

MORTGAGE, ASSIGNMENT OF RENTS & SECURITY AGREEMENT (CHATTEL MORTGAGE)

THIS MORTGAGE ("Security Instrument") is given on December 29, 1992, by Mid Town Bank and Trust Company of Chicago, not personally, but as Trustee ("Trustee") under Trust Agreement dated November 20, 1992 and known as Trust No. 1837; and Donald R. Scherer married to Barbara Labanz, ("Beneficiary" and collectively with Trustee herein referred to as "Mortgagor"). This Security Instrument is given to Mid Town Bank and Trust Company of Chicago, which is organized and existing under the laws of the State of Illinois, and whose address is 2021 North Clark Street, Chicago, Illinois 60614 ("Lender"). Mortgagor is justly indebted to Lender in the principal sum of Eighty-One Thousand and 00/100 (U.S. \$81,000.00) Dollars, which indebtedness is evidenced by a certain note dated of even date herewith ("Note"), which Note provides for payments of the indebtedness as set forth below:

Interest

Borrower promises and agrees to pay to Lender interest on the unpaid principal balance evidenced by this Note at the following rate: seven and three-quarters percent (7.75%) per annum Interest shall be computed on the basis of a 360-day year.

DEPT-01 RECORDING \$41.50
TRAN 3675 01/04/93 15:38:00
A \*93-002123
COOK COUNTY RECORDER

Term

This Note shall be due and payable in full on the maturity date which shall be January 1, 1996 (the "Maturity Date").

Required Payments

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Principal and interest payments in the amount of Seven Hundred Sixty-Two and 44/100 (\$762.44) Dollars (based on a fifteen (15) year amortization) shall be due and payable monthly beginning February 1, 1993 and on that day each month thereafter until all of said outstanding principal plus any remaining accrued interest and late charges, if any, are repaid in full.

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Rate Change Provision

The rate stated above is a special rate offered by Lender to Borrower on the strict condition that the Borrower maintain a check account with Lender which will be automatically debited for payments due under the loan. If Borrower fails to maintain an account with a sufficient balance when needed to be debited automatically for each payment, when due, then, at Lender's option, the interest rate will increase one-half percent (0.50%) per annum, and such increase will be effective as of the first day of the month preceding the month in which a payment is not automatically debited.

Borrower shall have no obligation to maintain a checking account with Lender or to continue with the automatic debiting of the account. At any time Borrower may instruct Lender to close such checking account or discontinue the automatic debiting of such account; provided, however, that if the interest rate is automatically increased as herein provided (whether on account of a default or voluntary action of the Borrower), Lender shall have no obligation to reinstate the lower interest rate if the Borrower cures any default or later requests reinstatement of the automatic debiting procedure.

If the Initial Interest Rate is increased, the amount of each remaining Monthly Installment will be higher than the amount stated in paragraph 3 above.

If the Initial Interest Rate increased after one (1) year, then, for the remaining term of the Note, Borrower shall be required to make twenty-three (23) monthly installments each in the amount of Seven Hundred Eighty-Four and 58/100 (\$784.58) Dollars and One (1) remaining payment of principal and interest and late charges, if applicable.

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications; (b) the payment of all other sums, with interest, advanced under any paragraph herein to protect the security of this Security Instrument; and (c) the performance of Mortgagor's covenants and agreements under this Security Instrument and the Note and all other documents and agreements entered into in connection therewith (the "Loan Documents"). For this purpose, Mortgagor does hereby mortgage, grant and convey to Lender the following described property located in Cook County, Illinois:

SEE EXHIBIT "A" ATTACHED HERETO AND HEREBY MADE A PART HEREOF

which has the address of 1940 West Belle Plaine Avenue, Chicago, Illinois 60613 ("Property Address"); which, with the property hereinafter described, is referred to herein as the "Premises",

TOGETHER with all improvements, fixtures and personal property thereto belonging, for so long and during all such times as Mortgagor, its successors or assigns may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing (collectively referred to herein as the "Improvements") are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment, or articles hereafter placed in the Premises by Mortgagor, its successors or assigns shall be considered as constituting part of the real estate.

