

UNOFFICIAL COPY

MORTGAGE

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Calso Garcia and Josefa Garcia, husband and wife; and Roberto Garcia, a bachelor

THIS MORTGAGE, made this November 5, 1090, by Calso Garcia and Josefa Garcia, husband and wife; and Roberto Garcia, a bachelor (an individual formed or organized under the laws of _____; as trustee under trust agreement dated _____ 19_____ and known as Trust Number _____) (whether one or more, herein called "Mortgagor") to **Northern Trust Bank/O'Hare N.A.**, a National banking association with an office at 8501 West Higgins Road, Chicago, Illinois 60631 (herein, together with its successors and assigns, including each and every holder from time to time of the Note hereinafter defined, called "Mortgagee").

WITNESSETH:

WHEREAS, Mortgagor is the owner and holder of fee simple title in and to all of the real estate described in Exhibit A, attached hereto and by this reference made a part hereof, which real estate forms a portion of Premises (as hereinafter defined); and

WHEREAS, Mortgagor, or if Mortgagor is a trustee, then the beneficiary(ies) of the Mortgage, desires Mortgagee to lend money to Mortgagor (or to the beneficiary(ies) of Mortgagor), and Mortgagee is willing to lend provided that Mortgagor will grant a mortgage on the Premises as security for such indebtedness; and

WHEREAS, Mortgagor (or Mortgagor's beneficiary(ies)) has, concurrently herewith, executed and delivered to Mortgagee a note (the "Note") of even date herewith payable to the order of Mortgagee in the amount of \$24,000.00 bearing interest at a rate equal to 2.25% in addition to the Prime Rate (which shall mean that rate of interest per year announced from time to time by Mortgagee called its prime rate, which rate may not at any time be the lowest rate charged by Mortgagee; and changes in the rate of interest on the note resulting from a change in the Prime Rate shall take effect on the date set forth for the change in the Prime Rate), payable as provided therein, with the unpaid balance and any accrued, unpaid interest being due and payable on December 1, 1995; and

NOW, THEREFORE, to secure the payment of the principal of and interest on the Note according to its tenor and effect and to secure the payment of all other sums that may at any time be due and owing or required to be paid as provided in the Note, the loan agreement relating to the Note (if any), or herein (the "Indebtedness Hereby Secured"), and the performance and observance of all of the covenants, agreements and provisions herein, in any such loan agreement, and the Note and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by Mortgagor, Mortgagor DOES HEREBY GRANT, DEMISE, RELEASE, ALIEN, MORTGAGE, WARRANT, and CONVEY unto Mortgagee, its successors and assigns forever, the real estate described in Exhibit A attached hereto and by this reference made a part hereof (which, together with the property mentioned in the next succeeding paragraphs hereto, hereinafter called the "Premises");

TOGETHER with all right, title and interest of Mortgagor, including any after-acquired title or reversions, in and to the beds of the ways, streets, avenues, and alleys adjoining the aforesaid real estate;

TOGETHER with all and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights, other rights, liberties, and privileges thereof or in any way now or hereafter appertaining to said real estate, including any other claim at law or in equity as well as any after-acquired title, franchise, or license and the reversions and remainder hereof;

TOGETHER with all buildings and improvements of every kind and description now or hereafter erected or placed thereon and all materials delivered to the aforesaid real estate intended for construction, reconstruction, renovation, alteration, and repair of such improvements now or hereafter erected thereon, and all fixtures and articles of personal property now or hereafter owned by Mortgagor and attached to or forming a part of or used in connection with the aforesaid real estate or the operation and convenience of any building or buildings and improvements located thereon, including, but without limitation, all furniture, furnishings, equipment, apparatus, machinery, motors, elevators, fittings, screens, awnings, partitions, carpeting, curtains, and drapery hardware used or useful in the operation or for the convenience of the Premises, and all plumbing, electrical, heating, lighting, ventilating, refrigerating, incineration, air-conditioning, and sprinkler equipment, systems, fixtures, and conduits (including, but not limited to, all furnaces, boilers, plants, units, condensers, compressors, ducts, apparatus, and hot-and-cold water equipment and system), and all renewals or replacements thereof or articles in substitution therefor, in all cases whether or not the

same are or shall be attached to the Premises in any manner, it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Premises shall, so far as permitted by law, be deemed to be fixtures, a part of the realty, and security for the Indebtedness Hereby Secured. Notwithstanding the agreement and declaration hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods or equipment (as said terms are used in the Uniform Commercial Code of Illinois), this instrument shall constitute a security agreement, creating a security interest in such goods and equipment as collateral, with Mortgagee as a secured party, all in accordance with the Uniform Commercial Code of Illinois, as more particularly set forth in Section 20 hereof;

TOGETHER with all right, title, estate, and interest of Mortgagor in and to the Premises, property, improvements, furniture, furnishing, apparatus, and fixtures hereby conveyed, assigned, pledged, and hypothecated, or intended so to be, and all right to retain possession of the Premises after default in payment or breach of any covenant herein contained;

TOGETHER with all rents, issues, profits, royalties, income, and other benefits derived from the real estate subject to the right, power, and authority hereinafter given to Mortgagee to collect and apply such rents;

TOGETHER with all leasehold estate, right, title, and interest of Mortgagor in and to all leases or subleases covering the real estate or any portion thereof now or hereafter existing or entered into, and all right, title, and interest of Mortgagor thereunder, including without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature; and

TOGETHER with all awards and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Premises for any taking by eminent domain, either permanent or temporary, of all or any part of the Premises or any easement or appurtenance thereof, including severance and consequential damages and change in grade of streets, which said awards and compensation are hereby assigned to Mortgagee, and Mortgagee hereby designates Mortgagee as its agent and directs and empowers Mortgagee, at the option of Mortgagee, on behalf of Mortgagor, or the successors or assigns of Mortgagor, to adjust or compromise the claim for any award and to collect and receive the proceeds thereof, to give proper receipts and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Mortgagee, of the Indebtedness Hereby Secured, notwithstanding the fact that the amount owing thereon may not then be due and payable or that the indebtedness is otherwise adequately secured, all subject to the provisions of Section 20 hereof.

