

COOK COUNTY, ILLINOIS

1991 MAY 1 PM 2: 20

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COMMERCIAL MORTGAGE,
SECURITY AGREEMENT

AND

ASSIGNMENT OF LEASES AND RENTS

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72-90-607-D

THIS MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS, executed this 30th of April, 1991, by the STANDARD BANK AND TRUST COMPANY, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 26, 1989, AND KNOWN AS TRUST NO. 12198, (hereinafter interchangeably referred to as "Mortgagor" or "Borrower"), to the FIRST COOK COMMUNITY BANK, a Federal Savings Bank, having its principal office and place of business at 2720 W. Devon Avenue, Chicago, Illinois 60659 (hereinafter interchangeably referred to as "Mortgagee," "Lender" or "Bank").

W I T N E S S E T H:

WHEREAS, Mortgagor is justly indebted to Mortgagee in the sum of TWO MILLION THIRTY THREE THOUSAND FIVE HUNDRED AND NO/100 (\$2,033,500.00) DOLLARS in lawful money of the United States, and has agreed to pay the same, together with interest thereon, on or before May 1, 1994, according to the terms and provisions of a certain promissory note dated April 30, 1991, made by Mortgagor to the order of Mortgagee (hereinafter referred to as the "Note"), which Note represents a loan made by Mortgagee to Mortgagor.

TO SECURE TO MORTGAGEE a) the payment of the indebtedness evidenced by the Note, with interest thereon, together with all renewals, extensions, replacements, consolidations and modifications thereof, the terms of which are, by this reference, incorporated herein and made a part hereof; b) reserved; c) the payment of all other sums, with interest thereon, advanced by Mortgagee in accordance herewith to protect the security of this instrument; d) the performance by Mortgagor of the covenants and agreements herein contained; e) performance of Mortgagor's obligations and agreements under any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby and any modification or amendment

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thereof; all of the foregoing hereinafter referred to as the "Indebtedness" or "Obligations". It is expressly understood and agreed that the indebtedness secured hereby will in no event exceed \$4,067,000.00.

MORTGAGOR, for and in consideration of the sums hereinabove set forth and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, does hereby grant, bargain, sell, convey, warrant and mortgage unto Mortgagee, and its successors and assigns, all that certain tract of land of which Mortgagor is now seized and in possession situate in Cook County, Illinois, and which is more fully described in Exhibit "A" attached hereto and hereby made a part hereof; and Mortgagor hereby grants to Mortgagee, and its successors and assigns a security interest in and a first lien upon certain personal property hereinafter described.

TOGETHER with all the estate, right, title, interest, claim and demand whatsoever which Mortgagor may now have or hereafter acquire in and to the said real property, and every part and parcel thereof; and

TOGETHER with all buildings, structures and other improvements now or hereafter located on the said property or any part or parcel thereof, and all adjacent lands included in enclosures or occupied by buildings located partly on said real property or any part or parcel thereof; and

TOGETHER with all right, title and interest which Mortgagor may now have or hereafter acquire in and to the gas, oil, minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter located on said real property or under or above the same, or any part or parcel thereof; and

TOGETHER with all and singular the tenements, hereditaments, easements and appurtenances thereunto or unto any part thereof now or hereafter belonging or in any wise appertaining, and all streets, sidewalks, alleys, passages, ways, watercourses, (whether open or proposed), and all leasehold estates, easements, rights of way and covenants now existing or hereafter created for the benefit of Mortgagor or any subsequent owner or tenant of said real property, (including all water rights and shares of stock evidencing the same), and all rights to enforce the maintenance thereof, and all other rights, privileges and liberties of whatsoever kind or character, and the reversions and remainders thereof, and all estate, right, title, interest, property, possession, claim and demand whatsoever, at law or in equity, of Mortgagor in and to said real property or any part thereof; and

TOGETHER all right, title and interest that Mortgagor may now have or hereafter acquire in and to all building materials,

fixtures, apparatus, building machinery and building equipment located on or adjacent the said real property, (or stored elsewhere), during the course of or in connection with the construction, reconstruction, repair or remodeling of any of the aforesaid buildings, structures or other improvements, all machinery, apparatus, equipment, chattels, fittings and fixtures, whether now or hereafter actually or constructively attached to said property and including all trade, domestic and ornamental fixtures, and articles of personal property of every kind and nature whatsoever (hereinafter referred to collectively as the "Collateral"), now or hereafter located in, upon, on or under said property, or any part thereof, or used or usable in connection with any present or future operation of said property, including, but without limiting the generality of the foregoing, all heating, water heating, air-conditioning, freezing, lighting, incinerating and power apparatus and equipment; engines; pipes; pumps; tanks; motors; conduits; switchboards; antennas; wires; cables; transmitters; receivers; plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigerating, ventilating and communications apparatus; boilers, furnaces, oil burners or units thereof; vacuum cleaning systems; windows; wall beds; attached cabinets; partitions; ducts and compressors; and such other goods, chattels, personal property, fixtures and equipment as are usually found on property of the character hereby conveyed, together with all additions thereto, replacements thereof and substitutions therefor; all of which Collateral shall to the extent permitted by law be considered as annexed to or forming a part of said real property (collectively, the "Personal Property"); and

TOGETHER with all monies and proceeds (hereinafter referred to collectively as the "Proceeds") derived by Mortgagor from said real property, buildings, structures, improvements, Collateral, Contracts (as hereinafter defined) or Rents (as hereinafter defined), including but not limited to all rents, refunds, rebates, tenant reimbursements, condemnation awards and proceeds of the sale of, insurance on or other borrowings secured in whole or in part by any of said real property, buildings, structures, improvements, Collateral, Contracts (as hereinafter defined) or Rents (as hereinafter defined); reserving only the right to Mortgagor (except as otherwise provided herein) to collect the same so long as there is no Event of Default, as hereinafter defined, which shall have occurred and be continuing. In the event that Mortgagee comes into possession of tenant security deposits, Mortgagee agrees to hold and apply said deposits in accordance with applicable law.

