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## FIRST SECURITY BANK OF CHICAGO

### CONSTRUCTION MORTGAGE

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THIS MORTGAGE is dated as of July 31, 1991, and is made between Twelve Nine Astor Building Corporation, an Illinois corporation, located at 1209 Astor Street, Chicago, Illinois 60611 ("Mortgagor"); and First Security Bank of Chicago, an Illinois banking corporation, located at 195 East Pearson, Chicago, Illinois 60611 ("Mortgagee").

WITNESS: Mortgagor has executed a promissory note dated July 31, 1991, ("Note") payable to the order of the Mortgagee in the principal amount of \$450,000.00 with interest at the per annum rate of eight percent (8%) from the date of first disbursement through and including July 31, 1992 and thereafter from July 31, 1992 through and including maturity at the per annum rate of two and one-half percent (2.5%) in excess of the Index (as defined in the Note) and, after Default (defined in the Note) or maturity, at the per annum rate of four percent (4%) in excess of the then current interest rate on the Note. The Note with accrued and unpaid interest is payable on July 31, 1996, unless the Note shall become due earlier whether by acceleration or otherwise. The proceeds of the Note will be advanced in multiple disbursements to Mortgagor by Mortgagee for repayment of existing loans and for the construction of certain improvements on the Premises (defined below), all in accordance with the Construction Loan Agreement dated July 31, 1991, made by and between Mortgagor and Mortgagee ("Loan Agreement").

### GRANT OF MORTGAGE

1.1 To secure payment of the indebtedness evidenced by the Note, including any future advances thereunder and any renewals or extensions thereof, the Liabilities (defined below) and the performance of the covenants and agreements of Mortgagor hereunder and under the Loan Agreement, Mortgagor does by these presents CONVEY, WARRANT and MORTGAGE unto Mortgagee, all of Mortgagor's estate, right, title and interest in the real estate situated, lying and being in the County of Cook, and State of Illinois, legally described on attached Exhibit A and made part hereof, which is referred to herein as the "Premises", together with all improvements, buildings, tenements, hereditaments, appurtenances, water, gas, oil, minerals, and easements located in, on, over or under the Premises, and all types and kinds of furniture, fixtures, apparatus, machinery, and equipment, including without limitation, all of the foregoing used in any construction on the Premises or to supply heat, gas, air conditioning, water, light, power, refrigeration or ventilation (whether single units or centrally controlled) and all screens, window shades, storm doors and windows, floor coverings, awnings, stoves and water heaters, whether now on or in the Premises or hereafter erected, installed or placed on or in the Premises, and whether or not physically attached to the Premises. The foregoing items are and shall be deemed a part of the Premises and a portion of the security for the Liabilities as between the parties hereto and all persons claiming by, through or under them. Notwithstanding the foregoing, all items of personal property owned by shareholders of Mortgagor, and their respective lessees, are specifically excluded from the lien of this Mortgage.

1.2 Further, Mortgagor does hereby pledge, assign, transfer, deliver and grant to Mortgagee all of Mortgagor's right, title and interest in and to all general intangibles relating to the development or use of the Premises, including but not limited to all

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governmental permits relating to construction on the Premises, all names under or by which the premises or any Improvements on the Premises may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks and goodwill in any way relating to the Premises.

1.3 Further, Mortgagor does hereby pledge, assign, deliver and grant to Mortgagee all of Mortgagor's right, title and interest in and to all proceeds of the conversion, voluntarily or involuntarily, of the Premises or any part thereof into cash or liquidated claims, including without limitation, proceeds of insurance and condemnation awards.

1.4 Further, Mortgagor does hereby pledge, assign, transfer, deliver and grant to Mortgagee all leases, written or verbal, rents, issues and profits of the Premises, including without limitation, all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, and all deposits of money as advance rent or for security for damage or default, under any and all present and future leases of the Premises, together with the right, but not the obligation, to collect, receive, demand, sue for and recover the same when due or payable. Mortgagee by acceptance of this Mortgage agrees, as a personal covenant applicable to Mortgagor only and not as a limitation of condition hereof and not available to anyone other than Mortgagor, that until a Default or an event shall occur which under the terms hereof shall give to Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive and enjoy such avails.

1.5 Further, Mortgagor does hereby expressly waive and release all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois.