TO HAVE AND TO HOLD the Premises, with the appurtenances, and fixtures, unto Mortgagee and its successors and assigns, forever, for the purposes and upon the uses and purposes herein set forth together with all right to possession of the Premises after any default in the payment of all or any part of the Indebtedness Hereby Secured, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default, as hereinafter defined; Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

PROVIDED, NEVERTHELESS, that if Mortgagor shall pay when due the Indebtedness Hereby Secured and shall duly and timely perform and observe all of the terms, provisions, covenants, and agreements herein provided to be performed and observed by Mortgagor, then this Mortgage and the estate, right, and interest of Mortgagee in the Premises shall cease and become void.

This document prepared by: Northern Trust Bank/O'Hare
B. Diane Ponderick
8501 West Higgins Road,
Chicago, Illinois 60631

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and of no effect, otherwise to remain in full force and effect.

REPRESENTATIONS

Mortgagor hereby represents that:

1. **Title.** Mortgagor has good and marketable title to the Premises, with the right and full power to sell and convey the same; Mortgagor has duly executed and delivered this Mortgage pursuant to proper corporate or partnership authority (if applicable) and proper direction (if applicable); and Mortgagor will make any further assurances of title that Mortgagee may require and defend the Premises against all claims and demands whatsoever.

2. **Business Loan.** The Indebtedness Hereby Secured constitutes a business or commercial loan for purposes of state and federal law.

COVENANTS

Mortgagor covenants and agrees as follows:

1. **Payment of Indebtedness.** Mortgagor shall pay, when due (a) the principal of and interest on the indebtedness evidenced by the Note, and (b) all other Indebtedness Hereby Secured; and Mortgagor shall duly and punctually perform and observe all of the terms, provisions, conditions, covenants, and agreements on Mortgagor's part to be performed and observed as provided herein, in the Note, or in the loan agreement relating to the Note (if any); and this Mortgage shall secure such payment, performance, and observance.

2. **Maintenance, Repair, Restoration, Liens, etc.** Mortgagor shall (a) pay, promptly repair, restore, or rebuild any building or improvement whether structural or nonstructural now or hereafter included within the definition of Premises that may become damaged or be destroyed, whether or not proceeds of insurance are available or sufficient for the purpose; (b) keep the Premises in good condition and repair, without waste and free from mechanic's, materialmen's, or like liens or claims or other liens or claims for lien; (c) pay, when due, any indebtedness that may be secured by a lien or charge on the Premises (whether senior, of equal priority, or junior to the lien hereof) and, upon request, exhibit to Mortgagee satisfactory evidence of the discharge of such lien; (d) complete, within a reasonable time, any building or buildings or other improvements now or at any time in the process of erection or rehabilitation upon the Premises; (e) comply with all requirements of law, municipal ordinances, and restrictions and covenants of record with respect to the Premises and the use thereof; (f) make or permit no material alterations in the Premises except as required by law or ordinance without the prior written consent of Mortgagee; (g) suffer or permit no change in the general nature of the occupancy of the Premises; (h) initiate or acquiesce in no zoning reclassification with respect to the Premises; (i) suffer or permit no unlawful use of, or nuisance to exist upon, the Premises; and (j) cause the Premises to be managed in a competent and professional manner.

3. **Other Liens.** Except as otherwise expressly provided herein, Mortgagor shall not create or suffer to permit any mortgage, lien, charge, or encumbrance to attach to the Premises, whether such lien or encumbrance is inferior, of equal priority, or superior to the lien of this Mortgage, excepting only the lien of real estate taxes and assessments not due or delinquent.

4. **No Mechanics' Liens.** It is further made an express condition and covenant hereof, that, until full payment of the Indebtedness Hereby Secured, (i) no act or thing shall be done or suffered, and no person shall have any right or power to do any act or thing, whereby any mechanics' lien can arise against or attach to the Premises or any part thereof, unless such lien shall first be wholly waived as against this Mortgage and (ii) the lien of this Mortgage shall extend to any and all improvements and fixtures, now or hereafter on the Premises, prior to any other lien thereon that may be claimed by any person, so that subsequently accruing claims for lien on the Premises shall be junior to this Mortgage. All contractors, subcontractors, and other parties dealing with the premises, or with any parties interested therein, are hereby required to take notice of the above provisions.

5. **Taxes.** Mortgagor shall pay before any penalty attaches all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges, and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against Mortgagor if applicable to the

Premises, any and interest therein or the Indebtedness Hereby Secured, or any obligation or agreement secured hereby; and Mortgagor shall, upon written request, furnish to Mortgagee duplicate receipts therefor. Mortgagor shall pay in full under protest in the manner provided by statute any Taxes that Mortgagor may desire to contest; provided, however, that if deferment of payment of any such Taxes is required to conduct any contest or review, Mortgagor shall deposit with Mortgagee the full amount thereof, together with an amount equal to the estimated interest and penalties thereon during the period of contest, and in any event, shall pay such Taxes, notwithstanding such contest, if in the opinion of Mortgagee, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; and if Mortgagor shall not pay the same when so required, Mortgagee may do so and may apply such deposit for the purpose. In the event that any law or court decree has the effect of deducting from the value of the land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the Taxes or liens herein 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 Mortgagee in the Premises, or the manner of collection of Taxes, so as to affect this Mortgage or the Indebtedness Hereby Secured or Mortgagee, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such Taxes, or reimburse Mortgagee therefor on demand, unless such payment or reimbursement by Mortgagor is unlawful, in which event the Indebtedness Hereby Secured shall be due and payable within thirty (30) days after written demand by Mortgagee to Mortgagor. Nothing in this Section 5 shall require Mortgagor to pay any income, franchise, or excise tax imposed upon Mortgagee, except that which may be levied against such income expressly as and for a specific substitute for Taxes pertaining to the Premises, and then only in an amount computed as if Mortgagee derived no income from any source other than its interest hereunder.

