

UNOFFICIAL COPY

95080692

This instrument was prepared by + M.L. To: Howard M. Turner 222 No. LaSalle Street Chicago IL 60601

DEPT-01 RECORDING \$71.00
T#0012 TRAN 2210 02/02/95 12:49:00
#4113 + KB # -95-080692
COOK COUNTY RECORDER

MORTGAGE

THIS MORTGAGE made this 15th day of January, 1995 by and between Muhammed F. Gheith and Patt S. Gheith his wife (hereinafter collectively referred to as "Mortgagor"), and Finan\$co Associates, Ltd., at its principal office at 1400 North Northwest Highway, Park Ridge, IL 60068 (hereinafter referred to as "Mortgagee").

WITNESSETH:

WHEREAS, William H. Cooper Co., Inc. and American National Bank and Trust Company of Chicago not personally but solely as Trustee under Trust Agreement dated January 5, 1995 and known as Trust No. 119926-09 (hereinafter collectively referred to as "Obligors"), are justly indebted to the Mortgagee on a certain loan ("Loan") in the principal amount of FOUR HUNDRED TWENTY FIVE THOUSAND (\$425,000.00) DOLLARS evidenced by a certain note of the Obligors of even date herewith, made payable to the order of and delivered to the Mortgagee (the "Note"), in and by which said Note the Obligors promise to pay the said principal sum and interest at the rate or rates and in installments as provided in said Note, and a final payment of principal and interest, if not sooner paid, on or before the 15th day of January, 1996.

WHEREAS, Mortgagor have guaranteed the prompt payment and performance of all obligations of William H. Cooper Co., Inc. to Finan\$co Associates, Ltd. including but not limited to the obligations evidenced by said Note.

WHEREAS, all payments due under the Note are payable at such place as the holder of the Note may from time to time in writing appoint, and in the absence of such appointment, then at the office of the Mortgagee at 1400 North Northwest Highway, Park Ridge, IL 60068.

BOX 333-CTI

75-37-913 DJ JC

71

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

NOW, THEREFORE, the Mortgagor, to secure the payment of FIFTY THOUSAND DOLLARS only of said principal amount in accordance with the terms, provisions and limitations of this Mortgage, and of the said Note, which Note is hereby declared to be secured hereby, and the performance of the covenants and agreements herein contained by the Mortgagor to be performed and the additional obligations hereinafter described, and also in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid, the receipt whereof is hereby acknowledged, does by these presents MORTGAGE, GRANT, REMISE, RELEASE, ALIEN AND CONVEY unto the Mortgagee, its successors and assigns, the real estate and all of its estate, right, title and interest therein situate, lying and being in the County of Cook and State of Illinois, (Mortgagor hereby RELEASING AND WAIVING all rights under and by virtue of the homestead exemption laws of the State of Illinois) legally described in Exhibit "A" attached to and made a part hereof which, with the property hereinafter described, is collectively referred to herein as the "Premises";

TOGETHER with all easements and rights of way appurtenant thereto, and all heretofore or hereafter vacated alleys and streets abutting said real estate.

TOGETHER with all buildings and other improvements now located thereon or which may hereafter be placed thereon, tenements, easements, fixtures and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all fixtures, apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing): all goods, machinery, tools, fire sprinklers and alarm systems, lobby and all other indoor and outdoor furniture or furnishings, floor coverings, wall coverings, draperies, lighting fixtures and all fixtures, apparatus, equipment and articles which relate to the use, occupancy and enjoyment of the Premises, and are owned by Mortgagor and not tenants, it being understood that the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned.

TOGETHER with all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Mortgagor now has or may hereinafter acquire in the Premises, and any and all awards made for the taking of eminent domain, or by any proceedings or purchase in lieu thereof, or of the whole or any part of the Premises, including without limitation any awards resulting from the change of grade of streets and awards for severance damages.

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate and to be appropriated to the use of the real estate, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and mortgaged hereby, which proceeds and awards are hereby assigned to Mortgagee (Mortgagor hereby appoints Mortgagee its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney-in-fact, at its option, on behalf of Mortgagor its personal representatives, successors and assigns, to adjust or compromise the claim for proceeds and awards and to collect and receive the proceeds thereof, to give proper receipts and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds received therefrom as a credit upon any part, as may be selected by Mortgagee notwithstanding that the amount owing thereon may not then be due and payable or that the same is otherwise adequately secured).

Mortgagor covenants that it is lawfully seized of the Premises, that the same are unencumbered except as heretofore approved by Mortgagee in writing, and that it has good right, full power and lawful authority to convey and mortgage the same, and that it will forever defend the Premises and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

TO HAVE AND TO HOLD the Premises unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

The Mortgagor hereby further covenants and agrees to and with the Mortgagee, as follows:

1. PROTECTION AND MAINTENANCE OF THE PREMISES. Mortgagor shall: (i) promptly repair, restore or rebuild any building or improvements now or hereafter on the Premises which may become damaged or be destroyed to substantially the same character as prior to such damage or destruction; (ii) not abandon the Premises and keep the Premises in good condition and repair, without waste, and free from mechanics' lien or other liens or claims for lien not expressly permitted by the provisions of this Mortgage or insured over; (iii) immediately pay when due each and every payment or any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof securing the indebtedness hereof, but no such superior lien shall be or is permitted except the lien arising by virtue of the instrument or instruments described as follows:

Mortgages and Trust Deeds of Record

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and upon request exhibit satisfactory evidence of each such payment on account of each such prior lien to Mortgagee; (iv) complete within a reasonable time any improvements now or at any time in process of erection upon the Premises; (v) comply with all requirements of applicable law, municipal ordinances, and restrictions of record with respect to the Premises and the use thereof; (vi) make no alterations in the Premises, except as contemplated herein; (vii) suffer or permit nothing to be done which would depreciate or materially impair the value of the Premises or the security of this Mortgage, and suffer or permit no change in the intended nature of the occupancy of the Premises without Mortgagee's written consent; (viii) initiate or acquiesce in no zoning reclassification without Mortgagee's written consent, (ix) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or of the Note. As used in this Paragraph 1 and elsewhere in this Mortgage, the term "indebtedness" shall mean and include the principal sum evidenced by the Note, together with all interest and additional interest thereon, and all other sums at any time secured by this Mortgage.

2. PAYMENT OF TAXES, TAX CONTESTS AND TAX AND INSURANCE PREMIUM DEPOSITS. Mortgagor shall pay all general taxes, special taxes, special assessments, water charges, sewer service charges, and all other like charges against the Premises of any nature whatsoever when due and prior to delinquency (all hereinafter referred to as "Taxes"), and shall, upon written request, furnish to Mortgagee duplicate receipts therefor. Mortgagor may contest the validity or amount of any such Taxes by appropriate legal or administrative proceedings diligently prosecuted, provided that Mortgagor has notified Mortgagee of the intention of Mortgagor to contest the same before any Taxes has been increased by any interest, penalties, or costs; and further provided Mortgagor has deposited or caused to be deposited with Mortgagee, at such place as Mortgagee may from time to time in writing designate, a sum of money, a title insurance endorsement or other security reasonably acceptable to Mortgagee and sufficient, in Mortgagee's judgment, to assure payment in full such contested tax and all penalties and interest that might become due thereon.

At any time and from time to time Mortgagee may request by written notice to Mortgagor that Mortgagor thereafter make cash deposits with Mortgagee to secure the payment when they come due of any and all Taxes and insurance premiums for policies of insurance required under paragraph 3 of this Mortgage. From the time of the service of such notice, Mortgagor shall thereafter deposit with Mortgagee with each monthly installment of principal or interest an amount equal to one twelfth of the most recent ascertainable amount of such Taxes and insurance premiums. Mortgagee shall disburse such deposits to pay such Taxes and insurance premiums as they come due. If the funds so deposited are insufficient to pay any Taxes or insurance premiums when the same shall become due and payable, Mortgagor shall, within seven (7) days after receipt of demand

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

therefor from Mortgagee, deposit such additional funds as may be necessary to pay such Taxes and insurance premiums in full.

3. INSURANCE. Mortgagor shall keep all improvements now or hereafter situated on the Premises insured against loss or damage by fire and other insurable hazards for not less than the full replacement cost thereof. Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may require. Without in any way limiting the generality of the foregoing, Mortgagor agrees to maintain the following Insurance Policies on the Premises:

- (a) Fire and extended coverage insurance, (including vandalism and malicious mischief), pressure vessel insurance, boiler insurance, and sprinkler insurance (if applicable), for an amount, at a minimum, equal to the full replacement cost of the Premises (excluding Land), written in a replacement cost basis or with a replacement cost endorsement. If at any time a dispute arises with respect to replacement cost, Mortgagor agrees to provide at Mortgagor's expense, an insurance appraisal prepared by an insurance appraiser approved by Mortgagee, establishing the full replacement cost in a manner satisfactory to the insurance carrier;
- (b) Comprehensive General Public Liability and Property Damage Insurance for an amount not less than \$1,000,000.00 combined single limit for claims arising from any accident or occurrence in or upon the subject property;
- (c) Flood Insurance whenever in the opinion of Mortgagee such protection is necessary and is available;
- (d) Loss of Rents insurance in an amount equal to the rental income generated from the Premises for twelve (12) consecutive months;
- (e) Such other Insurance Policies as may be reasonably required from time to time by Mortgagee, upon written notice from Mortgagee to Mortgagor.

All Insurance Policies to be furnished hereunder shall be in form, with companies and in amounts satisfactory to Mortgagee, with standard mortgagee clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to the Mortgagee. Mortgagor shall deliver all Insurance Policies, including additional and renewal policies, to Mortgagee, and, in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagor shall not purchase separate insurance, concurrent in form or contributing, in the event of loss, with Insurance Policies unless Mortgagee is included thereon pursuant to a standard mortgagee clause acceptable to Mortgagee, and in the event Mortgagor does purchase such separate insurance, Mortgagor shall immediately notify Mortgagee thereof and promptly deliver to Mortgagee such policy or policies.