## MORTGAGOR COVENANTS and REPRESENTATIONS

While any of the Liabilities remain outstanding, Mortgagor represents, warrants, covenants and agrees as follows:

2.1 Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed; (b) keep the Premises in good condition and repair, without waste, and, except for this Mortgage, free from any encumbrances, security interests, liens, mechanics' liens, or claims for lien and any other claims or demands against Mortgagor's title to the Premises; (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises and upon request exhibit satisfactory evidence of the discharge of such lien or charge to Mortgagee; (d) complete in a good and workmanlike manner using new materials of first class quality and within a reasonable time any building or improvement now or at any time in process of construction upon the Premises; (e) comply and cause any tenant of the Premises to comply with all requirements of all laws or municipal ordinances with respect to the construction of the Improvements (as defined in the Loan Agreement), maintenance or use of the Premises; (f) make no material alterations in the Premises, except as required by law or municipal ordinance, unless such alterations have been previously approved in writing by Mortgagee; (g) refrain from impairing or diminishing the value of the Premises; (h) use the proceeds of the Note solely for the purposes set forth in the Loan Agreement; (i) perform and comply with all of the terms, provisions and conditions of the

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Loan Agreement, including without limitation, those provisions pertaining to the construction of the Improvements (as defined in the Loan Agreement) upon the Premises; (j) not seek, make or consent to, without Mortgagee's prior written consent, any change in the zoning or conditions of use of the Premises or in the plans for the Improvements thereof or the action which would impair Mortgagee's ability to construct the Improvements on the Premises pursuant to the Loan Agreement.

2.2 Mortgagor shall pay, when due and before any penalty attaches, all general taxes, special taxes, special assessments, water taxes or charges, drainage taxes or charges, sewer service taxes or charges, and other taxes, assessments or charges against the Premises. Mortgagor shall, upon written request, furnish to Mortgagee duplicate paid receipts for such taxes, assessments and charges. To prevent Default hereunder, Mortgagor shall pay in full under protest, in the manner provided by statute, any tax, assessment or charge which Mortgagor may desire to contest prior to such tax, assessment or charge becoming delinquent.

2.3 Upon the request of Mortgagee, Mortgagor shall deliver to Mortgagee all original leases of all or any portion of the Premises, together with assignments of such leases or contracts from Mortgagor to Mortgagee, which assignments shall be in form and substance satisfactory to Mortgagee. Mortgagor shall not, without Mortgagee's prior written consent, procure, permit or accept any prepayment, discharge or compromise of any rent or release any tenant from any obligation at any time while the Liabilities secured hereby remains unpaid (except for termination of a Proprietary Lease in accordance with the by-laws of Mortgagor). Mortgagor shall not, without Mortgagee's prior written consent, accept any amount as liquidated damages or cancel or terminate any contract of sale other than as specifically provided in such contract.

2.4 Any award of damages resulting from condemnation proceedings, exercise of the power of eminent domain, or the taking of the Premises for public use are hereby transferred, assigned and shall be paid to Mortgagee. Such awards or any part thereof may be applied by Mortgagee, after the payment of all of Mortgagee's expenses, including costs and reasonable attorneys' and paralegals' fees, to the reduction of the indebtedness secured hereby in such order of application as Mortgagee may elect, provided however that in the event the award of damages is \$200,000.00 or less, Mortgagor may use the proceeds of the award of damages to rebuild and restore the Premises. Mortgagee is hereby authorized, on behalf and in the name of Mortgagor, to execute and deliver valid acquittances and to appeal from any such award, upon sixty (60) days prior notice to Mortgagor.

2.5 Mortgagor shall keep the Premises and all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by fire, lightning, windstorm, vandalism and malicious damage and such other hazards as may from time to time be designated by Mortgagee. Mortgagor shall keep all buildings and improvements now or hereafter situated on the Premises insured against loss or damage by flood, if the Premises are located in a flood hazard zone. Each insurance policy shall be for an amount sufficient to pay in full the cost of replacing or repairing the buildings and improvements on the Premises and, in no event, less than the principal amount of the Note. Mortgagor shall obtain liability insurance with respect to the Premises in an amount which is acceptable to Mortgagee. All policies shall be issued by companies satisfactory to

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Mortgagee. Each insurance policy shall be payable, in case of loss or damage, to Mortgagee. In the event of any loss or damage which is \$200,000.00 or less, Mortgagee will permit Mortgagor to use the proceeds of the insurance payment to rebuild and restore the Premises. Each insurance policy shall contain a lender's loss payable clause or endorsement in form and substance satisfactory to Mortgagee. In the event of any loss, Mortgagor shall give immediate notice thereof to Mortgagee and any appropriate insurers. The Mortgagee may make any proof of loss to any insurer, if the Mortgagor fails to make a proof of loss immediately to any such insurer. Mortgagee may settle claims with any such insurer, upon sixty (60) days prior notice to Mortgagor. Mortgagor shall deliver all insurance policies, including additional and renewal policies, to Mortgagee. In case of insurance about to expire, Mortgagor shall deliver to Mortgagee renewal policies not less than ten days prior to the respective dates of expiration. Each insurance policy shall not be cancellable by the insurance company without at least 30 days' prior written notice to Mortgagee.