TOGETHER with all goodwill, trademarks, trade names, option rights, purchase contracts, books and records and general intangibles which Mortgagor may now have or hereafter acquire, relating to the real property and/or the improvements thereon, and all accounts, contract rights, instruments, chattel paper,

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and other existing or hereafter acquired rights of Mortgagor for payment of money sold or lent, for services rendered, for money lent, or for advances or deposits made, and any other intangible property of Mortgagor related to the said real property and/or said improvements;

TOGETHER with all rights of Mortgagor to plans and specifications, designs, surveys, drawings and other matters prepared for any construction on the said real property;

TOGETHER with all rights of Mortgagor under any agreement, contract, understanding or arrangement pursuant to which Mortgagor has, with the consent of Mortgagee, obtained the agreement of any person to pay or disburse any money for Mortgagor's sale (or borrowing on the security) of any property which is mortgaged or in which Mortgagee is given a security interest or any part thereof;

TOGETHER with all other property or rights of Mortgagor of any kind or character, including any permits and governmental approvals or soil reports and environmental studies related to the said property and/or the improvements thereon and all proceeds and products of the foregoing.

Mortgagor hereby warrants and represents to Mortgagee that Mortgagor has good title to the above-described property (all of which property, both real and personal, being herein referred to collectively as the "Premises"), is lawfully seized and possessed of the Premises, and every part thereof, and has the right to grant, bargain, sell, convey, mortgage and warrant the same; and that the premises are free and clear of all liens, and encumbrances, subject only to the matters set forth in Exhibit "B" attached hereto and hereby made a part hereof. The Premises shall exclude any portion hereafter released by Mortgagee.

Mortgagor hereby sells, assigns, sets over and transfers to Mortgagee all Mortgagor's interest in and to any and all leases, tenant contracts and rental agreements and other contracts, licenses and permits (all of which are sometimes hereinafter referred to as the "Contracts") now or hereafter affecting or in any manner relating to the Premises, or any part thereof, together with Mortgagor's right and power to cancel, accept the surrender of or modify any of the terms thereof without Mortgagee's prior written consent. Mortgagor agrees to execute and deliver such other instruments as Mortgagee may require evidencing the assignment of the Contracts.

Mortgagor hereby sells, assigns, sets over and transfers to Mortgagee all of the rents, tenant reimbursements, issues and profits which shall hereafter become due or be paid for the use of the Premises or any part thereof, all rents, tenant reimbursements, issues and profits arising under the Contracts or

any thereof, and all unrefunded security, pet and other deposits (hereinafter referred to as the "Deposits") paid to anyone in connection with the occupancy of the Premises or any part thereof (all of which are sometimes hereinafter referred to as the "Rents"), reserving to Mortgagor a license to collect the Rents and to hold the Deposits only so long as there is no Event of Default, as hereinafter defined, which shall have occurred and be continuing, said license to be revocable immediately upon notice to Mortgagor. Mortgagor agrees to execute and deliver such other instruments as Mortgagee may require evidencing the assignment of the Rents.

Mortgagor hereby transfers, assigns and conveys to Mortgagee, as security for the Indebtedness, any and all balances, credits, deposits, accounts, items and moneys of Mortgagor now or hereafter in the possession or control of or otherwise with Mortgagee, and Mortgagee is hereby given a lien upon, security title to, and a security interest in all property of Mortgagor of every kind and description now or hereafter in the possession or control of Mortgagee for any reason, including all dividends and distributions on or other rights in connection therewith. Upon the occurrence of an Event of Default, Mortgagee may, without notice or demand of any kind, at any time and from time to time, when any amount shall be due and payable under the Note, or this Mortgage, appropriate or apply toward the payment of such amount, and in such order of application as Mortgagee may from time to time elect, any property, balances, credits, deposits, accounts, items or moneys of Mortgagor in the possession or control of Mortgagee for any purpose.

AND MORTGAGOR FURTHER COVENANTS AND AGREES WITH MORTGAGEE AS FOLLOWS:

I. COVENANTS OF MORTGAGOR

1.01 **Payment of Indebtedness.** Mortgagor shall pay to Mortgagee the Indebtedness when due. Mortgagor shall have no right of offset whatsoever with regard to any payment of the Indebtedness.

1.02 **Taxes, Liens, Charges and Expenses.** Mortgagor shall pay when due the yearly taxes and assessments which may be levied on the Premises.

1.03 **Insurance.** Mortgagor shall keep the Premises insured for the benefit of Mortgagee under a policy of general liability coverage; provided, however, that the amount of such insurance shall not be less than five million dollars (\$5,000,000.00). All such insurance shall be evidenced by such policies (both as to form and content), shall be governed by such terms and conditions (including without limitation provisions prohibiting the cancellation or material modification thereof without providing

Mortgagee at least thirty (30) days' prior written notice), shall provide coverage for a period not less than one year, and shall be issued by such companies licensed to do business in the State of Illinois, all as are approved by Mortgagee. Mortgagor shall provide Mortgagee written evidence of the timely payment in advance of all premiums for such policies. Mortgagor shall deliver to Mortgagee a new policy, together with written evidence of the payment of the premium therefore, as a replacement for any expiring policy at least thirty (30) days following the date of such expiration.

