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## MORTGAGE, SECURITY AGREEMENT, FIXTURE FILING, AND ASSIGNMENT OF RENTS

This Mortgage, Security Agreement, Fixture Filing, and Assignment of Rents dated as of May 30, 1994 ("Agreement"), is made by Hysan Corporation, an Illinois corporation ("Mortgagor"), in favor of NationsBank of Texas, N.A. ("Mortgagee").

. DEPT-01 RECORDING \$65.50

INTRODUCTION : T#0003 TRAN 2441 07/12/94 10:27:00  
: #3816 : GV \*-94-602615  
: COOK COUNTY RECORDER

The Mortgagor and the Mortgagee have entered into a Credit Agreement dated as of August 12, 1993 (as modified from time to time, the "Credit Agreement"), and this Agreement secures, inter alia, the revolving credit facility described in the Credit Agreement. It is a condition precedent to the extension of credit under the Credit Agreement that the Mortgagor have executed this Agreement for the benefit of the Mortgagee. Therefore, in order to induce the Mortgagee to extend credit under the Credit Agreement, the Mortgagor hereby agrees with the Mortgagee as follows:

Section 1. Definitions. Capitalized terms used herein but not defined herein shall have the meanings specified by the Credit Agreement. As used herein, the following terms shall have the following meanings:

"Associated Real Property Rights" means the rights associated with ownership of the Land and Improvements, including privileges, tenements, rights-of-way, easements, appendages, and appurtenances; rights of the Mortgagor related to any streets, ways, alleys, strips, or gores of land adjoining the Land; and rights to any awards or settlements made by any municipal, state, or federal authorities resulting from condemnation or the taking of the Land or Improvements.

"Controlled Account" means an account of the Mortgagor with the Mortgagee under the control of and pledged to the Mortgagee into which the Mortgagor shall make certain deposits as required hereunder. If the Controlled Account is not opened prior to the execution of this Agreement, the Mortgagor agrees to execute any documents requested by the Mortgagee to create the Controlled Account and pledge it to the Mortgagee.

"Contract Rights" means all of the Mortgagor's present and future rights in the intangible personal property and agreements now or hereafter related to the physical existence,

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development, improvement, leasing, or operating condition of the Land, Improvements, and Fixtures, including construction contracts, utility contracts, maintenance agreements, service contracts, licenses, permits, property insurance policies, plans and specifications, surveys, deposits, and all other agreements arising from or related to the foregoing.

"Environmental Law" means all federal, state, and local laws, rules, regulations, ordinances, orders, decisions, agreements, and other requirements now or hereafter in effect relating to the pollution, destruction, loss, or injury of the environment, the presence of any contaminant in the environment, the protection, cleanup, remediation, or restoration of the environment, the creation, handling, transportation, use, or disposal of any waste product in the environment, exposure of persons to any contaminant, waste, or hazardous substance in the environment, and the health and safety of employees in relation to their environment.

"Event of Default" has the meaning specified in the Credit Agreement.

"Fixtures" means all of the Mortgagor's present and future rights to the tangible personal property now or hereafter located on the Land and Improvements or used in connection with the development, improvement, financing, leasing, or operation of the Land and Improvements, including fixtures, equipment, minerals, crops, and timber (as those terms are defined in the UCC) and including partitions, dynamos, screens, awnings, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning systems, sprinkler systems, fire equipment, water tanks, heating equipment, ventilating equipment, air conditioning equipment, gas and electric equipment, furnishings, building materials, supplies, machines, engines, furniture, kitchen equipment, medical equipment, laundry equipment, incinerating equipment, washers, dryers, and recreational equipment.

"Hazardous Materials" means any substance or material identified as a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended and as now or hereafter in effect; any substance or material regulated as a hazardous waste pursuant to the Resource Conservation and Recovery Act of 1976, as amended and as now or hereafter in effect; and any substance or material designated as a hazardous substance or hazardous waste pursuant to any Environmental Law. "Hazardous Materials" shall include, without limitation, pollutants,

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contaminants, flammable substances and materials, explosives, radioactive materials, oil, petroleum and petroleum products, chemical liquids and solids, polychlorinated biphenyls, asbestos, toxic substances, and similar substances and materials.

"Impositions" means all real and personal property taxes, assessments, fees, and charges now or hereafter levied, imposed, or assessed against the Mortgagor on account of the Mortgaged Property.

"Improvements" means all present and future buildings, improvements, alterations, or appurtenances on the Land.

"Land" means the real property located at 3000 W. 139th Street, Blue Island, Illinois 60406, as more particularly described in Exhibit A.

"Leases" means all present and future leases, subleases, licenses, concessions, and other grants of possessory interests covering or affecting the Mortgaged Property.

"Mortgaged Property" means the Land, Improvements, Associated Real Property Rights, Fixtures, and Contract Rights.

"Permitted Encumbrances" means the encumbrances described in Exhibit B together with the Permitted Liens.

"Personal Property" means the Controlled Account, Fixtures, and Contract Rights.

"Real Property" means the Land, Improvements, and Associated Real Property Rights.