Handwritten signature

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TOGETHER with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, in and to the same;

TOGETHER with all income from the premises to be applied against the indebtedness, provided, however, that Mortgagee may, so long as no default has occurred hereunder, collect income and other benefits as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER with all proceeds of the foregoing, including without limitation all judgments, awards or damages and settlements hereafter made resulting from condemnation proceeds or the taking of the premises or any portion thereof under the power of eminent domain, any proceeds or any policies of insurance, maintained with respect to the premises or proceeds of any sale, option or contract to sell the premises or any portion thereof.

TO HAVE AND TO HOLD the premises, unto the Lender, its successors and assigns, forever, for the purposes herein set forth together with all right to possession of the premises after the occurrence of any default as hereinafter defined; the Mortgagee hereby RELINQUISHING AND WAIVING all rights under and by virtue of the homestead exemption laws of the State of Illinois.

BORROWER COVENANTS that it is lawfully seized of the Land, and that it has lawful authority to mortgage the same, and that it will warrant and defend the Land and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

PROVIDED, NEVERTHELESS, that if Mortgagee shall pay in full when due the indebtedness and shall timely perform and observe all of the provisions herein and in the Note provided to be performed and observed by the Mortgagee, then the Security Instrument and the interest of Lender in the premises shall cease and become void, but shall otherwise remain in full force.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

A. Maintenance, Repair, Repaint, Compliance with Law, etc. Mortgagee, its successors or assigns shall: 1. promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; 2. keep said premises in good condition and repair, without waste, and free from mechanical, or other liens or claims for lien not expressly subordinated to the Lien hereof; 3. pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the Lien hereof and upon request exhibit satisfactory evidence of the discharge of such prior lien or charge to the holder of the Note; 4. complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises, or at Lender's election, within the time period set forth in any other loan document; 5. comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; 6. refrain from any action and correct any condition which would increase the risk of fire or other hazard to the improvements; 7. comply with any restrictions of record with respect to the premises, and comply with any conditions necessary to preserve and extend all rights that are applicable to the premises; and 8. cause the premises to be managed in a competent manner. Without the prior written consent of Lender, Mortgagee shall not cause, suffer, or permit any material alterations of the premises except as required by law or except as permitted or required to be made by the terms of any leases approved by Lender; b. change in the intended use of the premises; c. change in the identity of the person or firm responsible for managing the premises; d. zoning reclassification with respect to the premises; e. unlawful use of, or nuisance to exist upon, the premises; or f. granting of any easements, licenses, covenants, conditions or declarations of use against the premises, other than use restrictions contained or provided for in leases approved by Lender.

B. Taxes 1. Mortgagee shall pay, before any penalty attaches, all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises (collectively "Taxes") when due, and shall, upon written request, furnish to Lender, its successors or assigns duplicate receipts therefor. 2. Mortgagee may, in good faith and with reasonable diligence, contest the validity or amount of any such Taxes, provided: a. Such contest shall prevent the collection of the Taxes so contested and the sale or forfeiture of the premises or any part thereof or interest therein to satisfy the same; b. Mortgagee has notified Lender in writing of the intention of Mortgagee to contest the same before any Tax has been increased by any interest, penalties, or costs, and c. Mortgagee has deposited with Lender, at such place as Lender may from time to time in writing designate, a sum of money or other security acceptable to Lender that, when added to the monies or other security, if any, deposited with Lender pursuant to Paragraph 7 hereof, is sufficient, in Lender's judgment, to pay in full such contested Tax, including interest and penalties, and shall increase such deposit to cover additional interest and penalties whenever Lender deems such an increase advisable.

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If Mortgagor fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as hereinabove provided, Lender may, at its option, apply the monies and liquidate any securities deposited with Lender, in payment of, or on account of, such Taxes, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such security so deposited is insufficient for the payment in full of such Taxes, together with all penalties and interest thereon, Mortgagor shall forthwith, upon demand, either deposit with Lender a sum that, when added to such funds then on deposit, is sufficient to make such payment in full, or, if Lender has applied funds on deposit on account of such Taxes, restore such deposit to an amount satisfactory to Lender. Provided that Mortgagor is not then in default hereunder, Lender shall, upon Mortgagor's written request, after final disposition of such contest and upon Mortgagor's delivery to Lender of an official bill for such Taxes, apply the money so deposited in full payment of such Taxes or that part thereof then unpaid, together with penalties and interest thereon.

