

1208666/Carman
92-64-751 D2

GEORGE E. COLE
LEGAL FORMS

UNOFFICIAL COPY

MORTGAGE (ILLINOIS)
For Use With Note Form No. 1447

FORM NO. 107
2nd Edition, 1985
1990 AUG 2 PM 3:10
26 90372619

CAUTION: Consult a lawyer before using or acting under this form. Neither the publisher nor the seller of this form makes any warranty with respect thereto, including any warranty of merchantability or fitness for a particular purpose.

90372619

THIS INDENTURE, made July 24 1990, between
Capitol Bank and Trust of Chicago, A/T/U/T
No. 2081, dated July 20, 1990

(NO. AND STREET) (CITY) (STATE)
herein referred to as "Mortgagors," and
Chrysler First Business Credit Corporation
1375 E. Woodfield Rd., Schaumburg, IL 60173
(NO. AND STREET) (CITY) (STATE)

herein referred to as "Mortgagee," witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon the installment note of even date herewith, in the principal sum of Three Hundred Thousand and No/100 DOLLARS (\$ 300,000.00), payable to the order of and delivered to the Mortgagee, in and by which note the Mortgagors promise to pay the said principal sum and interest at the rate and in installments as provided in said note, with a final payment of the balance due on the 24th day of July 1993 and all of said principal and interest are made payable at such place as the holders of the note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at P.O. Box 95220, Schaumburg, IL 60173

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in cash paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the City of Chicago, COUNTY OF Cook AND STATE OF ILLINOIS, to wit:

Lot 64 and part of Lot 65 (except the West 27.21 feet of Lot 65) a Subdivision of Lots 15 and 16 in King and Patterson's Subdivision of the North East 1/4 of Section 29, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

This Instrument is executed by CAPITOL BANK AND TRUST OF CHICAGO, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by CAPITOL BANK AND TRUST OF CHICAGO are undertaken by it solely as Trustee, as aforesaid, and not individually, and no personal liability shall be asserted or be enforced against CAPITOL BANK AND TRUST OF CHICAGO by reason of any of the covenants, statements, representations or warranties contained in this instrument.

which, with the property hereinafter described, is referred to herein as the premises.
Permanent Real Estate Index Number(s): 13-29-229-038
Address(es) of Real Estate: 5722 W. Diversey, Chicago, Illinois

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto being, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagors do hereby expressly release and waive.

The name of a record owner is: Capitol Bank and Trust of Chicago, A/T/U/T 2081, dated 7/20/90

This mortgage consists of two pages. The covenants, conditions and provisions appearing on page 2 (the reverse side of this mortgage) are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.
Witness the hand . . . and seal . . . of Mortgagors the day and year first above written.

PLEASE PRINT OR TYPE NAME(S) BELOW SIGNATURE(S)

(Seal) _____ (Seal)

State of Illinois, County of _____ ss.,
I, the undersigned, a Notary Public in and for said County
in the State aforesaid, DO HEREBY CERTIFY that _____

IMPRESS SEAL HERE
personally known to me to be the same person whose name _____ subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that _____ signed, sealed and delivered the said instrument as _____ free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this _____ day of _____ 19____.
Commission expires _____ 19____
Notary Public

This instrument was prepared by Edwin H. Shapiro
7 W. Schaumburg Road, Schaumburg, IL 60194
(NAME AND ADDRESS)

Mail this instrument to Edwin H. Shapiro, 7 W. Schaumburg Road
Schaumburg, IL 60194
(NAME AND ADDRESS) (CITY) (STATE) (ZIP CODE)

OR RECORDER'S OFFICE BOX NO. 333

90372619

1990

UNOFFICIAL COPY

THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 1 (THE REVERSE SIDE OF THIS MORTGAGE):

