

UNOFFICIAL COPY

95127826

PROPERTY RECORDS SECTION, ACTM
1/13/95 12:51pm (R016-01)

This document prepared
by & when recorded
mail to:
Warren E. Brubaker
Brubaker & Motto
770 North Halsted Street
Chicago, Illinois 60622

DEPT-01 RECORDING 159.00
10012 TRAN 2727 02/23/95 15:11:00
40871 CAH *-95-127826
COOK COUNTY RECORDER

MORTGAGE

THIS MORTGAGE (this "Mortgage") is made as of this 31st day of January, 1995, by RIVER FOREST STATE BANK AND TRUST COMPANY, a corporation of Illinois, not personally, but solely as Trustee under Trust Agreement dated September 10, 1991 and known as Trust No. 3767 (herein called "First Party") to Erik Jensen (herein together with his successors and assigns, including each and every from time to time holder of the Note hereinafter described called "Mortgagee").

WITNESSETH

WHEREAS, First Party is the owner and holder of fee simple title in and to all of the real estate described in Exhibit "A" attached hereto and by this reference made a part hereof which real estate forms a portion of Premises hereinafter described;

WHEREAS, Lucille Papendorf and Adeline Smarto have concurrently herewith executed and delivered that certain Promissory Note of even date herewith (herein called the "Note"), payable to the order of Mortgagee in the original principal sum of NINETY-ONE THOUSAND DOLLARS (\$91,000.00) and bearing interest as specified in the Note; and

WHEREAS, the (i) indebtedness evidenced by the Note, including the principal thereof and any other amounts due thereunder or pursuant thereto, and all substitutions, modifications, amendments, restatements, extensions or renewals thereof, in whole or in part, and (ii) all other sums which may be at any time due or owing or required to be paid as herein provided, all of which are herein sometimes called the "Indebtedness Hereby Secured", provided however, that the Indebtedness Hereby Secured shall not exceed a sum equal to two times the original principal amount of the Note.

NOW, THEREFORE, to secure the payment of the principal of and other amount due under or pursuant to the Note according to its

BOX 333-CTI

4/18
48
75-33-766

598

95127826

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

tenor and effect, and to secure the payment of all other Indebtedness Hereby Secured, and the performance and observance of all the covenants, agreements and provisions herein and in the Note contained, and in consideration of the premises and of the sum of \$10.00 paid to First Party, and for other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged by First Party, First Party DOES HEREBY GRANT, REMISE, MORTGAGE, RELEASE, ALIEN AND CONVEY unto Mortgagee, its successors and assigns forever, the real estate described in Exhibit "A" attached hereto and by this reference made a part hereof (herein, together with the property mentioned in the next succeeding paragraphs hereto, called the "Premises");

TOGETHER with all right, title and interest of First Party including any after-acquired title or reversion, in and to the rights of ways, streets, avenues and alleys adjoining the Premises;

TOGETHER with all regular and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights, other rights, liberties and privileges thereof or in any way now or hereafter appertaining, including any other claim at law or in equity as well as any after-acquired title, franchise or license, and the reversions and remainders thereof;

TOGETHER with all rents, income, receipts, revenues, issues, proceeds and profits accruing and to accrue from the Premises;

TOGETHER with all buildings and improvements of every kind and description now or hereafter erected or placed thereon and all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, and all fixtures and articles of personal property now or hereafter owned by First Party and attached to or contained in and used in connection with the Premises and/or the operation and convenience of any building or buildings and improvements located thereon;

TOGETHER with all right, title, estate and interest of First Party in and to the Premises, estate, property, improvements, furniture, furnishings, apparatus and fixtures hereby conveyed, assigned, pledged and hypothecated, or intended so to be, and all right to retain possession of the Premises after event of default in payment, or breach of any covenant herein contained; and

TOGETHER with all awards and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Premises for any taking by eminent domain, either permanent or temporary, of all or any part of the Premises or any easement or appurtenance thereof;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TO HAVE AND TO HOLD the Premises, with the appurtenances, and fixtures, unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses and purposes herein set forth together with all right to possession of the Premises upon the occurrence of any Event of Default as hereinafter defined, First Party hereby RELEASING and WAIVING all rights under and by virtue of the homestead exemption laws of the State of Illinois.

PROVIDED, NEVERTHELESS, that if First Party shall pay when due the Indebtedness Hereby Secured and shall duly and timely perform and observe all of the terms, provisions, covenants and agreements herein provided to be performed and observed by First Party, then this Mortgage and the estate, right and interest of Mortgagee in the Premises shall cease and become void and of no effect, otherwise to remain in full force and effect.