## C. Insurance

1. Insurance Coverage. Mortgagor will insure the Premises against such perils and hazards, and in such amounts and with such limits, as Lender may from time to time require, and in any event will continuously maintain the following described policies of insurance (the "Insurance Policies"):

- a. Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm, flood, earthquake and other risks covered by the so-called extended coverage endorsement in amounts not less than the full insurable replacement value of all Improvements, fixtures and equipment from time to time on the Premises and bearing a replacement cost agreed amount endorsement;
- b. Comprehensive public liability against death, bodily injury and property damage with such limits as Lender may require;
- c. Rental or business interruption insurance in amounts sufficient to pay, for a period of up to one (1) year, all amounts required to be paid by Mortgagor pursuant to the Note and this Security Instrument, if applicable;
- d. Steam boiler, machinery and pressurized vessel insurance, if applicable;
- e. If the Federal Insurance Administration (FIA) has designated the Premises to be in a special flood hazard area and designated the community in which the Premises are located eligible for all of subsidized insurance, first and second layer flood insurance when and as available; and
- f. The types and amounts of coverage as are customarily maintained by owners or operators of like properties.

D. Insurance Policies. All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Lender. All Insurance Policies shall:

1. include, when available, non-contributing mortgagee endorsements in favor of and with loss payable to Lender;
2. include standard waiver of subrogation endorsements;
3. provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Lender; and
4. provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Lender. Mortgagor will deliver all Insurance Policies premium prepaid, to Lender and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy.

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## E. Defaults and Acceleration

1. Mortgagor shall pay each item of indebtedness herein mentioned, both principal and/or interest, when due according to the terms hereof. At the option of the holders of the Note and without notice to Mortgagor, all unpaid indebtedness secured by this Security Instrument shall, notwithstanding anything on the Note or in this Security Instrument to the contrary, become due and payable
  - a. within fifteen (15) days in the case of default in making payment of any installment of principal or interest on the Note, or
  - b. when default shall occur and continue for fifteen (15) days following the date of mailing of written notice of such default to Borrower in the performance of any other agreement of the Mortgagor herein contained, said option to be exercised at any time after the expiration of said fifteen day period, or
  - c. in the event Mortgagor or any other obligor default under any other document given by any of them to secure the obligations hereby secured or under the loan commitment of Lender and any and all revisions, modifications, and extensions thereto (the "Loan Commitment"), the provisions of which are incorporated herein by reference (the foregoing events are herein referred to as "Defaults").
2. Notwithstanding anything in the Note or Security Instrument to the contrary, the death of Mortgagor and/or all guarantors of the indebtedness herein mentioned shall be a default in the performance of an agreement of the Mortgagor hereunder and the holder of the Note shall be entitled to all rights and remedies given in the Security Instrument in the event of default in the performance of any agreement of the Mortgagor contained therein.
3. In the event that the holder of the Note shall, in good faith, deem itself insecure, the holder of the Note shall have the right to declare the loan evidenced by the Note to be in default and to accelerate the installments of principal and/or interest due hereunder.

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Lender's Right of Inspection. Lender, its successors or assigns shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

2. The Lender, its successors or assigns making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, foreclosure, tax lien or title or claim thereof.

3. In case of default therein, Lender, its successors or assigns may, but need not, make any payment or perform any act herein required of mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchases, discharges, compromises or settle any tax lien or other prior lien or claim thereon or redemption from any tax sale or foreclosure affecting said 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 attorney's fees, and any other moneys advanced by Lender, its successors or assigns protect the mortgaged premises and the lien hereof, plus reasonable compensation to Lender for each matter concerning which action herein and with interest thereon at a rate equivalent to the post maturity rate set forth in the Note secured by the Security Instrument, if any, otherwise the pre maturity rate set forth in the Note therein. Inaction of Lender, its successors or assigns shall never be considered as a waiver of any right accruing to them on account of any default hereunder on the part of mortgagor.

4. Payment and Advances by Lender After Default. In case of default therein, Lender, its successors or assigns may, but need not, make any payment or perform any act herein required of mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchases, discharges, compromises or settle any tax lien or other prior lien or claim thereon or redemption from any tax sale or foreclosure affecting said 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 attorney's fees, and any other moneys advanced by Lender, its successors or assigns protect the mortgaged premises and the lien hereof, plus reasonable compensation to Lender for each matter concerning which action herein and with interest thereon at a rate equivalent to the post maturity rate set forth in the Note secured by the Security Instrument, if any, otherwise the pre maturity rate set forth in the Note therein. Inaction of Lender, its successors or assigns shall never be considered as a waiver of any right accruing to them on account of any default hereunder on the part of mortgagor.

