

COMMERCIAL MORTGAGE, SECURITY AGREEMENT AND
FIXTURE FILING

THIS INSTRUMENT IS DATED JANUARY 3, 1991 and is executed by
COLE TAYLOR BANK NOT PERSONALLY BUT AS TRUSTEE U/T/A DATED OCTOBER 3, 1988 A-K-A
TRUST NO. 88087

("Borrower") and ... ("Lender")

DEPT-01 RECORDING 1516 \$21.00
T03333 TRAN 7759 03/19/91 12124100
16084 # C # - 91 - 122918
COOK COUNTY RECORDER

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WITNESSETH

COLE TAYLOR BANK NOT PERSONALLY BUT AS TRUSTEE U/T/A DATED OCTOBER 3, 1988 A-K-A
TRUST NO. 88087

... hereby borrows from the Lender the sum of ... Dollars ...

FOURTEEN THOUSAND NO. 100 ***** (\$14,000.00)

... at the rate of THIRTEEN AND ONE HALF (13.5%) per annum ...
\$175.09

... the 3RD day of each month, commencing
FEBRUARY 3, 1991 ... JANUARY 3, 1994 ("Maturity")

... and accrued interest shall be due ...

... prime rate ...
... 4%

... and the hereinafter ...
... title and interest in the ...

LOTS 55 TO 58 INCLUSIVE 18 FOWLER RESUBDIVISION OF PART OF THE SOUTH SIDE
HOMESTEAD ADDITION A SUBDIVISION OF THE NORTH 1/2 OF THE NORTH WEST 1/4 OF
SECTION 9, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN

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9/99

Box 138 21ⁿ

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further. Borrower warrants, covenants and agrees as follows:

1. **Duty To Maintain Premises and Title Premises.** Borrower shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed, (b) keep the Premises in good condition and repair, without waste, and, except for this Mortgage free from any encumbrances, mechanic's liens or other liens or claims for lien, (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises, and upon request exhibit satisfactory evidence of the discharge of such lien to Lender, (d) complete within the Premises; (e) comply with all requirements of all laws or municipal ordinances with respect to the Premises and the use of the Premises; (f) refrain from impairing or diminishing the value of the Premises.

2. **Taxes, Assessments and Charges.** Borrower shall pay, when due and before any penalty attaches, (a) general taxes, special taxes, special assessments, water charges, drainage charges, sewer service charges, and other charges against the Premises. Borrower shall, upon written request, furnish to Lender duplicate paid receipts for such taxes, assessments and charges. To prevent default hereunder borrower shall pay in full, prior to such tax, assessment or charge becoming delinquent, under protest, in the manner provided by statute, any tax, assessment or charge which borrower may desire to contest.

3. **Leases.** Upon the request of Lender, Borrower shall deliver to Lender all original leases of all or any portion of the Premises, together with assignments of such leases from Borrower to Lender which assignments shall be in form and substance satisfactory to Lender.

4. **Condemnation.** Any awards of damage resulting from condemnation proceedings, exercise of the power of eminent domain, or the taking of the premises for public use are hereby transferred, assigned and shall be paid to Lender and the proceeds or any part thereof may be applied by Lender, after the payment of all of its expenses, including costs and attorney's fees, to the reduction of the indebtedness secured hereby and Lender is hereby authorized on behalf and in the name of Borrower, to execute and deliver valid acquittances, and to appeal from any such award.

5. **Non Exclusivity and Preservation of Remedies.** No remedy or right of Lender hereunder shall be exclusive. Each right and remedy of Lender with respect to this Mortgage shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay by lender in exercising, or omission to exercise, any remedy or right accruing on default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may deemed expedient by Lender.

6. **Insurance.** Borrower shall keep all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by fire, lightning, windstorm and such other hazard as may from time to time be designated

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by Lender, including, without limitation, flood damage, where Lender is required by law to have the loan evidenced by the Note so insured. Each insurance policy shall be for an amount sufficient to pay the cost of replacing or repairing the buildings and improvements on the Premises, and, in no event less than the outstanding principal amount of the Note; all policies shall be issued by companies satisfactory to Lender. Each insurance policy shall be payable, in case of loss or damage, to Lender. Each insurance policy shall contain a lender's loss payable clause or endorsement in form a substance satisfactory to Lender. Borrower shall deliver all insurance policies, including additional and renewal policies, to Lender. In case of insurance about to expire, Borrower shall deliver to Lender renewal policies not less than ten days prior to the respective dates of expiration. Upon the occurrence of any event insured against by any of the aforementioned insurance policies, and the receipt of insurance proceeds by Lender, Lender shall, at its option, after payment of all of Lender's costs and expenses with respect thereto, including outside or in house attorney's fees, apply such proceeds to the reduction of the liabilities, in such order of application as Lender may determine.

