

UNOFFICIAL COPY

9 191181461 6 1

701/6

MORTGAGE, ASSICNMENT OF LEASES, RENTS AND SECURITY AGREEMENT

STEEL CITY NATIONAL BANK
not personally, but solely as Trustee
under a Trust Agreement dated February 13, 1990 and
known as Trust Number 3129 and under a Trust Agreement
dated December 21, 1990 and known as Trust Number 3193

and

RIDGELAND LIMITED PARTNERSHIP,
an Illinois limited partnership
as sole Beneficiary of Trust No. 3193

to

CITY OF CHICAGO, an Illinois municipal corporation

Dated as of April 9, 1991

47-

1991 APR 19 PM 2 23

01101461

Permanent Tax Index Number:
20-24-310-017-0000

This Instrument Prepared by and
to be Returned After Recording
to:

Address of Premises:
6820-30 South Ridgeland Avenue
Chicago, Illinois

James Edward Walker II
Assistant Corporation Counsel
City of Chicago
Office of the Corporation Counsel
Room 511, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Division of Finance and
Economic Development

91181461

72 85 007 D 2 per

RECORDERS BOX 333

UNOFFICIAL COPY

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND SECURITY AGREEMENT

TABLE OF CONTENTS

(This Table of Contents is not a part of the Mortgage, Assignment of Leases, Rents and Security Agreement and is only for convenience of reference.)

	<u>Page</u>
Recitals.....	1
Granting Clauses.....	1

Section

ARTICLE I

DEFINITIONS

1.1	Definitions.....	4
-----	------------------	---

ARTICLE II

COVENANTS AND AGREEMENTS OF MORTGAGOR

2.1	Payment of Indebtedness.....	5
2.2	Maintenance, Repair, Alterations.....	5
2.3	Insurance.....	6
2.4	Delivery of Policies, Payment of Premiums.....	7
2.5	Charges.....	8
2.6	Utilities.....	9
2.7	Actions by Mortgagee to Preserve Premises.....	9
2.8	Damage and Destruction.....	10
2.9	Condemnation/Eminent Domain.....	11
2.10	Inspection of Premises.....	12
2.11	Inspection of Books and Records.....	12
2.12	Title and Liens.....	12
2.13	Taxes Affecting Mortgage.....	13
2.14	Environmental Matters.....	14

ARTICLE III

LEASES

3.1	Leases.....	15
3.2	Further Assignments.....	15

3181461

UNOFFICIAL COPY

9 | 1 | 9 | 1 | 4 | 6 |

ARTICLE IV

EVENTS OF DEFAULT AND REMEDIES

4.1	Events of Default.....	15
4.2	Acceleration upon Default; Additional Remedies...	17
4.3	Foreclosure; Expense of Litigation.....	19
4.4	Application of Proceeds of Foreclosure Sale.....	19
4.5	Mortgagee Bid.....	20
4.6	Appointment of Receiver.....	20
4.7	Insurance after Foreclosure.....	20
4.8	Possession by Mortgagee.....	21
4.9	Remedies Not Exclusive; No Waiver of Remedies....	21
4.10	Waiver of Certain Rights.....	22
4.11	Mortgagee's Use of Deposits.....	22
4.12	Limitation of Liability.....	23
4.13	Non-Recourse Loan.....	23

ARTICLE V

MISCELLANEOUS

5.1	Recitals.....	23
5.2	Time of Essence.....	23
5.3	Recording.....	23
5.4	Further Assurances.....	23
5.5	No Defenses.....	23
5.6	Severability.....	23
5.7	Illegality of Terms.....	24
5.8	Notice.....	24
5.9	Binding Effect.....	25
5.10	Governing Law; Modification.....	26
5.11	Meanings.....	26
5.12	Captions.....	26
5.13	Approval or Consent of Mortgagee.....	26
5.14	Exculpation.....	26

ARTICLE VI

GROUND LESSOR'S RIGHTS

6.1	Ground Lessor's Rights to Cure.....	26
6.2	Effect of Termination of Ground Lease or of Ground Lessee's Rights of Possession.....	26

Acknowledgment

Exhibit A - Legal Description of the Premises

9181461

UNOFFICIAL COPY

9 1 1 3 1 4 5 1

MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND SECURITY AGREEMENT ("Mortgage") is made as of April 9, 1991, by STEEL CITY NATIONAL BANK, not personally, but solely as Trustee ("Land Trustee") under Trust No. 3129 dated February 13, 1991 (the "Land Trust") the sole Beneficiary of which is Family Rescue, an Illinois not-for-profit corporation ("Family Rescue") and STEEL CITY NATIONAL BANK, not personally but solely as Trustee under a Trust Agreement dated December 21, 1990 and known as Trust No. 3193 ("Improvements Trustee") the sole Beneficiary of which is RIDGELAND LIMITED PARTNERSHIP, an Illinois limited partnership (the "Borrower") to secure a Note executed by the Borrower and the Improvements Trustee (collectively the Land Trustee, Improvements Trustee and the Borrower shall be referred to as the "Mortgagor") and the CITY OF CHICAGO, ILLINOIS, an Illinois municipal corporation (the "Mortgagee").

All capitalized terms, unless defined herein, shall have the same meanings as those set forth in that certain Multi-Loan Redevelopment Agreement dated as of April 9, 1991 between the Borrower and Mortgagee ("Loan Agreement").

W I T N E S S E T H:

WHEREAS, Borrower and Mortgagee have entered into a Loan Agreement under which Mortgagee has agreed to loan Borrower Four Hundred Forty-Six Thousand Four Hundred and No/100 Dollars (\$446,400.00) ("Loan"); and

WHEREAS, the Borrower and Improvements Trustee have concurrently herewith executed and delivered the Note evidencing the Loan dated April 9, 1991 in the principal amount of \$446,400 together with interest thereon; and

WHEREAS, Mortgagee desires to secure repayment of the Loan together with interest thereon and any additional indebtedness accruing to Mortgagee under the Loan Documents as defined herein,

NOW, THEREFORE, to secure the payment of the principal and interest on the Note according to its tenor and effect and the performance and observance of all the covenants and agreements contained in the Loan Documents, including any modifications, substitutions and extensions thereto, and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged by Borrower, Mortgagor for good and reasonable consideration the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey and mortgage to Mortgagee, its successors and assigns forever, under and subject to the terms and conditions set forth herein, a continuing security interest in and to all of Mortgagor's right, title, interest and claim to the real property located in the City of Chicago, County of Cook, State of Illinois, as described in Exhibit A attached hereto and

9181461

incorporated herein by reference (the "Land"), together with all improvements, fixtures and personal property now and hereafter located thereon (the "Improvements") and all other property rights described in the foregoing granting clauses of this Mortgage ("Premises");

TOGETHER WITH THE FOLLOWING:

- (a) All rents, issues, profits, royalties, income and other benefits derived from the Premises, subject to the right, power and authority hereafter given to Borrower and Improvements Trustee to collect and apply such rents; and
- (b) All right, title and interest of Mortgagor in and to all leases or subleases (existing now or hereafter) covering all or any portion of the Premises and all right, title and interest of Mortgagor thereunder, including, without limitation, all cash and security deposits, advance rentals, and all other deposits or payments of similar nature; and
- (c) All privileges, reservations, allowances, hereditaments and appurtenances belonging or pertaining to the Premises and all rights and estates in reversion or remainder and all other interests, estates or other claims, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Premises; and
- (d) All easements, rights-of-way and rights used in connection with the Premises or as a means of ingress and egress thereto, and all tenements, hereditaments and appurtenances thereto, and all water rights evidencing the same; and
- (e) All right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Premises, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Premises; and
- (f) Any and all buildings and improvements now or hereafter erected on the real estate comprising the Premises including, but not limited to, all fixtures, attachments, appliances, equipment, machinery, and other personal property attached to the Premises; and
- (g) All materials intended for construction, reconstruction, renovation, alteration and repairs of the Premises, all of which materials shall be

01181461

UNOFFICIAL COPY

deemed to be included within the Premises immediately upon the delivery to the Premises; and

- (h) All fixtures now or hereafter owned by Mortgagor and attached to or contained in and used in connection with the Premises, including, but not limited to, all machinery, motors, elevators, fittings, radiators, awnings, shades, screens, and all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning, sprinkler equipment and fixtures and appurtenances thereto; and all items of furniture, furnishings, equipment and personal property owned by Borrower and used or useful in the operation of the Premises; and all renewals, substitutions and replacements for any or all of the foregoing, and all proceeds therefrom, whether or not the same are or shall be attached to the Premises in any manner; it being mutually agreed, intended and declared that all the aforesaid property owned by Borrower and placed by it on and in the Premises shall, so far as permitted by law, be deemed to form a part and parcel of the Premises and covered by this Mortgage; and as to any of the aforesaid property which does not so form a part and parcel of the Premises or does not constitute a "fixture" (as such term is defined in the Uniform Commercial Code of Illinois) this Mortgage is deemed to be a security agreement under the Uniform Commercial Code of Illinois the purpose of creating hereby a security interest in such goods and equipment as collateral which Mortgagor hereby grants to Mortgagee as a secured party; and
- (i) All the estate, interest, right, title, other claim or demand, including claims or demands with respect to any insurance proceeds related thereto, which Mortgagor now has or may hereafter acquire in the Premises and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of all or any portion of the Premises, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages;
- (j) All other property rights of Mortgagor of any kind or character related to all or any portion of the Premises.

TO HAVE AND TO HOLD the same unto Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

91181451

UNOFFICIAL COPY

9 1 1 3 1 4 6 1

FOR THE PURPOSE OF SECURING:

- (a) Payment of the Loan evidenced by the Note, including the principal and interest thereon and any and all modifications, extensions, substitutions and renewals thereof, and performance of all obligations of Borrower and Improvements Trustee under the Note; and
- (b) Performance and observance by the parties thereto of all of the terms, covenants and provisions of this Mortgage and the other Loan Documents; and
- (c) Payment of all sums advanced by Mortgagee (if applicable) to perform any of the terms, covenants and provisions of the other Loan Documents, or otherwise advanced by Mortgagee pursuant to the provisions hereof or any other documents to protect the Premises hereby mortgaged and pledged; and
- (d) Performance and observance of all of the terms, covenants and provisions of any other instrument given to evidence or further secure the payment of any indebtedness and the performance of any obligation secured hereby; and
- (e) Payment of any future or further advances (if applicable) which may be made by Mortgagee to and for the benefit of Mortgagor.
- (f) The amount of this Mortgage shall not exceed \$446,400, plus any and all other sums or amounts due Mortgagee pursuant to this Mortgage and the other Loan Documents by Mortgagee to protect the security of the lien of this Mortgage.

TO PROTECT THE SECURITY OF THIS MORTGAGE, ASSIGNMENT OF LEASES, RENTS AND SECURITY AGREEMENT, MORTGAGOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions.

"Charges" means all national, federal, state, county, city, municipal and/or other governmental (or any instrumentality, division, agency, body or department thereof), taxes, levies, assessments, charges, liens, claims or encumbrances related to the Premises, Borrower's liabilities or Borrower's business.

"Hazardous Material" means any hazardous, toxic or dangerous waste, substance or material (including asbestos) defined as such in (or for purposes of) the Comprehensive Environmental Response,

Compensation and Liability Act of 1980, as amended, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards on conduct concerning any hazardous, toxic or dangerous waste, substance or material, in effect now or anytime hereafter.

"Loan Documents" shall mean collectively all agreements, instruments and documents executed and delivered to Lender now or hereafter, by, on behalf of or for the benefit of Borrower, including this Mortgage, the note evidencing the Loan dated as of April 9, 1991 executed from Borrower to City in the principal amount of \$446,400 plus interest, the Collateral Assignment of Beneficial Interest, this Mortgage securing the Note and Borrower's Closing Certificate.

"Permitted Encumbrances" means (i) the Loan Documents; (ii) leases of the Premises entered into after this Mortgage is recorded; (iii) the Junior Mortgage herein defined; (iv) Ground Lease by and between Family Rescue and the Land Trustee as Lessor and Borrower and Improvements Trustee as Ground Lessee ("Ground Lease"); (v) any encumbrances that will be removed through the rehabilitation of the Premises; (vi) those matters disclosed in the title policy issued by the Title Company approved by Mortgagee on the Closing Date.

ARTICLE II. COVENANTS AND AGREEMENTS OF MORTGAGOR

Section 2.1. Payment of Indebtedness. Borrower covenants and agrees that it will pay when due the principal and interest on the Loan evidenced by the Note and secured hereby, and all other additional indebtedness secured hereby as described in the foregoing granting clauses of this Mortgage, including, but not limited to, all Charges, fees and all other sums to be paid by Borrower as provided in the Loan Documents, and that it will duly and punctually perform, observe and comply with all of the terms, provisions and conditions contained herein and in the Loan Documents.

Section 2.2. Maintenance, Repair, Alterations. Borrower covenants and agrees that it will:

- (a) keep the Premises in good condition and repair;
- (b) not remove, demolish or substantially alter (except such alterations as may be required by law, ordinance or governmental regulation or made pursuant to the Plans and Specifications or to add a basement day care center) any of the buildings, structures or facilities which are a part of the Premises;
- (c) in accordance with Section 3.8 herein promptly pay, repair and restore any portion of the Premises which may be damaged or be destroyed to at least equal value and substantially

UNOFFICIAL COPY

the same character as prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for that purpose;

(d) pay when due all claims for labor performed and materials furnished to and for the Premises;

(e) comply with all laws, ordinances, regulations, rules, orders, covenants, conditions and restrictions now or hereafter affecting or any portion of the Premises or requiring any alterations or improvements;

(f) not commit or permit any waste or deterioration upon all or any portion of the Premises;

(g) keep and maintain the Premises and abutting grounds, sidewalks, roads, parking and landscape areas in good repair, neat order and free of nuisance;

(h) not commit, suffer or permit any act to be done in or upon the Premises in violation of any law, ordinance, rule, order or regulation;

(i) abate and remove all asbestos located on the Premises to the satisfaction of the Mortgagee;

(j) pay of delinquent all Cook County property taxes;

(k) not initiate or acquiesce in any zoning change or reclassification of the Premises other than a Class 9 Real Property classification for real estate tax assessment purposes; and

(l) keep the Premises free and clear of all liens and encumbrances of every sort except Permitted Encumbrances.

