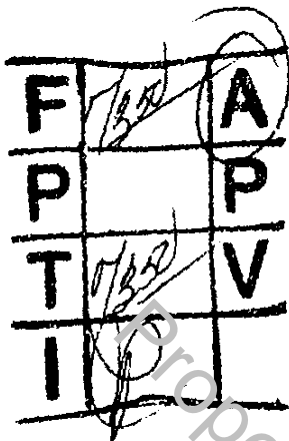


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#8854 # LM *-96-297768
COOK COUNTY RECORDER

REAL PROPERTY MORTGAGE

THIS REAL PROPERTY MORTGAGE ("Mortgage"), made as of April 15, 1996, is made and executed by Christopher J. Golden, 950 Wilma Road, Elk Grove Village, IL and Michael D. Mullinix, 33346 Mill Road, Wildwood, IL 60030 (collectively referred to as "Mortgagor" or "Borrower"), in favor of Mark R. Harms, 314 E. Woodland Rd., Lake Bluff, IL 60044 ("Mortgagee").

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RECITAL

Mortgagee has loaned the Mortgagors the sum of \$5,000.00 comprising legal fees agreed and earned relating to legal work done in connection with the mortgaged premises. The loan is evidenced by a Demand Note dated April 15, 1996 (the "Note"), made by Mortgagors. A copy of the Note is attached hereto as Exhibit A. The terms and provisions of the Note are hereby incorporated by reference in this Mortgage.

GRANTING CLAUSES

To secure the payment of the indebtedness evidenced by the Note and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Mortgage, the Note, any and all other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit and any other documents and instruments now or hereafter executed by Mortgagor or any party related thereto or affiliated therewith to evidence, secure or guarantee the payment of all or any portion of the indebtedness under the Note and any and all renewals, extensions, amendments and replacements of this

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Mortgage, the Note, and any such other documents and instruments (the Note, this Mortgage, such other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit, and any other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof, being sometimes referred to collectively as the "Loan Instruments" and individually as a "Loan Instrument") (all indebtedness and liabilities secured hereby being hereinafter sometimes referred to as "Borrower's Liabilities" which indebtedness and liabilities being secured hereby shall, in no event, exceed the aggregate face amount of the Note), Mortgagor does hereby convey, mortgage, warrant, assign, transfer, pledge and deliver to Mortgagee the following described property subject to the terms conditions herein:

(A) The land located in Cook County, Illinois, legally described in attached Exhibit B ("Land");

(B) All the buildings, structures, improvements and fixtures of every kind or nature now or hereafter situated on the Land and all machinery, appliances, equipment, furniture and all other personal property of every kind or nature which constitute fixtures with respect to the Land, together with all extensions, additions, improvements, substitutions and replacements of the foregoing ("Improvements");

(C) All easements, tenements, rights-of-way, vaults, gores of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and appurtenances in any way belonging, relating or appertaining to any of the Land or Improvements, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired ("Appurtenance");

(D) (i) All judgments, insurance proceeds, awards of damages and settlements which may result from any damage to all or any portion of the Land, Improvements or Appurtenances or any part thereof or to any rights appurtenant thereto;

(ii) All compensation, awards, damages, claims, rights of action and proceeds of or on account of (a) any damage or taking, pursuant to the power of eminent domain, of the Land, Improvements or Appurtenances or any part thereof, (b) damage to all or any portion of the Land, Improvements or Appurtenances by reason of the taking, pursuant to the power of eminent domain, of all or any portion of the Land, Improvements, Appurtenances or of other property, or (c) the alteration of the grade of any street or highway on or about the Land, Improvements, Appurtenances or any part thereof; and, except as otherwise provided herein, Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor and, except as otherwise provided herein, to apply the same toward the payment of the indebtedness and other sums secured hereby; and

(iii) All proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the Land, Improvements or Appurtenances;

(E) All rents, issues, profits, income and other benefits now or hereafter arising from or in respect of the Land, Improvements or Appurtenances (the "Rents") ; it being intended that this Granting Clause shall constitute an absolute and present assignment of the Rents, subject, however, to the conditional permission given to Mortgagor to collect and use the Rents as provided in this Mortgage;

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(F) Any and all leases, licenses and other occupancy agreements now or hereafter affecting the Land, Improvements or Appurtenances, together with all security therefor and guaranties thereof and all monies payable thereunder, and all books and records owned by Mortgagor which contain evidence of payments made under the leases and all security given therefor (collectively, the "Leases"), subject, however, to the conditional permission given in this Mortgage to Mortgagor to collect the Rents arising under the Leases as provided in this Mortgage;

(G) Any and all after-acquired right, title or interest of Mortgagor in and to any of the property described in the preceding Granting Clauses; and

(H) The proceeds from the sale, transfer, pledge or other disposition of any or all of the property described in the preceding Granting Clauses;

All of the mortgaged property described in the Granting Clauses, together with all real and personal, tangible and intangible property pledged in, or to which a security interest attaches pursuant to, any of the Loan Instruments is sometimes referred to collectively as the "Mortgaged Property." The Rents and Leases are pledged on a parity with the Land and Improvements and not secondarily.

ARTICLE ONE

COVENANTS OF MORTGAGOR

Mortgagor covenants and agrees with Mortgagee as follows:

1.01 **Performance under Note, Mortgage and other Loan Instruments.** Mortgagor shall perform, observe and comply with or cause to be performed, observed and complied with in a complete and timely manner all provisions hereof of the Note, every other Loan Instrument and every instrument evidencing or securing Borrower's Liabilities and will promptly pay or cause to be paid to Mortgagee when due the principal with interest thereon and all other sums required to be paid by Mortgagor pursuant to the Note, the Loan Agreement, this Mortgage, every other Loan Instrument and every other instrument evidencing or securing Borrower's Liabilities.

1.02 **General Covenants and Representations.** Mortgagor covenants, represents and warrants that as of the date hereof and at all times thereafter during the term hereof: (a) Mortgagor is seized of an indefeasible estate in fee simple in that portion of the Mortgaged Property which is real property, and has good and absolute title to it and the balance of the Mortgaged Property free and clear of all liens, security interests, charges and encumbrances whatsoever except those expressly permitted in writing by Mortgagee, if any (such liens, security interests, charges and encumbrances expressly permitted in writing being hereinafter referred to as the "Permitted Encumbrances"); (b) Mortgagor has good right, full power and lawful authority to mortgage and pledge the Mortgaged Property as provided herein; (c) upon the occurrence of an Event of Default (hereinafter defined), Mortgagee may at all times peaceably and quietly enter upon, hold, occupy and enjoy the Mortgaged Property in accordance with the terms hereof; and

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(d) Mortgagor will maintain and preserve the lien of this Mortgage as a first and paramount lien on the Mortgaged Property subject only to the Permitted Encumbrances until Borrower's Liabilities have been paid in full.

1.03 **Compliance with Laws and Other Restrictions.** Mortgagor covenants and represents that the Land and the Improvements and the use thereof presently comply with, and will during the full term of this Mortgage continue to comply with, all applicable restrictive covenants, zoning and subdivision ordinances and building codes, licenses, health and environmental laws and regulations and all other applicable laws, ordinances, rules and regulations. If any federal, state or other governmental body or any court issues any notice or order to the effect that the Mortgaged Property or any part thereof is not in compliance with any such covenant, ordinance, code, law or regulation, Mortgagor will promptly provide Mortgagee with a copy of such notice or order and will either, after notice to Mortgagee, interpose a bona fide defense and diligently prosecute same, or immediately commence and diligently perform all such actions as are necessary to comply therewith or otherwise correct such non-compliance. Mortgagor shall not, without the prior written consent of Mortgagee, petition for or otherwise seek any change in the zoning ordinances or other public or private restrictions applicable to the Mortgaged Property on the date hereof.