5. Appointment of Receiver. Upon, or at any time after the filing of a bill to foreclose this Security Instrument, the court in which such bill is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice without regard to the solvency or insolvency of mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and Lender, its successors or assigns hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further time when mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole or said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) The indebtedness secured hereby, or by any decree foreclosing this Security Instrument, or any tax, special assessment or other lien or of any provision hereof shall not be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured.

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

7. The procedure of any foreclosure sale of the premises 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 such items as are mentioned in the preceding paragraph thereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that advanced by the Note, with interest thereon as herein provided; third, all interest remaining unpaid on the Note; fourth, all principal remaining unpaid on the Note; fifth, any overplus to mortgagor, their heirs, legal representatives or assigns, as their rights may appear.

8. When indebtedness hereby secured shall become due whether by acceleration or otherwise with the Illinois Mortgage Foreclosure Act, Illinois Revised Statute Chapter 110, paragraph 15-1101, et. seq. (1987) (the "Act"). In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender, its successors or assigns for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Lender, its successors or assigns may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and payable, with interest thereon at a rate equivalent to the post maturity rate set forth in the Note secured by the Security Instrument, if any, otherwise the pre maturity rate set forth therein, when paid or incurred by Lender, its successors or assigns in connection with: a. any proceeding, including probate and bankruptcy proceedings, to which any of them shall be a party, either as plaintiff, claimant or defendant, by reason of this Security Instrument or any indebtedness hereby secured; or b. preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or c. preparations for the defense of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or d. preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

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J. Deposits of Taxes and Insurance Premiums. To the full extent permitted by law, to further secure the payment of said principal sum of money and interest thereon, Mortgagor agrees to deposit with the holders of the Note each and every month, commencing on the first payment date, until the indebtedness hereby secured shall have been fully paid. An amount equal to one-twelfth of 110% of the annual real estate taxes, special assessment levies and property insurance premiums (hereinafter referred to as "Funds"). Said Funds shall be held by the holders of the Note in accordance with the terms and provisions of this paragraph without any allowance of interest, and may be applied by said holders toward payment of taxes, special assessment levies, and insurance premiums when due, but the holders of the Note shall be under no obligation to ascertain the correctness of or to obtain the tax, special assessment levies or insurance bills, or attend to the payment thereof. If the Funds so deposited exceed the amount required to pay such taxes, assessment (general and special) and/or insurance premiums for any year, the excess shall be applied on a subsequent deposit or deposits. Mortgagor acknowledges that the sums so deposited shall create a debtor-creditor relationship only and shall not be considered to be held by the holders of the Note in trust and that the holders of the Note shall not be considered to have consented to act as the Mortgagor's agent for the payment of such taxes, levies and premiums. In the event of a default in any of the provisions contained in this Security Instrument or in the Note secured hereby, the holders of the Note may at their option, without being required to do so, apply any monies at the time of deposit on any of the Mortgagor's obligations herein or in the Note contained in such order and manner as the holders of the Note may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the mortgaged Premises.

K. Restrictions on transfers.

1. In determining whether or not to make the loan secured hereby, Lender examined the credit-worthiness of Mortgagor and/or Mortgagor's beneficiary or guarantors (if applicable), found the same to be acceptable and relied and continues to rely upon same as the means of repayment of the loan. Lender also evaluated the background and experience of Mortgagor and/or its beneficiary or guarantor (if applicable) in owning and operating property such as the Premises, found the same to be acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Lender's security for the loan. It is recognized that Lender is entitled to keep its own portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan the security for which is purchased by a party other than the original Mortgagor and/or its beneficiary (if applicable). Mortgagor and/or its beneficiary (if applicable) further recognize that any secondary or junior financing placed upon the Premises, or the beneficial interest of beneficiary in Mortgagor:

- a. may divert funds which would otherwise be used to pay the Note secured hereby;
- b. could result in acceleration and foreclosure by any such junior encumbrancer which would force Lender to take measures and incur expenses to protect its security;
- c. would detract from the value of the Premises should Lender come into possession thereof with the intention of selling same; and
- d. impair Lender's right to accept a deed in lieu of foreclosure, as a foreclosure by Lender would be necessary to clear the title of the Premises.

