

UNOFFICIAL COPY

1 all
G-76-18-391-0F

96533481

When Recorded mail to:

Financial Federal Trust and Savings Bank
1401 North Larkin Avenue
Joliet, Illinois 60435

DEPT-01 RECORDING 147.00
740012 TRAN 1295 07/12/96 11:10:00
1858 EXT # 76-533481
COOK COUNTY RECORDER

This Mortgage prepared by: Hazel Bowman, Financial Federal Trust and Savings Bank
48 Orland Square Drive, Orland Park, Illinois 60462

Loan No. 1800211246

47.00
AB

MORTGAGE AND ASSIGNMENT OF RENTS

THIS MORTGAGE IS DATED July 5, 1996, between American National Bank and Trust Company of Chicago, Successor Trustee to South Central Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated September 24, 1985 and known as Trust Number L-300 (herein "Mortgagor") and Financial Federal Trust and Savings Bank, a corporation organization and existing under the laws of the United States of America, whose address is 21110 South Western Avenue, Olympia Fields, Illinois 60461 (herein referred to as "Mortgagee" or the "Lender"), its successors and assigns and pertains to the real estate located in the County of Cook, State of Illinois.

WHEREAS, Mortgagor is indebted to Lender in the principal sum of Four Hundred Thousand and No/100 Dollars, which indebtedness is evidenced by Borrower's note dated July 5, 1996 (herein "Note"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on August 1, 2001;

TO SECURE TO LENDER (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions and modifications thereof; (b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; and (c) the performance of the covenants and agreements of Mortgagor herein contained, Mortgagor does hereby mortgage, grant, convey and assign to Lender the following described property located in the County of Cook, State of Illinois:

The South 21 feet of Lot 3, all of Lots 4 to 8, both inclusive, in Block 3 in William Jones' Addition to Chicago in Section 22, Township 39 North, Range 14, East of the Third Principal Meridian.

PIN: 17-22-307-011-0000, 17-22-307-012-0000, and 17-22-307-013-0000
Commonly Known As: 1839-1841 South Michigan Avenue, Chicago, Illinois 60616

Mortgagor presently assigns to Lender all of Mortgagor's right, title and interest in and to all leases of the Property and all Rents from the Property. In addition, Mortgagor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

DEFINITIONS: The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Guarantor: The word "Guarantor" means and includes without limitation each and all of guarantors, sureties, and accommodation parties in connection with the Indebtedness.

Improvements: The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

96533481

BOX 333-CTI

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Indebtedness: The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Mortgagor or expenses incurred by Lender to enforce obligations of Mortgagor under this Mortgage, together with interest on such amounts as provided in this Mortgage. In addition to the Note, the word "indebtedness" includes all obligations, debts and liabilities, plus interest thereon, of Mortgagor to Lender, or any one or more of them, as well as all claims by Lender against Mortgagor, or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Mortgagor may be liable individually or jointly with others, whether obligated as guarantor or otherwise, and whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations, and whether such indebtedness may be or hereafter may become otherwise unenforceable. (Initial here). Specifically, without limitation, this Mortgage secures, in addition to the amounts specified in the Note, all future amounts Lender in its discretion may loan to Mortgagor, together with all interest thereon; however, in no event shall such future advances (excluding interest) exceed in the aggregate sum of \$None. At no time shall the principal amount of the indebtedness secured by this mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$400,000.00.

Lease: The word "Lease" means the lease of the Property between the tenant and Mortgagor.

Lender: The word "Lender" means Financial Federal Trust and Savings Bank, its successors and assigns. The Lender is the mortgagee under this Mortgage.

Mortgage: The word "Mortgage" means this Mortgage between Mortgagor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

Mortgagor: The word "Mortgagor" is the Grantor under this Mortgage.

Note: The word "Note" means the promissory note or credit agreement dated July 5, 1996 in the original principal amount of \$400,000.00 from Mortgagor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The initial interest rate on the Note is 9.500%. The Note is payable in 59 monthly payments of \$3,494.79 with a final balloon payment due on the maturity date. The maturity date of this Mortgage is August 1, 2001.