1.04 **Taxes and Other Charges.**

1.04.1 **Taxes and Assessments.** Mortgagor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations, liens and encumbrances of every kind and nature whatsoever now or hereafter imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon or against this Mortgage or Borrower's Liabilities or upon or against the interest of Mortgagee in the Mortgaged Property, as well as all taxes, assessments and other governmental charges levied and validly imposed by the United States of America or any state, county, municipality or other taxing authority upon or in respect of the Mortgaged Property or any part thereof; provided, however, that Mortgagor may in good faith contest the validity, applicability or amount of any asserted tax, assessment or other charge in accordance with the provisions set forth in the Loan Agreement regarding the contest of taxes and pending such contest Mortgagor shall not be deemed in default hereunder if on or before the due date of the asserted tax or assessment, Mortgagor shall first obtain an endorsement, in form and substance satisfactory to Mortgagee, to the loan policy of title insurance issued to Mortgagee insuring the lien of this Mortgage, insuring over such tax or assessment. Upon Mortgagee's request, Mortgagor will promptly file, if it has not theretofore filed, such petition, application or other instrument as is necessary to cause the Land and Improvements to be taxed as a separate parcel or parcels which include no property not a part of the Mortgaged Property.

1.04.2 **Taxes Affecting Mortgagee's Interest.** If any state, federal, municipal or other governmental law, order, rule or regulation, which becomes effective subsequent to the date hereof, in any manner changes or modifies existing laws governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting taxes, so as to impose on Mortgagee a tax by reason of its ownership of any or all of the Loan Instruments or measured by the principal amount of the Note, requires or has the practical effect of requiring Mortgagee to pay any portion of the real estate taxes levied in respect of the Mortgaged Property to pay any tax levied in whole or in part in substitution for real estate taxes or otherwise affects materially and adversely the

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rights of Mortgagee in respect of the Note, this Mortgage or the other Loan Instruments, Borrower's Liabilities and all interest accrued thereon shall, upon thirty (30) days' notice, become due and payable forthwith at the option of Mortgagee, whether or not there shall have occurred an Event of Default, provided, however, that, if Mortgagee may, without violating or causing a violation of such law, order, rule or regulation, pay such taxes or other sums as are necessary to eliminate such adverse effect upon the rights of Mortgagee and does pay such taxes or other sums when due, Mortgagee may not elect to declare due Borrower's Liabilities by reason of the provisions of this Section 1.04.2.

1.04.3 Tax Escrow. Mortgagor shall, in order to secure the performance and discharge of Mortgagor's obligations under this Section 1.04, but not in lieu of such obligations, deposit with Mortgagee on the first day of each calendar month throughout the term of the Loan, deposits, in amounts set by Mortgagee from time to time by written notice to Mortgagor, in order to accumulate funds sufficient to permit Mortgagee to pay all annual ad valorem taxes, assessments and charges of the nature described in Section 1.04.1 at least thirty (30) days prior to the date or dates on which they shall become delinquent. The taxes, assessments and charges for purposes of this Section 1.04.3 shall, if Mortgagee so elects, include, without limitation, water and sewer rents. Mortgagor shall procure and deliver to Mortgagee when issued all statements or bills for such obligations. Upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee such additional monies as are required to satisfy any deficiencies in the amounts necessary to enable Mortgagee to pay such taxes, assessments and similar charges thirty (30) days prior to the date they become delinquent. Unless Mortgagor has elected to contest such taxes in the manner provided in Section 1.04.1 above, Mortgagee shall pay such taxes, assessments and other charges as they become due to the extent of the funds on deposit with Mortgagee from time to time and provided Mortgagor has delivered to Mortgagee the statements or bills therefor. In making any such payments, Mortgagee shall be entitled to rely on any bill issued in respect of any such taxes, assessments or charges without inquiry into the validity, propriety or amount thereof and whether delivered to Mortgagee by Mortgagor or otherwise obtained by Mortgagee. Any deposits received pursuant to this Section 1.04.3 shall not be, nor be deemed to be, trust funds, but may be commingled with the general funds of Mortgagee and Mortgagee shall have no obligation to pay interest on amounts deposited with Mortgagee pursuant to this Section 1.04.3. If any Event of Default occurs, any part or all of the amounts then on deposit or thereafter deposited with Mortgagee under this Section 1.04.3 may at Mortgagee's option be applied to payment of Borrower's Liabilities in such order as Mortgagee may determine.

1.04.4 No Credit Against the Indebtedness Secured Hereby. Mortgagor shall not claim, demand or be entitled to receive any credit against the principal or interest payable under the terms of the Note or the Loan Agreement or on any of Borrower's Liabilities for any of the taxes, assessments or similar impositions assessed against the Mortgaged Property or any part thereof or that are applicable to Borrower's Liabilities or to Mortgagee's interest in the Mortgaged Property.

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1.05 **Mechanic's and other Liens.** Mortgagor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien or encumbrance (other than any lien for taxes and assessments not yet due) to be created upon or against the Mortgaged Property, provided, however, that Mortgagor may in good faith, by appropriate proceeding, contest the validity, applicability or amount of any asserted lien and, pending such contest, Mortgagor shall not be deemed to be in default hereunder if Mortgagor shall first obtain an endorsement, in form and substance satisfactory to Mortgagee, to the loan policy of title insurance issued to Mortgagee insuring the lien of this Mortgage, insuring over such lien. Mortgagor shall pay the disputed amount and all interest and penalties due in respect thereof on or before the date any adjudication of the validity or amount thereof becomes final and, in any event, no less than thirty (30) days prior to any foreclosure sale of the Mortgaged Property or the exercise of any other remedy by such claimant against the Mortgaged Property.

1.06 Insurance and Condemnation.

1.06.1 **Hazard Insurance.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of Mortgagee, until Borrower's Liabilities are paid in full, policies of hazard insurance in an amount which shall be not less than 100% of the full insurable replacement cost of the Mortgaged Property (other than the Land) insuring, on a replacement cost basis, the Mortgaged Property against loss or damage on a "special cause of loss" form, such insurable hazards, casualties and contingencies as are included therein and otherwise as Mortgagee may require, including without limitation fire, windstorm, rainstorm, vandalism and, if all or any part of the Mortgaged Property shall at any time be located within an area identified by the government of the United States or any agency thereof as having special flood hazards and for which flood insurance is available, flood. Mortgagor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof. The form of such policies and the companies issuing them shall be reasonably acceptable to Mortgagee. If any such policy shall contain a coinsurance clause it shall also contain an agreed amount or stipulated value endorsement. All such policies and renewals thereof shall be held by Mortgagee and shall contain a "Mortgagee's loss payable" clause making losses payable to Mortgagee. Losses shall not be payable to any other party without Mortgagee's prior written consent. In the event of loss, Mortgagor will give immediate written notice to Mortgagee and Mortgagee may make proof of loss if not made promptly by Mortgagor (for which purpose Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact). In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in full or partial satisfaction of Borrower's Liabilities, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that they shall not be modified, cancelled or terminated without at least thirty (30) days' prior written notice to Mortgagee from the insurer.

1.06.2 **Other Insurance.** Mortgagor shall, at its sole expense, obtain for, deliver to, assign to and maintain for the benefit of, Mortgagee, until Borrower's Liabilities are paid in full, such other policies of insurance as may be required by the terms of the Loan Instruments.

