

UNOFFICIAL COPY

8 9 5 8 5 6 0 6

909585606

89585606

REC-8 AM 11:21

COOK COUNTY, ILLINOIS

BOX 333

Property Tax Ind. Number: 11-18-300-011 11-18-300-012

Cynthia A. Bergmann, Esquire  
Burke, Wilson & McIlvaine  
500 West Madison Street, Suite 3700  
Chicago, Illinois 60606  
(312) 715-5000

This instrument prepared by (and return after recording to):  
1202-1210 Church Street  
Evanston Illinois 60201  
Street Address of Property:

THIS INSTRUMENT IS EFFECTIVE AND SHALL REMAIN EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES ON THE REAL ESTATE HEREIN DESCRIBED AND IS TO BE FILED FOR RECORD OR REGISTERED IN THE REAL ESTATE RECORDS OF COOK COUNTY, ILLINOIS. THE MAILING ADDRESS OF LENDER AND THE ADDRESS OF BORROWER ARE SET FORTH WITHIN. A PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS INSTRUMENT OR ANY FINANCING STATEMENT RELATING TO THIS INSTRUMENT SHALL BE SUFFICIENT AS A FINANCING STATEMENT.

**BORROWER:** FIRST ILLINOIS BANK OF EVANSTON, N.A., not personally but as Trustee under trust agreement dated October 27, 1989 and known as Trust Number R-3659  
**LENDER:** NBD BANK EVANSTON, N.A., a national banking association

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

89585606

72-37-101-D2-Q

3074

# UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

1	GRANTING CLAUSES	1
4	2.1 Title to Mortgaged Premises	4
4	2.2 Due Organization, Authority	4
4	2.3 Execution, Delivery and Effect of	4
4	Loan Documents	4
4	2.4 Other obligations	4
5	2.5 Compliance with Laws	5
6	2.6 Construction and Completion of Improvements	6
6	2.7 Independence of the Mortgaged Premises	6
6	3.1 Performance of Covenants in Loan Documents	6
7	3.2 Payment of Taxes and Tax Deposits	7
8	3.3 Insurance and Insurance Deposits	8
12	3.4 Maintenance, Repairs and Restoration; Compliance with Laws	12
13	3.5 Sale, Assignment, Further Encumbrance and other Liens and Charges	13
18	3.6 Impairment of Security	18
19	3.7 Lease Conditions and Assignment of Leases and Rents	19
21	3.8 Books and Records; Financial Statements	21
21	3.9 Management and Use of Premises; Licenses; Compliance with Laws; Prohibition of certain Liens	21
22	3.10 Taxes on Lender	22
23	3.11 Use of Loan Proceeds	23
23	3.12 Recorded Instruments	23
24	3.13 Indemnity; Payment of Charges	24
24	3.14 Restored Certificate	24
24	3.15 Additional Acts, etc.	24
25	3.16 Environmental Matters; Notice; Indemnity	25
26	3.17 Remedial Work	26
27	3.18 Definitions	27
28	4. CONDEMNATION AND EMINENT DOMAIN	28
29	5.1 Security Agreement	29
31	5.2 Financing Statement	31
	5. SECURITY AGREEMENT; FINANCING STATEMENT	

TABLE OF CONTENTS

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

# UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

Property of Cook County

43	9.1	LIMITATION ON LIABILITY	9.1	Limitation on Liability of Land Trustee
43	8.2	POSSESSION AND DEFASSANCE	8.2	Defassance
43	8.1	POSSESSION AND DEFASSANCE	8.1	Possession
42	7.13	GENERAL	7.13	Conflict
42	7.12	GENERAL	7.12	Headings
42	7.11	GENERAL	7.11	Subrogation
42	7.10	GENERAL	7.10	No Partnership
42	7.9	GENERAL	7.9	Severability
42	7.8	GENERAL	7.8	Applicable Law
41	7.7	GENERAL	7.7	No Merger
41	7.6	GENERAL	7.6	Successors and Assigns
41	7.5	GENERAL	7.5	Construction Loan
41	7.4	GENERAL	7.4	Releases
41	7.3	GENERAL	7.3	Definition of Terms
39	7.2	GENERAL	7.2	Notices
39	7.1	GENERAL	7.1	Modification
39	6.8	EVENTS OF DEFAULT; REMEDIES	6.8	Release and Waiver of Homestead and Right of Redemption
39	6.7	EVENTS OF DEFAULT; REMEDIES	6.7	Valuation and Appraisement
38	6.6	EVENTS OF DEFAULT; REMEDIES	6.6	Interest on Advances
37	6.5	EVENTS OF DEFAULT; REMEDIES	6.5	Lender's Exercise of Rights
37	6.4	EVENTS OF DEFAULT; REMEDIES	6.4	Foreclosure Sale Proceeds
36	6.3	EVENTS OF DEFAULT; REMEDIES	6.3	Fees and Expenses; Distribution of Sums Received by Lender
34	6.2	EVENTS OF DEFAULT; REMEDIES	6.2	Remedies
32	6.1	EVENTS OF DEFAULT; REMEDIES	6.1	Defaults

EXHIBIT A - LEGAL DESCRIPTION  
 EXHIBIT B - DESCRIPTION OF COLLATERAL  
 EXHIBIT C - LIST OF PERMITTED TITLE EXCEPTIONS

UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

Borrower hereby irrevocably and absolutely does by these presents grant, mortgage, convey, transfer, assign, bargain, and sell to Lender, its successors and assigns, with all powers of sale (if any) and all statutory rights under the laws of the State of

1. GRANTING CLAUSES.

NOW, THEREFORE, Borrower, to secure payment of the indebtedness secured hereby and the performance of the covenants and agreements herein contained to be performed by Borrower and for good and valuable consideration in hand paid, the receipt and sufficiency whereof are hereby acknowledged, hereby agrees and covenants that:

C. Lender is desirous of securing the prompt payment of the Note together with interest and prepayment fees, if any, thereon in accordance with the terms of the Note, and any additional indebtedness accruing to Lender on account of any future payments, advances or expenditures made by Lender pursuant to the Note or this Mortgage (all hereinafter sometimes collectively referred to as the "indebtedness secured hereby").

B. Borrower is the owner of record of the "Mortgage Premises" (as such term is hereafter declined).

A. Borrower has executed and delivered to Lender a PROMISSORY NOTE in the principal amount of ONE MILLION SIX HUNDRED SEVENTY THOUSAND DOLLARS (\$1,670,000.00) (which PROMISSORY NOTE, together with all notes issued and accepted in substitution or exchange therefor, and as any of the foregoing may from time to time be modified or extended, is hereinafter sometimes called the "Note"), which Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on May 15, 1991, the Note by this reference thereto being incorporated herein.

RECITALS:

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT, made as of the 7th day of December, 1989, by and between FIRST ILLINOIS BANK OF EVANSTON, N.A., not personally but as Trustee under trust agreement dated October 27, 1989 and known as Trust Number R-3659 ("Borrower"), whose mailing address is 800 Davis Street, Evanston, Illinois 60201, and NBD EVANSTON BANK, N.A., a national banking association, having its principal office and place of business at Orrington at Davis, Evanston, Illinois 60204-0552 ("Lender"),

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

EVANSTON

UNOFFICIAL COPY

Property of Cook County Clerk's Office



909585668

Illinois, all of borrower's present and hereafter acquired estate, right, title and interest in, to and under, and grants to lender a security interest in, the following:

(a) The real property described in EXHIBIT A attached hereto and incorporated herein by this reference, together with all buildings, structures and improvements now or hereafter erected thereupon and together with the fixtures and personal property hereinafter described (which real property, buildings, structures, improvements, fixtures and personal property is hereinafter sometimes referred to as "the mortgaged premises"); and

(b) All and singular the easements, rights-of-way, licenses, permits, rights of use or occupancy, privileges, tenements, appurtenances, hereditaments and other rights and privileges thereunto belonging or in any wise appertaining, whether now or in the future, and all the rents, issues and profits therefrom;

(c) All right, title and interest, if any, of borrower, in and to the land lying within any street, alley, avenue, roadway or right-of-way open or proposed or hereafter vacated in front of or adjoining said mortgaged premises; and all right, title and interest, if any, of borrower in and to any strips and gores adjoining said mortgaged premises;

(d) All machinery, apparatus, equipment, goods, systems, building materials, carpeting, furnishings, fixtures and property of every kind and nature whatsoever, now or hereafter located in or upon or affixed to the said mortgaged premises, or any part thereof, or used or usable in connection with any construction on owned or hereafter acquired by borrower, including, but without limitation of the generality of the foregoing: all items described in EXHIBIT B attached hereto and made a part hereof; all heating, lighting, refrigerating, ventilating, air-conditioning, air-cooling, fire extinguishing, plumbing, cleaning, communications and power equipment, systems and apparatus; and all elevators, switchboards, motors, pumps, screens, awnings, floor coverings, cabinets, partitions, conduits and compressors; and also including any of such property stored on said mortgaged premises or in warehouses and intended to be used in connection with or incorporated into said mortgaged premises; it being understood and agreed that all such machinery, equipment, apparatus, goods, systems, fixtures, and property are a part of the said mortgaged premises and are declared to be a portion of the security for the indebtedness secured hereby (whether in single units or centrally controlled, and whether physically attached to said real estate or not), excluding, however, personal property owned by tenants of the mortgaged premises; and

90958568

It is a condition of this Mortgage that the representations and covenants made in this Section 2 be true, correct and complete upon the execution and delivery of the Loan Documents, and Borrower hereby represents and covenants to Lender that:

2. REPRESENTATIONS AND COVENANTS.

(3) The due, prompt and complete performance of each and every covenant, condition and agreement contained in this Mortgage, the Note, that certain Loan Agreement or even date herewith by and between Borrower, the Beneficiaries (as hereinafter defined) and Lender (the "Loan Agreement") and every other agreement, document and instrument to which reference is expressly made in this Mortgage or which at any time evidences or secures the indebtedness evidenced by the Note or is required to be delivered to Lender in connection therewith (this Mortgage, the Note, the Loan Agreement and all such other instruments are hereinafter sometimes collectively referred to as the "Loan Documents").

(2) Payment of such additional sums with interest thereon which may hereafter be loaned to Borrower by Lender or advanced under the Loan Documents (hereinafter defined), even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note (provided, however, that the indebtedness secured hereby shall in no event exceed an amount equal to three hundred percent (300%) of the face amount of the Note); and

(1) Payment of the indebtedness secured hereby;

THIS MORTGAGE IS GIVEN TO SECURE:

TO HAVE AND TO HOLD the Mortgaged Premises with all rights, privileges and appurtenances thereunto belonging, and all rents, issues and profits therefrom, unto Lender, its successors and assigns, forever, for the uses and purposes herein expressed.

(e) Any and all awards, payments or insurance proceeds, including interest thereon, and the right to receive the same, which may be paid or payable with respect to the Mortgaged Premises as a result of (1) the exercise of the right of eminent domain, or (2) the alteration of the grade of any street, or (3) any fire, casualty, accident, damage or other injury to or decrease in the value of the Mortgaged Premises, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Lender, and of the reasonable counsel fees, costs and disbursements incurred by Lender in connection with the collection of such award or payment. Borrower agrees to execute and deliver, from time to time, such further instruments as may be requested by Lender to confirm such assignment to Lender of any such award or payment.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

2.1 Title to Mortgaged Premises. As of the date of delivery of this Mortgage, Borrower is well and lawfully seized of the Mortgaged Premises as a good and indefeasible estate in fee simple, free and clear of all liens, encumbrances, easements, covenants, conditions, and restrictions (including, with respect to the fixtures and personal property referred to herein, security interests, conditional sales contracts, title retention financing devices and anything of a similar nature except those made or entered into by a tenant of the Mortgaged Premises), subject, however, to the matters set forth in EXHIBIT C attached hereto, and has good and full power and lawful authority to grant, mortgage, convey and grant a security interest in the same in the manner herein provided; and that Borrower will make any further assurances of title that Lender may require and will defend the Mortgaged Premises against all claims and demands whatsoever.

2.2 Due Organization, Authority. Borrower is duly organized and validly existing and in good standing under the laws of the United States of America and has power and authority adequate to carry on its business as presently conducted, to own the Mortgaged Premises, to make and enter into the Loan Documents and to carry out the transactions contemplated therein.

