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extensions and modifications thereto; to secure the obligations set forth in this instrument; to secure the undertakings set forth in the Guaranty described in Recital C; and to secure the undertakings and performance set forth in any and all other documents or instruments regulating, evidencing, securing or guarantying the undertakings of Borrower under the Note and hereunder (collectively "Loan Documents"), all of which undertakings and promises are hereafter collectively referred to as the "Indebtedness"), hereby (i) grants, warrants and mortgages to Lender the real estate ("Real Estate") described on Exhibit B hereto, (ii) assigns to Lender all of the rents, income and leases from and on the Real Estate, and (iii) grants Lender a security interest under the provisions of the Code in and to all tangible and intangible personal property ("Personal Property"), wherever located, used in connection with the operation of the Real Estate. The Real Estate and Personal Property are sometimes hereafter collectively called the "Property."

E. Included with the Real Estate are all improvements presently existing and hereafter constructed on the Real Estate, all fixtures and Personal Property of every nature now or hereafter owned by Borrower and used or intended to be used in connection with the Real Estate and the improvements on the Real Estate, all betterments, renewals, substitutions, replacements, easements, rights of way, streets, alleys, rights, titles, interests, tenements, appurtenances, reversions, remainders, rents, issues, profits and income whatever in any way belonging, relating or pertaining to the Real Estate.

F. The Personal Property includes, without limitation, air conditioners, antennae, kitchen appliances, awnings, plumbing fixtures, cabinets, carpets, coolers, blinds, drapes, disposers, elevators, motors, engines, equipment, escalators, fans, floor coverings, heaters, humidifiers, lighting equipment, machinery, recreational facilities and equipment, security systems and equipment, shades, sprinklers, washers, dryers, renewals and replacements thereof and substitution therefor or in addition thereto; funds and collateral deposited with Lender pursuant hereto, judgments, awards of damages and settlements from condemnation proceeds or the taking of any part of the Property, proceeds of policies of insurance maintained with respect to the Property, proceeds of any option or contract to sell any part of the Property; security deposits, accounts receivable including current and delinquent rents, and all other income from the Property. Borrower hereby appoints Lender, at its option, and assigns to Lender the right to adjust, compromise, collect and receive any and all of the foregoing and to apply monies so received in the manner permitted under the provisions of the Note and this instrument.

G. Borrower hereby waives any and all rights it may have by virtue of the homestead exemption laws of the State of Illinois,

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and to the fullest extent permitted by law, waives any right its rights of redemption.

## FURTHER AGREEMENTS:

1. *Payment and Performance.* Borrower agrees to pay and perform the Indebtedness when due.

2. *Maintenance, Repair, Compliance with Law, Use, etc.* Borrower shall promptly repair replace or restore any portion of the Property which may become damaged; keep the Property in good condition and free from waste; pay all operating costs, including, without limitation, general real estate taxes, special assessments, insurance premiums and any other costs the non-payment of which may result in a lien against the Property; complete with all due diligence any improvements at any time in the process of erection upon the Property; comply with all requirements of law relating to, and cause the Property to be managed in a competent and professional manner. Borrower shall not, without prior written consent of Lender, cause or permit any material alterations to or change any intended use or occupancy of the Property; change the identity of any person or firm responsible for managing the Property; consent to any zoning reclassification, permit a nuisance to exist on the Property; or grant any easements, license, covenants, conditions or declarations restricting the use of the Property.

### 3. *Liens.*

3.1. *Prohibition.* Borrower shall not, except as permitted by Lender, create or permit any encumbrance to attach to or be filed against the Property, excepting only the lien of real estate taxes and assessments not due and encumbrances of Lender.

3.2. *Contest of Mechanic's Liens Claims.* Borrower may in good faith and with diligence contest the validity or amount of any Mechanic's Lien and defer payment and discharge during the pendency of such contest, provided:

3.2.1. Such contest shall prevent the sale or forfeiture of the Property or any part thereof, or any interest therein;

3.2.2. Within 5 days after being notified of the assertion of such lien, Borrower shall notify Lender in writing and shall advise Lender if Borrower intends to so contest; and

3.2.3. Borrower shall obtain a title insurance endorsement insuring Lender against loss, or Borrower shall deposit with Lender a sum of money which shall be sufficient in the judgment of Lender to pay in full such lien and interest which might become due thereon. Borrower shall increase the deposits

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whenever, in the judgment of Lender, increase is advisable. The deposits are to be held without any allowance of interest.

Lender may pay such deposits to the Mechanic's Lien claimant if Borrower (i) fails to maintain sufficient deposits; or (ii) fails to act in good faith; or (iii) if a lien contest is resolved in favor of the claimant. Lender shall return unexpended deposits to Borrower upon receipt of evidence satisfactory to Lender of release of such liens.

## 4. Taxes.

4.1. *Payment.* Borrower shall pay and discharge when due, all taxes, assessments and charges ("Taxes") levied or assessed against the Property, and shall furnish receipts therefor on or before the due date.

4.2. *Contest.* Borrower may, in good faith and with reasonable diligence, contest the validity or amount of any Taxes, provided that:

4.2.1. Such contest shall prevent the collection and the sale or forfeiture of the Property;

4.2.2. Borrower shall have notified Lender of Borrower's intention to so contest before such Taxes are increased by interest, penalty or cost; and

4.2.3. Borrower shall have deposited with Lender money or security acceptable to Lender that together with the monies or other security deposited pursuant to Paragraph 8 hereof, is sufficient, in Lender's judgment, to pay in full such Taxes, including interest, penalties and costs, and shall increase such deposit whenever Lender deems such an increase advisable.

4.2.4. If Borrower fails to prosecute such contest with diligence or to so maintain sufficient funds on deposit, Lender may, at its option, liquidate any securities deposited with Lender, and apply the deposits in payment of or on account of Taxes. If the amount of the deposits is insufficient for the payment in full, Borrower shall, upon demand, deposit with Lender a sum that will restore such deposit to an amount satisfactory to Lender. Provided that Borrower is not then in default hereunder, Lender shall, after final disposition of such contest and upon Borrower's written request and delivery to Lender of an official bill for Taxes, apply the money so deposited in payment of Taxes.