2. In accordance with the foregoing and for the purposes of:

- a. protecting Lender's security, both of repayment of the indebtedness and of value of the Premises;
- b. giving Lender the full benefit of its bargain and contract with Mortgagor and/or beneficiary (if applicable) and Mortgagor;
- c. allowing Lender to raise the interest rate and/or collect assumption fees; and
- d. keeping the Premises and the beneficial interest (if applicable) free of subordinate financing liens, beneficiary (if appropriate) and Mortgagor agree that if this Paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance assignment, further encumbrance or other transfer of title to the Premises or any interest therein (whether voluntary or by operation of law) without the Lender's prior written consent shall be an event of default hereunder. For the purpose of, and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an event of default hereunder:

- (1) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, all or any part of the title to the Premises or the beneficial interest or power of direction under the trust agreement with the Mortgagor, if applicable;
- (2) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any share of stock of the Mortgagor (if a corporation) or the corporation which is the beneficiary or one of the beneficiaries under the trust agreement with the Mortgagor, or of any corporation directly or indirectly controlling such beneficiary corporation;
- (3) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any general partnership interest of the limited partnership or general partnership (herein called the "Partnership") which is the Mortgagor or the beneficiary or one of the beneficiaries under the trust agreement with the Mortgagor;
- (4) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any share of stock of any corporation directly or indirectly controlling such Partnership.

Any consent by the Lender, or any waiver of an event of default, under this Paragraph shall not constitute a consent to, or waiver of any right, remedy or power of Lender upon a subsequent event of default under this Paragraph.

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1. To further secure the indebtedness secured hereby, Mortgagor does hereby sell, assign and transfer unto the Lender all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the premises or any part hereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by the Lender under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all of such leases and agreements, and all the aforesaid hereinbefore, unto the Lender, and Mortgagor does hereby appoint irrevocably the Lender its true and lawful attorney in its name and stead (with or without taking possession of the premises) to rent, lease or let all or any portion of the premises to any part or parties at such rental and upon such terms as said Lender shall, in its discretion, determine, and to collect all of said rents, issues and profits arising from or accruing at any time hereafter, existing on the premises, with the same rights and powers and subject to the same limitations, exonerated of liability and rights of recourse and indemnity as the Lender would have upon taking possession of the premises.

2. The Mortgagor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the premises for more than two installments in advance, and that the payment of none of the rents to accrue for any portion of the premises has been or will be waived, released, reduced, discontinued, or otherwise discharged or compromised by the Mortgagor. The Mortgagor waives any rights or set off against any person in possession of any portion of the premises. Mortgagor agrees that it will not assign any of the rents or profits of the premises, except to a purchaser or grantee of the premises.

3. Nothing herein contained shall be construed as constituting the Lender as a mortgagee in possession in the absence of taking of actual possession of the premises by the Lender. In the exercise of the powers herein granted the Lender, no liability shall be asserted or enforced against the Lender, all such liability being expressly waived and released by Lender.

4. The Mortgagor further agrees to assign and transfer to the Lender all future leases regarding all or any part of the premises heretofore described and to execute and deliver, at the request of the Lender, all such further assurances and assignments in this Section 1 shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that so long as Mortgagor is not in default hereunder or under the Note, it shall have the privilege of collecting and retaining the rents accruing under the leases assigned hereby, until such time as Lender shall elect to collect such rents pursuant to the terms and provisions of this Security Instrument.

6. The Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease, and the Mortgagor shall and does hereby agree to indemnify and hold the Lender harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Lender incur any such liability, loss or damage under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees, shall be secured in full, and the Mortgagor shall reimburse the Lender therefor immediately upon demand.