2.3 Execution, Delivery and Effect of Loan Documents. The Loan Documents have each been duly authorized, executed and delivered by Borrower, and each is intended to be a legal, valid and binding obligation of Borrower, subject to the limitation on personal liability stated in Section 9 hereof, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and subject to the exercise of judicial discretion in accordance with general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

2.4 Other Obligations. The execution and performance of the Loan Documents and all agreements and covenants therein and the consummation of the transactions contemplated thereby will not result in any breach of, or constitute a default under, any contract, agreement, document or other instrument to which Borrower is a party or by which Borrower may be bound or affected, and do not and will not violate or contravene any law to which Borrower is subject; nor do any such instruments impose or contemplate any obligations which are or will be inconsistent with the Loan Documents. No approval by, authorization of, or filing with any federal, state or municipal or other governmental commission, board or agency or other governmental authority is necessary in connection with the authorization, execution and delivery of the Loan Documents.

# UNOFFICIAL COPY

8 9 5 8 5 6 0 6

5

90958568

- 2.5 Compliance with Laws.
- (a) The improvements to be constructed as a part of the Mortgaged Premises pursuant to the Loan Agreement (the "Improvements") and the use of the Mortgaged Premises as a townhouse development shall comply with all applicable laws and regulations, including without limitation environmental protection, health, OSHA, building and zoning laws and ordinances and set-back and parking requirements; and it shall constitute an Event of Default hereunder if the improvements forming part of the Mortgaged Premises or the use of the Mortgaged Premises are at any time determined not to be in compliance with all applicable laws and regulations, and such lack of compliance may cause such improvements to be vacated or demolished, or may result in the institution of proceedings for vacation or demolition of the improvements, or may otherwise, in Lender's reasonable judgment, adversely affect the value of Lender's security in the Mortgaged Premises.
- (b) Borrower has received no notice that the environmental or ecological condition of the Mortgaged Premises is in violation of any Environmental Law (as defined in Section 3.18 below); and Borrower, after making reasonable inquiry, has no knowledge of any such violation.
- (c) Borrower has received no notice that the soil, surface, water or ground water of or on the Mortgaged Premises are not free from any spill, release or discharge of any Hazardous Substance (as defined in Section 3.18 below), and Borrower, after making reasonable inquiry, has no knowledge of any such spill, release or discharge.
- (d) Borrower has not used, or permitted to be used, the Mortgaged Premises for the treatment, storage or disposal of any such Hazardous Substance (as defined in Section 3.18 below), nor in any other manner which could lead to the imposition on Borrower of liability under any Environmental Law, and Borrower, after making reasonable inquiry, has no knowledge of such use by any predecessor in interest or any other individual or entity.
- (e) To the best of Borrower's knowledge, there have been no releases at, upon, under, or within, nor past or ongoing migration from neighboring lands to the Mortgaged Premises of any Hazardous Substance.
- (f) No underground storage tank is located on the Mortgaged Premises.
- (g) To the best of Borrower's knowledge, there is no Hazardous Substance located on, at or within the Mortgaged Premises.

# UNOFFICIAL COPY

STATE OF ILLINOIS  
CLERK OF THE SUPREME COURT

CHIEF JUSTICE  
JUSTICE

CLERK OF THE SUPREME COURT  
CLERK OF THE APPELLATE COURT

CLERK OF THE CIRCUIT COURT  
CLERK OF THE COUNTY COURT

CLERK OF THE JUDICIAL ADMINISTRATION  
CLERK OF THE JUDICIAL TRAINING

CLERK OF THE JUDICIAL SERVICES  
CLERK OF THE JUDICIAL SUPPORT

CLERK OF THE JUDICIAL INFORMATION  
CLERK OF THE JUDICIAL RECORDS

CLERK OF THE JUDICIAL RELATIONS  
CLERK OF THE JUDICIAL OUTREACH

CLERK OF THE JUDICIAL COMMUNITY  
CLERK OF THE JUDICIAL PARTNERSHIP

CLERK OF THE JUDICIAL COOPERATION  
CLERK OF THE JUDICIAL COLLABORATION

CLERK OF THE JUDICIAL SUPPORT  
CLERK OF THE JUDICIAL SERVICES

CLERK OF THE JUDICIAL INFORMATION  
CLERK OF THE JUDICIAL RECORDS

CLERK OF THE JUDICIAL RELATIONS  
CLERK OF THE JUDICIAL OUTREACH

CLERK OF THE JUDICIAL COMMUNITY  
CLERK OF THE JUDICIAL PARTNERSHIP

CLERK OF THE JUDICIAL COOPERATION  
CLERK OF THE JUDICIAL COLLABORATION

Property of Cook County Clerk's Office

90958568

3.1 Performance of covenants in loan documents. Borrower shall fully perform, observe and comply with all agreements,

3. BORROWER'S COVENANTS OF PAYMENT AND OPERATION.

2.7 Independence of the Mortgaged Premises. Borrower has not by act or omission permitted any building or other improvements on property not covered by this mortgage to rely on the Mortgaged Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement for the existence and operation of such property, building or improvement; and no improvements on the Mortgaged Premises shall rely on any property not covered by this mortgage or any interest therein to fulfill any governmental or municipal requirement. Borrower has not by act or omission impaired the integrity of the Mortgaged Premises as single, separate, subdivided zoning lots, separate and apart from all other property.

2.6 Construction and Completion of Improvements. The improvements shall be completed and installed in a good and workmanlike manner in compliance with applicable laws and ordinances and with the plans and specifications therefor previously delivered to Lender, as may be amended from time to time as permitted under the Loan Documents. The improvements are served by electric, gas, sewer, water, telephone and other utilities required for the present and contemplated uses and operation thereof. Any and all streets and driveways necessary for access to the Mortgaged Premises, and other on-site and off-site improvements necessary for the present and contemplated uses and operation of the Mortgaged Premises and for service by utilities have been completed, are serviceable and have been accepted or approved by appropriate governmental bodies.

(2) A judgment by a court of competent jurisdiction of such non-compliance, if the effect of such judgment is not stayed within thirty (30) days by the commencement of an appropriate judicial appeal.

(1) Determination by any governmental authority of such non-compliance, if the effect of such determination is not stayed within thirty (30) days by the commencement of an appropriate administrative or judicial appeal; or

(f) For the purposes of this Section 2.5 and Section 3.16 below, any one or more of the following shall constitute a determination of non-compliance with an Environmental Law:

(h) Neither Borrower nor Beneficiaries have received notice of violation of any Environmental Law, nor have they, or any of them, committed, or, to the best of their knowledge, permitted, any activity in violation of the representations made in paragraphs (a) through (g) of this Section 2.5.

# UNOFFICIAL COPY

INVESTIGATION REPORT  
Case No. 123456789  
Date: 10/26/2023

Property of Cook County Clerk's Office

Page 1 of 1  
Cook County Clerk's Office  
10/26/2023



8958568

covenants, conditions and provisions hereof, of the Note and of the other Loan Documents, and shall duly and punctually pay to Lender the sums of money expressed in the Note, with interest thereon and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage and the other Loan Documents, all without any deduction or credit for taxes or other similar charges paid by Borrower.

3.2 Payment of Taxes and Tax Deposits.

(1) Payment of Taxes. Borrower shall pay or cause to be paid all taxes, assessments and other similar charges of whatever nature, ordinary and extraordinary, and to whomsoever assessed which are now or may hereafter be assessed or levied against the Mortgaged Premises or any portion thereof or interest therein or which become payable with respect thereto or with respect to the occupancy, use or possession thereof, before the same become delinquent; and shall deliver to Lender within thirty (30) days after the payment thereof receipts of the proper officers for such payment. In default thereof, Lender may, but shall not be obligated to, pay such taxes, assessments, and other similar charges, including any penalties or interest thereon (without inquiring into the validity or invalidity of such taxes, assessments or other similar charges and of which payment, amount and validity thereof, the receipt of the proper officer shall be conclusive evidence), and any amount so paid by Lender shall become immediately due and payable by Borrower with interest as described in Section 6.6 hereof until paid and shall be secured by this Mortgage. Borrower shall have the right to contest the amount or validity of any such tax, assessment or other similar charge by appropriate legal proceedings if: (i) the legal proceedings shall operate to prevent the collection of such taxes, assessment or other similar charge so contested and the sale of the Mortgaged Premises or any part thereof to satisfy the same, and (ii) Borrower (unless such taxes, assessment or other similar charge have been paid in full under protest) shall deposit with Lender or with the appropriate court or other governmental authority or title insurance company satisfactory to Lender an amount, with such subsequent additions thereto as may be necessary, sufficient in Lender's opinion to pay such taxes, assessment or other similar charge, together with all estimated interest and penalties in connection therewith, and all charges that may be assessed in said legal proceedings against, or may become a charge on, the Mortgaged Premises.

(2) Tax Escrow Payments. Lender shall not initially require Borrower to establish a Tax Escrow pursuant to this Section 3.2(2). At any time prior to the fulfillment of all of Borrower's and Beneficiaries' duties and obligations under the Note and the Loan Documents Lender may request the

(a) "All-Risk" and "Builder's Risk" casualty insurance policies insuring the buildings, structures, improvements and fixtures now existing or hereafter constructed upon the Mortgaged Premises against all loss or damage occasioned by casualties which, under good insurance practice, are commonly insured against for buildings, structures, and improvements of like character in Cook County, Illinois. The amount of such

(1) Required Coverage. Borrower shall procure, deliver to, and maintain for the benefit of Lender as an additional insured to the extent of the balance of the indebtedness secured hereby during the continuance of this Mortgage and until the same is fully satisfied and released, the following insurance policies:

3.3 Insurance and Insurance Deposits.

establishment of a Tax Escrow pursuant to this Paragraph 3.2(2) and, upon receipt of Lender's written request, Borrower shall thereafter pay to Lender, concurrently with and in addition to each monthly installment payable on the Note, such amount as Lender from time to time estimates will be required to maintain thereafter a balance from which to pay taxes, assessments and other governmental liens or charges against the Mortgaged Premises at least thirty (30) days prior to the date on which the same become delinquent or past due. Borrower shall procure and deliver to Lender in advance statements for such charges. Payments for such purposes may be made by Lender at its discretion, even though subsequent owners of the Mortgaged Premises may benefit thereby. Lender shall not be a trustee of such funds, and such funds received pursuant to the foregoing may be commingled with the general funds of Lender, and no interest shall be payable in respect thereof. Upon demand by Lender, Borrower shall deliver and pay over to Lender from time to time such additional sums or such additional security as are necessary to make up any deficiency in the amount necessary to enable Lender to fully pay any of the items hereinabove mentioned as they become payable. If any event of Default (as hereinafter defined) occurs under the terms of this Mortgage, any part or all of the balance of said amounts received by Lender pursuant to the foregoing may be applied to any part of the indebtedness secured hereby in the discretion of Lender and in refunding any part of said amounts Lender may deal with whomsoever is represented to be the owner of the Mortgaged Premises at that time. The obligations of Borrower pursuant to covenants contained in this Mortgage relating to taxes and assessments shall not be affected by this Subsection 3.3(1) or payments made pursuant hereto, except to the extent that said obligations have actually been satisfied by compliance with this subparagraph.

90958566

90958568

Insurance shall be not less than one hundred percent (100%) of the full replacement cost of such buildings, structures and improvements, without deduction for depreciation, as reasonably determined by Lender from time to time.

(b) Insurance covering pressure vessels, pressure piping and machinery, if any, and all major components of any centralized heating or air-conditioning systems located in the buildings and improvements forming part of the mortgaged premises, in an amount reasonably satisfactory to Lender, such policies also to insure against physical damage to such buildings and improvements arising out of a peril covered thereunder;

(c) Insurance on the items of tangible property described in Section 5 heretofore and in EXHIBIT B attached hereto and any replacements and substitutions therefor ("hereinafter sometimes collectively referred to as "the Equipment") against loss or damage by fire and other hazards presently included in so-called "extended coverage" policies and against vandalism and malicious mischief in an amount reasonably satisfactory to Lender, but in any event in such amount as is necessary to preclude the borrower from being a co-insurer;

(d) Comprehensive general public liability and property damage coverage with a broad form coverage endorsement in such amounts and with such companies as are reasonably satisfactory to Lender;

(e) Flood insurance, in the event the mortgaged premises are located in a Federally-designated Special Flood Hazard Area; and

(f) Such other insurance on the mortgaged premises, the buildings and improvements forming a part thereof and the equipment (and any replacements or substitutions therefor) and in such amounts as may from time to time be reasonably required by the Lender against other insurable hazards and perils which at the time are commonly insured against for buildings, structures, improvements and equipment of like character in Cook County, Illinois, due regard being given to the height and type of the buildings and improvements, and their construction, location, use and occupancy.

