collection of any amount ("Excess Interest") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by the Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in the Note, this Mortgage or any of the other Loan Documents, then in such event: (a) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the then unpaid principal balance under the Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing; and (b) the "Interest Rate" (as that term is defined in the Note) shall be subject to automatic reduction to the maximum lawful contract rate allowed under the applicable usury laws of the aforesaid State, and the Note, this Mortgage, and the other Loan Documents shall be deemed to be automatically reformed and modified to reflect such reduction in the Interest Rate.

3.19 Utilities. Borrower will pay all utility charges incurred in connection with the Premises and all improvements thereon, and shall maintain all utility services now or hereafter available for use at the Premises.

3.20 Security Agreement. This Mortgage shall be deemed a Security Agreement as defined in the Illinois Commercial Code, and creates a security interest in favor of Lender in all property including all personal property, fixtures and goods affecting property either referred to or described herein or in anyway connected with the use or enjoyment of the Premises. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed herein or by general law or, as to such part of the security which is also reflected in any Financing Statement filed to perfect the security interest herein created, by the specific statutory consequences now or hereinafter enacted and specified in the Illinois Commercial Code, all at Lender's sole election. Borrower and Lender agree that the filing of such a Financing Statement in the records normally having to do with personal property shall not be construed as in any way derogating from or impairing the intention of the parties hereto that everything used in connection with the production of income from the Premises and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Lender, or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) the rights in or the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Borrower's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Mortgaged Property whether pursuant to lease or otherwise, shall never be construed as in anywise altering any of the rights of Lender under this Mortgage or impugning the priority of the Lender's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of the Lender in the event any court or judge shall at any time hold with respect to (1), (2) and (3) that notice of Lender's priority of interest to be effective against a particular class of persons, including, but not limited to, the

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Federal Government and any subdivisions or entity of the Federal Government, must be filed in the Commercial Code records.

IV

DEFAULTS AND REMEDIES

4.01 Events Constituting Defaults. Each of the following events shall constitute a default (a "Default") under this Mortgage:

(a) Failure of Borrower to pay any sum secured hereby, including without limitation any installment of principal thereof or interest thereon, within fifteen (15) days of the date such sum becomes due and payable under the Note, this Mortgage or any of the other Loan Documents;

(b) Failure of Borrower to comply with any of the requirements of Paragraph 3.09 hereof;

(c) Failure of Borrower to perform or observe any other covenant, warranty or other provision contained in this Mortgage for a period in excess of thirty (30) days after the date on which notice of the nature of such failure is given by Lender to Borrower by certified mail, return receipt requested;

(d) The occurrence of any event of default under the terms of any of the other Loan Documents;

(e) Untruth or material deceptiveness of any representation or warranty contained in any of the Note, this Mortgage, the other Loan Documents or any other document or writing pertaining to the Loan submitted to Lender by or on behalf of Borrower or any guarantors of payment of the Note (hereinafter referred to as the "Guarantors");

(f) Admission by Borrower or any of the Guarantors, in writing, including without limitation an answer or other pleading filed in any court, of Borrower's or any of the Guarantors' insolvency or their inability to pay their debts generally as they fall due;

(g) Institution by Borrower or any of the Guarantors of bankruptcy, insolvency, reorganization or arrangement proceedings of any kind under the Federal Bankruptcy Code, whether as now existing or as hereafter amended, or any similar debtors' or creditors' rights law, whether federal or state, now or hereafter existing, or the making by Borrower or any of the Guarantors of a general assignment for the benefit of creditors;

(h) Institution of any proceedings described in Paragraph 4.01(g) against Borrower or any of the Guarantors that are consented to by Borrower or said Guarantors, or are not dismissed, vacated, or stayed within thirty (30) days after the filing thereof;

(i) Appointment by any court of a receiver, trustee or liquidator of or for, or assumption by any court of jurisdiction of, all or any part of the Mortgaged Property or all or a major portion of the property of Borrower or any of the Guarantors, if such appointment or assumption is consented to by Borrower or any of the Guarantors or if, within thirty (30) days after such appointment or assumption, such receiver, trustee or liquidator is not discharged or such jurisdiction is not relinquished, vacated or stayed;

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(j) Declaration by any court or governmental agency of the bankruptcy or insolvency of Borrower or any of the Guarantors; or

(k) The death or adjudicated incompetency of Borrower or any of the Guarantors.

