

# UNOFFICIAL COPY 83053099

## MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, AND SECURITY AGREEMENT (this "Mortgage") is made as of February 2, 1989, by

Initials:

\_\_\_\_\_, not personally, but solely as  
Trustee under Trust Agreement dated \_\_\_\_\_, 19\_\_\_\_,  
and Known as Trust No. \_\_\_\_\_,

\_\_\_\_\_, and \_\_\_\_\_,

XX JF Faust, Inc., an Illinois corporation,

\_\_\_\_\_, a(n) \_\_\_\_\_  
limited partnership,

\_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_,

\_\_\_\_\_, \_\_\_\_\_,

d/b/a \_\_\_\_\_, a(n) \_\_\_\_\_  
general partnership or joint venture,

("Mortgagor") whose mailing address is 2700 Touhy Avenue, Elk Grove Village, Illinois 60007, in favor of THE FIRST NATIONAL BANK OF ELGIN, a national banking association, whose address is 6 Fountain Square Plaza, Elgin, Illinois 60120 ("Lender").

WHEREAS, Mortgagor is indebted to Lender in the principal sum of Three Hundred Sixty Seven Thousand Two Hundred and 00/100 Dollars (\$367,200.00), which which indebtedness is evidenced by a promissory note or mortgage note dated February 2, 1989 made payable to the order of and delivered to the Lender, and all modifications, substitutions, extensions and renewals thereof ("Note"), providing for repayment of principal and interest and providing for a final payment of all sums due thereunder on February 1, 1994.

20-30-100-004  
Permanent Tax No. 19-23-201-015  
13-34-312-001  
Common Address of Property:  
7101 S. Western Ave., Chicago, IL  
3403 W. Homan Ave., Chicago, IL  
4755 W. Grand Ave., Chicago, IL

This instrument was prepared by and return after recording to:  
H. Laurence Saxe, Vice President  
First National Bank of Elgin  
Commercial Real Estate Department  
6 Fountain Square Plaza  
Elgin, Illinois 60120

NLD/3

DEPT-01 RECORDING 529.00  
147772 TRAM 3822 02/03/89 09:49:06  
47772 + P. \*-89-053099  
COOK COUNTY RECORDER

89053099

2900

9100059-000k177

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein and in the Note, all future advances and all other indebtedness of Mortgagor to Lender whether now or hereafter existing (collectively, the "Secured Indebtedness" or "Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency whereof is acknowledged, Mortgagor does hereby convey, grant, and mortgage to Lender the real estate ("Real Estate") (or the leasehold estate thereon if this Mortgage is on a leasehold) located in the County of Cook, State of Illinois and described on Exhibit A attached hereto, subject only to covenants, conditions, easements and restrictions set forth on Exhibit B, if any, ("permitted Rumpunches"). The Real Estate has the common address of 7101 S. Western Avenue, Chicago, IL (Parcel 1); 3403 W. Roman Avenue, Chicago, IL (Parcel 2); 4755 W. Grand Avenue, Chicago, IL (Parcel 3) ("Property Address");

TOGETHER WITH all buildings, structures, improvements, covenants, easements, fixtures, easements, mineral, oil and gas rights, water rights, appurtenances thereunto belonging, title or reversion of any parcels, strips, streets and alleys adjoining the Real Estate, any land or water lying within any street, thoroughfare, or alley adjoining the Real Estate, and any privileges, licenses, and franchises pertaining thereto, all of the foregoing now or hereafter acquired, all leasehold estates and all real, personal, issues, and profits thereof, for so long and during all such times as Mortgagor, its successors and assigns may be entitled thereto (which are pledged primarily and/or a partly with the Real Estate and not secondarily), and all apparatus, equipment, or articles now and hereafter located thereon used to supply heat, gas, air conditioning water, light, power, refrigeration (whether single units or generally controlled and ventilation, and any other apparatus, equipment or articles use or useful in the operation of the property (other than inventory held for sale or lease) including all additions, substitutions and replacements thereof. All of the foregoing are declared to be a part of the Real Estate whether physically attached or not, and it is agreed that all similar apparatus, equipment, articles and fixtures hereafter placed on the Real Estate by Mortgagor or its successors or assigns shall be considered as constituting part of the Real Estate. [All of the foregoing, together with the Real Estate (or the leasehold estate if this mortgage is on a leasehold) are hereinafter referred to as the "Property".]

To have and to hold the property into the Lender, its successors and assigns forever, for the purposes and uses set forth herein, free from all rights and benefits under any Homestead Exemption Laws of the State of Illinois which rights and benefits Mortgagor does hereby expressly release and waive.

Mortgagor and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Mortgagor shall promptly pay or cause to be paid when due all Secured Indebtedness.