Section 2.3. Insurance. Borrower shall at all times provide, maintain and keep in force the following policies of insurance:

(a) Insurance against loss or damage to any improvements on the Premises by fire and any of the risks covered by insurance of the type now known as "fire and extended coverage", in an amount not less than the total amount of the Loan and Junior Loan.

(b) Comprehensive public liability insurance, including coverage for elevators and escalators, if any, on the Premises and completed operations coverage for two years after any construction or repair at the Premises has been completed, on an occurrence basis against claims for personal injury, including, without limitation, bodily injury, death or property damage occurring on, in or about the Premises and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit of not less than \$1,000,000 per occurrence.

9181461

UNOFFICIAL COPY

(c) During the course of any construction or repair at the Premises, builder's risk insurance against all risks of physical loss, on a completed value basis, including collapse and transit coverage with a deductible not to exceed \$10,000.00, in non-reporting form, covering the total value of work performed and equipment, supplies and materials furnished, and containing the "permission to occupy upon completion of work" endorsement.

(d) Boiler and machinery insurance covering any pressure vessels, air tanks, boilers, machinery, pressure piping, heating, air conditioning and elevator and escalator equipment located on the Premises, and insurance against loss of occupancy or use arising from any breakdown therein.

(e) If the Premises are located in an area that has been identified by HUD as an area having special flood hazards and, if the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, flood insurance in an amount at least equal to the cost of the Premises or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

(f) Such other insurance in form, content, amounts and with such companies as may be required by Mortgagee.

(g) Workers' compensation insurance in accordance with the requirements of Illinois law.

All policies of insurance required by the terms of this Mortgage shall contain an endorsement or agreement by insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of set-off, counterclaim or deductions against Mortgagor, and shall provide that the amount payable for any loss shall not be reduced by reason of co-insurance.

Section 2.4. Delivery of Policies; Payment of Premiums.
All insurance policies, including endorsements required by the terms of this Mortgage shall be in form, content, amount and with such companies reasonably satisfactory to Mortgagee. All insurance policies (other than policies of worker's compensation insurance) shall be maintained for and name Mortgagor and Mortgagee as insureds, as their respective interests may appear, and the policies required by paragraphs (a), (c), (d), (e) and (f) of Section 2.3 hereof shall have attached thereto a Mortgagee's loss payable endorsement for the benefit of Mortgagee with the original of all required policies of insurance or, in lieu thereof, with certificates of such insurance in form satisfactory to Mortgagee and certified copies of said policies of insurance. Mortgagor shall pay all premiums in whole or part when due, at least thirty (30) days prior to the expiration of each such

31181461

UNOFFICIAL COPY

policy, Mortgagor shall furnish Mortgagee evidence satisfactory to Mortgagee of the payment of the premium and the reissuance of a policy continuing insurance in force as required by this Mortgage. Each policy of insurance required by this Mortgage shall contain a provision that such policy will not be cancelled or amended, including any reduction in the scope or limits of coverage, without a minimum of thirty (30) day's prior written notice to Mortgagee.

In the event Borrower shall fail to comply with this section or Section 2.3 above, Mortgagee, at its option, (without waiving or releasing any obligation or default by Borrower under the Loan Documents) shall have the unqualified right to: (i) obtain or maintain any of the insurance policies required under this Mortgage; (ii) accelerate the maturity of the Note causing the full principal balance and accrued interest thereon to be immediately due and payable without notice to Borrower; and (iii) take any other action which Mortgagee deems advisable to protect its interest in the Premises. Notwithstanding the foregoing, Mortgagee shall permit Family Rescue to exercise its rights as provided in Section 6.1 below.

Section 2.5. Charges.

(a) Borrower agrees to pay or cause to be paid, at least ten (10) days prior to delinquency, all Charges which are assessed or imposed upon the Premises, or become due and payable, and which create, may create or appear to create a lien upon all or any portion of the Premises provided, however, that if, by law, any such Charge is payable or, at the option of the taxpayer, may be paid in installments, Borrower may pay the same together with any accrued interest on the unpaid balance of such Charge in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) Borrower shall furnish Mortgagee within thirty (30) days after the date upon which any Charge is due and payable by Borrower, official receipts of the appropriate authority, or other proof satisfactory to Mortgagee, evidencing payment thereof.

(c) Borrower shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Charges and prevent the imposition of a lien or the sale or forfeiture of the Premises to collect the same; provided that no such contest or objection shall be deemed or construed in any way as relieving, modifying or extending Borrower's covenants to pay any such Charge at the time and in the manner provided in this Mortgage unless Borrower has given prior written notice to Mortgagee of Borrower's intent to contest or object to a Charge and, unless at Mortgagee's sole option, (i) Borrower shall demonstrate to Mortgagee's satisfaction

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

that legal proceedings instituted by Borrower contesting or objecting to such Charges shall conclusively operate to prevent a lien against or the sale or forfeiture of all or any portion of the Premises, to satisfy such Charge prior to final determination of such proceedings; and/or (ii) Borrower shall furnish a good and sufficient bond or other security satisfactory to Mortgagee in such form and amounts as Mortgagee shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Premises during the pendency of such contest, adequate fully to pay all such contested Charges and all interest and penalties upon the adverse determination of such contest.

(d) If Borrower shall fail to discharge any such Charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due or by procuring the discharge of such Charge by depositing in court a bond for the amount claimed or otherwise giving security for such claim or, in such manner prescribed by law and any amounts expended by Mortgagee in so doing, shall be so much additional indebtedness secured by this Mortgage. Except for Permitted Encumbrances, in the event Mortgagor shall suffer or permit any Charge to be attached to the Premises, Mortgagee, at its option, shall have the unqualified right to accelerate the maturity of the Note causing the full principal balance and accrued interest thereon to be immediately due and payable without notice to Mortgagor.

Section 2.6. Utilities. Borrower shall pay or cause to be paid when due all utility charges incurred by Borrower or others for the benefit of or service to the Premises or which may become a charge or lien against the Premises for electricity, gas, water or sewer services furnished to the Premises and all other assessments or charges of a similar nature, whether public or private, affecting all or any portion of the Premises, whether or not such taxes, assessments or charges are liens thereon.

Section 2.7. Actions by Mortgagee to Preserve Premises. Should Borrower fail to make any payment or perform any act in the manner provided in the Loan Documents, Mortgagee, in its sole discretion, without releasing Borrower from any obligation, may make and perform the same in such manner and to such extent as it may deem necessary to protect the security hereof. In connection therewith (without limiting its general powers), Mortgagee shall have and is hereby given the right, but not the obligation, (i) to enter upon and take possession of the Premises; (ii) to make additions, alterations, repairs and improvements to the Premises which it may consider necessary and proper to keep the Premises in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the Premises, the security hereof or the rights or powers of the Mortgagee under the Loan Documents; (iv) to pay any Charges asserted against the Premises according to any bill, statement or estimate procured from the appropriate office without inquiry into the accuracy of

9181461

the bill, statement or estimate or the validity of any Charge; (v) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which, in the judgment of Mortgagee, may affect or appears to affect the Premises or the security of this Mortgage or which may be prior or superior hereto; and (vi) in exercising such powers, to pay necessary expenses, including employment of and payment of reasonable compensation to counsel including attorneys' fees and costs incurred by the Corporation Counsel or other necessary or desirable consultants, contractors, agents and other employees. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney in fact, at Mortgagee's election to do and cause to be done all or any of the foregoing in the event Mortgagee shall be entitled to take any or all of the action provided for in this section. Borrower shall immediately, upon demand by Mortgagee, pay all costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, Survey and attorneys' fees (including attorneys' fees and costs incurred by the Corporation Counsel), all of which shall constitute so much additional indebtedness secured by this Mortgage immediately due and payable, with interest thereon at an interest rate of fifteen percent (15%) per annum, or the highest rate permitted by law, compounded quarterly. Notwithstanding the foregoing, Mortgagee retains the right to declare Borrower's failure to make any payment or perform any act in the manner provided in the Loan Documents an event of default under this Mortgage. Notwithstanding the foregoing, Mortgagee shall permit Family Rescue to exercise its rights as provided in Section 6.1 below.