First Party COVENANTS AND AGREES AS FOLLOWS:

1. Payment of Indebtedness: First Party shall pay when due (a) the principal of and interest and premium, if any, on the indebtedness evidenced by the Note and all other amounts due under the Note and (b) all other indebtedness Hereby Secured, and First Party shall duly and punctually perform and observe all of the terms, provisions, conditions, covenants and agreements on First Party's part to be performed or observed as provided herein and in the Note, and this Mortgage shall secure such payment, performance and observance.

2. Maintenance, Repair, Restoration, Liens, Etc.: First Party shall (a) promptly repair, restore or rebuild any building or improvement now or hereafter on the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for the purposes; (b) keep the Premises in good condition and repair, without waste, and free from mechanic's, materialmen's or like liens or claims or other liens or claims for lien; (c) pay, when due, any indebtedness which may be secured by a lien or charge of the Premises superior to the lien hereof and, upon request, exhibit to Mortgagee satisfactory evidence of the discharge of such prior lien; (d) complete the construction of any improvements within a reasonable time, now or at any time in the process of repair or erection upon the Premises; and (e) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof.

3. Other Liens: Except for the existing lien of that certain trust deed dated September 16, 1991 to Chicago Title and Trust Company, as Trustee recorded on September 26, 1991 as Document Number 91500497, securing an original principal sum of

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Eight Hundred Fifty Thousand Dollars (\$850,000.00) (the "Existing Lien"), First Party shall not create or suffer or permit any mortgage, lien, charge or encumbrance to attach to the Premises, whether such lien, charge or encumbrance is inferior or superior to the lien of this Mortgage, excepting only the lien of real estate taxes and assessments not due or delinquent and the Permitted Exceptions described on Exhibit B attached hereto and made a part hereof. First Party agrees to make payments under the note secured by the Existing Lien as provided in such note and to comply in all respects with the terms and provisions of such note and the Existing Lien and all agreements relating thereto. Until the Indebtedness Hereby Secured is paid in full, First Party shall not permit the amount secured by the Existing Lien to ever increase and shall not extend the term of the note secured by the Existing Lien or otherwise amend such note, the Existing Lien or any agreement relating thereto without the prior written consent of Mortgagee; provided, however, that First Party may replace the Existing Lien with a new first mortgage on the Premises so long as the replacement does not secure in the aggregate an amount greater than the lesser of (i) the amount that would be secured at the time of such replacement assuming all payments under the Existing Lien were timely paid and (ii) the amount actually secured by the Existing Lien at the time of such replacement.

4. Taxes: First Party shall pay before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against First Party, if applicable to the Premises or any obligation or agreement secured hereby, and First Party shall, upon written request furnish to Mortgagee duplicate receipts therefor. First Party shall pay in full under protest in the manner provided by statute, any Taxes which First Party may desire to contest; provided, however, that if deferment of payment of any such Taxes is required to conduct any contest or review, First Party shall deposit with Mortgagee (or the holder of the Existing Lien if required under the Existing Lien) the full amount thereof, together with an amount equal to the estimated interest and penalties thereon during the period of contest, and in any event, shall pay such Taxes notwithstanding such contest, if in the opinion of Mortgagee the Premises shall be in jeopardy or in danger of being forfeited or foreclosed, and if First Party shall not pay the same when required so to do, Mortgagee may do so and may apply such deposit for such purpose.

5. Insurance Coverage: First Party will insure or cause to be insured and keep or cause to be kept insured all of the buildings and improvements now or hereafter constructed or erected upon the Premises and each and every part and parcel thereof,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

against such perils and hazards as Mortgagee may from time to time require, and in any event including:

(a) Insurance against loss by fire, risks covered by the so-called extended coverage endorsement, and other risks as Mortgagee may reasonably require insuring at least 80% of the replacement value of the buildings on the Premises; and

(b) Public liability insurance against bodily injury and property damage with such limits as Mortgagee may require;

Provided, however, that during the time that the Existing Lien remains in force, First Party need only comply with the insurance requirements contained in the Existing Lien and need not comply with the otherwise applicable insurance requirements of this Section 5.

6. Insurance Policies: All policies of casualty insurance shall have attached thereto mortgagee clauses or endorsements in favor of and with loss payable to Mortgagee. First Party shall deliver all insurance policies to Mortgagee.