2. Funds for Taxes and Insurance. Subject to applicable law, Mortgagor shall pay or cause to be paid to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, the following amount (collectively, "Funds"); (a) a sum equal to all general and special real estate and property taxes and assessments (including condominium and planned unit developments, assessments, if any) and ground rents on the property, if any, (collectively, "impositions") next due on the property, all as estimated by Lender, divided by the whole number of months to elapse before the month prior to the date when such impositions will become due and payable; provided, that in the case of the first such deposit, there shall be deposited in addition an amount which, when added to the aggregate amount of monthly sums next payable under the impositions next becoming due, will result in a sufficient reserve to pay the impositions next becoming due one month prior to the date when such impositions are, in fact, due and payable, and payable to the lender; (b) a sum equal to an estimated amount of the premium of premiums that will become due in such an amount that the payment of approximately equal installments will result in the accumulation of a sufficient sum of money to pay renewal premiums for such insurance as is listed in the schedule attached hereto, or renewal date or dates of the policy or policies to be renewed, if any; all as reasonably estimated initially and from time to time by Lender on the basis of assumptions and bills and reasonable estimates therefor.

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Property of Cook County Clerk's Office

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5. Taxes and Assessments; Rents. Mortgagor shall pay or cause to be paid when due all impositions and water, sewer and other charges, fines and impositions attributable to the property and leasehold payments, if any, and all other sums due under any ground lease attributable to the property. Mortgagor shall promptly provide evidence satisfactory to lender of compliance with these requirements promptly after the respective due dates for payment. Mortgagor shall pay, in full, but under protest in the manner provided by statute, any tax or assessment Mortgagor desires to contest.

Notwithstanding the foregoing, if lender has consented in writing to the existence of any mortgage, deed of trust or other security agreement Mortgagor shall perform all of Mortgagor's obligations under any such mortgage, deed of trust or other security agreement (collectively "other encumbrances") creating a lien on the property, whether or not such lien has priority over this mortgage, including Mortgagor's covenant to make payments when due. Any act or omission of Mortgagor which, with the giving of notice or the passage of time would constitute a default or event of default under any other mortgage or under any ground lease shall be a default under this mortgage. Mortgagor shall promptly deliver to lender all notices given or received of any default or event of default under any other encumbrance or any ground lease. Nothing in this paragraph shall be deemed to permit a prohibited transfer as defined in paragraph 10 hereof and nothing herein shall be deemed to permit the creation of any lien, mortgage, charge, or other encumbrance on the property.

4. Prior Encumbrances; Liens. Mortgagor shall keep the property free from mechanics' or other liens, mortgages, charges, and other encumbrances.

Any applications to principal of proceeds from insurance policies, as provided in paragraph 6, or of condemnation awards, as provided in paragraph 9, shall not extend or postpone the due date of any monthly installment of principal or interest, or change the amount of such installments or of the other charges or payments provided in the Note or other loan documents.

3. Application of Payments. Unless prohibited by applicable law, all payments received by lender under this mortgage, the Note and all other documents given to lender to further evidence, secure or guarantee the Secured Indebtedness (collectively, the "loan documents") shall be applied by lender first to payments required from Mortgagor to lender under paragraph 2, then to any sums advanced by lender pursuant to paragraph 8 to protect the security of this mortgage, then to interest payable on the Note and to any prepayment premium which may be due, and then to principal installments in the inverse order of their maturity.

Upon payment in full of all Secured Indebtedness, lender shall promptly refund to Mortgagor, or to any person to whom Mortgagor directs, any funds held by lender. If, under paragraph 14, the property is sold or is otherwise acquired by lender, lender shall apply, no later than immediately prior to the sale of the property or its acquisition by lender, any funds held by the lender at the time of application as a credit against the Secured Indebtedness.

If the amount of funds held by lender, together with the future monthly installments of funds payable prior to the due dates of impositions, shall exceed the amount required to pay said impositions and insurance premiums as they fall due, such excess shall be retained by lender or in the Depository account and credited to subsequent monthly installment of funds. If the amount of the funds held by lender shall not be sufficient to pay the impositions and insurance premiums as they fall due, Mortgagor shall immediately pay or cause to be paid to lender any amount necessary to make up the deficiency in one or more payments as lender may require.

The funds shall be held by lender or, at lender's election, in an institution the deposits of accounts of which are insured or guaranteed by a federal or state agency ("depository account"). Lender shall, upon the presentation to lender by Mortgagor of the bills therefor, apply the funds to pay the impositions, except that in the event of default, lender may apply the funds to the Secured Indebtedness as lender sees fit. If mortgage has paid any imposition directly, lender shall reimburse mortgage therefor upon presentation to lender of a stamped receipt. Lender shall not be required to pay any interest or earnings on the funds unless otherwise required by law, in which case, all interest shall accrue in the depository account and lender may charge for so holding and applying the funds, analyzing the account and verifying and compiling assessments and bills. Upon Mortgagor's request, lender shall provide to Mortgagor an annual accounting of the funds showing credits and debits to the funds and the purpose for which each debt was made. The funds are pledged as additional security for the sums secured by this mortgage.