Section 2.8. Damage and Destruction.

In the event of any damage to, or destruction of the Premises, Mortgagor will give notice to Mortgagee of such damage or destruction and authorize Mortgagee to proceed as follows:

- (a) In the event of any loss covered by insurance policies, Mortgagee is hereby authorized at its option to either (i) settle and adjust any claim under such policies without the consent of Mortgagor if Mortgagor shall not have made such settlement with consent of Mortgagee within 60 days of any loss, or (ii) allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss. Mortgagee shall, and is hereby authorized to, collect any such insurance proceeds, and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be deemed additional indebtedness secured by this Mortgage and shall be reimbursed to Mortgagee by Mortgagor upon demand.
- (b) In the event of any insured damage to, or destruction of, the Premises or any part thereof, Mortgagee shall apply the proceeds of insurance to reimburse Mortgagor for the

cost of restoring, repairing, replacing or rebuilding the Premises if (i) an Event of Default hereunder or an event of default under any of the other Loan Documents or the Senior Loan Documents shall not have occurred and be continuing; (ii) such insurance proceeds shall be in an amount sufficient to restore the Premises to at least the same value and substantially the same character as the Premises had immediately prior to such damage or destruction (and subject to no liens or encumbrances other than Permitted Encumbrances), or if such proceeds are not so sufficient, Mortgagor shall promptly deposit with Mortgagee funds equal to the amount of such deficiency; (iii) Mortgagee shall obtain all required governmental approvals with respect to such restoration, repair, replacement or rebuilding, and (iv) prior to such restoration, repair, replacement or rebuilding, Mortgagee shall receive and approve plans and specifications and a detailed budget and cost breakdown with respect to such work.

- (c) In the event that proceeds of insurance, if any, shall be made available to Mortgagor for the restoration, repair, replacement or rebuilding of the Premises, Mortgagor hereby covenants to restore, repair, replace or rebuild the same, to at least equal value, and substantially the same character as prior to such damage or destruction, all to be effected in accordance with plans and specifications submitted to and approved by Mortgagee.
- (d) If all the conditions described in paragraph (b) of this Section with respect to the application of proceeds of insurance shall not be met, Mortgagee may, in its sole discretion, apply such proceeds to the indebtedness secured hereby in such order or manner as Mortgagee may elect.
- (e) To the extent that any amount of proceeds of insurance remain unexpended after completion of the restoration, repair, replacement or rebuilding of the Premises, such amount shall be applied first, to the indebtedness secured by this Mortgage and, second, to the indebtedness secured by the Junior Mortgage.

Section 2.9. Condemnation/Eminent Domain

(a) Should all or any portion of the Premises or any interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner (collectively "Taking"), or should Mortgagor receive any notice or other information regarding any such proceeding, Mortgagor shall give prompt written notice thereof to Mortgagee and the provisions of paragraphs (b) through (d) of this section shall apply.

01181461

(b) Mortgagee shall be entitled to receive and collect all compensation, awards and other payments or relief therefor and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Mortgagee shall also be entitled to make any compromise or settlement in connection with such taking or damage. All proceeds of compensation, awards, damages, rights of action and proceeds awarded to Mortgagor are hereby assigned to Mortgagee and Mortgagor agrees to execute such further assignments of such proceeds as Mortgagee may require.

(c) In the event of a Taking of the Premises excluding personal property and fixtures located thereon, then, at Mortgagee's sole discretion, such proceeds shall be applied either upon the Loan secured by this Mortgage or to the repair and restoration of the Premises. In the event Mortgagor shall elect that such proceeds are to be applied to the repair and restoration of the Premises, proceeds shall then be used and made available to pay or reimburse the costs of such repair and restoration on the terms provided for in Section 2.8(d) hereof with respect to insurance proceeds.

Section 2.10. Inspection of Premises. Mortgagee and their agents, representatives or workmen, are authorized to enter the Premises during normal business hours, to inspect all or any portion of the Premises and to perform any acts authorized under the Loan Documents as long as the Loan is outstanding.

Section 2.11. Inspection of Books and Records. Borrower shall keep and maintain full and correct records at Borrower's office showing in detail the income and expenses of the Premises and shall make such books, records and all supporting vouchers, data and other documents available for examination upon request by Mortgagee and their agents, successors and assigns as long as the Loan is outstanding.

Section 2.12. Title and Liens.

(a) Land Trustee represents that Land Trustee is the owner of the fee simple title to the land and legally described in Exhibit A attached hereto that said title is good, marketable and subject only to Permitted Encumbrances and further represents that it is the lessor under that certain Ground Lease identified in Section 1.1 hereof as one of the Permitted Encumbrances. Improvements Trustee represents that Improvements Trustee is the owner of fee simple title to the buildings, structures and improvements, including a three-story 24-unit apartment building located on said land and is the lessee under that certain Ground Lease identified in Section 1.1 hereof as one of the Permitted Encumbrances.

(b) Except for Permitted Encumbrances, Mortgagor shall not create, suffer or permit to be created or filed against all or any portion of the Premises, or any interest therein, any mortgage lien or other lien, charge or encumbrance, either superior or

inferior to the lien of this Mortgage. Mortgagor shall have the right to contest in good faith the validity of any such lien, charge or encumbrances, provided that, upon Mortgagee's request, Mortgagor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in such amounts or form as Mortgagee shall require; provided further that Mortgagor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Mortgagor shall fail to discharge any such lien, encumbrances or charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law and any amounts expended by Mortgagee in so doing shall be so much additional indebtedness secured by this Mortgage. Except for Permitted Encumbrances, in the event Mortgagor shall suffer or permit any lien, charge or encumbrance to be attached to the Premises, Mortgagee, at its option, shall have the unqualified right to accelerate the maturity of the Note causing the full principal balance and accrued interest thereon to be immediately due and payable without notice to Mortgagor. Notwithstanding the foregoing Borrower shall have the first right to contest in good faith the validity of any such lien, charge or encumbrances, and shall have the first obligation to deposit with Mortgagee a bond or other security satisfactory to Mortgagee.

(c) Any waiver by Mortgagee of the provisions of this Section shall not be deemed to be a waiver of the right of Mortgagee to insist upon strict compliance with the provisions of this Section in the future.

Section 2.13. Taxes Affecting Mortgage.

(a) If at any time any federal, state or municipal law shall require any documentary stamps or other tax hereon or on the Note, or shall require payment of any tax upon the indebtedness secured hereby, then the said indebtedness and the accrued interest thereon shall be and become due and payable at the election of Mortgagee upon thirty (30) days notice to Mortgagor; provided, however, said election shall be unavailing and this Mortgage and the Note shall be and remain in effect, if Mortgagor lawfully may pay for such stamps or such tax including interest and penalties thereon to or on behalf of Mortgagee and Mortgagor does in fact pay, when payable, for all such stamps or such tax, as the case may be, including interest and penalties thereon.