1. Mortgagors shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.
2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.
3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagors, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagors, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagors to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.
4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the note secured hereby.
5. At such time as the Mortgagors are not in default either under the terms of the note secured hereby or under the terms of this mortgage, the Mortgagee shall have such privilege of making prepayments on the principal of said note (in addition to the required payments) as may be provided in said note.
6. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the Mortgagee, under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.
7. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors 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 thereof, or redeem from any tax sale or forfeiture affecting said 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 attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.
8. The Mortgagee making any payment hereby authorized relating to taxes or 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.
9. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagors, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the note or in this mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.
10. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for 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 Mortgagee may deem to be 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 paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding, which might affect the premises or the security hereof.
11. 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 paragraph 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 interest remaining unpaid on the note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.
12. 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 said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors 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 the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said 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 Mortgagors, except for the intervention of such receiver, would be entitled to collect 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 from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) 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; (2) the deficiency in case of a sale and deficiency.
13. No action for the enforcement of the lien or of 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 hereby secured.
14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.
15. The Mortgagors shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.
16. 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 therefor, or interested in said 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, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.
17. Mortgagee shall release this mortgage and lien thereof 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.
18. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the note secured hereby.
19. Mortgagors hereto, to the extent permitted by law, waive all rights of redemption.

90372619

VARIABLE INTEREST RATE
RIDER TO MORTGAGE

This rider is made part of a certain mortgage dated July 24, 1990, given to secure a Variable Interest Rate Promissory Note dated July 24, 1990, wherein Mortgagor promises to pay the principal sum of THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) together with interest thereon accruing from the date of said note on that part of the principal remaining from time to time unpaid at the "Initial Interest Rate" of 14.25% per annum. Said note provides for changes in the Interest Rate and in the amount of the monthly installment payments due thereon in the following manner:

1. INTEREST RATE. Interest shall accrue at a rate equal to the index (as hereinafter defined) from time to time in effect, plus five and three-quarters percent (5.75%) per annum until the entire principal balance is paid in full. Notwithstanding any provisions of the Note, it is the understanding and agreement of Mortgagor and Chrysler First that the maximum rate of interest to be paid by Mortgagor to Chrysler First shall not exceed the maximum rate of interest permissible to be charged under law. Any amount paid in excess of such rate shall be considered to have been payments in reduction of principal. The minimum rate of interest to be paid by Mortgagor to Chrysler First shall not be less than thirteen and one-quarter percent (13.25%) per annum.

2. DEFINITION OF INDEX. The term "index" shall mean the published monthly rate of interest of the six month secondary market CD (certificate of deposit) rate as published monthly in the Federal Reserve Statistical Release G-13, rounded up to the nearest one-quarter percent.

3. CHANGE IN INTEREST RATE. The interest rate shall be adjusted using the index announced the month prior to the month in which the sixth and twelfth monthly due dates fall, and on those same dates from time to time until this Note is paid in full. The interest rate will increase or decrease directly with any change in the index.

Chrysler First shall mail to Mortgagor a notice by first class mail if the interest rate is to change. The notice shall advise Mortgagor:

- (i) the new interest rate,
- (ii) the amount of the new monthly payment, and
- (iii) any additional matters which Chrysler First is required to disclose to Mortgagor.

However, any failure on the part of Chrysler First to provide such notice, shall not forfeit the right of Chrysler First to change the interest rate in accordance with the terms as described herein.

4. EFFECTIVE DATE OF NEW RATE (CHANGE DATE). Each change of the interest rate hereunder, if any shall be effective on the due dates of the sixth and twelfth monthly payments and on those same dates from time to time until this Note is paid in full. If the monthly payment changes as a result of the change in the interest rate, the monthly payment will change as of the first monthly payment due after the change date.

INT. J.E.A.

90372619

UNOFFICIAL COPY

Property of COOK COUNTY

CAPITOL BANK AND TRUST, CHICAGO, ILLINOIS, As Trustee as aforesaid and not personally,

By John K. Houlihan Trust Officer

Attest Sharon K. Crowley Assistant Trust Officer

STATE OF ILLINOIS }
COUNTY OF COOK }

VICTORIA J. KLOBUKOWSKI
a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY, that
JOHN E. HOULIHAN
Trust Officer of the Capitol Bank and Trust and
SHARON K. CROWLEY

Assistant Trust Officer of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer, and Assistant 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 Assistant Trust Officer then and there acknowledged that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as said his 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.