(2) Form of Policies. All policies of insurance required hereunder shall be in such form, issued by such companies, and in such amounts as may be reasonably acceptable to Lender, shall be kept on deposit with Lender,

89585606

(3) Application of Loss Proceeds. In the event of any loss or damage to any part of the mortgaged premises, Borrower shall give prompt notice thereof to Lender, and Lender may make proof of such loss or damage if the same is not promptly made by Borrower or if the Lender deems it desirable to do so. In the event of such loss or damage where the cost of repair or replacement exceeds \$25,000: (1) all proceeds of insurance shall be payable to Lender to the extent of the full amount of the remaining unpaid indebtedness secured hereby; (2) any affected insurance company is authorized and directed to make payment thereof directly to Lender to the extent of the full amount of the then remaining unpaid indebtedness secured hereby; and (3) Lender is authorized and empowered to settle, adjust or compromise any claims for loss, damage, or destruction under any policy or policies of insurance. Borrower agrees to execute, upon demand by Lender, all receipts, vouchers, releases and other instruments which may be necessary or desirable in aid of the aforementioned authorizations. All such insurance proceeds may, at the sole discretion of

and shall contain a non-contributory standard mortgagee clause acceptable to Lender, with loss payable to Lender, a lender's loss payable endorsement, a waiver of subrogation endorsement, and replacement cost and agreed amount endorsements or equivalent clauses or endorsements reasonably acceptable to Lender, and shall further provide that such insurance coverage may not be changed or cancelled without at least thirty (30) days' prior written notice to Lender. Borrower shall promptly pay when due any premiums on any policy or policies of insurance required hereunder, and will deliver to Lender renewals of such policy or policies at least fifteen (15) days prior to the expiration dates thereof, said policies and renewals or invoices therefor to be marked "paid" by the issuing company or agent. Upon Borrower's failure to comply with the requirements of this Section 3.3, Lender may, in its discretion, procure any insurance required hereunder in the amounts required pursuant to the terms and provisions of this Mortgage and pay the premiums due therefor, and any amounts so paid by Lender shall become immediately due and payable by Borrower with interest as described in Section 6.6 hereof, and shall be secured by this Mortgage. The delivery to Lender of any policy of insurance hereunder or renewals thereof shall constitute an assignment to Lender of all unearned premiums thereon as further security for the payment of the indebtedness secured hereby. If any foreclosure action or other proceeding hereunder is successfully maintained by Lender, all right, title, and interest of Borrower in or to any policy or policies of insurance then in force shall vest in Lender insofar as such policy or policies apply to the mortgaged premises.

Lender, be: (a) applied to the restoration, repair, replacement or rebuilding of the Mortgaged Premises; or (b) applied to the payment of the last maturing installment or installments of the indebtedness secured hereby (whether or not then due and payable); or (c) paid over to the Borrower, on such terms and conditions as the Lender in its discretion may specify, to be used to repair the buildings, structures, improvements or Equipment, or to build or install new ones in their place, or for any other purpose or object satisfactory to the Lender, without affecting the lien of or the priority of the lien of this Mortgage for the full amount of the indebtedness secured hereby before such payment took place. The Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure. If Lender elects or is required to make such insurance proceeds available for repair, restoration or rebuilding of the Mortgaged Premises, any portion of such proceeds not needed or used in such repair, restoration, rebuilding or building shall be applied to the payment of the indebtedness secured hereby, as provided above. In the event of such loss or damage where the cost of repair or replacement is equal to or less than \$25,000 and provided that neither Borrower nor Beneficiaries are in default under the Note, this Mortgage or any of the Loan Documents, Lender shall permit Borrower to settle or adjust any claim, to receive the proceeds of insurance and to apply such funds to the restoration, repair or rebuilding of the Mortgaged Premises.

(4) Insurance Escrow Payments. Lender shall not initially require Borrower to establish an Insurance Escrow pursuant to this Section 3.3(4). At any time prior to the fulfillment of all of Borrower's and Beneficiaries' duties and obligations under the Note, this Mortgage and all of the Loan Documents Lender may request the establishment of an Insurance Escrow pursuant to this paragraph 3.3(4) and, upon receipt of Lender's written request, Borrower shall thereafter pay to Lender, on dates on which interest under the Note is payable, such amounts as Lender from time to time estimates to be necessary to create and maintain a reserve fund from which to pay premiums as the same become due, for insurance as herein covenanted to be furnished by Borrower. Borrower shall procure and deliver to Lender in advance statements for such charges. Payments for such purposes may be made by the Lender at its discretion, even though subsequent owners of the Mortgaged Premises may benefit thereby. Lender shall not be a trustee of such funds, and such funds received pursuant to the foregoing may be commingled with the general funds of Lender, and no interest shall be payable in respect thereof. If any event of default occurs under the terms of this Mortgage, any part or all of the balance of said amounts received by Lender pursuant to

(1) Maintenance and Repair. Borrower shall keep and maintain the Mortgaged Premises in good order, condition and repair and will make, regardless of the sufficiency of insurance proceeds, as and when the same shall become necessary, all structural and non-structural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen repairs, restorations and maintenance, including any replacements, necessary or appropriate including, without limitation, repairs or destruction caused by fire or other casualty or as the result of any taking under the power of eminent domain. Borrower shall give Lender prompt written notice of any damage or destruction to the Mortgaged Premises caused by fire or other casualty. Borrower will suffer or commit no waste to the Mortgaged Premises or any portion thereof. All repairs and maintenance required of Borrower must satisfy Lender as being of first-class quality and shall in all respects be in compliance with all matters and things provided in Subsection 3.4(2) below; and with respect to any such proposed action, Borrower shall comply with all requirements which may reasonably be imposed by Lender, including, without limitation, the furnishing of additional title insurance against liens, architectural inspections and certificates, and the furnishing of security guaranteeing the completion of all such work. Borrower shall not cause, suffer or permit the construction of any building, structure or improvement on the Mortgaged Premises without the prior written consent of the Lender to the proposed action as well as to the plans and specifications relating thereto. None of the buildings, structures or capital improvements now or hereafter erected or located on the Mortgaged Premises shall be removed, demolished or substantially altered in any respect, without the prior written consent of Lender. Borrower shall, however, have the right, at any time and from time to time, to remove and dispose of any equipment or appliance which may have become obsolete or unfit for use or which is no longer useful in the operation of said Mortgaged Premises, provided Borrower promptly replaces any such equipment or appliance

3.4 Maintenance, Repairs and Restoration: Compliance with this Subsection.  
 this Subsection 3.3(4) may be applied to any part of the indebtedness secured hereby in the discretion of Lender and in refunding any part of said amounts Lender may deal with however is represented to be the owner of the Mortgaged Premises at that time. The obligations of Borrower pursuant to covenants contained in this Mortgage relating to insurance shall not be affected by this Subsection 3.3(4) or payments made pursuant hereto, except to the extent that said obligations have actually been satisfied by compliance with this Subsection.

Laws.

90958568

90958568

(1) Borrower. Borrower covenants and represents that, as of the date hereof, the sole beneficiaries of Borrower, with sole and complete power of direction over Borrower, are Walter H. Kim, Jr. and George J. Cyrus, Jr. (herein referred to as "Beneficiaries"). Borrower has been appropriately directed to, and Borrower shall, give immediate written notice to Lender of the receipt by Borrower of any directions to convey, assign or transfer any legal or beneficial interest in the Mortgaged Premises or in Borrower to any third party, or of any conveyance, assignment or transfer by operation of law of any legal or beneficial interest in the Mortgaged Premises or in Borrower, or of any contract, lease,

3.5 Sale, Assignment, Further Encumbrance and Other Liens and Charges.

Borrower will not initiate or acquiesce in any zoning variation or reclassification of the Mortgaged Premises or any part thereof without Lender's prior written consent.

(2) Compliance with Laws. Borrower shall promptly comply or cause compliance with all covenants and restrictions affecting the Mortgaged Premises and with all present and future laws, ordinances, rules, regulations and other requirements, including, without limitation, pollution control and environmental protection laws and regulations of governmental authorities with respect to the Mortgaged Premises and each portion thereof and with respect to the use or occupation thereof. Borrower shall have the right to contest the validity or application of any such laws, ordinances, rules, regulations and other requirements by appropriate legal proceedings, so long as: (i) such legal proceedings shall be prosecuted with diligence by Borrower and shall operate to prevent the taking of the Mortgaged Premises by any governmental authority, and (ii) Borrower shall have deposited with the Lender an amount, with such subsequent additions thereto as may reasonably be deemed necessary by Lender, sufficient in Lender's opinion to pay any fines, penalties, charges and interest thereon which in Lender's opinion may be awarded or assessed and which may become a charge or lien upon the Mortgaged Premises or which may in any way have or take priority with or priority over the lien of this Mortgage.

so removed or disposed of with other equipment and appliances, or at least equal usefulness and quality, subject to the lien and security interest of this Mortgage and free of superior or pari passu title, security interest, liens or claims. Lender and any person authorized by Lender shall have the right, but not the obligation, to enter upon and inspect the Mortgaged Premises at all reasonable times.

UNOFFICIAL COPY

Property of Cook County Clerk's Office



(v) If Lender approves any such sale, assignment or transfer, no buyer, assignee or transferee shall have any further right to sell, assign or transfer any interest as described above without first obtaining Lender's prior written consent and satisfying the provisions of (1) through (iv) above of this Subsection 3.5(2).

(iv) The provisions of Subsection 3.5(5) hereof shall be applicable with respect to any such sale, assignment or transfer; and

(iii) Whether Lender consents to any proposed sale, assignment or transfer or not, Borrower shall reimburse Lender for all of Lender's out-of-pocket expenses for legal fees and other costs which Lender may incur with respect to such transfer, conveyance or assignment;

(ii) If Lender gives its consent to any such sale, assignment or transfer, such buyer, assignee or transferee shall agree to perform all obligations hereunder of his or its seller, assignor or transferor, and this mortgage shall be amended to evidence such transfer or assignment and such agreement by the buyer, assignee or transferee;

(1) Lender's right to consent or not to consent to such sale, assignment or transfer shall be in Lender's sole and unfettered discretion;

In connection with Lender giving its consent to any sale, assignment or other transfer referred to above, Borrower agrees that:

(2) Prohibition on Transfer of Ownership and Beneficial Interests. Unless specifically permitted pursuant to the terms and conditions of Section 3.5(3) below, Lender, at its option, shall have the unqualified right to accelerate the maturity of the Note causing the full principal balance and accrued interest under the Note to be immediately due and payable without notice to Borrower, if (a) Borrower shall, without the prior written consent of Lender, sell, contract to sell (on an installment basis or otherwise), transfer, convey, or assign the legal title to all or any portion of the mortgaged premises, whether by operation of law, voluntarily or otherwise; or (b) Beneficiaries shall, without the prior written consent of Lender, sell, contract to sell, on an installment basis, transfer, convey or assign the beneficial interest, or any part thereof, in Borrower (including a collateral assignment thereof), whether by operation of law, voluntarily or otherwise.

option or mortgage to accomplish such conveyance, assignment or transfer.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

89585606

(4) Prohibition on Further Encumbrances. Borrower covenants and agrees that this Mortgage is and will be maintained as a valid first lien on the Mortgaged Premises, and that Borrower will not, without the prior written consent of Lender, directly or indirectly, create, suffer or permit to be created or filed against the Mortgaged Premises, or any portion thereof, or against the rents, issues and profits

The term "Release Sum" as used in this Section 3.5(3) means ninety percent (90%) of the proceeds of sale for each Unit defined as the amount of gross consideration payable to the Borrower for said Unit.

The term "Unit" or "Units" as used in this Section 3.5(3) means a part of the Mortgaged Premises designated as a Unit on the Declaration of Covenants, Conditions and Restrictions approved by Lender.

Lender shall release each Unit of the Mortgaged Premises from the lien of this Mortgage upon (1) the closing of the sale of such Unit and (2) delivery to Lender of the Release Sum for such Unit, except that in the event Borrower is then in default hereunder, or under the Note secured hereby, all proceeds otherwise due and payable to Borrower from any such sale shall, at the election of Lender, by applied to the indebtedness outstanding hereunder.

Borrower agrees that each such sale of a Unit or Units shall be made under a standard form of sales contract. Such sales contract shall contain, among other things, a requirement that all earnest money deposits be kept in a segregated escrow account with Lender. The minimum gross sales price for each Unit shall be \$445,000.00. Borrower shall not suffer or permit the seller under any such executed sales contract to fail to comply with or to default in its obligations hereunder, and Borrower shall use its best efforts to ensure that any buyer under any such executed sale contract complies with and does not default in its obligations thereunder.

(3) Permitted Transfers of Ownership. So long as Borrower is not in default under the terms of this Mortgage, the Loan Agreement and the Note secured hereby, Borrower may, without the prior written consent of Lender, sell a Unit or Units (as hereinafter defined) to any third party not affiliated with Borrower and upon the closing of the sale of a Unit or Units Borrower shall promptly pay to Lender the Release Sum (as hereinafter defined) to be applied by Lender as a prepayment to the reduction of the unpaid principal sum evidenced by the Note and secured by this Mortgage in accordance with the prepayment provisions of the Note.