5. *Change in Tax Laws.* If any tax is imposed or becomes due in respect of the issuance of the Note or the recording of this instrument, Borrower agrees to pay such tax. If any law, statute, rule, regulation, order or court decree, now or hereafter, has the

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effect of imposing upon Lender the payment of any taxes required to be paid by Borrower, or changing the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of Lender in the Property, or the manner of collection of taxes, so as to affect this instrument, the Indebtedness of Lender, Borrower shall pay such taxes or reimburse Lender therefor. However, if in Lender's judgment such payment or reimbursement by Borrower is unlawful, the Indebtedness shall be due within thirty (30) days after written demand by Lender to Borrower. Nothing in this Paragraph 5 shall require Borrower to pay any income, franchise or excise tax imposed upon Lender, excepting only such which may be levied against the income of Lender as a complete or partial substitute for taxes required to be paid by Borrower pursuant hereto.

6. **Insurance Coverage.** Borrower will insure the Property 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"):

6.1. While construction work is in place or in progress on the Real Estate, Builder's Risk Insurance on an "all risks" basis for one hundred percent (100%) of the insurable value of all construction work in place or in progress, insuring the Property, including materials in storage and while in transit, against loss or damage by fire or other casualty, with extended coverage, "X," "C" and "U" coverage, vandalism and malicious mischief coverage, bearing a replacement cost agreed amount endorsement;

6.2. Employer's Liability Insurance;

6.3. 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 of the Property and bearing a replacement cost agreed amount endorsement;

6.4. Comprehensive public liability against death, bodily injury and property damage in an amount not less than Two Million Dollars (\$2,000,000);

6.5. 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 Borrower pursuant to the Note and this instrument;

6.6. Steam boiler, machinery and pressurized vessel insurance (if applicable to the Property); and

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6.7. If the Federal Insurance Administration has designated, or hereafter designates, the Property to be in a special flood hazard area, and designated the community in which the Property is located to be eligible for the sale of subsidized insurance, first and second layer flood insurance when and as available; and

6.8. The types and amounts of coverage as are customarily maintained by owners or operators of like properties.

7. *Insurance Policies.* All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Lender. All Insurance Policies shall include and provide, when available, non-contributing Lender endorsements in favor of and with loss payable to Lender, include waiver of subrogation endorsements, provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Lender and provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Lender. Borrower 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. Insurance Policies maintained by tenants under the Leases may, if in conformity with the requirements of this instrument and if approved by Lender, be presented to Lender in satisfaction of Borrower's obligation to provide the insurance coverages provided by those Insurance Policies.

8. *Deposits for Taxes and Insurance Premiums.* In order to assure the payment of Taxes and insurance policy premiums ("Premiums") when due:

8.1. Borrower shall, if required by Lender, deposit with Lender on the first day of each month, an amount equal to one-twelfth (1/12) of the Taxes and Premiums ("Deposits") as estimated by Lender, to become due between one (1) and thirteen (13) months after the date of such deposit; provided that in the case of the first such deposit, Borrower shall deposit in addition an amount which, when added to the aggregate amount of monthly deposits to be made hereunder with respect to Taxes and Premiums to become due within thirteen (13) months after such first deposit, will provide a sufficient fund to pay such Taxes and Premiums, one (1) month prior to the date when they are due. Borrower shall promptly make additional Deposits as Lender may from time to time require due to (i) failure of Lender to require, or failure of Borrower to make Deposits in previous months, (ii) underestimation, or (iii) application of the Deposits pursuant to Paragraph 8.3 hereof. Additionally, upon the execution hereof, Borrower shall deposit with Lender the amount of all Taxes and Premiums to become due and payable prior to the first monthly Tax and Insurance Deposit or within one month thereafter. Lender shall hold all Deposits without any allowance of interest thereon.

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8.2. Lender will, out of the Deposits, upon the presentation to Lender by Borrower of the bills therefor, pay the Taxes and Premiums or reimburse Borrower for such payments made by Borrower. If the Deposits on hand shall not be sufficient to pay all of the Taxes and Premiums when due, Borrower shall pay to Lender, on demand, the amount necessary to make up the deficiency.

8.3. Upon a Default under this Instrument Lender may, at its option, apply any Deposits to the Indebtedness, in such order and manner as Lender may elect. When the Indebtedness has been fully paid, any remaining Deposits shall be paid to Borrower. All Deposits are hereby pledged as additional security for the Indebtedness and shall be held by Lender irrevocably to be applied for the purposes for which made as herein provide, and shall not be subject to the direction or control of Borrower.

8.4. Lender shall not be liable for any failure to apply Deposits unless Borrower, while no Default exists hereunder, shall have (i) requested Lender in writing to make application of such Deposits to the payment of the Taxes or Premiums and (ii) presented Lender with bills for such Taxes or Premiums.

8.5. No provision of this instrument shall be construed as creating in any other party any rights in and to the Deposits or any rights to have the Deposits applied to payment of Taxes and Premiums. Lender shall have no obligation or duty to any third party to collect or apply Deposits.

9. *Proceeds of Insurance.* Borrower will give Lender prompt notice of any loss or damage to the Property, and:

9.1. In case of loss or damage covered by Insurance Policies, Lender (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or the decree creditor) may (i) settle and adjust any claim under such Insurance Policies without the consent of Borrower, or (ii) allow Borrower to settle and adjust such claim without the consent of Lender; provided that in either case Lender is hereby authorized to collect and receipt for any insurance proceeds and the expenses incurred by Lender in the adjustment and collection of insurance proceeds shall be additional Indebtedness and shall be reimbursed to Lender upon demand or may be deducted by Lender from insurance proceeds prior to any other application thereof. Each insurance company which has issued an Insurance Policy is hereby authorized and directed to make payment for all losses to Lender alone, and not to Lender and Borrower jointly.

9.2. Lender, in its sole discretion, may elect to apply the proceeds of Insurance Policies (i) to reduce the Indebtedness; or (ii) to reimburse Borrower for the cost of restoring or repairing the Property in accordance with the provisions of Paragraph 10 hereof. In the event Lender applies the proceeds of

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Insurance Policies to the Indebtedness and such proceeds do not discharge that Indebtedness in full, Lender may declare the entire Indebtedness immediately due and payable.

9.3. Whether or not insurance proceeds are made available to Borrower, Borrower shall restore or repair the Property to be of at least equal value, and of substantially the same character, in accordance with plans, specifications and procedures approved in advance by Lender, and Borrower shall pay all costs of such restoring or repairing.