1.04 Care of Premises.

(a) Notwithstanding any other provision of this Mortgage, Mortgagor shall keep the Premises protected and in good order, repair and condition at all times, promptly replacing, repairing or restoring any part thereof which may become damaged, destroyed, lost or unsuitable for use. In the event the Premises or any part thereof is damaged or destroyed by fire or other casualty, Mortgagor shall immediately notify Mortgagee, in writing, of such damage or destruction.

(b) Mortgagor shall not remove, demolish, destroy or alter the Premises, or any portion thereof, without the prior written consent of Mortgagee.

(c) Mortgagor shall not commit or suffer any strip or waste of the Premises.

(d) Mortgagor shall promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Premises or any part thereof.

(e) Mortgagor shall not cause or permit anything to be done which would or could increase the risk of fire or other hazard to the Premises, or any part thereof, or which would or could result in an increase in any insurance premiums payable with respect to the Premises, or which would or could result in the cancellation of any insurance policy carried with respect to the Premises.

(f) Mortgagor shall timely keep and perform all agreements and covenants required to be kept and performed pursuant to any and all leases and other instruments creating Mortgagor's interest in or defining Mortgagor's rights with respect to the Premises or any part thereof.

1.05 Performance by Mortgagee. In the event that Mortgagor fails to observe or perform any of Mortgagor's obligations or covenants set forth in the Note, this Mortgage or in any other instrument now or hereafter evidencing, securing or otherwise

relating to the Indebtedness, the Mortgagee, at its option, may endeavor to perform and observe the same, without notice to or demand upon Mortgagor and without releasing Mortgagor from any of its obligations or covenants hereunder, and all payments made and costs incurred by Mortgagee in connection therewith, including but not limited to attorney fees and expenses, shall be secured by this Mortgage and, upon demand, shall be repaid by Mortgagor to Mortgagee, with interest thereon at the post maturity rate under the Note or any rate selected by Mortgagee up to the highest rate permitted by law upon such amount, calculated from the date any such payment is made. Mortgagee shall be the sole judge of the necessity for any actions so taken by Mortgagee and the amount necessary to be paid or incurred by Mortgagee to remedy any such failure on the part of Mortgagor. Mortgagee is hereby empowered to enter upon and to authorize others to enter upon the Premises, or any part thereof, for the purpose of performing or observing any such defaulted covenant or obligation, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor.

1.06 **Condemnation.** Mortgagor, immediately upon obtaining knowledge of the institution, or the proposed, contemplated or threatened institution, of any proceedings for the taking of the Premises, or any part thereof, by condemnation or eminent domain, will notify Mortgagee of the pendency of such proceedings. Mortgagee may, at its option, participate in any such proceedings, and Mortgagor shall promptly deliver to Mortgagee all instruments from time to time requested by Mortgagee to permit such participation. In any such proceedings Mortgagee may be represented by counsel selected by Mortgagee. Mortgagor hereby assigns to Mortgagee all awards hereafter made by virtue of any exercise of the right of condemnation or eminent domain by any authority, including any award for damages to or taking of title to the Premises, or any part hereof, or the possession thereof, or any right or easement affecting the Premises or appurtenant thereto (including any award for any change of grade of streets), and the proceeds of all sales in lieu of condemnation. Mortgagee, at its option, is hereby authorized to collect and receive all such awards and the proceeds of all such sales and to give proper receipts and acquittances therefor, and Mortgagee, at its election, may use such awards and proceeds in any one or more of the following ways: (i) apply the same or any part thereof upon the Indebtedness, whether the Indebtedness, or any part thereof, be then matured or unmatured, (ii) use the same or any part thereof to fulfill any of the covenants and agreements of Mortgagor hereunder as Mortgagee may determine, (iii) pay the same or any part thereof to Mortgagor for the purpose of replacing, restoring or altering the Premises to a condition satisfactory to Mortgagee, or (iv) release the same to Mortgagor. Any proceeds applied to the Indebtedness shall be applied, at the option of Mortgagee, to the last installment or installments of principal coming due under the Note. Mortgagee

shall be under no obligation to question the amount of any such award or proceeds and may accept the same in the amount in which the same shall be paid. Mortgagor agrees to execute and deliver such other instruments as Mortgagee may require evidencing the assignment of all such awards and proceeds to Mortgagee. If, prior to the receipt by Mortgagee of such award or proceeds, the Premises shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive such award or proceeds to the extent of any unpaid Indebtedness following such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered, and of reasonable counsel fees, costs, including costs of litigation, and disbursements incurred by Mortgagee in connection with the collection of such award or proceeds.

1.07 Books and Records.

(a) Mortgagor shall keep, at Mortgagor's sole cost and expense, and shall make available to Mortgagee at the Premises from time to time upon reasonable request of Mortgagee, adequate records and books of account with respect to the Premises in accordance with generally accepted accounting principles or sound cash basis accounting principles, consistently applied, and shall permit Mortgagee, by Mortgagee's agents, employees, accountants and attorneys, to visit at any time and from time to time and inspect the Premises and examine such records and books of account and to discuss the affairs, finances and accounts of Mortgagor with Mortgagor and with the officers, agents, employees and/or principals of Mortgagor, at such reasonable times as may be requested by Mortgagee.

(b) Upon the request of Mortgagee, Mortgagor shall furnish to Mortgagee Mortgagor's current financial statements.