(b) In the event of the enactment after the date of this Mortgage of any law of the State in which the Premises are located deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts

secured by mortgages or 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 hereof then, and in any such event, Borrower, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, that if, in the opinion of counsel for Mortgagee, (i) it might be unlawful to require Borrower to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, to declare all of the indebtedness secured hereby to be and become immediately due and payable. Notwithstanding the foregoing, it is understood and agreed that Borrower is not obligated to pay any portion of Mortgagee's federal or state income tax.

Section 2.14. Environmental Matters and Hazardous Waste.

(a) Each of Borrower and Family Rescue hereby represents and warrants for itself to Mortgagee that neither it nor, to the best of its knowledge after due inquiry, any other person or entity has ever caused or permitted any Hazardous Material to be placed, held, located or disposed of, on, under or at the Premises or any part thereof and that to the best of its knowledge after due inquiry the Premises has never been used by it or any other person or entity as a temporary or permanent dump or storage site or for any Hazardous Material.

(b) Without limiting any other provision hereof, Mortgagor and agrees to indemnify and hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the following (collectively, "Environmental Laws"): the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended, any so-called "Superfund" or "Superlien" law, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree now or hereafter in force regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Material incurred, suffered by or asserted against Mortgagee as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Mortgagor: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release of any Hazardous Material from all or any portion of the Premises, or (ii) any liens against the Premises permitted or imposed by any Environmental Laws, or any actual or asserted liability or obligations of Mortgagor under any Environmental Laws, or (iii) any actual or asserted liability or obligations of Mortgagor under any Environmental Laws relating to the Premises.

91181461

ARTICLE III. LEASES/RENTS

Section 3.1. Leases. All leases of space in the Improvements located on the Premises ("Tenants Leases") or any portion thereof shall be prepared on a commercially reasonable lease form which has been approved by Mortgagee, provided that non-material changes to the form shall not require approval of the Mortgagee. Nothing herein contained shall be deemed to obligate Mortgagee to perform or discharge any obligation, duty or liability of lessor under any Tenant Leases of the Premises, and Borrower shall and does hereby indemnify and hold Mortgagee harmless from any and all liability, loss or damage which Mortgagee may incur under any Tenant Leases of the Premises or by reason of the Assignment of Leases, Rents; and any and all such liability, loss or damage incurred by Mortgagee, together with costs and expenses, reasonable attorneys' fees (including attorney fees and costs incurred by the Corporation Counsel, incurred by Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be so much additional indebtedness secured by Mortgage, and Borrower shall reimburse the Mortgagee therefor on demand.

Section 3.2. Further Assignment. The collection of rents by Mortgagee pursuant to this Mortgage shall in no way waive the right of Mortgagee to foreclose this Mortgage upon an Event of Default. Nothing herein contained shall be construed as constituting Mortgagee as Mortgagee-in-possession by imposing any obligation on Mortgagee to perform any provision of any contract pertaining to the Premises or any responsibility for the nonperformance thereof by Borrower.

ARTICLE IV. EVENT OF DEFAULT AND REMEDIES

Section 4.1. Events of Default

The occurrence of any of the following events shall constitute an "Event of Default" hereunder:

- (i) The Borrower fails to make payment of the Note or any installment thereof, including principal, interest, or other amount required to be paid (in accordance with its terms) or any other monetary obligations; or
- (ii) The Mortgagor and/or the Borrower defaults in the performance or observance of any of other covenant or agreement of the Mortgagor and/or Borrower contained herein, which default shall remain unremedied for thirty (30) days after written notice thereof shall have been given by the City to the Mortgagor and/or the Borrower; provided, however, if such correction, by its nature, cannot be performed within said thirty

UNOFFICIAL COPY

(30) day period and Mortgagor diligently pursues such correction, the time period within which such correction must be performed shall end ninety (90) days following the written notice from the City; or

- (iii) The Mortgagor and/or the Borrower fails to perform any condition, covenant, term or agreement required under any of the Loan Documents and such failure is not cured within any time period provided in such Loan Documents; or
- (iv) The occurrence of an event of default or the Mortgagor and/or the Borrower fails to pay any sum due or fails to perform any condition, covenant, term or agreement required under the Junior Mortgage, or any other Junior Loan Documents, which default is not timely cured pursuant to any applicable cure period as set forth in the the Junior Loan Documents; or
- (v) The Mortgagor and/or the Borrower of the indebtedness secured hereby is: (1) voluntarily adjudicated a bankrupt or insolvent, or (2) seeks or consents to the appointment of a receiver or trustee for itself or for all or any part of its property, or (3) files a petition seeking relief under or files an answer admitting the material allegations of a petition filed against it under any bankruptcy or similar laws of the United States or the State of Illinois, or (4) makes a general assignment for the benefit of creditors, or (5) makes an admission in writing of its inability to pay its debts generally as they become due; or
- (vi) The dissolution, termination of existence, insolvency, business failure, involuntarily adjudicated a bankrupt or insolvent, appointment of a receiver of any part of the assets of, assignment for the benefit of creditors by, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Mortgagor and/or Borrower or surety of the Mortgagor and/or Borrower; or
- (vii) Any warranty, representation or statement made or furnished to the City by or on behalf of the Mortgagor and/or the Borrower proving to have been false in any material respect when made or furnished; or

01101461

- (viii) The loss, theft, substantial damage, destruction or encumbrance to or of any of the Premises, or the making of any levy, seizure or attachment thereof or thereon except as expressly otherwise permitted under this Agreement; or
- (ix) The Mortgagor's sale, partial sale, transfer, voluntary disposition or refinancing of the Premises or any portion thereof or thereon except as expressly otherwise permitted under this Agreement; however, neither the withdrawal, removal, replacement and/or addition of a General Partner of the Borrower pursuant to the terms of Borrower's Articles of Limited Partnership forming the Borrower, nor the withdrawal, replacement and/or addition of any Borrower's limited partner's general partners, nor the sale of the Improvements to the General Partner of Borrower or to Family Rescue shall constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Loan, provided that in the case of any substitute general partner any required substitute general partner is reasonably acceptable to Mortgagee; or
- (x) The Mortgagor makes any prepayments of principal of the Junior Mortgagee Loan Note without concurrent matching prepayments of principal of this Note; or
- (xi) The Mortgagor abandons the Premises.
- (xii) The Mortgagor fails to remove and abate all asbestos from the Premises to the full satisfaction of Mortgagee prior to placing in service the Premises for occupancy.