2.6 Notwithstanding any other provisions of this Mortgage, no sale, lease (except for leases of individual apartments to shareholders of Mortgagor on the form Proprietary Lease previously delivered to Mortgagee), mortgage (except for mortgages on individual Proprietary Leases granted by shareholders of Mortgagor), trust deed, or grant by Mortgagor of an encumbrance of any kind, conveyance, transfer of occupancy or possession, contract to sell, or transfer of the Premises or any part thereof shall be made without the prior written consent of Mortgagee.

2.7 Unless otherwise agreed to in writing, Mortgagor covenants and agrees to deposit at the place as Mortgagee may, from time to time, in writing appoint and, in the absence of appointment, then at the office of Mortgagee commencing with the first interest payment pursuant to the Note secured hereby, and on each and every interest payment date thereafter until the Liabilities secured by this Mortgage is fully paid, a sum equal to the last total annual taxes and assessments for the last ascertainable year (general and special) with respect to the Premises divided by the number of annual interest payments due hereunder. Notwithstanding the foregoing, if the taxes or assessments for the last ascertainable year exclude the buildings or improvements or any part thereof now constructed or to be constructed on the Premises, then the amount of the deposits to be paid pursuant to this paragraph shall be based upon the reasonable estimate of Mortgagee as to the amount of taxes and assessments which shall be levied or assessed. Concurrent with the initial disbursement of the Note, Mortgagor will also deposit with Mortgagee an amount based upon the taxes and assessments so ascertainable or so estimated by Mortgagee, as the case may be, for taxes and assessments with respect to the Premises on an accrual basis for the period from January 1, immediately following the year for which all taxes and assessments have been fully paid to and including the date of the first installment tax and assessment deposit hereinabove mentioned. The deposits are to be held in trust in an interest bearing account and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any of the taxes or assessments (general or special) for any year when the same shall become due and payable, Mortgagor shall, within ten days after receipt of a notice and demand from Mortgagee deposit the additional funds as may be necessary to pay such taxes and assessments (general and special). Any excess shall be applied to subsequent deposits for taxes and assessments. For purposes of compliance with the terms



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and provision of this paragraph, Mortgagor may make the monthly deposits for real estate taxes with Mortgagee as provided in the annual budget of Mortgagor.

2.8 Upon request by Mortgagee, concurrent with and in addition to the deposits for general and special taxes and assessments pursuant to the terms of Section 2.7 of this Mortgage, Mortgagor will deposit with Mortgagee a sum equal to the premiums that will next become due and payable on any insurance policies required hereunder, divided by the number of annual interest payments due hereunder so that such payments are sufficient to pay the insurance premiums when they become due and payable. All sums deposited hereunder shall be held in trust in an interest bearing account for the purpose of paying the insurance premiums.

2.9 Mortgagor is the sole owner of the Premises free from any lien, encumbrance or claim, except this Mortgage and the Permitted Exceptions listed on attached Exhibit B.

2.10 The Mortgagor represents and warrants the following:

(a) the Premises and any other Real Property of the Mortgagor and the operations conducted thereon do not violate any applicable federal, state or local law, statute, ordinance, rule, regulation, order or determination of any governmental authority or any restrictive covenant or deed restriction (recorded or otherwise) that have not otherwise been insured over by a title insurer issuing a loan policy in favor of Mortgagee, including without limitation all applicable zoning ordinances and building codes, flood disaster laws and Environmental Laws (defined below);

(b) without limitation of Paragraph (a) above, the Premises and any other Real Property of the Mortgagor and the operations conducted thereon by the Mortgagor or any current or prior owner or operator of the Premises and any other such Real Property or operation, are not and were not in violation of or subject to any existing, pending or threatened action, suit, investigation, inquiry or proceeding by any governmental authority or to any remedial obligations under any Environmental Laws;

(c) all notices, permits, licenses or similar authorizations, if any, required to be obtained or filed in connection with the operation or use of the Premises and any other Real Property of the Mortgagor, including without limitation past or present treatment, storage, disposal or release of a hazardous substance or solid waste into the environment, have been duly obtained or filed;

(d) the Mortgagor has taken all steps necessary to determine and has determined that no hazardous substances or solid wastes have been disposed of or otherwise released and there has been no threatened release of hazardous substances on or to the Premises and any other Real Property of the Mortgagor except in compliance with Environmental Laws;