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1.06.3 **Adjustment of Loss.** Except as permitted by the Loan Instruments, Mortgagee is hereby authorized and empowered, at its option, to adjust or compromise any loss under any insurance policies covering the Mortgaged Property and to collect and receive the proceeds from any such policy or policies (and deposit such proceeds as provided in Section 1.06.5). Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence. Each insurance company is hereby authorized and directed to make payment of 100% of all such losses directly to Mortgagee alone. After deducting from such insurance proceeds any expenses incurred by Mortgagee in the collection and settlement thereof, including without limitation attorneys' and adjusters' fees and charges, Mortgagee shall apply the net proceeds as provided in Section 1.06.5. Mortgagee shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

1.06.4 **Condemnation Awards.** Mortgagee shall be entitled to all compensation, awards, damages, claims, rights of action and proceeds of, or on account of, (i) any damage or taking, pursuant to the power of eminent domain, of the Mortgaged Property or any part thereof, (ii) damage to the Mortgaged Property by reason of the taking, pursuant to the power of eminent domain, of other property, or (iii) the alteration of the grade of any street or highway on or about the Mortgaged Property. Mortgagee is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to any such compensation, awards, damages, claims, rights of action and proceeds and to settle or compromise any claim in connection therewith. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact for the purposes set forth in the preceding sentence. Mortgagee after deducting from such compensation, awards, damages, claims, rights of action and proceeds all its expenses, including attorneys' fees, may apply such net proceeds (except as otherwise provided in Section 1.06.5 of this Mortgage) to payment of Borrower's Liabilities in such order and manner as Mortgagee may elect. Mortgagor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action and proceeds as Mortgagee may require.

1.06.5 **Repair; Proceeds of Casualty Insurance and Eminent Domain.** If all or any part of the Mortgaged Property shall be damaged or destroyed by fire or other casualty or shall be damaged or taken through the exercise of the power of eminent domain or other cause described in Section 1.06.4, the entire amount of proceeds, award or other compensation shall, except as permitted by the Loan Instruments be applied to Borrower's Liabilities in such order and manner as Mortgagee may elect. To the extent permitted by the Loan Instruments, such proceeds, award or other compensation shall be made available to Mortgagor on such terms and conditions as Mortgagee may impose, including without limitation the terms and conditions set forth in this Section 1.06.5, for the purpose of financing the cost of restoration or repair with any excess to be applied to Borrower's Liabilities. If the amount of proceeds to be made available to Mortgagor for restoration or repair of the Mortgaged Property pursuant to the Loan Instruments is less than the

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cost of the restoration or repair as estimated by Mortgagee at any time prior to completion thereof, Mortgagor shall cause to be deposited with Mortgagee the amount of such deficiency within thirty (30) days of Mortgagee's written request therefor (but in no event later than the commencement of the work) and Mortgagor's deposited funds shall be disbursed prior to any such insurance proceeds. If mortgagor is required to deposit funds under this Section 1.06.5, the deposit of such funds shall be a condition precedent to Mortgagee's obligation to disburse any insurance proceeds held by Mortgagee hereunder. Without limitation of Mortgagee's rights hereunder, it shall be an additional condition precedent to any disbursement of insurance proceeds held by Mortgagee hereunder that Mortgagee shall have approved all plans and specifications for any proposed repair or restoration. The amount of proceeds, award or compensation which is to be made available to Mortgagor, together with any deposits made by Mortgagor hereunder, shall be held by Mortgagee to be disbursed from time to time to pay the cost of repair or restoration either, at Mortgagee's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to such conditions to disbursement as Mortgagee may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof. Mortgagee may commingle any such funds held by it with its other general funds. Mortgagee shall not be obligated to pay interest in respect of any such funds held by it nor shall Mortgagor be entitled to a credit against any of Borrower's Liabilities except and to the extent the funds are applied thereto pursuant to this Section 1.06.5. Notwithstanding any other provision of this Section 1.06.5, if an Event of Default shall be existing at the time of such casualty, taking or other event or if an Event of Default occurs thereafter, Mortgagee shall have the right to immediately apply all insurance proceeds, awards or compensation to the payment of Borrower's Liabilities in such order and manner as Mortgagee may determine. Mortgagee shall have the right at all times to apply such net proceeds to the cure of any Event of Default or the performance of any obligations of Mortgagor under the Loan Instruments.

1.06.6 Renewal of Policies. At least thirty (30) days prior to the expiration date of any policy evidencing insurance required under this Section 1.06, a renewal thereof satisfactory to Mortgagee shall be delivered to Mortgagee or substitution therefor, together with receipts or other evidence of the payment of any premiums then due on such renewal policy or substitute policy.

1.06.7 Insurance Escrow. Mortgagor shall, in order to secure the performance and discharge of Mortgagor's obligations under this Section 1.06, but not in lieu of such obligations, deposit with Mortgagee on the first day of each calendar month throughout the term of the Loan, a sum in an amount determined by Mortgagee from time to time by written notice to Mortgagor, in order to accumulate funds sufficient to permit Mortgagee to pay all premiums payable in connection with the insurance required hereunder at least thirty (30) days prior to the date or dates on which they shall become due. Upon demand by Mortgagee, Mortgagor shall deliver to Mortgagee such additional monies as are required to satisfy any deficiencies in the amounts necessary to enable Mortgagee to pay such premiums thirty (30) days prior to the date they shall become due.

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1.07 **Non-Impairment of Mortgagee's Rights.** Nothing contained in this Mortgage shall be deemed to limit or otherwise affect any right or remedy of Mortgagee under any provision of this Mortgage or of any statute or rule of law to pay and, upon Mortgagor's failure to pay the same, Mortgagee may pay any amount required to be paid by Mortgagor under Sections 1.04, 1.05 and 1.06. Mortgagor shall pay to Mortgagee on demand the amount so paid by Mortgagee together with interest at the rate payable under the Loan Instruments after an "Event of Default" as such term is defined in the Loan Instruments (the "Default Rate") and the amount so paid by Mortgagee together with interest, shall be added to Borrower's Liabilities. The provisions of Section 1.04.3 are solely for the added protection of Mortgagee and entail no responsibility on Mortgagee's part beyond the allowing of due credit as specifically provided therein. Upon assignment of this Mortgage, any funds on hand shall be turned over to the assignee and, provided the assignee shall assume in writing Mortgagee's responsibilities with respect to such funds, any responsibility of Mortgagee with respect to such funds shall terminate. Mortgagee shall use its reasonable best efforts to provide Mortgagor with a copy of such assignment.

1.08 **Care of the Mortgaged Property.**

(a) Mortgagor shall preserve and maintain the Mortgaged Property in good and first class condition and repair. Mortgagor shall not, without the prior written consent of Mortgagee, permit, commit or suffer any waste, impairment or deterioration of the Mortgaged Property or of any part thereof, and will not take any action which will increase the risk of fire or other hazard to the Mortgaged Property or to any part thereof.

(b) Except as otherwise provided in this Mortgage, no new improvements shall be constructed on the Mortgaged Property and no part of the Mortgaged Property shall be removed, demolished or altered in any material manner without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed.