1.08 Estoppel Certificates.

Mortgagor within three (3) days upon request in person, or within five (5) days upon request by mail, shall furnish to Mortgagee a sworn certificate setting forth the amount of principal and interest due under the Note and stating whether any offsets or defenses exist against the Indebtedness.

1.09 Reserved

1.10 Legal Actions.

In the event that Mortgagee is made a party to or appears, either voluntarily or involuntarily, in any action or proceeding affecting or relating to the Premises (including without limitation, any action or proceeding brought under any Federal, state or local environmental statute), the Note, the Indebtedness, the Loan Commitment or the validity or priority of this Mortgage, then Mortgagor shall, upon demand, reimburse Mortgagee for all costs, expenses and liabilities incurred by Mortgagee by reason of any such action or proceeding,

including without limitation reasonable attorney fees and costs and expenses of litigation, and the same shall be secured by this Mortgage. Mortgagor hereby agrees to indemnify, define and hold Mortgagee harmless from and against any liability, loss, injury, claim, damage, cost or expense, including without limitation attorney fees and costs and expenses of litigation, which Mortgagee may incur, suffer or be threatened with on account of any claim for a fee, commission or similar compensation by any broker, agent or finder, whether or not meritorious, in connection with the negotiation or execution of the Loan Commitment or any of the transactions contemplated thereby.

1.11 **Use and Management of Premises.** Mortgagor shall be strictly prohibited from altering or changing, in any way whatsoever, the use, operation or management of the Premises, or from filing of record any document, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld.

1.12 **Additional Covenants, Representations and Warranties.** Mortgagor covenants, warrants and represents that:

(a) The execution, delivery and performance of this Mortgage, the Note and all other documents executed by Mortgagor in connection with the loan represented by the Note do not contravene any legal or contractual restriction binding on or affecting Mortgagor or the Premises.

(b) This Mortgage constitutes a legal, valid and binding obligation of Mortgagor enforceable against Mortgagor in accordance with its terms.

(c) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by Mortgagor of the lien and security interest granted hereby or for the execution, delivery or performance of this Mortgage by Mortgagor or (ii) for the exercise by Mortgagee of its rights and remedies hereunder.

(d) Mortgagor intends to and shall use the proceeds of the loan represented by the Note solely for a business purpose within the purview of Ill. Rev. Stats., Ch. 74, Section 4(1)(c), and not for any purpose that is nor may be deemed personal.

(e) The loan evidenced by the Note is being made solely to Mortgagor, and there are no other persons or entities, whether affiliated with Mortgagor or not, for whose benefit or on whose behalf said loan is being made or will be used.

(f) If Mortgagor is a corporation or if Mortgagor is a partnership one or more of whose general partners are

corporations, said corporation or corporations are duly organized, validly existing and in good standing under the laws of the state or states of their incorporation, are duly qualified, authorized and licensed therein, and are in good standing in all states where such qualification, authorization and licensing is necessary to carry on their present and proposed operations; and the executive, delivery and performance of the terms and conditions hereof and of any instrument evidencing, securing or otherwise relating to the Indebtedness are within the corporate powers of said corporation or corporations and have been duly authorized by all proper and necessary corporate action and are not in conflict with the charter and bylaws of said corporation or corporations or any indenture, contract or agreement to which said corporation or corporations are parties or by which they are bound or with any statute, rule or regulation binding upon them.

(g) There is no litigation or other proceeding pending or, to the knowledge of Mortgagor's agents, partners or officers, threatened by or before any court, public body or authority, including condemnation proceedings, which would adversely affect the Premises or Mortgagor or its financial condition or business; there exists no violation of any law, ordinance or requirement of any federal, state, municipal or other governmental agency or commission or public or quasi-public body having jurisdiction of the Premises, and the Premises comply with all restrictive covenants affecting the Premises and all building and use restrictions and zoning regulations of all governmental bodies having jurisdiction thereof.

(h) Mortgagor has not received (and has no knowledge of) any notice or request from any municipal department, insurance company or Board of Fire Underwriters (or organization exercising functions similar thereto) or mortgagee requesting the performance of any work or alterations with respect to the Premises which has not been complied with, and Mortgagor has not received (and has no knowledge of) any notice of violation of any local, state or federal environmental protection or pollution control laws with respect to the Premises.

(i) Reserved

(j) There are no existing prior assessments which are unpaid and Mortgagor has no knowledge of any pending or contemplated assessments against the Premises.

1.13 **Hazardous Material.** Mortgagor shall indemnify and hold Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses (including attorney's fees and costs of litigation) and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against Mortgagor for, with respect to, or as a direct result of

the presence of any hazardous, toxic or dangerous substance, waste or material defined as such under any Federal, state or local statute ("hazardous material"), which was placed on, under or over the Premises or any part thereof, or the occurrence of any event which would be deemed under any Federal, state or local statute as a release or disposal of a hazardous material on, under or from the Premises or any part thereof after the date Mortgagor acquired title to the Premises.