6. **Insurance Coverage.** Mortgagor at its own expense will insure and keep insured, including during any construction and thereafter, all of the buildings and improvements now or hereafter included within the Premises, and each and every part and parcel thereof against such perils and hazards as Mortgagee may from time to time require, and in any event including:

(a) During construction (if any), all-risks package of builder's risk insurance, including owner's, contractor's, and employer's liability insurance, workmen's compensation insurance, and physical damage insurance;

(b) Insurance against loss by fire, risks covered by the so-called extended coverage endorsement, and other risks as Mortgagee may reasonably require, in amounts equal to not less than one hundred (100%) percent of the full replacement value of the Premises;

(c) Public liability insurance against bodily injury and property damage, with such limits as Mortgagee may require;

(d) Rental or business interruption insurance in amounts sufficient to pay during any period of up to one (1) year in which the Premises may be damaged or destroyed, all amounts required herein or in the Note to be paid by Mortgagor;

(e) Steam boiler, machinery, and other insurance of the types and in amounts as Mortgagee may require, but in any event not less than customarily carried by persons owning or operating like properties; and

(f) Flood insurance, where appropriate.

7. **Insurance Policies.** All policies of insurance to be maintained and provided as required by Section 6 hereof shall be with companies and in form and amounts satisfactory to Mortgagee, and all policies of casualty insurance shall have attached thereto mortgagee clauses or endorsements in favor of and with loss payable to and in form satisfactory to Mortgagee and shall provide that such insurance may not be cancelled or altered as to Mortgagee without at least 30 days prior written notice to Mortgagee. Mortgagor will deliver all policies and certificates of insurance, including additional and renewal policies to Mortgagee and, in case of insurance policies about to expire, Mortgagor will deliver renewal policies not less than thirty (30) days before the respective dates of expiration.

8. **Deposits for Taxes and Insurance Premiums.** If required by Mortgagee at any time, in order to assure the payment of Taxes and insurance premiums payable with respect to the Premises as and when the same shall become due and payable:

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(n) Mortgagor shall, if herein after required by Mortgagee, deposit with Mortgagee on the first day of each and every month, commencing with the date the first payment of interest or principal and interest shall become due on the Indebtedness Secured Hereby, an amount equal to:

(i) One-twelfth (1/12) of the Taxes next to become due upon the Premises; 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 this subsection (i), will result in a sufficient reserve to pay the Taxes next becoming due one month prior to the date when such Taxes are due and payable, plus

(ii) One-twelfth (1/12) of the annual premiums on each policy of insurance upon the Premises; 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 this subsection (ii), will result in a sufficient reserve to pay the insurance premiums next becoming due one month prior to the date when such insurance premiums are, in fact, due and payable;

provided that the amount of such deposits (herein generally called "Tax and Insurance Deposits") shall be based upon Mortgagee's reasonable estimate as to the amount of Taxes and insurance premiums next to be payable; and all Taxes and Insurance Deposits shall be held by Mortgagee without any allowance of interest thereon.

(b) The aggregate of the monthly Tax and Insurance Deposits, together with monthly payments of interest or principal and interest payable on the Note shall be paid in a single payment each month, to be applied prior to default to the following items in the order stated:

- (i) Taxes and insurance premiums;
- (ii) Indebtedness Hereby Secured other than principal and interest on the Note;
- (iii) Interest on the Note;
- (iv) The principal balance of the Note.

(c) Mortgagee will, out of the Tax and Insurance Deposits upon the presentation to Mortgagee by Mortgagor of the bills therefor, pay the insurance premiums and Taxes or will, upon the presentation of receipted bills therefor, reimburse Mortgagor for such payments made by Mortgagor. If the total Tax and Insurance Deposits on hand shall not be sufficient to pay all of the Taxes and insurance premiums when the same shall become due, then Mortgagor shall pay to Mortgagee on demand any amount necessary to make up the deficiency. If the total of such Tax and Insurance Deposits exceeds the amount required to pay the Taxes and insurance premiums, such excess shall be credited on subsequent payments to be made for such Tax and Insurance Deposits.

(d) In the event of a default in any of the provisions contained herein or in the Note, Mortgagee may, at its option, without being required so to do, apply any Tax and Insurance Deposits on hand to any of the Indebtedness Hereby Secured, in such order and manner as Mortgagee may elect. When the Indebtedness Hereby Secured has been fully paid, then any remaining Tax and Insurance Deposits shall be paid to Mortgagor. All Tax and Insurance Deposits are hereby pledged as additional security for the Indebtedness Hereby Secured, shall be held by Mortgagee to be irrevocably applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of Mortgagor.

(e) Notwithstanding anything herein to the contrary, Mortgagee or its loan servicing agent (if any), or their successors and assigns, shall not be liable for any failure to apply to the payment of Taxes and insurance premiums any amounts deposited as Tax and Insurance Deposits unless Mortgagor, while no default exists hereunder, shall have requested Mortgagee in writing to make application of the Tax and Insurance Deposits on hand to the payment of the particular Taxes or insurance premiums for the payment of which such Deposits were made, accompanied by the bills therefor.

