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FOURTH AMENDMENT TO MORTGAGE, SECURITY AGREEMENT, AND ASSIGNMENT OF RENTS

THIS FOURTH AMENDMENT TO MORTGAGE, SECURITY AGREEMENT, AND ASSIGNMENT OF RENTS (this "Amendment") is made as of September 15, 1993 by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, not personally but solely as trustee under Trust Agreement dated January 4, 1977 and known as Trust No. 39522 (herein, together with its successors in such capacity, called the "Mortgagor") and CONTINENTAL BANK N.A., a national banking association (herein, together with its successors and assigns, called the "Mortgagee") RECORDING

RECITALS:

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- The Mcrigagor executed and delivered to the Mortgagee a certain Mortgage, Security Agreement, and Assignment of Rents, dated as of October 23, 1987, which was filed in the Office of the Registrar of Torrens Titles of Cook County, Illinois on October 23, 1987 as Dccument LR3661919 and which was amended by (i) a certain Amendment of Mortgage dated as of February 25, 1988 and filed in the Office of the Registrar of Torrens Titles of Cook County, Illinois on March 25, 1988 as Document LR3696074; (ii) a certain Second Amendment to Mortgage dated as of March 31, 1989 and filed in the Office of the Registrar of Torrens Titles of Cook County, Illinois as Document LR3792942; and (iii) a certain Third Amendment to Mortgage, Security Agreement, and Assignment of Rents dated as of October 20, 1992 and filed in the Recorder's Office of Cook County, Illinois as Document No. 92949334 (said mortgage as so amended is negein called the "Original Mortgage"). All terms which are capitalized herein and are not otherwise defined herein are defined for purposes hereof as in the Original Mortgage. The Original Mortgage encumbers, inter alia, the real estate described on Exhibit inhereto.
- B. A.J. Gerrard & Company, an Illinois corporation (herein, together with its successors and assigns, called the "Birrower"),. and the Mortgagee have agreed to amend the instruments and documents evidencing and governing the indebtedness secured by the Original Mortgage. To effect the aforesaid changes the Borrower and the Mortgagee have executed and delivered the following:
- (i) a certain replacement Term Note (as amended, modified, restated, extended and replaced from time to time, the "1993 Replacement Term Note"), dated as of September 23, 1993, made by the Borrower payable to the order of the Mortgagee on June 30,

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2000, subject to acceleration, in the original principal amount of \$13,500,000.00 which 1993 Replacement Term Note amends and restates the Replacement Term Note;

- (ii) a certain Eighth Amendment to Term Loan Agreement (the "Eighth Amendment"), dated as of September 15, 1993 between the Borrower and the Mortgagee amending the Amended Term Loan Agreement which has previously been amended by a Third Amendment dated as of April 30, 1990; by a Waiver and Fourth Amendment dated as of June 15, 1990; by a Fifth Amendment dated as of April 10, 1991; by a Sixth Amendment dated as of July 15, 1992 and by a Sevence Amendment dated as of June 24, 1993 (said Amended Term Loan Agreement as amended prior to the date hereof is herein called the "Original Term Loan Agreement as amended by the Sixth Amendment is herein called the "Amended Term Loan Agreement 9/15/93");
- (iii) a certain replacement Promissory Note (as amended, modified, restated, extended and replaced from time to time, the "1993 Replacement Line of Credit Note"; the Replacement Term Note and the Replacement Line of Credit Note are herein called the "1993 Replacement Notes"), dated as of September 23, 1993, made by the Borrower payable to the order of the Mortgagee on demand in the principal amount of \$23,000,000.00 which Replacement Line of Credit Note amends and restates the Replacement Line of Credit Note; and
- (iv) a certain Sixth Amendment to Line of Credit Agreement (the "Sixth Amendment to Line"), dated as of September 15, 1993, between the Borrower and the Mortgagee amending the Amended Line of Credit Agreement which has been previously amended by a Third Amendment dated as of April 30, 1990; by a fourth Amendment dated as of April 10, 1992; and by a Fifth Amendment dated as of July 15, 1992 (said Amended Line of Credit Agreement as amended prior to July 15, 1992 is herein called the "Original Line of Credit Agreement"; the Original Line of Credit Agreement as amended by the Fifth Amendment to Line is hereinafter called the "Amended Line of Credit Agreement 9/15/93").