4. ADJUSTMENT OF LOSSES WITH INSURER AND APPLICATION OF PROCEEDS OF INSURANCE. In case of loss or damage by fire or other casualty, Mortgagee is authorized: (a) to settle and adjust with the consent of Mortgagor (which consent shall not be unreasonably withheld) any claim under insurance policies which insure against such risks, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, Mortgagee is authorized to collect and receipt for any such insurance money. Such insurance proceeds may, at the option of the Mortgagee, either be applied in whole or in part in reduction of the indebtedness secured hereby without prepayment premium, whether due or not, with any amount not so applied to be held by the Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of any or all improvements on the Premises. The improvements shall be so restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. In any case, where the insurance proceeds are made available for rebuilding and restoration, such proceeds shall be disbursed upon the disbursing party being furnished with satisfactory evidence of the estimated cost of completion thereof and with architects' certificates, waivers of lien, contractors' and subcontractors' sworn statements, title continuations and other evidence of cost and payments so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in place work and that said work is free and clear of mechanics' lien claims. No payment made prior to the final completion of the work shall exceed ninety (90%) percent of the value of the work performed from time to time, and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. The Mortgagee shall approve plans and specifications of such work before such work shall be commenced. Any surplus which may remain out of said insurance proceeds after payment of such cost of building or restoration shall be applied on account of the indebtedness secured hereby or be paid to any party entitled thereto. No interest shall be allowed to Mortgagor on any proceeds of insurance held by the Mortgagee; provided, however, that Mortgagee, by its acceptance hereof agrees to not unreasonably withhold any request by Mortgagee that said proceeds be deposited in an interest bearing account with Mortgagee or such other investment account as Mortgagee shall determine satisfactory and secure.

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

5. EFFECT OF EXTENSIONS OF TIME. If the payment of the indebtedness or any part thereof be extended or varied or if any part of any security for the payment of the indebtedness be released, all persons now or at any time hereafter liable therefor, or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

6. MORTGAGEE'S PERFORMANCE OF DEFAULTED ACTS. In case of Default (defined below), Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, which may be made or accomplished either before or after acceleration of the indebtedness secured hereby or foreclosure of the lien hereof and during the period of redemption, if any. The Mortgagee may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title encumbrance or aim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment or cure any default of landlord in any lease of the Premises. Mortgagee may:

- (a) diligently and continuously pursue the rebuilding or restoration of the Premises in the event of loss by Casualty or Condemnation, provided that Proceeds therefor are available to Mortgagor;
- (b) procure and maintain insurance policies required hereunder;
- (c) maintain and preserve the Premises, including, but not limited to, the maintenance of the Premises free from all hazardous or toxic wastes as described in Paragraph 29 herein;

All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax if not paid and or to protect the Premises or the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the Default Rate specified in the Note (hereinafter called the "Default Rate"), all without prejudice to the right of Mortgagee to declare the indebtedness immediately due and payable by reason of Mortgagor's Non-Monetary Default and breach of the terms, covenants, conditions and agreements herein contained. Mortgagee shall have the right to determine in good faith the validity of any lien, encumbrance or Taxes attributable to or assessed against the Premises, and the payment thereof by Mortgagee shall establish its right to recover

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

the amount so paid, with interest at Default Rate. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

7. MORTGAGEE'S RELIANCE. Mortgagee in making any payment hereby authorized: (a) relating to Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

8. ACCELERATION OF INDEBTEDNESS IN CASE OF DEFAULT. Mortgagor further covenants and agrees with Mortgagee, that if: (a) default be made in the due and punctual payment of the Note secured hereby, or any payment due in accordance with the terms thereof and such default is not cured within thirty (30) days after notice thereof is sent by Mortgagee to Mortgagor; or (b) any Mortgagor, any beneficiary of the Mortgagor or any guarantor of the Note secured hereby shall file a petition in voluntary bankruptcy or under any Chapter of Title Eleven of the United States Code or any similar law, state or federal, whether now or hereafter existing, or any answer admitting insolvency or inability to pay its debts, or fail to obtain a vacation or stay of involuntary proceedings within sixty (60) days, as hereinafter provided; or (c) any Mortgagor, any beneficiary of the Mortgagor or any guarantor of the Note secured hereby, shall be adjudicated a bankrupt, or a trustee or a receiver shall be appointed for any Mortgagor, any beneficiary of Mortgagor or any guarantor of the Note secured hereby, in any proceeding, or any court shall have taken jurisdiction of the property of any Mortgagor, any beneficiary of Mortgagor, or any guarantor of the Note secured hereby, in any proceeding for the reorganization, dissolution, liquidation or winding up of any Mortgagor, any beneficiary of Mortgagor or any guarantor of the Note secured hereby, and such trustee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days; or (d) any Mortgagor, any beneficiary of Mortgagor or any guarantor of the Note secured hereby, shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all of its property or the major part thereof; or (e) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinbefore or hereinafter contained, required to be kept or performed or observed by a Mortgagor, (excluding the provisions of the Restrictions on Transfer described herein) which shall not be cured within twenty (20) days after notice thereof is sent by Mortgagee to Mortgagor, or commenced to be corrected and diligently pursued to completion if correction is impossible to perform within a 20-day period; or

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(f) the occurrence of a Prohibited Transfer (as defined herein); or (g) default which shall not have been cured within the applicable grace period, if any, shall be made in the due observance or performance of any of the covenants, agreements or conditions contained, required to be kept or observed by any Mortgagor in any other instrument given to secure the payment of the Note secured hereby, then and in every such case the whole of the indebtedness hereby secured shall, at once, at the option of the Mortgagee, become immediately due and payable without notice to Mortgagor. For purposes of this Mortgage, each of the events described in (a) through (g) in the preceding shall be referred to as a "Default". If while any insurance proceeds or condemnation awards are being held by Mortgagee to reimburse Mortgagor for the cost of rebuilding or restoration of any or all improvements on the Premises, as set forth in this Mortgage, the Mortgagee shall be or become entitled to, and shall accelerate the indebtedness secured hereby, then and in such event, the Mortgagee shall be entitled to apply all such insurance proceeds and condemnation awards then held by it in reduction of the indebtedness hereby secured and any excess held by it over the amount of indebtedness then due hereunder shall be returned to Mortgagor or any subsequent party holding record title to the Premises or otherwise entitled thereto without interest.

