95340554

Execution Counterpart

ASSUMPTION AGREEMENT

THIS ASSUMPTION AGREEMENT is made this <u>18</u> day of May, 1995 by RICHARD S. BEZARK, OR SUCCESSORS IN TRUST, AS TRUSTEE OF THE RICHARD S. FEZARK DECLARATION OF TRUST DATED AUGUST 19, 1988, of 3165 Commercial Avenue. Northbrook, Illinois 60062 ("Maker") to and for the benefit of TIME INSURANCE COMPANY, a Wisconsin corporation, having an address at 501 West Michigan, Milwaukee, Wisconsin 53203 ("Mortgagee").

WITHESSETH

WHEREAS, Mortgagee is the owner and holder of that certain Promissory

Note (the "Note"), dated June 8, 1990, in the original principal amount of FIVE HUNDRED

THOUSAND DOLLARS (\$500,000.00) made by NEW EXTRUSIONS & FABRICATING,

INC., an Illinois corporation whose mailing address is 3165 Comparcial Avenue,

Northbrook, Illinois 60062 ("Original Mortgagor") and payable to the order of Mortgagee;

WHEREAS, the Note is secured by a certain Mortgage, Security Agreement and Financing Statement (the "Mortgage"), dated June 8, 1990, given by Original Mortgager to Mortgagee and recorded as Document No. 90271453 by the Cook County Recorder;

WHEREAS, Original Mortgagor conveyed the property encumbered by the Mortgage described as Lot 17 in Northbrook Edens Industrial Park Subdivision Unit No. 4 in Section 6, Township 42 North, Range 12 East of the 3rd Principal Meridian in Cook County, Illinois (the "Mortgaged Property") to RICHARD S. BEZARK by Quitclaim Deed dated

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Property of Cook County Clark's Office

DEFT-01 RECORDING \$33.00 T#6012 TRAN 4791 05/24/95 14:56:00 #5787 # JT 米一夕原一34回写版4 100M CBUNTY FECORDER

\$30.00

December 31, 1990 and recorded on January 18, 1991 as Document No. 91030687 by the Cook County Recorder;

WHEREAS, RICHARD S. BEZARK conveyed the Mortgaged Property by Quitclaim Deed, dated September 10, 1994, to RICHARD S. BEZARK, OR HIS SUCCESSORS IN TRUST, AS TRUSTEE OF THE RICHARD S. BEZARK DECLARATION OF TRUST DATED AUGUST 19, 1988; and

MOW. THEREFORE, in consideration of the premises, mutual covenants herein, and other good and valuable consideration, the receipt whereof and the sufficiency of which the parties hereto do hereby acknowledge, the parties agree as follows:

1. Assumption.

The undersigned Maker, for good and valuable consideration, does hereby assume and agree to pay and perform any and all of the obligations secured by the Mortgage, according to its terms and those of the accompanying Note.

2. Exculpation.

Note or the Mortgage, and except as provided in clauses (b) and (c) below, the liability and obligation of the Maker to perform and observe and make good the obligations contained in the Note and the Mortgage shall not be enforced by any action or proceeding where no damages or any money judgment shall be sought against the Maker, (except for the portion of the Debt guaranteed by that certain Partial Guaranty of Payment, dated Maker, (except for the portion against the Mortgaged Property, but any judgment in any such foreclosure action shall be enforceable only against the Mortgaged Property and the income therefrom and the Mortgagee, by accepting the Note and the Mortgage, irrevocably waives any and all right to

sue for, seek or demand any deficiency judgment against the Maker in any such foreclosure action, under or by reason of or under or in connection with the Note or the Mortgage.

(b) Notwithstanding the provisions of paragraph 2(a) above, the agreement of the Mortgagee not to pursue recourse liability as provided in paragraph 2(a) SHALL BECOME NULL AND VOID and shall be of no further force or effect in the event of: (i) except as expressly permitted under paragraph 29(c) of the Mortgage and except for transfers upon death, the sale, transfer, assignment, encumbrance or conveyance of any interest in the Mortgaged Property without the prior written consent of the Mortgagee or the operation, or the conversion, of the Mortgaged Property as a cooperative or condominium form of ownership; or (ii) the Maker should file, or there should be filed against the Maker (by a party other than the Mortgagee and the same is not dismissed within sixty (60) days), a petition in bankruptcy or a petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the bankruptcy laws of the United States or under any other similar federal, state or other statute relating to relief from indebtedness, or a receiver, trustee or liquidator should be approved with respect to the Maker or the Mortgaged Property or any part thereof.