1.09 **Transfer or Encumbrance of the Mortgaged Property.** Except as permitted by the Loan Agreement, Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, transfer, mortgage, lease (other than leases made in accordance with the provisions of this Mortgage) or encumbrance of, or any contract for any of the foregoing on an installment basis or otherwise pertaining to, the Mortgaged Property, any part thereof, any interest therein, the beneficial interest in Mortgagor, any interest in the beneficial interest in Mortgagor or in any trust holding title to the Mortgaged Property, or any interest in a corporation, partnership or other entity which owns all or part of the Mortgaged Property or such beneficial interest, whether by operation of law or otherwise, without the prior written consent of Mortgagee having been obtained (i) to the sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer and (ii) to the form and substance of any instrument evidencing or contracting for any such sale, assignment, conveyance, mortgage, lease, option, encumbrance or other transfer. Without limitation of the foregoing, Mortgagee may condition its consent upon any combination of (i) the payment of a fee to be set by Mortgagee, (ii) the increase of the interest rate payable under the Note, (iii) the shortening of maturity of the Note and (iv) other modifications of the terms of the Note or the other Loan Instruments. Mortgagor shall not, without the prior written consent of Mortgagee, further assign or permit to be assigned the rents from the Mortgaged Property, and any such assignment without the prior express written consent

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of Mortgagee shall be null and void. Mortgagor shall not permit any interest in any lease of the Mortgaged Property to be subordinated to any encumbrance on the Mortgaged Property other than the Loan Instruments and any such subordination shall be null and void. Mortgagor agrees that in the event the ownership of the Mortgaged Property, any interest therein or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Note, the Loan Instruments and Borrower's Liabilities without in any way vitiating or discharging Mortgagor's liability hereunder or Borrower's Liabilities. No sale of the Mortgaged Property, no forbearance to any person with respect to this Mortgage, and no extension to any person of the time for payment of the Note or any other Borrower's Liabilities given by Mortgagee shall operate to release, discharge, modify, change or affect the original liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee.

1.10 Further Assurances. At any time and from time to time, upon Mortgagee's request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee, and where appropriate shall cause to be recorded, registered or filed, and from time to time thereafter to be re-recorded, reregistered and refiled at such time and in such offices and places as shall be deemed desirable by Mortgagee, any and all such further mortgages, security agreements, financing statements, instruments of further assurance, certificates and other documents as Mortgagee may consider necessary or desirable in order to effectuate or perfect or to continue and preserve the obligations under, this Mortgage and any instrument evidencing or securing Borrower's Liabilities, and the lien of this Mortgage as a lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Mortgagor, and unto all and every person or persons deriving any estate, right, title or interest under this Mortgage. Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, register, file, re-record, re-register or re-file any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee the agent and attorney-in-fact of Mortgagor to do so.

1.11 Assignment of Rents.

(a) The assignment of rents, income and other benefits contained in Section (E) of the Granting Clauses of this Mortgage shall be fully operative without any further action on the part of either party, and, specifically, Mortgagee shall be entitled, at its option, upon the occurrence of an Event of Default hereunder, to all rents, income and other benefits from the Mortgaged Property, whether or not Mortgagee takes possession of such property. Mortgagor hereby further grants to Mortgagee the right effective upon the occurrence of an Event of Default to do any or all of the following, at Mortgagee's option: (i) enter upon and take possession of the Mortgaged Property for the purpose of collecting the rents, income and other benefits; (ii) dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Mortgagee; (iii) lease the Mortgaged Property or any part thereof; (iv) repair, restore and improve the Mortgaged Property; and (v) apply the rents, income and other benefits, after payment of certain expenses and capital expenditures relating to the Mortgaged Property, on account of Borrower's Liabilities in such order and manner as Mortgagee may elect. Such assignment and grant shall continue in effect until Borrower's Liabilities are paid in full, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Mortgaged Property by Mortgagee pursuant to such grant, whether or not foreclosure proceedings have been instituted. Neither the exercise of any

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rights under this section by Mortgagee nor the application of any such rents, income or other benefits to payment of Borrower's Liabilities shall cure or waive any Event of Default or notice provided for hereunder, or invalidate any act done pursuant hereto or pursuant to any such notice, but shall be cumulative of all other rights and remedies. Notwithstanding the foregoing, so long as no Event of Default has occurred or is continuing, Mortgagor shall have the right and authority to continue to collect the rents, income and other benefits from the Mortgaged Property as they become due and payable but not more than thirty (30) days prior to the due date thereof. The existence or exercise of such right of Mortgagor to collect said rents, income and other benefits shall not operate to subordinate this assignment to any subsequent assignment of said rents, income or other benefits, in whole or in part, by Mortgagor, and any such subsequent assignment by Mortgagor shall be subject to the rights of Mortgagee hereunder.

(b) Mortgagor shall not permit any rent under any lease of the Mortgaged Property to be collected more than thirty (30) days in advance of the due date thereof and, upon any receiver, Mortgagee, anyone claiming by, through or under Mortgagee or any purchaser at a foreclosure sale coming into possession of the Mortgaged Property, no tenant shall be given credit for any rent paid more than thirty (30) days in advance of the due date thereof. Mortgagor shall act promptly to enforce all available remedies against any delinquent lessee so as to protect the interest of the lessor under the lease and to preserve the value of the Mortgaged Property.

1.12 **After-Acquired Property.** To the extent permitted by, and subject to, applicable law, the lien of this Mortgage shall automatically attach, without further act, to all property hereafter acquired by Mortgagor located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Mortgaged Property or any part thereof.

1.13 **Leases Affecting Mortgaged Property.**

(a) Mortgagor shall comply with and perform in a complete and timely manner all of its obligations as landlord under all leases affecting the Mortgaged Property or any part thereof. Mortgagor shall give notice to Mortgagee of any default by the landlord under any lease affecting the Mortgaged Property promptly upon the occurrence of such default, but, in any event, in such time to afford Mortgagee an opportunity to cure any such default prior to the tenant having any right to terminate the lease. Each of the leases shall contain a provision requiring the tenant to notify Mortgagee of any default by landlord and granting an opportunity for a reasonable time after such notice to cure such default prior to any right accruing to the tenant to terminate such lease. Mortgagor, if requested by Mortgagee, shall furnish promptly to Mortgagee original or certified copies of all such leases now existing or hereafter created, as amended. Mortgagee shall have the right to notify at any time and from time to time any tenant of the Mortgaged Property of any provision of this Mortgage.

(b) The assignment contained in Section (E) of the Granting Clauses shall not be deemed to impose upon Mortgagee any of the obligations or duties of the landlord or Mortgagor provided in any lease, including, without limitation, any liability under the covenant of quiet enjoyment contained in any lease in the event that any tenant shall have been joined as a party defendant in any action to foreclose this Mortgage.

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1.14 **Management of Mortgaged Property.** Mortgagor shall cause the Mortgaged Property to be managed at all times in accordance with sound business practice.

1. **15 Execution of Leases.** Mortgagor shall not permit any leases to be made of the Mortgaged Property or existing leases to be modified, terminated, extended or renewed without the prior written consent of Mortgagee.

1.16 **Expenses.** Without limitation of any obligation of Mortgagor set forth in the Loan Agreement, Mortgagor shall pay when due and payable, and otherwise on demand made by Mortgagee, all loan fees, appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title insurance fees, escrow fees, attorneys' fees, court costs, documentary and expert evidence, fees of inspecting architects and engineers, and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by Mortgagee in connection with the Loan, including the preparation, execution, delivery and performance of this Mortgage. If Mortgagor fails to pay said costs and expenses as above provided, Mortgagee may elect, but shall not be obligated, to pay the costs and expenses described in this Section 1.16, and if Mortgagee does so elect, then Mortgagor will, upon demand by Mortgagee, reimburse Mortgagee for all such expenses which have been or shall be paid or incurred by it. The amounts paid by Mortgagee shall bear interest at the Default Rate and such amounts, together with interest, shall be added to Borrower's Liabilities, shall be immediately due and payable and shall be secured by the lien of this Mortgage and the other Loan Instruments. In the event of foreclosure hereof, Mortgagee shall be entitled to add to the indebtedness found to be due by the court a reasonable estimate of such expenses to be incurred after entry of the decree of foreclosure.