(e) the Mortgagor has taken all steps necessary to determine that no hazardous substances, hazardous facilities, pollutants or contaminants are located in or on the Premises or in or on any other Real Property of the Mortgagor;

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(f) the Mortgagor has no material contingent liability in connection with any release or threatened release of any hazardous substance or solid waste into the environment;

(g) there are no underground storage tanks on the Premises, (other than an empty tank formerly used for the storage of heating oil which is not deemed to be an "underground storage tank" for purposes of the Illinois Responsible Property Transfer Act); and

(h) the use which the Mortgagor makes or intends to make of the Premises and any other Real Property of the Mortgagor will not result in the unlawful or unauthorized disposal or other release of any hazardous substance or solid waste on or to the Premises and any other Real Property of the Mortgagor.

The terms "hazardous substance", "release" and "threatened release" have the meanings specified in CERCLA (defined below), and the terms "solid waste" and "disposal" (or "disposed") have the meanings specified in RCRA; provided, however, in the event either CERCLA or RCRA (defined below) is amended so as to broaden the meaning of any term defined thereby, such broader meanings shall apply subsequent to the effective date of such amendment, and provided further that, to the extent the laws of any state in which the Premises and any other Real Property of the Mortgagor is located establish a meaning for "hazardous substance", "release", "solid waste" or "disposal" which is broader than that specified in either CERCLA or RCRA, such broader meaning shall apply with regard to the Premises and any other Real Property of the Mortgagor located in such state. The terms "hazardous facilities", "pollutants" or "contaminants" shall have the meanings specified in any applicable local, state or federal statute, ordinance, code or regulation. The term "Real Property" shall include real property the title to which is held by a land trust in which land trust the Mortgagor has a beneficial interest therein.

2.11 The Mortgagor shall maintain in full force and effect all licenses, bonds, franchises, leases, patents, contracts and other rights necessary to the profitable conduct of its business, including, without limitation, all notices, permits or licenses, if any, filed or obtained with regard to compliance with Environmental Laws. The Mortgagor shall continue in and limit its operations to the same general line or type of business as that presently conducted by it and shall comply with all applicable laws and regulations of all federal, state or local governmental authorities, including, without limitation, all Environmental Laws.

2.12 The Mortgagor shall use Mortgagor's best efforts to cause any and all lessees or other operators of the Premises and any other Real Property of the Mortgagor to conduct their respective businesses so as to comply in all material respects with all Environmental Laws; provided, however, that nothing contained in this Paragraph shall prevent the Mortgagor from contesting, in good faith and by appropriate legal proceedings, any such laws, regulation or interpretation or application thereof, provided, further, that the Mortgagor shall comply with the order of any court or other governmental body of applicable jurisdiction relating to such Environmental Laws unless the Mortgagor shall currently be prosecuting an appeal or proceedings for review and shall have secured a stay

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of enforcement or execution or other arrangement postponing enforcement or execution pending such appeal or proceedings for review.

2.13 The Mortgagor shall not permit the presence of any hazardous substances, hazardous facilities, pollutants or contaminants, including asbestos on the Premises. If the Mortgagee determines at any time that asbestos exists on or in the Premises and may present a health hazard, or if removal of any hazardous substance from the Premises is or may be required by applicable governmental or regulatory authorities or pursuant to applicable laws or regulations, the Mortgagee may, in its sole discretion, upon Default, require the removal or containment of such asbestos or any other hazardous substances at the Mortgagor's sole expense.

2.14 The Mortgagor shall use its best efforts to cause all lessees or other operators of the Premises or any other Real Property of the Mortgagor to dispose of any and all hazardous substances or solid waste generated at the Premises or such other Real Property only at facilities and by carriers maintaining compliance with the Environmental Laws. To the best of the Mortgagor's knowledge, all such lessees are operating in compliance with valid permits under RCRA and any other Environmental Law, and shall use its best efforts to obtain certificates of disposal from all contractors employed in connection with the transport or disposal of such hazardous substances or solid waste.

2.15 Upon Default, in the Mortgagee's sole discretion, the Mortgagee, or any person designated by the Mortgagee, shall have the right but not the duty or obligation, from time to time hereafter, to inspect the Mortgagor's Premises or place or places of business (or any other place where the collateral or any information relating thereto is kept or located) during reasonable business hours, without hindrance or delay, to:

(a) verify such matters concerning the Premises as the Mortgagee may consider reasonable under the circumstances;

(b) take soil borings of the Premises or other Real Property of the Mortgagor and conduct any other tests or procedures at the Mortgagor's expense and inspect any books, records, journals, orders, receipts, correspondence, notices, permits or licenses, with regard to compliance with Environmental Laws, and to determine at the Mortgagor's expense whether any hazardous substances are present on the Premises or other Real Property of the Mortgagor.

