

Address: N. Knox Chicago, Illinois P.I.N. 13-27-103-001 13-27-103-002

89093064

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto pertaining or belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagee may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and including but not limited to all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, curtain fixtures, partitions, attached floor covering, now or hereafter therein or thereon

NOW, THEREFORE, Mortgagee, in consideration of said debt and to secure the payment of both principal and interest thereof, in accordance with the terms and provisions of the Note and in accordance with the terms, provisions and limitations of this mortgage, and to secure the performance of the covenants and agreements herein and in the Note contained, to be performed by Mortgagee, does by these presents MORTGAGE, GRANT, REMISE, RELEASE, ALIEN and CONVEY unto Mortgagee, its successors and assigns, the real estate described in Exhibit A attached hereto and made a part hereof and all of its estate, right, title and interest therein, situate, lying and being in the City of Chicago, County of Cook, and State of Illinois which, with the property hereinafter described, is referred to as the "premises,"

\$39.00

W I T N E S S E T H :

THIS MORTGAGE made as of January 4, 1989, by and between NBD Trust Company of Illinois, as Successor Trustee to NBD Highland Park Bank, N.A., formerly known as First National Bank of the State of Illinois, not personally, under the provisions of a deed or deeds in trust, duly recorded and delivered to said corporation in pursuance of a Trust Agreement dated August 19, 1986, and known as Trust No. 4172-HR (The "Mortgage"), and NBD Highland Park Bank, N.A., a national banking association (the "Mortgagee").

MORTGAGE 89093064

72-02-234 D1

890933064

owned by Mortgagor and all fixtures, apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air cooling, air conditioning, water, light, power, sanitation, sprinkler protection, waste removal, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), all other fixtures, apparatus, equipment, furniture, furnishings, and articles used or useful in connection with the operation of a building now or hereafter located upon said premises owned by Mortgagor, it being understood that the enumeration of any specific articles of property shall in no wise result in or be held to exclude any items of property not specifically mentioned. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate and to be appropriated to the use of the real estate, and shall for the purpose of this mortgage be deemed to be real estate and conveyed and mortgaged hereby. As to any of the property aforesaid which (notwithstanding the aforesaid declaration and agreement) does not so form a part and parcel of the real estate, this mortgage is hereby deemed to be, as well, a Security Agreement under the Uniform Commercial Code for the purpose of creating hereby a security interest in such property, which Mortgagor hereby grants to Mortgagee as Secured Party (as said term is defined in the Uniform Commercial Code), securing said indebtedness and obligations.

TO HAVE AND TO HOLD the premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, Etc.

1. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (b) keep the premises in good condition and repair, without waste, and free of mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof except that Mortgagor shall have the right to contest by appropriate proceedings diligently prosecuted the validity or amount of any such lien if and only if Mortgagor shall within fifteen (15) days after the filing thereof (1) place a bond with Mortgagee in an amount, form, content and issued by a surety reasonably acceptable to Mortgagee for the payment of any such lien or (2) cause the title company which has issued the loan policy of title

UNOFFICIAL COPY

3000000

Property of Cook County Clerk's Office

89093064

3. Mortgagor shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Premises insured against loss or

Insurance

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, condominium assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagee shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagee may desire to contest. If any special assessment is permitted by applicable law to be paid in installments, Mortgagee shall have the right to pay such assessment in installments, so long as all such installments are paid prior to the due date thereof. Notwithstanding anything contained herein to the contrary, Mortgagee shall have the right to protest any taxes assessed against the Premises, so long as such protest is conducted in good faith by appropriate legal proceedings diligently prosecuted and Mortgagee shall furnish to the title insurer such security or indemnity as said insurer requires to induce it to issue an endorsement, in form and substance acceptable to Mortgagee, insuring over any exception created by such protest.

Payment of Taxes

Insurance to Mortgagee insuring the lien of this Mortgage to issue an endorsement thereto insuring against loss or damage on account of any such lien; (c) pay when due any indebtedness which may be secured by a lien or charge on the premises on a parity with or superior to the lien hereof and comply with all requirements of all loan documents evidencing or securing such indebtedness, and upon request, exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete within a reasonable time any building or buildings or any improvements now or at any time in the process of erection upon the premises; (e) comply, in all material respects, with all requirements of law, municipal ordinances, or restrictions of record with respect to the premises and the use thereof; (f) make no material alterations in the premises except as required by law or municipal ordinance, except with the prior written consent of Mortgagee, which consent shall not be unreasonably withheld; (g) suffer or permit no change in the general nature of the occupancy of the premises, without Mortgagee's written consent, which consent will not be unreasonably withheld; (h) initiate or acquiesce in no zoning variation or reclassification, without Mortgagee's prior written consent; (i) pay each item of indebtedness secured by this mortgage when due according to the terms hereof or of the Note.

