

UNOFFICIAL COPY

GEORGE E. COLE®
LEGAL FORMS

No. 103
November 1994

MORTGAGE (ILLINOIS) For Use With Note Form No. 1447

CAUTION: Consult a lawyer before using or acting under this form. Neither the publisher nor the seller of this form makes any warranty with respect thereto, including any warranty of merchantability or fitness for a particular purpose.

97920883

THIS AGREEMENT, made NOVEMBER 21 1997, between
Cheng-Fu Kao and May-Fay Kao, HUSBAND & WIFE

(No. and street) (City) (State)

herein referred to as "Mortgagors," and
Elston Partnership

1837 North Elston Chicago IL
(No. and Street) (City) (State)

herein referred to as "Mortgagee," witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon the installment note of even date herewith, in the principal sum of ONE HUNDRED FORTY-FOUR THOUSAND DOLLARS

(\$ 144,000.00), payable to the order of and delivered to the Mortgagee, in and by which note the Mortgagors promise to pay the said principal sum and interest at the rate and in installments as provided in said note, with a final payment of the balance due on the

day of December, 19 2002, and all of said principal and interest are made payable at such place as the holders of the note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at 1837 North Elston Avenue, Chicago, Illinois

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the

CITY OF CHICAGO, COUNTY OF COOK IN STATE OF ILLINOIS, to wit:

See Exhibit "A" attached hereto and made a part hereof.

which, with the property hereinafter described, is referred to herein as the "premises,"

Permanent Real Estate Index Number(s): 14-32-302-010-0000

Address(es) of Real Estate:

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

BOX 333-CTI

SW FA 2012
97920883
7671018
Beck

97920883

SEPT-01 RECORDING \$51.00
T#0009 TRAN 0640 12/08/97 11:00:00
#9789 CG *-97-920883
COOK COUNTY RECORDER

Above Space for Recorder's Use Only

UNOFFICIAL COPY

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagors do hereby expressly release and waive.

The name of a record owner is: Devon Bank, as Trustee under Trust Agreement dated March 5, 1990 and known as Trust No. 5639

This mortgage consists of four pages. The covenants, conditions and provisions appearing on pages 3 and 4 are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.

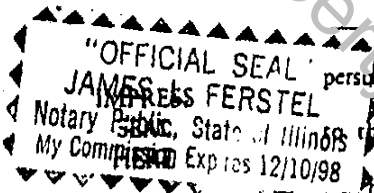
Witness the hand . . . and seal . . . of Mortgagors the day and year first above written.

PLEASE
PRINT OR
TYPE NAME(S)
BELOW
SIGNATURE(S)

Cheng Fu Kao (SEAL) _____ (SEAL)
May-Fay Kao _____ (SEAL) _____ (SEAL)

State of Illinois, County of Cook ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cheng Fu-Kao AND MAY-FAY KAO



personally known to me to be the same person _____ whose name _____ subscribed
 the foregoing instrument, appeared before me this day in person, and acknowledged that
 _____ signed, sealed and delivered the said instrument as _____
 free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of
 the right of homestead.

Given under my hand and official seal, this 21st day of NOVEMBER 19 99
 Commission expires 12/10 19 98

 NOTARY PUBLIC

This instrument was prepared by Christopher M. Novy, 350 North LaSalle Street, Suite 900, Chicago, Illinois 60610
(Name and Address)

Mail this instrument to Christopher M. Novy, 350 North LaSalle Street, Suite 900
(Name and Address)

Chicago IL 60610
 (City) (State) (Zip Code)

OR RECORDER'S OFFICE BOX NO. _____

97920883

UNOFFICIAL COPY

11. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.

12. Upon or any time after the filing of a complaint to foreclose this mortgage the court in which such complaint is filed may appoint receiver of said premises. Such appointment may be made either before or after the sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

13. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured.

14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

15. The Mortgagor shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.

16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

17. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of \$100.00 to Mortgagee for the execution of such release.

18. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the note secured hereby.

88807626

UNOFFICIAL COPY

EXHIBIT "A"

I. Incorporation

1. This Rider, noted as Exhibit "A", is attached to and made a part of the mortgage dated November ____, 1997 by and between the Purchaser and Seller indicated thereon. The parties intend this Rider to be paramount and controlling in the event of a conflict between it and the terms of the pre-printed mortgage to which it is attached.

II. Additional Provisions

This mortgage shall be recorded against the Elston Property and the property given as additional security hereunder, hereinafter called the Ashland property, a true and accurate legal description of both parcels is attached hereto as Exhibit "B".

III. Repairs

A. Mortgagor shall (a) promptly repair, restore, replace or rebuild any portion of the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and repair, free from waste; (c) pay all operating costs of the Premises; (d) complete, within a reasonable time, any building or buildings or other improvements now or at anytime in the process of erection upon the Premises; (e) comply with all requirements of statutes, ordinances, rules, regulations, orders, decrees and other requirements of law relating to the premises or any part thereof by any federal, state or local authority; (f) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements or any portion thereof; (g) comply with any restrictions and covenants of record with respect to the Premises and the use thereof; and observe and comply with any conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Premises or its use and occupancy; and (h) cause the Premises to be managed in a competent and professional manner. Without the prior written consent of Mortgagee, or its successors or assigns, Mortgagor shall not cause, suffer or permit any (i) material alterations of the Premises except as required by law or ordinance or except as permitted or required to be made by the terms of any Leases approved by Mortgagee; (ii) change in the intended use or occupancy of the Premises, including without limitation any change which would increase any fire or other hazard; (iii) change in the identity of the person or firm responsible for managing the Premises; (iv) zoning reclassification with respect to the Premises; (v) unlawful use of, or nuisance to exist upon, the Premises; or (vi) granting of any easements, licenses, covenants, conditions or declarations

07930853

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

of use against the Premises, other than use restrictions contained or provided for in Leases approved by Mortgagee.

IV. Payment.

Mortgagor shall pay or cause to be paid to mortgagee when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever levied or assessed against the Premises or any part thereof or any interest therein or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "Taxes"), whether or not assessed against Mortgagor, and Mortgagor shall furnish to Mortgagee receipts therefor on or before the date the same are due, and shall discharge any claim or lien relating to taxes upon the Premises. Mortgagor shall pay said taxes in the manner provided for herein.

Subject to applicable law or to a written waiver by Mortgagee, Mortgagor shall pay to Mortgagee on the day monthly installments of principal and interest are payable under the Note until the Note is paid in full, a sum (herein "Funds"), equal to one-twelfth of (a) the taxes and assessments which may be levied on the Property, plus a sum equal to 1/6th of the annual taxes and assessments as a two month reserve, (b) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Mortgagee may require pursuant to paragraph 6 hereof, (d) the yearly premium installments for mortgage insurance, if any, and (e) if this Instrument is on a leasehold, the yearly fixed rents, if any, under the ground lease, all as reasonably estimated initially and from time to time by Mortgagee on the basis of assessments and bills and reasonable estimates thereof. Any waiver by Mortgagee of a requirement that Mortgagor pay such Funds may be revoked by Mortgagee, in Mortgagee's sole discretion, at any time upon notice in writing to Mortgagor. Mortgagee may require Mortgagor to pay to Mortgagee, in advance, such other Funds for the other taxes, charges, premiums, assessments and impositions in connection with Mortgagor or the Mortgaged Premises which Mortgagee shall reasonably deem necessary to protect Mortgagee's interests (herein "Other Impositions"). Unless otherwise provided by applicable law, Mortgagee may require Funds for Other Impositions to be paid by Mortgagor in a lump sum or in periodic installments, at Mortgagee's option.