To the extent permitted by law, Mortgagor agrees to hold harmless Mortgagee against and from, and reimburse it for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses, including without limitation reasonable attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by it by reason of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Mortgaged Property through any cause whatsoever, or asserted against it on account of any act performed or omitted to be performed hereunder, or on account of any transaction arising out of or in any way connected with the Mortgaged Property, this Mortgage, the other Loan Instruments, any of the indebtedness evidenced by the Note or any of Borrower's Liabilities.

1.17 **Mortgagee's Performance of Mortgagor's obligations.** If Mortgagor fails to pay any tax, assessment, encumbrance or other imposition as and when required by the terms of this Mortgage, or to furnish insurance hereunder, or to perform any other covenant, condition or term in this Mortgage, the Note, or any other Loan Instrument, Mortgagee may, but shall not be obligated to, pay, obtain or perform the same. All payments made, whether such payments are regular or accelerated payments, and costs and expenses incurred or paid by Mortgagee in connection therewith shall be due and payable immediately. The amounts so incurred or paid by Mortgagee shall bear interest at the Default Rate and such amounts, together with interest, shall be added to Borrower's Liabilities and secured by the lien of this Mortgage and the other Loan

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Instruments. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any covenant, condition or term that Mortgagor has failed to perform or observe, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor. Performance or payment by Mortgagee of any obligation of Mortgagor shall not relieve Mortgagor of such obligation or of the consequences of having failed to perform or pay the same and shall not effect the cure of any Event of Default.

1.18 **Payment of Superior Liens.** To the extent that Mortgagee, after the date hereof, pays any sum due under any provision of law or instrument or document creating any lien superior or equal in priority in whole or in part to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on the premises equal in parity with that discharged, and Mortgagee shall be subrogated to and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee to secure the Note, the Loan Agreement and all obligations and liabilities secured hereby. Mortgagee shall be subrogated, notwithstanding their release of record, to mortgages, trust deeds, superior titles, vendors, liens, mechanics' and materialmen's liens, charges, encumbrances, rights and equities on the Mortgaged Property to the extent that any obligation under any thereof is paid or discharged with proceeds of disbursements or advances under the Note or other indebtedness secured hereby.

1.19 **Use of the Mortgaged Property.** Mortgagor shall not suffer or permit the Mortgaged Property, or any portion thereof, to be used by the public, as such, without restriction or in such manner as might reasonably tend to impair Mortgagor's title to the Mortgaged Property or any portion thereof, or in such manner as might unreasonably make possible a claim or claims of easement by prescription or adverse possession by the public, as such, or of implied dedication of the Mortgaged Property or any portion thereof. Mortgagor shall not use or permit the use of the Mortgaged Property or any portion thereof for any unlawful purpose.

1.20 **Litigation Involving Mortgaged Property.** Mortgagor shall promptly notify Mortgagee of any litigation, administrative procedure or proposed legislative action initiated against Mortgagor or the Mortgaged Property or in which the Mortgaged Property is directly or indirectly affected including any proceedings which seek to (i) enforce any lien against the Mortgaged Property, (ii) correct, change or prohibit any existing condition, feature or use of the Mortgaged Property, (iii) condemn or demolish the Mortgaged Property, (iv) take, by the power of eminent domain, any portion of the Mortgaged Property or any property which would damage the Mortgaged Property, (v) modify the zoning applicable to the Mortgaged Property, or (vi) otherwise adversely affect the Mortgaged Property. Mortgagor shall initiate or appear in any legal action or other appropriate proceedings when necessary to protect the Mortgaged Property from damage. Mortgagor shall, upon written request of Mortgagee, represent and defend the interests of Mortgagee in any proceedings described in this Section 1.20 or, at Mortgagee's election, pay the reasonable fees and expenses of any counsel retained by Mortgagee to represent the interest of Mortgagee in any such proceedings, in which event such fees and expenses shall bear interest at the Default Rate and such fees and expenses, together with interest, shall be added to Borrower's Liabilities.

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1.21 Environmental Conditions.

(a) Mortgagor covenants, warrants and represents that there are no, nor will there, for so long as any of Borrower's Liabilities remain outstanding, be, any Hazardous Materials (as hereinafter defined) generated, released, stored, buried or deposited over, beneath, in or upon the Mortgaged Property except as such Hazardous Materials may be required to be used, stored or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor. For purposes of this Mortgage, "Hazardous Materials" shall mean and include any pollutants, flammables, explosives, petroleum (including crude oil) or any fraction thereof, radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of toxic or hazardous substances, wastes, or materials under any federal, state or local laws, ordinances, regulations or guidances which regulate, govern, prohibit or pertain to the generation, manufacture, use, transportation, disposal, release, storage, treatment of, or response or exposure to, toxic or hazardous substances, wastes or materials. Such laws, ordinances and regulations are hereinafter collectively referred to as the "Hazardous Materials Laws."

(b) Mortgagor shall, and Mortgagor shall cause all employees, agents, contractors and subcontractors of Mortgagor and any other persons from time to time present on or occupying the Mortgaged Property to, keep and maintain the Mortgaged Property in compliance with, and not cause or knowingly permit the Mortgaged Property to be in violation of, any applicable Hazardous Materials Laws. Neither Mortgagor nor any employees, agents, contractors or subcontractors of Mortgagor or any other persons occupying or present on the Mortgaged Property shall use, generate, manufacture, store or dispose of on, under or about the Mortgaged Property or transport to or from the Mortgaged Property any Hazardous Materials, except as such Hazardous Materials may be required to be used, stored or transported in connection with the permitted uses of the Mortgaged Property and then only to the extent permitted by law after obtaining all necessary permits and licenses therefor.

(c) Mortgagor shall immediately advise Mortgagee in writing of: (i) any notices received by Mortgagor (whether such notices are from the Environmental Protection Agency, or any other federal, state or local governmental agency or regional office hereof) of the violation or potential violation occurring on or about the Mortgaged Property of any applicable Hazardous Materials Laws; (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened pursuant to any Hazardous Materials Laws; (iii) all claims made or threatened by any third party against Mortgagor or the Mortgaged Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iv) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Mortgaged Property that could cause the Mortgaged Property or any part thereof to be subject to any Hazardous Materials Claims. Mortgagee shall have the right but not the obligation to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and Mortgagor shall pay to Mortgagee, upon demand, all attorneys' and consultants' fees incurred by Mortgagee in connection therewith.

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(d) Mortgagor shall be solely responsible for, and shall indemnify and hold harmless Mortgagee, its employees, agents, successors and assigns from and against, any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence (whether prior to or during the term of the Loan or otherwise and regardless of by whom caused, whether by Mortgagor or any predecessor in title or any owner of land adjacent to the Mortgaged Property or any other third party, or any employee, agent, contractor or subcontractor of Mortgagor or any predecessor in title or any such adjacent land owner or any third person) of Hazardous Materials on, under or about the Mortgaged Property; including, without limitation: (i) claims of third parties (including governmental agencies) for damages, penalties, losses, costs, fees, expenses, damages, injunctive or other relief; (ii) response costs, clean-up costs, costs and expenses of removal and restoration, including fees of attorneys and experts, and costs of determining the existence of Hazardous Materials and reporting same to any governmental agency; and (iii) any and all expenses or obligations, including attorneys' fees, incurred at, before and after any trial or appeal therefrom whether or not taxable as costs, including, without limitation, attorneys' fees, witness fees, deposition costs, copying and telephone charges and other expenses.