UNOFFICIAL COPY

INVESTIGATION REPORT

Case No. 123456789

Date: 10/26/2023

Investigator: J. Doe

Subject: [REDACTED]

Location: [REDACTED]

Time: [REDACTED]

Witnesses: [REDACTED]

Findings: [REDACTED]

Conclusion: [REDACTED]

Recommendations: [REDACTED]

Signature: [REDACTED]

Date: [REDACTED]

Page 1 of 1

10/26/2023 10:26:00 AM

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-4-

89093064

In the event of loss Mortgagee will give immediate notice by mail to Mortgagee, who may make proof of loss if not made promptly by Mortgagee, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Mortgagee instead of to Mortgagee and Mortgagee

such insurance.

Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of

Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of such insurance. Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of such insurance.

Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of such insurance.

Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of such insurance.

Mortgagee shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard mortgage clause acceptable to Mortgagee. Mortgagee immediately shall notify Mortgagee whenever any such separate insurance is taken out and promptly shall deliver to Mortgagee the policy or policies (or certificates thereof) of such insurance.

UNOFFICIAL COPY

13000000

Property of Cook County Clerk's Office

UNOFFICIAL COPY

89093064

5. In case of loss or damage by fire or other casualty, Mortgagee may settle and adjust any claim under insurance policies which insure against such risks so long as: (a) no insurer denies liability as to any insured or claims any right of participation in any of the Mortgagee's security; and (b) this Mortgagee is not in default; then such insurance proceeds, after deducting therefrom any expenses incurred by Mortgagee in the collection thereof, shall be made available by the Mortgagee for the repair, rebuilding or restoration of the building(s) and other improvement(s) on the Premises. If Mortgagee is then in

Adjustment of Losses with Insurer and Application of Proceeds of Insurance

hereunder, shall have requested said depository in writing to make application of such funds to the payment of the particular taxes or assessments or the payment of which they were deposited, accompanied by the bills for such taxes and assessments or insurance premiums. Payment of taxes and assessments or insurance premiums any amount so deposited unless Mortgagee, while not in default of Mortgagee; provided, however, that neither Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments or insurance premiums any amount so deposited unless Mortgagee, while not in default hereunder and shall not be subject to the direction or control applied by the depository for the purposes for which made indebtedness hereunder and shall be held to be irrevocably Such deposits are hereby pledged as additional security for the to Mortgagee or to the then owner or owners of the premises. hereby has been fully paid, any remaining deposits shall be paid manner as Mortgagee may elect. When the indebtedness secured obligations herein or in the Note contained, in such order and or more of the same may be applicable, on any of Mortgagee's deposit pursuant to any provision of this mortgage, as any one without being required to do so, apply any moneys at the time on applicable grace periods, if any), Mortgagee may at its option, contained in this mortgage or in the Note (after expiration of 4 In the event of a default in any of the provisions

Mortgagee's Interest in and Use of Deposits

jointly. Any insurance proceeds so received by Mortgagee, or any part thereof, shall be applied by Mortgagee, after the payment of all of Mortgagee's expenses, including costs and attorneys' fees, to the restoration or repair of the property damaged as provided in Paragraph 5 hereof. In the event of foreclosure of this mortgage, all right, title and interest of Mortgagee in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale. Mortgagee shall furnish Mortgagee, without cost to Mortgagee, at the request of Mortgagee, from time to time, evidence of the replacement value of the Premises.

UNOFFICIAL COPY

1000000

Property of Cook County Clerk's Office

890933064

In case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the buildings or improvements, shall be applied in payment or reduction of the indebtedness secured hereby or in payment or reduction of the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if it shall then be entitled to the same or as the court may direct. In case of the foreclosure of this mortgage,

As used in this Paragraph 5, the term "Disbursing Party" refers to the Mortgagee and to any responsible trust company or title insurance company selected by the Mortgagee.

proceeds of insurance held by the Disbursing Party. Mortgagee. No interest shall be allowed to Mortgagee on any entitled thereto as the same appear on the records of the applied on account of the indebtedness or paid to any party the Disbursing Party, shall, at the option of the Mortgagee, be of repair, rebuilding, restoration and the reasonable charges of remain out of said insurance proceeds, after payment of the cost before such work shall be commenced. Any surplus which may Mortgagee must approve plans and specifications of such work exceed the sum of FIFTY THOUSAND DOLLARS (\$50,000.00), then the restoring the buildings and other improvements may reasonably and clear of liens. If the cost of rebuilding, repairing or sufficient to pay for the cost of completion of the work free in the hands of the Disbursing Party shall be at least at all times the undisturbed balance of such proceeds remaining (90%) of the value of the work performed from time to time, and to the final completion of the work shall exceed ninety percent free and clear of mechanics' lien claims. No payment made prior represented by completed and in-place work and that said work is verify that the amounts disbursed from time to time are evidence of cost and payments so that the Disbursing Party can subcontractors' sworn statements, title continuations and other architects' certificates, waivers of lien, contractors' and satisfactory evidence of the cost of completion thereof and with "Disbursing Party" (hereinafter defined) being furnished with restoration, such proceeds shall be disbursed upon the insurance proceeds are made available for repair, rebuilding or character as prior to such damage or destruction. If the to be of at least equal value and substantially the same improvement(s) shall be so repaired, restored or rebuilt so as repair restoration or rebuilding, the building(s) and other and other improvement(s) on the Premises. In the event of cost of the repair, rebuilding or restoration of the building(s) or not; or (b) held by the Mortgagee and used to pay for the be: (a) applied in reduction of the indebtedness, whether due and such insurance proceeds may, at the option of the Mortgagee, default, Mortgagee is authorized to settle and adjust any claim

UNOFFICIAL COPY

RECEIVED

Property of Cook County Clerk's Office

UNOFFICIAL COPY

9. In the event of the enactment after this date of any law of the state in which the premises are located deducting

Effect of Changes in Laws Regarding Taxation

8. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable thereon, or interested in the premises, shall be held, to the extent permitted by law, to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation or release.