The Mortgagor will deliver to the Mortgagee, within ten (10) days of request herefor, any instruments necessary to obtain records from any person maintaining such records. The Mortgagor shall pay on demand or within ten (10) days thereafter all costs and expenses incurred by the Mortgagee in acquiring information pursuant to this section with interest thereon at a per annum rate equivalent to the post maturity rate set forth in the note. All expenditures incurred pursuant to the powers herein contained shall become a part of the Liabilities secured hereby. The Mortgagee shall not be liable to account to the mortgagor for any action taken pursuant thereto, except for damage to the Premises caused by the gross negligence or intentional misconduct of Mortgagee.

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2.16 Mortgagor shall indemnify and hold harmless Mortgagee, its participants, affiliates, parent and/or holding company, if any, and Mortgagee's officers, directors, employees or any of them from any and all loss, damage, claims or causes of action of every kind or nature together with all reasonable attorneys' fees, paralegals' fees and other costs and expenses incurred by the Mortgagee arising out of or connected with any of the following: (1) the determination that the Premises or any other property of the Mortgagor has contributed to, caused or become an environmental risk, hazard or pollutant or the suggestion that any hazardous substance, solid waste, hazardous facilities, pollutants, contaminants or petroleum derivatives or the release, threatened release or disposal of any hazardous substance, solid waste, hazardous facilities, pollutants, contaminants, or petroleum derivatives exists on the Premises or any other property owned by the Mortgagor; (2) any failure to comply with or violation of any Environmental Laws; (3) failure to comply with or violation of the Illinois Responsible Property Transfer Act; or (4) any failure to comply with any environmental representation or warranty contained herein or the making of any false environmental representation or warranty contained herein. Any such amounts shall be due and payable to Mortgagee from Mortgagor on demand. Until such amounts are paid to the Mortgagee by the Mortgagor, those amounts shall become additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at a per annum rate equivalent to the post maturity rate set forth in the Note. The provisions of this paragraph shall be in addition to any and all other obligations and Liabilities the Mortgagor may have to the Mortgagee under the Note, this Mortgage, any loan document, and in common law, and shall survive the foreclosure of this Mortgage and the subsequent sale of the Premises whether purchased by Mortgagee or otherwise or acceptance of a deed in lieu of foreclosure.

2.17 As used herein, CERCLA means the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq. As used herein, Environmental Laws means any and all laws, statutes, ordinances, rules, regulations, orders, or determinations of any federal or state governmental authority or courts pertaining to health or the environment in effect at any time in any and all jurisdictions in which the Mortgagor is or at any time may be doing business, or where the Premises and any other Real Property of the Mortgagor are located, including without limitation, the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq., the Comprehensive, Environmental, Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq., (CERCLA), the Federal Water Pollution Control Act Amendments, 33 U.S.C. Section 1251 et seq., the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. Section 651 et seq., the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq., (RCRA), the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300(f) et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq., the Illinois Environmental Protection Act, as amended, Ill. Rev. Stat., ch. 111½, par. 1001 et seq. (1987) and the Illinois Responsible Property Transfer Act, as amended, Ill. Rev. Stat., ch. 30, par. 901 et seq. As used herein, RCRA means the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.



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## MORTGAGEE RIGHTS

3.1 No remedy or right of Mortgagee hereunder shall be exclusive. Each right or remedy of Mortgagee with respect to the Liabilities, this Mortgage or the Premises shall be in addition to every other remedy or right now or hereafter existing at law or in equity. No delay by Mortgagee in exercising or omitting to exercise any remedy or right accruing on Default shall impair any such remedy or right, or shall be construed to be a waiver of any such Default, or acquiescence therein, or shall affect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently and when and as often as may be deemed expedient by Mortgagee.

3.2 If Mortgagee makes any payment authorized by this Mortgage relating to taxes, assessments, charges, liens, security interests, encumbrances or insurance, Mortgagee may do so according to any bill, statement or estimate received from the appropriate party claiming such funds without inquiry into the accuracy or validity of such bill, statement or estimate or into the validity of the lien, encumbrance, security interest, tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

3.3 Upon notice to Mortgagor, Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

## DEFAULT AND RIGHTS ON DEFAULT

4.1 Upon Default, at the sole option of Mortgagee, the Note or any other Liabilities shall become immediately due and payable, and Mortgagor shall pay all expenses of Mortgagee, including reasonable attorneys' and paralegals' fees, incurred in connection with this Mortgage and all expenses incurred in the enforcement of Mortgagee's rights in the Premises and other costs incurred in connection with the disposition of the Premises. The term "Default" when used in this Mortgage means any one or more of the events, conditions or acts defined as a "Default" in the Note or the Loan Agreement, or the failure of Mortgagor to pay and perform the Note, the Loan Agreement or Liabilities in accordance with their terms, or failure of Mortgagor to comply with or to perform in accordance with any representation, warranty, term, provision, condition, covenant or agreement contained in this Mortgage or any instrument, agreement or writing securing any Liabilities to which the Mortgagor and Mortgagee are parties. Any Default under the Note shall be Default under this Mortgage.