4.02 Acceleration of Maturity. At any time during the existence of any Default, at the option of Lender, the entire principal balance then outstanding under the Note, together with all unpaid interest accrued thereon and all other sums due from Borrower thereunder or under this Mortgage or any of the other Loan Documents, shall without notice become immediately due and payable with interest thereon at the Default Interest Rate.

4.03 Foreclosure of Mortgage. Upon the occurrence of any Default, or at any time thereafter, Lender may, at its option, proceed to foreclose the lien of this Mortgage by judicial proceedings in accordance with the laws of the State of Illinois.

4.04 Litigation Expenses. In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Lender under any of the Note, this Mortgage or any of the other Loan Documents, or in any other proceeding whatsoever in connection with any of the Loan Documents or any of the Mortgaged Property in which Lender is named as a party, there shall be allowed and included, as additional indebtedness in the judgment or decree resulting therefrom, all expenses paid or incurred in connection with such proceeding by or on behalf of Lender, including without limitation, attorney's fees, appraiser's fees, outlays for documentary evidence and expert advice, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and any similar data and assurances with respect to title to the Premises as Lender may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the Premises or the Mortgaged Property. All expenses of the foregoing nature, and such expenses as may be incurred in the protection of any of the Mortgaged Property and the maintenance of the lien of this Mortgage thereon, shall be immediately due and payable by Borrower with interest thereon at the Default Interest Rate.

4.05 Performance by Lender. In the event of any Default, or in the event any action or proceeding is instituted which materially affects, or threatens to materially affect, Lender's interest in the Premises, Lender may, but need not, make any payment or perform any act on Borrower's behalf in any form and manner deemed expedient by Lender, and Lender may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any; purchase, discharge, compromise or settle any tax lien or other prior or junior lien or title or claim thereof; redeem from any tax sale or forfeiture affecting the Mortgaged Property; or contest any tax or assessment thereon. All monies paid for any of the purposes authorized herein and all expenses paid or incurred in connection therewith, including without limitation attorneys' fees and court costs, and any other monies advanced by Lender to protect the Mortgaged Property and the lien of this Mortgage, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable by Borrower to Lender without notice and with interest thereon at the Default Interest Rate.

4.06 Right of Possession. In any case in which, under the provisions of this Mortgage or the other Loan Documents, Lender has a right to institute foreclosure proceedings, whether or not the entire principal sum secured hereby becomes immediately due

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and payable as aforesaid, or whether before or after the institution of proceedings to foreclose the lien hereof or before or after sale thereunder, Borrower shall, forthwith upon demand of Lender, surrender to Lender, and Lender shall be entitled to take actual possession of, the Mortgaged Property or any part thereof, personally or by its agent or attorneys, and Lender, in its discretion, may enter upon and take and maintain possession of all or any part of the Mortgaged Property, together with all documents, books and records of Borrower or the then owner of the Mortgaged Property relating thereto, and may exclude Borrower, such owner and any agents and servants thereof wholly therefrom and may, as attorney-in-fact or agent of Borrower or such owner, or in its own name as Lender and under the powers herein granted:

(a) hold, operate, manage and control all or any part of the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, whether legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits and avails of the Mortgaged Property, including without limitation actions for recovery of rent, actions in forcible detainer and actions in distress for rent, all without notice to Borrower;

(b) elect to disaffirm any lease or sublease of all or any part of the Mortgaged Property made subsequent to this Mortgage;