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All insurance shall: (1) be in form and content, and shall be carried in companies, approved by lender (any such company shall in any event, and not in limitation of the foregoing, have received a best's rating of at least A(1) or higher for at least three (3) years; (2) have attached standard non-contributing mortgage and waiver of subrogation clauses and with loss payable to lender; (3) provide thirty (30) days' advance written notice to lender before cancellation or material modification; and (4) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to lender. Originals of all policies and endorsements (or certificates evidencing the same), marked "paid," shall be delivered to lender at least thirty (30) days before the expiration of existing policies. Mortgagor shall not carry any separate insurance on the property concurrent in kind or form with any insurance required hereunder or contributing

lender may, at any time and in its sole discretion upon written notice to mortgagor, procure and substitute for any and all of the insurance policies required above, such other policies of insurance, in such amounts, and carried in such companies, as it may select, and in such event, those policies of insurance shall be included within the definition of Insurance Policies set forth herein.

(h) To the extent not included in subparagraph (a) through (g) above, such other types and amounts of coverage as are customarily maintained by owners or operators of like properties.

(g) (1) fire, lightning, explosion, and other risks; (2) theft; (3) riot and civil commotion; (4) malicious damage; (5) vandalism; (6) burglary; (7) automobile damage; (8) windstorm, hail, and other weather-related risks; (9) other risks as may be specified in the policy.

(f) Insurance against loss or damage by flood or mud slide, if the property is now, or at any time while the insured individuals remain outstanding shall be, situated in any area which an appropriate governmental authority determines as a flood or mud slide hazard area or the like, in such amount as lender may require, not exceeding the maximum legal limit of coverage;

(e) (1) During the making of any alterations or improvements to the property not covered by the insurance provided in subparagraph (b) above and (2) workers' compensation insurance covering all persons engaged in such alterations or improvements;

(d) Broad form boiler and machinery insurance on all equipment and objects customarily covered by such insurance (if any are located at the property), providing for full repair and replacement cost coverage, and other insurance of the type, and in amounts as the lender may reasonably require, but in no event less than that customarily carried by persons owning or operating like properties;

(c) Rent and rental value insurance (or, at the discretion of lender, business interruption insurance) in amount sufficient to pay during any period of up to one (1) year in which the property may be damaged or destroyed (1) all rents and profit from the property and (2) all amounts (including, but not limited to, all) obligations, utility charges and insurance premiums) required to be paid by mortgagor or by tenants of the property;

(b) Comprehensive general public liability insurance against death, bodily injury and property damage arising in connection with the property with such limits as the lender may reasonably require (but in no event less than one million and no/100 dollars (\$1,000,000.00));

(a) Insurance against physical loss and damage to the property caused by fire, lightning, windstorm, vandalism, malicious mischief, and risks covered by the so-called "all-risk" endorsement and such other risks as the lender may reasonably require, in amount (but in no event less than the initial stated principal amount of the Note) equal to the full replacement value of the property, fixtures and equipment, plus the cost of debris removal, with full replacement cost amount and inflation guard endorsement;

6. Insurance Coverage; Form; Proceeds. Mortgagor shall insure and keep insured the property against such perils and hazards, and in such amounts and with such limits, as lender may from time to time require, and, in any event, will continuously maintain the following described policies of insurance (the "insurance policies"):

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Any amounts disbursed by Lender pursuant to this Paragraph 8 shall be a part of the Secured Indebtedness and shall bear interest at the default interest rate provided in the Note (the "Default Rate"). Nothing contained in this Paragraph 8 shall require Lender to incur any expense to take any action hereunder, and Lender shall never be considered a waiver of any right accruing to Lender on account of this Paragraph 8.

8. Protection of Lender's Security. If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage, the Note or the other Loan Documents, or if any action or proceeding is threatened or commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Mortgagor, may make such appearances, disburse such sums (including reasonable attorney's fees, and take such action as it deems expedient or necessary to protect Lender's interest, including (a) making repairs; (b) disconnecting prior encumbrances in full or part; (c) paying, settling, or discharging tax liens, mechanics' or other liens, paying ground rents (if any); (d) procuring insurance; and (e) renting, operating and managing the Property and paying operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Property shall be operational and usable for its intended purposes. Lender, in making such payments of impositions and assessments, may do so in accordance with any bill, statement, or estimate procured from the appropriate office without inquiry into the accuracy of same or into the validity thereof.

7. Use, Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments. Mortgagor shall keep the Property in good condition and repair and shall not commit, cause or permit impairment or deterioration of the Property. Mortgagor shall not allow, treat or dispose of Hazardous Material as defined in Paragraph 20, nor permit the same to exist or to be stored, treated or disposed of, from or upon the Property. Mortgagor shall promptly restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or destroyed. Mortgagor shall comply with all requirements of the law or municipal ordinances with respect to the use, operation, and maintenance of the Property, including all governmental, health and safety laws and regulations, and shall make no material alteration to the Property except as required by law, without the prior written consent of Lender. Mortgagor shall not grant or permit any easements, licenses, covenants or declarations of use against the Property. If this Mortgage is on a unit in a condominium or a planned unit development, including this Mortgage is on a unit in a condominium or a planned unit development, Mortgagor shall perform all obligations of the lease under the underlying ground lease. Mortgagor shall perform or cause to be performed all obligations of the lease under the underlying ground lease. If this Mortgage is on a ground leasehold, Mortgagor shall perform or cause to be performed all obligations of the lease under the underlying ground lease.

