

# UNOFFICIAL COPY

**RECORDING REQUESTED BY:**

96582083

Foothill Capital Corporation

**AND WHEN RECORDED MAIL TO:**

**RETURN TO:**  
CALIFORNIA LENDERS  
1000 G Street, Suite 225  
Sacramento, CA 95814 (800) 447-6237  
Account Number 1001 PF  
Attn: \_\_\_\_\_ ision  
Manager

DEPT-01 RECORDING 441.50  
178666 TRAN 6089 07/30/96 12:34:00  
44821 # LIT \* - 96 - 582083  
COOK COUNTY RECORDER

Re: Sherman-Reynolds, Inc.

Space above this line for recorder's use only

**WAIVER AND CONSENT BY REAL PROPERTY OWNER(S)**  
("Waiver and Consent")

THIS WAIVER AND CONSENT is made and entered into between **FOOTHILL CAPITAL CORPORATION**, a California corporation (hereinafter referred to as "Foothill"); and American National Bank and Trust Company of Chicago, not personally, but as Trustee under Trust Agreement dated December 30, 1991 and known as Trust No. 114410-03 (hereinafter referred to as "Owner"), whether one or more, and affects that real property in the City of Chicago, County of Cook, State of Illinois, fully described on Exhibit "A" attached hereto and made a part hereof by this reference, and more commonly known as 413-421 N. Aberdeen Street, 412-418 N. Carpenter Street, and 1042-48 W. Kinzie (hereinafter referred to as "the Premises").

WHEREAS, this Waiver and Consent is executed to induce Foothill to enter into or refrain from terminating that certain Secured Promissory Note and that certain Security Agreement, to be executed on or about the date hereof, and other agreements related thereto (hereinafter collectively referred to as the "Agreements") with Sherman Reynolds, Inc. (hereinafter referred to as "Borrower"), which Agreements, among other things, were given by Borrower to Foothill for the purpose of securing the repayment of all obligations and the performance of all duties now or hereafter owing by Borrower to Foothill, of every kind and description. This Waiver and Consent does not amend any of the terms of the Agreements and reference thereto is made for further particulars;

WHEREAS, by the Agreements, Foothill has loaned or has agreed to loan monies and/or extend other financial accommodations against the security of, among other collateral, all of Borrower's personal property, including, but not limited to, Borrower's inventory, equipment, furniture, furnishings, fixtures, machinery, and tools, together with all additions, substitutions, replacements, and improvements to the same (hereinafter referred to as "Goods"), which Goods are or are to be located on and may be affixed to the Premises or be improvements thereon; and

4150  
MAIL TO

The Chattel Mortgage  
Reporter Inc.  
582 N. Oakwood Ave. #202  
Lisle, Ill. 60445

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1/1/2019

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WHEREAS, Borrower has leased the Premises from Owner by that certain Lease Agreement dated January 1, 1992 (the "Lease").

Foothill and Owner agree that:

1. The Goods shall be and remain personal property notwithstanding the manner of their annexation to the Premises, their adaptability to the uses and purposes for which the Premises are used, or the intentions of the party making the annexation.

2. Owner hereby waives any rights which Owner may claim to have in and to the Goods, no matter how arising, including, but not limited to, all rights of levy or distraint for rent.

3. Owner consents to the installation of the Goods on the Premises, agrees that Foothill may do to and with the Goods any or all of the acts below enumerated, and grants Foothill a right, as set forth below, to enter into possession of the Premises to do any or all of the following (the "Permitted Actions") with respect to the Goods: assemble, have appraised, display, sever, remove, maintain, prepare for sale or lease, advertise, inspect, repair, lease, transfer, and/or sell (at public auction or private sale). Foothill shall have the right and license to enter into and to occupy the Premises, for the purposes described above, for an actual occupancy period of up to one hundred twenty (120) days (at Foothill's discretion) following the later of (a) Owner placing Foothill in possession of the Premises; and (b) abandonment or surrender of the Premises by Borrower, whether voluntary or involuntary. Foothill shall pay Owner, periodically, a per diem occupancy fee equivalent to the monthly rental provided for in the Lease (including, but not limited to, actual and reasonable costs chargeable to the Borrower under the Lease for taxes, insurance, and utilities), based upon a thirty (30) day month for actual days of occupancy by Foothill. Any extensions of the foregoing period shall be with the written consent of Owner and at the same rate. All physical damage to the Premises caused by the removal of the Goods shall be reimbursed or repaired by Foothill at its expense.

4. Owner acknowledges that at any time prior to Owner placing Foothill in possession of the Premises, or abandonment of or surrender of the Premises by Borrower, Foothill may take any or all of the Permitted Actions subject only to Foothill's Agreements with Borrower.

5. Owner agrees to give Foothill notice within two (2) days of termination of, any abandonment or surrender under, or default of, any of the provisions of the Lease, said notice to be sent to the following address: Foothill Capital Corporation, 11111 Santa Monica Boulevard, Suite 1500, Los Angeles, California 90025-3333, Attention: Small Business Lending Division Manager.

6. This Waiver and Consent shall continue until such time as all Borrower's obligations to Foothill, and expenses (including, but not limited to, attorneys' fees) incurred in connection therewith, have been paid in full and all covenants and conditions as more specifically enumerated in the Agreements have been fully performed.