90958568

therefrom, any mortgage lien, security interest, or other lien or encumbrance superior or inferior to the lien of this mortgage, except the lien of current general taxes duly levied and assessed but not yet due and payable and the lien of that certain mortgage, security agreement and financing statement dated December 1, 1988 made by George J. Cyrus, Jr. in favor of First Illinois Bank of Evanston, N.A., which mortgage is and shall remain at all times junior and inferior to the lien of this mortgage. In the event borrower shall suffer or permit, without the prior written consent of Lender, any superior or junior lien to be attached to the mortgaged premises other than the aforementioned lien in favor of First Illinois Bank of Evanston, N.A., the Lender, at its option, has the unqualified right to accelerate the maturity of the Note causing the full principal balance and accrued interest to be immediately due and payable without notice to Borrower, together with a prepayment premium as provided in the Note.

(5) Increase in Interest Rate as Condition of Consent. In connection with Lender giving its consent to any sale or transfer of the mortgaged premises [other than as permitted under Subsection 3.5(3)] or to a junior lien or encumbrance, Borrower agrees that Lender shall have the right and option to increase the interest rate called for in the Note to a rate not in excess of the rate then being offered by Lender on mortgage loans secured by real property similar to the mortgaged premises and to increase the amount of the monthly installment payments required to be made pursuant to the terms and provisions of the Note.

(6) Consent Not a Waiver. Any consent by Lender, or any waiver by Lender of an event of default as provided in Subsections 3.5(2), 3.5(3) or 3.5(4) hereof, shall not constitute a consent to, or a waiver of any right, power, privilege, option or remedy of the Lender upon, a subsequent event of default under Subsections 3.5(2), 3.5(3) or 3.5(4).

(7) Mechanics Liens; Utility Charges. Borrower shall keep and maintain the mortgaged premises free from all liens and encumbrances, whether claimed by operation of law or by virtue of any expressed or implied contract, of persons supplying labor or materials, or both of them, entering into the construction, modification, repair, restoration or maintenance of the mortgaged premises or any portion thereof. If any such liens shall be filed against the mortgaged premises, Borrower agrees to discharge the same of record within thirty (30) days after Borrower has notice thereof, provided, however, Borrower shall have the right, at Borrower's sole expense, to contest the validity of any such liens asserted by persons allegedly supplying such labor and materials by appropriate legal proceedings so long as: (1)

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(9) Reasonableness of Provisions. With respect to the provisions of Subsections 3.5(2), 3.5(3), 3.5(4) and 3.5(5), Borrower acknowledges that, in determining whether to make the loan secured hereby, Lender has examined the credit-worthiness of Borrower, found it acceptable and relied and continues to rely upon same as the means of repaying the loan. Lender also evaluated the background and experience of Borrower in owning and operating property such as the mortgaged premises, found them acceptable and relied and continues to rely upon same as the means of maintaining the value of the mortgaged premises which is Lender's security for the loan. Beneficiaries are well-experienced in borrowing money and owning and operating property such as the mortgaged premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and provisions of the loan, including this provision. Borrower recognizes that

(8) Legal Proceedings. If any civil action or proceeding shall be instituted to evict Borrower or recover possession of the mortgaged premises or any part thereof or for any other purposes affecting the mortgaged premises or this mortgage, Borrower will, promptly upon service thereof on or by Borrower, deliver to Lender a true copy of each petition, summons, complaint, notice of motion, order to show cause and all other process, pleadings and papers, however designated, served in any such civil action or proceeding.

such legal proceedings shall be diligently prosecuted and shall operate to prevent the collection of such liens so contested and the sale of the mortgaged premises or any part thereof to satisfy the same; and (11) Borrower shall deposit an amount reasonably satisfactory to Lender, to be held by Lender without the payment of interest or to be held by an appropriate court or other governmental authority or title insurance company reasonably satisfactory to Lender, in any case until such contested liens are removed of record or are satisfied. Borrower shall pay promptly, when due, all charges for utilities or services, including without limitation any charges for electricity, gas, water and sewer, and all license fees, rents and other charges for the use of vaults, canopies or other appurtenances to the mortgaged premises. If Borrower fails to pay promptly all such charges described above, Lender may, but shall not be obligated to, pay same and any amounts so paid by Lender shall become immediately due and payable by Borrower with interest as described in Section 6.6 hereof and shall be secured by this mortgage. Borrower agrees that Lender is under no obligation to inquire into or establish the validity of any liens or claims of lien or interest before making advances to satisfy or settle all or any part of said claims.

90958568

Lender shall have the power (but not the obligation) to: (1) Institute, become a party to, and maintain such civil actions and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Premises by any acts which may be unlawful or in violation of this Mortgage; (11) preserve and protect its interest in the Mortgaged Premises and in the rents, issues, profits and

(2) Lender shall have the power (but not the obligation) to: (1) Institute, become a party to, and maintain such civil actions and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Premises by any acts which may be unlawful or in violation of this Mortgage; (11) preserve and protect its interest in the Mortgaged Premises and in the rents, issues, profits and income or hereof, assign, in whole or in part, the rents, income or profits arising from the Mortgaged Premises without the prior written consent of Lender; any such assignment made without Lender's prior written consent shall be null and void and of no force and effect, and the making thereof shall at the option of Lender constitute an Event of Default under this Mortgage. Without limitation of the foregoing, Borrower will not without the prior written consent of Lender in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby, it being understood that any such impairment shall at the option of Lender also constitute an Event of Default hereunder.

3.6 Impairment of Security.

(1) Without limitation of any other provisions hereof, Borrower shall not, except in connection with the lien hereof, assign, in whole or in part, the rents, income or profits arising from the Mortgaged Premises without the prior written consent of Lender; any such assignment made without Lender's prior written consent shall be null and void and of no force and effect, and the making thereof shall at the option of Lender constitute an Event of Default under this Mortgage. Without limitation of the foregoing, Borrower will not without the prior written consent of Lender in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby, it being understood that any such impairment shall at the option of Lender also constitute an Event of Default hereunder.

Lender is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate of a loan, the security for which is purchased by a party other than the original Borrower. Borrower and Beneficiaries further recognize that any secondary or junior financing placed upon the Mortgaged Premises (1) may divert funds which would otherwise be used to pay the Note, (2) could result in acceleration and foreclosure by any such junior lender which would force Lender to take measures and incur expenses to protect its security, (3) would detract from the value of the Mortgaged Premises should Lender come into possession thereof with the intention of selling same, and (4) would impair Lender's right to accept a deed in lieu of foreclosure, as a foreclosure by Lender would be necessary to clear title to the Mortgaged Premises.

90958568

UNOFFICIAL COPY

Property of Cook County Clerk's Office



90958568

(4) In order to further secure payment of the Note and the observance and performance of Borrower's obligations

(3) Borrower will not, and no beneficiary of Borrower will, without the prior written consent of Lender, enter into any new lease or lease renewal of all or any part of the said mortgaged premises, and all such leases shall be upon a form of lease approved by Lender.

(2) Borrower will, upon request from Lender from time to time: (1) furnish to Lender a statement in such reasonable detail as Lender may request, certified by Borrower, of all leases and subleases relating to the mortgaged premises; and (ii) furnish to Lender the original or duplicate original executed counterparts of any and all such leases and subleases.

(1) Borrower shall observe and perform all covenants, conditions, and agreements in any lease now or hereafter affecting the mortgaged premises, or any portion thereof, on the part of Borrower to be observed and performed. If Borrower shall default in the performance of any of the terms, covenants, conditions or obligations imposed upon Borrower by any such lease and such default would give the lessee the right to terminate or cancel said lease or make monetary advances and offset the same against future rentals, and such right in the lease to terminate or cancel or to make monetary advances or to offset against future rentals would, in Lender's reasonable judgment, materially affect the value of Lender's security, then, at the option of Lender: (1) the whole of the indebtedness secured hereby, including all advances and payments by Lender hereunder, shall become immediately due and payable and collectible by foreclosure or otherwise without notice or demand; and (2) Lender may take such action as Lender deems necessary or advisable to cure such default of Borrower.

3.7 Lease Conditions and Assignment of Leases and Rents.

revenues arising therefrom; and (iii) restrain the enforcement of or compliance with any legislative or other governmental enactment, regulation, rule, order or other requirement that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, regulation, rule, order or other requirement would impair the security hereunder or be prejudicial to the interest of the Lender, and all reasonable costs and expenses incurred by the Lender in connection therewith (including, without limitation, reasonable attorneys' fees) shall be paid by Borrower to Lender on demand, with interest at the rate specified in Section 6.6 hereof, and shall be additional indebtedness secured hereby.

# UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

hereunder, Borrower hereby assigns, transfers and sets over to Lender all of Borrower's right, title and interest in, to and under all of the leases now or hereafter affecting any part of the mortgaged premises and in and to all of the rents, issues, profits and other benefits now or hereafter arising from any part of the mortgaged premises. Unless and until an event of default shall have occurred and shall have continued beyond applicable grace or cure periods, if any, contained herein, Borrower shall be entitled to collect the rents, issues, profits and other benefits of the mortgaged premises (except as otherwise provided in this mortgage) as and when they become payable. Borrower shall execute and deliver such further instruments evidencing the assignment of leases and rents, issues, profits and other benefits of the mortgaged premises as may reasonably be requested by Lender from time to time. Lender shall be liable to account only for rents, issues, profits and other benefits of the mortgaged premises actually received by Lender pursuant to the provisions of this mortgage.

(5) Borrower will not, and no beneficiary of Borrower will, without the prior written consent of Lender in each instance, cancel any of the leases now or hereafter assigned to Lender pursuant to Section 3.7(4) hereof, or terminate or accept a surrender thereof or reduce the payment of the rent thereunder or modify, amend or waive any provisions of any of said leases (except as any lease approved by Lender may otherwise expressly provide for such modification) or accept any prepayment of rent therein (except any amount which may be required to be prepaid by the terms of any such lease).

(6) Upon an event of default hereunder and subject to other applicable provisions of this mortgage, Lender, at its option, is authorized to foreclose this mortgage subject to the rights of any lessees of the mortgaged premises, and the failure to make such lessees parties to any foreclosure proceedings and to foreclose such lessees' rights will not constitute, or be asserted by Borrower to constitute, a defense to any proceedings instituted by Lender to collect the indebtedness secured hereby.

(7) Neither Borrower nor Beneficiaries will, in connection with any lease of all or any part of the mortgaged premises, agree to assume the obligations of the tenant, thereunder with respect to an existing lease of said tenant, without first delivering to Lender a letter indemnifying Lender and holding Lender harmless from and against all liability with respect to the assumption by Borrower or Beneficiaries of said obligations.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

60655899

(1) Use of Mortgaged Premises. Borrower shall at all times operate the Mortgaged Premises as a townhouse development. Borrower represents and covenants that the buildings located upon and forming part of the mortgaged premises shall be fully equipped in a manner appropriate for such operation, and Borrower shall, from time to time and as necessary and appropriate, maintain, replace and repair such equipment as is necessary to operate the mortgaged premises. Borrower shall not hereafter acquire any fixtures, equipment, furnishings or apparatus covered by this mortgage, subject to any security interest or other charge or lien having parity with or priority over the lien of this mortgage. At no time shall Borrower file a declaration of condominium affecting the mortgaged premises or take any other steps to convert the mortgaged premises or subject the mortgaged premises to the jurisdiction of the Illinois Condominium Property Act or any successor statute.

3.9 Management and Use of Premises; Licenses; Compliance with Laws; Prohibition of Certain Acts

Borrower shall keep or cause to be kept proper books and records with respect to the mortgaged premises and operation thereof. Lender shall have the right to examine the books of account of Borrower and Beneficiaries and the statements furnished by Borrower and Beneficiaries pursuant to this Section 3.8 (which books, records and statements, and the data used as a basis for their preparation, shall be kept and preserved for at least three (3) years, but in the event of any dispute, such records shall be retained until the final determination of such dispute) and to discuss the affairs, finances and accounts of Borrower and Beneficiaries and to be informed as to the same by Borrower and Beneficiaries, all at such reasonable times and intervals as Lender may desire. Borrower and Beneficiaries shall keep and preserve its records within fifty (50) miles of the mortgaged premises, and shall permit Lender or its representatives to make copies and excerpts therefrom. Borrower shall furnish to Lender within ninety (90) days following the end of each fiscal year of the Beneficiaries a statement of annual income and expenses, in detail satisfactory to Lender, in connection with the mortgaged premises, together with a certified rent roll and other supporting data reasonably requested by Lender and current statements of assets and liabilities of each of the Beneficiaries. Each such statement shall be reasonably detailed, and shall be certified to Lender by Beneficiaries. The fiscal year of the Beneficiaries currently ends on December 31st of each calendar year. Borrower shall promptly advise Lender of any change in the fiscal year of the Beneficiaries.