In the case of loss covered by any of such policies, the Lender is authorized to adjust, collect and compromise in its discretion, all claims thereunder and in such cases, the Mortgagor's behalf, all necessary proof of loss, receipts, releases, and other papers required by the insurance companies to be signed by the Mortgagor. At the option of the Lender, all or part of the proceeds of any such insurance may be applied either to the satisfaction of the Property or to the reduction of the Secured Indebtedness. In the event the proceeds of insurance are applied to reduce the Secured Indebtedness, any such application shall constitute a prepayment, and any prepayment premium required by the loan documents shall then be due and payable as provided therein. Lender may apply the insurance proceeds to such prepayment premium. In the event the Property is restored, the Lender may pay the insurance proceeds in accordance with the customary construction loan payment procedure and the Mortgagor agrees to pay the Lender the customary fee for such services.

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11. Assignment of Leases and Rents. All right, title, and interest of Mortgagor in and to all present and future leases affecting the property, written or oral (collectively, "Leases"), and all rents, income, proceeds, revenues, issues, and profits from or arising out of the property (collectively, "Rents") are hereby transferred and assigned to Lender as further security for the payment of the Secured Indebtedness, and Mortgagor hereby grants a security interest to Lender in and to the same. If requested by Lender, Mortgagor shall submit all future leases affecting the property to the Lender for its approval prior to execution, and all approved and executed leases shall be specifically assigned to Lender by an instrument satisfactory to Lender. Each lease shall, at the option of Lender, be

10. Prohibitions on Transfer of the Property or of an Interest in Mortgagor. It shall be an immediate default if, without the prior written consent of Lender, which consent may be granted or withheld at Lender's sole discretion, Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale (including an installment sale), assignment, transfer, lien, pledge, hypothecation, mortgage, security interest, or other encumbrance or alienation (or any agreement to do any of the foregoing), whether by operation of law, voluntarily or otherwise, (collectively, "Transfer") of (a) the property or any part thereof or interest therein; (b) all or a portion of the beneficial interest of any corporate or change in the power of direction; (c) all or a portion of the stock of any corporate Mortgagor or corporate beneficiary of a trustee Mortgagor, that results or could result in a material change in the identity of the person(s) or entities previously in control of such corporation; or (d) all or a portion of a partnership, or joint venture interest of a joint venture in the joint venture. If Mortgagor is, or is Mortgagor's beneficiary consists of or includes, a partnership or joint venture, that result or could result in a material change (such of the foregoing is referred to as a "Prohibited Transfer"). In the event of such default, Lender may declare the entire unpaid balance, including interest, immediately due and payable. The foregoing provisions of this Paragraph 10 shall not, however, apply to the lien of current obligations and assessments not yet due and payable and to liens which secure the Secured Indebtedness. This option shall not be exercised by Lender if Lender is relying on the creditworthiness of Mortgagor or Mortgagor's beneficiary and agrees that: (i) in making the loan(s) which constitutes the Secured Indebtedness, Lender is relying on the value of the property, and that any subsequent encumbrances of the date hereof plus any future improvements, and that any subsequent encumbrances would not materially impact the value of the property; and (ii) therefore, if any provision in this Paragraph 10 shall be deemed a restriction on alienation, Mortgagor agrees that such restriction is a reasonable one and that any prohibited Transfer shall be an event of Default hereunder.

9. Condemnation. Mortgagor shall give Lender immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting all or any part of the property and shall deliver to Lender copies of any and all papers served in connection with any such proceedings. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid directly to Lender. Mortgagor hereby grants a security interest to Lender in and to such proceeds. Lender is authorized to collect such proceeds and, at Lender's sole option and discretion, to apply said proceeds either to satisfaction or repair of the property or in payment of Secured Indebtedness. In the event the property is restored, Lender may pay the condemnation proceeds in accordance with its customary construction loan payment procedures, and the Mortgagor agrees in such event to pay the Lender its customary fee for such services. In the event the condemnation proceeds are applied to reduce Secured Indebtedness, any such application shall constitute a prepayment, and any prepayment premium required by the loan documents shall then be due and payable as provided therein. Lender may apply the condemnation proceeds to such prepayment premium. In the event of any partial taking of the property or any interest in the property, which, in the judgment of Lender leaves the property as a complete economic unit having equivalent value to the property as it existed prior to the taking, and provided no event of default has occurred and is then continuing, the proceeds of any award shall be applied to reimburse Mortgagor for the cost of plans, specifications and procedures which must be submitted to and approved by Lender, and such proceeds shall be distributed in the same manner as is herein provided for the application of insurance proceeds, provided that any surplus after payment of such costs shall be applied on account of the Indebtedness. If such proceeds are not applied for reimbursement of such restoration costs, they shall be applied against the Indebtedness, in such order or manner as Lender shall elect.