Effect of Extensions of Time

7. At such time as Mortgagee is not in default either under the terms of the Note or under the terms of this mortgage, the Mortgagee shall have the privilege of making repayments on the principal of the Note in accordance with the terms and conditions set forth in the Note.

Prepayment

6. If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagee, any tax is due or becomes due in respect of the issuance of the Note, or recording of this mortgage, Mortgagee and agrees to pay such tax in the manner required by any such law. Mortgagee further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note, or recording of this mortgage.

Stamp Tax

the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss thereunder payable to said decree creditor; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statute in such case made and provided, then and in every such case, each successive redemtor may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemtor. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagee, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

89093068

UNOFFICIAL COPY

13032004

Property of Cook County Clerk's Office

890933064

10. In case of default herein (not cured within applicable cure period), Mortgagee may, but need not, make any payment or perform any act herein or in any loan documents evidencing or securing the indebtedness secured hereby or any indebtedness secured by a prior encumbrance, required of Mortgagee, in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereon, or redeem from any tax sale or forfeiture affecting the premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other moneys advanced by Mortgagee to protect the premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable within 5 days after notice and with interest thereon at the post maturity rate. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagee. Should the proceeds of the Note or any part thereof, or any amount paid out or advanced hereunder by Mortgagee, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the premises or any part thereof on a parity with or prior or superior to the lien hereof, then as additional security hereunder, the Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been

Mortgagee's Performance of Defaulted Acts, Subrogation

such notice, be and become due and payable sixty (60) days from the giving of Mortgagee, to declare all of the indebtedness secured hereby to such event, Mortgagee may elect, by notice in writing given to interest beyond the maximum amount permitted by law, then and in (b) the making such payment might result in the imposition of might be unlawful to require Mortgagee to make such payment or however, that if in the opinion of counsel for Mortgagee (a) it or assessments, or reimburse Mortgagee therefor; provided, event, Mortgagee, upon demand by Mortgagee, shall pay such taxes the debt secured hereby or the holders, then, and in any such manner of collection of taxes, so as to affect this mortgage or mortgages or the mortgagee's interest in the property, or the laws relating to the taxation of mortgages or debts secured by required to be paid by Mortgagee, or changing in any way the any part of the taxes or assessments or charges or liens herein thereon, or imposing upon Mortgagee the payment of the whole or from the value of land for the purpose of taxation any lien

UNOFFICIAL COPY

Page 1 of 1

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-9-

12. If (a) default be made for ten (10) days in the due and punctual payment of the Note, or any installment due in accordance with the terms thereof, either of principal or interest; or (b) Mortgagee or any Affiliated Person shall file a petition in voluntary bankruptcy or under any provision of the Federal Bankruptcy Code or any similar law, state or federal, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings within sixty (60) days, as hereinafter provided; or (c) Mortgagee or any Affiliated Person shall be adjudicated a bankrupt, or a trustee or a receiver shall be appointed for Mortgagee or any Affiliated Person or for all of its property or the major part thereof in any involuntary proceeding for the reorganization, dissolution, liquidation or winding up of Mortgagee or any Affiliated Person, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days; or (d) Mortgagee or any Affiliated Person shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof; or (e) Mortgagee shall have the right to declare the indebtedness secured hereby due and payable pursuant to paragraph 3 hereof; or (f) default in any other indebtedness secured by a mortgage of these premises, or a default; or (g) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinafter or hereinafter contained, required to be kept or performed or observed by Mortgagee or any Affiliated Person and the same shall continue for thirty (30) days after notice, then and in every such case the whole of said principal sum hereby secured shall, at once, at the option of Mortgagee, become immediately due and payable, together with accrued

Acceleration of Indebtedness in Case of Default

11. Mortgagee in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

Mortgagee's Reliance on Tax Bills, Etc.

Notwithstanding anything to the contrary herein contained, in no event shall the indebtedness secured hereby exceed an amount equal to five million Dollars (\$5,000,000.00).

89093064

UNOFFICIAL COPY

1000000

Property of Cook County Clerk's Office

UNOFFICIAL COPY

14. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Section hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and

89093064

Application of Proceeds of Foreclosure Sale

In any suit to foreclose the lien hereof or to enforce any other remedy of Mortgagee under this mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this Section mentioned, and such expenses and fees as may be incurred in the protection of the premises and the maintenance of the lien of this mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this mortgage, the Note or the premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagee, with interest thereon at the post maturity rate and shall be secured by this mortgage.

13. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof.