"Rents" means all of the rents, revenues, income, profits, and other benefits arising from the use and enjoyment of the Mortgaged Property, including any payments made under the Leases.

"Secured Obligations" means (a) all principal, interest, fees, reimbursements, indemnifications, and other amounts now or hereafter owed by the Mortgagor to the Mortgagee under the Credit Agreement and the other Credit Documents, which as of the date hereof includes the \$2,000,000 Revolving Credit Note with a final maturity date of September 30, 1994, and the \$565,000 Term Loan Note with a final maturity date of September 30, 1994, provided that it is contemplated that each

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of these notes may be increased and extended; (b) all other indebtedness, liabilities, and other obligations of any kind now or hereafter owed by the Mortgagor to the Mortgagee, regardless of whether such indebtedness, liabilities, and other obligations are absolute or contingent, joint, several, or independent, arising by operation of law or contract, created directly with the Mortgagee or acquired by assignment, participation, or otherwise, or direct or indirect (including indebtedness, liabilities, and obligations of the Mortgagor to the Mortgagee as a result of either's membership in any partnership, syndicate, association, or other group, and whether incurred by the Mortgagor as principal, guarantor, surety, endorser, accommodation party, or otherwise); and (c) any increases, extensions, and rearrangements of the foregoing obligations under any amendments, supplements, and other modifications of the documents and agreements creating the foregoing obligations.

"UCC" means Article 9 of the Uniform Commercial Code as enacted in the State of Illinois.

## Section 2. Grant of Security.

2.1. Grant of Mortgage Lien. To secure the payment and performance of the Secured Obligations, the Mortgagor grants a lien on the Mortgaged Property to the Mortgagee.

2.2. Grant of Security Interest. To secure the payment and performance of the Secured Obligations, the Mortgagor grants a security interest in the Personal Property to the Mortgagee. To the extent that the Personal Property is not subject to the UCC, the Mortgagor collaterally assigns such Personal Property to the Mortgagee to secure the payment and performance of the Secured Obligations to the full extent that such a collateral assignment is possible under the relevant law.

2.3. Assignment of Rents. The Mortgagor hereby absolutely assigns the Rents to the Mortgagee. This assignment is intended to be absolute, unconditional, and presently effective and not merely a collateral assignment, and it shall not be necessary for the Mortgagee to institute legal proceedings of any kind whatsoever to enforce this assignment. The Mortgagee appoints the Mortgagor its agent for the purpose of collecting the Rents, with the right to demand and receive payment of the Rents, provided that the Mortgagor may not collect the Rents more than one month in advance. Upon notice from the Mortgagee to the Mortgagor that

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an Event of Default has occurred and that the Mortgagee has terminated the Mortgagor's agency, the Mortgagor's agency to collect the Rents shall terminate, and any Rents received by the Mortgagor after such notice shall be held in trust for the benefit of the Mortgagee, segregated from the other funds of the Mortgagor, and immediately paid over to the Mortgagee (with any necessary endorsement). Upon notice from the Mortgagee to any party obligated to pay Rents that an Event of Default has occurred and that the Mortgagor's agency has been terminated, all such parties are directed to follow the instructions of the Mortgagee with respect to their obligations, including any instructions to make payments directly to the Mortgagee. To the extent that Rents are received by the Mortgagee such receipt shall be a release of obligations of the obligor. The notices provided for hereunder are not conditions to the assignment made hereunder, but merely act to terminate the Mortgagor's agency and alert the parties obligated to pay the Rents of such termination. This assignment shall not make the Mortgagee a mortgagee in possession nor obligate the Mortgagee to collect the Rents. The Mortgagee's only obligation is accounting for Rents actually received. The Leases are not assigned.

Section 3. Ownership, Perfection, and Priority. The Mortgagor represents and warrants to and agrees with the Mortgagee as follows:

3.1. Ownership. The Mortgagor has good and indefeasible title in fee simple to the Land and the Improvements, good title to the Personal Property, and the right to assign the Rents, all free and clear of any liens, charges, encumbrances, security interests, and adverse claims whatsoever except the Permitted Encumbrances. As of the date of this Agreement, there are no Leases on the Mortgaged Property. The Permitted Encumbrances do not materially interfere with the operation of the Mortgaged Property. The Mortgagor shall make all further assurances of title as may reasonably be necessary to fully confirm the title to the Mortgaged Property. Except as permitted under the Credit Agreement, the Mortgagor shall not, without the prior consent of the Mortgagee, sell, lease, convey, assign, or otherwise transfer any of its interests in the Mortgaged Property, voluntarily or involuntarily.

3.2. Perfection.

(a) This Agreement is in proper form under Illinois law to be accepted for recording in the real property records of Cook County, Illinois, and to create and constitute a valid

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mortgage lien on the Mortgaged Property, a valid security interest in the Personal Property, and a valid assignment of the Rents. The recording of this Agreement in the real property records of Cook County, Illinois, and the filing of a financing statement with the Illinois Secretary of State are the only recordings and filings necessary to perfect the liens and security interests created on the Mortgaged Property hereunder. No other authorization, approval, or other action is necessary to make effective the lien, security interest, and assignment contemplated hereby, to allow the Mortgagor to perform its obligations hereunder, or to permit the Mortgagee to exercise its rights and remedies hereunder.