4.2 Upon any Default hereunder, Mortgagee may, but need not, make any payment or perform any act required of Mortgagor hereunder or under the Loan Agreement in any form and manner deemed expedient by Mortgagee. Mortgagee may, but need not, complete construction of the Improvements (as defined in and pursuant to the Loan Agreement) and enter into the necessary contract therefor. Mortgagee may, but need not, make full or partial payments of principal or interest on any encumbrances, liens or security interests affecting the Premises, and Mortgagee may purchase, discharge, compromise or settle any tax lien or other lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' and paralegals' fees, and any other funds advanced by

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Mortgagee to protect the Premises or the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at a per annum rate equivalent to the post maturity rate set forth in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to Mortgagee on account of any Default hereunder.

4.3 When the indebtedness secured hereby shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien of this Mortgage. In any suit to foreclose the lien of this Mortgage, there shall be allowed and included as additional indebtedness in the judgment of foreclosure all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' and paralegals' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, tax and lien searches, and similar duties and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute the foreclosure suit or to evidence to bidders at any foreclosure sale. All of the foregoing items, which may be expended after entry of the foreclosure judgment, may be estimated by Mortgagee. All expenditures and expenses mentioned in this paragraph, when incurred or paid by Mortgagee shall become additional indebtedness secured hereby and shall be immediately due and payable, with interest thereon at a rate equivalent to the post maturity interest rate set forth in the Note. This paragraph shall also apply to any expenditures or expenses incurred or paid by Mortgagee or on behalf of Mortgagee in connection with (a) any proceeding, including without limitation, probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness secured hereby, or (b) any preparation for the commencement of any suit for the foreclosure of this Mortgage after accrual of the right to foreclose whether or not actually commenced or preparation for the commencement of any suit to collect upon or enforce the provisions of the Note or any instrument which secures the Note after Default, whether or not actually commenced, or (c) any preparation for the defense of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced.

4.4 The proceeds of any foreclosure sale shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all the items that are mentioned in the immediately preceding paragraph; second, all other items which under the terms of this Mortgage constitute indebtedness secured by this Mortgage additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note and the Liabilities (first to interest and then to principal); fourth, any surplus to Mortgagor or Mortgagor's heirs, legal representatives, successors or assigns, as their rights may appear.

4.5 Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such suit is filed may appoint a receiver of the Premises. The receiver's appointment may be made either before or after entry of judgment of foreclosure, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for the receiver and without regard to the then value of the Premises or whether the Premises shall be then occupied as a homestead or not. Mortgagee may be appointed as

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the receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises during the pendency of the foreclosure suit and, in case of an entry of judgment of foreclosure, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of the receiver, would be entitled to collect the rents, issues and profits. Such receiver shall also have all other powers which may be necessary or are usual for the protection, possession, control, management and operation of the Premises. The court in which the foreclosure suit is filed may from time to time authorize the receiver to apply the net income in the receiver's hands in payment in whole or in part of the indebtedness secured hereby, or secured by any judgment foreclosing this Mortgage, or any tax, special assessment or other lien or encumbrance which may be or become superior to the lien hereof or of the judgment, and the deficiency judgment against Mortgagor or any guarantor of the Note in case of a foreclosure sale and deficiency.

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

## DEFINITIONS

5.1 "Liabilities" means any and all liabilities, obligations and indebtedness of Mortgagor to Mortgagee under the Note, the Loan Agreement, and this Mortgage and for any other liabilities, obligations and indebtedness of Mortgagor to Mortgagee whether heretofore, now or hereafter owing or arising, due or payable, however created, arising or evidenced, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, whether existing or arising, through discount, overdraft, purchase, direct loan, by operation of law or otherwise. "Liabilities" also includes all costs of collection, legal expenses, and reasonable attorneys' and paralegals' fees incurred or paid by Mortgagee in attempting to enforce Mortgagee's rights, remedies and security interests hereunder, including advising the Mortgagee or drafting any documents for the Mortgagee at any time, or to enforce or collect the Note, Loan Agreement, or any other indebtedness of Mortgagor or any guarantor of the Note to Mortgagee, or in the repossession, custody, sale, lease, assembly or other disposition of any collateral for the Note. *In no event shall the lien of this Mortgage secure more than 150% of the original principal amount of the Note.*