(c) extend or modify any then existing leases and make new leases of all or any part of the Mortgaged Property, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower, all persons whose interests in the Mortgaged Property are subject to the lien hereof and the purchaser or purchasers at any foreclosure sale notwithstanding any redemption from sale, discharge of the indebtedness secured hereby, satisfaction of any foreclosure decree or issuance of any certificate of sale or deed to any such purchaser; and

(d) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements in connection with the Mortgaged Property as may seem judicious to Lender, to insure and reinsure the Mortgaged Property and all risks incidental to Lender's possession, operation and management thereof, and to receive all rents, issues, deposits, profits and avails therefrom.

4.07 Priority of Payments. Any rents, issues, deposits, profits and avails of the Property received by Lender after taking possession of all or any part of the Mortgaged Property, or pursuant to any assignment thereof to Lender under the provisions of this Mortgage or any of the other Loan Documents, shall be applied in payment of or on account of the following, in such order as Lender or, in case of a receivership, as the court, may determine:

(a) operating expenses of the Mortgaged Property;

(b) taxes, special assessments, water and sewer charges now due or that may hereafter become due on the Mortgaged Property, or that may become a lien thereon prior to the lien of this Mortgage;

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(c) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Mortgaged Property (including without limitation the cost, from time to time, of installing or replacing appliances and other personal property therein, and of placing the Mortgaged Property in such condition as will, in the judgment of Lender or any receiver thereof, make it readily rentable or salable);

(d) any indebtedness secured by this Mortgage or any deficiency that may result from any foreclosure sale pursuant hereto; and

(e) any remaining funds to Borrower or its successors or assigns, as their interests and rights may appear.

4.08 Appointment of Receiver. Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage, the court may, upon application, either appoint Lender as "Mortgagee-in-Possession" or appoint a receiver of the Mortgaged Property (either appointee being hereinafter referred to in this paragraph as the "receiver"). Such appointment may be made either before or after foreclosure sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Mortgaged Property at such time and whether or not the same is then occupied as a homestead; and without bond being required of the applicant. Such receiver shall have the power to take possession, control and care of the Mortgaged Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the indebtedness secured by this Mortgage, and in the event of a sale and a deficiency where Borrower has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Borrower or its devisees, legatees, heirs, executors, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the whole of any such period.

4.09 Foreclosure Sale. In the event of any foreclosure sale of the Mortgaged Property, the same may be sold in one or more parcels. Lender may be the purchaser at any foreclosure sale of the Mortgaged Property or any part thereof.

4.10 Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Property, or any part thereof, shall be distributed and applied in the following order of priority: (a) on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Paragraphs 4.04 and 4.05 hereof; (b) all other items that, under the terms of this Mortgage, constitute secured indebtedness additional to that evidenced by the Note, with interest thereon at the Default Interest Rate; (c) all principal and interest remaining unpaid under the Note, in the order of priority specified by Lender in its sole discretion; and (d) the balance to Borrower or its successors or assigns, as their interests and rights may appear.

4.11 Application of Deposits. In the event of any Default, Lender may, at its option, without being required to do so, apply any monies or securities that constitute deposits made to or held by Lender or any depository pursuant to any of the provisions of this Mortgage toward payment of any of Borrower's obligations

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under the Note, this Mortgage or any of the other Loan Documents, in such order and manner as Lender may elect. Such deposits are hereby pledged as additional security for the prompt payment of the indebtedness evidenced by the Note and any other indebtedness secured hereby.