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12. Security Agreement. Without limiting any other provisions of this Mortgage, this Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the State of Illinois (herein called the "Code") with respect to all fixtures, apparatus, equipment or articles, and all replacements and substitutions, now or hereafter located on the Property as set forth in the description of the Property above, including but not limited to the air-conditioning, heating, gas, water, power, light, refrigeration, and ventilation systems which are presently located at the Property, and with respect to all funds and other sums which may be deposited with Lender pursuant hereto (all for the purposes of this paragraph called "Collateral"). All of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property. When the Secured Indebtedness shall become due, whether by acceleration or otherwise, Lender shall have all remedies of a secured party under the Code. Mortgagor shall execute and deliver to Lender any financing statements necessary to perfect the security interest in the Collateral created hereby.

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Lender, however, shall not be obligated to perform or discharge any obligation, duty or liability under any lease. Mortgagor shall, defend, protect, indemnify and hold Lender harmless from and against any and all such liability, loss or damage to Lender under the lease or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against Lender by reason of all alleged obligations or undertakings on its part to perform or discharge any lease terms, covenants or agreements. The amount of any such liability, loss or damage arising under the lease or under or by reason of their assignment, or in the defense of any claims or demands, including costs, expenses and reasonable attorneys' fees, incurred by Lender shall be a part of the Secured Indebtedness due and payable upon demand with interest thereon accruing thereafter at the Default Rate.

If Mortgagor, as lessor, shall neglect or refuse to perform and keep all of the covenants and agreements contained in the lease or leases, then Lender may perform and comply with any such lease covenants and agreements. All related costs and expenses incurred by the Lender shall become a part of the Secured Indebtedness and shall be due and payable upon demand by Lender with interest thereon accruing thereafter at the Default Rate.

Lender shall have the right to assign Mortgagor's right, title and interest in any lease to any subsequent holder of this Mortgage or the Note and other loan documents or to any person acquiring title to all or any part of the Property through foreclosure or otherwise. Upon the event of default, this Mortgage shall constitute a direct loan to each leasee under the lease and each guarantor thereof, if any, to pay all rents directly to Lender without proof of the event of default. Lender shall have the authority, as Mortgagor's attorney-in-fact (such authority being coupled with an interest and irrevocable) to sign (the name of Mortgagor and to bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property. While the assignment is a present assignment, Lender shall not exercise any of the rights or powers conferred upon it by this paragraph until an event of Default shall occur under this Mortgage.

If, without Lender's prior written consent, Mortgagor: (a) as lessor, fails to perform and fulfill any term, covenant, or provision in any lease; (b) suffers or permits to occur any breach or default under the provisions of any separate assignment of any lease given as additional security for the Secured Indebtedness; (c) fails to fully protect, insure, preserve, and cause continued performance or fulfillment of the terms, covenants, or provisions, which are required to be performed by the leasee or lessor of any other lease or leases hereafter assigned to Lender; (d) cancels, terminates, or materially amends or modifies any lease; or (e) permits or approves an assignment by the leasee of a lease or a subletting of all or any part of the property defined in the lease; such occurrence shall constitute an event of default hereunder.

paramount or subordinate to this Mortgage. Mortgagor shall furnish Lender with executed copies of each lease and, if requested by Lender, with escrowed letters from each tenant, which escrowed letters shall be in a form satisfactory to Lender and shall be delivered not later than thirty (30) days after Lender's written demand.



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13. Event of Default. Each of the following shall constitute an event of default ("Event of Default") under this Mortgage:

(a) Mortgagee's failure to pay any amount due herein or secured hereby, or any installment of principal or interest when due and payable, whether at maturity or by acceleration or otherwise, under the Note, this Mortgage, or any other Loan Document;

(b) Mortgagee's failure to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Note, this Mortgage (other than an event of default described elsewhere in this Paragraph 13), any other Loan Document, or any other document evidencing, guaranteeing or securing the Secured Indebtedness, and such failure continues for a period of ten (10) days after notice thereof given by Lender to Mortgagee;

(c) The occurrence of prohibited transfers;

(d) Mortgagee, or any beneficiary of or person in control of Mortgagee, or any person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon all or any part of the indebtedness or any of the covenants or agreements contained herein (collectively, "Obligations"), shall: (i) file a voluntary petition in bankruptcy, insolvency, debtor relief or for arrangement, reorganization, or other relief under the Federal Bankruptcy Act or any similar state or federal law now or hereafter in effect; (ii) consent to or suffer the appointment of or being possessed by a receiver, liquidator, or trustee, (or similar official) of such person or for any part of the property or any substantial part of such person's other property; (iii) make any assignment for the benefit of such person's creditors; (iv) fail generally to pay such person's debts as they become due; (v) court having jurisdiction shall enter a decree or order for relief in respect of such person in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law and such decree or order is not vacated or dismissed within thirty (30) days;