(b) Pursuant to Section 9-402 [S.H.A. 810 ILCS 5/9-402] of the UCC, this Agreement shall serve as a fixture filing with respect to the Fixtures. This Agreement also shall serve as a financing statement covering minerals or the like (including oil and gas) and accounts subject to Subsection 5 of Section 9-103 [S.H.A. 810 ILCS 5/9-103(5)] of the UCC. A carbon, photographic, or other reproduction of this Agreement shall be sufficient as a financing statement. The following information is included for purposes of meeting the requirements of a fixture filing:

The name and address of the debtor is:

Hysan Corporation  
2929 Allen Parkway, Suite 2120  
Houston, Texas 77019

The name and address of the secured party is:

NationsBank of Texas, N.A.  
700 Louisiana  
Houston, Texas 77002

This financing statement covers all rights, titles, and interests now owned and at any time hereafter acquired by the debtor in the Personal Property. The Personal Property includes (i) goods which are or are to become fixtures on the Real Property, and (ii) minerals or the like (including oil and gas) located on the Real Property. This financing statement is to be filed for record in the real estate records. The record owner of the Real Property is the Mortgagor. Proceeds and products of the Personal Property are also covered.

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(c) The chief executive office of the Mortgagor is located at the address specified in the notice section herein, and the Mortgagor does and shall keep all of its records concerning the Personal Property at that location.

### 3.3. Priority.

(a) The liens, security interests, and assignments created by this Agreement are first priority subject only to the Permitted Encumbrances, and the Mortgagor shall preserve and maintain the status of such liens, security interests, and assignments to the end that this Agreement shall be and remain a first priority lien on the Mortgaged Property, a first priority security interest in the Personal Property, and an unencumbered assignment of the Rents, subject only to the Permitted Encumbrances. Without the Mortgagee's prior written consent, the Mortgagor shall not create or permit any mortgage, pledge, lien, encumbrance, or charge on, or conditional sale or other title retention agreement with respect to, the Mortgaged Property, other than the Permitted Encumbrances and those in favor of the Mortgagee.

(b) Prior to the recordation of this Agreement, no construction of any improvements on the Mortgaged Property has commenced, no affidavit of commencement stating a date on which construction of improvements on the Mortgaged Property commenced that is prior to the day after the date on which this Agreement was duly filed for record in the real property records of the county in which the Mortgaged Property is located has been filed, no materials or supplies have been delivered to or labor performed on the Mortgaged Property in connection with the foregoing, and the Mortgagor has not entered into any contracts or agreements for the construction of improvements, the delivery of any materials or supplies, or the performance of any labor in connection with the foregoing. The Mortgagor shall keep the Mortgaged Property free of mechanics' and materialmen's liens, unless covered by bond satisfactory to the Mortgagee.

3.4. Subrogation. If the proceeds of the Secured Obligations are used to pay any indebtedness secured by prior liens, the Mortgagee is subrogated to all of the rights and liens of the holders of such indebtedness.

3.5. Defense of Agreement. There are no actions, suits, proceedings, or investigations pending or, to the knowledge of the Mortgagor, threatened against or affecting the Mortgaged Property, or involving the validity or enforceability of this

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Agreement or the priority of the liens, security interests, or assignments created hereunder. If the validity or priority of this Agreement or of any liens, security interests, or assignments created hereunder thereof or the title of the Mortgagor to the Mortgaged Property shall be endangered, questioned, or attacked or if any legal proceedings are instituted against the Mortgagor with respect thereto, the Mortgagor shall give prompt written notice thereof to the Mortgagee and at the Mortgagor's expense shall diligently endeavor to cure any defect existing or claimed, and shall take all necessary and desirable steps for the defense of any legal proceedings, including the employment of counsel, the prosecution or defense of litigation, and the release or discharge of all adverse claims. The Mortgagee, whether or not named as a party to any legal proceedings, is authorized to take any additional steps as the Mortgagee reasonably deems necessary for the defense of any such legal proceedings or the protection of the validity or priority of this Agreement and the liens, security interests, and assignments created hereunder, including the employment of independent counsel, the prosecution or defense of litigation, the compromise or discharge of any adverse claims made with respect to the Mortgaged Property, the purchase of any tax title, and the payment or removal of prior liens or security interests, and the reasonable expenses of the Mortgagee in taking such action shall be paid by the Mortgagor.

3.6. Further Assurances. The Mortgagor, upon the written request of the Mortgagee, shall execute, acknowledge, and deliver such further instruments (including, without limitation, financing statements, estoppel certificates, declarations of no set-off, attornment agreements, separate assignments of Rents, and specific assignments of Leases) and take such further acts as may be reasonably necessary to implement this Agreement.