Mortgagee shall apply the Funds to pay said rents, taxes, assessments, insurance premiums and Other Impositions so long as Mortgagor is not in breach of any covenant or agreement of Mortgagor in this Instrument. Mortgagee shall make no charge for so holding and applying the Funds, analyzing said account or for verifying and compiling said assessments and bills, unless applicable law permits Mortgagee to make such a charge. Mortgagor and Mortgagee may agree in writing at the time of execution of this Instrument that interest on the Funds shall be paid to Mortgagor,

97920583

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

and unless such agreement is made or applicable law requires interest, earnings or profits to be paid, Mortgagee shall not be required by Mortgagor to any interest, earnings or profits on the Funds. Mortgagee shall give to Mortgagor, without charge, an annual accounting of the Funds in Mortgagee's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The funds are pledged as additional security for the sums secured by this Instrument.

If the amount of the Funds held by Mortgagee exceeds the amount permitted by applicable law, Mortgagee shall account to the Mortgagor for the excess funds in accordance with the requirements of applicable law. If at any time the amount of the Funds held by Mortgagee shall be less than the amount necessary to pay taxes, assessments, insurance premiums, rents and Other Impositions, as they fall due, Mortgagor shall pay to Mortgagee any amount necessary to make up the deficiency within thirty days after notice from Mortgagee to Mortgagor requesting payment thereof. In the event the Mortgagor does not remit the sum to the Mortgagee necessary to pay taxes, assessments, insurance premiums, rents and other impositions within said thirty day period, Mortgagee may, in its discretion, but shall not be obligated to, advance funds necessary to pay the charges described in this paragraph, and any amounts advanced by the Mortgagee hereunder shall be added to the balance due under the Note, and interest shall accrue upon said amounts at the Interest Rate described in the Note. The failure of the Mortgagor to remit any amounts requested by the Mortgagee hereunder within thirty days of its notice to the Mortgagor shall be considered an Event of Default of this Mortgage, and thereafter interest shall accrue on any amounts advanced by the Mortgagee under this paragraph at the Default Rate described in the Note.

Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Instrument, Mortgagee may apply, in any amount and in any order as Mortgagee shall determine in Mortgagee's sole discretion, any Funds held by Mortgagee at the time of application (i) to pay rents, taxes, assessments, insurance premiums and Other Impositions which are now or will hereafter become due, or (ii) as a credit against sums secured by this Instrument. Upon payment in full of all sums secured by this Instrument, Mortgagee shall promptly refund to Mortgagor any Funds held by Mortgagee.

If the Mortgagor shall fail to pay any real estate taxes or other liens encumbering the Land, herein defined as the Elston property and/or the Ashland Property, when due, in accordance with the requirements of this Paragraph, the Mortgagee shall have the rights, at its option and in addition to any other remedies available to it under this Mortgage, to pay such taxes or other liens, and any amounts paid thereon by the Mortgagee shall constitute additional indebtedness secured by this Mortgage, shall bear interest at the Default Rate, as set forth in the Note from the date of payment, and shall become immediately due and owing to the Mortgagee.

07920883

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

without Thirty (30) calendar days' prior written notice to the Noteholder. Any or all of such insurance may be provided for under a blanket policy or policies carried by the Mortgagor or any affiliated corporation.

D. The Mortgagor shall deliver to the Noteholder the originals of all insurance policies or certificates of coverage under blanket policies, including renewal or replacement policies, and in the case of insurance about to expire shall deliver renewal or replacement policies or binders as to the issuance thereof or certificates in the case of blanket policies not less than fourteen (14) days prior to their respective dates of expiration.

E. On all insurance policies of the character described in clauses (i) and (iii), of subparagraph A of this Paragraph, Noteholder shall be named as Noteholder in the standard mortgage clause and as an additional loss payee where appropriate and such insurance shall be for the benefit of the Mortgagor and the Noteholder, as their interest may appear: provided, however, such insurance may provide that, so long as Mortgagor is not in default, any loss or damage to the Land not exceeding TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be adjusted by and paid to the Mortgagor and any such loss exceeding TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) shall be adjusted by the Mortgagor and the Noteholder and paid to the Noteholder. All such insurance proceeds shall be applied in accordance with Paragraph 6 below, and any amounts not so applied shall be paid to the Mortgagor.