9. Proceeds of Insurance. Mortgagor will give Mortgagee prompt notice of any damage to or destruction of the Premises, and

(a) In case of loss covered by policies of insurance, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and

adjust any claim under such policies without the consent of Mortgagor and Mortgagee hereby agrees that Mortgagee shall have no liability to Mortgagor related to such adjustment except for Mortgagee's willful misconduct, or (ii) allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss; and provided that in any case Mortgagee shall, and is hereby authorized to, collect and give a receipt for any such insurance proceeds; and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured and shall be reimbursed to Mortgagee upon demand.

(b) In the event of any insured damage to or destruction of the Premises or any part thereof (herein called an "Insured Casualty"), and if, in the reasonable judgment of Mortgagee, the Premises can be restored to an economic unit not less valuable than the same was before the occurrence of the Insured Casualty and adequately securing the outstanding balance of the Indebtedness Hereby Secured, then, if no Event of Default, as defined in Section 22 of this Mortgage, or any event that with notice or passage of time or both would become an Event of Default shall have occurred and be then continuing, the proceeds of insurance shall be applied to reimburse Mortgagor for the cost of restoring, repairing, replacing, or rebuilding the Premises or part thereof subject to Insured Casualty, as provided for in Section 11 hereof; and Mortgagor hereby covenants and agrees forthwith to commence and diligently to prosecute such restoring, repairing, replacing, or rebuilding; provided, always, that Mortgagor shall pay all costs of such restoring, repairing, replacing, or rebuilding in excess of the net proceeds of insurance made available pursuant to the terms hereof.

(c) Except as provided in subsection (b) of this Section 9, Mortgagee may apply the proceeds of insurance consequent upon any Insured Casualty upon the Indebtedness Hereby Secured, in such order or manner as Mortgagee may elect; provided, however, that such application of proceeds shall not be considered a voluntary prepayment of the Note that would require the payment of any prepayment premium or penalty.

(d) In the event that proceeds of insurance, if any, shall be made available to Mortgagor for the restoring, repairing, replacing, or rebuilding of the Premises, Mortgagor hereby covenants to restore, repair, replace, or rebuild the same, to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with plans and specifications to be first submitted to and approved by Mortgagee.

10. Condemnation. Mortgagor hereby assigns, transfers, and sets over unto Mortgagee the entire proceeds of any award or claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation including any payments made in lieu of or in settlement of a claim or threat of condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Indebtedness Hereby Secured then most remotely to be paid, whether due or not, or require Mortgagor to restore or rebuild the Premises, in which event the proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of such rebuilding or restoring. If, in the reasonable judgment of Mortgagee, the Premises can be restored to an economic unit not less valuable than the same was before the condemnation and adequately securing the outstanding balance of the Indebtedness Hereby Secured, and if no Event of Default, or event that with notice or passage of time or both would become an Event of Default, has occurred and be then continuing, the award shall be used to reimburse Mortgagor for the cost of restoration and rebuilding, as provided in Section 11 hereof.

11. Disbursement of Insurance Proceeds or Condemnation Award. In the event Mortgagor is entitled to reimbursement out of insurance proceeds or condemnation award held by Mortgagee, such proceeds shall be disbursed from time to time upon Mortgagee being furnished with (i) evidence satisfactory to it of the estimated cost of completion of the restoration, repair, replacement, and rebuilding, (ii) funds (or assurances satisfactory to Mortgagee that such funds are available) sufficient in addition to the proceeds of insurance to complete the proposed restoration, repair, replacement, and rebuilding, and (iii) such architect's certificates, engineers of record, contractor's sworn statements, title insurance endorsements, plats or survey, and such other evidences of cost, payment, and performance as Mortgagee may reasonably require and approve; and Mortgagee may require that all plans and specifications for such restoration, repair, replacement, and rebuilding be submitted to and approved by Mortgagee before commencement of work. No payment made before the final completion of the restoration, repair, replacement, and rebuilding shall

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exceed ninety (90%) percent of the value of the work performed from time to time (provided that if funds are available the balance of the value of the work performed shall be paid upon final completion); funds other than insurance proceeds or condemnation awards shall be disbursed prior to disbursement of such proceeds; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited for the purpose or irrevocably committed to the satisfaction of Mortgagee to pay for the cost of completion of the restoration, repair, replacement, or rebuilding, free and clear of all liens or claims for lien. Any surplus that may remain out of insurance proceeds or condemnation awards held by Mortgagee after payment of such costs of restoration, repair, replacement, or rebuilding shall, at the option of Mortgagee, be applied on account of the Indebtedness Hereby Secured then most remotely to be paid, whether due or not, or be paid to any other party entitled thereto. No interest shall be allowed to Mortgagor on account of any insurance proceeds, condemnation awards, or other funds held by Mortgagee.

and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

12. Hazardous Waste. (a) Neither Mortgagor nor any other person has ever caused or permitted any Hazardous Material to be placed, held, located or disposed of on, under or at the Premises or the real estate comprising part of the Premises or any part thereof or any other real property legally or beneficially owned (or any interest or estate in which is owned) by Mortgagor (including, without limitation, any property owned by a land trust the beneficial interest in which is owned in whole or in part, by Mortgagor, and neither the Premises, the said real estate, nor any part of either thereof, has ever been used (whether by Mortgagor or by any other person) as a dump site or storage (whether permanent or temporary) site for any Hazardous Material. (b) Mortgagor hereby indemnifies Mortgagee and agrees to hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, and claims of any and every kind whatsoever paid, incurred, or suffered by, or asserted against, the Mortgagee for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seepage, leakage, spillage, discharge, emission, discharging, or release from, the Premises or the said real estate of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state, or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning, any Hazardous Material, regardless of whether or not caused by, or within the control of, Mortgagor. (c) For purposes of this Mortgage, "Hazardous Material" means and includes asbestos, together with any hazardous, toxic or dangerous waste, substance or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, or any other Federal, state, or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance or material, as now or at any time hereafter in effect.