7. Expenses. Upon default hereunder, and at any time during a suit to foreclose the lien of this Mortgage and prior to a sale of the Premises, Lender may, but need not, make any payment or perform any act required by Borrower hereunder in any form and manner deemed expedient by Lender, and Lender may, but need not, make full or partial payments of principal or interest on any encumbrances affecting the Premises and Lender may purchase, discharge, compromise or settle any tax lien or other lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All moneys paid for any of the purposes authorized in this Mortgage and all expenses paid or incurred in connection therewith, including outside or in house attorney's fees, and any other moneys advanced by Lender to protect the Premises or the lien thereof, plus reasonable compensation to Lender for each matter concerning which action therein authorized may be taken, shall be additional liabilities and shall become immediately due and payable without notice and with interest thereon at a per annum rate equivalent to the post maturity or post default (whichever is higher) interest rate set forth in the Note. Inaction of Lender on account of any default hereunder.

8. No Inquiry for Expenses. If Lender makes any payment authorized by this Mortgage relating to taxes, assessments, charges or encumbrances, Lender may do so according to any bill, statement or estimate received from the appropriate public office without inquiry into the accuracy or validity of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

9.1 Environmental Warranties and Representations. Borrower warrants and represents to Lender that no release of any petroleum, oil or chemical liquids or solids, liquid or gaseous products or hazardous waste or any other pollution or contamination ("Environmental Contamination") has occurred or is existing on any portion of any Premises or, to the best knowledge of Borrower, on any other real estate now or previously owned, leased, occupied or operated by Borrower or Obligor or with respect to Borrower's or Obligor business and operations, and neither Borrower nor Obligor has received notice, oral or written, from any source, of any of the following occurrences:

9.1.1 any such Environmental Contamination;

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9.1.2 That Borrower's or Obligor's business or operations are not in full compliance with requirements of federal, state or local environmental, health and safety statutes or regulations;

9.1.3 That Borrower or Obligor is the subject of any federal, state or local investigation evaluating whether any remedial action is needed to respond to any environmental contamination, alleged or otherwise;

9.1.4 That any portion of the Premises or of any other property or assets of Borrower or Obligor, real or personal, is subject to any lien arising under any federal, state or local environmental, health and safety statute.

9.2 **Responsible Property Transfer Act.** Borrower warrants and represents to Lender that the Premises are not subject to the Responsible Property Transfer Act of the State of Illinois (the "Act"), or, if the Premises are subject to the Act, Borrower has delivered to Lender a complete and accurate Disclosure Document required under the Act.

9.3 **Environmental Covenants and Agreements.** Borrower covenants and agrees that all liabilities are paid in full:

9.3.1 Borrower shall not cause or permit to exist any Environmental contamination on any portion of the Premises or on any portion of any other real estate now or hereafter owned, leased or occupied or operated by Borrower or Obligor, or with respect to the business and operations of Borrower or Obligor, or with respect to the business and operations of Borrower or Obligor.

9.3.2 Borrower shall immediately notify Lender of its receipt of any notice, oral or written, of the type described in Paragraph 9.1 of this Mortgage.

9.4 **Environmental Indemnification.** Borrower hereby indemnifies and holds Lender harmless from and against all losses, costs, claims, causes of action, damages (including special, consequential and punitive damages), and including reasonable out-of-pocket attorneys' fees and costs, incurred by Lender, and in any manner related to or arising from the breach of any of the foregoing warranties, covenants, agreements or Lender's becoming liable, in any manner whatsoever under the Act or for any Environmental Contamination previously, now or hereafter existing or occurring on any portion of the Premises or on any other real estate previously, now or in the future owned, leased, occupied or operated by Borrower or Obligor or occurring in connection with the business or operations, which indemnification shall survive the payment in full of the liabilities.