Personal Property: The words "Personal Property" means all equipment, fixtures and other articles of personal property now or hereafter owned by Mortgagor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Real Property: The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

Related Documents: The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

Rents: The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS; AND (2) PERFORMANCE OF ALL OBLIGATIONS OF MORTGAGOR UNDER THE MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE: Except as otherwise provided in this Mortgage, Mortgagor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Mortgagor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY: Mortgagor agrees that Mortgagor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until in default or until Lender exercises its right to collect Rents, Mortgagor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

Duty to Maintain. Mortgagor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Hazardous Substances. The terms "hazardous waste", "hazardous substance", "disposal", "release", and "threatened release", as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1970, as amended, 42 U.S.C. Section 9601, et. seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C., Section 1801, et. seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq., and other applicable state or federal laws, rules or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Mortgagor represents and warrants to Lender that (a) During the period of Mortgagor's interest in the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance on, under about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claim of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Mortgagor nor any tenant, contractor, agent, or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances, including without limitation those laws, regulations, and ordinances described above. Mortgagor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Mortgagor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability the party of Lender to Mortgagor or to any other person. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Property for hazardous waste and hazardous substances.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Hazardous Substances (continued). Mortgagor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Mortgagor's ownership or interest in the Property, whether or not the same was or should have been known to the Mortgagor. The provisions of this section of the Mortgage including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Mortgagor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Mortgagor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

Removal of Improvements. Mortgagor shall not demolish or remove any improvements from the Real Property without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Mortgagor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Lender's Right to Enter. Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Mortgagor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Mortgagor shall promptly comply with all laws, ordinances, and regulations now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Mortgagor to pose adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Mortgagor agrees neither to abandon nor leave unattended the Property. Mortgagor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonable necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property interest. If any Mortgagor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Mortgagor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

Payment. Mortgagor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the property. Mortgagor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due, and except as otherwise provided in the following paragraph.

Right to Contest. Mortgagor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Mortgagor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Mortgagor has note of the filing secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Mortgagor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Mortgagor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Mortgagor shall demand furnish to lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

Notice of Construction. Mortgagor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, material supplier's lien, or other lien could be asserted on account of the work, services or materials. Mortgagor will upon request of Lender furnish to lender advance assurances satisfactory to Lender that Mortgagor can and will pay the cost of such improvements.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage.

Maintenance of Insurance. Mortgagor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Mortgagor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender shall not be impaired in any way by any act, omission or default of Mortgagor or any other person. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Mortgagor agrees to obtain and maintain Federal Flood Insurance, to the extent such insurance is required by Lender and is or becomes available, for the term of the loan and for the full unpaid principal balance of the loan, or the maximum limit or coverage that is available, whichever is less.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Application of Proceeds. Mortgagor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Mortgagor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Mortgagor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Mortgagor from the proceeds for the reasonable cost of repair or restoration if Mortgagor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after the receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Mortgagor.

Unexpired Insurance at Sale. Any unexpired insurance shall insure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

TAX AND INSURANCE RESERVES. Mortgagor agrees to establish a reserve account, as required by Lender, to be retained from the loan proceeds in such amount deemed to be sufficient by Lender and shall pay monthly into that reserve account an amount equivalent to 1/12 of the annual real estate taxes and insurance premiums, as estimated by Lender, so as to provide sufficient funds for the payment of each year's taxes and insurance premiums one month prior to the date the taxes and insurance premiums become delinquent. Mortgagor shall further pay a monthly pro-rata share of all assessments and other charges which may accrue against the Property. If the amount so estimated and paid shall prove to be insufficient to pay such taxes, insurance premiums, assessments and other charges, Mortgagor shall pay the difference on demand of Lender. All such payments shall be carried in an interest-free reserve account with Lender, provided that if this Mortgage is executed in connection with the granting of a mortgage on a single-family owner-occupied residential property, Mortgagor, in lieu of establishing such a reserve account, may pledge an interest-bearing savings account with Lender to secure the payment of estimated taxes, insurance, premiums, assessments, and other charges.

Lender shall have the right to draw upon the reserve (or pledge) account to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. All amounts in the reserve account are hereby pledged to further secure the indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the indebtedness upon the occurrence of an event of default as described below.

EXPENDITURES BY LENDER. If Mortgagor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Mortgagor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the note from the date incurred or paid by Lender to the date of repayment by Mortgagor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment on these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage.

