

UNOFFICIAL COPY

MORTGAGE TO SECURE A REVOLVING CREDIT LOAN

199002841

100-2841-91585323

THIS MORTGAGE TO SECURE A REVOLVING CREDIT LOAN (herein "Mortgage") is made

between
and Plaintiff **Charles L. O'Brien and Mary Marley O'Brien as Trustees of a Trust dated North M 8/18/97 and known as C. L. O'Brien Family Trust** (herein "Borrower") whose address is 4930

Borrower, in consideration of and, for value received, and to secure payment of debts and obligations and mortgages, unless Borrower is a Trustee, which it is, to Lender, and to secure payment of charges and quitclaims unto Lender and Lender's successors and assigns the following described property located in the **village of Lincolnwood** County of **Cook** State of **Illinois**

Lot Nine (9) in Block Three (3) in Lincolnwood Towers First Addition being a Subdivision of part of the East Fractional Half ($\frac{1}{2}$) of the South East Fractional Quarter ($\frac{1}{4}$) of Fractional Section Thirty Three (33), Township Forty One (41) North, Range Thirteen (13), East of the Third Principal Meridian in Cook County, Illinois.

91585323

100-2841-91585323
RECEIVED
TUESDAY, JANUARY 11, 1991
4-0004-E *-91-585323
BOOK 788 PAGE 52 OF 52

Permanent Parcel No. **10-33-435-009**
which has the address of **6487 N. Sauganash**

Lincolnwood

Block is **50646**

herein "Property Address"

TO HAVE AND TO HOLD such property unto Lender and Lender's successors and assigns forever, together with all the improvements now or hereafter erected on the same, and all the events, rights, appurtenances after-accrued thereon, conversion and to the use of every structure, fixtures and other appurtenances adjoining the Property, and rents subject however to the rights and authorities given herein to Lender to collect and apply such rents, royalties, mineral, oil, gas rights and profits, water, waterfalls, and a stock meadow, and condemnation proceeds and all fixtures now or hereafter attached to the property, and all other existing replacements and additions thereto, structures, fixtures, equipment and other property included in the Mortgage, and all of the foregoing together with said property or any household estate in this Mortgagor or his household are hereinafter referred to as the "Property".

To secure to Lender in consideration of the repayment of the equity advanced evidenced by an Equity Agreement and Disclosure Statement, a Reciprocal Note, and a note with and to Borrower's Variable Interest Rate Promissory Note, Note #1, dated January 11, 1991, in the sum of \$**75,000.00**, or so much thereof as may be advanced by Lender from time to time, in monthly installments of interest, with the principal balance of the indebtedness upon such amount or required to be paid due and payable five (5) years from the date thereof, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower contained herein and in the Agreement and Note, the Agreement and Note and this Mortgage are collectively referred to as the "Credit Documents." The Credit Documents are contemporaneous and this Mortgage permits and secures, future advances.

Notwithstanding anything to the contrary herein, the Property shall include all of Borrower's right, title and interest in and to the real property described above, whether such right, title and interest is acquired before or after execution of this Mortgage. Specifically, and without limitation of the foregoing, if this Mortgage is given with respect to the real estate owned by Borrower, and Borrower acquires a fee simple interest in the real property, the title of this Mortgage shall attach to and include the fee interest acquired by Borrower.

Borrower covenants that Borrower is the lawfully owner of the estate in land hereby conveyed and has the right to grant, convey and mortgage the Property, and that the Property is unencumbered except for encumbrances of record. Borrower, unless Borrower is a Trustee, covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands of all persons, past, present and to come, to record. Borrower covenants that Borrower will not make any permanent changes or improvements to the Property, or otherwise change the legal description of the Property or any part thereof, in any manner to vary the condition or title of the Property or any part thereof.

There is no prior Mortgage from Borrower to the current mortgagor, holder of record.

and recorded as document Number

Box 156 1200m

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Borrower acknowledges that the Note allows for ~~changes in the interest rate~~, and that the Lender may, prior to the expiration of the term of the Note, cancel future advances thereunder and/or require repayment of the outstanding balance under the Note. Increases in the interest rate may result in higher payments. Decreases in the interest rate may result in lower payments.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Borrower shall promptly pay, when due, without setoff, or deduction, the principal of and interest on the debt evidenced by the Note, together with any late charges and other charges imposed under the Note.