5.2 This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and all persons or parties claiming by, under or through Mortgagor. The word "Mortgagor" when used herein shall also include all persons or parties liable for the Liabilities secured hereby or any part thereof, whether or not such persons or parties shall have executed the Note, the Loan Agreement or this Mortgage, including their respective heirs, estates, personal representative, successors and assigns. In no event shall the word "Mortgagor" include shareholders of Mortgagor or tenants of the individual apartments in the building on the Premises. Each Mortgagor shall be jointly and severally obligated hereunder. The singular shall include the plural, the plural shall mean the singular and the use of any gender shall be applicable to all genders. The word "Mortgagee" includes the successors and assigns of Mortgagee.

## MISCELLANEOUS

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6.1 Mortgagee shall release this Mortgage by a proper release after payment and satisfaction in full of the Note and all Liabilities.

6.2 MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE OF THIS MORTGAGE AND ANY RIGHTS OF REINSTATEMENT PURSUANT TO THE LAWS OF THE STATE OF ILLINOIS REGARDING FORECLOSURE OF MORTGAGES, ON MORTGAGOR'S OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF THE MORTGAGOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE.

6.3 This Mortgage has been made, executed and delivered to Mortgagee in Cook County, Illinois and shall be construed in accordance with the laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law. If any provisions of this Mortgage are prohibited by or determined to be invalid under applicable law, such provisions shall be ineffective to the extent of such prohibitions or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Mortgage.

6.4 This Mortgage is subject to the terms, provisions and conditions of the Loan Agreement. In the event of any inconsistency or conflict between the terms, provisions or conditions of this Mortgage and the Loan Agreement, the Loan Agreement shall control in all instances.

6.5 All notices, requests and other communications hereunder or under any related document shall be in writing and shall be given to the party to whom sent, addressed to it, at its address set forth on the first page of this Mortgage or such other address as such party may hereafter specify in writing for the purpose by notice to the other party set forth below. Each such notice, request or communication shall be effective (i) if by personal delivery, when notice is received; or (ii) if given by mail (postage prepaid), three (3) business days after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid.

If to the Mortgagor:  
Twelve Nine Astor Building Corporation  
1209 Astor Street  
Chicago, Illinois  
Attn: Dr. Harry Strashburg  
President



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with a copy to:

LaThomus & Co.  
15 East Superior  
Chicago, Illinois 60611

and with a copy to

Mr. Donald A. Robinson  
55 East Monroe Street  
46th Floor  
Chicago, Illinois 60601

If to the Mortgagee:

First Security Bank of Chicago  
197 East Pearson  
Chicago, Illinois 60611  
Attention: Mr. Robert P. Fahy

with a copy to:

DeHaan & Richter, P.C.  
55 W. Monroe Street  
Suite 1000  
Chicago, Illinois 60601

WITNESS the hand and seal of Mortgagee the day and year set forth above

TWELVE NINE ASTOR BUILDING  
CORPORATION, an Illinois corporation

By [Signature]  
Its President

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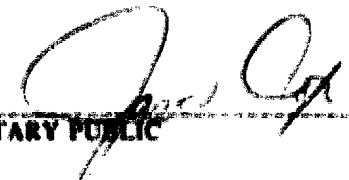
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STATE OF ILLINOIS

COUNTY OF DuPage

I, JANE, a Notary Public in and for the County and State aforesaid, do hereby certify that HARRY STEASBURG personally known to me to be the same person whose name is subscribed as PRESIDENT of JADE NINE ASTER BUILDING CORPORATION corporation, to the foregoing instrument, appeared before me this day in person and acknowledged to me that he, being thereunto duly authorized, signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2nd day of AUGUST, 1998.