4.12 Waiver of Statutory Rights. Borrower shall not apply for or avail itself of any appraisal, valuation, redemption, stay, extension or exemption laws, or any so-called "moratorium laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower, for itself and all who may claim through or under it, hereby also waives any and all rights to have the Mortgaged Property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold in its entirety. BORROWER HEREBY FURTHER WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR DECREE OF FORECLOSURE OF THE LIEN HEREOF PURSUANT TO THE RIGHTS HEREIN GRANTED, FOR ITSELF AND ON BEHALF OF ANY TRUST ESTATE OF WHICH THE PREMISES ARE A PART, ALL PERSONS BENEFICIALLY INTERESTED THEREIN AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN THE MORTGAGED PROPERTY OR TITLE TO THE PREMISES SUBSEQUENT TO THE DATE OF THIS MORTGAGE, AND, IF THE MORTGAGED PROPERTY IS LOCATED IN ILLINOIS, ON BEHALF OF ALL OTHER PERSONS TO THE EXTENT PERMITTED BY THE PROVISIONS OF CHAPTER 77 OF THE ILLINOIS REVISED STATUTES.

4.13 Indemnification. Borrower will indemnify and hold Lender harmless from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation attorneys' fees and court costs) incurred by or asserted against Lender by reason of (a) the ownership of the Premises or any interest therein or receipt of any rents, issues, proceeds or profits therefrom; (b) any accident, injury to or death of persons, or loss of or damage to property occurring in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (c) any use, nonuse or condition in, on or about the Premises or any part thereof or on the adjoining sidewalks, curbs, adjacent parking areas or streets; (d) any failure on the part of Borrower to perform or comply with any of the terms of the Loan Agreement, this Mortgage or any of the other Loan Documents; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Premises or any part thereof. Any amounts owed to Lender by reason of this Paragraph 4.13 shall constitute additional indebtedness which is secured by this Mortgage and shall become immediately due and payable upon demand therefor, and shall bear interest at the Default Interest Rate from the date such loss or damage is sustained by Lender until paid. The obligations of Borrower under this Paragraph 4.13 shall survive any termination or satisfaction of this Mortgage.

v

CONSTRUCTION LOAN PROVISIONS

5.01 Construction Mortgage. This is a "Construction Loan Mortgage" within the purview and operation of the Uniform Commercial Code of the State of Illinois, as amended. The proceeds of the loan secured by this Mortgage shall be disbursed to or upon the direction of Borrower solely for the purpose of paying the cost of construction and/or rehabilitation of improvements upon the Premises and related costs (which may include the acquisition costs of the Premises), pursuant to and in accordance with the Loan Agreement. Accordingly, the lien created by this Mortgage shall be a first lien against all fixtures, equipment and

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other personal property of every kind incorporated as aforesaid, and such lien shall take precedence and be paramount and superior to any other lien, charge or security interest that any person may claim against such fixtures or personal property.

5.02 Construction Loan Agreement. The proceeds of the Loan are to be disbursed by Lender to Borrower in accordance with the provisions contained in the Loan Agreement. All advances and indebtedness arising and accruing under the Loan Agreement from time to time shall be secured hereby to the same extent as though the Loan Agreement were fully incorporated in this Mortgage, and the occurrence of any event of default under the Loan Agreement shall constitute a default under this Mortgage entitling Lender to all of the rights and remedies conferred upon Lender by the terms of this Mortgage or by law, as in the case of any other default. In connection with the Loan Agreement and the construction disbursements secured by the lien created by this Mortgage, Borrower hereby covenants and agrees as follows:

(a) That it or, in the event the Borrower is a trust, the beneficiary of such trust will comply or will cause compliance with each and all of the covenants of the Loan Agreement;

(b) That the provisions set forth in the Loan Agreement are incorporated herein by express reference, with the further proviso that a default by any party to the Loan Agreement other than Lender in any of the terms therein contained, after due notice given as therein required; shall be and constitute a default under this Mortgage; and in consequence thereof, Lender may declare the entire debt to be immediately due and payable, or pursue any right, remedy or recourse reserved herein or in the Loan Agreement for default or condition broken;

(c) That Borrower will cause the construction of improvements in accordance with the Loan Agreements; and

(d) That all sums advances or incurred or other obligations created for which Lender is liable under the Loan Agreement from time to time shall be secured hereby as if such advances, incurrences or obligations were made pursuant to the terms and conditions of this Mortgage.