9. REMEDIES: Upon the occurrence of a Monetary Default or Non-Monetary Default, Mortgagee shall have the right to immediately foreclose this Mortgage. Upon the filing of any complaint by reason thereof, the court in which the same is filed may:

- (a) upon application of Mortgagee or at any time thereafter;
- (b) either before or after foreclosure sale and without notice to Mortgagor or to any party claiming under Mortgagor;
- (c) without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of the indebtedness, or any part thereof;
- (d) without regard to the then value of the Premises or whether the same shall then be occupied in whole or in part, as a homestead by the owner of the equity of redemption; and
- (e) without requiring any bond from the complainant in such proceedings;

appoint a receiver for the benefit of Mortgagee, with power to take possession, charge and control of the Premises, to lease the same, keep the Premises insured and in good repair and collect all rentals during the pendency of such foreclosure suit and, in the event of foreclosure sale and a deficiency in the proceeds received therefrom, during any period of redemption. The court may, from time to time, authorize such receiver to apply the net amounts

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

remaining in its possession, after deducting reasonable compensation for itself and its counsel to be allowed by the court, in payment (in whole or in part) of any part or all of the indebtedness, including, without limitation, the following, in such order of application as Mortgagee may elect:

- (i) to the payment of the indebtedness;
- (ii) to any amount due upon any decree entered in any suit foreclosing this Mortgage;

(iii) to costs and expenses of foreclosure and litigation upon the Premises including but not limited to:

(a) reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens' Certificates and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises;

(b) all reasonable expenditures and reasonable expenses of the nature in this paragraph mentioned and such reasonable expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall immediately become due and payable by Mortgagor, with interest thereon at a rate equal to the Default Rate as defined in the Note secured by this Mortgage at the time of such expenditure by the Mortgagee.

(iv) to the payment of premiums due on Insurance Policies, repairs, Taxes (and any interest, penalties and costs thereon) or any other lien or charge upon the Premises which may be or become

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

superior to the lien of this Mortgage or of any decree foreclosing the same; and

- (v) to the payment of all sums advanced by Mortgagee to cure or attempt to cure any Non-Monetary Default by Mortgagor in the performance of any obligation or condition contained herein, in Note, Other Loan Documents or otherwise, to protect the security provided herein and therein, with interest on such advances at Default Rate.

A. POSSESSORY RIGHTS OF MORTGAGEE: Upon the occurrence of a Monetary Default or Non-Monetary Default, whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage or any sale thereunder, Mortgagee shall be entitled in its sole discretion, to perform any of the following:

- (1) enter and take actual possession of the Premises, Leases and the rents payable pursuant thereto, personally or by its agents or attorneys and excluding Mortgagor therefrom;
- (2) with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;
- (3) as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee and pursuant to the powers herein granted, hold, operate, manage and control the Premises and Leases and collect all rentals payable pursuant thereto and conduct the business, if any, thereof, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as, in its discretion, may be deemed proper or necessary to enforce the terms and conditions of Leases and the rentals payable pursuant thereto (including actions for the recovery of rents, actions in forcible detainer and actions in distress of rent);
- (4) cancel or terminate any Lease or sublease for any cause or for any reason which would entitle Mortgagor to cancel the same;
- (5) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- (6) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

betterments and improvements to the Premises which, in Mortgagee's sole discretion, may seem appropriate;

- (7) insure and re-insure the Premises against all risks incidental to Mortgagee's possession, operation and management thereof; and
- (8) perform such other acts in connection with the management and operation of the Premises as Mortgagee, in its sole discretion, may deem proper;

Mortgagor hereby granting full power and authority to Mortgagee to exercise each and every of the rights, privileges and powers contained herein at any and all times following the occurrence of a Monetary Default or Non-Monetary Default.

Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rentals collected by it to the payment or on account of the following, in such order as it may determine:

- (1) operating expenses of the Premises, 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 reasonable leasing commissions and other reasonable compensation and expenses in seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on Insurance Policies;
- (2) Taxes, costs of repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements of the Premises, including the cost, from time to time, of installing, replacing or repairing the Premises and of placing the Premises in such condition as will, in the reasonable judgment of Mortgagee, make the same readily rentable; and
- (3) the indebtedness, or any part thereof.

B. Any overplus of the proceeds of foreclosure sale shall then be paid to Mortgagor. This Mortgage may be foreclosed at any time against all or successively against any part or parts of the Premises, as Mortgagee may elect and this Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by one or any foreclosure or by one or any sale and may be foreclosed successively and in parts until all of the Premises shall have been foreclosed and sold. In the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

event of any foreclosure of the Premises (or commencement of or preparation for the same) in any court, all expenses of every kind paid or incurred by Mortgagee for the enforcement, protection or collection of this security, including reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, title charges and other reasonable costs and expenses shall be paid by Mortgagor.