(e) Mortgagor hereby represents, warrants and, certifies, that: the execution and delivery of the Loan Instruments is not a transfer of "real property" under and as defined in the Illinois Responsible Property Transfer Act (Ill. Rev. Stat. Ann. Ch. 30 * 903), as amended from time to time ("RPTA"); (ii) there are no underground storage tanks located on, under or about the, Mortgaged Property which are subject to the notification requirements under Section 9002 of the Solid Waste Disposal Act, as now or hereafter amended (42 U.S.C. * 6991) and (iii) there is no facility located on or at the Mortgaged Property which is subject to the reporting requirements of Section 312 of the federal Emergency, Planning and Community Right to Know Act of 1986 and the federal regulations promulgated thereunder (42 U.S. * 11022), as "facility" is defined in RPTA.

(f) Any loss, damage, cost, expense or liability incurred by Mortgagee as a result of a breach or misrepresentation by Mortgagor or for which Mortgagor is responsible or for which Mortgagor has indemnified Mortgagee shall be paid to Mortgagee on demand, and, failing prompt reimbursement, such amounts shall, together with interest thereon at the Default Rate from the date incurred by Mortgagee until paid by Mortgagor, be added to Borrower's Liabilities, be immediately due and payable and be secured by the lien of this Mortgage and the other Loan Instruments.

(g) Mortgagee may, in its sole discretion, require Mortgagor, at its sole cost and expense, from time to time to perform or cause to be performed, such studies or assessments of the Mortgaged Property, as Mortgagee may deem necessary or appropriate or desirable, to determine the status of environmental conditions on and about the Mortgaged Property, which such studies and assessments shall be for the benefit of, and be prepared in accordance with the specifications established by, Mortgagee.

(h) Mortgagor hereby grants to Mortgagee, its agents, employees and contractors, access to the Mortgaged Property, from time to time upon prior written notice, for the purpose of either (i) taking such action as Mortgagee shall determine to be appropriate to respond to a release, threatened release, or the presence of Hazardous Materials, or any related

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condition, on or about the Mortgaged Property; or (ii) conducting such studies or assessments of the Mortgaged Property, as Mortgagee may deem necessary or appropriate or desirable.

ARTICLE TWO

DEFAULTS

2.01 **Event of Default.** The term "Event of Default," wherever used in this Mortgage, shall mean any one or more of the following events:

(a) The failure by Mortgagor: (i) to pay or deposit when due any deposit for taxes and assessments due hereunder or any other sums to be paid by Mortgagor hereunder; or (ii) to keep, perform, or observe any covenant, condition or agreement contained in Sections 1.04.1, 1.06.1, 1.06.2, 1.09 or 1.21 hereof; or (iii) to keep, perform or observe any other covenant, condition or agreement on the part of Mortgagor in this Mortgage.

(b) The occurrence of an "Event of Default" under and as defined in the Loan Agreement or any of the other Loan Instruments.

(c) The untruth of any warranty or representation made herein.

(d) An uninsured loss, damage, destruction or taking by eminent domain or other condemnation proceedings of any part of the Mortgaged Property.

ARTICLE THREE

REMEDIES

3.01 **Acceleration of Maturity.** If an Event of Default shall have occurred, Mortgagee may declare the outstanding principal amount of the Note and the interest accrued thereon and any other of Borrower's Liabilities to be immediately due and payable, and upon such declaration such principal and interest and other Borrower's Liabilities declared due shall immediately become and be due and payable without further demand or notice. The foregoing shall not be in limitation of any provision contained in any other Loan Instrument, including without limitation any such provision pursuant to which Borrower's Liabilities become immediately due and payable without action or election by Mortgagee.

3.02 **Mortgagee's Power of Enforcement.** If an Event of Default shall have occurred, Mortgagee may, either with or without entry or taking possession as provided in this Mortgage or otherwise, and without regard to whether or not Borrower's Liabilities shall have been accelerated, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action for any default existing at the time such earlier action was commenced or arising thereafter, proceed by any

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appropriate action or proceeding: (a) to enforce payment of the Note and/or any other of Borrower's Liabilities or the performance of any term hereof or any of the other Loan Instruments; (b) to foreclose this Mortgage and to have sold, as an entirety or in separate lots or parcels, the Mortgaged Property; and (c) to pursue any other remedy available to it. Mortgagee may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Mortgagee may determine. Without limitation of the foregoing, if an Event of Default shall have occurred, as an alternative to the right of foreclosure for the full indebtedness evidenced by the Note and the interest accrued thereon and any other Borrower's Liabilities, after acceleration thereof, Mortgagee shall have the right to institute partial foreclosure proceedings with respect to the portion of Borrower's Liabilities so in default, as if under a full foreclosure, and without declaring all of Borrower's Liabilities to be immediately due and payable (such proceedings being referred to herein as "partial foreclosure"), and provided that, if Mortgagee has not elected to accelerate all of Borrower's Liabilities and a foreclosure sale is made because of default in payment of only a part of Borrower's Liabilities, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of Borrower's Liabilities. Any sale pursuant to a partial foreclosure, if so made, shall not in any manner affect the unmatured portion of Borrower's Liabilities, but as to such unmatured portion, this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made. Notwithstanding the filing of any partial foreclosure or entry of a decree of sale therein, Mortgagee may elect, at any time prior to a foreclosure sale pursuant to such decree, to discontinue such partial foreclosure and to accelerate Borrower's Liabilities by reason of any Event of Default upon which such partial foreclosure was predicated or by reason of any other defaults, and proceed with full foreclosure proceedings. Mortgagee may proceed with one or more partial foreclosures without exhausting its right to proceed with a full or partial foreclosure sale for any unmatured portion of Borrower's Liabilities, it being the purpose to permit, from time to time a partial foreclosure sale for any matured portion of Borrower's Liabilities without exhausting the power to foreclose and to sell the Mortgaged Property pursuant to any partial foreclosure in respect of any other portion of Borrower's Liabilities, whether matured at the time or subsequently maturing, and without exhausting at any time the right of acceleration and the right to proceed with a full foreclosure.

3.03 Mortgagee's Right to Enter and Take Possession, operate and Apply Income.

(a) If an Event of Default shall have occurred, (i) Mortgagor, upon demand of Mortgagee, shall forthwith surrender to Mortgagee the actual possession of the Mortgaged Property, and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, is hereby expressly authorized to enter and take possession of all or any portion of the Mortgaged Property and may exclude Mortgagor and its agents and employees wholly therefrom and shall have joint access with Mortgagor to the books, papers and accounts of Mortgagor; and (ii) notwithstanding the provisions of any lease or other agreement to the contrary, Mortgagor shall pay monthly in advance to Mortgagee, on Mortgagee's entry into possession, or to any receiver appointed to collect the rents, income and other benefits of the Mortgaged Property, the fair and reasonable rental value for the use and occupation of such part

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of the Mortgaged Property as may be in possession of Mortgagor, or any entity affiliated with or controlled by Mortgagor, and upon default in any such payment Mortgagor shall vacate and surrender possession of such part of the Mortgaged Property to Mortgagee or to such receiver, and in default thereof Mortgagor may be evicted by summary proceedings or otherwise. The reasonable rental value payments shall be applied by Mortgagee to either reduce the amount of Borrower's Liabilities or to the operating expenses of the Mortgaged Property, in such order and manner as Mortgagee shall determine.