II. DEFAULT AND REMEDIES

2.01 **Event of Default.** The occurrence of any one of the following events shall (if not cured within ten (10) days if the default relates to non-payment of money due, or thirty (30) days in the event of any other default) constitute an Event of Default hereunder:

(a) Mortgagor fails to pay any installment of principal or interest, or of principal and interest, or any part thereof, payable under the Note, when and as the same shall become due and payable;

(b) Mortgagor fails to pay any other sums covenanted to be paid by Mortgagor under the Note or this Mortgage, or any other portion of the Indebtedness, when and as the same shall become due and payable;

(c) Any warranty, representation or statement of Mortgagor, or which is or has been made on behalf of Mortgagor, in this Mortgage, or in any other document, affidavit, certificate or other instrument now or hereafter evidencing, securing or otherwise relating to the Indebtedness or the Premises, or any part thereof, proves untrue or misleading in any material respect;

(d) Reserved

(e) The Premises are subjected to actual or threatened waste, or all or any part thereof is removed, demolished or altered without the prior written consent of Mortgagee, which consent may be withheld for any reason, whether or not unreasonable or arbitrary, or for no reason;

(g) Mortgagor fails to keep, observe, perform, carry out and execute in every particular the other covenants, agreements, obligations and conditions contained in this Mortgage, the Note, the Loan Commitment or any other instrument now or hereafter evidencing, securing or otherwise relating to the Indebtedness or any part thereof or if Mortgagor defaults on any obligation it may now have to Mortgagee in addition to the Indebtedness; or

(h) Except for the sale of lots in the ordinary course of business, the sale or transfer of (i) all or part of the Premises, or any interest therein, or (ii) any beneficial interest in Mortgagor if Mortgagor is a corporation, partnership, trust or other legal entity.

(i) If Mortgagor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Mortgagor shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Mortgagor, or if Mortgagor shall be adjudged a bankrupt or if a trustee or receiver shall be appointed for Mortgagor or Mortgagor's property, or if the Premises shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Mortgagor shall make an assignment for the benefit of Borrower's creditors, or if there is an attachment executive or other judicial seizure of any portion of Mortgagor's assets and such seizure is not discharged within thirty (30) days.

(j) There shall occur any breach, default or event of default under any document or instrument evidencing or securing any other indebtedness secured by all or any part of the Premises.

2.02 Rights of Mortgagee Upon Default. Upon the occurrence of an Event of Default, Mortgagee, at its option, may do any one or more of the following:

(a) Declare the Indebtedness to be immediately due and payable without notice to or demand upon Mortgagor, and may proceed to protect and enforce all rights by any action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law;

(b) Enter upon and take possession of the Premises without the appointment of a receiver, or an application therefor, and collect and receive the rents, incomes, issues and profits of and from the Premises, and Mortgagee is hereby constituted and appointed as the attorney in fact of Mortgagor to manage and operate the Premises and to collect all such sums. After deducting from the sums so collected all expenses of taking, holding, managing and operating the Premises (including compensation for the services of all persons employed for any of such purposes), the net amount so collected shall be applied toward the Indebtedness; provided that nothing herein contained

shall be construed to obligate Mortgagee to discharge or perform the duties of a landlord to any tenant or to impose any liability upon Mortgagee as the result of any exercise by Mortgagee of its rights under this Mortgage, and Mortgagee shall be liable to account only for the rents, incomes, issues and profits actually received by Mortgagee;

(c) Apply for the appointment of a receiver of the rents, incomes, issues and profits of and from the Premises, without notice to Mortgagor. Mortgagee shall be entitled to the appointment of such receiver as a matter of right, without regard to the value of the Premises as security for the Indebtedness or the solvency of Mortgagor or any person or legal entity, if any, which may be liable for the payment of all or any part of the Indebtedness;

2.03 **Restoration of Parties.** In the event Mortgagor shall have proceeded to enforce any right or remedy under this Mortgage, and such proceedings are discontinued or abandoned for any reason, the Mortgagor and Mortgagee shall immediately be restored to their former positions and rights hereunder, and all rights powers and remedies of Mortgagee shall continue as if no such proceeding had taken place.

2.04 **Subrogation.** To the full extent of the Indebtedness, Mortgagee is hereby subrogated to the liens, claims and demands, and to the rights of the owners and holders of each and every lien, claim, demand and other encumbrance on the Premises which is paid or satisfied, in whole or in part, out of the proceeds of the Indebtedness, and the respective liens, claims, demands and other encumbrances shall be and each of them is hereby preserved and shall pass to and be held by Mortgagee as additional collateral and further security for the Indebtedness, to the same extent they would have been preserved and would have been passed to and held by Mortgagee had they been duly and legally assigned, transferred, set over and delivered unto Mortgagee by assignment, notwithstanding the fact that the same may be satisfied and cancelled of record.

2.05 **Remedies Cumulative.** Each of the rights of Mortgagee under this Mortgage and the Note is separate and distinct from and cumulative to all other rights herein and therein granted, and all other rights which Mortgagee may have in law or equity, and no such right shall be in exclusion of any other.

2.06 **No Waiver.** No modification or waiver by Mortgagee of any right or remedy under this Mortgage shall be effective unless made in writing. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof upon the occurrence of an Event of Default. No failure by Mortgagee to insist upon the strict performance by Mortgagor of each and every

covenant and agreement of Mortgagor under the Note or this Mortgage shall constitute a waiver of any such covenant or agreement, and no waiver by Mortgagee of any Event of Default shall constitute a waiver of or consent to any subsequent Event of Default. No failure of Mortgagee to exercise its option to accelerate the maturity of the Indebtedness, nor any forbearance by Mortgagee before or after the exercise of such option, nor any withdrawal or abandonment by Mortgagee of any action of or sale upon foreclosure hereunder or any of its rights under such action or sale, shall be construed as a waiver of any option, power or right of Mortgagee hereunder.