Section 4. Condition, Use, and Casualty. The Mortgagor represents and warrants to and agrees with the Mortgagee as follows:

4.1. Use and Condition. The Mortgaged Property has been used only for the manufacture and storage of Mortgagor's inventory and for all related activities. The Mortgagor shall not use or permit the use of the Mortgaged Property for any purpose other than as described above and for all related activities. Without the Mortgagee's prior written consent, the Mortgagor shall not record any restrictive covenants, map, or plat with respect to the Mortgaged Property. The Mortgagor

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shall maintain the Mortgaged Property in good condition, and make all necessary or appropriate repairs, replacements, and renewals thereto and shall use reasonable efforts to prevent any act or thing which might materially impair the value or usefulness of the Mortgaged Property. The Mortgagor shall not commit or, permit any waste of the Mortgaged Property or any part thereof, or make or permit any alterations to the Mortgaged Property which could materially diminish the value thereof, or, without the prior written consent of the Mortgagee, make or permit any other material alterations to the Mortgaged Property.

4.2. Compliance with Laws. The Mortgagor shall comply with all restrictive covenants and all laws, ordinances, regulations, and rules, whether state, federal, or municipal, applicable to the Mortgaged Property. The Mortgagor shall keep in full force and effect all licenses, permits, and other governmental approvals which are necessary for the operation of the Mortgaged Property, and upon request furnish evidence reasonably satisfactory to the Mortgagee that the Mortgaged Property and its use complies with all of the foregoing. The Mortgagor shall not permit any action or condition which may constitute a nuisance, public or private, or which may invalidate any insurance then in force.

4.3. Environmental Matters.

(a) The Mortgagor: has been and is in compliance with all Environmental Laws and has obtained and is in compliance with all related permits necessary for the ownership and operation of the Mortgaged Property; does not and has not created, handled, transported, used, or disposed of any Hazardous Materials on the Mortgaged Property, except in compliance with all Environmental Laws and related permits such that the Mortgagor has no material liability related thereto; has never been responsible for the release of any Hazardous Materials into the environment on or about the Mortgaged Property and the Mortgaged Property has not been subjected to any release of and is not contaminated by any Hazardous Materials, except in compliance with all Environmental Laws and related permits such that the Mortgagor has no material liability related thereto; and has never received notice of and has never been investigated for any violation or alleged violation of any Environmental Law related to the Mortgaged Property.

(b) The Mortgagor: shall comply with all Environmental Laws and maintain all related permits necessary

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for the ownership and operation of the Mortgaged Property; shall not create, handle, transport, use, or dispose of any Hazardous Materials on the Mortgaged Property except in compliance with all Environmental Laws and related permits such that the Mortgagor has no liability related thereto; shall not release any Hazardous Materials into the environment on or about the Mortgaged Property and shall not permit the Mortgaged Property to be subjected to any release of Hazardous Materials, except in compliance with all Environmental Laws and related permits such that the Mortgagor has no material liability related thereto; and shall provide the Mortgagee with prompt notice of any investigation, threat, notice, or claim known by the Mortgagor which implies that the Mortgagor may have any liability related to any Environmental Law or Hazardous Material in connection with the Mortgaged Property. The Mortgagee shall have the right upon reasonable prior written notice, but not the obligation, to inspect the Mortgaged Property and operations of the Mortgagor in order to determine the Mortgagor's compliance with covenants in this Section 4.3. Mortgagee may hire engineers and other consultants of its choice for these purposes at the Mortgagor's expense. Such investigations shall not relieve the Mortgagor of its obligations to comply with the covenants set forth in this Section 4.3.

(c) The Mortgagor shall indemnify the Mortgagee and its directors, officers, stockholders, employees, and agents from and against any and all losses, damages, liabilities, obligations, claims, judgments, costs and expenses (including attorneys' fees and court costs) arising from, based on or related to: any inaccuracy in the representations and warranties set forth in Section 4.3; any breach of the covenants set forth in Section 4.3; or any claim related to any Environmental Law or related permit that arises in connection with the Mortgagee's ownership or operation of the Mortgaged Property and business after the occurrence of an Event of Default, INCLUDING THOSE CAUSED BY THE Mortgagee'S OWN NEGLIGENCE, but excluding those caused by the Mortgagee's gross negligence or willful misconduct. The Mortgagor's obligations under this Section 4.3 shall survive the termination of this Agreement and the repayment of the Secured Obligations.

4.4. Impositions. The Mortgagor has paid and shall pay all Impositions when due, provided that the Mortgagor may contest in good faith the validity or amount of any Imposition provided that the Mortgagor shall be obligated to pay such contested Imposition and all costs, interest, and penalties

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which accrue thereon and furnish the Mortgagee proof of such payment at least 60 days before the Mortgaged Property, or any part thereof, may be seized or sold under process of law because of the nonpayment of such contested Imposition. Notwithstanding the foregoing, the Mortgagor shall immediately upon request of the Mortgagee pay (and if the Mortgagor shall fail so to do, the Mortgagee may, but shall not be required to, pay) any Imposition notwithstanding such contest if in the opinion of the Mortgagee the Mortgaged Property is in jeopardy of being forfeited.