10. APPLICATION OF PROCEEDS OF FORECLOSURE SALE. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings including all such items as are mentioned in the preceding paragraph hereof; second, all other items which may under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided and all principal and interest remaining unpaid on the Note; third, any surplus to any party entitled thereto as their rights may appear.

11. CASUALTY OR CONDEMNATION AFTER FORECLOSURE: In the event of Casualty or Condemnation after foreclosure proceedings have been instituted, Proceeds or Awards, if not applied as specified in Paragraphs 4 and 14 shall be used to pay the amounts due in accordance with any decree of foreclosure which may be entered in any such proceedings and the balance, if any, shall either be paid to the owner of the equity redemption, if such owner shall be entitled to the same, or as the court may direct.

12. RIGHTS AND REMEDIES CUMULATIVE; NO WAIVER. Each right, power and remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

13. OTHER REMEDIES: Whenever any Monetary Default or Non-Monetary Default shall be existing, Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to applicable law. Mortgagor shall, promptly upon request by Mortgagee, assemble all goods, wares, merchandise, furniture, fixtures, equipment and supplies owned by it and situated on and used and useful in the operation of the Premises ("Personal Property") and make the same available to Mortgagee at such place or places reasonably convenient for Mortgagee and Mortgagor, as

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagor of any part of the Premises shall be deemed reasonably and properly given if mailed as herein provided at least twenty (20) days prior to such disposition. Without limiting the foregoing, whenever a Monetary Default or Non-Monetary Default shall exist, Mortgagee may, with respect to Personal Property, without further notice, advertisement, hearing or process of law of any kind:

- (a) notify any person obligated on Personal Property to perform, directly for Mortgagee, its obligations thereunder;
- (b) enforce collection of any part of Personal Property by suit or otherwise and surrender, release or exchange all or any part thereof or compromise, extend or renew, for any period (whether or not in excess of the original period), any obligations of any nature of any party with respect thereto;
- (c) endorse any checks, drafts or other writings in the name of Mortgagor to permit collection of Personal Property and control of any proceeds thereof;
- (d) enter upon any part of the Premises where Personal Property may be located and take peaceful possession of and remove the same;
- (e) sell any part or all of Personal Property free of all rights and claims of Mortgagor therein and thereto, at any public or private sale; and
- (f) bid for and purchase any part or all of Personal Property at any such sale.

Any proceeds of any disposition by Mortgagee of any part of Personal Property may be applied by Mortgagee to the payment of expenses incurred in connection therewith, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by Mortgagee to the payment of such part of the indebtedness and in such order of application as Mortgagee may, from time to time, elect. Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to the Uniform Commercial Code, other applicable laws in effect from time to time or otherwise available to it by reason of any applicable law. Mortgagor hereby expressly waives presentment, demand, notice of dishonor and protest in connection with the indebtedness and, to the fullest extent permitted by applicable law, any and all other notices, advertisements, hearings or process of law in connection with the exercise by Mortgagee of any of its rights and remedies hereunder.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

334-0000

UNOFFICIAL COPY

Mortgagor hereby constitutes Mortgagee its attorney-in-fact, with full power of substitution to take possession of Personal Property upon the occurrence of a Monetary Default or Non-Monetary Default hereunder, as Mortgagee, in its sole discretion (reasonably exercised) deems necessary or proper, to execute and deliver all instruments required by Mortgagor to accomplish the disposition of Personal Property, or any part thereof, which power of attorney is a power coupled with an interest, irrevocable until such time as the indebtedness is paid in full.

14. CONDEMNATION. Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any award or any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. The Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby without prepayment premium, whether due or not, or make said proceeds available for restoration or rebuilding of the Premises in accordance with plans and specifications to be submitted to and approved by the Mortgagee. In the event said proceeds are made available for rebuilding or restoration, by the election of the Mortgagee as aforesaid, the proceeds of the award shall be paid out in the same manner as is provided in Paragraph 4 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration. Any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall, at the option of the Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any party entitled thereto. No interest shall be allowed to Mortgagor on account of any proceeds of any award held by the Mortgagee. Mortgagor agrees to execute such further assignments of any compensation, awards, claims, and damages as the Mortgagee may reasonably require from time to time. Mortgagee shall not be responsible for any failure to collect any amount in connection with any such proceeding regardless of the cause of such failure.

15. RELEASE UPON PAYMENT AND DISCHARGE OF MORTGAGOR'S OBLIGATIONS. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby.

16. GIVING OF NOTICE. Any notice which shall be required to be given hereunder shall be in writing, and the mailing thereof in the United States mail by certified or registered mail, addressed to the Mortgagor at: Muhammed F. Gheith and Patt S. Gheith his wife at 345 Olmsted Road, Riverside, IL 60546 or at such other place as the Mortgagor may by notice in writing designate as a place for service of notice, shall constitute service of notice hereunder. Any notice mailed shall be deemed to have been given two (2) business days after the date of mailing. Notice may also be given by courier delivery or telecopier, and, in such case, shall be deemed to have been given as of the date of electronic transmission or physical delivery.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

18. FILING AND RECORDING FEES. Mortgagor will pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (other than Mortgagee's income on other like taxes accruing by reason of the interest payable on the loan), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of said Note and this Mortgage.

19. BUSINESS PURPOSE. Mortgagor represents that the proceeds of the loan secured by this Mortgage will be used for the purposes specified in Paragraph 6404 et seq. of Chapter 17 of the Illinois Revised Statutes, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of said paragraph.