16. Mortgagee's Performance of Mortgagor's Obligations. In case of default herein, Mortgagee, either before or after acceleration of the Indebtedness Hereby Secured or the foreclosure of the lien hereof and during any period of redemption may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee; and Mortgagee may, but shall not be required to, make full or partial payments of principal or interest on any prior encumbrances and purchase, discharge, compromise, or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment, and may, but shall not be required to, complete construction, rehabilitation, furnishing, and equipping of the improvements upon the Premises and rent, operate, and manage the Premises and such improvements and pay operating costs and expenses, including without limitation management fees, of every kind and nature in connection therewith, so that the Premises and improvements shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including attorneys' fees and other monies advanced by Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing, and equipping or to rent, operate, and manage the Premises and such improvements or to pay any such operating costs and expenses thereof or to keep the Premises and improvements operational and usable for its intended purpose, shall be so much additional Indebtedness Hereby Secured, whether or not they exceed the face amount of the Note, and shall become immediately due and payable without notice, and with interest thereon at the post-maturity interest rate set out in the Note. 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 Mortgagor. Mortgagee, in making any payment hereby authorized (a) relating to taxes and assessments, may do so according to any bill, statement, or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien, or title or claim thereof; (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; or (c) in connection with the completion of construction, rehabilitation, furnishing, or equipping of the improvements or the rental, operation, or management of the Premises or the payment of operating costs and expenses thereof, Mortgagee may do so in such amounts and to such persons as Mortgagee may deem appropriate and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

13. Stamp Tax. If, by the laws of the United States of America, or of any state or municipality having jurisdiction over Mortgagor or the Premises, any tax is used or becomes due in respect of the issuance of the Note, Mortgagor shall pay such tax in the manner required by such law.

17. Inspection of Premises and Records. Mortgagee shall have the right to inspect the Premises and all books, records, and documents relating thereto at all reasonable times, and access thereto shall be permitted for that purpose.

14. Prepayment Privilege. Mortgagor may prepay all or any portion of the unpaid principal balance of the Note (in addition to the required payments thereunder) in accordance with the terms and conditions set forth in the Note or any loan agreement under which the indebtedness evidenced by the Note has been incurred, but not otherwise.

18. Financial Statements. If required by Mortgagee, Mortgagor will, within ninety (90) days after the end of each fiscal year of Mortgagor, furnish to Mortgagee financial statements of Mortgagor or any beneficiary of Mortgagor (if Mortgagor is a trustee) and financial and operating statements of the Premises for such fiscal year, including, but without limitation, a balance sheet and supporting schedules, detailed statement of income and expenditures and supporting schedules, all in reasonable detail. Such financial and operating statements shall be prepared and certified at the expense of Mortgagor in such manner as may be acceptable to Mortgagee, and Mortgagor may, by notice in writing to Mortgagee, require that the financial statements be prepared and certified, pursuant to audit, by a firm of certified public accountants satisfactory to Mortgagee.

15. Effect of Extensions of Time and Amendments on Junior Liens and Others. If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security therefor be released, all persons now or at any time hereafter liable therefor (or for any part thereof), or interested in the Premises, shall be held to assent to such extension, variation, or release; and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation, or release. Any person, firm, or corporation taking a junior mortgage or other lien upon the Premises or any interest therein shall take the said lien subject to the rights of Mortgagee to amend, modify, and supplement this Mortgage or the Note and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien.

19. Assignment of Leases, Rents, and Contracts. Mortgagor hereby bargains, sells, transfers, assigns, conveys, and delivers to Mortgagee all of Mortgagor's right, title, and interest in all rents, issues, and profits of the Premises, as further security for the payment of the Indebtedness Hereby Secured. This assignment is absolute and is effective immediately. Notwithstanding the foregoing, until a notice is sent to Mortgagor in writing that an Event of Default or an event that with notice or passage of time or both might become an Event of Default has occurred under the terms and conditions of this Mortgage (a "Notice"), Mortgagor may receive, collect and enjoy the rents, income, and profits accruing from the Premises.

If any Event of Default or event that with notice or passage of time or both might become an Event of Default occurs hereunder, at its option, Mortgagee may after service of a Notice, receive and collect all such rents, income, and profits as they

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become due, from the Premises and under any and all leases of all or any part of the Premises, Mortgagee shall therefor continue to receive and collect all such rents, income, and profits, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings, and if there is a deficiency, during any redemption period.

Mortgagor hereby appoints Mortgagee its true and lawful attorney, which appointment is irrevocable and coupled with an interest, with full power of substitution and with full power for Mortgagee in its own name and capacity or in the name and capacity of Mortgagor, from and after the service of a Notice, to demand, collect, receive, and give complete acquittance for any and all rents, income, and profits accruing from the Premises, and at Mortgagee's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, either in its own name or in the name of Mortgagor or otherwise, that Mortgagee may deem necessary or desirable in order to collect and enforce the payment of the rents, income, and profits. Lessees of the Premises are hereby expressly authorized and directed to pay any and all amounts due Mortgagor pursuant to the leases to Mortgagee or such nominee as Mortgagee may designate in writing delivered to and received by such lessees who are expressly relieved of any and all duty, liability or obligation to Mortgagor in respect of all payments so made.