(e) All or a substantial part of the assets of Mortgagee or any beneficiary of or person in control of Mortgagee, or any Obligor, are attached, seized, subjected to a writ or distress warrant, or are levied upon;

(f) If Mortgagee, or any beneficiary of or person in control of Mortgagee, or any Obligor is other than a natural person or persons, (i) the dissolution or termination of existence of such entity, voluntarily or involuntarily, whether by reason of death of a general partner of such entity or otherwise; (ii) the amendment or modification in any respect of the articles of agreement of partnership or corporate resolutions or articles of incorporation or bylaws of such entity that would affect Mortgagee's performance of its obligations under the Note, this Mortgage or the other Loan Documents; or

(g) This Mortgage shall not constitute a valid lien on and security interest in the property (subject only to the permitted encumbrances), or if such lien and security interest shall not be perfected.

14. ACCELERATION; REMEDIES. AT ANY TIME AFTER AN EVENT OF DEFAULT, LENDER, AT LENDER'S OPTION AND WITHOUT AFFECTING THE LIEN GRANTED HEREBY OR THE PRIORITY OF SAID LIEN OR ANY OTHER RIGHT OF LENDER HEREUNDER, MAY DECLARE ALL MONIES SECURED BY THIS MORTGAGE AND OTHER LOAN DOCUMENTS TO BE IMMEDIATELY DUE AND PAYABLE WITHOUT FURTHER DEMAND AND MAY FORECLOSE THIS MORTGAGE BY JUDICIAL PROCEEDING AND/OR EXERCISE ANY RIGHT, POWER OR REMEDY PROVIDED BY THIS MORTGAGE, THE NOTE, ANY OTHER LOAN DOCUMENT OR BY LAW OR IN EQUITY OR ANY OTHER DOCUMENT OR INSTRUMENT REGULATING, EVIDENCING, SECURING OR GUARANTEEING ANY OF THE SECURED INDEBTEDNESS. LENDER SHALL, BE ENTITLED TO COLLECT IN CONNECTION THEREWITH ALL EXPENSES OF FORECLOSURE, INCLUDING, BUT NOT LIMITED TO, REASONABLE FEES OF ATTORNEYS (WHO MAY BE EMPLOYERS OF THE BANK) AND COSTS INCLUDING ABSTRACTS, TITLE REPORTS, AND TITLE INSURANCE, ALL OF WHICH SHALL BECOME A PART OF THE SECURED INDEBTEDNESS AND IMMEDIATELY DUE AND PAYABLE WITH INTEREST AT THE DEFAULT RATE. THE PROCEEDS OF ANY FORECLOSURE SALE OF THE PROPERTY SHALL BE APPLIED AS FOLLOWS: FIRST, TO ALL COSTS, EXPENSES AND FEES INCIDENT TO THE FORECLOSURE PROCEEDINGS; SECOND, AS SET FORTH IN PARAGRAPH 3 OF THIS MORTGAGE; AND THIRD, ANY BALANCE TO MORTGAGEE. LENDER MAY BE THE PURCHASER AT ANY FORECLOSURE SALE OF THE PROPERTY OR ANY PART THEREOF.

18. Burlington Loan. Mortgages hereby represented and warranted or, in the case of a Trustee Mortgage, represented that it has been advised by its beneficiary, that: (a) the proceeds of the secured Independent (the "loan") will be used for the purchase specified in Section 604(1) (a) or (c) of Chapter 17 of the Illinois Revised Statutes, as amended; (b) the loan constitutes a "business loan" within the purview of that Section; (c) the loan is a transaction exempt from the Truth in Lending Act, 15 U.S.C. Subsection 1601, or Reg. 1 and (d) the proceeds of the Independent will not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

17. Principal Amount of Mortgage; Future Advances. This Mortgage also secures the payment of and includes all future or further advances as shall be made at all times, regardless of whether loan proceeds have been disbursed, by the lender herein, or its successors or assigns, to the benefit of the mortgagee, its heirs, personal representatives, or assigns, to the name extent as if such future advances were made on the date of the execution of this mortgage. The total amount of secured indebtedness secured by this mortgage may decrease or increase from time to time, but at no time shall the principal amount thereof (including interest thereon and any and all disbursements made by the lender for the payment of impositions, insurance charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money) exceed the stated principal amount of the Note plus \$50,000.00. Such further or future advances shall be wholly optional with the lender and the same shall bear interest at the same rate as specified in the Note referred to herein, unless said interest rate shall be modified by subsequent agreement. Nothing in this Paragraph shall be deemed to imply that lender has agreed to make any such further or future advances.

16. Waiver of Right of Redemption and Other Rights; Waiver of Defense. Notwithstanding anything to the contrary herein contained, to the full extent permitted by law, Mortgagee hereby agrees that it will not at any time or in any manner whatsoever claim any stay, extension or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, or claim any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale or sale claim to exercise any rights under any statute now or hereafter in force to redeem the property as sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagee hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this mortgage, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagee and on behalf of each and every person acquiring any interest in or title to the property subsequent to the date hereof, including the interest hereof that any and all rights of redemption of Mortgagee and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be available to, and good with respect to, the party incurs such defense in an action at law on the Note.