20. WAIVERS: In addition thereto and without limiting the foregoing, to the full extent permitted by law, Mortgagor:

- (a) shall not, at any time, insist upon or plead or, in any manner whatsoever, claim, or take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" (now or at any time hereafter in force) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force providing for the valuation or appraisement of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem the Premises so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof;
- (b) hereby expressly waives any and all rights of reinstatement, and redemption from sale, under any order or decree of foreclosure of this Mortgage, on its own behalf, and on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent of Mortgagor hereby that any and all such rights of redemption and reinstatement of Mortgagor and all other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law; and

95080692

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(c) agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws has, have been or will have been made or enacted.

(d) Waiver of Redemption Mortgagor hereby expressly waives any and all rights of redemption that it or any beneficiary of Mortgagor may have under the laws of the State of Illinois from time to time in effect.

21. OTHER PREMISES OR IMPROVEMENTS. Mortgagor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as a zoning parcel separate and apart from any premises not subject to the lien of this Mortgage. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

22. NO MERGER. It being the desire and intention of the parties hereto that the Mortgage and the lien thereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Mortgagee acquire any additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien thereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

23. TRUTH-IN-LENDING. Mortgagor represents and agrees that the obligations secured hereby is an exempt transaction under the Truth-In-Lending Act, 15 U.S.C., 1601 et seq.

24. RESTRICTIONS ON TRANSFER.

(a) Prohibited Transfers. It shall be an immediate event of default hereunder if, without the prior written consent of the Lender, any of the following shall occur (hereinafter called a "Prohibited Transfer"):

(i) If Mortgagor shall create, effect or consent to or shall suffer or permit any contract or agreement of

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

sale, conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof, or interest therein whether same is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; and

- (ii) If Mortgagor's Beneficiary shall create, effect or consent to, or shall suffer or permit, any contract or agreement of sale, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the beneficial interest in the Mortgagor whether same is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise;

provided, that the foregoing provisions of this Section 24 shall not apply (A) to the lien of this Mortgage or any other liens securing the Note secured hereby; or (B) to the lien of current taxes or to mechanic's liens or delinquent taxes which are being contested and are insured over.

- (b) Reasonableness of Restrictions. Mortgagor acknowledges and agrees, for itself and its successors, that the foregoing restrictions on sale, transfer, or conveyance are reasonable. Any violation of the terms of this paragraph shall entitle Mortgagee to declare the whole outstanding principal balance of the Note, together with interest accrued thereon and any other sums owing under the terms of this Mortgage or any other instrument related to the indebtedness hereby secured, immediately due and payable and to foreclose the lien and security interest granted in this Mortgage.
- (c) Binding Upon Successors. The provisions of this Section 22 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part or interest in or encumbrance upon the Premises a beneficial interest in Mortgagor.

25. MISCELLANEOUS. The following understandings shall be applicable to this Mortgage.

- (a) Successors. This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and its successors, grantees and assigns, any subsequent owner or owners of the Premises and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness of any part

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

thereof, whether or not such persons shall have executed said Notes or this Mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein, and the holder or holders, from time to time, of the Notes secured hereby.

- (b) Invalidity of a Provision. In the event one or more of the provisions contained in this Mortgage or the Notes secured hereby or in any other security documents given to secure the payment of the Notes secured hereby shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall at the option of the Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.
- (c) Illinois Law. This Mortgage and the Note it secures are to be construed and governed by the laws of the state of Illinois.
- (d) Estoppel Certificates. Mortgagor, on written request of the Mortgagee, will furnish a signed statement of the amount of the indebtedness secured hereby and whether or not any default then exists hereunder and specifying the nature of such default.
- (e) Subordination. At the option of the Mortgagee, this Mortgage 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 Premises upon the execution by Mortgagee and recording thereof, at any time hereafter, in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated, of a unilateral declaration to that effect.
- (f) Grammatical Adjustments. Whenever the context requires, the singular form of any word herein shall include the plural form, and vice versa, and the neuter form of any word shall include the masculine and feminine forms, and vice versa.
- (g) No Third Party Beneficiaries. Notwithstanding anything herein contained to the contrary, this Mortgage is for the exclusive benefit of the Mortgagor and the Mortgagee. The parties hereto do not, by the execution hereof, intend to confer upon any other party any rights as third party beneficiaries or otherwise.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

- (h) Headings. The headings of paragraphs are for convenience of reference only and are not part of this Mortgage.
- (i) The terms "Mortgagor's Beneficiary" and "Beneficiary of Mortgagor" shall mean the holder or holders of all or part of the beneficial interest in the Trust Agreement under which Mortgagor is Trustee.

26. NON-LIABILITY OF MORTGAGEE: Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligations, duty or liability of Mortgagor pursuant to Leases or otherwise and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur pursuant thereto or by reason of its exercise of its rights hereunder and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants or agreements with respect to the Premises except in the event such loss, liability or damage is caused by the willful misconduct, bad faith or negligence of Mortgagee, its employees or agents. Prior to the exercise of its rights hereunder Mortgagee shall not have responsibility for the control, care, management or repair of the Premises nor shall Mortgagee be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenants, licensee, employee or stranger upon the Premises. No liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to it and Mortgagor expressly waives and releases any such liability. In the event Mortgagee incurs any such liability, loss or damage prior to the exercise of its rights hereunder pursuant hereto and to any Lease or in the defense of any claim or demand, Mortgagor agrees to reimburse mortgagee, immediately upon demand, for the amount thereof, including costs, expenses and reasonable attorneys' fees, except in the event such liability, loss or damage is caused by the willful misconduct, bad faith or negligence of Mortgagee, its employees or agents.