9.5 **Environmental Defaults.** The breach of any warranties, representations, covenants or agreements contained in Paragraph 9.1 through 9.4 of this Mortgage or the giving to Borrower or Obligor of any notice of the type described in Paragraph 9.1 of this Mortgage (regardless of whether any Environmental Contamination of the type described in Paragraph 9.1 of this Mortgage has occurred and regardless of whether Borrower has notified Lender of the receipt of any such notice) shall entitle Lender to accelerate the maturity of all liabilities, and all such liabilities shall become immediately thereafter due and payable, and if payment thereof is not immediately made, Lender shall

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with the ownership of such property with respect to borrower's or obligor's business... shall service the payment in full of the...

9.5 Environmental Defaults. The breach of any warranties, representations, covenants or agreements contained in Paragraph 9.1 through 9.4... shall constitute a default under this Mortgage...

9.6 Environmental Provisions Binding on Beneficiaries. If borrower or any other person... shall be deemed to be a beneficiary of the trust...

10. Default. If, at any time, at the sole option of lender, the Note and... shall be immediately due and payable and Borrower shall pay...

11. Due on Sale. If, at any time, any other provisions of this Mortgage... shall constitute a default under this Mortgage...

12. Definition of Liabilities. All liabilities, claims, obligations and... shall be deemed to be liabilities of Borrower...

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shall the Lien of the Mortgage secure outstanding Liabilities in excess of 200% of the original stated principal amount of the Note.

13. Foreclosure. When any of the Liabilities shall become due whether by acceleration or otherwise, Lender shall have the right to foreclose the Lien of this Mortgage. In any suit to foreclose the Lien of this Mortgage, there shall be allowed and included and additional indebtedness in the judgment of foreclosure all expenditures and expenses which may be paid or incurred by or on behalf of Lender for outside or in house attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens Certificate, and similar data and assurances with respect to title as Lender may deem to be reasonably necessary either to prosecute the foreclosure suit or to evidence to bidders at any foreclosure sale. All of the foregoing items, which may be expended after entry of the foreclosure judgment, may be estimated by Lender. All expenditures and expenses mentioned in this paragraph shall become additional Liabilities and shall be immediately due and payable, with interest thereon at a rate equivalent to the post maturity or post default (whichever is higher) rate set forth in the Note or herein, when paid or incurred or paid by Lender or on behalf of Lender in connection with (a) any proceeding, including without limitation, probate and bankruptcy proceedings, to which Lender shall be a party, as plaintiff, claimant, defendant or otherwise, by reason of this Mortgage or any Liabilities; or (b) preparation for the commencement of any suit to collect upon or enforce the provisions of the Note or any instrument which secures the Note after default under the Note, whether or not actually commenced; or (c) preparations of the defense of any threatened suit or proceeding which might effect the Premises or the security hereof, whether or not actually commenced.

14. Proceeds of Foreclosure. The proceeds of any foreclosure sale shall be distributed and applied in the following order or priority: **first**, to the reasonable expenses of such sale; **second**, to the reasonable expenses of securing possession of the Premises before sale, holding, maintaining and preparing the Premises for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, management fees, reasonable outside or in house attorneys' fees, payments made pursuant to Section 15-1505 of the Illinois Mortgage Foreclosure Law or otherwise authorized in this Mortgage and other legal expenses incurred by Lender; **third**, to the satisfaction of claims in the order of priority adjudicated in the judgment of foreclosure, and with respect to the Liabilities insured by this Mortgage additional to that evidence by the Note, with interest thereof as herein provided, second interest remaining unpaid on the Liabilities evidenced by the Note; **fourth**, to the remittance of any surplus to Borrower, or if Borrower is a land trustee to the beneficiaries of the land trust of which Borrower is trustee, or as otherwise directed by the court.

15. Receiver. Upon, or at any time filing of a complaint to foreclose this Mortgage, as otherwise permitted by the Illinois Mortgage Foreclosure Law, the court in which such suit is filed may appoint a receiver of the Premise, or may appoint the Lender as mortgagee in possession of the Premises. Such receiver, or Lender as mortgagee in possession, shall have power to collect the rents issues and profits of the Premises and shall also have all other powers which may be necessary or are usual for the protection, possession, control, management and operation of the Premises.