OFFICIAL SEAL
VICTORIA J. KLOBUKOWSKI
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 11/10/92

Given under my hand and Notarial Seal this 21TH day of JULY, 1990
Victoria J. Klobukowski
Notary Public

90372619

Notary Office

3025208

UNOFFICIAL COPY

5. TYPE OF LOAN. IT IS UNDERSTOOD THAT THIS MORTGAGE SECURES A VARIABLE INTEREST RATE LOAN AND NOT A FIXED RATE LOAN.

6. PAYMENTS. Payment of principal and interest shall be paid monthly on the 24th day of each month beginning thirty (30) days from the date hereof, and a final payment of all accrued interest and unpaid principal shall be due and payable on July 24, 1993. The initial monthly payment will be in the amount of \$3,668.78. INCREASES IN THE INTEREST RATE WILL RESULT IN HIGHER MONTHLY PAYMENTS AND DECREASES IN THE INTEREST RATE WILL RESULT IN LOWER MONTHLY PAYMENTS. The amount of the monthly payment will always be calculated so as to be sufficient to repay the principal outstanding and all interest thereon in full and substantially equal payments in 300 months from the date of the Note. In setting the new monthly payment amount on each change date Chrysler First will assume that the interest rate will not change again prior to the final payment date.

INT. 7.8%

Property of Cook County Clerk's Office

90372619

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00358714

RIDER

A. ACCELERATION UPON TRANSFER. If all or any part of the premises or an interest therein is sold, transferred or assigned by Mortgagor or Mortgagor places any subordinate liens on the premises without Mortgagee's prior written consent, Mortgagee may, at Mortgagee's option, declare all sums secured by this Mortgage to be immediately due and payable.

B. ASSIGNMENT OF RENTS. The Mortgagor hereby sells, assigns, transfers and sets over unto Mortgagee, as trustee, 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 any agreement for the use or occupancy of any part of the premises hereinafter described, which may have been heretofore or may be hereafter made or agreed to, or which may be made or agreed to by the grantee herein under the power herein granted, it being the intention to hereby establish an absolute transfer and assignment of all such leases and agreements and all the avails thereunder unto the grantee herein, upon the property described, and the undersigned hereby appoints irrevocably the above mentioned Mortgagee its true and lawful attorney in its name and stead to collect all of said rents, issues and profits arising or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases or agreements, written or verbal, existing or hereafter to exist, for said premises, and to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or the security of such rents, issues and profits, or to secure and maintain possession of said premises or any portion thereof and to fill any and all vacancies, and to rent, lease or let any portion of said premises to any party or parties, at its discretion, hereby granting full power and authority to exercise each and every rights, privileges and powers herein granted at any and all times hereafter without notice to the Mortgagor herein, their successors and assigns, and further with power to use and apply said rents, issues and profits to the payment of any indebtedness or liability of the undersigned to the said Mortgagee, as trustee, or its successors or assigns, as the holder or holders of said indebtedness due or to become due under and by virtue of the herein mortgage, and also to the payment of all expenses and the care and management of said premises including taxes and assessments, and the interest of encumbrances, if any, which may in said attorney's judgment be deemed proper and advisable, hereby ratifying all that said attorney may do by virtue hereof.

C. No Toxic Wastes. Mortgagor represents that there are no toxic wastes or other toxic or hazardous substances or materials being generated, stored or otherwise used or held on, under or about the Property, or being transported to, from or across the Property, by Mortgagor or, to the best of Mortgagor's knowledge, any other person, and Mortgagor shall at no time permit the same. Mortgagor represents that it has not, and to the best of its knowledge no other person or other entity has, released or otherwise discharged any such wastes, substances or materials on, under or about the Property. In the event that any such wastes, substances or materials are hereafter found or otherwise exist on, under or about the Property, Mortgagor shall take all necessary and appropriate actions and shall spend all necessary sums to cause the same to be cleaned up and immediately removed, and Mortgagee shall in no event be liable or responsible for any

INT. J S A.