4.5. Insurance. The Mortgagor shall maintain the insurance required by the Credit Agreement.

4.6. Reserve for Insurance and Impositions. Following an Event of Default, upon request of the Mortgagee, in order to secure the performance and discharge of the Mortgagor's obligations hereunder, but not in lieu of such obligations, the Mortgagor shall deposit into the Controlled Account a sum equal to the Impositions against the Mortgaged Property for the current year and the premiums for the policies of insurance required to be maintained under the Credit Agreement for the current year, all as reasonably estimated by the Mortgagee and prorated to the end of the calendar month following the month during which the Mortgagee's request is made. Thereafter the Mortgagor shall deposit with the Mortgagee each month sufficient funds as estimated by the Mortgagee to permit the Mortgagee to pay the next maturing Impositions and premiums for such insurance policies. The Mortgagee shall have the right to rely upon tax information furnished by applicable taxing authorities in the payment of such Impositions and shall have no obligation to make any protest of any such Impositions. Any excess over the amounts required for such purposes shall be held by the Mortgagee for future use as part of the Controlled Account to pay future Impositions, applied to the Secured Obligations, or refunded to the Mortgagor, at the Mortgagee's option, and any deficiency in the funds so deposited shall be paid to the Mortgagee upon demand. All funds deposited shall be applied by the Mortgagee toward the payment of the Impositions and the payment of insurance premiums when statements therefor are presented to the Mortgagee by the Mortgagor, which statements shall be presented by the Mortgagor to the Mortgagee a reasonable time before the applicable amount is due, provided that if an Event of Default exists, such funds may at the Mortgagee's option be applied to the payment of the Impositions and insurance premiums or to the Secured Obligations in the order determined by the Mortgagee.

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4.7. Condemnation. Immediately upon obtaining knowledge thereof, the Mortgagor shall notify the Mortgagee of any threatened or pending condemnation affecting the Mortgaged Property. The Mortgagor shall diligently defend against any such proceedings, and shall consult and cooperate with the Mortgagee in the defense of any such proceedings. The Mortgagee shall have the right, but not the obligation, to participate in any such condemnation proceedings and to be represented by its own counsel at the Mortgagor's expense. The Mortgagee shall be entitled to receive all sums which may be awarded or become payable to the Mortgagor for the condemnation of the Mortgaged Property for public or quasi-public use, or by virtue of private sale in lieu thereof, and any sum which may be awarded or become payable to the Mortgagor for injury or damage to the Mortgaged Property. The Mortgagor shall, promptly upon request of the Mortgagee, execute such additional assignments and other documents as may be necessary or desirable to permit such participation and to enable the Mortgagee to collect such sums. All such sums are assigned to the Mortgagee, and shall, after deduction therefrom of all reasonable expenses actually incurred by the Mortgagee in connection with defending against the condemnation proceedings and collecting such sums, including attorneys' fees, at the Mortgagee's option be released to the Mortgagor, applied to repair or restoration of the Mortgaged Property, or applied to the Secured Obligations in the order determined by the Mortgagee. The Mortgagee shall not be liable or responsible for failure to collect or to exercise diligence in the collection of any such sum or for failure to see to the proper application of any amount paid over to the Mortgagor. The Mortgagee is authorized, in the name of the Mortgagor, to execute and deliver valid acquittances for, and to appeal from, any such award, judgment, or decree.

4.8. Inspection and Appraisal. The Mortgagor shall permit the Mortgagee, at all reasonable times following reasonable notice, to inspect the Mortgaged Property. No inspection of the Mortgaged Property by the Mortgagee shall relieve the Mortgagor of its obligations under this Agreement. The Mortgagee may from time to time when reasonable, but in no event to exceed once per year if no Event of Default has occurred, at the request of the Mortgagee, obtain fair market value appraisals of the Mortgaged Property by an MAI-certified appraiser engaged by the Mortgagee at the Mortgagor's expense. Letter updates of existing appraisals which have been approved by the Bank in writing shall be acceptable to the extent available from the original appraiser and allowed by the current policies of Mortgagee.

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Section 5. Remedies. When any Event of Default has occurred and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument) and in addition to such other rights as may be available under the Credit Agreement, other Credit Documents, and applicable law:

5.1. Acceleration. Mortgagee may, in accordance with the Credit Agreement, declare the Note and all other Secured Obligations to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

5.2. Uniform Commercial Code. Mortgagee shall, with respect to any part of the Mortgaged Property constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options, and remedies of a secured party under the UCC, including without limitation, the right to the possession of any such property or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirement of the UCC for reasonable notification shall be met by mailing written notice to Mortgagor at its address set forth herein at least ten days prior to the sale or other event for which such notice is required. The reasonable expenses of retaking, selling, and otherwise disposing of said property, including reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional indebtedness hereby secured and shall be payable upon demand with interest at the Default Rate.

5.3. Foreclosure. Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (a) by any action at law, suit in equity, or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (b) by the foreclosure of this Agreement. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness hereby secured in the decree of sale, all expenditures and expenses authorized by mortgage foreclosure law in the State of Illinois (the "Foreclosure Law") and all other reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and

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expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Mortgaged Property. All expenditures and expenses of the nature mentioned in this Section, and such other expenses and fees as may be incurred in the protection of the Mortgaged Property and rents and income therefrom and the maintenance of the lien of this Agreement, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Agreement, the Credit Documents, or the Mortgaged Property, including bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional indebtedness hereby secured and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid.