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16. Unavailability of Certain Defenses. No actions for the enforcement of the Heretofore or any provision of this Mortgage shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note.

17. Inspection. Lender shall have the right, but not the obligation, in its sole discretion, to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose. The foregoing does not release Borrower from any obligation, under this Mortgage, the Note or any other instrument securing the Liabilities, to maintain the Premises.

18. Estoppel Statement by Borrower. Borrower shall, within ten days of a written request herefore from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the then outstanding balance of the Note and that there are no rights of set-off, counterclaim or defense which exist against such balance of any of the Liabilities.

19. Taxes and Insurance. On written request by Lender, Borrower shall pay to Lender on the day monthly installments of principal and/or interest are payable under the Note, until the Note is paid in full, a sum therein "Funds" equal to one-twelfth of the yearly taxes and assessments on the Premises, plus one-twelfth of yearly premium installments for hazard insurance, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills, and reasonably estimated thereof. The Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender or Lender's such an institution). Lender shall apply the Funds to pay said taxes, assessments, and insurance premiums. Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, on Borrower's written request, an accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. Borrower hereby pledges the Funds as additional security for the payment of the Liabilities, and authorizes Lender to deduct from the Funds any past due Liabilities, without prior notice to Borrower, whether or not a default has occurred. If the amount of the Funds by Lender, together with the future monthly installments of Funds payable prior to the due date of taxes, assessments and insurance premiums, shall exceed the amount required to pay said taxes, assessments, and insurance premiums as they fall due, such excess shall, requested by Borrower, be either promptly repaid to Borrower or credited to Borrower in monthly installments of Funds, at Borrower's option. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments and insurance premiums as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 10 days from the date notice is mailed by Lender to Borrower requesting payment thereof. Upon payment in full of all Liabilities, Lender shall promptly refund to Borrower any Funds held by Lender. If the Premises are sold during or on the completion of any foreclosure proceedings, Lender shall apply, no later than immediately prior to the sale of the Premises, any Funds held by Lender at the time of application as a credit against the Liabilities.

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21. Binding on Assigns. This Mortgage and all provisions hereof, shall extend to and be binding upon Borrower and all persons or parties claiming under or through Borrower. The singular shall include the plural shall mean the singular and the use of any gender shall be applicable to all genders. The word "Lender" includes the successors and assigns of Lender.

22. WAIVER OF REDEMPTION. IF THE PREMISES ARE NOT RESIDENTIAL REAL ESTATE AS DEFINED IN THE ILLINOIS MORTGAGE FORECLOSURE LAW, BORROWER HEREBY WAIVES AND ALL RIGHTS OF REDEMPTION FOR ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE ON ITS OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON CLAIMING THROUGH BORROWER AS A SUCCESSOR.

23. Special Provisions Concerning Land Trustee. IF Borrower is a land trustee, this Mortgage is executed by Borrower not personally, but as Trustee in exercise of the power and authority conferred upon and vested in it as such trustee, and insofar as said Trustee is concerned, payable only out of the trust estate which in part is securing the payment hereof and through enforcement of the provisions of any other collateral or guaranty from time to time securing the payment hereof and through enforcement of the provisions of any other collateral or guaranty from time to time securing payment hereof, no personal liability shall be asserted or be enforceable against Borrower, as Trustee, because or in respect of this Mortgage or the making issue or transfer thereof, all such personal liability of said Trustee, if any, being expressly waived in any manner.

24. Waiver of Homestead. Borrower hereby waives and conveys to lender any rights or estate of homestead in the Premises which Borrower may now or hereafter have under the laws of the State of Illinois. If anyone in addition to Borrower has executed this Mortgage, such person, by his or her signature, hereby waives and conveys to lender any rights or estate of homestead in the Premises which such person may now or hereafter have under the laws of the State of Illinois, and the signature of such person is made solely for purposes of such waiver or conveyance.

25. Governing Law; Severability. This Mortgage has been made, executed and delivered to lender in Illinois and shall be construed in accordance with the internal laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law. If any provisions of this Mortgage are prohibited by or determined to be invalid under applicable law, such provisions shall be null and void to the extent of such prohibitions or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Mortgage.

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