III GENERAL PROVISIONS

3.01 Reserved

3.02 Interest Not to Exceed Maximum Allowed by Law. Anything in the Note, the Loan Commitment or this Mortgage to the contrary notwithstanding, it is understood and agreed by the parties that if by reason of acceleration or otherwise, interest paid or contracted to be paid by Mortgagor on the Indebtedness or any part thereof shall exceed the maximum amount permitted by applicable law, then at the option of Mortgagee, the Indebtedness shall immediately become due and payable in full, unless such excess amount may be allocated as additional interest previously accrued or otherwise allocated or credited so as not to exceed the maximum amount permitted by law, in which event such excess shall be so allocated or credited; provided that this sentence shall not operate if there is no applicable law limiting the amount of interest which can be paid on the Indebtedness or if no usury defense is available to Mortgagor. All interest charges provided for in this Mortgage shall be calculated on the basis of a 360 day year.

3.03 Severability. If any provision, paragraph, sentence, clause, phrase or word of this Mortgage, or the application thereof in any circumstance, is held invalid or unenforceable, the validity and enforceability of the remainder of this Mortgage, and of the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance, shall not be affected thereby, it being intended that all rights, powers and privileges of Mortgagee hereunder shall be enforceable to the fullest extent permitted by law.

3.04 Assignment. This Mortgage and the Indebtedness are freely assignable by Mortgagee, and any such assignment by Mortgagee shall operate to vest in such assignee the lien hereof upon and to the Premises and all rights and powers herein conferred. Without limiting the generality of the foregoing, Mortgagor acknowledges that Mortgagee may, at any time and from time to time, sell this Mortgage or any interest herein, pledge or assign this Mortgage or any interest herein as security in

connection with any financing arrangement or enter into any participation or similar cooperative arrangements with respect hereto.

3.05 Waiver of Homestead. Mortgagor, for himself and family, hereby waives and renounces any and all homestead and exemption rights which he or his family may have under or by virtue of the Constitution or the laws of the United States or of any state, in and to the Premises as against the collection of all amounts secured hereby or any part thereof, and does transfer, convey and assign to the holder hereof a sufficient amount of such homestead or exemption as may be allowed, including but not limited to such homestead or exemption as may be set apart in bankruptcy, up to an amount sufficient to pay the amounts secured hereby in full, with all costs of collection, and does hereby direct any trustee in bankruptcy having possession of such homestead or exemption to deliver to Mortgagee a sufficient amount of property or money set apart as exempt to be applied to the amounts secured hereby and does hereby appoint Mortgagee the attorney in fact for Mortgagor to claim any and all homestead exemptions allowed by law. Mortgagor hereby warrants that no one has any homestead rights in the Premises or any part thereof.

3.06 Waiver of Rights to Require Marshalling or Separate Sales. Mortgagor hereby waives any and all rights it may have under applicable law to require the marshalling of assets or of liens or that would require that the Premises to be sold as separate or unitary tracts, lots or units in the event Mortgagee exercises its right to foreclose this Mortgage.

3.07 Waiver of Right of Redemption and Similar Rights. Mortgagor hereby waives the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisal before sale of any portion of the Premises, and (ii) the extension of time for the enforcement of the collection of the Indebtedness or enforcement of this Mortgage or creating or extending a period of redemption from any sale made in collecting said Indebtedness. To the full extent, Mortgagor may do so, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter enforced providing for any appraisal, valuation, stay, extension or redemption, and Mortgagor, for Mortgagor, its heirs, devisees, representatives, successors and assigns, and for any and all persons claiming any interest in the Premises, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of foreclosure of the liens hereby created. If any such law now enforced, of which Mortgagor, its heirs, devisees, representatives, successors and assigns or any other person might take advantage despite this paragraph, shall hereafter be repealed or cease to be enforced,

such law shall not thereafter be deemed to preclude the application of this paragraph.

3.08 Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Mortgagor under this Mortgage, the Note and any and all other instruments now or hereafter evidencing, securing or otherwise relating to the Indebtedness. To the fullest extent permitted by law, Mortgagor waives all present and future statutes of limitation with respect to the Indebtedness or any part thereof in any action or proceeding for the purpose of enforcing this Mortgage or any rights or remedies hereunder.

3.09 Power of Mortgagee to Reconvey or Consent. Without affecting the liability of Mortgagor or any other person for the payment of the Indebtedness or any part thereof, including such of the Indebtedness as may be due at the time of or after any reconveyance of the Premises to Mortgagor, or the lien of this Mortgage upon any remainder of the Premises which has not been so reconveyed for the full amount of the Indebtedness than or thereafter secured hereby, or the rights and powers of Mortgagee with respect to such remainder of the Premises, Mortgagee may, at its option, do any one or more of the following: (i) release all or any part of the Indebtedness; (ii) extend the time or otherwise alter the terms of payment of all or any part of the Indebtedness; (iii) accept additional or substitute security hereunder; (iv) substitute for or release all or any part of the Premises as security hereunder; (v) reconvey to Mortgagee all or any part of the Premises; (vi) consent to the making of any map or plat of all or any part of the Premises; (vii) join in the granting of any easement upon all or any part of the Premises; (viii) join in any extension agreement or any agreement subordinating or otherwise affecting the lien or charge hereof or the priority thereof.

3.10 Successors and Assigns. Each and every covenant, warranty and agreement of Mortgagor herein, if Mortgagor be more than one, shall be jointly and severally binding upon and enforceable against Mortgagor, and each of them. As used herein the terms "Mortgagor" and "Mortgagee" shall include the named Mortgagor and the named Mortgagee and their respective heirs, executors, administrators, legal representatives, successors, successors in title and assigns.