15. Appointment of Receiver. Upon acceleration under Paragraphs 10 or 13 or abandonment of the property, and without further notice to Mortgagee, lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the property and to collect the rents including those past due. The receiver shall have the power to collect the rents from the time of acceleration through the pendency of any foreclosure proceedings and during the full statutory period of redemption, if any. All rents collected by the receiver shall be applied as the appointing court may direct and, in the absence of such direction, first to payment of the costs and expenses of the management of the property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then as provided in Paragraph 3. The receiver shall be liable to account only for those rents actually received. Lender or any employee or agent thereof may be appointed as the receiver.

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19. Riders. The following riders are attached hereto, and are incorporated herein and made a part hereof:

Initials:

\_\_\_\_\_ Adjustable Rate Rider

\_\_\_\_\_ Condominium Rider

\_\_\_\_\_

\_\_\_\_\_

T7 J7  
\_\_\_\_\_ No Riders Attached

20. Environmental Compliance. Mortgagor hereby represents to Lender and covenants with Lender that:

(a) The Property, and the use and operation thereof, are currently in compliance and will remain in compliance with all applicable laws and regulations (including all environmental, health and safety laws and regulations). All required governmental permits are in effect and will remain in effect.

(b) There are and will be no environmental, health or safety hazards that pertain to any of the Property or the business or operations conducted thereon. No storage, treatment or disposal of hazardous waste or material (collectively, "Hazardous Materials") has or will occur on the Property. (For purposes of these representations and warranties the term "Hazardous Materials" shall include substances defined as "hazardous substances" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sec. 9601 et seq.; Hazardous Materials Transportation Act, 49 U.S.C. Sec. 1802; the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq.; and those substances defined as "hazardous waste" in Section 1003 (j) of the Illinois Environmental Protection Act, Ill. Rev. Stat. Chapter 111-1/2 Para. 1001 et seq.; and the regulations adopted and publications promulgated pursuant to said laws. The business and all operations conducted on the Property have and will lawfully dispose of their Hazardous Materials.

(c) There are no pending or threatened: (i) actions or proceedings from any governmental agency or any other entity regarding the condition or use of the Property, or regarding any environmental, health or safety law; or (ii) "superliens" or similar governmental actions or proceedings that could impair the value of the Property, or the priority of the lien of this Mortgage or any of the other loan Documents (collectively "Environmental Proceedings"). Mortgagor will promptly notify Lender of any notices, or other knowledge obtained by Mortgagor hereafter of any pending or threatened Environmental Proceedings, and Mortgagor will promptly cure and have dismissed with prejudice any such Environmental Proceedings to the satisfaction of Lender.

(d) Any fees, costs and expenses imposed upon or incurred by Lender on account of any breach of this Paragraph 20 shall be immediately due and payable by Mortgagor to Lender upon demand, and shall (together with interest thereon at the Default Rate accruing from the date such fees, costs and expenses are so imposed upon or incurred by Lender) become part of the Secured Indebtedness. Mortgagor shall keep, save and protect, defend, indemnify and hold Lender harmless from and against and all claims, loss, cost, damage, liability or expense, including reasonable attorneys' fees, sustained or incurred by Lender by reason of any Environmental Proceedings or the breach or default by Mortgagor of any representation, warranty or covenant contained in this Paragraph 20.

21. Financial Statements. Mortgagor shall cause to be delivered to Lender, within ninety (90) days after the end of each calendar year ending during the term of this Mortgage, financial and operating statements of the Property for such year, and annual financial statements of Mortgagor's beneficiary, if any, and of each Obligor, on a form approved by Lender, setting forth the information therein as of the immediately preceding calendar year, including, but without limitation, a

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balance sheet and statement of income and expenditures, all prepared in accordance with generally accepted principles of accounting consistently applied. Such financial and operating statements shall be prepared and certified in such manner as may be acceptable to Lender, and Lender may, by notice in writing to Mortgagor, require that the same be certified and prepared pursuant to audit by a firm of independent certified public accountants satisfactory to Lender.

22. Further Assurances; Estoppel Certificates. Mortgagor will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered all such further acts, conveyance, notes, mortgages, security agreements, financing statements, assignments and assurances as Lender shall require for the better assuring, conveying, mortgaging, assigning and confirming unto Lender all property mortgaged hereby or property intended so to be, including, without limiting the generality of the foregoing, proceeds of insurance and condemnation awards, whether now owned by Mortgagor or hereafter acquired. From time to time, Mortgagor will furnish within five (5) days after Lender's request a written and duly acknowledged statement of the amount due under the Note and under this Mortgage and whether any alleged offsets or defenses exist against the Secured Indebtedness.