Foreclosure: Expense of Litigation

Interest thereon, without further notice to Mortgagee. In the event that any default specified by Mortgagee to Mortgagee under "(g)" above shall be of such nature that it cannot be cured or remedied within 30 days, Mortgagee shall be entitled to a reasonable period of time to cure or remedy such default, provided Mortgagee commences the cure or remedy thereof within the 30 day period following the giving of such notice and thereafter proceeds with diligence to complete such cure or remedy.

UNOFFICIAL COPY

10/20/2011

Property of Cook County Clerk's Office

16. To further secure the indebtedness secured hereby, Mortgagor hereby sells, assigns and transfers unto Mortgagee all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which

Assignment of Rents and Leases

15. Upon, or at any time after the filing of a complaint to foreclose this mortgage, the court in which such complaint is filed may appoint a receiver of the premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any holders may be appointed as such receiver. Such receiver shall have power: (a) to collect the rents, issues and profits of the premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits; (b) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, or beyond the maturity date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; and (c) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. 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 secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; and (b) the deficiency in case of a sale and deficiency.

Appointment of Receiver

interest remaining unpaid on the Note; fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

89093064

UNOFFICIAL COPY

-12-

may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such leases and agreements, and all the avals thereunder, to Mortgagee. Mortgagee hereby irrevocably appoints Mortgagee its true and lawful attorney in its name and stead (with or without taking possession of the premises as provided in Section 18 hereof) to rent, lease or let all or any portion of the premises to any party or parties at such rental and upon such terms as said Mortgagee shall, in its discretion, determine, and to collect all of said avals, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on the premises, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of Section 18 hereof.

Mortgagee represents and agrees that no rent has been or will be paid by any person in possession of any portion of the premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of the said premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagee. Mortgagee waives any rights of setoff against any person in possession of any portion of the premises. Mortgagee agrees that it will not assign any of the rents or profits of the premises, except to a purchaser or grantee of the premises. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the premises by Mortgagee pursuant to Section 18 hereof. In the exercise of the powers herein granted Mortgagee, except for acts of gross negligence or willful misconduct, all such liability is expressly waived and released by Mortgagee.

Mortgagee further agrees to assign and transfer to Mortgagee all future leases upon all or any part of the premises and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the premises as Mortgagee shall from time to time require.

Although it is the intention of the parties that the assignment contained in this Section 16 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section until a default shall exist under this mortgage or the Note.

79085068

UNOFFICIAL COPY

PROPERTY

Property of Cook County Clerk's Office

89093064

17. To further secure the indebtedness described in and secured hereby, Mortgagor has sold, assigned and transferred unto Mortgagee, its successors and assigns, any interest of Mortgagee as lessor in any lease or leases now or hereafter existing with respect to the premises. Mortgagor expressly covenants and agrees that if the lessee or any of the lessees under said lease or leases so assigned or Mortgagee, as lessor therein, shall fail to perform and fulfill any term, covenant, condition or provision in said lease or leases, or any of them, on its or their part to be performed or fulfilled, at the times and in the manner in said lease or leases provided, or if Mortgagor shall suffer or permit to occur any breach or default under the provisions of the assignment of leases of the premises and such default shall continue for ten (10) days, then and in any such event, such breach or default shall constitute a default hereunder and at the option of Mortgagee, and without notice to Mortgagor, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the Note or in this mortgage to the contrary, become due and payable as in the case of other defaults.

18. In any case in which under the provisions of this mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, to the extent permitted by law, Mortgagee shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the premises or any part thereof personally, or by its agent or attorneys, as for condition broken. In such event Mortgagee in its discretion may, to the extent permitted by law, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said premises, together with all documents, books, records, papers and accounts of Mortgagee or then owner of the premises relating thereto, and may exclude Mortgagee, its agents or servants, wholly therefrom and may as attorney-in-fact or agent of Mortgagee, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avals, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power:

Mortgagee's Right of Possession in Case of Default

Lease Assignment

UNOFFICIAL COPY

PROPERTY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-14-

89093064

19. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it by Section 16 and Section 18 hereof shall have full power to use and apply the avails, rents, issues and profits of the premises to the payment of or on account of the following, in such order as Mortgagee may determine.

Application of Income Received by Mortgagee

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagee shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagee shall reimburse Mortgagee therefor immediately upon demand.

(a) to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagee to cancel the same; (b) to elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any modifications and new leases may provide for terms to expire, or for options to leasees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagee and all persons whose interests in the premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption for sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the premises as to it may seem judicious; (e) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (f) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise such and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagee.

UNOFFICIAL COPY

Page 1

Property of Cook County Clerk's Office

UNOFFICIAL COPY

21. If all or any part of the premises are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, 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 remaining unpaid indebtedness secured by this instrument, is hereby assigned to Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Mortgagee and the same shall be paid forthwith to Mortgagee, who shall release any such award or monies so received or apply the same in whole or in part, after the payment of all of its expenses, including costs and attorneys' fees, to the restoration or repair of the property damaged as provided in Paragraph 5 hereof, if in the reasonable judgment of Mortgagee the property can be restored or repaired to the condition existing immediately prior to the taking. If in the reasonable judgment of Mortgagee the said property cannot be restored or repaired to the condition existing immediately prior to the taking, then such award or monies received after the payment of expenses of Mortgagee as aforesaid shall be applied on account of the unpaid principal balance of the Note, irrevocable and, at any time from and after the taking, upon thirty (30) days prior written notice to Mortgagee, Mortgagee may declare the whole of the indebtedness hereby secured to be due

Condemnation

20. Mortgagee shall have the right to inspect the premises at all reasonable times upon reasonable notice to Mortgagee and access thereto shall be permitted for that purpose.