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7. This Waiver and Consent shall be governed and controlled by and interpreted under the laws of the State of Illinois and shall inure to the benefit of and be binding upon the successors, heirs, and assigns of Owner and Foothill.

8. THE VALIDITY OF THIS WAIVER AND CONSENT, ITS CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT, AND THE RIGHTS OF THE PARTIES HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS OR, AT THE SOLE OPTION OF Foothill, IN ANY OTHER COURT IN WHICH Foothill SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. EACH OF OWNER AND Foothill WAIVES, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION. OWNER AND Foothill HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING, BUT NOT LIMITED TO, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. OWNER AND Foothill REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

This Agreement is executed by American National Bank and Trust Company of Chicago, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness which may accrue with the respect to the Agreements or to perform any covenant, representation, agreement or condition, either express or implied herein contained, or with respect to any warranty contained in this Agreement except the warranty made in this paragraph. Notwithstanding the foregoing, this Agreement shall not be construed in any way so as to limit or restrict any of the rights and remedies of Foothill under the Agreements.

{Signature Page to Follow}

*The Chattel Mortgage  
Reporter Inc.  
582 N. Oakwood Ave. #302  
Lake Forest, IL 60045*

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Dated: July 17, 1996

**FOOTHILL CAPITAL CORPORATION**

By *Ramona S. Ferris*  
Its \_\_\_\_\_

Address: 11111 Santa Monica Boulevard  
Suite #1500  
Los Angeles CA 90025-3333

5110679.02

Dated: \_\_\_\_\_

**AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO, as  
Trustee under Agreement dated  
December 30, 1991 and known as  
Trust No. 114-410-03**

By *[Signature]*  
Its \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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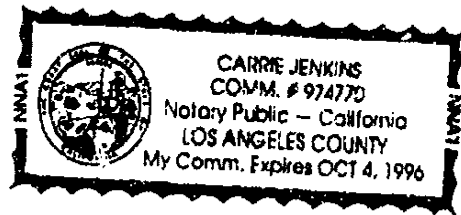
STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

On 7/15/1996, 1996, before me, Pamela S. Ferris, U.P., appeared personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within Waiver and Consent and acknowledged to me that she/he executed the same in her/his authorized capacity, and that by her/his signature on the Waiver and Consent, the entity upon behalf of which the person acted, executed the Waiver and Consent.

WITNESS my hand and official seal.

Signature

Carrie Jenkins



Name (Typed or Printed)

Carrie Jenkins

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

**ANNE M. MARCHERT**

I, ANNE M. MARCHERT, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that J. Michael Whelan and \_\_\_\_\_, the \_\_\_\_\_, and \_\_\_\_\_ of American National Bank and Trust Company of Chicago, not personally, but as Trustee aforesaid, who are personally known to me to be officers of such trust are the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such they signed and delivered the said instrument pursuant to authority, as their free and voluntary acts and as the free and voluntary acts of said trust for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 11 day of July, 1996.

Signature

Anne M. Marchert



Name (Typed or Printed)

\_\_\_\_\_

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EXHIBIT A  
**UNOFFICIAL COPY**  
DESCRIPTION OF PREMISES

**ADDRESS:** 413-419 N. Aberdeen Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** Lots 12 & 13 in Block 6 in Ogden's Addition to Chicago in the Northeast 1/4 of Section 8, Township 39 North, Range 14.

**PERMANENT TAX NO.:** 17-08-256-004-0000

**ADDRESS:** 421 N. Aberdeen Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** Lot 14 in Block 6 in Ogden's Addition to Chicago in the Northeast 1/4 of Section 8, Township 39 North, Range 14.

**PERMANENT TAX NO.:** 17-08-256-002-0000

**ADDRESS:** 412 N. Carpenter Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** The North 30 feet of lot 4 in Block 6 in Ogden's addition in the Northeast 1/4 of Section 8, Township 39 North, Range 14, East of the Third Principal Meridian in Cook County, Illinois.

**PERMANENT TAX NO.:** 17-08-256-005-0000

**ADDRESS:** 414 N. Carpenter Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** The South 10 feet of lot 4 & North 1/2 of lot 5 in Block 6 in Ogden's Addition to Chicago in the Northeast 1/4 of Section 8, Township 39 North, Range 14.

**PERMANENT TAX NO.:** 17-08-256-006-0000

**ADDRESS:** 418 N. Carpenter Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** The South 1/2 of lot 5 in Block 6 in Ogden's addition to Chicago in the Northeast 1/4 of Section 8, Township 39 North, Range 14, East of the Third Principal Meridian, Cook County, Illinois.

**PERMANENT TAX NO.:** 17-08-256-007-0000

**ADDRESS:** 1042-48 W. Kinzie Street, Chicago, Illinois.

**LEGAL DESCRIPTION:** The West 1/2 of lot 8 and lot 9 and the East 1/2 of lot 10 in Block 6 in Ogden's Addition to Chicago in the Northeast 1/4 of Section 8, Township 39 North, Range 14.

**PERMANENT TAX NO.:** 17-08-256-011-0000

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