23. Inaction of Property and Books and Records. Mortgagor shall permit Lender and its representatives and agents to inspect the Property from time to time during normal business hours and as frequently as Lender requests. Mortgagor shall keep and maintain full and correct books and records showing in detail the income and expenses of the Property. From time to time upon not less than two (2) days demand, Mortgagor shall permit Lender or its agents to examine and copy such books and records and all supporting vouchers and data at its offices or at the address identified above.

24. Mortgagor Not Released; No Waiver; Remedies Cumulative. Extension or other modification granted by Lender to Mortgagor or any successor in interest of Mortgagor of the time for payment or the amortization of the Secured Indebtedness shall not operate to release, in any manner, the liability of the Mortgagor. Any delay, forbearance or inaction by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. Any acts performed by Lender to protect the security of this Mortgage, as authorized by Paragraph 8 or otherwise, shall not be a waiver of Lender's right to accelerate the maturity of the Indebtedness. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively and in such order as may be deemed expedient to Lender. No consent or waiver by Lender to or of any breach or default by Mortgagor shall be deemed a consent or waiver to or of any other breach or default.

25. Successors and Assigns Bound; Joint and Several Liability. The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective heirs, executors, legal representatives, successors and assigns of Lender and Mortgagor. If this Mortgage, the Note, or any other Loan Document is executed by more than one party, the liability of such parties hereunder or thereunder shall be joint and several.

26. Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Maker which exceeded permitted limits will be refunded to Maker. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Maker. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

27. Legislation Affecting Lender's Rights. If an enactment, modification or expiration of an applicable governmental law, ruling or regulation has the effect of (a) rendering any provision of the Note, this Mortgage or any of the other Loan Documents unenforceable according to its terms or (b) deducting from the value of the Property for the purpose of taxation any lien thereon, or imposing upon Lender the payment of the whole or any part of the impositions required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of Lender in the Property, or the manner of collection of impositions, so as to affect this Mortgage, the Indebtedness to Lender, Lender, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted in Paragraph 14.

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28. Notice. Except for any notice required under applicable law to be given in another manner, any notices required or given under this Mortgage shall be given by hand delivery or by certified mail, return receipt requested. Notices shall be given to Mortgagor at the address provided below and to Lender at Lender's address stated above. Notices shall be deemed to have been given and effective on the date of delivery, if hand-delivered, or two (2) days after the date of mailing shown on the certified receipt, if mailed. Any party hereto may change the address to which notices are given by notice as provided herein. Except as otherwise specifically required herein, notice of the exercise of any right, power or option granted to Lender by this Mortgage is not required to be given.

29. Interpretation. This Mortgage shall be construed and enforced pursuant to the laws of the State of Illinois, without reference to conflicts of laws principles. The headings of sections and paragraphs in this Mortgage are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions. The use of singular and plural nouns, and masculine, feminine, and neuter pronouns, shall be fully interchangeable, where the context so requires. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated to be illegal or invalid, such illegal or invalid part shall be given effect to the fullest possible extent that it is legal or valid and the validity of the remainder of this Mortgage shall be construed as if such illegal or invalid part were never included. Time is of the essence of the payment and performance of this Mortgage.

30. Release. Upon payment of all Secured Indebtedness, Lender shall release this Mortgage upon payment by Mortgagor of all costs and fees to release same, if any. Mortgagor shall be responsible for recording the release, including all related costs of recordation.

31. Waiver of Jury Trial. Mortgagor hereby waives any right to a trial by jury in any action or proceeding to enforce or defend any rights (i) under this mortgage, the Note, the other Loan Documents or under any amendment, instrument, document or agreement delivered or which may in the future be delivered in connection therewith; or (ii) arising from any banking relationship existing in connection with this Mortgage or the other Loan Documents; and agrees that any such action or proceeding shall be tried before a court and not before a jury.

32. Land Trustee Exculpation. If Mortgagor is a trustee, this Mortgage is executed by the undersigned, not personally, but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as Trustee. No personal liability shall be asserted or be enforceable against the Trustee because or in respect of this Mortgage or its making, issue or transfer, and all such liability, if any, is expressly waived by each taker and holder hereof; except that Trustee in its personal and individual capacity warrants that it, as Trustee, possesses full power and authority to execute this instrument. Nothing herein shall modify or discharge the personal liability assumed by the guarantors hereof. Each original and successive holder of this Mortgage accepts the express condition that no duty shall rest upon the Trustee to sequester the rents, issues and profits arising from the Property, or the proceeds arising from such Property's sale or other disposition. Upon the occurrence of an Event of Default, the sole remedy of the holder, as far as Trustee is concerned, shall be foreclosure of the Mortgage, action against any other security at any time given to secure the payment of the Secured Indebtedness, action to enforce the personal liability of other makers on the Note or the guarantors of the Note, or any other remedies as the holder in its sole discretion may elect.



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

CORPORATION:

Faust, Inc.

a(n) Illinois corporation  
(state)

By: [Signature]  
Its: President

ATTEST:

By: [Signature]

TC 2-28-39

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