Title. Mortgagor warrants that (a) Mortgagor holds good and marketable title of record to the Property, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Mortgagor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Mortgagor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Lender under this Mortgage, Mortgagor shall defend the action at Mortgagor's expense. Mortgagor may be the non-party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Mortgagor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance with Laws. Mortgagor warrants that the Property and Mortgagor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

CONDEMNATION. The following provisions relating to condemnation of the Property are a part of this Mortgage.

Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorney's fees incurred by Lender in connection with the condemnation.

Proceedings. If any proceeding in condemnation is filed, Mortgagor shall promptly notify Lender in writing, and Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. Mortgagor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Mortgagor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

IMPOSITION OF TAXES, FEES, AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage.

Current Taxes, Fees and Charges. Upon request by Lender, Mortgagor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Mortgagor shall reimburse Lender for all taxes, as described below together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Taxes. The following shall constitute taxes to which this section applied: (a) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (b) a specific tax on Mortgagor which Mortgagor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Mortgagor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Mortgagor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage.

Security Agreement. This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Mortgagor shall execute financing statements, and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Mortgagor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Mortgagor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall assemble the Personal Property in a manner and at a place reasonably convenient to Mortgagor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

Addresses. The mailing addresses of Mortgagor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage however notices to Mortgagor shall be sent to 1831-1841 South Michigan Avenue, Chicago, Illinois 60616.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

Further Assurances. At any time, and from time to time, upon request of Lender, Mortgagor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Mortgagor under the Note, this Mortgage, and the Related Documents, and (b) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Mortgagor. Unless prohibited by law or agreed to the contrary by Lender in writing, Mortgagor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Attorney-in-Fact. If Mortgagor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Mortgagor and at Mortgagor's expense. For such purposes, Mortgagor hereby irrevocably appoints Lender as Mortgagor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Mortgagor pays all the indebtedness, including without limitation all future advances, when due, and otherwise performs all the obligations imposed upon Mortgagor under this Mortgage, Lender shall execute and deliver to Mortgagor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Reins and the Personal Property. Mortgagor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time. If, however, payment is made by Mortgagor, whether voluntarily or otherwise, or by guarantor or by any third party, on the indebtedness and thereafter Lender is forced to remit the amount of that payment (a) to Mortgagor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court of administrative body having jurisdiction over Lender or any of Lender's property, or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor), the indebtedness shall be considered unpaid for the purpose of enforcement of this Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing the indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Mortgagor shall be bound to the same extent as if that amount never had been originally received by Lender, and Mortgagor shall be bound by any judgment, decree, order, settlement or compromise relating to the indebtedness or to this Mortgage.

DEFAULT. Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage.

Default on Indebtedness. Failure of Mortgagor to make any payment when due on the indebtedness.

Default on Other Payments. Failure of Mortgagor within the time required by this Mortgage to make any payment for taxes, or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Compliance Default. Failure of Mortgagor to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents.

False Statements. Any warrant, representation or statement made or furnished to Lender by or on behalf of Mortgagor under this Mortgage, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

Death or Insolvency. The death of Mortgagor or any Guarantor, the insolvency of Mortgagor or any Guarantor, the appointment of a receiver for any part of Mortgagor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Mortgagor or Guarantor.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Foreclosure, Forfeiture, etc. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Mortgagor or by any governmental agency against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Mortgagor as the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Mortgagor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

Breach of Other Agreement. Any breach by Mortgagor under the terms of any other agreement between Mortgagor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Mortgagor to Lender, whether existing now or later.

Event Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

Adverse Change. A material adverse change occurs in Mortgagor's or Guarantor's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

Insecurity. Lender reasonably deems itself insecure.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any (or) more of the following rights and remedies, in addition to any other rights or remedies provided by law.

Accelerate Indebtedness. Lender shall have the right, at its option without notice to Mortgagor or Guarantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Mortgagor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Mortgagor or Guarantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender.

If the Rents are collected by Lender, then Mortgagor irrevocably designates Lender as Mortgagor's attorney-in-fact to endorse instruments received in payment thereof in the name of Mortgagor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgage in Possession. Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Mortgagor's interest in all or any part of the Property.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

Sale of the Property. To the extent permitted by applicable law, Mortgagor hereby waives any and all right to have the property marshaled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

Notice of Sale. Lender shall give Mortgagor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

Waiver; Election of Remedies. A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Mortgagor under this Mortgage after failure of Mortgagor to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

Attorneys Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the rate provided for in the Note.

Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the costs of searching records, obtaining title reports (including foreclosure reports), surveyors' reports and appraisal fees, and title insurance to the extent permitted by applicable law. Mortgagor also will pay any court costs, in addition to all other sums provided by law.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

NOTICES TO MORTGAGOR AND OTHER PARTIES. Any notice under this Mortgage, including without limitation any notice of default and any notice of sale to Mortgagor, shall be in writing, may be sent by telefacsimile, and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or if mail, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Mortgagor agrees to keep Lender informed at all times of Mortgagor's current address.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Applicable Law. This Mortgage has been delivered to Lender and accepted by Lender in the State of Illinois. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

Successors and Assigns. Subject to the limitations stated in this Mortgage on transfer of Mortgagor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Mortgagor, Lender, without notice to Mortgagor, may deal with Mortgagor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Mortgagor from the obligations of this Mortgage or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Mortgagor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by this Mortgage.

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Waiver of Right of Redemption. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS MORTGAGE, MORTGAGOR HEREBY WAIVES TO THE EXTENT PERMITTED UNDER ILL. REV. STAT. CH. 110 SECTION 15-2601(b) OR ANY SIMILAR LAW EXISTING AFTER THE DATE OF THIS MORTGAGE, ANY AND ALL RIGHTS OF REDEMPTION ON BEHALF OF MORTGAGOR AND ON BEHALF OF ANY OTHER PERSONS PERMITTED TO REDEEM THE PROPERTY.

Waivers and Consents. Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision nor any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Mortgagor, shall constitute a waiver of any Lender's rights or any of Mortgagor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

TRUSTEE EXCULPATION. This Mortgage is executed by American National Bank and Trust Company of Chicago, as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in as such Trustee (and American National Bank and Trust Company of Chicago, as Trustee aforesaid, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or contained in the Note shall be construed as creating any liability on the said American National Bank and Trust Company of Chicago, as Trustee aforesaid, personally to pay the Note or any interest that may accrue thereon, or any indebtedness occurring hereunder, or to perform any covenant either claiming any right or security hereunder, and that so far as American National Bank and Trust Company of Chicago, as Trustee aforesaid, and its successors personally are concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the Premises hereby conveyed for the payment thereof, by the enforcement lien hereby created, in the manner herein and in the Note provided or by action to enforce the personal liability of the Guarantor(s), if any.

IN WITNESS WHEREOF, American National Bank and Trust Company of Chicago, as Trustee aforesaid, has caused these presents to be signed by one of its Vice Presidents, or Assistant Vice Presidents, and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, the day and year first written above.

American National Bank and Trust Company of Chicago,
as Trustee under Trust Agreement dated
September 24, 1985 and known as Trust No. L-300

By: 
Vice President

Attest: 
Assistant Secretary

Frank O. Carlson & Co., Inc.

By: 
David A. Carlson, President

96533481

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, BRIAN T. HOSEY, a Notary Public in and for said County, DO HEREBY CERTIFY THAT J. MICHAEL WHELAN, Vice President of American National Bank and Trust Company of Chicago, and ANITA M. LUTKUS, Assistant Secretary of said Company, who are personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument as such Vice President and Assistant Secretary, respectively, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company, as Trustee aforesaid, for the uses and purposes therein set forth; and as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee aforesaid, for the uses and purposes therein set forth.

Given under my hand and official seal this JUL 5 day of 1996, 1996.

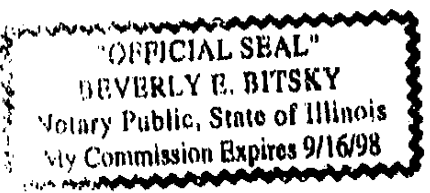


Brian T. Hosey
Notary Public
My Commission Expires: _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, The Undersigned, a Notary Public in and for said County, DO HEREBY CERTIFY THAT David A. Carlson, President of Frank O. Carlson & Co., Inc., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 5 day of July, 1996.



Beverly E. Bitsky
Notary Public
My Commission Expires: _____

965334981

UNOFFICIAL COPY

Property of Cook County Clerk's Office