M. Application of Rents. The Lender, in the exercise of the rights and powers hereinabove conferred upon it by Section 1 hereof, shall have full power to use and apply the aforesaid rents, issues and profits to the payment of or on account of the following:

N. Environmental Matters. Mortgagor represents that it is currently in compliance with, and covenants and agrees that, it will manage and operate the premises and will cause each tenant to occupy its demised portion of the premises in compliance with, all federal, state and local laws, rules, regulations and ordinances relating to, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling, disposal of hazardous or toxic substances or other materials (including, without limitation, raw materials, products, supplies or wastes). Mortgagor further covenants and agrees that it shall not install or permit to be installed in the premises asbestos or any substance containing asbestos and deemed hazardous by or in violation of federal, state or local laws, rules, regulations or orders respecting such material. Mortgagor shall send to Lender within five (5) days of receipt or completion thereof, any report, citation, notice or other writing including, without limitation, hazardous waste disposal manifests, by, to or from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. Mortgagor shall remain solely responsible to regulate or oversee any of the hazardous or toxic substances or other materials in a manner consistent with and in compliance with applicable laws, rules, regulations and ordinances and shall take any and all other actions or steps necessary, directly, indirectly, or by any applicable law, rule, regulation or ordinance concerning toxic or hazardous substances or any violation of any agreement entered into between Mortgagor, Lender and/or any third party with respect to hazardous or toxic materials. Mortgagor agrees to indemnify, defend with counsel reasonably acceptable to Lender (at Mortgagor's sole cost) and hold Lender harmless against any claim, response or other costs, damages, liability or demand (including without limitation reasonable attorney fees and costs incurred by Lender) arising out of any claim or violation by Mortgagor of any of the foregoing covenants or agreements or any of the foregoing laws, rules, regulations or ordinances.

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O. Waiver of Right of Redemption and Other Rights. To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Premises be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption under the Act, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and such other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. Mortgagor acknowledges that the Premises do not constitute agricultural real estate as defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

P. Miscellaneous. This Security Instrument shall be construed under Illinois law. If any provisions hereof are invalid under Illinois law, such invalidity shall not affect the validity of the rest of the Security Instrument and Rider, if any.

1. At all times, regardless of whether any loan proceeds have been disbursed, this Security Instrument secures as part of the indebtedness hereby secured the payment of any and all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Lender, its successors or assigns in accordance with the Note, this Security Instrument and the said Loan Commitment; provided, however, that in no event shall the total amount of the indebtedness hereby secured, including loan proceeds disbursed plus any additional charges, exceed 500% of the face amount of the Note.
2. Lender, its successors or assigns shall release this Security Instrument and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this Security Instrument has been fully paid.
3. This Security Instrument and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part hereof, whether or not such persons shall have executed the Note or this Security Instrument. The word "Note" when used in this instrument shall be construed to mean "Notes" when more than one note is used.
4. Mortgagor and Lender acknowledge and agree that in no event shall Lender be deemed to be a partner or joint venturer with Mortgagor or any beneficiary of Mortgagor. Without limitation of the foregoing, Lender shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Security Instrument or pursuant to any other instrument or document evidencing or securing any of the indebtedness secured hereby, or otherwise.

Q. Future Advances. This Security Instrument is given to secure a Non-revolving credit loan and shall secure not only the existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of the Lender, or otherwise, as are made within twenty years from the date hereof, to the same extent as if such future advances were made on the date of execution of this Security Instrument, although there may be no advance made at the time of execution of this Security Instrument, and although there may be no indebtedness outstanding at the time any advance is made. The total amount of indebtedness that is secured hereby may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed a maximum principal amount of the Note, plus interest thereof, and any disbursements made for the payment of taxes, special assessments, or insurance on the Premises, with interest on such disbursements (all such indebtedness being hereinafter referred to as the "maximum amount secured hereby"). This Security Instrument is intended to and shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting from solely taxes and assessments levied on the Premises, to the extent of the maximum amount secured hereby.

R. Business Loan. The proceeds of the loan secured by this Security Instrument will be used for the purpose specified in Paragraph 6404 (1)(c) of Chapter 17 of the Illinois Revised Statutes (1981); the loan secured hereby constitutes a business loan within the meaning of said Section and that, accordingly, the loan secured hereby is exempt from the Illinois usury requirements.

- S. Security Agreement
1. This Security Instrument shall be deemed a Security Agreement as defined in the Illinois Commercial Code. This Security Instrument creates a security interest in favor of Lender in all property including all personal property, fixtures and goods affecting property either referred to or described herein or in anyway connected with the use or enjoyment of the Premises. The remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be:
    - a. as prescribed herein, or
    - b. by general law, or

# UNOFFICIAL COPY

Barbara Labanz

*Barbara Labanz*  
Donald R. Scherer

BARNEFICIARY

Barbara Labanz  
solely for the purpose of waiving all of her rights  
under any applicable homestead, mortgage or distribution  
of proceeds laws.