2. Application of Payments. All payments received by Lender under the Note and this Mortgage shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraphs 6 and 28 of this Mortgage, then to interest due on the Note, then to charges payable under the Agreement, and then to the principal of the Note.

3. Prior Mortgages and Deeds of Trust; Charges; Liens. Borrower shall fully and timely perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a hen which has or appears to have priority over this Mortgage, including Borrower's covenants to make any payments when due Borrower's taxes, utilities, assessments, charges, fines and impositions attributable to the Property which may appear prior to this Mortgage, and to hold payment of ground rents, if any. Borrower shall promptly furnish to Lender any documents which may be required under this paragraph. The Borrower shall make these payments directly, or promptly forward to the holder of the hen evidencing the payments.

Borrower shall promptly furnish to any hen which has priority over this Mortgage other than the prior mortgages described above, unless Borrower so agrees in writing to the payment of the obligation secured by the hen in a manner acceptable to Lender, by contesting in good faith the hen by or defends against enforcement of the hen, or by proceedings which, in the Lender's opinion, operate to prevent the enforcement of the hen or forfeiture of any part of the Property which secures from the holder of the hen an agreement satisfactory to Lender subordinating the hen to this Mortgage. If Lender determines that any part of the Property is subject to a hen which may attain priority over the Mortgage, Lender may give Borrower a notice identifying the hen. Borrower shall satisfy the hen, or take one or more of the actions set forth in this Mortgage, within 10 days of the giving of notice.

4. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against risks included within the "extended coverage" and such other hazards as Lender may require at a time Lender shall not require that the amount of such coverage exceed that amount of coverage required to make the sums secured by this Mortgage and all other mortgages and deeds of trust with respect to the Property, but Borrower shall enclose bills less than the amount necessary to satisfy the insurance requirements contained in the insurance policy. The insurance carrier providing the insurance shall be chosen by Borrower, at the expense of Lender, which shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower when due.

All insurance policies and renewals shall be in form acceptable to Lender and shall include a standard mortgage clause or similar form acceptable to Lender. Lender shall have the right to hold the policies and renewals submitted by Borrower under this Mortgage, deed of trust or other security instrument with a hen which has or appears to have priority over this Mortgage. If Lender requires, Borrower shall promptly furnish to Lender all renewal notices and receipts of paid premiums. Borrower shall give prompt notice to the insurance carrier and to Lender of any loss or damage to the Property. Lender may make proof of loss if not made promptly by Borrower. All policies shall provide further that the Lender shall receive 10 days notice prior to cancellation.

If the Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damages, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid by Borrower to Lender. If the Property is sold or transferred within 30 days a notice from Lender that the Lender is entitled to the difference between the amount Lender is previously authorized to settle the claim and to collect and apply the insurance proceeds at the Lender's sole option either to restoration or repair of the Property or to the sums secured by this Mortgage, Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30 day period will begin when the Notice is given.

5. Sale of Property. Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not exceed the principal amount of the monthly installments referred to in the Mortgage or change the amount of such installments. If the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS:
COUNTY OF Cook)

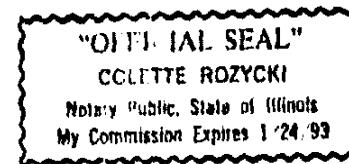
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **Charles L. O'Brien & Mary Marley O'Brien his wife** personally known to me to be the same person whose name(s) is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the same instrument as his 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 2/10/91 day of October, 1991.

Clelette Rozycki
Notary Public

Commission expires:

1/24/93



IF BORROWER IS A TRUST:

Charles L. O'Brien and Mary Marley O'Brien as Trustees of a Trust dated 6/18/81 AKA C.L. O'Brien Family Trust

not personally but solely as trustee aforesaid

Clelette Rozycki
Notary Public (TITLE)

X Attest Patricia Marley O'Brien
his Patricia Marley O'Brien (TITLE)

THIS INSTRUMENT WAS PREPARED BY
JACQUELINE HEIRBAUT
PEERLESS FEDERAL SAVINGS BANK
9343 WEST IRVING PARK ROAD
SCHILLER PARK, IL 60176-2298

91585323

UNOFFICIAL COPY

5. Preservation and Maintenance of Property; Leasholds; Condominiums; Planned Unit Developments.

Borrower shall use, improve and maintain the Property in compliance with applicable laws, statutes, ordinances, requirements and regulations, shall keep the Property in good condition and repair, including the repair or restoration of any improvements on the Property which may be damaged or destroyed, and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or planned unit development, Borrower shall perform all of Borrower's obligations under the declarative covenants creating or governing the condominium or planned unit development, the bylaws and regulations of the condominium or planned unit development, and constituent documents.

6. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Mortgage or in the additional Credit Documents, or there is a legal proceeding that may affect Lender's rights in the Property, such as a foreclosure, bankruptcy, private or condemnation, or to enforce laws or regulations, other than those set forth in this Mortgage, to whatever extent necessary to protect the value of the Property and Lender's rights in the Property, Lender's actions may include paying any sums caused by a lien which has priority over this Mortgage, instituting or court having jurisdiction, attorney's fees and entering on the Property to make repairs. Although Lender may take action under this paragraph, Lender does not have to do so.

Any amounts due to the Lender under the paragraph of this Note, or any other debt of Borrower secured by this Mortgage, unless Borrower is in default of this Note or any payment, shall be an interest from the date of disbursement of the Note rate and shall be payable with interest upon notice from Lender to Borrower requesting payment.

7. Inspection. Lender at any time may make reasonable inspections upon and inspections of the Property. Lender shall give Borrower at least ten (10) days prior to an inspection, specifying reasonable cause for the inspection.

8. Condemnation. The proceeds of any award for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for convenience in lieu of condemnation, and hereby assigned and confirmed to the Lender, shall be deposited in an original deed of trust or other security instrument with the title company holding the Note or Mortgage. If no such documents are executed, such further documents shall be executed by the title company holding the Note or Mortgage. In event such further documents are not available, Lender may file a claim for the amount of the award in the same manner and with the same effect as if the Note or Mortgage contained an amendment of the deeds of Hazard Insurance. No settlement of the indemnity claim shall be made without Lender's prior written approval.

9. Borrower Not Released; Forebearance by Lender Not a Waiver. Extension of the time for payment acceptance by Lender of payments over three (3) months beyond the terms of the Note, modification in payment terms or the substitution of this Note or Mortgage by the Lender, or an accession in interest of Borrower shall not operate to release the liability of the original Borrower. Borrower's accession in interest or any guarantor or surety thereof, Lender shall not be required to exercise any right or remedy against such accession holder, but it is to extend time for payment or otherwise modify payment terms of the same security by this Mortgage, by reason of any demand made by the original Borrower, or Borrower's accession in interest. Any forebearance by Lender in exercising any right or remedy shall not be a waiver of the exercise of any right or remedy. A waiver as to one event shall not be construed as confirming or as a waiver as to any other event.

10. Successors and Assigns Bound; Joint and Several Liability; Co-Signers. The covenants and agreements of this Mortgage shall bind to the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 8, Item 10. This Mortgage may be assigned by Lender to any As-Is Buyer, who signs this Mortgage but does not execute the Note, and is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Mortgage and to release homestead rights, if any. (b) is not personally obligated to pay the sums secured by this Mortgage, and (c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

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

12. Legislation Affecting Lender's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted by paragraph 19.

91565323

UNOFFICIAL COPY

27. Riders To This Security Instrument. If one or more riders are executed by Borrower and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage.

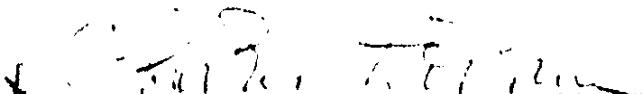
28. Expense of Litigation. In any suit to foreclose the lien of this Mortgage or enforce any other remedy of the Lender under this Mortgage, the Agreement, or the Note, there shall be allowed and included, as additional indebtedness in the judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of Borrower for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title, as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the Property. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceeding affecting this Mortgage, the Note or the Property or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Borrower, with interest thereon at the interest rate provided under the Note.

29. Captions; Successors and Assigns. The captions of this Mortgage are for convenience and reference only. They in no way define, limit or describe the scope or intent of this Mortgage. All the terms and conditions of this Mortgage and the other Credit Documents shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Borrower.

30. Trustee Exculpation. If this Mortgage is executed by a Trustee, Trustee, executes this Mortgage as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee, and it is expressly understood and agreed by the mortgagee herein and by every person now or hereafter claiming any right or security hereunder that nothing contained herein or in the Note secured by this Mortgage shall be construed as creating any liability on the Trustee personally to pay said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder or to perform any covenants either express or implied herein contained, all such liability, if any, being expressly waived, and that any recovery on this Mortgage and the Note secured hereby shall be solely against and out of the Property hereby conveyed by enforcement of the provisions hereof and of said Note, but this waiver shall in no way affect the personal liability of any co-maker, co-signer, endorser or guarantor of said Note.