From and after the service of a Notice, Mortgagee is hereby vested with full power to use all measures, legal and equitable, it may deem necessary or proper to enforce this assignment and to collect the rents, income, and profits assigned hereunder, including the right of Mortgagee or its designee to enter upon the Premises, or any part thereof, with or without process of law, take possession of all or any part of the Premises and all personal property, fixtures, documents, books, records, papers, and accounts of Mortgagor relating thereto, and exclude Mortgagor and its agents and servants wholly therefrom. Mortgagor hereby grants full power and authority to Mortgagee to exercise all rights, privileges, and powers herein granted at any and all times after service of a Notice, without further notice to Mortgagor, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Premises and of any indebtedness Hereby Secured. Mortgagee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Mortgagor in the leases. This assignment shall not operate to place responsibility for the control, care, management, or repair of the Premises, or parts thereof, upon Mortgagee, nor shall it operate to make Mortgagee liable for the performance of any of the terms and conditions of any of the leases, for any waste of the Premises by any lessee under any of the leases or any other person, for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss, injury, or death to any lessee, licensee, employee, or stranger.

Mortgagor will, from time to time after Notice upon Mortgagee's demand, execute, and deliver or cause to be executed and delivered to Mortgagee, in form satisfactory to Mortgagee, further agreements evidencing its willingness to comply and its compliance with the provisions of this paragraph. Mortgagor shall pay all expenses incurred by Mortgagee in connection with the recording of any such agreement.

The assignment contained in this Section is given as collateral security and the execution and delivery hereof shall not in any way impair or diminish the obligations of Mortgagor, nor shall this assignment impose any obligation on Mortgagee to perform any provision of any contract pertaining to the Premises or any responsibility for the non-performance thereof by Mortgagor or any other person. The assignment under this Section is given as a primary pledge and assignment of the rights described herein and such assignment shall not be deemed secondary to the security interest and mortgage of Mortgagor in the Premises. Mortgagee shall have the right to exercise any rights under this Section before, together with, or after exercising any other rights under this Mortgage. Nothing herein shall be deemed to obligate Mortgagee to perform or discharge any obligation, duty, or inability of Mortgagor under this assignment, and Mortgagor shall and does hereby indemnify and hold Mortgagee harmless from any and all cost (including without limitation reasonable attorneys' fees and legal expenses), liability, loss, or damage which Mortgagee may or might incur by reason of this assignment; and any and all such cost, liability, loss, or damage incurred by Mortgagee, including reasonable attorneys' fees, incurred by Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional

indebtedness Hereby Secured, and Mortgagor shall reimburse Mortgagee therefor on demand, together with interest at the post-maturity interest rate set forth in the Note from the date of demand to the date of payment.

20. Illinois Uniform Commercial Code. This Mortgage constitutes a security agreement under the Uniform Commercial Code of Illinois (herein called the "Code") with respect to any part of the Premises which may or might now or hereafter be or be deemed to be personal property, fixtures, or property other than real estate (all for the purposes of this Section 20 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 Premises; and the following provisions of this Section 20 shall not limit the generality or applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges, or encumbrances.

(b) The Collateral is to be used by Mortgagor solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.

(c) The Collateral will be kept at the real estate comprised within the Premises, and will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code) or any other person, and the Collateral may be affixed to such real estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are Mortgagor, Mortgagee, and permitted tenants and users thereof.

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(e) No financing statement covering any of the Collateral or any proceeds thereof is on file in any public office; and Mortgagor will, at its own cost and expense, upon demand, furnish to Mortgagee such further information, execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee, and do all such acts and things as Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the indebtedness Hereby Secured, subject to no adverse liens or encumbrances. Mortgagor will pay the cost of filing or recording such financing statements or other documents and this instrument in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

(f) Upon any Event of Default hereunder and at any time thereafter, Mortgagee at its option may declare the indebtedness Hereby Secured immediately due and payable, all as more fully set forth in Section 22 hereof, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as Mortgagor can give authority therefor with or without judicial process, enter without breach of the peace upon any place that the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve, and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations as provided in the Code. Mortgagee, without removal may render the Collateral unusable and dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee. Mortgagee will give Mortgagor reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by first-class mail, postage prepaid, to the address of Mortgagor shown in this Mortgage or in Mortgagor's records at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale, and if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at private sale. Any such sale may be held as part

of and in conjunction with any one or more of the real estate comprised within the Premises, the Collateral and real estate to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses or retaking, holding, preparing for sale, selling, or the like and reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness Hereby Secured. Mortgagee will account to the Mortgagor for any surplus realized on such disposition.

of a trustee mortgagor or by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives, or committee; and (iv) to the extent prohibited by law. The provisions of this Section 21 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise shall acquire any part of or interest in or encumbrance upon the Premises, beneficial interest in, shares of stock of, or partnership or joint venture interest in, Mortgagor or any beneficiary of a trustee Mortgagor.

(g) The remedies of the Mortgage hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of Mortgagee, including having the Collateral deemed part of the realty upon any foreclosure thereof so long as any part of the Indebtedness Hereby Secured remains unsatisfied.

22. Events of Default. If one or more of the following events (herein called "Events of Default") shall occur:

(h) The terms and provisions contained in this Section 20 shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

(a) Failure to pay when and as due the Note or any installment thereof, either principal or interest, or failure to pay any other amount due hereunder or under the Note when and as due; or

(i) This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) of the Code with respect to the Collateral and the goods described at the beginning of this Mortgage, which goods are or are to become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are set forth in Section 38 hereof or under Mortgagor's signature hereto. This Mortgage is to be filed for record with the Recorder of Deeds of the County or Counties where the Premises are located. Mortgagor is the record owner of the Premises.

