



UNOFFICIAL COPY

Mortgage

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THIS MORTGAGE is made on August 30, 1991, between American National Bank, a corporation, not personally, but as Trustee under a Trust Agreement dated 1/29, 1974 and known as Trust No. 32633, whose address is 3631-3665 Commercial Avenue, Northbrook, IL 60062 (the "Mortgagor") and NBD Northfield Bank, a national/state banking Corporation, (Bank Name) whose address is 400 Central Avenue, Northfield, IL 60093 (the "Mortgagee").

* To be deleted when this Mortgage is not executed by a Land Trust.

The Mortgagor MORTGAGES, CONVEYS AND WARRANTS to the Mortgagee real property and all the buildings, structures and improvements on it described as: Land located in the City of Northbrook, County of Cook, State of Illinois:

Lots 18, 19 and 20 in Northbrook Edens Industrial Park Subdivision Unit No. 4, Section 6, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

\$18.00

"the Premises")
Commonly known as: 3631-3665 Commercial Avenue, Northbrook, IL 60062
Tax Parcel Identification No. 04-06-203-002-0000, 04-06-203-003-0000 & 04-06-203-004-0000

- The Premises shall also include all of the Mortgagor's right, title and interest in and to the following:
- (1) All easements, rights-of-way, licenses, privileges and hereditaments
 - (2) Land lying in the bed of any road, or the like, opened, proposed or vacated, or any strip or gore, adjoining the Premises.
 - (3) All machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever located now or in the future in or upon the Premises and used or useable in connection with any present or future operation of the Premises (all of which is called "Equipment"). It is agreed that all Equipment is part of the Premises and appropriated to the use of the real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged and warranted to the Mortgagee.
 - (4) All mineral, oil, gas and water rights, royalties, water and water stock, if any.
 - (5) All awards or payments including interest made as a result of: the exercise of the right of eminent domain; the alteration of the grade of any street, any loss of or damage to any building or other improvement on the Premises, any other injury to or decrease in the value of the Premises, any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Premises, and the reasonable attorneys' and professional fees, costs and disbursements incurred by the Mortgagee in connection with the collection of any such award or payment.
 - (6) All of the rents, issues and profits of the Premises under present or future leases, or otherwise.

The Premises are unencumbered except as follows: 1991 SEP - 9 PM 1:34 91464977
None

("Permitted Encumbrances"). If the Premises are encumbered by Permitted Encumbrances, the Mortgagor shall perform all obligations and make all payments as required by the Permitted Encumbrances. The Mortgagee shall provide copies of all writings pertaining to Permitted Encumbrances, and the Mortgagee is authorized to request and receive that information from any other person without the consent or knowledge of the Mortgagor.

This Mortgage secures the indebtedness or obligation evidenced by:

(i) The note(s) dated 8/30/91 in the principal amount of \$760,000.00, respectively, maturing on September 1, 2001, executed and delivered by ANB L/T #32633 Dtd. 1/29/74 to the Mortgagee with interest at the per annum rate of Nine and Three Quarter percent (9.75%). Fixed for five years thereafter adjusted annually on the principal balance remaining from time to time unpaid. Interest after default or maturity of the note, whether by acceleration or otherwise, on the principal balance of the note remaining from time to time unpaid shall be at the per annum rate of Three percent (3.00%) over the Current Rate; and

including any extensions, renewals, modifications or replacements without limit as to the number or frequency (the "Debt").

LIMITATION ON AMOUNT SECURED BY MORTGAGE. Notwithstanding anything to the contrary contained in this Mortgage, the amount secured by this Mortgage shall not exceed the principal sum of \$ 760,000.00 at any one time outstanding.

FUTURE ADVANCES AND CROSS-LIEN: The Debt shall also include all other present and future, direct and indirect obligations and liabilities of the Mortgagor, or any one or more of them, with or without others, to the Mortgagee. This shall not apply to any obligation or debt incurred for personal, family or household purposes unless the note or guaranty expressly states that it is secured by this Mortgage.

the Mortgagor. Upon the request of the Mortgagee, the Mortgagor shall immediately furnish to the Mortgagee all notices of amounts due and receipts evidencing payment. The Mortgagor shall promptly notify the Mortgagee of any lien on all or any part of the Premises and shall promptly discharge any unpermitted lien or encumbrance.

This Mortgage shall also secure the performance of the promises and agreements contained in this Mortgage.

3. CHANGE IN LAWS: In the event of the passage of any law or regulation, state, federal or municipal, subsequent to the date of this Mortgage in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting such taxes, the entire principal secured by this Mortgage and all interest accrued shall become due and payable immediately at the option of the Mortgagee.