10. *Disbursement of Insurance Proceeds.* Insurance proceeds held by Lender for restoration or repairing of the Property shall be disbursed upon Lender being furnished with (i) evidence satisfactory to it of the cost of the restoration or repair, (ii) funds sufficient in addition to the proceeds of insurance, to fully pay for the restoration or repair, and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and evidences of cost, payment and performance as Lender may require. No payment made prior to the final completion shall exceed ninety percent (90%) of the value of the work performed from time to time, as such value shall be determined by Lender; funds other than insurance proceeds shall be disbursed prior to disbursement of such proceeds, and at all times the undisbursed balance remaining in the hands of Lender, to pay the cost of such repair or restoration, shall be sufficient in the judgment of Lender to pay the entire unpaid cost of the restoration or repair, free of all liens or claims for lien. Any surplus remaining shall be paid to Borrower, provided Borrower is not in default hereunder. No interest shall be allowed to Borrower on account of any proceeds of insurance or other funds held by Lender.

11. *Condemnation and Eminent Domain.* All awards ("Awards") made by any lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Property are hereby assigned by Borrower to Lender. Lender may collect the Awards from the condemnation authorities and may give appropriate acquittances therefor. Borrower shall immediately notify Lender of actual or threatened commencement of such proceedings affecting any part of the Property, and shall deliver to Lender copies of all papers served in connection therewith. Borrower shall execute and deliver to Lender, upon request, free of encumbrance, any additional assignments and instruments requested by Lender for the purpose of assigning the Awards to Lender. After deducting all of its expenses incurred in the collection and administration of the Award, including attorneys' fees, Lender shall apply the net proceeds toward repayment of such portion of the Indebtedness as it deems appropriate. If any portion of or interest in the Property is so taken and the remaining portion of the Property is not, in the judgment of Lender, a complete economic unit having equivalent value to the Property as it existed prior to the taking, then



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Lender may declare the entire Indebtedness immediately due. In the event of any partial taking of the Property which, in the judgment of Lender, leaves the Property as a complete economic unit having equivalent value to the Property as it existed prior to the taking, and provided Borrower is not in default hereunder, the Award shall be applied to reimburse Borrower for the cost of restoration and rebuilding the Property in accordance with plans, specifications and procedures approved by Lender, and such Award shall be disbursed in the same manner as provided above for the application of insurance proceeds. Any surplus after payment of such costs shall be applied on account of the Indebtedness. If the Award is not applied for such restoration costs, the Award shall be applied against the Indebtedness, in such order or manner as Lender shall elect.

12. *Assignment of Rents, Leases and Profits.* To further secure the Indebtedness, Borrower hereby assigns to Lender all of the rents, common area charges, real estate tax contributions, utility charges and all other amounts receivable under, and leases and income (collectively "Rents") now or hereafter due under any leases or licenses now or hereafter in effect for any part of the Property, it being the intention hereby to establish an absolute transfer and assignment of all such Rents, to Lender. Borrower hereby irrevocably authorizes and appoints Lender its attorney-in-fact (being a power coupled with an interest and not revocable without the written consent of Lender) with or without taking possession of or instituting foreclosure proceedings against the Property, to collect all Rents due with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession pursuant to the provisions of Paragraph 18 hereof, but with no requirement, however, that Lender take such possession and without requirement or necessity for the commencement of any judicial action. Borrower represents that no rent has been or will be paid by any person in possession of any portion of the Property for more than one month in advance and that the payment of none of the Rents for any portion of the Property has been or will be waived, reduced or otherwise discharged or compromised by Borrower. Borrower waives any rights of set-off against any person in possession of any portion of the Property. Borrower agrees that it will not assign any of the Rents of the Property, except with written consent of Lender. Nothing herein contained shall be construed as constituting Lender a mortgagee in possession in the absence of the taking of actual possession of the Property. Borrower expressly waives all liability of Lender in the exercise of the powers herein granted Lender. Borrower hereby assigns to Lender all future Rents and leases upon any part of the Property and shall execute and deliver, at the request of Lender, all such further assurances and assignments in the Property as Lender shall from time to time require. Although the assignment contained in this paragraph is a present assignment, Lender shall not exercise any of the rights or powers conferred upon it by this paragraph

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until a Default shall exist under this instrument. Within five (5) days of Lender's written demand, Borrower will furnish Lender with executed copies of each of the leases or other documents related to income, and with estoppel letters from each tenant in a form satisfactory to Lender. If Lender requires that Borrower execute and record a separate collateral assignment of rents or separate assignments of any of the leases to Lender, the terms of those assignments shall control in the event of a conflict with the terms of this instrument.

13. *Observance of Lease Assignment.* Borrower agrees that if any lessee shall fail to pay Rent on a timely basis or to fulfill any material provision of a lease; or if Borrower shall terminate or modify any leases without Lender's prior written consent; or if Borrower shall suffer any default under the provisions of any lease and such default shall not be cured within any applicable grace period, such default shall constitute a Default and, at the option of Lender, the Indebtedness shall become due as in the case of other Defaults.

14. *Security Agreement.* Borrower and Lender agree that this instrument is a Security Agreement within the meaning of the Code of which Borrower is Debtor and Lender is Secured Party, as those terms are used in the Code with respect to (i) the Deposits; (ii) all sums at any time on deposit for the benefit of Lender or held by the Lender (whether deposited by or on behalf of the Borrower or anyone else); and (iii) the Personal Property elsewhere described in this instrument, which Personal Property is not deemed to be affixed to the Property so as to constitute a "fixture" (within the meaning of the Code), and all replacements of, substitutions for, additions to, and the proceeds thereof, as to all of which a security interest is hereby granted to Lender, and all of Borrower's right, title and interest therein are hereby assigned to Lender.

14.1. Borrower warrants that Borrower is and will be the true and lawful owner of the Personal Property, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Lender and no other party, and liens and encumbrances, if any, expressly permitted.

14.2. The said Personal Property is to be used by Borrower solely for business purposes.

14.3. The said Personal Property will be kept at the Real Estate, and, except for Obsolete (as hereinafter defined), will not be removed therefrom without the consent of Lender. The Property may be affixed to the Real Estate but shall not be affixed to any other real estate.

14.4. Borrower warrants that Borrower and Lender are the only holders of any interests in the Personal Property.

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14.5. No Financing Statement (other than Financing Statements showing Lender as the sole secured party) covering any of the Personal Property or any proceeds thereof is on file in any public office except pursuant hereto; and Borrower will at its own cost and expense, upon demand, furnish to Lender such further information and will execute and deliver to Lender such financing statements and other documents in form satisfactory to Lender and will do all such acts as Lender may at any time or from time to time request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Personal Property as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefitting Lender; and Borrower will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Lender to be desirable.