27. CHANGE OF LAW: In the event of an enactment, following the date hereof, of any law in the State of Illinois deducting from the value of the Premises, for the purpose of taxation, the amount of any lien, encumbrance or Imposition or imposing upon Mortgagee the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the manner of collection of liens, encumbrances or Taxes, so as to affect this Mortgage, the indebtedness or Mortgagee, Mortgagor shall, in any such event, upon demand by Mortgagee, pay such liens, encumbrances or Taxes or reimburse Mortgagee therefor; PROVIDED, HOWEVER, that if, in the opinion of counsel for Mortgagee:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

- (a) it may be unlawful to require Mortgagor to make such payment or reimbursement; or
- (b) the making of such payment may result in the payment of interest beyond the maximum amount permitted by law;

then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare the indebtedness, together with interest thereon, to be and become due and payable within six (6) months from the giving of such notice free of any Prepayment Premium. Notwithstanding the foregoing, it is understood and agreed that Mortgagor is not obligated to pay any part of Mortgagee's federal or state income tax.

28. ASSIGNMENT OF LEASES AND RENTS: Simultaneously with the execution of this Mortgage, Mortgagor has, as additional security for the payment of the indebtedness, executed and delivered to Mortgagee an Assignment of Leases and Rents. With respect to said Assignment of Leases and Rents, Mortgagor expressly covenants and agrees:

- (a) that any default by it under the Assignment of Leases and Rents shall constitute a Non-Monetary Default hereunder and following the occurrence of such Non-Monetary Default, Mortgagee shall have the right to declare all unpaid indebtedness immediately due and payable;
- (b) to furnish to Mortgagee a copy of any notice or demand sent to or received from any lessee of the Premises at the same time and in the same manner that such notice or demand is sent to or received from such lessee.

29. HAZARDOUS OR TOXIC SUBSTANCES:

- (a) Mortgagor hereby represents and warrants to Mortgagee that to the best of its knowledge no hazardous or toxic substances, within the meaning of any applicable statute or regulation, are presently stored or otherwise located on the Premises, and further within the definition of such statutes, no part of the Premises, including the ground-water located thereon, is to the best of its knowledge presently contaminated by any such substance.
- (b) Mortgagor covenants and agrees with Mortgagee that, until the indebtedness is paid in full all hazardous or toxic substances, within the definition of any applicable statute or regulation, which may be used by any person for any purpose upon the Premises shall be used or stored thereon only in a safe, approved manner, in accordance with all industrial standards and all laws, regulations and requirements for such storage promulgated by any governmental authority, that the Premises will not be used for the principal purpose of storing such substances and

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

that no such storage or use will otherwise be allowed on the Premises which will cause, or which will increase the likelihood of causing, the release of such substances onto the Premises.

- (c) Mortgagor covenants and agrees with Mortgagee that Mortgagor shall promptly notify Mortgagee as soon as Mortgagor knows or suspects that a toxic or hazardous substance has been released on the Premises.
- (d) Mortgagor shall indemnify and hold Mortgagee harmless of and from all loss, cost (including reasonable attorney's fees), liability and damage whatsoever incurred by Mortgagee by reason of any violation of any applicable statute or regulation for the protection of the environment which occurs upon the Premises, or by reason of the imposition of any governmental lien for the recovery of environmental cleanup costs expended by reason of such violation; provided that, to the extent that Mortgagee is strictly liable under any such statute, Mortgagor's obligations to lender under this indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation of law which results in liability to Mortgagee.

30. SECURITY AGREEMENT: This Mortgage shall be deemed a security agreement, as defined in the Illinois Uniform Commercial Code, and Mortgagor hereby grants to Mortgagee a security interest to secure the indebtedness in and to:

- (a) all of the furniture, furnishings, fixtures, equipment, machines, apparatus, supplies and personal property of every nature and description, and all replacements thereof and substitutions therefor, and the proceeds thereof, now or hereafter located in the Premises, excepting from the foregoing however, any furniture, fixtures, business equipment or articles of personal property belonging to any present or future tenant or lessee of the Premises;
- (b) all of the rents, issues and profits due, or which may hereafter become due or payable for use of the Premises or any part thereof including but not limited to those arising under the terms and provisions of the leases described and assigned under Paragraph numbered 28 hereinabove; or

and will further, execute and deliver on demand Financing Statements pursuant to the Uniform Commercial Code, State of Illinois. Mortgagor agrees from time to time to execute such additional Security Agreements and Financing Statements as may be necessary to vest in Mortgagee a security interest in and to the property hereinabove described and the leases assigned under

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Paragraph numbered 28 above, until the indebtedness be paid in full.

31. CARE: Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any part of the Premises in its possession if it takes such action for that purpose, as Mortgagor requests in writing, but failure of Mortgagee to comply with any such request shall not, of itself, be deemed a failure to exercise reasonable care and no failure of Mortgagee to preserve or protect any rights with respect to the Premises against prior parties or do any act with respect to the preservation thereof not so requested by Mortgagor shall be deemed a failure to exercise reasonable care in the custody or preservation of the Premises.