3.8 Books and Records; Financial Statements

90958568

(2) In the event it is hereafter claimed that any tax or other governmental charge or imposition is due, unpaid or payable by Borrower or Lender upon the indebtedness (other than income tax on the interest or prepayment fee receivable by Lender with respect thereto), including any recording tax, documentary stamps or other tax or imposition on the Note or this Mortgage, or any other instrument securing the indebtedness secured hereby, Borrower will forthwith pay such tax, charge or imposition and within a reasonable time thereafter deliver to Lender satisfactory proof of payment thereof.

(1) In the event of the passage after the date of this Mortgage of any law of the state of Illinois, the United States of America, or any other governmental authority deducting from the value of real estate for the purpose of taxation any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgages or the manner of collection of any such taxation so as to adversely affect the yield of the debt secured by this Mortgage, the holder of this Mortgage shall have the right to give sixty (60) days' written notice to Borrower requiring the payment of the debt secured hereby, and said debt shall become due and payable immediately upon the expiration of said sixty (60) days; provided, however, that such requirement of payment shall be ineffective if Borrower is permitted by law to pay the whole or such tax in addition to all other payments required hereunder, without any penalty thereby accruing to Lender and the indebtedness secured hereby, and if Borrower does pay such tax prior to the date upon which payment is required by such notice.

3.10 Taxes on Lender.

(3) Acquisition of Personal Property. Borrower shall not make, suffer or permit, without the prior written consent of Lender, any purchase, conditional sale, lease or agreement (except those made by a tenant) under which title is reserved in the vendor of any fixtures, apparatus, machinery, equipment or personal property to be placed in or upon any of the buildings, structures or improvements on the mortgaged premises. Borrower shall execute and deliver, from time to time, such further instruments as may reasonably be requested by Lender to confirm the validity and priority of the lien of this Mortgage on any fixtures, machinery, apparatus and equipment described herein.

(2) Licenses and Compliance with Laws. Borrower shall at all times be, and cause the mortgaged premises to be, in compliance with the representations and covenants stated in Sections 2.5, 3.16 and 3.17 hereof.

909585668

3.12 Recorded Instruments. Borrower shall promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the mortgaged premises, non-compliance with which might affect the security of this Mortgage or impose any duty or obligation on Borrower.

(3) Regulation G. Borrower covenants and agrees that it shall constitute a default hereunder if any of the proceeds of the loan for which the Note is given will be used, or were used, as the case may be, for the purpose (whether immediate, incidental or ultimate) of "purchasing" or "carrying" any "margin security" as such terms are defined in Regulation G of the Board of Governors of the Federal Reserve System (12 CFR Part 207) or for the purpose of reducing or retiring any indebtedness which was originally incurred for any such purpose.

(2) Usury. All agreements between Borrower and Lender (including, without limitation, those contained in this Mortgage, the Note and any other Loan Documents) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Lender exceed the highest lawful rate of interest permissible under the laws of the State of Illinois. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other documents securing the indebtedness secured hereby, at the time performance of such provision shall be due, shall involve the payment of interest exceeding the highest rate of interest permitted by law which a court of competent jurisdiction may deem applicable hereto, then, also, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of the State of Illinois, and it for any reason whatsoever, the Lender shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the last maturing installment or installments of the indebtedness secured hereby, whether or not then due and payable) and not to the payment of interest.

(1) Business Loan. Borrower covenants and agrees that all of the proceeds of the Note secured by this Mortgage will be used solely for business purposes and in accordance with the provisions of the Loan Agreement, and the entire principal obligation secured hereby constitutes: (i) a "business loan" as that term is defined in, and for all purposes of, Section 4(1)(c) of paragraph 6404, Chapter 17 of the Illinois Revised Statutes; and (ii) "a loan secured by a mortgage on real estate" within the purview and operation of Section 4(1)(1) of paragraph 6404 of Chapter 17 of said Statutes.

3.11 Use of Loan Proceeds.

90958568

gation upon Borrower or upon any owner, lessee or occupant of the Mortgaged Premises or any part thereof; and Borrower shall do or cause to be done all things reasonably necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Premises.

3.13 Indemnity; Payment of Charges. Borrower shall promptly: (a) pay and discharge any and all license fees or similar charges, with penalties and interest thereon, which may be imposed for the use of any ramps, vaults, chutes, areas and other space adjoining or near the Mortgaged Premises; and (b) cure any violation of law and comply with any order of any governmental authority, agency or instrumentality in respect of the repair, replacement or condition of the ramps, sidewalks, curbs or any vaults, chutes, areas or other space described in clause (a) above, adjoining or near said Mortgaged Premises. In the event of any default under either (a) or (b) of the preceding sentence, Lender may, but shall not be obligated to, pay any and all such fees or similar charges, with penalties and interest thereon, and the charges for such repair or replacement; and all monies expended by Lender in connection therewith (including, but not limited to, reasonable legal fees and costs) shall become immediately due and payable by Borrower, with interest as described in Section 6.6 hereof until paid, and shall be secured by this Mortgage.

3.14 Escrowed Certificates. At any time and from time to time upon not less than ten (10) days' prior written request by Lender, Borrower shall deliver to Lender, or to any person designated by Lender, a written statement executed and acknowledged in recordable form certifying: (1) that this Mortgage, the Note and the Loan Documents are in full force and effect (or, if there have been modifications, that this Mortgage, the Note and the Loan Documents are in full force and effect as modified and stating the modifications); (2) the date to which the indebtedness and all other charges secured hereby have been paid; (3) that neither Borrower nor Lender is in default under this Mortgage, the Note or the Loan Documents (or, if such a default allegedly exists, stating those claimed); (4) that there are no offsets or defenses to the payment of the sums secured hereby (or, if there are alleged offsets or defenses, specifying such alleged offsets or defenses); and (5) such other information as Lender may reasonably require.

3.15 Additional Acts, Etc. Borrower will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, conveyances, notes, mortgages, security agreements, financing statements and assurances as Lender shall reasonably require for accomplishing the purposes of this Mortgage; and the Borrower shall pay the costs of filing fees, recording fees, searches, reasonable attorneys' fees and other costs relating to the foregoing.



UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

3.16 Environmental Matters; Notice; Indemnity.

(a) Borrower will not, and Beneficiaries will not, install, use, generate, manufacture, produce, store, release, discharge or dispose of on, under or about the Mortgaged Premises, nor transport to or from the Mortgaged Premises, any Hazardous Substance (as defined below) nor allow any other person or entity to do so except under conditions and in minor amounts as may be expressly permitted by applicable laws, regulations and ordinances.

(b) Borrower and Beneficiaries will keep and maintain the Mortgaged Premises in compliance with, and shall not cause or permit the Mortgaged Premises to be in violation of, any Environmental Law (as defined in Section 3.18 below).

(c) Borrower and Beneficiaries will give prompt written notice to Lender of:

(1) Any proceeding, investigation or inquiry commenced by any governmental authority with respect to the presence of any Hazardous Substance (as defined in Section 3.18 below) on, under or about the Mortgaged Premises or the migration thereof to or from adjoining property;

(2) All claims made or threatened by any individual or entity against Borrower or Borrower's Beneficiaries or the Mortgaged Premises relating to any loss or injury allegedly resulting from any Hazardous Substance;

(3) The discovery by Borrower or Beneficiaries of any occurrence or condition on any real property adjoining or in the vicinity of the mortgaged Premises which might cause the Mortgaged Premises or any part thereof to be subject to any restriction on the ownership, occupancy, transferability or use of the Mortgaged Premises under any Environmental Law;

(4) Any release, discharge, spill or other occurrence of any Hazardous Substance on or from the Mortgaged Premises, or any migration of any Hazardous Substance from neighboring lands to the Mortgaged Premises;

(5) The receipt by Borrower or Beneficiaries of any notice from any governmental agency or authority or from any tenant or other occupant or from any other person with respect to any alleged release, discharge, spill or other occurrence of any Hazardous Substance;

and

90958568

3.17 Remedial Work. If any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (the "Remedial Work") is necessary or desirable under any applicable federal, state or local law, regulation or ordinance, or under any judicial or administrative order

(f) Lender shall have the right and privilege (but not the obligation) to enter the Mortgaged Premises to make reasonable inspections of its condition, including but not limited to soil and ground water sampling, and including but not limited to inspections for any Hazardous Substance.

(g) Lender shall have the right and privilege to enter the Mortgaged Premises to make reasonable inspections of its condition, including but not limited to soil and ground water sampling, and including but not limited to inspections for any Hazardous Substance. Lender or acceptance by Lender of a deed in lieu of foreclosure or other collateral liquidation procedure. has been terminated by foreclosure of any mortgage held by the date that Borrower's interest in the Mortgaged Premises premises by Lender, its successors or assigns, subsequent to substances that are first introduced to the Mortgaged premises shall have any indemnity obligation with respect to Hazardous or dead in lieu thereof. Neither Borrower nor Beneficiaries extinguishment of the Lien of this Mortgage by foreclosure any Lien of this Mortgage, including without limitation any survive the satisfaction, release or extinguishment of the remedial or other required plans. This indemnity shall and (iv) the preparation and implementation of any closure, repair, cleanup or decontamination of the Mortgaged Premises; damages; and (iii) the costs of any required or necessary Mortgaged Premises; and (ii) all foreseeable consequential of any Lien or so-called "super priority Lien" upon the limitation: (i) the imposition by any governmental authority or about the Mortgaged Premises, including without disposal or presence of a Hazardous Substance on, under, from production, storage, release, threatened release, discharge, to the installation, use, generation, manufacture, cost) directly or indirectly arising out of or attributable (including without limitation reasonable attorneys' fees and against any and all loss, damage, cost, expense and liability employees, agents, successors and assigns harmless from and indemnify and hold Lender and its directors, officers, Borrower and Beneficiaries shall protect, (e)

(d) Lender shall have the right and privilege to: (1) join in and participate in, as a party if it so elects, any one or more legal proceedings or actions initiated with respect to the Mortgaged Premises under or in connection with any Environmental Law; and to (ii) have all costs and expenses thereof (including without limitation Lender's reasonable attorneys' fees and costs) paid by Borrower.

(6) all results of tests of underground storage tanks on or about the Mortgaged Premises, together with copies of such test results.

90958568

or judgment, or by any governmental person, board, commission or agency, because of or in connection with the current or future presence, suspected presence, release or suspected release of a hazardous substance into the air, soil, ground-water, surface water or soil vapor at, on, about, under or within the mortgaged premises or portion thereof, borrower or beneficiaries shall, within thirty (30) days after written demand for performance by lender (or, notwithstanding anything to the contrary in any of the loan documents, within such shorter time as may be required under any applicable law, regulation, ordinance, order or agreement), commence and thereafter diligently prosecute to completion all such remedial work. All remedial work shall be performed by contractors reasonably approved in advance by lender and under the supervision of a consulting engineer reasonably approved in advance by lender. All costs and expenses of such remedial work (including without limitation the reasonable fees and expenses of lender's counsel) incurred in connection with monitoring or review of the remedial work shall be paid by borrower. If borrower shall fail or neglect to timely commence or cause to be commenced, or shall fail to diligently prosecute to completion, such remedial work, the lender may (but shall not be required to) cause such remedial work to be performed; and all costs and expenses thereof, or incurred in connection therewith (including, without limitation, the reasonable fees and expenses of lender's counsel), shall be paid by borrower to lender forthwith after demand and shall be a part of the indebtedness secured hereby.

3.18 Definitions.

- (a) The term "Environmental Law" means and includes, without limitation, any federal, state or local law, statute, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions on, under, from or about the mortgaged premises, including without limitation each of the following: the comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("ERCLA"); the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"); the Federal Hazardous Materials Transportation Act; the Illinois Environmental Control Act, as amended; the Illinois Environmental Protection Agency, the Illinois Environmental Protection Agency, the Army Corps of Engineers and the County of Cook and of all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the mortgaged premises or the use or operation thereof.
- (b) The term "Hazardous substance" means and includes, without limitation:

90958568

4.1 If all or any substantial part of the Mortgaged Premises are damaged, taken or acquired, either temporarily or permanently, as a result of any condemnation proceeding or by exercise of the power of eminent domain, or by the alteration of the grade of any street affecting the Mortgaged Premises, or by private agreement or sale in lieu of any of the foregoing, the entire indebtedness secured hereby shall, at Lender's option, become immediately due and payable. As additional security for the payment of the indebtedness secured by this Mortgage, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the then remaining unpaid indebtedness secured hereby, is hereby assigned to Lender, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Borrower, and the same shall be paid forthwith to Lender. Any award or payment so received by Lender may, at the option of Lender and after the payment of all its expenses in connection with the foregoing proceedings: (a) be retained and applied, in whole or in part, to the indebtedness secured hereby, in such manner as Lender may determine, or (b) be released, in whole or in part and on such terms and conditions and according to such procedures as Lender may require, to Borrower for the purpose of altering, restoring or rebuilding any part of the

4. CONDEMNATION AND EMINENT DOMAIN.

(iv) Any material, waste or substance which is any of the following: (A) asbestos or asbestos-containing material; (B) polychlorinated biphenyls; (C) radon gas; (D) urea formaldehyde foam insulation; (E) designated or listed as a "hazardous substance" pursuant to §11 or §307 of the Clean Water Act (33 U.S.C. §1251 et seq.); (F) explosive; or (G) radioactive.