F. On all insurance policies of the character described in clauses (ii) of subparagraph A of this Paragraph 5, Noteholder shall be named as an additional named insured thereunder. Noteholder shall be defined as Elston Partnership.

G. In any event, the Mortgagor shall continue to pay the principal and interest on the Note notwithstanding any damage, loss or capacity.

VI. Sale, Conveyance, Mortgaging, Hypothecation, or Other Transfer

a) If, during the term of the Note, the Mortgagor shall (whether voluntarily or by operation of law) sell, convey, assign, mortgage, convert the Mortgaged Premises to a condominium under the Illinois Condominium Act, hypothecate or otherwise transfer or encumber the Land or any part thereof or any right, title therein, all sums due hereunder shall become immediately due and payable and the Mortgagor, shall immediately pay the principal balance plus all accrued interest, prepayment premium, if any, and other amounts remaining unpaid under the Note.

Mortgagor shall not permit title to the Land or any portion thereof or to be conveyed or mortgaged, or the beneficial interest

15907626

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

or any portion thereof to be assigned, collaterally assigned or otherwise transferred or encumbered, voluntarily or involuntarily, directly or indirectly, without the prior written consent of the Noteholder.

If prepayment is elected by Mortgagor, it shall be delivered to Noteholder simultaneously with the sale, conveyance, assignment, mortgage, hypothecation or other transfer or encumbrance together with accrued interest thereon.

b) In the event the Mortgagor conveys, sells, grants possession, transfers or assigns any interest therein, either directly or indirectly, including but not limited to the assignment of a beneficial interest, converts or subjects the Mortgaged Premises to the Illinois Condominium Act, or contracts to do any of the foregoing, or in the event of the creation or recording of a second lien upon the Elston property or the Ashland property, commencement of any construction activities on or about either property, the creation of any lien or cloud on title on either property, or the transfer of any right, title, or interest in either property without the prior written consent of the Noteholder or violates any of the provisions of the Note, all terms and provisions of the Note being incorporated herein by reference, all sums due hereunder, both principal and interest, shall become immediately due and payable irrespective of the maturity date specified.

VII. Priority of Lien: After-Acquired Property.

This Mortgage is and will be maintained as a valid first mortgage. The Mortgagor will not, directly or indirectly, create or suffer or permit to be created, or to stand against the Land, or any portion thereof, or against the rents, issues and profits thereof, any lien, security interest, encumbrance or charge prior to or on a parity with or subordinate to the lien of this Mortgage provided, however, that nothing herein contained shall require the Mortgagor to pay any Impositions or insurance premiums prior to the last day on which the same shall become due and payable without penalty or prevent the Mortgagor from contesting the validity of any Impositions in accordance with the provisions of this Mortgage.

Subject to the rights granted under this mortgage, the Mortgagor will keep and maintain the Land free from all liens for moneys due and payable to persons supplying labor for and providing materials used in the construction, modification, repair or replacement of the Land. If any such liens shall be filed against the Land, the Mortgagor agrees to cause the same to be discharged of record promptly after the Mortgagor has notice thereof.

In no event shall Mortgagor do, or permit to be done, or omit to do, or permit the omission of, any act or thing, the doing of which, or omission to do which, would impair the security of this mortgage. The Mortgagor shall not initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or

07920683

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

V. Insurance

A. The Mortgagor shall maintain at its sole cost and expense, the following insurance coverage with respect to the Land:

(i) Insurance against loss of or damage to the Land by fire and such other risks as are customarily insured against in the area in which the Land are located, including but not limited to, risks insured against under extended coverage policies with all risk and difference in conditions endorsements, in each case in amounts at all times sufficient to prevent the Mortgagor from becoming a co-insurer under the terms of the applicable policies and, in any event, in amounts not less than \$_____.