14.6. Upon Default hereunder, Lender shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Personal Property or any part thereof, and for that purpose may, so far as Borrower can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place which the Personal Property or any part thereof may be situated and remove the same therefrom (provided that if the Personal Property is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Lender shall be entitled to hold, maintain, preserve and prepare the Personal Property for sale, until disposed of, or may propose to retain the Personal Property subject to Borrower's right of redemption in satisfaction of Borrower's obligations, as provided in the Code. Lender may render the Personal Property unusable without removal and may dispose of the Personal Property. Lender may require Borrower to assemble the Personal Property and make it available to Lender for its possession at a place to be designated by Lender which is reasonably convenient to both parties. Lender will give Borrower at least twenty (20) days' notice of the time and place of any public sale of the Personal Property, or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Borrower hereinafter set forth at least twenty (20) days before the time of the sale or disposition. Lender may buy at any public sale. Lender may buy at private sale if the Personal Property is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Real Estate. If Lender so elects, the Real Estate and the Personal Property may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and

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the reasonable attorney's fees and legal expenses incurred by Lender, shall be applied against the Indebtedness in such order or manner as Lender shall select. Lender will account to Borrower for any surplus realized on such disposition.

14.7. To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases (including Rents and accounts arising therefrom) between Borrower or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of Borrower, as lessor thereunder.

14.8. The recording of this instrument shall constitute the filing and recording of a UCC-2 Financing Statement as to all Personal Property which may be constituted fixtures under the provisions of the Code.

15. **Restrictions on Transfer.** Borrower shall not, without the prior written consent of Lender, effect, suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance, alienation or agreement to do any of the foregoing of any of the Property, excepting only sales or other dispositions of Personal Property no longer useful in connection with the operation of the Real Estate, provided that prior to the sale or disposition thereof the same has been replaced by Personal Property having equal value and utility which is subject to the lien hereof with the same priority as with respect to the Personal Property disposed of. Included in such prohibition are the following:

15.1. All or any portion of the beneficial interest or power of direction in or to the trust under which Borrower is acting, if Borrower is a Trustee;

15.2. Any shares of capital stock of a corporate Borrower, a corporation which is a beneficiary of a trustee Borrower, a corporation which is a general partner in a partnership Borrower, a corporation which is a general partner in a partnership beneficiary of a trustee Borrower, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealer's Automated Quotation System);

15.3. All or any part of the partnership or joint venture interest of a partnership Borrower or a partnership beneficiary of a Trustee Borrower if Borrower or such beneficiary is a partnership or a joint venture; in each case whether any such

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conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Paragraph 15 shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, or (iii) to any transfers of the Property, or part thereof, or interest therein, or any beneficiary interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives.

16. Defaults. If one or more of the following events (herein called "Defaults") shall occur:

16.1. Any failure to pay the Indebtedness when due or such portion of it as may be due, by acceleration or otherwise;

16.2. Any other failure to make payments of amounts owed under the Note or this instrument when due;

16.3. Any default shall exist under any of the Note, Mortgage or Loan Documents;

16.4. The occurrence of a transfer prohibited in Article 15 hereof;

16.5. The death of a guarantor, or the death of Borrower if Borrower is an individual, or a death of a beneficiary of a trustee Borrower, or the death of any general partner in a partnership Borrower or in a partnership which is a beneficiary of a trustee Borrower, or the death of a shareholder who is an owner of more than 10% of the stock in a corporate Borrower or a corporation which is a beneficiary of a trustee Borrower, or a general partner of a partnership Borrower, or a general partner of a beneficiary of a trustee Borrower.

16.6. If default shall occur in the punctual performance or observance of any other agreement or condition herein contained;

16.7. If (and for the purpose of this subparagraph only, the term Borrower shall mean not only Borrower, but also any beneficiary of a trustee Borrower, any general partner in a partnership Borrower or in a partnership which is a beneficiary of a trustee Borrower, any owner of more than ten percent of the stock in a corporate Borrower or a corporation which is the beneficiary of a trustee Borrower and each person who, as guarantor, co-maker or otherwise shall be or become liable for or obligated upon all or any part of the Indebtedness or any of the covenants or agreements contained herein):

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16.7.1. Borrower shall file a voluntary petition in bankruptcy or for relief under the Federal Bankruptcy Act or any similar state or federal law;

16.7.2. Borrower shall file a pleading in any proceeding admitting insolvency;

16.7.3. Within thirty (30) days after the filing against Borrower of any involuntary proceeding under the Federal Bankruptcy Act or similar state or federal law, such proceedings shall not have been vacated;

16.7.4. A substantial part of Borrower's assets are attached, seized, subjected to a writ or distress warrant or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within thirty (30) days;

16.7.5. Borrower shall make an assignment for the benefit of creditors or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its personal property, or the Property;

16.7.6. Any order appointing a receiver, trustee or liquidator of Borrower or all or a major part of Borrower's personal property or the Property is not vacated within thirty (30) days following the entry thereof;

16.7.7. Any failure or neglect to comply with, or breach of, any of the terms, provisions, warranties or covenants of this instrument or any other agreement or commitment between Borrower, any Guarantor and Lender;

16.7.8. Any warranty, representation, financial statement or other information made, given or furnished to Lender by or on behalf of Borrower or any Guarantor shall be, or shall prove to have been, false or misleading in any material respect when made, given or furnished, or shall become false or misleading in any material respect while any part of the Indebtedness remains unpaid; or

16.7.9. Any loss, theft, substantial damage or destruction to any of the collateral, or the issuance or filing of any attachment, levy, garnishment or the commencement of any proceedings in connection with any of the collateral or any other judicial process of, upon or in respect of Borrower or any Guarantor;

then Lender may, at its option, without notice, and without affecting the lien hereby created or the priority of said lien or any other right of Lender hereunder, declare, without further notice, all Indebtedness immediately due with interest thereon at the Default Rate, whether or not such Default be thereafter

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remedied by Borrower, and Lender may immediately proceed to foreclose this instrument and to exercise any right provided by this instrument, the Note or otherwise, including, without limitation, foreclosure proceedings under the Code, foreclosure proceedings under the Mortgage Foreclosure Laws of the State of Illinois, collection of Rents as assignee of Rents without the institution of foreclosure proceedings or taking possession of the Property, nor any other manner of perfection.