7. Intentionally Omitted.

8. Proceeds of Insurance: First Party shall give Mortgagee prompt notice of any damage to or destruction of the Premises, and:

(a) In case of loss covered by policies of insurance, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option, subject to the rights of the holder of the Existing Lien, either (i) to settle and adjust to any claim under such policies without the consent of First Party, or (ii) allow First Party to agree with the insurance company or companies on the amount to be paid upon the loss, and provided that in any case Mortgagee shall, and is hereby authorized to, collect and receipt for any such insurance proceeds, and the expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness Hereby Secured, and shall be reimbursed to Mortgagee upon demand.

(b) Mortgagee may apply the proceeds of insurance consequent upon any insured damage to or destruction of the Premises, or any part hereof, upon the Indebtedness Hereby Secured, in such order or manner as Mortgagee may elect.

(c) In the event that proceeds of insurance, if any,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

shall be made available to First Party for the restoring, repairing, replacing or rebuilding of the Premises, First Party hereby covenants to restore, repair, replace or rebuild the same, to be of at least equal value, and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with plans and specifications to be first submitted to and approved by Mortgagee.

9. Disbursement of Insurance Proceeds: In the event insurance proceeds held by Mortgagee pursuant to paragraph 8 hereof are to be used in accordance with paragraph 8(c) hereof, and provided that First Party has delivered to Mortgagee funds sufficient, in addition to the proceeds of insurance, to complete the proposed restoration, repair, replacement or rebuilding of the Premises, then Mortgagee shall, solely for the purposes of such restoration, repair, replacement or rebuilding, deposit any sums received by it under paragraph 8 hereof, after first deducting Mortgagee's costs and expenses incurred in obtaining those sums, with an escrow agent reasonably acceptable to Mortgagee pursuant to escrow instructions reasonably acceptable to Mortgagee directing such escrow agent to advance to First Party so much of such sums so deposited as may be required for such restoration, repair, replacement or rebuilding, and any funds deposited by First Party therefor. Such escrow instructions shall contain requirements and conditions with respect to the advance by such escrow agent of such deposited insurance proceeds and additional funds as are reasonable, including, but not limited to, the requirement that First Party deliver to Mortgagee architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and other such evidences of cost, payment and performance as Mortgagee may reasonably require and approve. Mortgagee may, in any event, require that all plans and specifications for such restoration, repair, replacement and rebuilding be submitted to and approved by Mortgagee prior to commencement of work. No payment made prior to the final completion of the restoration, repair, replacement and rebuilding shall exceed ninety percent (90%) of the value of the work performed from time to time. Funds other than proceeds of insurance shall be disbursed prior to disbursement of such proceeds, and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited for that purpose or irrevocably committed to the satisfaction of Mortgagee by or on behalf of First Party for that purpose, shall be at least sufficient, in the reasonable judgment of Mortgagee, to pay for the cost of completion of the restoration, repair, replacement or rebuilding, free and clear of all liens or claims for lien. Any surplus which may remain out of insurance proceeds held by Mortgagee after payment of such costs of restoration, repair, replacement or rebuilding or costs or fees incurred in

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

obtaining such proceeds shall, at the option of Mortgagee, be applied on account of the Indebtedness Hereby Secured. No interest shall be allowed to First Party on account of any proceeds of insurance or other funds held in the hands of Mortgagee.

10. Condemnation: Subject to the rights of the holder of the Existing Lien, First Party hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any award or claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation including any payments made in lieu of and/or in settlement of a claim or threat of condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Indebtedness Hereby Secured (which reduction shall be in the order determined by the Mortgagee), whether due or not, or require First Party to restore or rebuild the Premises, in which event, the proceeds shall be held by Mortgagee and used to reimburse First Party for the cost of such rebuilding or restoring.

11. Intentionally Omitted.

12. Intentionally Omitted:

13. Effect of Extension of Time and Amendments of Junior Liens and Other: If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security therefor 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 and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a mortgage junior to this Mortgage or other lien, upon the Premises or any interest therein, shall take the said lien subject to the rights of Mortgagee to amend, modify and supplement this Mortgage and the Note, and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior liens.