(ii) Comprehensive general liability insurance against any and all claims (including all costs and expenses of defending the same) for bodily injury or death and for property damage occurring upon, in or about the Land and the adjoining streets or passageways in amounts not less than \$_____;

(iii) Such other insurance as is customarily purchased in the area for similar types of business, in such amounts and against such insurable risks, as from time to time may reasonably be required by the Noteholder.

The term "full insurable value" as herein shall mean actual cash value, i.e., replacement cost less physical depreciation, exclusive of costs of excavation, foundations and footings below the lowest basement floor or mortgage indebtedness, whichever is greater.

The Mortgagor may effect for its own account any insurance not required under the provisions of subparagraph A hereof, but any insurance effected by the Mortgagor on the Land, whether or not required under this Mortgage, shall be for the benefit of the Noteholder and the Mortgagor, as their interests may appear, and shall be subject to the provisions of this Mortgage.

B. If the Mortgagor shall fail to keep the Land insured in accordance with the requirements of this Paragraph, the Noteholder shall have the rights, at its option and in addition to any other remedies available to it under this mortgage, to provide for such insurance and pay the premiums thereof, and any amounts paid thereon by the Noteholder shall constitute additional indebtedness secured by this Mortgage, shall bear interest at the Default Rate, as set forth in the Note from the date of payment, and shall become immediately due and owing to the Noteholder.

C. All policies of insurance to be furnished under this Mortgage shall be in forms and with companies reasonably satisfactory to the Noteholder, with standard mortgage clauses attached to or incorporated in all policies in favor of the Noteholder, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified

07920683

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

other public or private restriction or agreement materially changing the uses which may be made of the Land or any part thereof without the express written consent of the Noteholder.

VIII. Hazardous Substances.

Mortgagor covenants and represents that it shall maintain and keep the Premises free at all times of any environmental violation, waste, hazard or damage, including toxic chemicals, asbestos, or gasoline, and that the Mortgagor shall provide reasonable proof required by the Mortgagee that the Premises are free from any environmental waste, hazard, or damage. Further, the Mortgagor represents that the Premises shall not violate any state or federal environmental statute, regulation or law. The Mortgagor covenants and agrees that the Mortgagor shall not, nor shall the Mortgagor voluntarily permit any other person or entity to, place, hold, locate or dispose of any hazardous Substances on, under or at the Premises or any part thereof, except in accordance with applicable law. Without limiting the foregoing, Mortgagor shall not cause or knowingly permit the Premises to be used to generate, manufacture, refine or process Hazardous Substances, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant or subtenant, a release of hazardous Substances onto the Premises or onto any other property. Mortgagor shall comply with and use its reasonable efforts to ensure compliance by all tenants and subtenants with all applicable federal, state and local laws, ordinances, rules and regulations, and use reasonable efforts to ensure that any and all tenants and subtenants obtain and comply with any and all approvals, registrations or permits required thereunder. The Mortgagee reserves the right to require the Mortgagor to obtain environmental risk studies and reports at any time during the term of this Mortgage. If at any time any soil test or any other environmental test of the Premises evidences environmental violations or dangers, the Mortgagor shall have a period of sixty (60) days to remedy said violation and deliver an updated test to Mortgagee evidencing that the environmental violations or dangers have been removed. If the Mortgagor fails to remediate the environmental dangers evidenced by the requisite soil or environmental test within sixty (60) days, or if any other environmental violation, waste, hazard, or damage occurs on the Premises and is not remedied within said 60 day period, said environmental violation, waste, hazard or damage shall be considered an Event of Default under the terms of this Mortgage, and the Mortgagee shall have the right, at its option, but shall have no obligation, to cure any environmental violation, waste, hazard or damage on behalf of the Mortgagor, and any and all amounts advanced by the Mortgagee hereunder shall become an additional indebtedness of the Mortgagor under the Note and this Mortgage, and interest shall accrue on said amounts advanced by the Mortgagee at the Default Rate as set forth in the Note. Any amounts advanced by the Mortgagee under this paragraph, plus interest thereon, shall be immediately due and payable by the Mortgagor.