17. *Lender's Costs and Expenses.* Debtor shall be responsible for and agrees to pay all of Lender's reasonable document preparation and related attorney's fees, appraisal fees, inspection fees, collateral evaluation fees, fees of counsel employed for advice or other representation with respect to the collateral, this instrument and the Indebtedness, all of which reasonable costs and expenses shall be part of the Indebtedness payable by Borrower to Lender on demand. When Indebtedness shall become due or performance shall be required hereunder, by acceleration or otherwise, Lender shall have the right to exercise any remedy of Lender provided in the Note, this instrument, or which Lender may have at law, at equity or otherwise. There shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring title searches and examinations, title insurance policies, amounts advanced or incurred by Lender in payment of insurance premiums, taxes, preparation of space for new tenants under the provisions of leases entered into by Lender, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender. All such expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Property and the income therefrom and the maintenance of the lien of this instrument, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this instrument, the Note or the Property including probate and 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 and shall be immediately due and payable by Borrower, with interest thereof at the Default Rate until paid.

18. *Right of Possession.* In the event of the institution of foreclosure proceedings, Lender shall be entitled to be placed in possession of the Property as Mortgagee-in-Possession pursuant to court order thereupon, and may:

18.1. hold, operate, manage, and control the Property and conduct the business thereof, either personally or by its agents,



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with full power to use such measures, legal or equitable, as Lender may deem necessary to enforce the payment or security of the Rents issues, deposits, profits, and avails of the Property;

18.2. cancel or terminate any Lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Borrower to cancel the same;

18.3. elect to disaffirm any Lease or sublease of all or any part of the Property made subsequent to this instrument without Borrower's prior written consent;

18.4. extend or modify any then existing Leases and make new Leases of all or any part of the Premises, which extensions, modifications, and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the term of such appointment as Mortgagee-in-Possession and beyond the maturity date of the Note and the issuance of a deed to a purchaser 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 Borrower, all persons whose interests in the Property are subject to the lien hereof, and the purchaser at any foreclosure sale, notwithstanding any redemption from sale, reinstatement, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

18.5. make repairs, decoration, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Property; to insure and reinsure the Property and all risks incidental to Lender's possession, operation, and management thereof, and to receive all Rents, issues, deposits, profits, and avails therefrom; and

18.6. apply the net income, after allowing a reasonable fee for the collection thereof and for the management to the payment of interest and principal on the Note, Taxes, Premiums and other costs and expenses in such order and manner as Lender shall select.

Without limiting the generality of the foregoing, Lender shall have, in addition, all power, authority and duties as provided in the Statutes of the State of Illinois. Nothing herein contained shall be construed as constituting Lender a mortgagee in possession in the absence of the actual taking of possession of the Property.

19. Receiver. Following the filing of a complaint to foreclose this instrument, the court may appoint upon petition of Lender a receiver of the Property. Lender hereunder or any employee or agent thereof may be appointed as such receiver.

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20. *Foreclosure Sale.* Except to the extent otherwise required by the Act, the proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: First, all items which under the terms hereof constitute Indebtedness additional to the principal and interest evidenced by the Note in such order as Lender shall elect with interest thereon as herein provided; and Second, to principal and interest remaining unpaid on the Note in such order as Lender shall elect; and lastly any surplus to Borrower.

21. *Waiver of Right of Redemption and other Rights.* To the full extent permitted by law, Borrower agrees that it will not at any time or in any manner take advantage of any stay, reinstatement right, 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 appraisement of the Property; nor 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, Borrower 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, Borrower hereby expressly waives any and all rights of redemption and homestead on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Borrower. Borrower 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. Borrower acknowledges that the Property does not constitute agricultural real estate. Borrower hereby stipulates to the lifting of any stay order entered, automatically or otherwise, in any bankruptcy which has the effect of preventing Lender from enforcing its rights hereunder.

22. *Lender's Performance of Borrower's Obligations.* In case of Default, either before or after acceleration of the Indebtedness or the foreclosure of the lien hereof Lender may, but shall not be required to, make any payment or perform any act herein required of Borrower (whether or not Borrower is personally liable therefor) in any manner deemed expedient to Lender. Lender may, but shall not be required to, complete construction, furnishing and equipping of the Improvements and Rent, operate and manage the Property and pay operating costs, including management fees, of every kind in connection therewith, so that the Property shall be useable for the intended purposes. All such monies paid and expenses incurred, including attorneys' fees, shall be so much additional Indebtedness, whether or not the Indebtedness, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due with interest thereon at the Default Rate specified in the Note. Inaction of Lender shall never be considered as a

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waiver of any right accruing to it on account of any Default nor shall the provisions of this Paragraph or any exercise by Lender of its rights hereunder prevent any default from constituting a Default. Lender, in making any payment hereby authorized (a) relating to Taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction, furnishing or equipping of the Property or the rental, operation or management thereof or the payment of operating costs, may do so in such amounts and to such persons as Lender may deem appropriate. Nothing contained herein shall be construed to require Lender to advance monies for any purpose.

23. *Rights Cumulative.* Each right herein conferred upon Lender is cumulative and in addition to every other right provided by law or in equity, and Lender may exercise each such right in any manner deemed expedient to Lender. Lender's exercise or failure to exercise any right shall not be deemed a waiver of that right or any other right or a waiver of any default. Except as otherwise specifically required herein, Lender is not required to give notice of its exercise of any right given to it by this instrument.

#### 24. *Successors and Assigns.*

24.1. *Holder of the Note.* This instrument and each provision hereof shall be binding upon Borrower and its successors and assigns, and shall inure to the benefit of Lender and its successors and assigns. Wherever herein Lender is referred to, such reference shall be deemed to include the holder from time to time of the Note.

25. *Effect of Extensions and Amendments.* If the payment of the Indebtedness, or any part thereof, be extended or varied, or if any part of the security or any guaranties thereof be released, all persons now or at any time liable therefor, or interested in the Property shall be held to assent thereto and their liability, and the lien and security interest, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Lender, notwithstanding any such extension, variation or release. Anyone taking a junior mortgage, or other lien upon the Property or any part thereof or any interest therein, shall take the said lien subject to the rights of Lender to amend, modify, increase the amount of, extend or release the Note, this instrument or any other document or instrument evidencing, securing or guarantying the Indebtedness, in each case without obtaining the consent of the holder of such junior lien and without the lien of this instrument losing its priority.