(iii) those other substances, materials and wastes which are or become regulated under any applicable federal, state or local law, regulation or ordinance, or by any federal, state or local governmental agency, board, commission or other governmental body, or which are or become classified as hazardous or toxic by any such law, regulation or ordinance;

(ii) those substances listed in the U.S. Department of Transportation Table or amendments thereto (49 CFR 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and any amendments thereto);

(i) those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "solid waste" in any of the Environmental Laws;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

909585606

(2) Property Covered. The security interest hereby granted to Lender shall cover the following types or items of property now or hereafter owned by the Borrower and used in connection with, and located upon, the Mortgaged Premises: All property described in EXHIBIT B attached hereto. In addition, Borrower hereby grants to Lender an express security interest in all tenements, hereditaments, easements, appendages, licenses, privileges and appurtenances belonging

(1) Grant of Security Interest. In addition to and not in substitution for any other interest granted herein, Borrower hereby grants to Lender an express security interest in, and mortgages to the Lender, all goods, types and items of property owned by the Borrower which are described in Subsection 5.1.2 below (herein, "the Equipment") whether now or hereafter erected on or placed in or upon the Mortgaged Premises or any part thereof, and all replacements thereof, additions and accessions thereto and products and proceeds thereof, to further secure the payment of the Note, the payment of all other sums due from the Borrower to the Lender, and the performance by Borrower of all the covenants and agreements set forth herein. Borrower represents and covenants that, except for the security interest granted hereby and other interests, if any, stated in EXHIBIT C attached hereto, Borrower is the owner of the Equipment free from any adverse lien, security interest or encumbrance and that Borrower has made payment in full for all such Equipment; and Borrower will defend and protect the Equipment and title thereto against all claims and demands of all persons at any time claiming the Equipment or any interest therein. Borrower will upon request from Lender, deliver to Lender such further security agreements, chattel mortgages, financing statements and evidence of ownership of such items as Lender may reasonably request.

5.1 Security Agreement.

5. SECURITY AGREEMENT; FINANCING STATEMENT.

For the purposes of this Section 4.1, reference to a "substantial part" of the Mortgaged Premises means any portion of the land or building, the loss of which, in Lender's reasonable judgment, would materially adversely affect the value of the security granted to Lender hereby.

Mortgaged Premises which may have been altered, damaged or destroyed as the result of such taking, alteration or proceeding; provided, however, that Lender shall not be obligated to see to the application of any amounts so released, and such release shall not affect the validity and priority of the lien of this Mortgage for the full indebtedness secured hereby before the release or payment took place.

or in any way appertaining to the mortgaged premises, and all interests in property, rights and franchises or any part thereof, together with all the reversions and remainders, and to the extent permitted by law, all rents, tolls, issues, and profits from the mortgaged premises, and all the estate, right, title, interest and claims whatsoever, at law and in equity, which borrower now has or may hereafter acquire with respect to the mortgaged premises and the equipment.

(3) Additional Covenants. Borrower further covenants and agrees as follows:

(a) Transfer or Pledge of the Equipment. Except as permitted under Subsection 3.4(1), Borrower will not sell, assign, pledge, lease or otherwise transfer or encumber the equipment or any interest therein without the prior written consent of Lender; and Borrower will keep the equipment free from any adverse lien, security interest, or encumbrance other than those stated in EXHIBIT C. Without limitation or qualification of the foregoing, Borrower shall immediately deliver to Lender all proceeds (cash or non-cash) resulting from any sale, assignment, pledge, lease or other transfer of any part of the equipment, unless, in respect to each such transfer, Lender shall have agreed otherwise in writing.

(b) Assembly of the Equipment. Upon default hereunder and the acceleration of the indebtedness secured hereby pursuant to the provisions hereof, Lender may at its discretion require Borrower to assemble the equipment and make it available to Lender at a place designated by Lender which is reasonably convenient to both parties.

(c) Notice of Sale. Lender shall give Borrower notice, by certified mail, postage prepaid, of the time and place of any public sale of any of the equipment or of the time after which any private sale or other intended disposition thereof is to be made, by sending notice to Borrower at least ten (10) days before the time of the sale or other disposition, which provisions for notice Borrower and Lender agree are reasonable; provided, however, that nothing herein shall preclude Lender from proceeding as to both real and personal property in accordance with Lender's rights and remedies in respect of the real property as provided in Section 9-501(4) of Chapter 26 of the Illinois Revised Statutes.

(d) Payment of Lender's expenses. Borrower shall reimburse Lender for all reasonable costs, charges and

90955566



90958568

Walter H. Kilm, Jr.  
George J. Cyrus, Jr.

**Beneficiaries:**

800 Davis Street  
Evanston, Illinois 60201

**Borrower's Mailing Address:**

First Illinois Bank of Evanston, N.A.,  
as Trustee under Trust Agreement dated  
October 27, 1989 and known as Trust  
Number R-3659

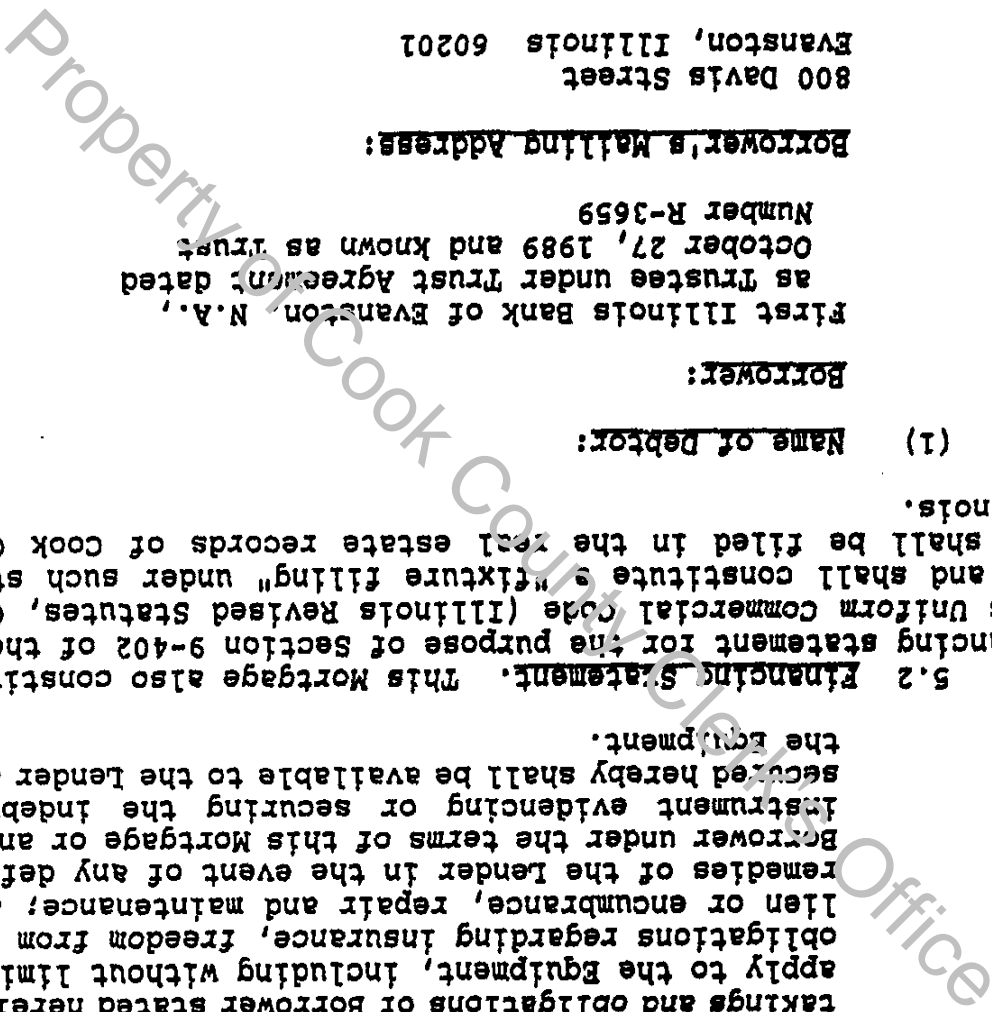
**Borrower:**

(1) **Name of Debtor:**

5.2 **Financing Statement.** This Mortgage also constitutes a financing statement for the purpose of Section 9-402 of the Illinois Uniform Commercial Code (Illinois Revised Statutes, Chapter 26) and shall constitute a "fixture filing" under such statutes and shall be filed in the real estate records of Cook County, Illinois.

(e) **Representations and Remedies.** The Equipment described herein shall be considered for all purposes a part of the Mortgaged Premises as described herein; all representations and covenants contained in this Mortgage made by Borrower, including representations of title, shall be deemed as having been made with reference to the Equipment; all agreements, undertakings and obligations of Borrower stated herein shall apply to the Equipment, including without limitation, obligations regarding insurance, freedom from adverse lien or encumbrance, repair and maintenance; and all remedies of the Lender in the event of any default by Borrower under the terms of this Mortgage or any other instrument evidencing or securing the indebtedness secured hereby shall be available to the Lender against the Equipment.

fees, including reasonable attorneys' fees, incurred by Lender in preparing and filing security agreements, extension agreements, financing statements, continuation statements, termination statements and chattel searches.



90958568

(1) The failure by borrower or beneficiaries to make any payment of principal or interest under the Note or this Mortgage, or of any deposit required under Sections 3.2 or 3.3 hereof, or of any other payment required to be made hereunder or under any of the other Loan Documents, in any

6.1 Defaults. If any one or more of the following events of default (herein collectively called "Events of Default" and each is separately called an "Event of Default") shall occur, all indebtedness secured hereby, including, without limitation, the whole of the principal sum remaining unpaid under the Note, together with all accrued interest thereon, shall at the option of Lender become immediately due and payable without notice or demand, and may be recovered at once, by foreclosure or otherwise:

6. EVENTS OF DEFAULT; REMEDIES.

(3) Some of the above goods are or are to become fixtures on the real property described herein. Borrower is the record owner of the real property described herein upon which the foregoing fixtures and other items and types of property are located.

(2) This financing statement covers the following types or items of property: the property described in Section 5.1 and EXHIBIT B of this instrument; and all other items of personal property now or at any time hereafter owned by Borrower and used in connection with the Mortgaged Premises.

Oxington at Davis  
Evanston, Illinois 60204  
Attention: Vice President,  
Commercial Lending

Address of Secured Party:

NBD BANK EVANSTON, N.A.,  
a national banking association

Name of Secured Party:

1202-1210 Church Street  
Evanston, Illinois 60201

Address of Property:

Cyrus Realtors  
2929 Central Street  
Evanston, Illinois 60201

Beneficiaries' Mailing Address:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(d) Any case, proceeding or other civil action in the nature of a bankruptcy or insolvency proceeding against Borrower or Beneficiaries or any guarantor of the Note shall be commenced seeking to have an order for relief entered against it or them as debtor(s), or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or them or its or

(c) Borrower or Beneficiaries or any guarantor of the Note shall take any action, including corporate or partnership action, to authorize any of the actions set forth in Subsections 6.1(4)(a) or 6.1(4)(b); or

(b) Borrower or Beneficiaries or any guarantor of the Note shall commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its or their debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its or their property;

(a) Borrower or Beneficiaries or any guarantor of the Note shall generally not pay its or their debts as they become due or shall admit in writing its or their inability to pay its or their debts, or shall make a general assignment for the benefit of creditors;

(4) The occurrence of any of the following events:

(3) The occurrence of any default in the observance or performance of any non-monetary term, condition, covenant or agreement in the Loan Agreement, any assignment of lease, assignment of rents, any other Loan Document (excluding the Note and this Mortgage), or any other agreement made as additional security for the performance of the Note and this Mortgage which failure is not remedied within thirty (30) days after receipt of written notice thereof from Lender; or

(2) The failure of Borrower or Beneficiaries to observe or perform any other term, condition, covenant, agreement, representation or warranty contained herein or in the Note or the Loan Agreement, or the failure of any representation or warranty contained herein or in any of the other Loan Documents or in any instrument or certification delivered to Lender in connection with the making of the loan to be true and accurate in all material respects at the time when such representation or warranty was made; or

case within five (5) days after the same becomes due and payable; or

89585606

90958566

their debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or them or for all or any substantial part of its or their property, and such case, proceeding or other action; (1) results in the entry of an order for relief against it or them which is not fully stayed within thirty (30) days after the entry thereof; or (11) remains undischarged for a period of sixty (60) days.