Brenda Anderson, Assistant Secretary

Deborah Stephans, Trust Officer

Mid Town Bank and Trust Company of Chicago  
not personally, but solely as Trustee aforesaid:

TRUSTEE:

written.

IN WITNESS WHEREOF, the Mortgagor has executed this instrument as of the day and year first above

4. Rider. The Rider or Riders attached hereto, if any, is (are) hereby made a part hereof.

5. Trustee Exculpation. In the event the Mortgagor executing this Security Instrument is an Illinois land trust, this Security Instrument is executed by Trustee, not personally but as trustee aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable only out of the property specifically described in said Security Instrument securing the payment hereof, by the enforcement of the provisions contained in said Security Instrument. No personal liability shall be asserted or be enforceable against Trustee, because or in respect of this or the making, issue or transfer thereof, all such liability, if any, being expressly waived by each taker and holder of the Note, but nothing herein contained shall modify or discharge the personal liability of Beneficiary, any co-maker of the Note or any guarantor, if any, and each original and successor holder of the Note accepts the same upon the express condition that no duty shall rest upon Trustee to request the rents, issues and profits arising from the property described in this Security Instrument or the proceeds arising from the sale or other disposition thereof, but that in case of default in the payment of this Note or of any installment of principal and interest, the sole remedy of the holders of the Note shall be by foreclosure of Security Instrument, in accordance with the terms and provision hereof set forth or by action to enforce the personal liability of Beneficiary, any co-maker or any guarantor, if any, of the payment of the Note.

6. Prepayment Premium. It is a condition of this Security Instrument that in the event of prepayment of the principal before maturity, Lender will be entitled to additional funds to maintain the expected yield of the mortgage over the anticipated term of the mortgage (see Exhibit "B" attached hereto and hereby made a part hereof).

7. Notwithstanding the aforesaid, the Mortgagor covenants and agrees that so long as any balance remains unpaid on the Note, it will execute (or cause to be executed) and deliver to Lender, such renewal certificates, affidavits, extension statements or other documentation in proper form so as to keep perfected the lien created by any Security Instrument and Financial Statement given to Lender by Mortgagor, and to keep and maintain the same in full force and effect until the entire principal indebtedness and all interest to accrue thereunder has been paid in full.

8. Notwithstanding the aforesaid, the Mortgagor covenants and agrees that so long as any balance remains unpaid on the Note, it will execute (or cause to be executed) and deliver to Lender, such renewal certificates, affidavits, extension statements or other documentation in proper form so as to keep perfected the lien created by any Security Instrument and Financial Statement given to Lender by Mortgagor, and to keep and maintain the same in full force and effect until the entire principal indebtedness and all interest to accrue thereunder has been paid in full.

- (1) any such items as physically attached to the improvements, certain numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with the Lender, or
- (2) any such item is referred to or reflected in any such Financial Statement of the right in or the proceeds of any fire and/or hazard insurance policy or
- (3) any award in eminent domain proceedings for a taking or for loss of value, or
- (4) the debtor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the property mortgaged hereby, whether pursuant to lease or otherwise, shall never be construed as in anyway altering any of the rights of Lender as determined by this instrument or impugning the priority of the lender's lien granted or by any other recorded document, but such mention in the Financing Statement is declared to be for the protection of the Security Instrument in the event any court or judge shall at any time hold with respect to (a), (b) and (c) that notice of Lender's priority of interest not limited to, the federal government and any subdivisions or entity of the federal government, must be filed in the commercial code records.
- 9. Notwithstanding the aforesaid, the Mortgagor covenants and agrees that so long as any balance remains unpaid on the Note, it will execute (or cause to be executed) and deliver to Lender, such renewal certificates, affidavits, extension statements or other documentation in proper form so as to keep perfected the lien created by any Security Instrument and Financial Statement given to Lender by Mortgagor, and to keep and maintain the same in full force and effect until the entire principal indebtedness and all interest to accrue thereunder has been paid in full.