90372619

UNOFFICIAL COPY

Property of Cook County Clerk's Office

0000000000

costs or expenses incurred in so doing. Mortgagor represents that no portion of the Property is within two thousand (2,000) feet of a toxic waste or hazardous substances problem, or is otherwise subject to any "borderzone" legislation or other restrictions on the construction, sale or occupancy of residential dwellings under any of the laws described below or other environmental protection laws. Mortgagor shall at all times observe and satisfy the requirements of and maintain the Property in compliance with all federal, state and local environmental protection, occupational, health and safety or similar laws, ordinances, restrictions, licenses, and regulations, including but not limited to the Federal Water Pollution Prevention and Control Act (33 U.S.C. Section 1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.) the Clean Air Act (42 U.S.C. Section 7401 et seq.), and Comprehensive Environmental Response of Compensation and Liability Act (42 U.S.C. Section 9601 et seq.). Should Mortgagor at any time default in or fail to perform or observe any of its obligations under this Paragraph C, Mortgagee shall have the right, but not the duty, without limitation upon any of Lender's rights pursuant thereto, to perform the same, and Mortgagor agrees to pay to Mortgagee, on demand, all costs and expenses incurred by Mortgagee in connection therewith, including without limitation reasonable attorney's fees, together with interest from the date of expenditures at the Default Rate specified in the Note. Mortgagor hereby indemnifies Mortgagee and agrees to hold Mortgagee harmless from and against any loss incurred by or liability imposed on Mortgagee by reason of (i) Mortgagor's failure to perform or observe any of its obligations or agreements under this Paragraph C, or (ii) any of its representations under this Paragraph C having been materially incorrect, including without limitation any and all attorneys' fees and costs incurred in connection with any lawsuit or court action, or any proceeding before or involving any state or federal or other regulatory agency or other governmental agency. Mortgagor further agrees that it shall indemnify, defend and hold Mortgagee harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage or expense (including without limitation, attorneys' fees) resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage or disposal of any hazardous or toxic wastes or materials on, under, in or about, or the transportation of any such wastes to or from, the Property, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of hazardous or toxic wastes or materials on, under, in or about, to or from, the Property. This indemnity shall include, without limitation, any damage, liability, fine, penalty, punitive damage, cost or expense (including without limitation all post-foreclosure cleanup and removal costs and expenses) arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damages, compensation for lost wages, business income, profits, or other economic loss, damage to the natural resources or the environment, nuisance, pollution, contamination, leak, spill, release or other adverse effect on the environment. The obligations of Mortgagor and the rights of Mortgagee under this Paragraph C are in addition to and not in substitution of the obligations of Mortgagor and rights of Mortgagee under the laws and regulations cited above in this Paragraph C, and any other similar

INT. JER

90372619

UNOFFICIAL COPY

Property of Cook County Clerk's Office

0388804

applicable laws. The obligations and indebtedness of Mortgagor, and the rights of Mortgagee, under this Paragraph C and the laws and regulations cited above in this Paragraph C, notwithstanding anything contained herein or in any other document or agreement which may be construed to the contrary, shall survive the foreclosure of this Mortgage, the repayment of the Loan and the termination of the Note and other Loan Documents. As used herein, the terms "toxic" or "hazardous" wastes, substances or materials shall include, without limitation, all those so designated and all those in any way regulated by any of the above-cited laws or regulations, or any other present or future environmental or other similar laws or regulations.

D. ADDITIONAL MORTGAGOR OBLIGATIONS. Mortgagor shall furnish to Mortgagee:

- i. Such information regarding business affairs and financial condition as Mortgagee may reasonably request from time to time;
- ii. Within 90 days after the end of each fiscal year of Mortgagor, Mortgagor shall deliver to Mortgagee complete financial statements setting forth all details of the operation of the Mortgage Property, including an itemized list of rentals and expenses on the Mortgaged Property, a profit and loss statement, balance sheet and reconciliation of surplus, which statements shall be certified by Mortgagor and, if Mortgagee shall require, by an independent certified public accountant acceptable to Mortgagee. Mortgagor shall furnish, together with the foregoing financial statements and at any other time upon Mortgagee's request, a rent schedule for the Mortgaged Property, certified by Mortgagor, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable, and the rent paid.