IN WITNESS WHEREOF, Borrower has executed this Mortgage

IF BORROWER IS AN INDIVIDUAL(S).


Individual Borrower Charles L. O'Brien

Date 21.8.71 1991


Individual Borrower Mary Marley O'Brien

Date 11.4.81 1991

Individual Borrower

Date _____

Individual Borrower

Date _____

RECEIVED
CLERK'S OFFICE
JAN 20 1991

UNOFFICIAL COPY

13. Notices. Any notice to Borrower provided for in this Mortgage, shall be given by hand delivering it or by mailing such notice by registered or certified mail, unless applicable law requires use of another method. The Notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice of default shall be given by first class mail to Lender's address stated in remittance. Consumer Lending Department or any other address Lender designates by notice to Borrower. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender on the date hand delivery is actually made, or the date notice is deposited into the mail.

14. Governing Law; Severability. This Mortgage is subject to the laws of the state and the law of Illinois. In the event of a conflict between the terms of the Mortgage and the Note, or between state law and local law, such conflict shall not affect other provisions of this Mortgage or the Note which may be given effect without the conflicting provision. To this end the provisions of this Mortgage and the Note are declared to be severable.

15. Borrower's Copy. Each Borrower shall be given one copy of the Note and of this Mortgage.

16. Remedies Cumulative. Lender may exercise all of the rights and remedies provided for in this Mortgage and in the Credit Documents, or which may be available to Lender by law, and all such rights and remedies shall be cumulative, independent, and may be pursued singly, successively or together at Lender's sole discretion, and may be exercised as often as occasion may for shall occur.

7. Events of Default.

Notwithstanding Paragraph A, if there occurs any of the events set forth below during the grace period of the applicable grace period, if any, after Lender gives written notice to Borrower of Borrower's breach or violation of Borrower's obligations under the Credit Documents, and upon Borrower's failure to cure such breach or violation, and to provide Lender, during the grace period, if any, with evidence reasonably satisfactory to it of such cure. In each case, the grace period begins on the day after the notice is given and expires at 12:00 p.m. Central time on the last day of the grace period. If there is no grace period, upon the day after the day of such violation, the Event of Default will occur hereunder upon the giving of the above notice. Such notice shall be given to Borrower in writing with postage paid. A record copy shall contain the following information as to the nature of Borrower's violation or default, the action taken or proposed to cure such violation, and the date of the notice. Under the applicable Credit Document, if any, setting forth whether such breach or violation must be cured within a specified number of days or whether within the specified grace period of time, was a result in acceleration of the sums secured by this Mortgage and the potential foreclosure of this Mortgage.

No notice shall interfere with Borrower's right, if any, under applicable law, to validate his revolving line of credit under this Mortgage after acceleration.

7. Events of Default. Set forth below is a list of events which cause the lapsing of the applicable grace period, if any, and the occurrence of a default. Upon the occurrence of any of the events listed below, Lender may declare all amounts outstanding under the Credit Documents to be immediately due and payable. If any of the events listed below occur, Lender may exercise its rights under the Credit Documents and any other documents or instruments in the possession of Lender to foreclose on the security for the line of credit described in the Credit Documents and/or grace period. (8) Borrower files for bankruptcy or bankruptcy proceedings are instituted against Borrower or any business of which Borrower is a partner, or any proceeding similar to a state or federal bankruptcy laws is commenced against Borrower or any business of which Borrower is a partner for the benefit of this or other creditors, or any cause exists which may reasonably be expected to result in a proceeding similar to a state or federal bankruptcy laws being commenced against Borrower or any business of which Borrower is a partner, or any cause exists which may reasonably be expected to result in a proceeding similar to a state or federal bankruptcy laws being commenced against the Property; (9) thirty (30) day grace period, if any, has lapsed and the unpaid balance of the principal amount of the described Credit Documents, or whose sum has an aggregate principal amount greater than the balance of the grace period, is not paid within such grace period; (10) Borrower fails to pay, or fails to make payment on, any of the Credit Documents or any other document or instrument in the possession of Lender, or any of the Credit Documents is not curable within the grace period, if any, or the grace period is prior to the grace period of the Credit Documents that grace period is breached. For the purpose of expiration of any applicable law which makes any provision of the Credit Documents void or unenforceable, the term "business" includes Lender's good faith belief of the prospect of payment of principal and interest as impaired.