5.4. Appointment of Receiver. In any foreclosure proceeding the court may, upon application, following notice to the Mortgagor and without giving bond on such application (such notice and bond being hereby expressly waived) and also without reference to the then value of the Mortgaged Property, to the use of the Mortgaged Property as a homestead, or to the solvency or insolvency of any person liable for any said indebtedness, appoint a receiver for the benefit of the legal holder of the indebtedness secured hereby, to take possession of the Mortgaged Property, with power to collect rents, issues, and profits of the Mortgaged Property, then due or to become due, during the pendency of such foreclosure suit, and until the time to redeem the same shall expire (such rents, issues, and profits being hereby expressly assigned and pledged as additional security for the payment of the indebtedness secured by this Agreement); this provision for appointment of a receiver being expressly a condition precedent to the loan of the indebtedness comprising the Secured Obligations to the Mortgagor.

5.5. Taking Possession, Collecting Rents, Etc. Upon 20 days advance written demand by Mortgagee, Mortgagor shall surrender the Mortgaged Property to Mortgagee, and Mortgagee may enter and take possession of the Mortgaged Property or any part thereof personally, by its agent or attorneys, or by

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appointment as receiver and may enter upon and take and maintain possession of all or any part of the Mortgaged Property, together with all documents, books, records, papers, and accounts of Mortgagor relating thereto, and may exclude Mortgagor and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(a) enter upon the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Mortgaged Property, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

(b) cancel or terminate any lease or sublease of all or part of the Mortgaged Property for any cause or on any ground that would entitle Mortgagor to cancel the same or elect to disaffirm any lease or sublease made subsequent hereto or subordinated to the lien hereof;

(c) extend or modify any then existing leases and make new leases of all or any part of the Mortgaged Property based on reasonable business terms, which extensions, modifications, and new leases may provide for terms to expire, or for options for tenant to extend or renew terms to expire, beyond the maturity date of the Loan and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Mortgaged Property are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness hereby secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

(d) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Mortgaged Property as may seem judicious to Mortgagee, and insure and reinsure the Mortgaged Property and all risks incidental to Mortgagee's possession, operation, and management thereof; and

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(e) receive all rents, issues, deposits, profits, and avails therefrom and apply the same to the payment of or on account of the following, in such order as it may determine: (i) to the payment of the operating expenses of the Mortgaged Property, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (ii) to the payment of taxes, charges, and special assessments, and the costs of all repairs, renewals, and improvements of the Mortgaged Property and of placing the Mortgaged Property in such condition as will, in the judgment of Mortgagee, make it readily rentable; and (iii) to the payment of any of the indebtedness secured hereby and any costs or expenses incurred by Mortgagee hereunder or under any other Credit Documents.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Property. The right to enter and take possession of the Mortgaged Property and use any personal property therein, to manage, operate, conserve, and improve the same, and to collect the rents, issues, and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. Mortgagor hereby further expressly releases and waives any and all damages and claims of damages occasioned by such expulsion, INCLUDING THOSE OCCASIONED BY THE MORTGAGEE'S OWN NEGLIGENCE, except as result from the gross negligence or willful misconduct of Mortgagee, its agents, and contractors. The reasonable expenses (including any receiver's fee, attorneys' fees, costs, and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which expenses Mortgagor agrees to pay upon demand together with interest at the Default Rate. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Property, Mortgagee may, in the event the Mortgaged Property become vacant or are abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Property (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional indebtedness hereby secured payable upon demand with interest thereon at

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the Default Rate. The entering upon and taking possession of the Mortgaged Property, or any part thereof, and the collection of any rents, income, or other amounts and the application thereof as aforesaid shall not cure or waive any default theretofore or thereafter occurring or affect any notice or default hereunder or invalidate any act done pursuant to any such default or notice, and, notwithstanding continuance in possession of the Mortgaged Property or any part thereof by Mortgagee or a receiver, and the collection, receipt, and application of such amounts, Mortgagee shall be entitled to exercise every right provided for in this Agreement or by law or in equity upon or after the occurrence of an Event of Default.

## 5.6. Local Law Provisions.

(a) In the event that any provision in this Agreement shall be inconsistent with any provision of the Foreclosure Law, the provisions of the Foreclosure Law shall take precedence over the provisions of this Agreement, but shall not invalidate or render unenforceable any other provision of this Agreement that can be construed in a manner consistent with the Foreclosure Law.

(b) If any provisions of this Agreement shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Law in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Law to the full extent permitted by law; provided, however, that nothing herein contained shall be deemed to derogate from any cure rights or notice requirements expressly provided for in this Agreement.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under the Foreclosure Law whether or not enumerated elsewhere in this Agreement, shall be added to the indebtedness secured by this Agreement or by the judgment of foreclosure.

## Section 6. Additional Provisions Relating to Remedies.

6.1. Mortgagee Purchase. The Mortgagee may purchase the Mortgaged Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Secured Obligations.