agreement of the Mortgagee not to pursue recourse liability as provided above STALL BECOME NULL AND VOID and shall be of no further force and effect (and the Mortgagee shall have the right to pursue recourse liability against the Maker) to the extent that the Mortgagee actually suffers loss, cost, expense or damage, by reason of the: (i) fraud or material misrepresentation made in connection with the Loan, the Note, the Mortgage or any of the other Loan Documents; (ii) failure to pay taxes or insurance premiums or charges for labor or materials or any other charges which may create liens on any portion of the

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Mortgaged Property; (iii) the misapplication of (a) proceeds or insurance covering any portion of the Mortgaged Property, or (b) proceeds of the sale or condemnation of any portion of the Mortgaged Property, or (c) rents, issues or profits derived from the Mortgaged Property received by or on behalf of the Maker subsequent to the occurrence of an Event of Default under the Note or this Mortgage; (iv) failure to maintain the Mortgaged Property in good condider, and repair, excepting ordinary wear and tear; (v) failure to deliver to the Mortgagee all upcarned advance Rents under the Mortgaged Property leases and security deposits paid by tenants or other occupants of the Mortgaged Property and not refunded to or forfeited by such tenants; (vi) icss to any portion of the Mortgaged Property by fire or casualty to the extent not compensated by insurance proceeds collected by the Mortgagee; (vii) failure to pay any expenses for which the Maker is obligated under the application issued by the Mortgagee for the Loan; (viii) failure to pay all costs, fees and expenses which are provided for in the Note, this Mortgage or in any other Loan Documents relating to the environmental requirements of the Mortgage or any environmental quaranty and indemnification agreement required by the Mortgagee or a default by the Maker or any indemnitor thereunder, the terms of which agreement are hereby incorporated by reference as if set forth in full herein; or (ix) any and all cost incurred by the Mortgagee in order to cause the Improvements to comply with the accessibility provisions of The Fair Housing Act of 1988, the Americans With Disabilities Act or any similar law, rule, order, regulation or restriction, as amended from time to time.

(d) Notwithstanding the provisions of paragraph 2(a) above, the agreement of the Mortgagee not to pursue recourse liability as provided in paragraph 2(a) shall in no way limit Mortgagee's right to pursue recourse liability against Maker as provided in the Partial Guaranty.

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- 3. Capitalized terms not defined herein shall have the meaning ascribed to them in the Mortgage.
- 4. The Note, Mortgage and all other loan documents (the "Other Loan Documents") executed in connection with the Note and Mortgage shall remain in full force and effect and are hereby ratified and confirmed in all respects by the Maker and all of the representations and warranties of the Mortgagor therein are confirmed by Maker.
- 5. Maker hereby acknowledges and confirms that there are no offsets, setoffs, defenses of counterclaims with respect to the Note, Mortgage and Other Loan Documents or the amounts evidenced thereby.

Dated May 18, 1995.

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

MAKER

RICHARD S. BEZARK, OR SUCCESSORS IN TRUST, AS TRUSTRE OF THE RICHARD S. BEZARK DECLARATION OF TRUST DATED AUGUST 19, 1988

[Acknowledgements to be Attached]

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STATE OF ILLINOIS COUNTY OF COOK

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that RICHARD S. BEZARK, Trustee of the RICHARD S. BEZARK DECLARATION OF TRUST DATED AUGUST 19, 1988, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

or my. Given under my hand and official seal, this My day of May, 1995.

THIS INSTRUMENT PREPARED BY - MA. L. TO:

Jeanne Dugan Coupe 281 Tresser Boulevard Stamford, Connecticut 06901

LEGAL DESCRIPTION

LOT 17 IN NORTHBROOK EDENS INDUSTRIAL PARK SUBDIVISION UNIT NUMBER 4 IN SECTION 6, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PROPERTY ADDRESS: 3660 COMMERCIAL AVENUE NORTHBROOK, ILLINOIS

PERMANENT INDEX NUMBER: 04-06-202-012-0000