Section 4.2. Acceleration upon Default; Additional Remedies.
Upon or at any time after the occurrence of any Event of Default, which event of default is not timely cured within the applicable cure period, or as otherwise provided in Section 6.1 below, Mortgagee may declare the Note and all additional indebtedness secured by this Mortgage immediately due and payable without presentment, demand, protest or notice of any kind. Thereafter, Mortgagee may:

(a) Either in person or by agent, with or without bringing any action or proceeding, if applicable law permits, enter upon and take possession of all or any portion of the Premises, in its own name, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of all or any part of the Premises, or interest therein, increase the income of the Premises therefrom or protect the security hereof and, with or

UNOFFICIAL COPY

without taking possession of the Premises, or otherwise collect the rents, issues and profits of the Premises, including those past due and unpaid, and apply the same to the payment of taxes, insurance premiums and other charges against the Premises or in reduction of the indebtedness secured by this Mortgage; and the entering upon and taking possession of the Premises, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any event of default or notice of default and, notwithstanding the continuance in possession of the Premises or the collection, receipt and application of rents, issues or profits, Mortgagee shall be entitled to exercise every right under the Loan Documents upon the occurrence of any Event of Default; or

(b) Commence an action to foreclose this Mortgage with respect to all or any portion of the Premises, appoint a receiver, or specifically enforce any of the provisions contained in the Loan Document; or

(c) Pursuant to any applicable statutes sell all or any portion of the Premises, or cause the same to be sold and conveyed to the purchaser, and to retain from sale proceeds the balance of the Loan secured by this Mortgage including without limitation, principal, accrued interest, costs and charges of such sale, attorneys' fees provided by such statute (or, in the event of a suit to foreclose by court action, reasonable attorneys' fees including attorneys' fees and costs incurred by the Corporation Counsel), rendering the surplus monies, if any, to Mortgagor; provided, that in the event of public sale, such Premises may, at the option of the Mortgagee, be sold in one parcel or in several parcels as Mortgagee, in its sole discretion, may elect; or

(d) Exercise any or all of the remedies available to a secured party under the Uniform Commercial Code of Illinois.

(e) By way of clarification, and without limiting any of the provisions of the Loan Documents, the parties hereby acknowledge and agree that by executing this Mortgage and other security documents, the following entities are subjecting to the liens thereof and security interests thereunder the following collateral: (a) in the case of Borrower and Improvements Trustee (i) the leasehold interest in the Land and (ii) the fee simple interest in the Improvements, subject to reversion to the Land Trustee upon termination of said leasehold; (b) in the case of the Land Trustee, (i) the fee simple interest in the land and (ii) the reversionary fee simple interest in the Improvements upon termination of the leasehold; and (c) in the case of the Borrower, the personal property described in such documents. The liens and security interests so granted to Mortgagee, collectively, are intended to and shall include all interests whatsoever of the parties in such real property, both fee simple and leasehold interests in the Land and Improvements, and all such personal property and Mortgagee may, if and to the extent permitted hereunder, foreclose on any or all portions of the Premises upon the occurrence of an Event of Default.

Section 4.3. Foreclosure; Expense of Litigation.

When all or any portion of the Loan and any additional indebtedness secured by this Mortgage, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for all or a part of the Loan and such indebtedness. In any suit to foreclose the lien hereof or enforce Mortgagee's remedies under this Mortgage or the Note, there shall be allowed and included as additional indebtedness in the decree for sale or other judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees (including attorney's fees and costs incurred by the Corporation Counsel), 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 examination, title insurance policies, and similar data and assurances with respect to title as Mortgagee 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 title to or the value of the Premises. All expenditures and expenses of this nature, and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting the Loan Documents (including attorney's fees and costs incurred by the Corporation Counsel), or the Premises, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall be so much additional indebtedness secured by the Mortgage, immediately due and payable, with interest thereon at fifteen percent (15%) per annum or the highest rate permitted by law. In the event of any foreclosure sale of the Premises, the same may be sold in one or more parcels. Mortgagee may purchase all or any portion of the Premises at any foreclosure sale.

Section 4.4. Application of Proceeds of Foreclosure Sale.

Proceeds of any foreclosure sale of the Premises or of the exercise of any other remedy hereunder shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings or such other remedy, including all such items as are mentioned in Section 4.3 hereof; second, all other items which under the terms hereof constitute indebtedness secured by this Mortgage additional to that evidenced by the Note, with interest thereon; third, all principal and interest remaining unpaid on the Note; and fourth, any surplus to Mortgagor, its successors or assigns, as their respective rights may appear.

Section 4.5. Mortgage Bid.

Upon any foreclosure sale, Mortgagee may bid for and purchase all or any portion of the Premises and shall be entitled to apply the Loan secured hereby as a credit to the purchase price.

Section 4.6. Appointment of Receiver.

Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court may appoint a receiver of the Premises. Such appointment may be made either before or after a foreclosure sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the existing value of the Premises. Mortgagee, any employee or agent thereof, or any holder of the Note may be appointed as such receiver. Such receiver shall have power to take possession, control and care of the Premises and (i) collect rents, issues, profits and revenues of the Premises during the pendency of such foreclosure suit, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues, profits and revenues; (ii) to extend or modify any existing Tenant Leases and to make new Tenant Leases, which extension, modification and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan and additional indebtedness secured by this Mortgage and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Tenant Leases, and the options or other such provision to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding discharge of the Loan and additional indebtedness secured by this Mortgage, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (iii) 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 whole or partial payment of the Loan and additional indebtedness secured by this Mortgage, or found due or secured by any judgment 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.

Section 4.7. Insurance After Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied to the repair and restoration the Premises, shall be used to pay the amount due in accordance with any judgment of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct.

Section 4.8. Possession by Mortgagee. Upon any other entering upon or taking of possession of the Premises other than by means of a foreclosure, Mortgagee may hold, use, manage and control the Premises and, from time to time (i) make all necessary and proper replacements, additions, betterments and improvements

thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property required in connection therewith; (ii) insure or keep the Premises insured; (iii) manage the Premises and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Mortgagor, all as Mortgagee from time to time may reasonably determine to be to its best advantage. Mortgagee may collect and receive all rents, issues, profits and revenues of the same, including those past due and accruing thereafter, and, after deducting to the extent reasonable (a) all expenses of taking, holding and managing the Premises (including compensation for the services of all persons employed for such purposes); (b) the cost of all maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (c) the cost of insurance; (d) such taxes, assessments and other similar charges as Mortgagee may determine to pay; (e) other proper charges upon the Premises or any part thereof; and (f) the reasonable compensation, expenses and disbursements of Mortgagee's attorneys and agents, Mortgagee shall apply the remainder of the monies and proceeds so received by Mortgagee first to the payment of accrued interest due under the Note; and second to the payment of principal due under the Note. The balance of such funds, if any, after payment in full of all of the aforesaid amounts (including, without limitation, the entire outstanding principal balance under the Note), shall be paid to such of Mortgagor, or their respective successors or assigns, as their respective right may appear.

Section 4.9. Remedies Not Exclusive; No Waiver of Remedies.

(a) Mortgagee shall be entitled to enforce payment and performance of the Loan, additional indebtedness and obligations secured hereby and to exercise all rights and powers under the Loan Documents or any other agreement, instrument or law now or hereafter in force, notwithstanding that some or all of the Loan, additional indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers contained herein, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy provided herein or permitted by law, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law, equity or by statute. Every power or remedy given by any of the Loan Documents to Mortgagee or to which it may be otherwise entitled, may be exercised concurrently or independently, from time to time and as often as it may be deemed expedient by

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Mortgagee and Mortgagee may also pursue inconsistent remedies. Failure by Mortgagee to exercise any right which it may exercise hereunder, or the acceptance by Mortgagee of partial payments, shall not be deemed a waiver by Mortgagee of any default or of its right to exercise any such rights thereafter.