The Mortgagor promises and agrees as follows:

1. PAYMENT OF DEBT; PERFORMANCE OF OBLIGATIONS. The Mortgagor shall promptly pay when due, whether by acceleration or otherwise, the Debt for which the Mortgagor is liable, and shall promptly perform all obligations to which the Mortgagor has agreed under the terms of this Mortgage and any loan documents evidencing the Debt.

4. INSURANCE. Until the Debt is fully paid, the Mortgagor shall keep the Premises and the present and future buildings and other improvements on the Premises constantly insured for the benefit of the Mortgagee against fire and such other hazards and risks customarily covered by the standard form of extended coverage endorsement available in the State of Illinois, including risks of vandalism and malicious mischief, and shall further provide flood insurance (if the Premises are situated in an area designated as a flood risk area by the Director of the Federal Emergency Management Agency or as otherwise required by the Flood Disaster Protection Act of 1973 and regulations issued under it).

2. TAXES. The Mortgagor shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions, and other charges which may become a lien prior to this Mortgage. Should the Mortgagor fail to make such payments, the Mortgagee may, at its option and at the expense of the Mortgagor, pay the amounts due for the account of

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and such other appropriate insurance as the Mortgagee may require from time to time. All insurance policies and renewals must be acceptable to Mortgagee and must provide for payment to the Mortgagee in the event of loss. Must require 30 days notice to the Mortgagee in the event of nonrenewal or cancellation, and must be delivered to the Mortgagee within thirty (30) days prior to their respective effective dates. Should the Mortgagee fail to insure or fail to pay the premiums on any insurance or fail to deliver the policies or certificates or renewals to the Mortgagee, then the Mortgagee at its option may have the insurance written or renewed and pay the premiums for the account of the Mortgagee. In the event of loss or damage, the proceeds of the insurance shall be paid to the Mortgagee alone. No loss or damage shall itself reduce the Debt. The Mortgagee is authorized to adjust and compromise a loss without the consent of the Mortgagee, to collect, receive and receipt for any proceeds in the name of the Mortgagee and the Mortgagee and to endorse the Mortgagee's name upon any check in payment of proceeds. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds and then toward payment of the Debt or any portion of it, whether or not then due or payable, or the Mortgagee at its option may apply the proceeds, or any part to the repair or rebuilding of the Premises provided that Mortgagee is not then or at any time during the course of restoration of the Premises in default under this Mortgage and has complied with all requirements for application of the proceeds to restoration of the Premises as Mortgagee, in its sole discretion may establish.

5. RESERVES FOR TAXES AND INSURANCE. Mortgagee shall, if requested by Mortgagee, pay to Mortgagee, at the time of and in addition to the monthly installments of principal and interest due under the Debt a sum equal to one-twelfth (1/12) of (a) the amount estimated by Mortgagee to be sufficient to enable Mortgagee to pay at least thirty (30) days before they become due and payable, all taxes, assessments and other similar charges levied against the Premises, and (b) the amount of the annual premiums on any policies of insurance required to be carried by Mortgagee. Mortgagee shall apply the sums to pay the tax and insurance items. These sums may be commingled with the general funds of Mortgagee, and no interest shall be payable on them nor shall these sums be deemed to be held in trust for the benefit of Mortgagee. Upon notice at any time, the Mortgagee will, within ten (10) days, deposit such additional sums as may be required for the payment of increased taxes, assessments, charges or premiums. In the event of foreclosure of this Mortgage, any of the moneys then remaining on deposit with the Mortgagee or its agent shall be applied against the Debt prior to the commencement of foreclosure proceedings. The obligation of the Mortgagee to pay taxes, assessments, charges or insurance premiums is not affected or modified by the arrangements set out in this paragraph. Any default by the Mortgagee in the performance of the provisions of this paragraph shall constitute a default under this Mortgage.

6. WASTE. The Mortgagee shall keep the Premises in good repair, shall not commit or permit waste on the Premises nor do any other act causing the Premises to become less valuable. Non-payment of taxes and cancellation of insurance shall each constitute waste. Should the Mortgagee fail to effect the necessary repairs, the Mortgagee may at its option and at the expense of the Mortgagee, make the repairs for the account of the Mortgagee. The Mortgagee shall use and maintain the Premises in conformance with all applicable laws, ordinances and regulations. The Mortgagee or its authorized agent shall have the right to enter upon and inspect the Premises at all reasonable times.

7. ALTERATIONS, REMOVAL. No building, structure, improvement, fixture or personal property constituting any part of the Premises shall be removed, demolished or substantially altered without the prior written consent of the Mortgagee.