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6.2. Appraisement and Redemption. To the full extent the Mortgagor may do so, the Mortgagor shall not insist upon, plead, claim, or take advantage of any law providing for any stay, extension, redemption, or reinstatement, and the Mortgagor hereby waives and releases the same, and all rights to a marshaling of the assets of the Mortgagor, including the Mortgaged Property, or to a sale in inverse order of alienation in the event of foreclosure of the liens and security interests hereby created. The Mortgagor shall not assert any right under any law pertaining to the marshaling of assets, sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents or other matters whatever to defeat, reduce, or affect the right of the Mortgagee under the terms of this Agreement.

6.3. Application of Proceeds. Unless otherwise specified herein, any cash proceeds received by the Mortgagee from the sale of, collection of, or other realization upon any part of the Mortgaged Property or any other amounts received by the Mortgagee hereunder shall be applied to the Secured Obligations in the following order: first, to the payment of the costs and expenses of exercising the Mortgagee's rights hereunder, whether expressly provided for herein or otherwise, including a reasonable fee for the agents of the Mortgagee if called upon to foreclose on the Mortgaged Property (not to exceed 5 percent of the bid at any foreclosure sale); and second, to the payment of the Secured Obligations in accordance with Section 7.7 of the Credit Agreement. Any surplus of such cash proceeds held by the Mortgagee and remaining after payment in full of all the Secured Obligations shall be paid over to the Mortgagor or to whomever may be lawfully entitled to receive such surplus.

## Section 7. Miscellaneous.

### 7.1. Performance by the Mortgagee.

(a) During the existence of an Event of Default, the Mortgagor agrees that, if the Mortgagor fails to perform under this Agreement, the Mortgagee may, but shall not be obligated to, perform the Mortgagor's obligations and any expenses incurred by the Mortgagee in performing the Mortgagor's obligations shall be paid by the Mortgagor. Any performance by the Mortgagee may be made by the Mortgagee in reasonable reliance on any statement, invoice, or claim without inquiry into the validity or accuracy thereof. The amount and nature of any expense of the Mortgagee hereunder shall be fully

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established by a certificate of any officer of the Mortgagee, absent manifest error.

(b) The Mortgagor irrevocably appoints the Mortgagee as the Mortgagor's attorney in fact, with full authority to act during the existence of an Event of Default for the Mortgagor and in the name of the Mortgagor, to take any action and execute any agreement which the Mortgagee is authorized to take pursuant to this Agreement.

(c) The powers conferred on the Mortgagee under this Agreement are solely to protect its rights under this Agreement and shall not impose any duty upon it to exercise any such powers. Except for the safe custody of any Collateral in its possession and the accounting for monies actually received by it hereunder, the Mortgagee shall have no duty as to any Collateral or as to the taking of any necessary steps to preserve rights against prior parties or any other rights pertaining to the Collateral.

7.2. Use of Proceeds. Mortgagor represents, warrants, covenants and agrees that all proceeds of the Credit Agreement secured by this Agreement will be used for the purposes specified in S.H.A. 815 ILCS 205/4(1)(c), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of S.H.A. 815 ILCS 205/4(1)(c).

7.3. Maximum Obligations Secured. The maximum of all of the outstanding obligations secured at any one time by this Agreement is \$5,000,000. The various obligations secured by this Agreement mature, in accordance with the provisions of the respective agreements, instruments and documents creating, evidencing, securing or otherwise relating to them, not later than 20 years after the date of this Agreement. All obligations secured by this Agreement, including, without limitation, all future advances, shall have the same priority, to the same extent as if such obligations secured by this Agreement, including, without limitation, future advances, were made on the date of this Agreement. This Agreement shall constitute a lien even if there are no outstanding obligations under this Agreement or any other Credit Documents from time to time.

7.4. Notice. Unless otherwise specified, all notices and other communications provided for in this Agreement shall be made as specified in the Credit Agreement.

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7.5. Inconsistencies. In the event of any conflict or inconsistency between any term, covenant, provision, or agreement of this Agreement and any term, covenant, provision, or agreement of the Credit Agreement, the terms, covenants, provisions, and agreements of the Credit Agreement shall govern and control to the extent of the conflict or inconsistency.

EXECUTED as of the date first above written.

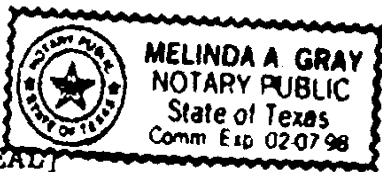
HYSAN CORPORATION

By: [Signature]  
Name: Paul H. Brown  
Title: CEO

STATE OF TEXAS  
COUNTY OF HARRIS

§  
§  
§

This instrument was acknowledged before me on this 5<sup>th</sup> day of JULY, 1994, by PAUL H. BROWN, CEO of Hysan Corporation, on behalf of such corporation.