14. Mortgagee's Performance of First Party's Obligations: In case of an Event of Default herein, Mortgagee, either before or after acceleration of the Indebtedness Hereby Secured or the foreclosure of the lien hereof and during the period of redemption, if any, may but shall not be required to, make any payment or perform any act herein required of First Party (whether or not First Party is personally liable therefor) in any form and manner

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

deemed expedient to Mortgagee, and Mortgagee may, but shall not be required to, 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 or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or contest any tax or assessment, and may, but shall not be required to, complete construction, furnishing and equipping of the improvements upon the Premises and rent, operate and manage the Premises and such improvements and pay operating costs and expenses, including management fees of every kind and nature in connection therewith, so that the Premises and improvements shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees and other monies advanced by Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such improvements or to pay any such operating costs and expenses thereof or to keep the Premises and improvements operational and usable for its intended purpose, shall be so much additional Indebtedness Hereby Secured, whether or not they exceed the face amount of the Note, and shall become immediately due and payable without notice and with interest thereon at the Default Rate specified in the Note (herein called the "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 First Party. Mortgagee in making any payment hereby authorized (a) relating to taxes and assessments, 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 other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; and (c) in connection with the completion of construction, furnishing or equipping of the improvements of the Premises or the rental, operation or management of the Premises or the payment of operating costs and expenses thereof, Mortgagee may do so in such amounts and to such persons as Mortgagee may deem appropriate and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

15. Inspection of Premises: Mortgagee shall have the right to inspect the Premises, and access thereto shall be permitted for that purpose.

16. Intentionally Omitted.

17. Intentionally Omitted:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

18. Restrictions on Transfer: It shall be an Event of Default hereunder if, without the prior written consent of Mortgagee any one, or more of the following shall occur:

(a) If First Party shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Premises or any part thereof or interest therein; or

(b) If First Party is a Land Trustee, then, if any beneficiary of First Party shall create, effect or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of all or any portion of such beneficiary's beneficial interest in First Party,

in each case whether any such 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. The provisions of this Paragraph 18 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 of or interest in or encumbrance upon the Premises, or such beneficial interest.

19. Events of Default: If one or more of the following events (herein individually called an "Event of Default") shall occur:

(a) If default be made in the due and punctual payment of the amounts due under the Note, or any installment thereof, as and when the same is due and payable or if there occurs any other event of default under the Note; or

(b) If default be made and shall continue for ten (10) days after notice thereof by Mortgagee to First Party in the making of any payment of monies required to be made hereunder or under any other Indebtedness Hereby Secured; or

(c) If an Event of Default pursuant to Paragraph 18 hereof shall occur and be continuing without notice or period of grace of any kind; or

(d) If (and for the purpose of this Paragraph 19(d) only, the term First Party shall mean and include not only First Party but any beneficiary of a trustee mortgagor, 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

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Indebtedness Hereby Secured or any of the covenants or agreements contained herein):

(i) First Party shall file any proceedings for adjudication as a bankrupt or for any other relief pursuant to the bankruptcy or insolvency laws of the United States or of any State; or

(ii) any proceedings against First Party for adjudication as a bankrupt or for any other relief under the bankruptcy or insolvency laws of the United States or of any State, and (A) the filing of an answer admitting insolvency or inability to pay its debts, or (B) the failure to obtain a dismissal of such proceeding or a stay thereof within thirty (30) days after filing of the same; or

(iii) the adjudication of First Party as a bankrupt or insolvent under any of said laws; or

(iv) First Party's property or the Premises shall be levied upon by execution or other legal process.

(e) If default shall continue for twenty (20) days after notice thereof by Mortgagee to First Party in the due and punctual performance or observance of any other agreement or condition herein contained; or

(f) If Mortgagee accelerates the indebtedness evidenced by the Note pursuant to the provisions thereof; or

(g) If default be made under the Existing Lien.

then, so long as such Event of Default still exists Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of Mortgagee hereunder to declare, without further notice all Indebtedness Hereby Secured to be immediately due and payable, whether or not such default be thereafter remedied by First Party, and Mortgagee may immediately proceed to foreclose this Mortgage and/or to exercise any right, power or remedy provided by this Mortgage, the Note or by law or in equity conferred.

20. Possession by Mortgagee: When the Indebtedness Hereby Secured shall become due, whether by acceleration or otherwise, Mortgagee shall, if applicable law permits, have the right to enter into and upon the Premises and take possession thereof or to appoint an agent or trustee for the collection of rents, issues and profits of the Premises; and the net income, after allowing a

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

reasonable fee for the collection thereof and for the management of the Premises, may be applied to the payment of taxes, insurance premiums and other charges applicable to the Premises, or in reduction of the Indebtedness Hereby Secured; and the rents, issues and profits of and from the Premises are hereby specifically pledged to the payment of the Indebtedness Hereby Secured.