(b) Mortgagor shall fail to observe or perform any covenant, condition, or agreement to be served or performed under Sections 2, 3, 4, and 5 of this Mortgage or any representation or warranty of Mortgagor when made was false or misleading in any material respects or if an Event of Default pursuant to Section 2 hereof shall occur and be continuing, without notice or period of grace of any kind; or

(c) Any default shall occur under any loan agreement relating to the Note, or any other document or agreement evidencing, relating to, securing, or guaranteeing any of the Indebtedness Hereby Secured, including without limitation any loan agreement under which the indebtedness secured by the Note is incurred, and such default shall continue beyond any applicable period of grace; or

21. Restrictions on Transfer. It shall be an Event of Default hereunder and the Indebtedness Hereby Secured shall be immediately due and payable (to the extent permitted by law) if, without the prior written consent of Mortgagee, any one or more of the following shall occur:

(d) If (and for the purpose of this subsection (d) of this Section 22 only, the term Mortgagor shall mean and include not only Mortgagor but any beneficiary of a trustee mortgagor and each person who, as guarantor, co-maker, or otherwise, shall be or become liable for or obligated upon all or any part of the Indebtedness Hereby Secured or any of the covenants or agreements contained herein):

(a) If Mortgagor shall create, effect, consent to, or suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of the Premises or any part thereof or interest therein, excepting only sales or other dispositions of Collateral (herein called "Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by new Collateral subject to the first and prior lien hereof of at least equal value and utility;

(i) Mortgagor shall file a petition in voluntary bankruptcy under any chapter of the federal bankruptcy code, or any similar law for the relief of debtors, state or federal, now or hereafter in effect, or

(b) If Mortgagor is a trustee, then if any beneficiary of Mortgagor shall create, effect, or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of all or any portion of such beneficiary's beneficial interest in Mortgagor;

(ii) Mortgagor shall file an answer admitting insolvency or inability to pay its debts, or

(c) If Mortgagor is a corporation, or if any corporation is a beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect, or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this subparagraph 21(c) shall be inapplicable;

(iii) Within thirty (30) days after the filing against Mortgagor of any involuntary proceeding under the federal bankruptcy code or similar law for the relief of debtors, such proceedings shall not have been vacated or stayed, or

(d) If Mortgagor is a partnership or joint venture, or if any beneficiary of a trustee mortgagor is a partnership or joint venture, then if any partner or joint venturer in such partnership or joint venture shall create, effect, or consent to or suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of all or any part of the partnership interest or joint venture interest, as the case may be, of such partner or joint venturer; in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance, or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law, or otherwise; provided that the foregoing provisions of this Section 21 shall not apply to (i) liens securing the Indebtedness Hereby Secured, (ii) the lien of current taxes and assessments not in default, (iii) any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, in Mortgagor or any beneficiary

(iv) Mortgagor shall be adjudicated a bankrupt, or a trustee or receiver shall be appointed for Mortgagor for all or a material part of Mortgagor's property or the Premises, in any involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of Mortgagor's property or the Premises in any involuntary proceeding for the reorganization, dissolution, liquidation or winding up of Mortgagor, 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

(v) Mortgagor 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 or a material part of its property, or the Premises; or

(e) If default shall continue for ten (10) days after written notice thereof by Mortgagee to Mortgagor in the due and punctual performance or observance of any other agreement or conditions herein; or

(f) If the Premises shall be abandoned;

then Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of Mortgagee hereunder to declare, without further notice, all Indebtedness Hereby Secured to be immediately due and payable, whether or not such default be thereafter remedied by Mortgagor, and Mortgagee may immediately proceed to foreclose this Mortgage or to exercise any

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right, power, or remedy provided by this Mortgage or the Note, or by law or in equity conferred.

23. **Possession by Mortgagee.** When the Indebtedness Hereby Secured shall become due, whether by acceleration or otherwise, Mortgagee shall, if applicable law permits, have the right to enter into and upon the Premises and take possession thereof or to appoint an agent or trustee for the collection of the rents, issues, and profits of the Premises; and the net income, after allowing a reasonable fee for the collection thereof and for the management of the Premises, may be applied to the payment of Taxes, insurance premiums, and other charges applicable to the Premises, or in reduction of the Indebtedness Hereby Secured; and the rents, issues, and profits of and from the Premises are hereby specifically pledged to the payment of the Indebtedness Hereby Secured.

24. **Foreclosure.** 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 the Indebtedness Hereby Secured or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness Hereby Secured in the decree of sale, all costs and expenses that may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's 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, and similar data and assurance with respect to title, as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree, the true conditions of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this Section, and such other 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 proceedings affecting this Mortgage, the Note, or the Premises, including probate, bankruptcy, and appellate proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, shall be so much additional Indebtedness Hereby Secured and shall be immediately due and payable by Mortgagee, with interest thereon at the post-naturity rate as set forth in the Note until paid.

25. **Receiver.** 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 regard to solvency or insolvency of Mortgagee 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 employee or agent thereof may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues, and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagee, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits and 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 may, from time to time, authorize the receiver to apply the net income from the Premises in his hands in payment in whole or in part of: (a) the Indebtedness Hereby Secured or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment, or other lien that may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency.

26. **Proceeds of Foreclosure Sale.** 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 Section 24 hereof; *Second*, all other items which, under the terms hereof, constitute Indebtedness Hereby Secured additional to that evidenced by the Note, with interest on such items as herein provided; *Third*, to interest remaining unpaid upon the Note; *Fourth*, to the principal remaining unpaid upon the Note; and *Fifth*, any surplus to Mortgagee and its successors or assigns, as their rights may appear.