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26. *Construction Loan.* If Borrower has executed and delivered to Lender a Construction Loan Agreement and/or a Construction Loan Escrow Agreement (collectively or singly "Construction Agreement") relating to the construction of improvements upon the Real Estate and the disbursement of all or part of the Indebtedness for the purpose of financing a portion of the costs thereof, the Construction Agreement is hereby incorporated herein by this reference as fully and with the same effect as if set forth herein at length. This instrument secures all funds advanced pursuant to the Construction Agreement (which advances shall constitute part of the Indebtedness, whether more or less than the principal amount stated in the Note) and the punctual performance, observance and payment by Borrower of all of the requirements of the Construction Agreement to be performed, observed or paid by Borrower. In the event of express and direct contradiction between any of the provisions of the Construction Agreement and any of the provisions contained herein, then the provisions contained in the Construction Agreement shall control. Any warranties, representations and agreements made in the Construction Agreement by Borrower shall survive the execution and recording of this instrument and shall not merge herein.

27. *Environmental Matters.* Borrower 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 Property in compliance with all federal, state and local laws, rules, regulations and ordinances regulating, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of hazardous or toxic substances or other materials (including, without limitation, raw materials, products, supplies or wastes). Borrower further covenants and agrees that it shall not install or permit to be installed in the Property 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. Borrower shall remove from the Property and dispose of any such 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 action to remedy, rectify, rehabilitate and correct any violation of any applicable law, rule, regulation or ordinance concerning toxic or hazardous substances or any violation of any agreement entered into between Borrower, Lender and/or any third party with respect to hazardous or toxic materials. Borrower shall send to Lender within five (5) days of receipt thereof, any citation, notice of violation or other notice of potential liability from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. Borrower agrees to indemnify, defend with counsel reasonably acceptable to Lender (at Borrower's sole cost), and hold Lender harmless against any claim, response or other costs, damages, liability or demand (including, without limitation, reasonable

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attorneys' fees and costs incurred by Lender) arising out of any claimed violation by Borrower of any of the foregoing laws, regulations or ordinances or breach of any of the foregoing covenants or agreements. The foregoing indemnity shall survive repayment of the Indebtedness.

28. *Future Advances.* At all times, regardless of whether any loan proceeds have been disbursed, this instrument secures as part of the Indebtedness the payment of all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Lender in connection with the Indebtedness, all in accordance with the Note, this instrument, and the Construction Agreement, if any, provided, however, that in no event shall the total amount of the Indebtedness, including loan proceeds disbursed plus any additional charges, exceed three hundred percent (300%) of the face amount of the Note. Borrower acknowledges that if Lender has bound itself to make future advances, all such future advances shall be a lien from the time this instrument is recorded.

29. *Subrogation.* If any part of the Indebtedness is used directly or indirectly to satisfy, in whole or in part, any prior encumbrance upon the Property or any part thereof, then Lender shall be subrogated to the rights of the holder thereof in and to such other encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

30. *Option to Subordinate.* At the option of Lender, this instrument shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases of all or any part of the Property upon the execution by Lender and recording thereof, of a unilateral declaration to that effect.

31. *Governing Law.* This instrument shall be construed and enforced according to the laws of the State of Illinois without reference to the conflicts of law principles of that State.

32. *Business Loan.* Borrower represents that the proceeds of the Note will be used for business purposes only and the principal obligations secured hereby constitute a business loan or loans.

33. *Inspection of Premises and Records.* Borrower shall keep full and correct books and records showing in detail the income and expenses of the Premises. Lender and its agents shall have the right to inspect the Premises and all books, records and documents relating thereto at all reasonable times.

34. *Financial Statements.* If required by Lender, Borrower will, within ninety (90) days after the end of its fiscal year, furnish to Lender copies of its most recent tax returns and financial and operating statements of the Property for such fiscal

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year, including, but without limitation, a balance sheet and supporting schedules, detailed statement of income and expenditures and supporting schedules, all prepared in accordance with generally accepted accounting principles consistently applied. Lender may, by notice in writing to Borrower, require that the same be certified and prepared pursuant to audit, by a firm of independent certified public accountants satisfactory to Lender, in which case such accountants shall state whether, during the course of their audit, they discovered or became aware of any information which would lead them to believe that a Default exists.

35. *No Joint Ventures.* The relationship between the parties is that of mortgagor and mortgagee and that in no event shall Lender be deemed to be a partner or joint venturer with Borrower. Lender shall not be deemed to be such a partner or joint venturer by reason of its becoming a mortgagee in possession or exercising any rights pursuant to this instrument or any other of the Loan Documents.

36. *Time of the Essence.* Time is of the essence of the Note, this instrument, the Loan Agreement, if any, and in the performance of each and every aspect of the Indebtedness.

37. *Captions and Pronouns.* The captions and headings of the various sections of this instrument are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof.

38. *Severability.* If all or any portion of any provision of this instrument or any other Loan Documents shall be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision hereof or thereof, and such provision shall be limited and construed as if such invalid, illegal or unenforceable provision or portion thereof were not contained herein or therein.

39. *Notices.* Any notice or other communication which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed given (i) when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth above, or (iii) on the third business day after being deposited in United States registered or certified mail, return receipt requested, postage prepaid, addressed to a party at its address set forth herein, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith. Except as otherwise specifically required herein, notice of the exercise of any right, power or option granted to Lender by this instrument is not required to be given.

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40. *Jury Waiver.* Borrower and Lender, for their mutual benefit, each hereby waive the right to trial by jury in the event of litigation regarding the performance or enforcement of, or in any way related to, this instrument or the Indebtedness.

41. *Trustee's Exculpatory Clause.* If this instrument is executed by the undersigned, not personally, but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, representation, agreement or condition, either express or implied herein contained, or with regard to any warranty contained in this instrument except the warranty made in this Paragraph, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder; provided that nothing herein contained shall be construed in any way so as to affect or impair the lien of this instrument or Lender's right to the foreclosure thereof, or construed in any way so as to limit or restrict any of the rights and remedies of Lender in any such foreclosure proceedings or other enforcement of the payment of the Indebtedness out of and from the security given therefor in the manner provided herein, or construed in any way so as to limit or restrict any of the rights and remedies of Mortgagor under any other document or instrument evidencing, securing or guarantying the Indebtedness.

IN WITNESS WHEREOF, Borrower has caused this instrument to be duly signed, sealed and delivered the day and year first above written.

BORROWER:

American National Bank and Trust  
Company of Chicago, Trustee as  
aforesaid

By: \_\_\_\_\_  
Its \_\_\_\_\_

Attest: \_\_\_\_\_  
Its \_\_\_\_\_

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STATE OF ILLINOIS

ss.