21. Foreclosure: When the Indebtedness Hereby Secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof. In any suit to foreclose the lien hereof, 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 Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title, as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree, the true conditions of the title to or the value of the Premises. All 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 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 preparation of the commencement or defense of any proceedings or threatened suit or proceeding, shall be so much additional Indebtedness Hereby Secured and shall be immediately due and payable by First Party, with interest thereon at the Default Rate per annum until paid.

22. Intentionally Omitted:

23. 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 Paragraph 21 hereof; Second, to pay the amounts due under the Existing Lien; Third, all other items which, under the terms hereof, constitute Indebtedness Hereby Secured additional to that evidenced by the Note, with interest on such items as herein provided; Fourth, to interest remaining unpaid upon the Note or under any further advances as are herein mentioned; Fifth, to the principal remaining unpaid upon the Note and all other Indebtedness Hereby Secured; and upon any further

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

advances as are herein mentioned; and lastly, any surplus to First Party, and its successors or assigns, as their rights may appear.

24. Intentionally Omitted:

25. Waiver: First Party hereby covenants and agrees that it will 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 appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction, or after such sale or sales 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. First Party hereby expressly waives any and all rights of any automatic stay or redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of First Party and of all other persons, are and shall be deemed to be hereby waived to the full extent permitted by the provisions of 735 ILCS 5/15-1601, and any statute enacted in replacement or substitution thereof. First Party will not invoke or utilize any such 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 have been made or enacted.

In the event that First Party (as defined in 19(d)), is the subject of any insolvency, bankruptcy, receivership, dissolution, reorganization or similar proceeding whether described in Paragraph 19(d) or otherwise, Mortgagee is further authorized and empowered, at its option to the automatic lifting of any automatic stay as to the enforcement of any right, power or remedy provided by this Mortgage or the Note, including but not limited to, the stay imposed by Section 362 of the United States Federal Bankruptcy Code, as amended. First Party hereby expressly consents to the immediate lifting of any such automatic stay, and will not contest any motion by Mortgagee to lift such stay.

26. Intentionally Omitted:

27. Assignment of Rents and Leases: To further assure the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

repayment of the Indebtedness Hereby Secured but subject to the rights of the holder of the Existing Lien, First Party hereby sells, assigns and transfer unto Mortgagee all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Premises or any part thereof, which may have been heretofore or may be hereafter made or agreed to or which may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such leases and agreements, and all the avails thereunder, to Mortgagee and not merely the passing of a security interest. First Party hereby irrevocably appoints Mortgagee its true and lawful attorney in its name and stead (with or without taking possession of the Premises as provided herein) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as said Mortgagee shall, in its discretion, determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due or that may hereafter become due under each and every of the leases and agreements, written or verbal, or other tenancy existing, or which may hereafter exist on the Premises.

First Party further agrees to assign and transfer to Mortgagee all future leases upon all or any part of the Premises and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Premises as Mortgagee shall from time to time reasonably require, provided that all such assignments shall be subject to the rights of the holder of the Existing Lien, if any.

Although it is the intention of the parties that the assignment contained in this Section 27 shall be a present absolute assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section 27 until a default shall have occurred under this Mortgage, the Note or any other instrument evidencing or securing the Indebtedness Hereby Secured that shall not have been cured within the applicable grace period provided therefor, if any.

28. Mortgagee in Possession: Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises.

29. Business Loan: First Party certifies and agrees that the proceeds of the Note secured hereby have been used for the purposes specified in 815 ILCS 205/4(1)(c), and the principal obligation secured hereby constitutes a "business loan" coming within the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/2011 10:11:11 AM

UNOFFICIAL COPY

definition and purview of said section. First Party further certifies and agrees that the Premises are not residential real estate within the definition and purview of 815 ILCS 205/4(2)(a).

30. Further Assurances: First Party will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper, in the sole judgment of Mortgagee, for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee all property mortgaged hereby or property intended so to be, whether now owned by First Party or hereafter acquired.

31. First Party's Successors: In the event that the ownership of Premises becomes vested in a person or persons other than First Party, Mortgagee may, without notice to First Party, deal with such successor or successors in interest of First Party with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with First Party. First Party will give immediate written notice to Mortgagee of any conveyance, transfer or change of ownership of the Premises, but nothing in this Paragraph 31 shall vary or negate the provisions of Paragraphs 18 or 19 hereof.

32. Rights Cumulative: Each right, power and remedy herein conferred upon 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 to 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 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.