The interest rates on the loans evidenced by the 1993 Replacement Notes vary from time to time as determined by formulas set forth in the 1993 Replacement Notes, the Amended Term Loan Agreement - 9/15/93 and the Amended Line of Credit Agreement - 9/15/93.

C. The Mortgagor and the Mortgagee have agreed to amend the Original Mortgage as set forth hereinbelow.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor and the Mortgagee agree as follows:

- 1. The term "Notes" as used in the Original Mortgage shall hereinafter mean the 1993 Replacement Notes as they may be amended, modified, extended, replaced, and supplemented from time to time.
- 2. The terms "Term Loan Agreement" and "Line of Credit Agreement" as used in the Original Mortgage shall hereinafter mean the Amended Term Loan Agreement 9/15/93 and the Amended Line of Credit Agreement 9/15/93, respectively, as each may be amended, modified, restated, and supplemented from time to time.
- 3 The maximum amount of principal which may be secured by the Original Mortgage as set forth in the Eighth Whereas clause of the Original Mortgage is hereby increased to \$36,500,000.00.
- 4. The Mortgagor confirms and agrees that the indebtedness secured by the Original Mortgage as amended hereby is the same indebtedness as was heretofore secured by the Original Mortgage.
- 5. All references in the Original Mortgage to the "Mortgage" shall be deamed to mean and include the Original Mortgage as amended hereby.
- 6. The Mortgagor expraosly agrees and understands that this Amendment shall not be construed as a novation of the Original Mortgage.
- 7. The Original Mortgage, as supplemented and amended hereby, is ratified and confirmed by the Mortgagor in its entirety.
- 8. Except as and to the extent amended by this Amendment, the Original Mortgage and all of the terms, conditions and provisions thereof shall, in all respects, remain unmodified and unchanged and are hereby reaffirmed, ratified and confirmed and shall remain in full force and effect.
- 9. This Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
- 10. This Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all counterparts shall together constitute but one and the same Amendment.
- 11. This instrument is executed by the Mortgagor, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

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hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on the undersigned personally to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by every person now or hereafter claiming any right of security hereunder.

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UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid

Ву:____

ATTEST:

By:_

Name:_ Title:

Action Tolling

CONTINENTAL BANK N.A.

BV:

Name: 22201000

Mitle: Exercise Ver Posident

ATTEST:

Bv:

Name:

Title: Nice President

Title: <u>Vic</u>

This instrument was prepared by and should be returned after recording to:

Rex A. Palmer, Esq. Mayer, Brown & Platt 190 South LaSalle Street Chicago, Illinois 60603 (312) 782-0600

STATE OF ILLINOIS)) SS
COUNTY OF COOK)
I, IAURA KIMINGO , a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY THAT I, MICHAEL WHELD! personally known to me to be the VICE President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee under Trust Agreement lated January 4, 1977 and known as Trust No. 39522 and personally known to me to be the ASSISTANT SECRETARY Secretary of said Corporation, whose names are subscribed to the vithin instrument, appeared before me this day in person and severally acknowledged that as YICH President and ASSISTANT SUCRETARY Secretary of said Corporation, and caused the seal of said corporation to be thereunto affixed, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.
GIVEN under my hand and SEP 28 1901 seal this day of September, 1993.
Notary Public
My Commission Expires:
"OFFICIAL SCAL" LAURA KUMINGO Notery Public, State of Illinois My Commission Expires 11/24/99
N. A.

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

MARRIAN KLANCS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, THAT Marcus desires , Carculus Vic President of the within named CONTINENTAL BANK N.A. (formerly Continental Illinois National Bank and Trust Company of Chicago), a national banking association, and Busine House, Jung ficulture of said association, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Laction 1 President and Min Mandal , respectively, and to me personally known to be such officers of said association, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and deed of said association, for the uses and purposes therein set forth; and the said Saute Notice did also then and there acknowledge that he, as custodian of the corporate seal of said association, did affix the said seal of said association to said instrument, as his own free and voluntary act and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of September, 1993.