(b) If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after Mortgagee's demand, Mortgagee may obtain a judgment or decree conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession of all or part of the Mortgaged Property to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents. Mortgagor shall pay to Mortgagee, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Mortgagee, its attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Mortgage.

(c) Upon every such entering upon or taking of possession, Mortgagee, to the extent permitted by law, may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time:

(i) perform such construction, make all necessary and proper maintenance, repairs, renewals, replacements, additions and improvements thereto and thereon, and purchase or otherwise acquire additional fixtures and personal property;

(ii) insure or keep the Mortgaged Property insured;

(iii) manage and operate the Mortgaged Property and exercise all the rights and powers of Mortgagor, on its behalf or otherwise, with respect to the same;

(iv) enter into agreements with others to exercise the powers herein granted Mortgagee, all as Mortgagee from time to time may determine; and Mortgagee may collect and receive all the rents, income and other benefits of the Mortgaged Property, including those past due as well as those accruing thereafter; and shall apply the monies so received by Mortgagee, in such order and manner as Mortgagee may determine, to (1) the payment of interest, principal and other payments due and payable on the Note or pursuant to this Mortgage or to any other Borrower's Liabilities, (2) deposits for taxes and assessments, (3) the payment or creation of reserves for payment of insurance, taxes, assessments and other proper charges or liens or encumbrances upon the Mortgaged Property or any part thereof, and (4) the compensation, expenses and disbursements of the agents, attorneys and other representatives of Mortgagee; and

(v) exercise such remedies as are available to Mortgagee under the Loan Instruments or at law or in equity.

Mortgagee shall surrender possession of the Mortgaged Property to Mortgagor only when all Borrower's Liabilities shall have been paid in full and all other defaults have been cured.

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3.04 **Leases.** Mortgagee is authorized to foreclose this Mortgage subject to the rights, if any, of any or all tenants of the Mortgaged Property, even if the rights of any such tenants are or would be subordinate to the lien of this Mortgage. Mortgagee may elect to foreclose the rights of some subordinate tenants while foreclosing subject to the rights of other subordinate tenants. The failure to make any subordinate tenant a party defendant to any foreclosure proceedings and to foreclose its rights will not be, nor be asserted by Mortgagor, any junior lien holder, any tenant or any other party claiming by, through or under Mortgagor to be, a defense to any such foreclosure proceeding or any other proceedings instituted by Mortgagee to collect the sums secured hereby or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property. Each lease entered into by Mortgagor subsequent to the date hereof shall provide that, and any tenant under any such lease shall be subject to the following provisions whether or not such lease shall so provide, (i) Mortgagee, at its election, may execute and record an instrument which shall be deemed to cause such lease to be either prior or subordinate (whichever Mortgagee elects) to the lien of this Mortgage, (ii) upon any foreclosure hereof or the acceptance of a deed in lieu of foreclosure, the tenant under any such lease (other than a lease which is subordinate to the lien hereof and which is foreclosed in such foreclosure proceedings) shall attorn to the grantee in the deed or other purchaser at the sale and (iii) the tenant thereunder shall execute and deliver any confirmatory instruments which Mortgagee may request in connection therewith. A failure by any such tenant to comply with any of the foregoing provisions shall constitute a default under such lease. Mortgagee shall be made, constituted and irrevocably appointed as such tenant's attorney-in fact so to do in the event that tenant shall fail to comply within ten (10) days after written demand from Mortgagee. The omission of any such provision from any such lease or the failure to record any such instrument shall not affect Mortgagee's rights under this Section 3.04.

3.05 **Purchase by Mortgagee.** Upon any foreclosure sale, Mortgagee may bid for and purchase all or any portion of the Mortgaged Property and, upon compliance with the terms of the sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

3.06 **Application of Foreclosure Sale Proceeds.** The proceeds of any foreclosure sale of the Mortgaged Property or any part thereof received by Mortgagee shall be applied by Mortgagee to the indebtedness secured hereby in such order and manner as Mortgagee may elect in a written notice to Mortgagor given on or before sixty (60) days following confirmation of the sale and, in the absence of such election, first to the expenses of sale, then to expenses including attorneys' fees of the foreclosure proceeding, then to interest and then to principal.

3.07 **Application of Indebtedness Toward Purchase Price.** Upon any foreclosure sale, Mortgagee may apply any or all of the indebtedness and other sums due to Mortgagee under the Note, this Mortgage or any other Loan Instrument to the price paid by Mortgagor at the foreclosure sale.

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3.08 **Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws.** Mortgagor hereby waives any and all rights of redemption. Mortgagor further agrees, to the full extent permitted by law, that in case of an Event of Default, neither Mortgagor nor anyone claiming through or under it will set up, claim or seek to take advantage of any reinstatement, appraisal, valuation, stay or extension laws now or hereafter in force, or take any other action which would prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat. Mortgagor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Illinois Mortgage Foreclosure Law (Chapter 110, Sections 15-1101 et seq., Illinois Revised Statutes) (herein called the "Act")) or residential real estate (as defined in Section 15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601 of the Act.

3.09 **Receiver - Mortgagee in Possession.** If an Event of Default shall have occurred, Mortgagee, to the extent permitted by law and without regard to the value of the Mortgaged Property or the adequacy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right and without any additional showing or proof, at Mortgagee's election, to either the appointment by the court of a receiver (without the necessity of Mortgagee posting a bond) to enter upon and take possession of the Mortgaged Property and to collect all rents, income and other benefits thereof and apply the same as the court may direct or to be placed by the court into possession of the Mortgaged Property as mortgagee in possession with the same power herein granted to a receiver and with all other rights and privileges of a mortgagee in possession under law. The right to enter and take possession of and to manage and operate the Mortgaged Property, and to collect all rents, income and other benefits thereof, whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Mortgagee shall be liable to account only for such rents, income and other benefits actually received by Mortgagee, whether received pursuant to this Section 3.09 or Section 3.07. Notwithstanding the appointment of any receiver or other custodian, Mortgagee shall be entitled as pledgee to the possession and control of any cash, deposits or instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Mortgagee.

3.10 **Suits to Protect the Mortgaged Property.** Mortgagee shall have the power and authority (but not the duty) to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, or (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

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3.11 **Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Mortgagor, Mortgagee, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amounts due and payable under the Note, this Mortgage and any other Loan Instrument, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable after such date.

3.12 **Mortgagor to Pay Borrower's Liabilities in Event of Default; Application of Monies by Mortgagee.**

(a) Upon occurrence of an Event of Default, Mortgagee shall be entitled to sue for and to recover judgment against Mortgagor for Borrower's Liabilities due and unpaid together with costs and expenses, including, without limitation, the reasonable compensation, expenses and disbursements of Mortgagee's agents, attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Mortgage; and the right of Mortgagee to recover such judgment shall not be affected by any taking of possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Mortgage, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of the Mortgaged Property and of the application of the proceeds of sale to the payment of Borrower's Liabilities, Mortgagee shall be entitled to enforce all other rights and remedies under the Loan Instruments.

(c) Mortgagor hereby agrees, to the extent permitted by law, that no recovery of any judgment by Mortgagee under any of the Loan Instruments, and no attachment or levy of execution upon any of the Mortgaged Property or any other property of Mortgagor, shall (except as otherwise provided by law) in any way affect the lien of this Mortgage upon the Mortgaged Property or any part thereof or any lien, rights, powers or remedies of Mortgagee hereunder, but such lien, rights, powers and remedies shall continue unimpaired as before until Borrower's Liabilities are paid in full.