(b) In the event Mortgagee at any time holds additional security for the Loan and additional indebtedness secured by this Mortgage, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with exercising remedies under this Mortgage or after a sale is made hereunder.

Section 4.10. Waiver of Certain Rights. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but rather waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold in individual parcels or as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure pursuant to rights herein granted on behalf of Mortgagor and all persons beneficially interested therein and each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of Illinois law.

Section 4.11. Mortgagee's Use of Deposits. With respect to any deposits made with or held by Mortgagee or any depository pursuant to any of the provisions of this Mortgage, upon the occurrence of an Event of Default as defined in this Mortgage or the other Loan Documents, Mortgagee may, at its option, apply any monies or securities which constitute such deposits on any of the obligations due under this Mortgage or the other Loan Documents, in such order and manner as Mortgagee may elect. When the Loan and additional indebtedness secured hereby has been fully paid any remaining deposits shall be paid to such of Mortgagor, or their respective successors or assigns, as their respective interests may appear. Such deposits are hereby pledged as additional security for the prompt payment of the Loan and additional indebtedness under this Mortgage or the Loan Documents and shall be held to be irrevocably applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor.

Section 4.12. Limitation of Liability. Mortgagor expressly agrees that no members, officials, employees or agents of the City shall be individually, collectively or personally liable to Mortgagor, its successors or assigns for any actions taken under this Mortgage or the Loan Documents.

Section 4.13. Non-Recourse Loan. This Loan and all monetary obligations of Borrower and all others included in Mortgagor under the Loan Documents are non-recourse as to the Borrower and all others included in Mortgagor including without limitation of any of Borrower's general and limited partners and the liability of Mortgagor with respect to these non-recourse monetary obligations shall not be enforced by any action or proceeding, except one or more actions or proceedings to foreclose, enforce or realize upon all or any part of the security for such monetary obligations, that any judgment in any such action or proceeding shall be enforceable against Mortgagor only to the extent of the interest of Mortgagor in such security and in the income therefrom, and that the Mortgagee waives any and all right to sue for, seek or demand any personal deficiency judgment against Mortgagor, Borrower or any of Borrower's general or limited partners under or by reason of any of the non-recourse monetary obligations.

ARTICLE V. MISCELLANEOUS

Section 5.1. Recitals. The recitals contained on page 1 herein are hereby made a part of this Mortgage.

Section 5.2. Time of Essence. Time is of the essence regarding each and every provision of this Mortgage.

Section 5.3. Recording. Mortgagor shall cause this Mortgage and all other documents securing the Loan evidenced by the Note at all times to be properly filed and/or recorded at Borrower's own expense and in such manner and in such places as may be required by law in order to fully preserve and protect the rights of Mortgagee.

Section 5.4. Further Assurances. Mortgagor shall perform, execute, acknowledge and deliver all and every further act, deed, conveyance, transfer and assurance necessary or advisable, in the judgment of Mortgagee, for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee all property mortgaged hereby or property intended so to be, whether now owned or hereafter acquired by Mortgagor.

Section 5.5. No Defenses. No action for enforcement of the lien or any provision hereof 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.

Section 5.6. Severability. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held invalid, the remainder of this Mortgage shall be construed as if such invalid part were never included herein and this Mortgage shall be and remain valid and enforceable to the fullest extent permitted by law.

UNOFFICIAL COPY

Section 5.7. Illegality of Terms. Nothing contained herein or in the Loan Documents nor any transaction related thereto shall be construed or shall so operate either presently or prospectively, (i) to require Mortgagor to pay interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate, or (ii) to require Mortgagor to make any payment or perform any act contrary to law; and if any provision contained herein shall operate to invalidate this Mortgage, in whole or in part, then the Mortgage shall be interpreted and enforced as if such provision was not contained herein and the remainder of this Mortgage shall remain operative and in full force and effect, and the Corporation Counsel shall be given a reasonable time to correct any such error.

Section 5.8. Notice. Unless as otherwise specified, any notice, demand or request hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communications, whether by telex, telegram or telecopy; (c) overnight courier; or (d) registered or certified, first class mail, return receipt requested.

IF TO MORTGAGEE:

City of Chicago
Department of Housing
318 South Michigan Avenue
Chicago, Illinois 60604
Attention: Commissioner

WITH COPY TO:

Department of Law
City Hall, Room 511
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Finance and Economic
Development Division

Comptroller
City of Chicago
121 North LaSalle Street
Chicago, Illinois 60602

IF TO MORTGAGOR:

Steel City National Bank as Trustee
under a Trust Agreement dated
February 13, 1990 and known as Trust
No. 3129
3030 East 92nd Street
Chicago, Illinois 60617
Attention: Trust Department

Steel City National Bank of
Chicago as Trustee under a Trust
Agreement dated December 21, 1990
and known as Trust No. 3193
3030 East 92nd Street
Chicago, Illinois 60617
Attention: Trust Department

91181461

UNOFFICIAL COPY

9 | 1 | 5 | 1 | 4 | 6 | 1

Family Rescue
P.O. Box 17528
9204 South Commercial
Chicago, Illinois 60617

Ridgeland Limited Partnership
c/o Family Rescue Development
Corporation
P.O. Box 17528
Chicago, Illinois 60617
Attention: President

WITH COPIES TO:
BORROWER'S LIMITED
PARTNER:

Chicago Equity Fund,
1990 Partnership
c/o Chicago Equity Fund, Inc.
24 West Erie Street
Chicago, Illinois 60610
Attention: William W. Higginson

BORROWER'S GENERAL
PARTNER:

Family Rescue Development
Corporation
P.O. Box 17528
9204 South Commercial
Chicago, Illinois 60617

BORROWER'S COUNSEL:

Schiff Hardin & Waite
7200 Sears Tower
Chicago, Illinois 60606
Attention: Crane H. Kenney, Esq.
or Janet M. Johnson, Esq.

Holleb & Coff
55 East Monroe Street
Suite 4100
Chicago, Illinois 60603
Attention: Jeffrey Kuta

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received forty-eight (48) hours following deposit in the mail.

31181461

Section 5.9. Binding Effect. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and Mortgagor's successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of Mortgagee its successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not; and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the time holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated Mortgagee.

Section 5.10. Governing Law; Modification. The Mortgage shall be governed by Illinois law. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the parties hereto.

Section 5.11. Meanings. Wherever in this Mortgage the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

Section 5.12. Captions. The captions or headings at the beginning of each Article and Section hereof are for the convenience of reference and are not a part of this Mortgage.

Section 5.13. Approval or Consent of Mortgagee. Whenever a provision refers to the approval or consent of Mortgagee, or that any matter is to be to Mortgagee's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by Mortgagee in its discretion acting reasonably and in good faith.

Section 5.14. Exculpation. This Mortgage is executed by Steel City National Bank, not personally, but as Land Trustee or Improvements Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Land Trustee (and said Trustee hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any personal liability of Land Trustee or Improvements Trustee for the said indebtedness secured hereby or, for the performance of any covenant, either expressed or implied, herein contained, all such personal liability, if any, being expressly waived by Land Trustee, Improvements Trustee and by every person now or hereafter claiming any right or security hereunder, and that, so far as Land Trustee and Improvements Trustee is personally concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness secured hereby shall look to the Premises hereby conveyed for the payment

thereof by the enforcement of the lien hereby created in the manner herein and in the Note provided and to any other security given for the indebtedness evidenced by the Note.