  
NOTARY PUBLIC

My Commission Expires:



PROBATE CLERK'S OFFICE  
COOK COUNTY

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## EXHIBIT A

Lots 10, 11 and 12 (except the South 15.88 feet of said Lot 12) in Block 9 in H. O. Stone's Subdivision of Astor's Addition to Chicago, in the North Fractional 1/2 of Section 3, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 17-03-113-003-0000

Commonly known as: 1209 Astor, Chicago, Illinois

This Document Prepared By  
And Mail To:

Rogene V. Tubman, Esquire  
DeHaan & Richter, P.C.  
55 W. Monroe Street  
Chicago, Illinois 60603

**BOX 333**

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## EXHIBIT B

### Permitted Exceptions

1. TERMS, PROVISION, CONDITIONS AND RIGHTS UNDER THE PROPRIETARY LEASES ISSUED BY TWELVE NINE ASTOR BUILDING CORPORATION, AN ILLINOIS CORPORATION.
2. TERMS, PROVISION, RESTRICTIONS AND CONDITIONS OF INSTRUMENT RECORDED MAY 19, 1976 AS DOCUMENT 23490191 BY THE COMMISSION ON CHICAGO HISTORICAL AND ARCHITECTURAL LANDMARKS DESIGNATING THE LAND A CHICAGO LANDMARK.
3. AGREEMENT DATED MARCH 23, 1925 AND RECORDED MARCH 28, 1925 AS DOCUMENT 8833884 BETWEEN CHICAGO TITLE AND TRUST COMPANY, AS TRUSTEE AND ARTHUR GALT ESTABLISHING WALL NOW ON NORTH LINE OF THE SOUTH 15.38 FEET OF LOT 12 AFORESAID AS PARTY WALL.
4. BUILDING LINE ESTABLISHED AT THE STREET LINE OF ASTOR STREET BY AGREEMENT BETWEEN MORRIS VEHON AND NELLIE, HIS WIFE AND ASTOR BUILDING CORPORATION DATED MARCH 15, 1926 AND RECORDED MAY 5, 1926 AS DOCUMENT 9264552 BANK 22577, PAGE 89.
5. SECURITY INTEREST OF AETNA BANK, SECURED PARTY, IN CERTAIN DESCRIBED CHATTELS ON THE LAND, AS DISCLOSED BY FINANCING STATEMENT EXECUTED BY DAVID TENNEY AND KATHERINE TENNEY, DEBTOR, AND FILED ON APRIL 27, 1990 AS NO. 90U09092. (AFFECTS UNIT 6N).
6. LEASE MORTGAGE DATED DECEMBER 27, 1987 AND RECORDED APRIL 6, 1990 AS DOCUMENT 90157464 MADE BY JAMES W. CLARKE TO NORTHERN TRUST COMPANY, TO SECURE A NOTE FOR \$181,357.00 (AFFECTS UNIT 4S).
7. LEASE ASSIGNMENT DATED APRIL 24, 1990 AND RECORDED SEPTEMBER 13, 1990 AS DOCUMENT 90448067 MADE BY PHILLIP HUSCHER AND FRANCES HUSCHER, HIS WIFE, TO FIRST SECURITY BANK OF CHICAGO.
8. LEASE ASSIGNMENT DATED JUNE 7, 1990 AND RECORDED SEPTEMBER 13, 1990 AS DOCUMENT 90448069 MADE BY PHILLIP HUSCHER AND FRANCES HUSCHER, HIS WIFE, TO FIRST SECURITY BANK OF CHICAGO. (AFFECTS UNIT 12S).
9. EQUITABLE MORTGAGE AS DISCLOSED BY LEASE ASSIGNMENT NOTED ABOVE AT NUMBER 20 TO FIRST SECURITY BANK OF CHICAGO, IN THE AMOUNT OF \$50,000.00. (AFFECTS UNIT 12S).
10. CO-OP CREDIT LINE AGREEMENT AND DISCLOSURE STATEMENT AMENDED AND RESTATED DATED APRIL 16, 1990 AND RECORDED OCTOBER 3, 1990



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AS DOCUMENT 90482691 MADE BY SARA A. CLARKE AND JAMES C. CLARKE AND THE NORTHERN TRUST COMPANY. MAXIMUM CREDIT AMOUNT, \$236,00.00. (AFFECTS UNIT 4S).

11. PLEDGE AND SECURITY AGREEMENT AND ASSIGNMENT OF LEASE DATED MARCH 12, 1991 AND RECORDED MARCH 21, 1991 AS DOCUMENT 91126420 MADE BY BURT FAINMAN AND MARION FAINMAN, HIS WIFE, AND AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO.
12. EQUITABLE MORTGAGE MADE BY BURT FAINMAN AND MARION FAINMAN, HIS WIFE, TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO TO SECURE A NOTE FOR \$155,000.00 AS DISCLOSED BY PLEDGE AND SECURITY AGREEMENT AND ASSIGNMENT OF LEASE NOTED ABOVE AT NUMBER 23. (AFFECTS UNIT 8N).
13. AGREEMENT BETWEEN TWELVE NINE ASTOR CORPORATION AND THE OWNER OF THE PROPERTY TO THE NORTH OF THE PREMISES RELATING TO THE NORTH WALL OF THE PREMISES AND IVY GROWING THEREON.