VI

MISCELLANEOUS

6.01 Notices. Any notice that Lender or Borrower may desire or be required to give to the other shall be in writing and shall be mailed or delivered to the intended recipient thereof at its address hereinabove set forth or at such other address as such intended recipient may, from time to time, by notice in writing, designate to the sender pursuant hereto. Any such notice shall be deemed to have been delivered two (2) business days after mailing by United States registered or certified mail, return receipt requested, or when delivered in person. Except as otherwise specifically required, herein, notice of the exercise of any right or option granted to Lender by this Mortgage is not required to be given.

6.02 Time of Essence. It is specifically agreed that time is of the essence of this Mortgage.

6.03 Covenants Run with Land. All of the covenants of this Mortgage shall run with the land constituting the Premises.

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6.04 Governing Law. The place of negotiation, execution and delivery of this Mortgage, the location of the Mortgaged Property, and the place of payment and performance under the Loan Documents being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State. To the extent that this Mortgage may operate as a security agreement under the Uniform Commercial Code, Lender shall have all rights and remedies conferred therein for the benefit of a secured party, as such term is defined therein.

6.05 Rights and Remedies Cumulative. All rights and remedies set forth in this Mortgage are cumulative, and the holder of the Note and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby.

6.06 Severability. If any provision of this Mortgage or any paragraph, sentence, clause, phrase or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included herein.

6.07 Non-Waiver. Unless expressly provided in this Mortgage to the contrary, no consent or waiver, whether express or implied, by any interested party referred to herein to or of any breach or default by any other interested party referred to herein regarding the performance by such party of any obligations contained herein shall be deemed a consent to or waiver of the party of any obligations contained herein or shall be deemed a consent to or waiver of the performance by such party of any other obligations hereunder or the performance by any other interested party referred to herein of the same, or of any other obligations hereunder.

6.08 Headings. The headings of sections and paragraphs in this Mortgage are for convenience or reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

6.09 Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon borrower, its successors, assigns, legal representatives and all other persons or entities claiming under or through Borrower, and the word "Borrower," when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Note or this Mortgage. The word "Lender," when used herein, shall include Lender's successors, assigns and legal representatives, including all other holders, from time to time, of the Note.

6.10 No Joint Venture. Borrower and Lender acknowledge and agree that under no circumstances shall Lender be deemed to be a partner or joint venturer with Borrower or any beneficiary of Borrower, including without limitation by virtue of its becoming a mortgagee in possession or exercising any of its rights pursuant to this Mortgage or pursuant to any of the other Loan Documents, or otherwise.

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IN WITNESS WHEREOF, Borrower has executed this Mortgage as of the day and year first above written.

H AND P INVESTMENTS, an
Illinois general partnership

By: 

Michael Pickering
General Partner

By: 

Stuart Hartis
General Partner

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STATE OF ILLINOIS)
COUNTY OF COOK) SS

I, The Undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael Pickering and Stuart Harris, personally known to me to be the General Partners of H and P Investments, an Illinois general partnership, and the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such General Partners they have signed and delivered the said instrument pursuant to authority, as their free and voluntary act, and as the free and voluntary act and deed of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of October, 1988.

Theresa L. Crane
Notary Public

My Commission Expires:

3/18/90

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74499 TRIN 3281 10/31/88 15:19:00
#0300 * 88-560796
COOK COUNTY RECORDER

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28-1001

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EXHIBIT A

LEGAL DESCRIPTION

LOT 6 IN SCHNELL SUBDIVISION OF THE SOUTH 122.8 FEET OF THE EAST 319 FEET OF BLOCK 45 IN CANAL TRUSTEES SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address of Property: 216 West Menominee
Chicago, Illinois

Permanent Tax Identification Number: 14-33-408-014

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