[SEAL]

Melinda A. Gray  
Notary Public in and for  
the State of TEXAS  
MELINDA A. GRAY  
Notary's Name Printed:

My Commission Expires:

2-7-98

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Exhibit A

## Property Description

A tract of land in the southeast 1/4 of the northwest 1/4 of Section 1, Township 36 North, Range 13 East of the third principal meridian, bounded and described as follows:

Beginning at the southwest corner of said southeast quarter of the northwest quarter of Section 1 and running thence east along the south line of said northwest quarter of Section 1, a distance of 446.09 feet to an intersection with a line, which is 883.14 feet west from and parallel with the east line of said northwest quarter of Section 1; thence north along said last-described parallel line, a distance of 186.14 feet; thence east, along a line parallel with said south line of the northwest quarter of Section 1, a distance of 231.84 feet, to an intersection with a line, which is 651.30 feet, west from and parallel with said east line of the northwest quarter of Section 1; thence south, along said last-described parallel line, a distance of 6.48 feet to an intersection, with a line which is 179.66 feet north from and parallel with said south line of the northwest quarter of Section 1; thence east, along said last-described parallel line, a distance of 411.30 feet to an intersection with a line, which is 240.00 feet west from and parallel with the aforesaid east line of the northwest 1/4 of Section 1; thence north along said last-described parallel line, a distance of 695.84 feet to an intersection with the southerly line of the parcel of land conveyed to Commonwealth Edison Company, by deed dated April 19, 1955, and recorded in the Recorder's Office of Cook County, Illinois, on April 23, 1955, as Document No. 16219404; thence northwestwardly along the property so conveyed, a distance of 293.12 feet to the northeasterly corner of the parcel of land conveyed to the United States of America, by deed dated June 11, 1969, and recorded in the Recorder's Office of Cook County, Illinois, on June 17, 1969, as Document No. 20873587 (said northeasterly corner being 60.00 feet, measured perpendicularly, southeasterly from the southeasterly right-of-way line of Chicago, Rock Island, and Pacific Railroad); thence southwestwardly along the southeasterly line of said parcel of land conveyed to the United States of America, a distance of 1116.66 feet to the most southerly corner of said parcel of land conveyed to the United States of America (said southerly corner, being on the west line of the southeast quarter of the northwest quarter of said Section 1, at a point which is

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132.41 feet north of the southwest corner thereof), and thence south along said west line of the southeast 1/4 of the northwest 1/4 of Section 1, a distance of 132.41 feet to the point of beginning;

Also

That part of the south 179.66 feet of the southeast 1/4 of the northeast 1/4 of said Section 1, bounded and described as follows:

Beginning on the south line of the northwest 1/4 of Section 1, at a point which is 611.60 feet west from the southeast corner thereof and running thence east along said south line of the northwest 1/4 of Section 1, a distance of 84.00 feet; thence north at right angles to said south line of the northwest 1/4 of Section 1, a distance of 12.00 feet; thence northwestwardly on a curved line, concave northeasterly and normal to the north line of the south 12.00 feet of the southeast 1/4 of the northwest 1/4 of said Section 1, and having a radius of 30.00 feet, a distance of 47.12 feet to a point of tangency with a line perpendicular to the aforesaid south line of the northwest 1/4 of Section 1; thence north along said perpendicular line, a distance of 137.66 feet to the north line of the south 179.66 feet of said southeast 1/4 of the northwest 1/4 of Section 1; thence west along said last-described line, a distance of 24.00 feet; thence south along a line perpendicular to said south line of the northwest 1/4 of Section 1, a distance of 137.66 feet to a point of curve; thence southwestwardly on a curved line, concave northwesterly and having a radius of 30.00 feet, a distance of 47.12 feet and thence south at right angles to the south line of said northwest 1/4 of Section 1, a distance of 12.00 feet, to the point of beginning, in Cook County, Illinois.

PIN: 28-01-111-060-0000

This instrument prepared by and when recorded return to:

Reuben C. Warshawsky  
Keck, Mahin & Cate  
77 West Wacker Drive  
49th Floor  
Chicago, Illinois 60601

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Exhibit B

## Permitted Encumbrances

Rights of the Village of Posen in and to the east 25 feet of the land condemned for sanitary and storm water sewer on a petition filed July 22, 1930, as Case No. 63883, in the Cook County Court.

Perpetual easement for construction, re-construction, repair, maintenance and operation of intercepting sewer as created by grant from Sam Buwalda and Cornelius Buwalda to the Metropolitan Sanitary District of Greater Chicago recorded August 24, 1960, as Document 17945379 upon, under, and through a strip of land 20 feet wide, together with right of access thereto.

An easement for highway purposes recorded October 13, 1981, as Document 26025110 in favor of the State of Illinois for the use of the Department of Transportation and the uses stated therein over a portion of the land (affects a portion of the land located along the southern line thereof along 139th Street).

Rights of the public, the State of Illinois, and the municipality in and to that part of the land, if any, taken or used for road purposes.

Rights-of-way for drainage tiles, ditches, feeders, and laterals, if any.

Rights of the adjoining and contiguous owners to have maintained the uninterrupted flow of the waters of any stream which may flow on or thorough said land.

NOTE: Drainage assessment, drainage taxes, water rentals, and waters taxes are included in general exception(s) heretofore shown and should be considered when dealing with the land.

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Reuben Marshawsky  
Heck, Mahin & Cate  
77 W Wacker Dr.  
4th Fl.  
Chicago, IL 60601



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