COUNTY OF COOK

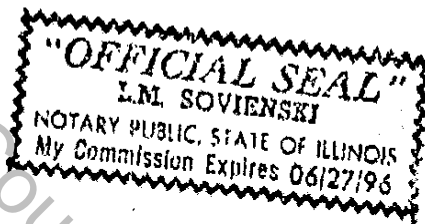
**L. M. SOVIENSKI**

\_\_\_\_\_, a Notary Public in and for the State and County aforesaid, do hereby certify that Gregory S. Kasprzyk and Michael Wang, ~~President~~ <sup>SECOND VICE PRESIDENT</sup> and ~~ASSISTANT SECRETARY~~ <sup>SECRETARY</sup>, respectively, of American National Bank and Trust Company of Chicago, as Trustee aforesaid, personally known to me to be the same persons whose names are subscribed to the foregoing instrument; appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal OCT 11 1995, 1995.

L. M. Sovienksi  
Notary Public

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2/15/95

## MORTGAGE NOTE

September \_\_, 1995

FOR VALUE RECEIVED, the undersigned, American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated December 9, 1986 and known as its Trust No. 10071900 ("Maker"), hereby promises to pay to the order of The Private Bank and Trust Company ("Payee") at 10 North Dearborn, Chicago, Illinois 60602 or at such other place as Payee may from time to time designate, by written notice, in the manner hereinafter provided, the principal sum of Four Hundred Five Thousand Dollars (\$405,000) together with interest on the outstanding principal balance from time to time, as follows:

(a) On the first day of the first calendar month following initial disbursement hereunder, and on the first day of each calendar month thereafter, interest shall be paid, in arrears, at a rate equal to the prime rate of interest in effect from time to time at, and as published by, Payee plus one percent (1%) per annum. Maker has been advised that Payee's prime rate of interest is a rate based upon competitive factors and is not necessarily Payee's lowest or most favorable rate.

(b) The principal balance of this Note, together with all accrued interest and all other amounts due hereunder shall be paid on or before December 29, 1995.

(c) This Note may be prepaid at any time without penalty or premium.

Interest shall be calculated and paid on the basis of a year having 360 days and of months having 30 days.

This Note is secured by an instrument titled Real Estate Mortgage-Assignment of Rents and Leases-Security Agreement and UCC-2 Financing Statement ("Mortgage") and by other loan and security documents ("Loan Documents") as defined in the Mortgage, all of which are made a part hereof and are incorporated herein by this reference.

If Maker fails to pay any installment or payment of principal or interest or other amount or charge due hereunder or under the Loan Documents, when due, or if at any time hereafter the right to foreclose or exercise the remedies available under the Mortgage or Loan Documents or the right to accelerate this Note shall accrue under the provisions of this Note, the Mortgage or the Loan Documents, at the election of Payee, the entire unpaid principal

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balance, together with all interest accrued and all other amounts payable pursuant hereto, may be accelerated and may become immediately due and payable.

In the event any payment of interest or principal is not paid when due, Maker agrees to pay a late charge of five percent (5%) of the amount so over due to defray the expense incident to handling any such delinquent payment or payments.

From and after the occurrence of an event of default hereunder or under the provisions of the Mortgage or Loan Documents, the principal balance shall bear interest at an annual rate determined by adding five percent (5%) per annum to the interest rate then required to be paid as above provided on the principal balance until such default is cured or this Note is paid in full.

No failure on the part of Payee or any holder hereof to exercise any right or remedy hereunder, whether before or after the occurrence of an event of default, shall constitute a waiver thereof, and no waiver of any past default shall constitute a waiver of any future default or of any other default. No failure to accelerate, nor acceptance of a past-due installment, nor indulgence granted shall be construed to be a waiver of the right to insist upon prompt payment and to impose the late payment penalty and the default rate, retroactively or prospectively, or shall be deemed a waiver of any right of acceleration or any other right which Payee may have, whether by law or agreement or otherwise. None of the foregoing shall operate to release, change or effect the liability of Maker, endorser or guarantor of this Note, and Maker and each endorser and guarantor hereby expressly waive the benefit of any statute or rule of law or equity which would produce a result contrary to or in conflict with the foregoing.

Maker agrees to pay to Payee any and all costs and expenses incurred by Maker in and about determining and enforcing its rights hereunder, including, without limitation, reasonable attorneys' fees, investigative fees, credit report fees, court costs, litigation expense, and interest on such amounts, incurred by Maker, as if additional principal, at the rates herein provided.

Maker waives presentment, notice of default, notice of dishonor, protest and notice of protest.

Funds representing the proceeds of this Note which are disbursed by Payee by mail, wire transfer or other delivery to Maker, escrowees or otherwise for the benefit of Maker shall, for all purposes, be deemed outstanding hereunder and received by Maker as of the date of such mailing, transfer or other delivery, and

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interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid, notwithstanding that such funds may not have been remitted by such escrowees or other recipient to Maker.

Maker, by the execution and delivery of this Note, and Payee, by the acceptance of this Note, knowingly, voluntarily and intentionally waive irrevocably the right to trial by jury in respect to any legal proceeding based hereon, or arising out of, under or in connection with this Note, the Mortgage and other Loan Documents, or the collateral securing this Note, or any agreement executed or contemplated to be executed in conjunction herewith, or any course of conduct or course of dealing in which Maker and Payee are adverse parties. This provision is a material inducement for Payee in granting financial accommodation to Maker.

Maker and Payee, for their mutual benefit, each hereby waive the right to trial by jury in the event of litigation regarding the performance or enforcement of, or in any way related to, this instrument or the indebtedness.

This instrument is executed by the undersigned, not personally, but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, representation, agreement or condition, either express or implied herein contained, or with regard to any warranty contained in this instrument except the warranty made in this Paragraph, all such liability, if any, being expressly waived by Payee and by every person now or hereafter claiming any right or security hereunder; provided that nothing herein contained shall be construed in any way so as to affect or impair the lien of this instrument or Payee's right to the foreclosure thereof, or construed in any way so as to limit or restrict any of the rights and remedies of Payee in any such foreclosure proceedings, or other enforcement of the payment of the Indebtedness out of and from the security given therefor in the manner provided herein, or construed in any way so as to limit or restrict any of the rights and remedies of Payee under the Mortgage or under any other document or instrument evidencing, securing or guarantying the Indebtedness.

Time is of the essence of this Note, the Mortgage and the Loan Documents.