Mortgagee's Right of Inspection

(d) To the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

(c) To the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the premises, and of placing the premises in such condition as will, in the judgment of Mortgagee, make it readily rentable;

(b) To the payment of taxes and special assessments now due or which may hereafter become due on the premises;

(a) To the payment of the operating expenses of said property, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

89093064

UNOFFICIAL COPY

44-1000-1000

Property of Cook County Clerk's Office

UNOFFICIAL COPY

490C6064

with a copy to:
Martin W. Salzman
SCHWARTZ, COOPER, KOLB
& GAYNOR, CHARTERED
Two First National Plaza
Suite 1100
Chicago, Illinois 60603

NBD Highland Park Bank, N.A.
513 Center Central Avenue
Highland Park, Illinois 60035
Attn: Glenn D. Gustafson

MORTGAGEE

Larry M. Klairmont
Imperial Realty Company
4747 West Peterson Avenue
Chicago, Illinois 60646

MORTGAGOR

23. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the delivery thereof to the individual to whom addressed or the mailing thereof by certified mail addressed to:

Giving of Notice

22. If Mortgagor shall fully pay all principal and interest on the Note, and all other indebtedness secured hereby and comply with all of the other terms and provisions hereof to be performed and complied with by Mortgagor, then this mortgage shall be null and void. Mortgagor shall release this mortgage and the lien thereon by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

Release Upon Payment and Discharge of Mortgagor's Obligations

and payable. Furthermore, in the event such award or monies so received shall exceed the cost of restoration or repair of the property and expenses of Mortgagee as aforesaid, then such excess monies shall be applied on account of the unpaid principal balance of the Note, irrespective of whether such principal balance is then due and payable. Any application to Paragraph 21 shall not extend the due date or reduce the amount of the principal and interest installments required to be paid under the Note.

Property of Cook County

UNOFFICIAL COPY

10000000

Property of Cook County Clerk's Office

THE COUNTY OF COOK, ILLINOIS
DO hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Clerk's Office.

WITNESSED my hand and the seal of said County at Chicago, Illinois, this _____ day of _____, 20__.

County Clerk

UNOFFICIAL COPY

25. Mortgagor 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," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the premises sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this mortgage on behalf of the Mortgagor, the trust estate, and all persons beneficially interested therein, and each and every

89093064

Waiver of Statutory Rights

24. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note. Mortgagor shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this mortgage or other agreement or any laws now or hereafter in force, notwithstanding some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this mortgage nor its enforcement whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagor's right to realize upon or enforce any other security now or hereafter held by Mortgagor, it being agreed that Mortgagor shall be entitled to enforce this mortgage and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given hereby to Mortgagor or to which it may be otherwise entitled, may be exercised, concurrently or independently, from time to time, and as often as it may be deemed expedient by Mortgagor and Mortgagor may pursue inconsistent remedies. No waiver of any default of the Mortgagor hereunder shall be implied from any omission by the Mortgagor or Holders to take any action on account of such default if such default persists or be repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated.

Waiver of Defense; Remedies Not Exclusive

or at such other place as either party hereto may by notice in writing designate as a place for service of notice shall constitute service of notice hereunder. Notice shall be deemed received on the second business day following mailing thereof.

30. Mortgagor, upon request by Mortgagee from time to time, shall execute, acknowledge and deliver to Mortgagee, or cause any Affiliated Person to so execute, acknowledge and deliver to Mortgagee, a Security Agreement, Financing Statement or other similar security instruments, in form satisfactory to Mortgagee, covering all property of any kind whatsoever owned by Mortgagor

Execution of Separate Security Agreement, Financing Statements, etc.

29. The captions and headings of various paragraphs of this mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Captions

28. The word "Mortgagor" when used herein shall include: (a) the original Mortgagor named in the preambles hereof; (b) said original Mortgagor's successors and assigns; and (c) all owners from time to time of the premises. The words "Affiliated Persons" when used herein shall mean any and all of: (a) the guarantors (collectively) of any of the obligations of Mortgagor under the Note, this mortgage, or any Loan Agreement; (b) if Mortgagor is a trustee, beneficiary of the trust, including the general partners of any general or limited partnership which is a beneficiary of the trust. The words "Holders" and "Mortgagee" when used herein shall include all successors and assigns of the original Holders and Mortgagee identified in the preambles hereof.

Definitions of "Mortgagor," "Mortgagee" and "Affiliated Persons"

27. This mortgage and all provisions hereof, shall be binding upon Mortgagor and all persons claiming under or through Mortgagor, and shall inure to the benefit of the Holders from time to time and of the successors and assigns of the Mortgagee.

Binding on Successors and Assigns

26. "Post maturity rate" as used herein shall mean interest at two per cent (2%) per annum above the interest rate in effect immediately prior to an event of default, which rate shall change as and when the interest rate under the Note changes.