8. PAYMENT OF OTHER OBLIGATIONS. The Mortgagee shall also pay all other obligations which may become liens or charges against the Premises for any present or future repairs or improvements made on the Premises, or for any other goods, services, or utilities furnished to the Premises and shall not permit any lien or charge of any kind securing the repayment of borrowed funds (including the deferred purchase price for any property) to accrue and remain outstanding against the Premises.

9. ASSIGNMENT OF LEASES AND RENTS. Further, Mortgagee does hereby pledge and assign to Mortgagee, all leases, written or verbal, rents, issues and profits of the Premises, including without limitation, all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, and all deposits of money as advance rent or for security, under any and all present and future leases of the Premises, together with the right, but not the obligation, to collect, receive, demand, sue for and recover the same when due or payable. Mortgagee by acceptance of this Mortgage agrees, as a personal covenant applicable to Mortgagee only, and not as a limitation or condition hereof and not available to anyone other than Mortgagee, that until a default shall occur or an event shall occur, which under the terms hereof shall give to Mortgagee the right to foreclose this Mortgage, Mortgagee may collect, receive and enjoy such avails. Upon the request of Mortgagee, Mortgagee shall deliver to Mortgagee all original leases of all or any portion of the Premises, together with assignments of such leases from Mortgagee to Mortgagee, which assignments shall be in form and substance satisfactory to Mortgagee. Mortgagee shall not, without Mortgagee's prior written consent, procure, permit or accept any prepayment, discharge or compromise of any rent or release any tenant from any obligation, at any time while the indebtedness secured hereby remains unpaid.

10. ASSIGNMENT OF INTEREST AS TENANT OR PURCHASER. If the Mortgagee's interest in the Premises is that of a tenant or a purchaser, the Mortgagee also assigns, mortgages and warrants to the Mortgagee, as additional security for the Debt, all of the Mortgagee's right, title and interest in and to any leases, land contracts or other agreements by which the Mortgagee is leasing or purchasing any part or all of the Premises, including all modifications, renewals and extensions and all of the Mortgagee's right, title or interest in any purchase options contained in any lease or other agreement. The Mortgagee agrees to pay each installment of rent, principal and interest required to be paid by it under the lease, land contract or other agreement when each installment becomes due and payable whether by acceleration or otherwise. The Mortgagee further agrees to pay and perform all of its other obligations under the lease, land contract or other agreement.

If the Mortgagee defaults in the payment of any installment of rent, principal, interest or in the payment or performance of any other obligation under the lease, land contract or other agreement, the Mortgagee shall have the right, but not the obligation, to pay the installment or installments and to pay or perform the other obligations on behalf of and at the expense of the Mortgagee. On receipt by the Mortgagee from the landlord or seller under the lease, land contract or other agreement of any written notice of default by the Mortgagee, the Mortgagee

may rely on the notice to take any action it deems necessary or reasonable or to file a suit against the Mortgagee, or to request or demand the existence or nature of the default.

11. SECURITY AGREEMENT. This Mortgage also constitutes a security agreement within the meaning of the Illinois Uniform Commercial Code ("UCC") and Mortgagee grants to Mortgagee a security interest in any Equipment and other personal property included within the definition of Premises. Accordingly, Mortgagee shall have all of the rights and remedies available to a secured party under the UCC. Upon the occurrence of an event of default under this Mortgage, the Mortgagee shall have in addition to the remedies provided by this Mortgage, the right to use any method of disposition of collateral authorized by the UCC with respect to any portion of the Premises subject to the UCC.

12. REIMBURSEMENT OF ADVANCES. If Mortgagee fails to perform any of its obligations under this Mortgage, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Premises (including but not limited to a lien priority dispute, eminent domain, code enforcement, insolvency, bankruptcy or probate proceedings), then Mortgagee at its sole option may make appearances, disburse sums and take any action it deems necessary to protect its interest (including but not limited to disbursement of reasonable attorneys' and paralegals' fees and entry upon the Premises to make repairs). Any amounts disbursed shall become additional Debt, shall be immediately due and payable upon notice from the Mortgagee to the Mortgagee, and shall bear interest at the highest rate permitted under any of the instruments evidencing any of the Debt.

13. DEFENSE TRANSFER. Notwithstanding any other provisions of this Mortgage, no sale, lease, mortgage, trust deed, grant by Mortgagee of an encumbrance of any kind, conveyance, transfer of occupancy or possession, contract to sell, or transfer of the Premises, or any part thereof, or sale or transfer of ownership of any beneficial interest or power of direction in a trust which holds title to the Premises, shall be made without the prior written consent of Mortgagee.