32. MORTGAGOR'S CONTINUING LIABILITY: This Mortgage is intended only as security for the indebtedness and anything herein contained to the contrary notwithstanding:

- (a) Mortgagor shall be and remain liable to perform all of the obligations assumed by it pursuant hereto; and
- (b) Mortgagee shall have no obligation or liability by reason of or arising out of this Mortgage and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Mortgagor pursuant hereto.

33. INSPECTIONS: Mortgagee, by any authorized agent or employee and for the protection of its interest in the Premises, is hereby authorized and empowered to enter in and upon the Premises at any and all reasonable times, for the purpose of inspecting the same and ascertaining the condition thereof.

34. INDEMNIFICATION: Mortgagor shall indemnify Mortgagee from all losses, damages and expenses, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee maybe made a party for the purpose of protecting the lien of this Mortgage.

35. MARSHALLING OF ASSETS: At any foreclosure sale, the Premises may, at Mortgagee's option, be offered for sale for one total price, and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling.

36. ADDITIONAL DOCUMENTS; POWER OF ATTORNEY: Mortgagor, from time to time, will execute, acknowledge and deliver to Mortgagee upon request, and hereby irrevocably appoints Mortgagee its attorney-in-fact to execute, acknowledge, deliver and if appropriate file and record, such security agreements, assignments

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/11

UNOFFICIAL COPY

for security purposes, assignments absolute, financing statements, affidavits, certificates and other documents, in form and substance satisfactory to Mortgagee, as Mortgagee may request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Mortgage or Other Loan Documents, and the priority thereof. Mortgagor will pay to Mortgagee upon request therefor all costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

37. TIME IS OF THE ESSENCE: It is specifically agreed that time is of the essence of this Mortgage.

38. CORRECTIVE DOCUMENTS: Mortgagor shall, at the request of Mortgagee, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgement hereof or in any other instrument executed in connection herewith or in the execution or acknowledgement of such instrument and will execute and deliver any and all additional instruments as may be requested by Mortgagee to correct such defect, error or omission.

39. CONSENT OR APPROVAL: The consent by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent in any like matter arising at a subsequent date and the failure of Mortgagee to promptly exercise any right, power, remedy or consent provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy or consent at a later date.

Any consent or approval required of and granted by Mortgagee pursuant hereto shall:

- (a) be narrowly construed to be applicable only to Mortgagor and the facts identified in such consent or approval and no third party shall claim an benefit by reason thereof; and
- (b) not be deemed to constitute Mortgagee a venturer or partner with Mortgagor or Beneficiary whatsoever nor shall privity of contract be presumed to have been established with any such third party.

If, to consider a request by Mortgagor or a beneficiary of Mortgagor, it is necessary that Mortgagee deem it to be to its best interests to retain the assistance of any person, firm or corporation (such as, but not limited to, attorneys, appraisers, engineers, surveyors, etc.) Mortgagor or a beneficiary of Mortgagor shall reimburse Mortgagee for all costs incurred in connection with the employment of such parties.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

Muham F. Gheith

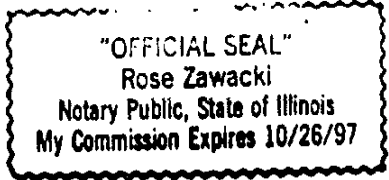
Muhammed F. Gheith

Patt S. Gheith

Patt S. Gheith

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this 25th day of January, 1995, before me, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Muhammed F. Gheith and Patt S. Gheith his wife 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, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including but not limited to waiver of all rights and benefits under and by virtue of the homestead exemption laws of the State of Illinois.



Rose Zawacki

NOTARY PUBLIC

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

PARCEL 1

Lots 12 to 15 in Block 10 in the Subdivision of Blocks 10 to 15 in Walker's Douglas Park Addition in the East Half of the Southeast Quarter and the East Half of the West Half of the Southeast Quarter of Section 24, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois

P.I.N. 16-24-415-007, Lot 12
16-24-415-006, Lots 13 and 14
16-24-415-005, Lot 15

PARCEL 2

Lot 16 through 18 and the East 6 Feet of Lot 19 in Block 10 in Subdivision of Blocks 10 to 15 in Walker's Douglas Park Addition Subdivision of the East Half of the Southeast Quarter and the East Half of the West Half of the Southeast Quarter (Except Railroad Lands) of Section 24, Township 39 North Range 13 East of the Third Principal Meridian in Cook County, Illinois

P.I.N. 16-24-215-004, Lot 16
16-24-215-003, Lot 17
16-24-215-045, Lot 18 and East 6 Feet of Lot 19

PARCEL 3

The West 18 Feet of Lot 19 all of Lots 20 and Lot 21 (Except the West 4 Feet thereof) in Block 10 in the Subdivision of Blocks 10, 11, 12, 13, 14 and 15 in Walker's Douglas Park Addition, Being a Subdivision of the East Half of the South East Quarter and the East Half of the West Half of the Southeast Quarter of Section 24, Township 39 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois

P.I.N. 16-24-215-044, West 18 Feet of Lot 19

16-24-215-047, Lots 20 and 21 (except West 4 Feet)

COMMONLY KNOWN AS: 2643-2649 West 19th Street, Chicago, IL 60608

UNOFFICIAL COPY

Property of Cook County Clerk's Office