Post Maturity Rate

person except decree or judgment creditors of Mortgagor in its representative capacity and of the trust estate, acquiring any interest in or title to the premises subsequent to the date of this mortgage.

89093064

UNOFFICIAL COPY

-19-

31. Mortgagor and Mortgagee intend and believe that each provision in this mortgage and the Note comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this mortgage or the Note is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this mortgage and the Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent both of Mortgagor and Mortgagee that such portion, provision, or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this mortgage and the Note shall be construed as if such illegal, invalid, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of Mortgagor and Mortgagee under the remainder of this mortgage and the Note shall continue in full force and effect. All agreements herein and in the Note are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance of the Note, or otherwise, shall the amount paid or agreed to be paid to the Holders for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable usury laws. If, from any circumstances whatsoever, fulfillment of any provision hereof or of the Note or any other agreement referred to herein, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, also facts, the obligation to be fulfilled shall be reduced to the limit of such validity and it from any

Partial Invalidity, Maximum Allowable
Rate of Interest

or such Affiliated Person, as the case may be, which in the sole opinion of Mortgagee is essential to the operation of the premises and which constitutes goods within the meaning of the Uniform Commercial Code or concerning which there may be any doubt whether the title to same has been conveyed by or security interest perfected by this Mortgage under the laws of the state in which the premises are located, and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other documents as Mortgagee may request in order to perfect, preserve, maintain, continue and extend the security interest under and the priority of this mortgage and such security instrument. Mortgagor further agrees to pay to Mortgagee on demand all costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and refiling of any such document.

89093064

UNOFFICIAL COPY

Property of Cook County Clerk's Office

13052008

49036068

33. In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of Mortgagor's beneficiary and the Guarantors, found it acceptable and relied and continues to rely upon same as the means of repayment of the Note. Mortgagee also evaluated the background and experience of Mortgagor's beneficiary and the Guarantors in owning and operating property such as the premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the premises which is Mortgagee's security for the Note. Mortgagor's beneficiary and the Guarantors are well-experienced in borrowing money and owning and operating property such as the 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 conditions of the loan, including this provision. Mortgagor and Mortgagor's beneficiary recognize that Mortgage 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 on a loan, the security for which is purchased by a party other than the original beneficiary of Mortgagor. Mortgagor and Mortgagor's beneficiary further recognize that any secondary or junior financing placed upon the Premises, or the beneficial interest of the beneficiary in Mortgagor (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the premises should Mortgagee come into possession thereof with the intention of selling same; and (d) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the premises.

Maintenance of Mortgagor's and Affiliated Persons' Interests; Additional Financing

32. At all times, regardless of whether any loan proceeds have been disbursed, this mortgage secures (in addition to any loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with the loan to be secured hereby.

Mortgagee's Lien for Service Charge and Expenses

circumstance the Holders shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due under the Note and not to the payment of interest.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE

UNOFFICIAL COPY

-21-

In accordance with the foregoing and for the purposes of (1) protecting Mortgagee's security, both of repayment and of value of the premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagee and Mortgagee's beneficiary; (iii) allowing Mortgagee to raise the interest rate and collect assumption fees; and (iv) keeping the premises and the beneficial interest free of subordinate financing liens, Mortgagee, Mortgagee's beneficiary, the guarantors and the co-makers of the Note agree that if this paragraph be deemed a restraint on alienation, that it is a reasonable one, and that, any sale, conveyance, assignment, further encumbrance or other transfer of title to the premises, the beneficial interest in the Trust or any interest in the premises or said beneficial interest (whether voluntary or by operation of law), including without limitation, the entering into of an installment agreement for the sale of the premises or the beneficial interest in the Trust, the placement or granting of liens on all or any part of the premises or said beneficial interest or the placement or granting of chattel mortgages, conditional sales contracts, financing or security agreements which would be or create a lien on the personal property utilized in the operation of the premises, or the placement or granting of a mortgage commonly known as a "wrap around" mortgage or an improvement loan, without Mortgagee's prior written consent shall be an event or default hereunder. For the purpose of, and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the premises and thereto an event of default hereunder:

(a) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, all or any part of the title to the premises or the beneficial interest in, or power of direction under, the trust agreement with Mortgagee;

(b) except as expressly permitted in the Loan Agreement, any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any shares of the corporation which is the beneficiary or one of the beneficiaries under the trust agreement with Mortgagee, if applicable;

(c) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any general partnership interest in the limited partnership or general partnership (the "Partnership") which is the beneficiary or one of the beneficiaries under the trust agreement with Mortgagee, if applicable; and

(d) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any share of any corporation directly or indirectly controlling any such Partnership.