ARTICLE VI. GROUND LESSOR'S RIGHTS

Section 6.1. Ground Lessor's Rights to Cure. Mortgagee acknowledges and understands that while Family Rescue is not the Borrower for purposes of the Loan, Family Rescue has agreed to cause Land Trustee to subject Land Trustee's interest in the Premises to the lien of the Mortgage. Accordingly and in consideration of such agreement by Family Rescue, Mortgagee hereby agrees that Family Rescue shall have until the expiration of any applicable time period which Improvements Trustee or Borrower shall have to cure any default by Improvements Trustee and Borrower under this Mortgage in which to cure such default on behalf of Borrower and Improvements Trustee. In the event Family Rescue elects to cure such defaults, Mortgagee agrees to recognize such performance by Family Rescue as performance on behalf of Mortgagor. Notwithstanding the foregoing, Family Rescue shall have no obligation to cure any such defaults on behalf of Borrower or any other Mortgagor, it being understood that such rights granted to Family Rescue pursuant to this Section 6.1 shall be strictly optional and have been granted for the benefit of Family Rescue only.

Section 6.2. Effect of Termination of Ground Lease or of Ground Lessee's Right of Possession. No permitted cure by Family Rescue of any of Borrower's or Improvements Trustee's defaults under the Mortgage or under any other Loan Documents shall be deemed or construed to be a cure of any default by the lessee under the Ground Lease, it being recognized and understood that, in the event of any default under the Ground Lease which is not cured by Borrower or Improvements Trustee within the time period provided therein, Family Rescue, with the written consent of the City, shall be permitted to exercise any and all of its rights under the Ground Lease, including, without limitation, the right to terminate Borrower's and Improvements Trustee's rights as lessee thereunder. In the event Family Rescue shall exercise its right to terminate the lessee's rights of possession under the Ground Lease or the Ground Lease as a result of a default by Borrower or Improvements Trustee thereunder, then unless Family Rescue shall agree, in a written instrument that is recorded, no merger of the lessor's and lessee's title shall occur, and Family Rescue, or the party succeeding to the lessee's interests thereunder by virtue of an assignment of the lessee's rights thereunder by Family Rescue, shall thereafter be deemed and construed to be the lessee under the Ground Lease or a new ground lease on the same terms and provisions as the Ground Lease. No such exercise of the lessor's rights under the Ground Lease shall affect or impair in any respect the lien of this Mortgage, and any such new lessee's rights under the Ground Lease or new ground lease, as the case may be, shall at all times be subject to the rights of Mortgagee pursuant to this Mortgage.

UNOFFICIAL COPY 6 1

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

MORTGAGOR:

IMPROVEMENTS TRUSTEE
STEEL CITY NATIONAL BANK, not personally, but solely as Trustee under a Trust Agreement dated December 21, 1990, known as Trust No. 3193

ATTEST:

[Handwritten signature]
Trust Officer

LAND TRUSTEE
STEEL CITY NATIONAL BANK, not personally, but solely as Trustee under a Trust Agreement dated February 13, 1990, known as Trust No. 3129

ATTEST:

[Handwritten signature]
Trust Officer

BORROWER:

RIDGELAND LIMITED PARTNERSHIP,
an Illinois limited partnership

GENERAL PARTNER

ATTEST:

[Handwritten signature]
Secretary

FAMILY RESCUE DEVELOPMENT CORPORATION, an Illinois not-for-profit corporation

By: *[Handwritten signature]*
President

JEW/RIDGE-MORT

UNOFFICIAL COPY

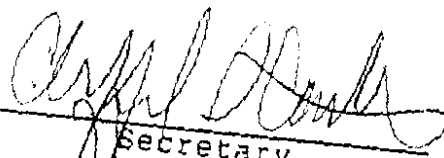
71181461

CONSENT AND ACKNOWLEDGMENT

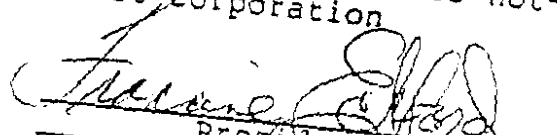
FAMILY RESCUE, as sole beneficiary of Trust No. 3129 consents to and acknowledges the execution of this Mortgage by the STEEL CITY NATIONAL BANK as Trustee under a Trust Agreement dated February 13, 1990 and known as Trust No. 3129

FAMILY RESCUE, an Illinois not-for-profit corporation

ATTEST:


Secretary

By:
Its


President

Property of Cook County Clerk's Office

31181461

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1 - 6820-30 SOUTH RIDGELAND AVENUE

LOTS 8, 9, 10 AND 11 IN BLOCK 7 IN SOUTH JACKSON PARK
SUBDIVISION OF THE NORTH WEST 1/4 OF THE SOUTH WEST 1/4 OF
SECTION 24, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD
PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS:

6820-30 SOUTH RIDGELAND AVENUE

PIN & VOLUME:

20-24-310-017-0000

Property of Cook County Clerk's Office

9181451

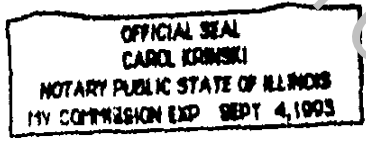
UNOFFICIAL COPY

9 | 1 | 9 | 1 | 4 | 6 | 1

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 Armenie Eckford and Laifford J. Carthan, personally known to me to be the President and Secretary of Family Rescue and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they are the President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 9th day of April, 1991.



Carol Kosinski
Notary Public

My Commission Expires: _____

Property of Cook County Clerk's Office

9181461

UNOFFICIAL COPY

Property of Cook County Clerk's Office

RECEIVED
DEPT. OF REVENUE
GENERAL STATE BOARD OF TAXATION
JAN 11 1912

UNOFFICIAL COPY

9 1 1 5 1 4 6 1

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 Steven Calumpo and Azalia Gomez the Legal Counsel and TRUST OFFICER, respectively of STEEL CITY NATIONAL BANK (the "Trustee"), personally known to me to be the same person whose name is subscribed to in the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument on behalf of STEEL CITY NATIONAL BANK not personally but solely as Trustee under Trust Agreement dated February 13, 1991 and known as Trust No. 3129 and Trust Agreement dated December 21, 1990 and known as Trust No. 3129 and for the uses and purposes therein set forth.

93

GIVEN under my hand and Notarial Seal this 9th day of April, 1991.

Azalia Gomez
Notary Public



My Commission Expires: _____

Property of Cook County Clerk's Office

91181461

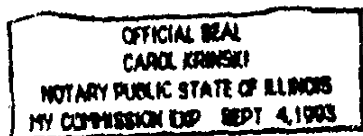
UNOFFICIAL COPY

9 1 1 6 1 4 6 1

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 David Offenberg and Franziska Kofford, personally known to me to be the President and Secretary of Family Rescue Development Corporation the General Partner of Ridgeland Limited Partnership and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they are the President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 9th day of April, 1991.



Carol Krinski
Notary Public

My Commission Expires: _____

Notary Public of Cook County Clerk's Office

9181461

UNOFFICIAL COPY

Property of Cook County Clerk's Office

JAN 10 10 10
DENVER COLORADO
WORLD 25 YEARS CHAMPIONSHIP
COURT 1000 1000 HONORABLE