(d) Any monies collected or received by Mortgagee under this Section 3.12 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Mortgagee, and the balance remaining shall be applied to the payment of Borrower's Liabilities, in such order and manner as Mortgagee may elect, and any surplus, after payment of all Borrower's Liabilities, shall be paid to Mortgagor.

3.13 **Discontinuance of Proceedings; Position of Parties Restored.** If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder taking into account the results of such final determination, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

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3.14 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by the Note, the Loan Agreement, this Mortgage or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other Loan Instrument or any instrument evidencing or securing Borrower's Liabilities, or now or hereafter existing at law, in equity or by statute.

3.15 Interest After Event of Default. If an Event of Default shall have occurred, all sums outstanding and unpaid under the Note and all other Borrower's Liabilities shall, to the extent permitted by law, bear interest thereafter at the Default Rate.

ARTICLE FOUR

MISCELLANEOUS PROVISIONS

4.01 Heirs, Successors and Assigns Included in Parties. Whenever Mortgagor or Mortgagee is named or referred to herein, heirs and successors and assigns of such person or entity shall be included, and all covenants and agreements contained in this Mortgage shall bind the successors and assigns of Mortgagor, including any subsequent owner of all or any part of the Mortgaged Property and inure to the benefit of the successors and assigns of Mortgagee. This Section 4.01 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by this Mortgage.

4.02 Notices. All notices, requests, reports demands or other instruments required or contemplated to be given or furnished under this Mortgage to Mortgagor or Mortgagee shall be directed to Mortgagor or Mortgagee, as the case may be, in the manner set forth in the Loan Agreement at the following addresses:

If to Mortgagee: Mark R. Harms
314 East Woodland Rd.
Lake Bluff, IL 60044

If to Mortgagor:

Christopher J. Golden
950 Wilma Lane
Elk Grove Village, IL 60007

Michael D. Mullinix
33346 Mill Road
Wildwood, IL 60030

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4.03 **Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

4.04 **Invalid Provisions.** In the event that any of the covenants, agreements, terms or provisions contained in this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein (or the application of the covenant, agreement, term held to be invalid, illegal or unenforceable, to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

4.05 **Changes.** Neither this Mortgage nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by Mortgagor and Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance. Any holder of a lien or encumbrance junior to the lien of this Mortgage shall take its lien subject to the right of Mortgagee to amend, modify or supplement this Mortgage, the Note, or any of the other Loan Instruments, to extend the maturity of Borrower's Liabilities or any portion thereof, to vary the rate of interest chargeable under the Note and to increase the amount of the indebtedness secured hereby, 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 lien.

4.06 **Governing Law.** This Mortgage shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Illinois.

4.07 **Required Notices.** Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following: (i) receipt of notice from any governmental authority relating to the violation of any rule, regulation, law or ordinance, the enforcement of which would materially and adversely affect the Mortgaged Property; (ii) material default by any tenant in the performance of its obligations under any lease of all or any portion of the Mortgaged Property or receipt of any notice from any such tenant claiming that a default by landlord in the performance of its obligations under any such lease has occurred; or (iii) commencement of any judicial or administrative proceedings by or against or otherwise adversely affecting Mortgagor or the Mortgaged Property.

4.08 **Future Advances.** This Mortgage is given to secure not only existing indebtedness, but also future advances (whether such advances are obligatory or are to be made at the option of Mortgagee, or otherwise) made by Mortgagee under the Note, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed five times the aggregate face amount of the Note.

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4.09 Release. Upon full payment and satisfaction of Borrower's Liabilities, Mortgagee shall issue to Mortgagor an appropriate release deed in recordable form.

4.10 Attorneys' Fees. Whenever reference is made herein to the payment or reimbursement of attorneys' fees, such fees shall be deemed to include compensation to staff counsel, if any, of Mortgagee in addition to the reasonable fees of any other attorneys engaged by Mortgagee.


4.11 Compliance with Illinois Mortgage Foreclosure Law. In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

4.12 Note. The Loan is governed by terms and provisions set forth in the Note and in the event of any conflict between the terms of this Mortgage and the terms of the Note, the terms of the Note shall control, except that the terms set forth in Section 1.21 of this Mortgage shall control any conflicting terms set forth in the Note.

IN WITNESS WHEREOF, Mortgagors have each caused this instrument to be executed as of the day and date first above written.



Christopher J. Golden



Michael D. Mullinix H. DL 452 5445-122

THIS INSTRUMENT PREPARED BY,
AND AFTER RECORDING RETURN TO:

Mark R. Harms
314 East Woodland Rd.
Lake Bluff, IL 60044
847-234-0884



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ACKNOWLEDGMENT

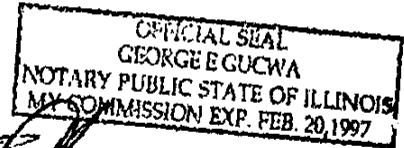
STATE OF ILLINOIS

SS

COUNTY OF COOK

I, GEORGE E. GUCWA a Notary Public in and for and residing in said County of Cook and the State of Illinois, do certify that Christopher D Golden 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 and delivered said instrument as his own free and voluntary act.

GIVEN under my hand and notarial seal this 19th day of APRIL 1996.



George E. Gucwa
Notary Public

My commission Expires: FEBRUARY 20, 1997

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ACKNOWLEDGMENT

STATE OF ILLINOIS

SS

COUNTY OF ~~COOK~~ DUDAGE

I, Maria Elena Delamora, a Notary Public in and for and residing in said County of ~~Cook~~ and the State of Illinois, do certify that Michael D. Mullinix ~~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 and delivered said instrument as his own free and voluntary act.

GIVEN under my hand and notarial seal this 4-19th day of 1996.

Before me came Michael D. Mullinix only.

"OFFICIAL SEAL"
Maria Elena Delamora
Notary Public, State of Illinois
My Commission Expires 5/14/98

Maria Elena Delamora
Notary Public

My commission Expires:
May 14, 1998

Clerk's Office

99297768

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EXHIBIT B
ATTACHED TO AND MADE PART
OF
REAL PROPERTY MORTGAGE
DATED: April 15, 1996
Made by

Christopher J. Golden and Michael D. Mullinix
in favor of
Mark R. Harms

Legal Description:

Address of property: 176 East Dundee Road, Wheeling, IL

Permanent Real Estate Index No.: 03-02-410-023

LOT SIX (6) IN UTPADELS SUNNYSIDE ADDITION TO WHEELING IN THE
SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 11 EAST
OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF,
FILE FILED IN THE OFFICE OF THE REGISTRAR OF TITLES ON DECEMBER 30,
1930, AS DOCUMENT NO. 531289 SITUATED IN COOK COUNTY, ILLINOIS

EXCLUDING BEGINNING AT THE SOUTHEAST CORNER OF LOT 6 AFORESAID;
THENCE ON AN ASSUMED BEARING OF SOUTH 88 DEGREES 16 MINUTES 11
SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 66.00
FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH 01 DEGREES 43
MINUTES 49 SECONDS WEST ALONG THE WEST LINE OF LOT 6 AFORESAID 7.65
FEET; THENCE NORTH 80 DEGREES 12 MINUTES 23 SECONDS EAST, 66.66 FEET
TO THE EAST LINE OF SAID LOT 6; THENCE SOUTH 01 DEGREES 43 MINUTES 49
SECONDS EAST ALONG SAID EAST LINE, 17.00 FEET TO THE POINT OF
BEGINNING, CONTAINING 0.019 ACRES OF LAND.

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