89093064

UNOFFICIAL COPY

14060004

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-22-

36. Mortgagor, within seven (7) days after being so requested by Mortgagee, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against the

Statement of Indebtedness

35. Mortgagor shall cause to be delivered to Mortgagee, within ninety (90) days after the close of each calendar year ending during the term of this Mortgage, annual operating statements of the premises, annual financial statements of Mortgagee's beneficiary, the Guarantors and any co-maker of the Note on a form approved by Mortgagee setting forth the information therein as of the immediately preceding calendar year, containing income and expense statements and a balance sheet, prepared and reviewed by a certified public accounting firm acceptable to Mortgagee in accordance with generally accepted accounting principles consistently applied, and certified to be true, complete and correct by the person or entity to which they apply and in such detail as Mortgagee may reasonably require. Notwithstanding the foregoing, Mortgagee acknowledges and agrees that the federal and state income tax returns of the Guarantors shall satisfy their obligations pursuant to the preceding sentence. At any time and from time to time within ten (10) days after written request therefor has been made, Mortgagee shall cause Mortgagee to be furnished with a copy of the most recent unaudited interim statement of the earnings and operating expenses of the premises.

Financial Statements

34. This Mortgage, the Note and all other instruments evidencing and securing the loan secured hereby shall be construed, interpreted and governed by the laws of the State of Illinois, provided, however, that in the event all or any portion or portions of the premises are not located in said state, then and in such event the enforcement hereof against the premises, or portion or portions thereof, located outside of such state, and remedies therefor, shall be governed by the laws of the jurisdiction in which the premises or such portions are located.

Applicable Law

Any consent by Mortgagee, or any waiver by Mortgagee of an Event of Default under this paragraph shall not constitute a consent to, or waiver of any right, remedy or power of Mortgagee upon a subsequent Event of Default under this Paragraph 33. Mortgagee acknowledges that any agreements, liens, charges or encumbrances created in violation of the provisions of this Paragraph 33, to the extent permitted by law, shall be void and of no force or effect.

89093064

UNOFFICIAL COPY

-23-

(b) Mortgagor shall keep or cause the premises to be kept free of Hazardous Materials, and, without limiting the foregoing, Mortgagor shall not cause or permit the premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall

890933064

(a) Mortgagor represents and warrants that (1) Mortgagor has not used Hazardous Materials (as defined hereinafter) on, from or affecting the premises in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of Mortgagor's knowledge, no prior owner of the premises or any tenant, subtenant, occupant, prior tenant, prior subtenant or prior occupant has used Hazardous Materials on, from or affecting the premises in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (ii) Mortgagor has never received any notice of any violations of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of Mortgagor's knowledge, there have been no actions commenced or threatened by any party for noncompliance. For purposes of this Mortgage, "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 9601, et seq.), and in the regulations adopted and publications promulgated pursuant thereto.

Position

37. Upon request of Mortgagee, Mortgagor will execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

Further Instruments

Mortgage debt or, if such offsets or defenses are alleged to exist, the nature thereof.

UNOFFICIAL COPY

4300003

STATE OF ILLINOIS
COUNTY OF COOK

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

CHAS. W. BROWN, COMMISSIONER

ALBION, ILL.

1900

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-24-

(c) In any event, said construction shall be completed not later than December 31, 1989.

(b) There shall be no stoppage of construction for a period longer than thirty (30) days, except for matters beyond the reasonable control of Mortgagor.

(a) The improvements to be erected on the premises shall be completed in accordance with the plans and specifications deposited with Mortgagor.

39. (a) This is a construction mortgage, as said term is defined in Section 9-313(1)(c) of the Uniform Commercial Code. Mortgagor further covenants and agrees that the loan secured hereby is a construction loan and that:

Disbursement of Loan Proceeds for Construction of Improvements

(c) Mortgagor shall (i) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, under, from or affecting the premises in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations and policies, to the reasonable satisfaction of Mortgagor, and in accordance with the orders and directives of all federal, state, and local governmental authorities, and (ii) defend, indemnify and hold harmless Mortgagor, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to, (a) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from, or affecting the premises or the soil, water, vegetation, buildings, personal property, persons or animals thereon; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (c) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials, and/or (d) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of Mortgagor, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney's and consultant's fees, investigation and laboratory fees, court costs, and litigation expenses.

Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor, a release of Hazardous Materials onto the premises or onto any other property, and shall exercise its best efforts to prevent a tenant, subtenant or occupant from releasing Hazardous Materials onto the premises or onto any other property.

89093064

UNOFFICIAL COPY

-25-

It is understood and agreed that with respect to subsequent purchasers and mortgagees without actual notice, none of the indebtedness for monies expended for completion of the construction of improvements as hereinabove in this Section 39 recited, nor any advances or indebtedness arising or accruing under the Loan Agreement, shall result in an increase of the indebtedness secured and to be secured hereby over the face amount of the Note.

(f) The proceeds of the loan secured hereby are to be disbursed by Mortgagee to Mortgagor in accordance with the provisions contained in one or more of: (i) the application for loan; and (ii) the commitment for loan. Said application, and commitment, or such of the same as may have been executed, are hereinafter collectively referred to as "Loan Agreement," and are incorporated herein by express reference. All advances and indebtedness arising and accruing under the Loan Agreement secured hereby may exceed the face amount of the Note, shall be secured fully incorporated in this mortgage, and the occurrence of any event of default under this mortgage entitling Mortgagee to all of the rights and remedies conferred upon Mortgagee by the terms of this mortgage (including those set forth in subparagraph (d) of this Section 39 or by law, as in the case of any other default.