"OFFICIAL SEAL"
ANDRES M. LLANES
NOTARY PUBLIC, STATE OF REINOIS
MY COMMISSION EXPIRES 1-19-94

Notary Public

My Commission Expires:

1 10.94

EXHIBIT A

LEGAL DESCRIPTION

THE WEST 489.423 FEET (AS MEASURED ALONG THE SOUTH LINE THEREOF) OF THAT PART OF THE WEST HALF OF THE SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING EAST OF THE EAST LINE OF THE RIGHT OF WAY OF THE DES PLAINES VALLEY RAILROAD AND LYING SOUTH OF THE SOUTHERLY LINE OF THE ILLINOIS TOLL ROAD AS DESCRIBED IN DOCUMENT 1747978 REGISTERED IN THE REGISTRAR'S OFFICE OF COOK COUNTY, ILLINOIS (EXCEPTING FROM SAID TRACT OF LAND THAT PART THEREOF LYING NORTHERLY OF A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SAID RIGHT OF WAY 19.636 FEET SOUTH OF THE POINT OF INTERSECTION OF SAID EAST LINE WITH THE SOUTHERLY LINE OF THE ILLINOIS TOLL ROAD AFORESAID THENCE SOUTH EASTERLY 60.24 FEET ALONG THE ARC OF A CIRCLE CONVEX TO THE SOUTH WEST OF RADIUS 301.58 FEET AND WHOSE CHORD BEARS SOUTH 35 DEGREES 31 MINUTES 08.5 SECONDS EAST; THENCE SOUTH 26 DEGREES 27 MINUTES 17 SECONDS EAST 32.83 FEET; THENCE SOUTH EASTERLY 264.276 FEET ALONG THE ARC OF A CIRCLE CONVEX TO THE SOUTH WEST OF RADIUS 311.5% FEET AND WHOSE CHORD BEARS SOUTH 71 DEGREES 23 MINUTES 15 SECONDS LAST THENCE NORTH 84 DEGREES 18 MINUTES 50 SECONDS EAST 50.0 FEET ALONG A LINE TANGENT TO THE LAST DESCRIBED ARC THENCE EASTERLY 129.81 FEET ALONG THE ARC OF A CIRCLE CONVEX TO THE NORTH OF RADIUS 291.58 FEET AND TANGENT TO THE LAST DESCRIBED LINE TO A POINT ON A LINE TANGENT WITH SAID ARC AND 20.0 FEET SOUTHWESTERLY OF AND PARALLEL WITH THE SOUTHERLY LINE OF THE ILLINOIS TOLL ROAD AFDRESAID: THENCE SOUTH 70 DEGREES 10 MINUTES 41 SECONDS EAST 20.02 FEET ALONG SAID PARALLEL LINE TO A POINT ON THE EAST LINE OF THE WEST 489.423 FEET AFOREMENTIONED, ALL IN COOK COUNTY, ILLINGIS, AND ALSO EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST RIGHT OF WAY LINE OF THE DES PLAINES VALLEY, RAILROAD DISTANT 50.07 FEET NORTH MEASURED AT RIGHT ANGLES FROM SAID SOUTH LINE OF THE SOUTH WEST 1/4 OF THE SOUTH EAST 1/4 OF SECTION 30; THENCE EASTERLY ALONG A STRAIGHT LINE A DISTANCE 489.42 FEET TO A POINT IN THE EAST LINE OF SAID WEST 489.423 FEET DISTANT 49.94 FEET NORTH MEASURED AT RIGHT ANGLES FROM SAID SOUTH LINE OF THE SOUTH WEST 1/4 OF THE SOUTH EAST 1/4 OF SAID SECTION 30, IN COOK COUNTY, ILLINOIS).

Common Address: 400 East Touhy Avenue, Des Plaines, Illinois 60018

PIN: 09-30-400-015-000

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