UNOFFICIAL COPY

18. Transfer of the Property. If borrower, or beneficiary of the Trust, if any, sells, conveys, assigns or transfers, or promises or contracts to sell, convey, assign or transfer, all or any part of the Property or any interest therein, including all or any part of the beneficial interest in the Trust, if any, or amends or terminates any ground leases affecting the Property, or if title to the Property, or any direct or indirect interest therein, is otherwise sold or transferred, voluntarily or involuntarily, including without limitation, sale or transfer in any proceeding for foreclosure or judicial sale of the Property or beneficial interest in the Trust, if any, in each case without Lender's prior written consent, Lender shall be entitled to immediately accelerate the amounts due under the Note and declare all indebtedness secured by this Mortgage to be immediately due and payable as set forth in paragraph 12 of the Agreement. Failure to pay such indebtedness within thirty (30) days after notice to Borrower of such acceleration shall constitute an Event of Default. Any use, or attempted use, by Borrower of the revolving line of credit evidenced by the Agreement and the Note after Borrower's sale, transfer, or promise to sell or transfer the Property or any direct or indirect interest therein, or amendment or termination of any ground leases affecting the Property, shall constitute a separate Event of Default.

19. Acceleration; Remedies (Including Freezing the Line). Upon the existence of an Event of Default, Lender may, at its sole option, terminate the line, declare all of the sums secured by this Mortgage to be immediately due and payable without further demand, and invoke any remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees.

As additional specific protection, notwithstanding any other term of this Mortgage, Lender, without declaring or asserting an Event of Default or invoking any of its remedies pertaining to Events of Default, may, immediately and without notice, freeze the line upon the occurrence of any event enumerated in paragraph 17 or 18 of this Mortgage, including without limitation Lender's receipt of notice from any source of a lien, claim of lien or encumbrance, either superior or inferior to the lien of this Mortgage. Notice of any such freeze shall be given in accordance with the provisions of paragraph 13 of this Mortgage. Freezing the line will not preclude Lender from subsequently exercising any right or remedy set forth herein or in any of the Credit Documents.

20. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that prior to acceleration under paragraph 19 hereof or the occurrence of an Event of Default hereunder or abandonment of the Property, Borrower shall have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 19 hereof, or abandonment, Lender, at any time without notice, in person, by agent or by judicially appointed receiver, and without regard to the adequacy of any security for the indebtedness secured by this Mortgage, shall be entitled to enter upon, take possession of, and manage the Property, and in its own name sue for or collect the rents of the Property, including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of operation and management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received. The entering upon and taking possession of the Property and the collection and application of the rents shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice.

21. Release. Upon payment and discharge of all sums secured by this Mortgage and termination of the Account, this Mortgage shall become null and void and Lender shall release this Mortgage without charge to Borrower.

22. Request For Notices. Borrower requests that copies of any notice of default, sale and foreclosure from the holder of any lien which has priority over this Mortgage be sent to Lender's address as set forth in page one of this Mortgage.

23. Incorporation of Terms. All of the terms, conditions and provisions of the Agreement and Note are by this reference incorporated herein as if set forth in full. Any Event of Default under the Note or the Agreement shall constitute an Event of Default hereunder without further notice to Borrower.

24. Time of Essence. Time is of the essence in this Mortgage, and the Note and Agreement.

25. Actual Knowledge. For purposes of this Mortgage and each of the other Credit Documents, Lender will not be deemed to have received actual knowledge of information required to be conveyed to Lender in writing by Borrower until the date of actual receipt of such information at Lender's address, as provided herein, (or such other address specified by Lender to Borrower). Such date shall be conclusively determined by reference to the return receipt in possession of Borrower. If such return receipt is not available, such date shall be conclusively determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent. With regard to other events or information not provided by Borrower under the Credit Documents, Lender will be deemed to have actual knowledge of such event or information as of the date Lender receives a written notice of such event or information from a source Lender reasonably believes to be reliable, including, but not limited to, a court or other governmental agency, institutional lender, or title company. The actual date of receipt shall be determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent.

26. Waiver of Homestead. Borrower waives all right of homestead exemption in the property described above.