3.11 Mortgage Tax. In the event of the enactment after the date of this Mortgage of any law of the United States or of the state in which the Premises are located or any political subdivision thereof deducting any lien from the value of the Premises for the purpose of taxation, 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 imposing a stamp or other documentary tax on this Mortgage or the

Note or the Indebtedness secured hereby or otherwise changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the indebtedness secured hereby or the holder thereof, then, and in any such event, Mortgagor upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, if in the opinion of counsel for Mortgagee (i) it might be unlawful to require Mortgagor to make such payment or (ii) the making of such payment shall result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, Mortgagee may elect, by notice in writing to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable thirty (30) days from the giving of such notice.

3.12 No Liens. Mortgagor shall pay when due all claims for labor performed and materials furnished in connection with the Premises, and shall keep the Premises free from liens of mechanics, materialmen, laborers and others, from liens under any Federal, state or local environmental statute, and from all other liens, charges, mortgages, security agreements and encumbrances other than encumbrances permitted hereunder and shall exhibit to Mortgagee upon request, satisfactory evidence of the payment and discharge of such liens, charges, and encumbrances.

3.13 No Further Encumbrances. Mortgagor shall not, without the prior written consent of Mortgagee, create, suffer or permit to be created or to exist any mortgage, deed of trust, security interest, or other encumbrance of any kind whatsoever upon all or any part of the Premises, whether junior, secondary or subordinate or senior or prior to the lien of this Mortgage. To the extent the Mortgagee has consented or so consents to any further encumbrances, Mortgagor shall perform all of its obligations with respect to such encumbrances, including without limitation payment when due of all principal, interest and other indebtedness secured thereby, and Mortgagor shall furnish Mortgagee with copies of all checks or other payments made to the holders of such encumbrances. Mortgagor shall also furnish Mortgagee with copies of all notices received from the holders of such encumbrances, including but not limited to notices claiming the existence of a default thereunder or giving notice of a condition which with the passage of time would give rise to a default thereunder.

3.14 Uniform Commercial Code Security Agreement. This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Premises which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagor hereby grants Mortgagee a security interest in said items. Mortgagor agrees that Mortgagee may file this Mortgage,

or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Premises. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Mortgagor agrees to execute and deliver to Mortgagee, upon Mortgagee's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Mortgage in such form as Mortgagee may require to perfect a security interest with respect to said items. Mortgagor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Mortgagee may reasonably require. Without the prior written consent of Mortgagee, Mortgagor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Mortgagor's breach of any covenant or agreement of Mortgagor contained in this Mortgage, including the covenants to pay when due all sums secured by this Mortgage, Mortgagee shall have the remedies of a secured party under the Uniform Commercial Code, and at Mortgagee's option, may also invoke the remedies provided in paragraph 2.02 of this Mortgage as to such items. In exercising any of said remedies, Mortgagee may proceed against the items of real property and any items of personal property specified above as part of the Premises separately or together and in any order whatsoever, without in any way affecting the availability of Mortgagee's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 2.02 of this Mortgage.

3.15 Reserved

3.16 **Captions.** Titles or captions of articles and paragraphs contained in this Mortgage are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Mortgage or the intent of any provision hereof.

3.17 **Number and Gender.** Whenever required by the context, the singular number shall include the plural and the gender of any pronoun shall include the other genders.

3.18 **Reconstruction of Premises.** Anything herein contained to the contrary notwithstanding, in the event of any loss or damage to any portion of the Premises due to fire or other casualty, or in the event that the Premises, or any portion thereof, are taken or damaged under the power of eminent domain or by condemnation or any transaction in lien of condemnation, all proceeds received in connection with any such casualty damage, eminent domain or condemnation (the "Proceeds") shall be deposited with Mortgagee and shall be used to reimburse Mortgagor

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for the cost of rebuilding or restoration and operations of building and improvements on the Premises. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. In the event Mortgagor is entitled to reimbursement out of such proceeds, such proceeds shall be disbursed to Mortgagor through a Construction Escrow established with a Title Company acceptable to Mortgagee from time to time, upon Mortgagee and Escrowee being furnished with such building permits, architect's certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Mortgagee and Escrowee may reasonably require and approve. Mortgagee may, in its discretion, request that payments for the cost of construction be made directly to any contractor, subcontractor, material man, or to any vendor of fixtures and equipment. In the event the cost of restoration exceeds the amount of the Proceeds, Mortgagor shall be required to deposit with Mortgagee a sum of money equal to such deficiency prior to the start of restoration. In the event the Proceeds exceed the cost of restoration, such excess shall be applied as a prepayment of the Loan. Construction shall begin within three (3) months from the date the Proceeds are deposited with Mortgagee. In the event Mortgagor is in default, the Proceeds of any such insurance policy or policies shall, at Mortgagee's option, be applied to the Indebtedness secured hereby. Anything herein contained to the contrary notwithstanding, if, in the sole judgment of Mortgagee, there is reasonable doubt as to Mortgagor's ability to complete construction of the building and improvements, or if restoration is not commenced within three (3) months after any such loss, damage, fire, casualty, condemnation or eminent domain taking all Proceeds shall be applied as a prepayment of the Loan.

3.19 **Mortgagor's Right to Cure Defaults.** Anything herein contained to the contrary notwithstanding, Mortgagee hereby agrees that there shall be no default or Event of Default hereunder unless and until Mortgagee has given Mortgagor written notice thereof, sent by first class mail, which shall set forth (a) the specific nature of the default, (b) the actions which must be taken by the Mortgagor in order to cure said default, and (c) the time period within which any such default must be cured, which, in the event of a default occasioned by non-payment of an amount due and owing to Mortgagee shall not be less than ten (10) days, and in the event of any other default shall not be less than thirty (30) days.