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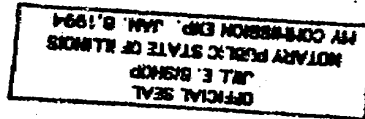


MID TOWN BANK AND TRUST COMPANY OF CHICAGO  
2021 NORTH CLARK STREET  
CHICAGO, ILLINOIS 60614

Maria Sedano

THIS INSTRUMENT WAS PREPARED BY:

MAIL TO:



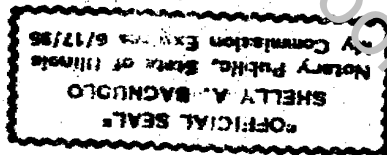
My commission expires:

52002123

*Jill E. Bishop*  
Notary Public

Given under my hand and Notarial Seal this 29th day of December, 1992.

I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY, that Barbara Labans married to Donald R. Scherer, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.



STATE OF ILLINOIS )  
COUNTY OF COOK )

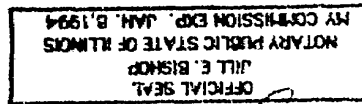
My commission expires:

*Jill E. Bishop*  
Notary Public

Given under my hand and Notarial Seal this 29th day of December, 1992.

I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY, that Donald R. Scherer married to Barbara Labans personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

STATE OF ILLINOIS )  
COUNTY OF COOK )



My commission expires:

*Jill E. Bishop*  
Notary Public

Given under my hand and Notarial Seal this 29th day of December, 1992.

I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY, that Deborah Stephanites, Trust Officer of Mid Town Bank and Trust Company of Chicago, (a(n) Illinois banking corporation, and Brenda Anderson, Assistant Secretary of said Illinois banking corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument in their stated capacities, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary acts of said corporation, for the uses and purposes therein set forth; and the Assistant Secretary did also then and there acknowledge that he/she, as custodian of the corporate seal of said corporation, did affix said corporate seal to said instrument as his/her own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

STATE OF ILLINOIS )  
COUNTY OF COOK )

TRUSTEE:

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98000123

Property of Cook County Clerk's Office

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## EXHIBIT "A"

### LEGAL DESCRIPTION:

LOT 30 IN BLOCK 7 IN CUYLER ADDITION TO RAVENSWOOD, BEING A SUBDIVISION OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 (EXCEPT RAILROAD) OF SECTION 18, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PERMANENT INDEX NUMBER:

14-18-416-024

### PROPERTY COMMONLY KNOWN AS:

1940 WEST BELLE PLAINS AVENUE, CHICAGO, ILLINOIS 60613

98008123

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## EXHIBIT "B"

### YIELD MAINTENANCE PROGRAM

THE ORIGINAL INTEREST RATE OF THE MORTGAGE IS:

7.75%

AT THE TIME OF ANY PREPAYMENT OF PRINCIPAL, LENDER  
WILL ASSESS A FEE DETERMINED AS FOLLOWS:

#### AVAILABLE REINVESTMENT TO NOTE MATURITY AT TIME OF REPAYMENT:

WALL STREET JOURNAL'S PUBLISHED YIELD FOR U.S. TREASURY  
MATURING January 1, 1996 =

%

DIFFERENCE:

%

(IF DIFFERENCE IS -0-, OR A NEGATIVE NUMBER, NO ADDITIONAL FUNDS WOULD BE ASSESSED.)

#### FORMULA:

PRINCIPAL PREPAYMENT AMOUNT:

\$

$\frac{X \text{ DIFFERENCE} \times \text{DAYS TO MATURITY (90-DAY MONTHS)}}{360} =$

YIELD MAINTENANCE FEE

\$

#### EXAMPLE:

RATE ON NOTE:

7.75%

TREASURY YIELD TO MATURITY OF MORTGAGE AT TIME OF PREPAYMENT

7.50%

DIFFERENCE:

0.25%

$100,000 \times \frac{0.25\%}{360} \times 720 =$

\$500.00

#### NOTE:

THE YIELD MAINTENANCE PROGRAM IS SEPARATE FROM, AND FIGURED APART FROM, ANY  
ADJUSTMENT IN RATE THAT YOUR NOTE MAY (OR MAY NOT) BE SUBJECT TO.

THIS PROVISION DOES NOT APPLY IN THE CASE OF A SALE TO A THIRD PARTY OR DURING THE  
LAST SIX (6) MONTHS OF THE TERM OF THE LOAN.

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