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IN WITNESS WHEREOF, the undersigned as aforesaid has caused these presents to be executed and attested the day and year first above written.

BORROWER:

American National Bank and  
Trust Company of Chicago, as  
Trustee as aforesaid

By: \_\_\_\_\_  
Its \_\_\_\_\_

Attest: \_\_\_\_\_  
Its \_\_\_\_\_

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EXHIBIT E

## LEGAL DESCRIPTION OF LAND

### PARCEL 1:

SUB-LOTS 1, 2, 3, 4, 5 AND 6 IN C. J. HULL'S SUBDIVISION OF LOTS 4 AND 5 IN BLOCK 8 IN OGDEN ADDITION TO CHICAGO, IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOTS 15, 16, 17 AND 18 IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION IN CASE 23474 IN CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO PRIVATE ALLEY LYING WEST AND ADJOINING SAID LOTS 1 TO 6 INCLUSIVE IN SAID C. J. HULL'S SUBDIVISION AFORESAID ALSO THE SOUTH 1/2 OF THE EAST AND WEST 18 FOOT VACATED PUBLIC ALLEY LYING NORTH OF AND ADJOINING THE NORTH LINE, AND SAID NORTH LINE EXTENDED WEST TO THE WEST LINE OF SAID PRIVATE ALLEY, OF AFORESAID LOT 6 IN C. J. HULL'S SUBDIVISION AND THE SOUTH 1/2 OF THE EAST AND WEST 19 FEET VACATED PUBLIC ALLEY LYING NORTH OF AND ADJOINING AFORESAID LOTS 15, 16, 17 AND 18 IN THE SUBDIVISION BY COMMISSIONERS IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

ALL THAT PART OF LOTS 1 TO 19 INCLUSIVE IN COLGATE'S RESUBDIVISION OF LOTS 6 TO 14 INCLUSIVE IN THE SUBDIVISION BY THE COMMISSIONERS, IN PARTITION IN CASE 23474 CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND ALSO OF THE VACATED ALLEY LYING EAST OF LOTS 9 TO 16 IN THE ABOVE SAID RESUBDIVISION, AND ALSO OF THE SOUTH 1/2 OF THE EAST AND WEST 19 FOOT VACATED PUBLIC ALLEY LYING SOUTH OF AND ADJOINING LOTS 22 AND 23 IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION IN CASE 23474 CIRCUIT COURT OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF AFORESAID EAST AND WEST 19 FOOT VACATED ALLEY AND THE EAST LINE EXTENDED NORTH OF SAID LOT 17 IN COLGATE'S RESUBDIVISION; THENCE WEST ALONG SAID CENTER LINE, AND SAID CENTER LINE EXTENDED WEST, OF EAST AND WEST 19 FOOT VACATED PUBLIC ALLEY TO A POINT IN THE WEST LINE OF LOT 2 IN SAID COLGATE'S RESUBDIVISION; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 2 IN SAID COLGATE'S RESUBDIVISION TO A POINT 150.5 FEET NORTH FROM THE SOUTH WEST CORNER OF LOT 9 IN SAID COLGATE'S RESUBDIVISION; THENCE SOUTHEASTERLY TO A POINT IN THE SOUTH LINE OF

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SAID LOT 9, 90 FEET EAST FROM THE SOUTH WEST CORNER THEREOF, THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 9, THE VACATED ALLEY AND LOT 19 IN THE SAID COLGATE'S RESUBDIVISION 69.14 FEET MORE OR LESS TO THE SOUTH EAST CORNER OF SAID LOT 19; THENCE NORTH ALONG THE EAST LINE, AND SAID EAST LINE EXTENDS NORTH OF SAID LOTS 19, 18 AND 17 IN SAID RESUBDIVISION TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF LOT 3 IN BLOCK 8 IN OGDEN'S ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF A STRAIGHT LINE DRAWN BETWEEN A POINT ON THE EAST LINE OF RACINE AVENUE (FORMERLY NORTH CENTER AVENUE) WHICH IS A DISTANCE OF 101.14 FEET SOUTH OF THE SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) AND A POINT ON THE WEST LINE OF MAY STREET WHICH IS A DISTANCE OF 100.97 FEET SOUTH OF THE SAID SOUTH LINE OF HUBBARD STREET, (FORMERLY AUSTIN AVENUE) ALSO THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY ADJACENT TO THE SOUTH LINE OF SAID LOT 3 IN COOK COUNTY, ILLINOIS

PARCEL 4:

THAT PART OF LOT 5 AND LOTS 19 TO 23 (BOTH INCLUSIVE) AND THE VACATED NORTH AND SOUTH ALLEY ADJACENT TO THE WEST LINE OF SAID LOT 23 AND ADJACENT TO THE SAID WEST LINE OF LOT 23 PRODUCED SOUTH TO THE CENTER LINE OF THE VACATED EAST AND WEST ALLEY IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION CASE NO. 23474 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF A STRAIGHT LINE DRAWN BETWEEN A POINT ON THE EAST LINE OF RACINE AVENUE, (FORMERLY NORTH CENTER AVENUE) WHICH IS A DISTANCE OF 101.14 FEET SOUTH OF THE SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) AND A POINT ON THE WEST LINE OF MAY STREET WHICH IS A DISTANCE OF 100.97 FEET SOUTH OF THE SAID SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) ALSO ALL OF THE NORTH 1/2 OF VACATED EAST AND WEST ALLEY ADJACENT TO THE SOUTH LINE OF SAID LOTS 19 TO 23 IN COOK COUNTY, ILLINOIS

PARCEL 5:

LOTS 1, 2, 15 AND 16 IN COLGATE'S RESUBDIVISION OF LOTS 6 TO 15 INCLUSIVE, IN THE CIRCUIT COURT PARTITION OF 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPTING THE PART OF AFORESAID LOTS 2 AND 15 WHICH LIES SOUTH OF THE CENTER LINE PRODUCED WEST OF THE VACATED EAST AND WEST ALLEY WHICH LIES SOUTH OF AND ADJACENT TO LOT 23 IN AFORESAID CIRCUIT COURT PARTITION) IN COOK COUNTY, ILLINOIS

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Permanent Real Estate Tax Index Numbers:

17-08-254-004-0000  
17-08-254-011-0000  
17-08-254-012-0000  
17-08-254-014-0000  
17-08-254-017-0000  
17-08-254-018-0000

Common Address: 400-420 North May Street, Chicago, Illinois

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