Notice will be mailed to:

STANDARD BANK AND TRUST COMPANY, c/o/t 2198
2400 W. 95th Street
Evergreen Park, IL 60642

with a copy to:

9 1 2 2 0 1 3
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ORCHARD HILL BUILDING COMPANY
6280 Joliet Road
Countryside, IL 60525
Attn: Mr. Terry L. Wollums

3.20 **Partial Releases.** Mortgagee agrees that from time to time upon the request of Mortgagor, Mortgagee will release the lien of this Mortgage from any Lot in the Premises pursuant to a partial release in recordable form upon payment by Mortgagor to Mortgagee of the amount of \$29,400.00. When Mortgagor has paid the Indebtedness in full to Mortgagee, this Mortgage shall thereupon cease and terminate.

This Commercial Mortgage, Security Agreement and Assignment of Leases and Rents is executed by the STANDARD BANK AND TRUST COMPANY, NOT PERSONALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 26, 1989, AND KNOWN AS TRUST NO. 12198, and it is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the Trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against such Trustee on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage or has caused the same to be executed by its duly authorized representatives, the date and year first above written.

STANDARD BANK AND TRUST COMPANY, NOT
PERSONALLY, BUT SOLELY AS TRUSTEE UNDER
TRUST AGREEMENT DATED SEPTEMBER 26,
1989, AND KNOWN AS TRUST NO. 12198.

Attest: 
JAMES J. MARTIN, JR.
Trust Officer

BY: 
LINDA M. KRAJEWSKI, Asst. Trust Officer

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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 the above named LINDA M. KRAJEWSKI, Asst. Trust Officer & JAMES J. MARTIN, JR., Trust Officer 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 severally acknowledged that they signed and delivered the said instrument as such officers of said Bank and caused the seal of said Bank to be thereunto affixed as their free and voluntary act and as the free and voluntary act and deed of said Bank, as the Trustee aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 30th day of April, 1991.

Diane M. Nolan
Notary Public



Property of Cook County Clerk's Office

EXHIBIT "A"

Parcel 1

Lots 22 through 26 both inclusive, 30 through 36 both inclusive, 45, 46, and 65 in planned Unit Development Creekside Unit I, being a Subdivision of the West 1/2 of the South East 1/4 of Section 6, Township 36 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2

The West 1/2 of the South East 1/4 of Section 6, Township 36 North, Range 12, East of the Third Principal Meridian, described as follows: Beginning at the North West corner of Lot 92 in Creekside Unit Two in Section 6, aforesaid; thence South 00 degrees 13 minutes 07 seconds East along the West line of Lots 82 through 92 in Creekside Unit Two aforesaid for a distance of 825.0 feet to the South West corner of Lot 82 aforesaid; thence South 89 degrees 46 minutes 53 seconds West 141.0 feet; thence South 84 degrees 35 minutes 12 seconds West 66.27 feet; thence North 86 degrees 07 minutes 41 seconds West 50.27 feet; thence North 56 degrees 34 minutes 00 seconds West 64.81 feet; thence North 24 degrees 26 minutes 13 seconds West 50.99 feet; thence North 00 degrees 13 minutes 07 seconds West 740.0 feet; thence North 89 degrees 46 minutes 53 seconds East 125.0 feet; thence North 85 degrees 26 minutes 57 seconds East 66.19 feet; thence North 89 degrees 46 minutes 53 seconds East 141.0 feet to the point of beginning in Cook County, Illinois.

Parcel 3

The West half of the Southeast quarter of Section 6, Township 36 North, Range 12 East of the Third Principal Meridian, (except therefrom those parts thereof falling within Creekside Unit One and Creekside Unit Two, both being planned Unit Developments in the West 1/2 of said South East 1/4 and except that part of said West 1/4 of the South East 1/4 described as follows: Beginning at the North West corner of Lot 92 in Creekside Unit Two aforesaid; thence South 00 degrees 13 minutes 07 seconds East along the West line of Lots 82 through 92 in Creekside Unit Two aforesaid for a distance of 825.0 feet to the South West corner of Lot 82 aforesaid; thence South 89 degrees 46 minutes 53 seconds West 141 feet; thence South 84 degrees, 35 minutes 12 seconds West 66.27 feet; thence North 86 degrees 07 minutes 41 seconds West 50.27 feet; thence North 56 degrees 34 minutes 00 seconds West 64.81 feet; thence North 24 degrees 26 minutes 13 seconds West 50.99 feet; thence North 00 degrees 13 minutes 07 seconds West 740.0 feet; thence North 89 degrees 46 minutes 53 seconds East 125.0 feet; thence North 85 degrees 26 minutes 57 seconds East 66.19 feet; thence North 89 degrees 46 minutes 53 seconds East 141.0 feet to the point of beginning in Cook County, Illinois.

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PIN: 27-06-400-001-0000

Common Address: Creekside Subdivision, Units 3 & 4
Orland Park, Illinois

Property of Cook County Clerk's Office

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EXHIBIT B

1. General taxes for the year 1991 and subsequent years.
2. Covenants, restrictions and easements of record.
3. Creekside Subdivision Development Agreement recorded October 20, 1989 as Document 89498669.

Prepared by and Mail to:

STEVEN J. COLOMPOS
17130 So. Torrence Avenue
Lansing, Illinois 60438

Property of Cook County Clerk's Office