E. TAX ESCROW OPTION. When requested by Mortgagee, Mortgagor shall pay to Mortgagee, together with and in addition to the monthly payments of principal and interest payable under the terms of the Note secured hereby on the date set forth therein for the making of monthly payments until such Note is fully paid, a sum, as estimated by Mortgagee, equal to the taxes and special assessments next due on the Premises covered by this Mortgage, plus the premiums that will next become due and payable on insurance policies divided by the number of months to elapse before one (1) month prior to the date when such premiums, taxes and special assessments will become due. Such sums to be held by Mortgagee to pay such premiums, taxes and special assessments or, upon presentation of receipted bills therefor, to reimburse Mortgagor for such payments made by Mortgagor. Such payments, hereinafter referred to as "Reserves", are to be held without any allowance of interest or dividend to Mortgagor and need not be kept separate and apart from other funds of Mortgagee. Mortgagor agrees to deliver to Mortgagee all bills and notices relating to such taxes, special assessments, and insurance policies within fifteen (15) days of Mortgagor's receipt of same. Mortgagee shall not be liable for any failure to apply to the payment of taxes, assessments or insurance premiums any amounts deposited as Reserves unless Mortgagor, while no default exists hereunder and within a reasonable time prior to the due date, shall have requested Mortgagee in writing to make application of the Reserves on hand to the payment of the particular taxes, assessments or insurance premiums for the

INT. J.E.H.

90372619

UNOFFICIAL COPY

Property of Cook County Clerk's Office

PROPERTY

payment of which such Reserves were made, accompanied by the bills therefor. All payments required under this paragraph and all payments to be made under the Note secured hereby shall be added together and the aggregate amount thereof shall be paid by Mortgagor each month in a single payment to be applied by Mortgagee to the following items in the order set forth: (i) such taxes, special assessments, fire and other hazard insurance premiums; (ii) indebtedness hereby secured other than principal and interest on the Note; (iii) interest on the Note secured hereby; and (iv) the amount required to amortize the principal of such Note (if any is then due).

The arrangement provided for in this paragraph is solely for the added protection of Mortgagee and entails no responsibility on Mortgagee's part beyond the allowing of due credit, without interest, for the sums actually received by it. Upon assignment of this Mortgage or sale of the Note secured by this Mortgage by the Mortgagee to any third party ("Assignee"), any Reserves on hand shall be turned over to the Assignee and any responsibility of Mortgagee with respect thereto shall terminate. In the event of a default in any of the provisions contained in this Mortgage or in the Note, Mortgagee may, at its option, without being required so to do, apply any Reserves on hand on 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 Reserves shall be paid to Mortgagor. All Reserves are hereby pledged as additional security for the indebtedness hereby secured, and shall be held in trust to be irrevocably applied for the purpose for which made as herein provided, and shall not be subject to the direction or control of Mortgagor.

F. RIGHT OF INSPECTION. Mortgagee and any persons authorized by Mortgagee shall have the right at any time, upon reasonable notice to Mortgagor, to enter the Mortgaged Property at a reasonable hour to inspect and photograph its condition and state of repair.

G. MAINTENANCE OF MORTGAGED PROPERTY. Mortgagor shall keep and maintain or cause to be kept and maintained all buildings and improvements now or at any time hereafter erected on the Mortgaged Property and the sidewalks and curbs abutting them, in good order and condition and in a rentable and tenantable state of repair, and will make or cause to be made, as and when necessary, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen. Mortgagor shall abstain from and shall not permit the commission of waste in or about the Mortgaged Property; shall not remove or demolish, or alter the structural character of, any building erected at any time on the Mortgaged Property, without the prior written consent of Mortgagee; and shall not permit the Mortgaged Property to become vacant, deserted or unguarded. Mortgagor shall not permit any lien or claim to be filed against the Mortgaged Property or any part thereof. Mortgagor shall have a period of ten (10) days from the date of such filing to cause such lien or claim to be discharged of record by payment, deposit bond, order of a court of competent jurisdiction or otherwise.

INT. J & H

90372619

UNOFFICIAL COPY

Property of Cook County Clerk's Office