14. NO ADDITIONAL LIEN. Mortgagee covenants not to execute any mortgage, security agreement, assignment of leases and rentals or other agreement granting a lien against the interest of Mortgagee in the Premises without the prior written consent of Mortgagee, and then only when the document granting that lien expressly provides that it shall be subject to the lien of this Mortgage for the full amount secured by this Mortgage and shall also be subject and subordinate to any then existing or future leases affecting the Premises.

15. EMINENT DOMAIN. Notwithstanding any taking under the power of eminent domain, alteration of the grade of any road, alley, or the like, or other injury or damage to or decrease in value of the Premises by any public or quasi-public authority or corporation, the Mortgagee shall continue to pay the Debt in accordance with the terms of the underlying loan documents until any award or payment shall have been actually received by Mortgagee. By executing this Mortgage, the Mortgagee assigns the entire proceeds of any award or payment and any interest to the Mortgagee. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee, including reasonable attorneys' and paralegals' fees of the Mortgagee in collecting the proceeds and then toward payment of the Debt whether or not then due or payable, or the Mortgagee at its option may apply the proceeds, or any part to the alteration, restoration or rebuilding of the Premises.

16. HAZARDOUS WASTE. The Mortgagee represents and warrants to the Mortgagee that (a) the Mortgagee has not used Hazardous Materials (as defined below), on, nor on or affecting the Premises in any manner which violates any Governmental Regulation (as defined below) governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Mortgagee's knowledge, no prior owner of the Premises or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Premises in any manner which violates any Governmental Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (b) the Mortgagee has never received any notice of any violations (and is not aware of any existing violations) of any Governmental Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials at the Premises and, to the best of the Mortgagee's knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Premises; (c) Mortgagee shall keep or cause the Premises to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable Governmental Regulations; and, without limiting the foregoing, Mortgagee shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable Governmental Regulations, nor shall Mortgagee cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagee or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazardous Materials onto the Premises or onto any other contiguous property; (d) the Mortgagee shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Premises as required by all applicable Governmental Regulations to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities; and (e) the Mortgagee represents and warrants that there are no underground storage tanks on the Premises or as reasonably can be ascertainable on property adjacent to, or in close proximity to the Premises. If the Mortgagee fails to conduct an environmental audit required by governmental authorities or the Mortgagee, then the Mortgagee may at its option and at the expense of the Mortgagee, conduct such audit. Any such audit conducted by Mortgagee shall be conducted solely for the benefit of and to protect the interests of Mortgagee and shall not be relied upon by Mortgagee or any third party for any purpose whatsoever, including, but not limited to Mortgagee's or any third party's obligation, if any, to conduct an independent environmental investigation of its own. By conducting any such audit, Mortgagee does not assume any control over the environmental affairs or operations of Mortgagee nor assume any obligation or liability to Mortgagee or any third party.

Subject to the limitations set forth below, the Mortgagee shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorneys', paralegals' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (a)

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ADDENDUM TO THAT CERTAIN MORTGAGE
DATED AS OF AUGUST 30, 1991 (THE "MORTGAGE") EXECUTED BY
AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY,
NOT PERSONALLY, BUT AS TRUSTEE UNDER A TRUST AGREEMENT
DATED JANUARY 29, 1974 AND KNOWN AS TRUST NO. 32633
(THE "MORTGAGOR") FOR THE BENEFIT OF NBD NORTHFIELD BANK
("MORTGAGEE") TO SECURE THAT CERTAIN NOTE OF MORTGAGOR
DATED AUGUST 30, 1991 AND MADE PAYABLE TO MORTGAGEE IN THE
ORIGINAL PRINCIPAL AMOUNT OF \$760,000.00

1. This Addendum is fully incorporated in the Mortgage by reference therein. In the event of any conflict between the terms of the Mortgage and this Addendum, the terms of this Addendum shall control.
2. Paragraph 3 of the Mortgage is modified to provide that upon the occurrence of any of the events specified in said Paragraph 3, the entire principal balance secured by the Mortgage and all interest accrued therein shall become due and payable within ninety (90) days from the date of Mortgagee's written notice of the occurrence of any of the events specified in said Paragraph 3 of the Mortgage.
3. Notwithstanding Paragraph 13 of the Mortgage, the beneficiaries of Mortgagor may make intrafamily transfers or transfers of partnership interests among the existing partners without obtaining the prior written consent of Mortgagee, and such transfers are fully permissible under the Mortgage.
4. Paragraph 19 of the Mortgage is hereby modified to provide that the following financial statements shall be delivered by the beneficiaries of Mortgagor in accordance with Paragraph 12 of the Commitment Letter dated July 22, 1991 as follows:
 - (a) Within ninety (90) days after and as of the end of each of the fiscal years for Northbrook Edens Joint Venture No. 1, a balance sheet and a statement of profit, loss and surplus, certified as correct by one of the authorized agents for Northbrook Edens Joint Venture No. 1;
 - (b) annual rent roll on the Premises, and
 - (c) promptly, all other information or books and records the Mortgagee reasonably requires.
5. Copies of all notices sent to Mortgagor by Mortgagee as provided for in Paragraph 20 of the Mortgage shall also be sent to the following parties:

Mr. S. N. Tideman, Jr.
The Tideman Company
400 Central Avenue, Suite 320
Northfield, Illinois 60093

Mr. Kenneth G. Kolmin
Schwartz & Freeman
401 North Michigan Avenue, Suite 1900
Chicago, Illinois 60611

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Property of Cook County Clerk's Office

Mail to
NBS Northfield Bank
400 Central Ave
Northfield IL
60093.

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Form 1408 R 4/70

GIVEN under my hand and notarial seal, this day of 1991

MAR 30 1991

for the uses and purposes therein set forth. of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal voluntarily act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice-President, and Assistant Secretary,

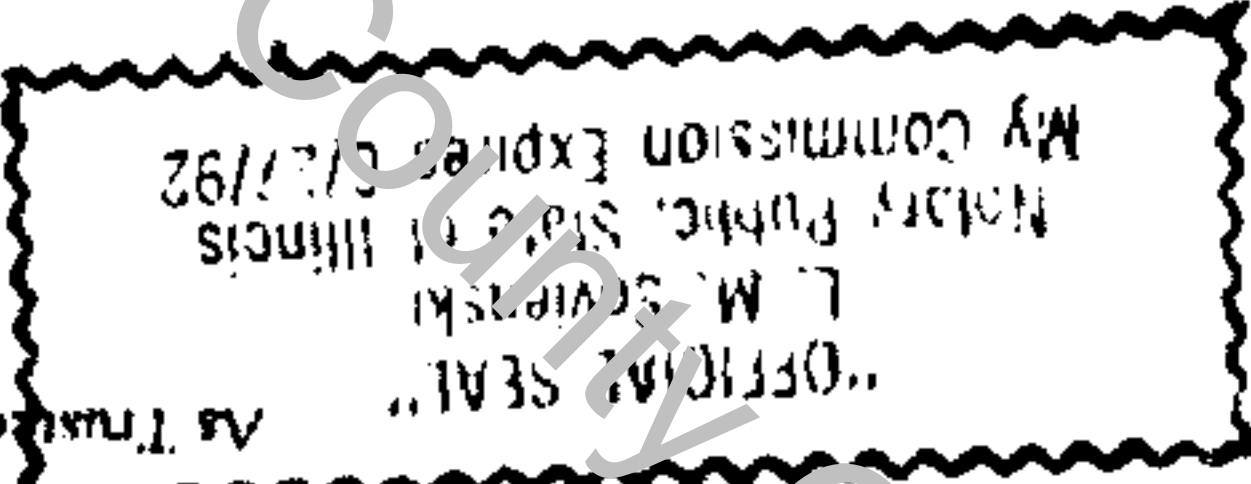
COMPANY of Chicago, and Gregory S. Kasprzyk Assistant Secretary of said Company, who are personally known

DO HEREBY CERTIFY, that Peter H. Johansen Vice President of the AMERICAN NATIONAL BANK AND TRUST

a Notary Public, in and for said County, in the State aforesaid,

STATE OF ILLINOIS
COUNTY OF COOK

L. M. GOVIEWSKI



ATTEST

GREGORY S. KASPRZYK

Assistant Secretary

Vice President

Peter H. Johansen

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

and attested by its Assistant Secretary, the day and year first above written. IN WITNESS WHEREOF, American National Bank and Trust Company of Chicago, not personally but as Trustee as aforesaid, has caused these presents to be signed by one of its Vice-Presidents, or Assistant Vice-Presidents, and its corporate seal to be hereunto affixed

guarantor, if any.

enforcement of the lien hereby created, in the manner herein and in said note provided or by action to enforce the personal liability of the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment thereof, by the said American National Bank and Trust Company of Chicago personally are concerned, the legal holder or holders of said note and the Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as the First Party and its successors and perform any covenant, warranty or indemnity either express or implied herein contained, all such liability, if any, being expressly waived by Trust Company of Chicago personally to pay the said note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to nothing herein or in said note contained shall be construed as creating any liability on the said First Party or on said American National Bank and in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said American National Bank and Trust Company of Chicago, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that

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