6.2 Remedies. Without limitation of the foregoing provisions of this Section 6 or of any other provision hereof or of any other loan document, upon the occurrence of an Event of Default and at any time thereafter, Lender shall have the right, at its option and without notice, without waiving or releasing Borrower from any of its obligations hereunder, to exercise any or all of the following remedies:

(1) Acceleration. Lender may declare the principal balance remaining unpaid under the Note, together with all accrued interest thereon and all other indebtedness secured hereby immediately due and payable.

(2) Foreclosure. Lender may foreclose this Mortgage to collect all or any part of the indebtedness secured hereby, by instituting a foreclosure action in any court having jurisdiction. Lender shall have the right to purchase the mortgaged premises at any foreclosure sale.

(3) Offset Rights. Lender may apply in satisfaction of the indebtedness secured hereby or any amount at any time to become due or payable in connection with the ownership, occupancy, use, restoration or repair of the mortgaged premises, any deposits or other sums credited by or due from Lender to Borrower, including, without limitation, insurance proceeds, proceeds of condemnation and funds held in escrow pursuant to Sections 3.2 and 3.3 hereof.

(4) Cure of Default. Without releasing Borrower from any obligation hereunder or under any of the Loan Documents, Lender shall have the right to cure any Event of Default. In connection therewith, Lender may enter upon the mortgaged premises and may do such acts and things as Lender deems necessary or desirable to protect the mortgaged premises or the leases thereof, including, without limitation:

(a) paying, purchasing, contesting or compromising any encumbrance, charge, lien, claim of lien, taxes or other charges or liabilities against the mortgaged premises;

(6) Appointment of a Receiver. Upon application to a court of competent jurisdiction, Lender shall be entitled to the appointment of a receiver for the Mortgaged Premises, without notice, without regard to the solvency or insolvency of the person or persons, if any, liable for the payment of the indebtedness secured hereby, and without regard to the

(5) Possession of Mortgaged Premises. Lender shall have the right to take physical possession of the Mortgaged Premises and of all books, records, documents and accounts relating thereto and exercise, without interference from Borrower or Beneficiaries, any and all rights which Borrower has with respect to the Mortgaged Premises, including, without limitation, the right, at Borrower's expense, to rent and lease the same and to hire a professional property manager for the Mortgaged Premises. It is necessary to obtain possession as provided for herein, Lender may, without exposure to liability from Borrower or any other persons, invoke any and all legal remedies to dispossess Borrower or Beneficiaries, including, without limitation, one or more civil actions for forcible entry and detainer, trespass and restitution. In connection with any action taken by Lender pursuant to this subsection 6.2(5), Lender shall not be liable for any loss sustained by Borrower or Beneficiaries resulting from any failure to let the Mortgaged Premises or from any other act or omission of Lender in managing the Mortgaged Premises unless caused by the willful misconduct or bad faith of Lender, nor shall Lender be obligated to perform or discharge any obligation, duty or liability under any lease or by reason of any Loan Document. Borrower hereby agrees to indemnify, hold harmless and defend Lender from and against any liability, loss or damage incurred by Lender under any lease or under any of the Loan Documents as a result of Lender's exercise of rights, powers, options, elections or remedies under any of the Loan Documents. Lender shall immediately upon demand, Lender shall have full power to make from time to time all alterations, renovations, repairs and replacements to the Mortgaged Premises as may seem appropriate to Lender.

(c) employing counsel, accountants, contractors and other appropriate persons to assist Lender in the foregoing; and all monies expended by Lender in connection therewith (including, but not limited to, reasonable attorneys' fees and costs) shall become immediately due and payable by Borrower, with interest as described in Section 6.5 hereof until paid, and shall be secured by this Mortgage.

(b) paying any insurance premiums; and

90958566

6.3 Sums Received by Lender. All sums received by Lender under Section 6.2 above, less all costs and expenses incurred by Lender under Section 6.2, including, without limitation, reason-able attorneys' fees and disbursements, property management fees,

(10) Mortgage in Possession. Nothing herein contained shall be construed as constituting the Lender a mortgagee in possession in the absence of the actual taking of possession of the mortgaged Premises by Lender.

(9) Other. Lender may take such other actions or commence such other proceedings as Lender deems necessary or advisable to protect its interest in the mortgaged Premises and its ability to collect the indebtedness secured hereby as are available under applicable laws, ordinances and rules of courts having jurisdiction.

(8) Substitution. Lender shall have and may exercise all rights, powers, privileges, options and remedies of any person, entity or body politic to whom Lender renders payment or performance in connection with the exercise of its rights and remedies under the Loan Documents, including without limitation any rights, powers, privileges, options and remedies under any mechanics or vendor's lien or liens, superior titles, mortgages, deeds of trust, liens, encumbrances, rights, equities and charges of all kinds heretofore or hereafter existing on the mortgaged Premises, to the extent that the sums are paid or discharged pursuant to Subsection 6.2(4) or from the proceeds of the Note, whether or not released of record.

(7) Uniform Commercial Code Remedies. Lender may exercise any and all rights of a secured party with respect to the equipment described in Section 5.1 hereof provided under the Illinois Uniform Commercial Code.

then value of the mortgaged Premises, whether the same shall be then occupied as a homestead or not, and Lender may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the mortgaged Premises and all other powers which may be necessary or usual in such cases for the protection, possession, control, management and operation of the mortgaged Premises, to the fullest extent permitted by law. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the indebtedness and other sums secured hereby or by any order or judgment foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such order or judgment, provided such application is made prior to the foreclosure sale; and (b) the deficiency in case of a sale and deficiency.

90958568

UNOFFICIAL COPY

Property of Cook County Clerk's Office



(1) Effect of Modification. If Lender in one or more instances: (i) grants any extension of time or forbearance with respect to the payment of any indebtedness secured by

6.5 Lender's Exercise of Rights.

Indebtedness secured hereby in the order or judgment for sale. amount of such estimate may be allowed and included as additional the order or judgment for sale is entered may be estimated and the of any such costs and expenses which may be paid or incurred after Mortgage Premises or for any other reasonable purpose. The amount judgment the true condition of the title to or value of the bidders at any sale which may be had pursuant to such order or necessary either to prosecute such civil action or to evidence to title as Lender or holders of the Note may deem to be reasonably certificates) and similar data and assurances with respect to Certificates of Title issued by the Registrar of Titles (Torrrens examinations, title insurance policies and commitments therefor, costs of procuring all abstracts of title, title searches and Mortgage Premises, stenographer's charges, publication costs and documentary and expert evidence, costs for preservation of the fees, receiver's costs and expenses, insurance, taxes, outlays for holder of the Note for reasonable attorneys' fees, appraisers' which may be paid or incurred by or on behalf of Lender or the hereby in the order or judgment for sale all costs and expenses shall be allowed and included as additional indebtedness secured foregoing, in any civil action to foreclose the lien hereof, there this Mortgage. Without limitation of the generality of the Mortgage Premises attaching or accruing subsequent to the date of prior to any right, title, interest or claim in, to or upon the be secured by this Mortgage and be a lien on the Mortgage Premises thereon as described in Section 6.6 hereof. All such sums shall become immediately due and payable by Borrower with interest Beneficiaries, or any guarantor of the Note, all such sums shall any bankruptcy proceeding commenced by or against Borrower or the Note, including without limitation Lender's participation in of its being Lender hereunder or its making the loan evidenced by under, or to recover any indebtedness secured hereby, or on account priority, or to protect or enforce any of Lender's rights here- action or proceeding to sustain the lien of this Mortgage or its reasonable attorneys' fees, whether or not in connection with any Proceeds. If Lender shall incur or expend any sums, including 6.4 Fees and Expenses: Distribution of Foreclosure Sale

costs of alterations, renovations, repairs and replacements made or authorized by Lender and all expenses incident to Lender taking possession of the Mortgage Premises, and such sums as Lender deems appropriate as a reserve to meet future expenses of the Mortgage Premises, shall be applied to the indebtedness secured hereby in such order as Lender shall determine. Thereafter, any balance shall be paid to the person or persons legally entitled thereto.

6.6 Interest on Advances. If Lender makes any advances hereunder (exclusive of advances of principal evidenced by the Note), Lender will promptly notify Borrower of such advances and the amounts so advanced shall become immediately due and payable with interest at the rate per annum specified in the Note applicable to a period when an uncured Event of Default has

remain in full force and effect. and of such other instruments shall survive and continue to conditions and other provisions of this Mortgage, the Note, deemed a continuing waiver, but all of the terms, covenants, at the particular time only; and no such waiver shall be secured hereby, shall apply to the particular instance and other instrument given by Borrower to secure the indebtedness conditions or provisions hereof, or of the Note or of any different nature. A waiver of any of the terms, covenants, shall it affect any subsequent default of the same or a be a waiver of any such default or acquiescence therein, nor power, privilege, option or remedy or shall be construed to remedy accruing on any default shall impair any such right, omission to exercise any right, power, privilege, option or be deemed expedient by Lender. No delay in exercising or concurrently or independently, and when and as often as may power, privilege, option and remedy may be exercised hereafter existing at law or in equity. Every such right, other right, power, privilege, option and remedy now or option and remedy under this Mortgage and the Note and every shall be in addition to, every other right, power, privilege, Note or any other Loan Document shall be exclusive of, but lege, option or remedy of Lender under this Mortgage, the (2) Remedies Not Exclusive. No right, power, privi-

this Mortgage. any way impair or affect the lien or priority of the lien of occurrence of any Event of Default or otherwise, nor (c) in other Loan Document or so intended to be granted upon the power, privilege, option or remedy granted herein or in any document, nor (b) preclude Lender from exercising any right, any covenant of this Mortgage or the Note or any other Loan sureties or guarantors of this Mortgage or of the Note from to act shall not: (a) release Borrower or any comakers, Note; then and in any such event, any such act or omission hereof or of the Note or of any other instrument securing the amendment or modification of any of the terms and provisions is the property of Borrower or others; (v) agrees to any of indebtedness secured hereby (whether or not such security of the whole or any part of the security held for the payment release from the lien of this Mortgage or other Loan Document; (iv) grants, with or without consideration, any right granted herein or under the Note or in any other Loan the payment thereof; (iii) waives or fails to exercise any this Mortgage; (ii) takes other or additional security for

90958566

7.2 Notices. All notices, demands and requests given or required or desired to be given hereunder by Borrower or Lender shall be in writing and shall be delivered in person or by overnight express delivery or by United States certified mail, return receipt requested, postage prepaid, as follows:

7.1 Modification. No change, amendment, modification, waiver, cancellation or discharge hereof, or any part hereof, shall be valid unless in writing and signed by all of the parties hereto or their respective successors and assigns.

7. GENERAL.

6.8 Release and Waiver of Homestead and Right of Redemption. To the fullest extent allowed by applicable law, Borrower hereby releases and waives: (i) any and all rights under and by virtue of the homestead exemption laws of the state of Illinois; (ii) all rights to retain possession of the mortgaged premises after an Event of Default; and (iii) any and all rights of redemption from sale under any order or judgment of foreclosure of this Mortgage or under any sale or statute or order, decree or judgment of any court relating to this Mortgage, on behalf of itself and each and every person acquiring any interest in or title to any portion of the mortgaged premises, it being the intent hereof that any and all such rights of redemption of Borrower and of all such other persons are and shall be deemed to be hereby waived to the maximum extent and with the maximum effect permitted by the provisions of the Illinois Mortgage Foreclosure Law, including without limitation Sections 15-1601 and 15-1602 and any other applicable sections thereof, and to the maximum extent and with the maximum effect permitted by the provisions of all other applicable laws or by any successor or replacement statutes.

6.7 Valuation and Appraisal. Borrower shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws or any so-called "Moratorium Laws", whether now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, and Borrower hereby waives the benefit of all such laws. Borrower for itself and all who may claim through or under it waives any and all right to have the 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 premises sold in one parcel as an entirety or in such parcels, manner or order as the Lender in its sole discretion may elect.

The failure of Lender to give the notice contemplated by this Section 6.6 shall not affect the securing by this Mortgage of those amounts so advanced.