33. Successors and Assigns: This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon First Party and its successors and assigns (including, without limitation, each and every from time to time record owner of the Premises or any other person having an interest therein), and shall inure to the benefit of Mortgagee and its successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not; and each such from time to time holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions herein, as fully and to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/15/2011 10:11 AM

UNOFFICIAL COPY

the same extent and with the same effect as if such from time to time holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated Mortgagee.

34. Provisions Severable/Conflict: The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

35. Waiver of Defense: 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 to the party interposing the same in an action at law upon the Note.

36. Time of Essence: Time is of the essence of the Note, this Mortgage, and any other document evidencing or securing the Indebtedness Hereby Secured.

37. Captions and Pronouns: The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way and scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

38. Notices: Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof be certified or equivalent mail, postage prepaid, return receipt requested, to the respective addresses of the parties set forth below, or to such other place as any party hereto may by notice in writing designate for itself, shall constitute service of notice hereunder three (3) business days after the mailing thereof;

(a) If to Mortgagee:

Erik Jensen
443 ~~W. 18th St~~
Oak Park, IL 60302

With a Copy to:

Warren E. Brubaker, Esq.
Brubaker & Motto
770 North Halsted Street
Chicago, Illinois 60622

95127826

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(b) If to First Party:

River Forest Bank
7727 West Lake Street
River Forest, Illinois 60305
Attn: Land Trust Department

and Lucille Papendorf

and Adeline Smarto

with a copy to:

Robert S. Andrew
177 N. Oak Park Avenue
Suite 200
Oak Park, Illinois 60301

Any such notice may be served by personal delivery thereof to the other party which delivery shall constitute service of notice hereunder on the date of such delivery.

39. Intentionally Omitted:

40. Opportunity to Consult Counsel: The parties agree that each of the parties hereto has had an opportunity to consult with counsel of its choosing with respect to this Mortgage and the transactions contemplated hereby and that each such party understands the terms and conditions contained in this Mortgage.

41. Ambiguity not to be Construed Against Drafter: The parties agree that any ambiguity contained in this Mortgage shall not be construed against the party that drafted this Mortgage as this Mortgage is the product of negotiation between the parties.

42. Land Trustee Exculpation: This Mortgage is executed by First Party 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 First Party hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in the Note contained shall be construed as creating any liability on said

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

0000000000

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025-01-14

UNOFFICIAL COPY

EXHIBIT A

THE EAST 116 FEET 6 INCHES OF THE SOUTH 62 FEET OF LOT 4 AND ALSO THE EAST 116 FEET 6 INCHES OF THAT PART OF LOT 5 LYING NORTH OF A STRAIGHT LINE DRAWN FROM A POINT ON THE WEST LINE OF PARK PLACE 19 FEET NORTH OF THE SOUTHEAST CORNER OF SAID LOT 5 TO A POINT ON THE WEST LINE OF SAID LOT 5 WHICH IS 20.85 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 5, ALL IN AUSTIN SUBDIVISION OF THE EAST 57.7 FEET OF LOT 17 AND ALL OF LOTS 18, 19 AND 20 IN SKINNER'S SUBDIVISION OF LAND IN THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PTN: 07-126-016

07-126-018

address of ppty:

137 N. Oak Park Ave

Oak Park, Ill

95127826

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B PERMITTED EXCEPTIONS

1. TERMS, POWERS, PROVISIONS AND LIMITATIONS OF THE TRUST UNDER WHICH TITLE TO THE LAND IS HELD.
2. POSSIBLE EXISTING PARTY FOUNDATION ON THE WEST LINE OF THE LAND.
3. EXISTING RECIPROCAL EASEMENTS IN FAVOR OF THE OWNERS AND OCCUPANTS OF THE LAND AND THE OWNERS AND OCCUPANTS OF LAND WEST AND ADJOINING LAND FOR THE USE OF COMMON REAR PORCHES AND STEPS LOCATED PARTLY ON THE LAND AND PARTLY ON THE LAND WEST OF AND ADJOINING LAND.
4. LEASE AND ASSIGNMENT OF RENTS MADE BY RIVER FOREST STATE BANK AND TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 10, 1991 AND KNOWN AS TRUST NUMBER 3767 TO CHICAGO TITLE AND TRUST COMPANY, A CORPORATION OF ILLINOIS, AS TRUSTEE AND RECORDED SEPTEMBER 26, 1991 AS DOCUMENT 91600498.

Property of Cook County Clerk's Office

95127826