(e) The construction of said improvements is and will be in compliance with all governmental regulations and restrictions and with all zoning and building laws and ordinances of the municipality in which the premises are located and with all building restrictions of record, and Mortgagor will furnish satisfactory evidence of Mortgagee of such compliance.

Mortgagee may exercise either or both of the above-described remedies.

(ii) Complete the construction, alteration or remodeling of said improvement and enter into the necessary contracts therefrom. All moneys so expended, whether or not the resulting indebtedness secured hereby may exceed the face amount of the Note, shall be so much additional indebtedness secured by this mortgage, and any moneys expended in excess of the mortgage note shall be payable on demand, with interest at the post maturity rate.

(i) Declare the entire principal indebtedness and interest thereon due and payable;

(d) Upon default in any of the covenants in (a), (b) or (c), the Mortgagee may (but need not):

49093068

UNOFFICIAL COPY

INVESTIGATION REPORT

00000000

Property of Cook County Clerk's Office

89093064

Prior Mortgage

40. This Mortgage is a junior mortgage. To the extent this Mortgage requires performance by the Mortgagor of a duty or obligation which would conflict with that same duty or obligation under a prior mortgage, it shall not be considered an Event of Default hereunder, providing Mortgagor performs that duty or obligation under such prior mortgage.

This mortgage is executed by NBD Trust Company of Illinois, not personally but as Successor Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee (and said Bank hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on Mortgagor or on said Bank or on any beneficiary who is not a guarantor, personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing thereunder, 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 in this execution clause, 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 liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as Mortgagor and its successors and said Trustee personally are concerned, the Holders and the owner or owners of any indebtedness accruing hereunder shall look solely to any one or more of: (1) the premises and the rents, issues and profits thereof for the payment thereof by the enforcement of the lien hereby created, in the manner herein and in the Note provided; (2) assets of the Trust Estate held under the Trust Agreement; (3) any other security given to secure said indebtedness; or (4) the personal liability of the guarantor, if any.

IN WITNESS WHEREOF, NBD Trust Company of Illinois, not personally but as Successor Trustee as aforesaid, has caused these presents to be signed by its Vice President & Trust Officer, and its corporate seal to be hereunto affixed by its Trust Officer, the day and year first above written.

UNOFFICIAL COPY

Received

Property of Cook County Clerk's Office

UNOFFICIAL COPY

-27-

89093064

89093064

COOK COUNTY CLERK'S OFFICE

1539 E. WASHINGTON ST. CHICAGO, ILL. 60602

Property of Cook County Clerk's Office

This instrument was prepared by + should the RETURN AFTER RECEIVING TO:
Martin W. Salzman
Schwartz, Cooper, Kolb & Gaynor Chartered
Suite 2222
33 North LaSalle Street
Chicago, Illinois 60602
312/726-0845

ATTEST:
Charles J. ...
Trust Officer

NBD Trust Company of Illinois,
not personally but as
Successor Trustee to NBD
Highland Park Bank, N.A.,
formerly known as First
National Bank of Highland
Park, as Trustee under Trust
Agreement dated August 19,
1986 and known as Trust Number
4172-HP
By *William McKeon*
Vice President & Trust Officer

UNOFFICIAL COPY

1400000000000000

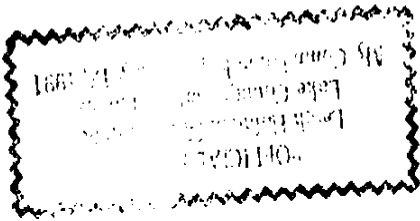
Property of Cook County Clerk's Office

UNOFFICIAL COPY

-28-

89093064

Property of Cook County



Notary Public [Signature]

My commission expires Feb 12, 1991.

GIVEN under my hand and Notarial Seal this 27th day of February, 1989.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that William H. Killian, of NBD Trust Co of IL, and Cheryl L. Westin of said Bank who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such VP & Trust Officer and Trust Officer, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Trust Officer then and there acknowledged that (s)he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as (xxx) (her) own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

STATE OF ILLINOIS)
) SS:
COUNTY OF LAKE)

UNOFFICIAL COPY

FOURTEEN

Property of Cook County Clerk's Office

UNOFFICIAL COPY

0 5 4

89093064

Property of Cook County Clerk

That part of the West 5.00 feet of the East 100.00 feet of the North West 1/4 of Section 27, Township 40 North, Range 13, East of the Third Principal Meridian, lying South of the Easterly Extension of the North Line of Lot C in Koester and Zander's Section Line Subdivision, and lying North of the Easterly Extension of the South Line of Lot D in Koester and Zander's Section Line Subdivision, except for the southerly 224.07 feet of Lot D, all in Cook County, Illinois

and also

Lots 'A', 'B', 'C', and the North 19.98 feet of Lot D (which measurement is the distance for the north line of Lot D to the centerline of an existing wall) in Koester and Zander's Section Line Subdivision of the North West 1/4 of the North West 1/4 of Section 27, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois

EXHIBIT A

2387G/1
02/09/89
(multitenant industrial)

UNOFFICIAL COPY

10/10/2007

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE
111 N. LAUREL ST.
CHICAGO, IL 60602