# UNOFFICIAL COPY

TO: [Illegible]

FROM: [Illegible]

SUBJECT: [Illegible]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

Property of Cook County Clerk's Office

90958568

Notices, demands and requests given by certified mail as aforesaid shall be deemed sufficiently served or given for all purposes hereunder three (3) days after the time such notice, demand or request shall be deposited in the mails. Notice sent by overnight express delivery service shall be deemed served or given

or to such other addresses as Borrower or Lender may from time to time designate by written notice given as herein required. All notices and copies thereof shall be sent or delivered by the same means of transmission.

BURKE, WILSON & McILVAINE  
500 West Madison Street  
Suite 3700  
Chicago, Illinois 60606  
Attn: Cynthia A. Bergmann, Esq.

Lender's Counsel:  
With a copy to

NBD BANK EVANSTON, N.A.  
Orrington at Davis  
Evanston, Illinois 60204  
Attention: Vice President,  
Commercial Lending

If to the Lender:

Schiff, Harkle & Waite  
7200 Sears Tower  
Chicago, Illinois 60606  
Attn: Charles R. Staley, Esq.

Beneficiaries' counsel:  
and with a copy to

Walter H. Kilm, Jr.  
and  
George J. Cyrus, Jr.  
3929 Central Street  
Evanston, Illinois 60201

With a copy to:

Number R-3659  
800 Davis Street  
Evanston, Illinois 60201

First Illinois Bank of Evanston, N.A.,  
as Trustee under Trust Agreement dated  
October 27, 1989 and known as Trust

If to the Borrower:

# UNOFFICIAL COPY

IN SENATE  
JANUARY 11, 1900  
REPORT  
OF THE  
COMMISSIONERS OF THE  
LAND OFFICE  
IN RESPONSE TO A RESOLUTION  
PASSED BY THE SENATE  
MAY 1, 1899

Property of Cook County Clerk's Office

REPORT  
OF THE  
COMMISSIONERS OF THE  
LAND OFFICE  
IN RESPONSE TO A RESOLUTION  
PASSED BY THE SENATE  
MAY 1, 1899

7.7 No Merger. It being the desire and intention of the parties hereto that this Mortgage and the Lien hereof shall not

7.6 Successors and Assigns. Subject to and without limiting the provisions herein restricting or limiting Borrower's right of assignment and transfer, all of the terms, covenants, conditions and agreements herein set forth shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, legal representatives, successors and assigns, as the case may be, of the parties hereto.

7.5 Construction Loan. This Mortgage secures an obligation incurred for the construction of improvements on the land mortgaged herein and constitutes a "construction mortgage" within the meaning of Section 9-313 (Ill. Rev. Stat., ch. 26, par. 9-313) of the Illinois Uniform Commercial Code (the "Code"). The proceeds of the loan secured hereby 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 said Loan Agreement were fully incorporated in this Mortgage and the occurrence of any event of default under said Loan Agreement shall constitute a default under this Mortgage entitling Lender to all of the rights and remedies conferred upon the Lender by the terms of this Mortgage or by law, as in the case of any other default.

7.4 Releases. The right is hereby reserved by Lender to make partial release or releases of the Mortgaged Premises or of any other security held by Lender with respect to all or any part of the indebtedness secured hereby, without notice to, or the consent, approval or agreement of, other parties in interest, including junior lienors, which partial release or releases shall not impair in any manner the validity of or priority of this Mortgage on the portion of said Mortgaged Premises not so released.

7.3 Definition of Terms. Whenever used in this instrument, unless the context shall otherwise clearly require, the term "Borrower" and the term "Lender" shall include their legal representatives, successors and assigns, as the case may be, of Borrower and Lender, and all persons claiming by, through, or under Borrower or Lender; the term "person" shall include any individual, partnership, corporation, trust, unincorporated association or government, or any agency or political subdivision thereof, or any two or more of the foregoing acting in concert; the singular shall include the plural, and the plural, the singular; and the gender used shall include the other genders.

on the first (1st) business day following the date such notice is delivered to the carrier. Personal service upon Lender may be made only by delivering a copy of such notice to an officer of Lender at the above address.

90958568

UNOFFICIAL COPY

Property of Cook County Clerk's Office



7.13 Conflict. In the event of any conflict or inconsistency between the terms and provisions of this Mortgage and the terms and provisions of any other Loan Document (excluding the Note), the terms and provisions of this Mortgage shall control.

7.12 Headings. Paragraph and section headings contained herein are for convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision of this instrument.

7.11 Subrogation. In the event the proceeds of the loan made by Lender to Borrower, or any part thereof, or any amount paid out or advanced by Lender, shall be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Premises or any part thereof, then the Lender shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all of same.

7.10 No Partnership. Borrower acknowledges and agrees that in no event shall Lender be deemed to be a partner or joint venturer with Borrower. Without limitation of the foregoing, Lender shall not be deemed to be such a partner or joint venturer on account of its becoming a Lender in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document securing any portion of the indebtedness secured hereby or otherwise.

7.9 Severability. In the event that any provision of this Mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable or contrary to law, the remaining provisions of this Mortgage and the application of such provision or provisions to other persons or circumstances shall not be affected thereby and shall be fully effective and enforceable to the extent permitted by law.

7.8 Applicable Law. This Mortgage shall be governed by the laws of the state of Illinois, which laws shall also govern and control the construction, enforceability, validity and interpretation of this Mortgage.

merge in fee simple title to the Mortgaged Premises, it is hereby understood and agreed that should Lender acquire any additional or other interests in or to the Mortgaged Premises or the ownership thereof, then, unless a contrary intent is manifested by Lender as evidenced by an appropriate document duly recorded, this Mortgage and the Lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

# UNOFFICIAL COPY

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM  
10/10/2010 10:10:10 AM

Property of Cook County Clerk's Office

90958568

9.1 Limitation on Liability of Land Trustee. This instrument is executed by FIRST ILLINOIS BANK OF EVANSTON, N.A., as Trustee under a certain Trust Agreement dated October 27, 1989, and known as Trust No. R-3659 not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said FIRST ILLINOIS BANK OF EVANSTON, N.A. hereby warrants that it possesses full power and authority to execute this instrument), and it expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said FIRST ILLINOIS BANK OF EVANSTON, N.A. personally to pay any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained (it being understood and agreed that each of the provisions hereof, except the warranty hereinabove contained, shall constitute a condition and not a covenant or agreement regardless of whether the same may be couched in language of a promise or covenant or agreement), all such personal liability, if any, being expressly waived by the Lender and by every person now or hereafter claiming any right hereunder, and that so far as the said FIRST ILLINOIS BANK OF EVANSTON, N.A. is concerned, the Lender shall look

9. LIMITATION ON LIABILITY.

8.2 Defeasance. If all of the indebtedness secured hereby is paid as the same becomes due and payable and if all of the covenants, warranties, conditions, undertakings and agreements made in the Loan Documents are kept and performed, then in that event only, all rights under the Loan Documents shall terminate and the Mortgaged Premises shall become wholly clear of the liens, grants, security interests, conveyances and assignments evidenced hereby, and Lender shall release or cause to be released, such liens, grants, assignments, conveyances and security interests in due form at Borrower's cost, and this Mortgage shall be void. Recitals of any matters or facts in any instrument executed by Lender under this Section 8 shall be conclusive proof of the truthfulness thereof. To the extent permitted by applicable law, such an instrument may describe the grantee as "the person or persons legally entitled thereto". Lender shall not have any duty to determine the rights of persons claiming to be rightful grantees of any of the mortgaged premises. When the mortgaged premises have been fully released, such release shall operate as a reassignment of all future rents, issues and profits of the mortgaged premises to the person or persons legally entitled thereto, unless such release expressly provides to the contrary.

8. POSSESSION AND DEFEASANCE.

8.1 Possession. Until the occurrence of an event of default and except as otherwise expressly provided to the contrary, Borrower shall retain full possession of the Mortgaged Premises, subject, however, to all of the terms and provisions of the Loan Documents.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

90958568

Property of Cook County Clerk's Office

FIRST ILLINOIS BANK OF EVANSTON,  
N.A., as Trustee as aforesaid,  
and its personal  
By: ~~Edward Services Officer~~ President  
Its ~~Edward Services Officer~~ President

By ~~Assistant Secretary~~ *[Signature]*  
ASSISTANT ADMINISTRATOR  
(Impress corporate seal here)

ATTEST:

IN WITNESS WHEREOF, the undersigned has executed and delivered this instrument as of the day and year first above written.

solely to Walter H. Kilm, Jr. and George J. Cyrus, Jr. and to the  
Mortgaged Premises hereby mortgaged or conveyed and other security  
agreements, documents or instruments or guarantees evidencing or  
securing the indebtedness secured hereby (all of which are referred  
to collectively herein as the "Loan Documents") for the payment  
thereof, by the enforcement of the liens, charges and other rights  
created by said Loan Documents, in the manner herein and in said  
Loan Documents provided.

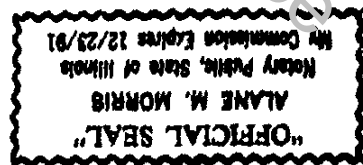
UNOFFICIAL COPY

8 9 5 8 5 6 0 6

89585606

Property of Cook County Clerk's Office

My commission expires: Dec 23, 1991  
(Impress Notarial Seal Here)



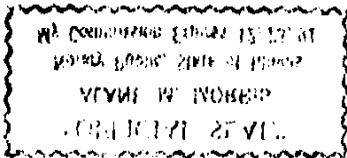
Alane M. Morris  
NOTARY PUBLIC

The foregoing instrument was acknowledged before me this 14 day of Dec, 1989 by Robert R. Remien, President of First Illinois Bank of Evanston, N.A., not personally but solely on behalf of said Bank as Trustee as aforesaid.

STATE OF ILLINOIS )  
COUNTY OF Cook )  
SS: )

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

8 9 5 8 5 6 0 6

90958568

Property of Cook County Clerk's Office

1202-1210 Church Street  
Evanston, Illinois 60201  
PIN NO. 11-18-300-011  
11-18-300-012

Property Address:

lot 1 of Cyrus's consolidation in Block 69 in Evanston, in the West  
half of the southwest quarter of section 18, Township 41 North,  
Range 14 East of the Third Principal Meridian, in Cook County,  
Illinois.

LEGAL DESCRIPTION

EXHIBIT A



# UNOFFICIAL COPY

11/15/2011 10:00 AM

Property of Cook County Clerk's Office

11/15/2011 10:00 AM

11/15/2011 10:00 AM

11/15/2011 10:00 AM

11/15/2011 10:00 AM

11/15/2011 10:00 AM

11/15/2011 10:00 AM

11/15/2011 10:00 AM

90958568

Property of

2. The security interest granted herein attaches, without limitation, to all accounts, documents, instruments, chattel paper, equipment, machinery, fixtures, general intangibles, inventory (as such terms are defined in the Uniform Commercial Code of the State of Illinois), furniture, carpeting and subcontracts for the construction, reconstruction or repair of improvements, bonds, permits, licenses, guarantees, warranties, causes of action, judgments, claims, profits, rents, security deposits, utility deposits, refunds of fees, insurance premiums, deposits paid to any governmental authority, letters of credit, insurance policies and insurance proceeds, any awards that may be made by any condemning authority for any partial or total taking of the mortgaged premises by condemnation or eminent domain or any conveyance in lieu thereof, together with all present and future attachments, accretions, accessions, replacements, and additions thereto and products and proceeds thereof.

All of the above buildings are located on the land ("the mortgaged premises") legally described in Exhibit A of the instrument to which this Exhibit is attached.

1. All of Borrower's right, title and interest in personal property of any kind or nature whatsoever, whether tangible or intangible, which is used or will be used in the construction of, or is or will be placed in or upon, or is derived from or used in connection with, the maintenance, use, occupancy or enjoyment of the real property and the buildings and improvements constructed thereon located at 1202-1210 Church Street, Evanston, Illinois, 60201.

An express security interest is granted in the following:

DESCRIPTION OF COLLATERAL

EXHIBIT B

90958568

Property of Cook County Clerk's Office

1. General Real Estate Taxes for 1989 and subsequent years, not yet due and payable.
2. Mortgage dated December 1, 1988 and recorded December 20, 1988 as Document 88584620 made by George J. Cyrus, Jr. to First Illinois Bank of Evanston to secure a Note for \$270,000.00 which Mortgage is, pursuant to that certain Subordination Agreement dated December 7, 1989 by and between Lender and First Illinois Bank of Evanston and recorded on December 8, 1989 with the office of the Cook County Recorder of Deeds as Document Number 89585605, inferior and subordinate to the lien of this instrument.

LIST OF PERMITTED TITLE EXCEPTIONS

EXHIBIT C