27. **Insurance Upon Foreclosure.** In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied in rebuilding or restoring the buildings or improvements as herein provided, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the

balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court in its decree may provide that the mortgagee's clause attached to each of the casualty insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance 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 terms of the policies in such case made and provided, then in every such case, each and every successive redeemer may cause the preceding loss clause attached to each casualty insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redeemer. 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 without credit or allowance to Mortgagee for prepaid premiums thereon.

28. **Waiver.** Mortgagee hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption, or extension law or moratorium law now or at any time hereafter in force, or claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, 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 sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. 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 and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such 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 the provisions of Illinois Revised Statutes, Chapter 110, paragraphs 12-901 and 12-902, and any statute enacted in replacement or substitution thereof. Mortgagee will not invoke or utilize any such law or laws or otherwise hinder, delay, or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will suffer and permit the exercise of every such right, power, and remedy as though no such law or laws have been made or enacted.

29. **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises.

30. **Further Assurances.** Mortgagee will do, execute, acknowledge, and deliver all and every further acts, deeds, conveyances, transfers, and assurances necessary or proper, in the sole judgment of Mortgagee, for the better assuring, conveying, mortgaging, assigning, and confirming unto Mortgagee all property mortgaged hereby or property intended so to be whether now owned by Mortgagee or hereafter acquired.

31. **Mortgagee's Successors.** In the event that the ownership of the Premises becomes vested in a person or persons other than Mortgagee, Mortgagee may, without notice to Mortgagee, deal with such successor or successors in interest of Mortgagee with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with Mortgagee. Mortgagee will give immediate written notice to Mortgagee of any conveyance, transfer, or change of ownership of the Premises, but nothing in this Section 31 shall vary or negate the provisions of Section 2 hereof.

32. **Rights Cumulative.** Each right, power, and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power, or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to Mortgagee and the exercise or the beginning of the exercise of one right, power, or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of Mortgagee in the exercise of any right, power, or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

33. **Successors and Assigns.** This Mortgage and each and every covenant, agreement, and other provision hereof shall be binding upon Mortgagee and its successors and assigns (including

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without limitation, each and every record or act from time to time of the Premises or any other person having an interest therein, and shall inure to the benefit of Mortgagee and its successors and assigns. Any reference in this Mortgage to Mortgagee shall be deemed to include any holder of the Note, whether so expressed or not; and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options, and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such holder were herein by name specifically granted such rights, privileges, powers, options, and benefits and was herein by name designated Mortgagee.

or by registered or certified or equivalent mail, postage prepaid, return receipt requested, to the respective addresses of the parties set forth below, or to such other place as any party hereto may by notice in writing designate for itself, shall constitute service of notice hereunder two (2) business days after the mailing thereof:

- (a) If to Mortgagee: Northern Trust Bank/O'Hare N.A. 8501 West Higgins Road, Chicago, Illinois 60631 (Attention: Division Head, Commercial Real Estate)
- (b) If to Mortgagor, to the address set forth under Mortgagor's signature hereto.

34. Provisions Severable. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

Any such other notice may be served by personal delivery thereof to the other party, which delivery shall constitute service of notice hereunder on the date of such delivery.

35. Waiver of Defense. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid to the party interposing the same in an action at law upon the Note.

39. Joint and Several. If there is more than one Mortgagor, all representations and warranties herein shall be the joint and several representations and warranties of both or all such Mortgagors and all obligations, covenants, agreements, releases, and waivers hereunder shall be the joint and several obligations, covenants, agreements, releases, and waivers of both or all such Mortgagors.

36. Time of the Essence. Time is of the essence of the Note, this Mortgage, and any other document evidencing or securing the Indebtedness Hereby Secured or pursuant to which any of the Indebtedness Hereby Secured was incurred.

40. Option to Subordinate. At the option of Mortgagee, this Mortgage shall become subject and subordinate in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases of all or any part of the Premises upon Mortgagee's execution and recording, at any time hereafter, in the Office of the Recorder of Deeds in and for the county or counties wherein the Premises are situated, and of a unilateral declaration to that effect.

37. Captions and Paragraphs. The captions and headings of the various sections 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. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine, and neuter shall be freely interchangeable.

38. Notices. Except as otherwise specifically provided herein, any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly signed, sealed and delivered the day and year first above written.

Celso Garcia
Celso Garcia
Josefa Garcia
Josefa Garcia
Roberto Garcia
Roberto Garcia
By: _____

ATTEST:

Title: _____
Permanent Real Estate Tax Number:
13-34-419-045-0000

Title: _____
Address for Notices:
4660 West Newport
Chicago, Illinois 60641

STATE OF Illinois }
COUNTY OF COOK } SS:

I, CATHERINE M. CINERT GARCIA, a Notary Public in and for the County and the State aforesaid, DO HEREBY CERTIFY that CELSO, JOSEFA, AND ROBERTO GARCIA, personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that (s)he signed and delivered the said instrument as their free and voluntary act, and as the free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Catherine M. Cinert Garcia seal this 6th day of November, 1980

NOTARY PUBLIC



My commission expires _____

This document prepared by
B. Diane Podolick
Northern Trust Bank/O'Hare N.A.
8501 West Higgins Road
Chicago, Illinois 60631

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Exhibit A

Legal Description

LOT 25 IN BLOCK 21 IN GARFIELD, A SUBDIVISION OF THE SOUTHEAST 1/4 (EXCEPT THE WEST 307 FEET, THE NORTH 631.75 FEET, THE WEST 333 FEET AND THE SOUTH 1295 FEET) OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN# 13-34-419-045

COMMONLY KNOWN AS 1700 North Kedvale, Chicago, Illinois 60639

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