07920683

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

If the Mortgagor receives any notice or knowledge of (i) the occurrence of any event involving the use, spill, release, leak, seepage, discharge or clean up of any Hazardous Substance, or (ii) any complaint, order, citation or other notice with regard to air emissions, water discharges, or any other environmental, health or safety matter affecting the Mortgagor or the Premises (an "Environmental Complaint") from any person or entity (including, without limitation, the EPA) then the Mortgagor shall immediately notify the Mortgagee orally and in writing of any such notice and, if the Environmental Complaint is in writing, shall immediately deliver a copy of the Environmental Complaint to Mortgagee. Further, the Mortgagor shall immediately commence all actions necessary to clean up, remove, resolve and comply with any complaint, order, citation, notice or Environmental Complaint as may be required to comply with applicable law.

IX. Events of Default.

In the case one or more of the following events ("Events of Default") shall occur, to-wit:

A. If default shall be made in the payment of any installment of interest, or of principal and interest, on the Note, or in the payment of any other amount required to be paid thereunder or hereunder when the same or any part thereof shall become due and payable, and if such default shall not have been cured within the time period, if any, given under the Note or this Mortgage; or,

B. Subject to the rights granted under this mortgage, if default shall be made in the payment of any Imposition when the same shall become due and payable, and if such default shall remain uncured for a period of fifteen (15) days of such default; or,

C. If default shall be made in the performance of any of the other covenants or provisions of the Note or this Mortgage and if such default shall remain uncured for a period of thirty (30), provided that, if the default is curable but not reasonably capable of being cured within such thirty (30) day period, such default shall be deemed cured for the purposes hereof if, and so long as, Mortgagor shall commence such cure within such thirty (30) day period and diligently pursue said cure to completion; or,

D. If Mortgagor shall make a general assignment for the benefit of creditors, or shall state in writing or by public announcement its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt, or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or shall seek or consent to or

07000883

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

acquiesce in the appointment of any trustee, receiver or liquidator of Mortgagor or any material portion of their assets; or,

E. If, within Sixty (60) days after the commencement of any proceeding against Mortgagor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within Sixty (60) days after the appointment, without the consent or acquiescence of Mortgagor, of any trustee, receiver or liquidator of Mortgagor or any material portion of their assets, such appointment shall not have been vacated; or,

F. If any representation or warranty made by Mortgagor in this Mortgage, or made heretofore or contemporaneously herewith in any other instrument, agreement or written statement in any way related hereto or to the loan transaction with which this Mortgage is associated, shall prove to have been false or incorrect in any material respect on or as of the date when made and such falsity or incorrectness shall materially affect the security of this Mortgage.

Then, in any such event, at the option of Noteholder, the entire unpaid principal balance of the Note secured hereby, the applicable premium, if any, and all accrued and unpaid interest under the Note, and any other sums secured hereby shall be due and payable immediately and, thereafter, each of said amounts shall bear interest at the Default Rate as defined in the Note. All costs and expenses incurred by, or on behalf of, Noteholder (including, without limitation, reasonable attorneys' fees and expenses) occasioned by an Event of Default by Mortgagor hereunder shall be immediately due and payable by Mortgagor and, thereafter, each of said amounts shall bear interest at the Default Rate as defined under the Note. After any such Event of Default, Noteholder may institute, or cause to be instituted, proceedings to foreclose the lien of this mortgage or exercise any other remedy available to it under the Note or Mortgage, all or Mortgagee's remedies being cumulative.

G. Mortgagor agrees to maintain the value of any improvements on the ashland property, normal wear and tear excepted, operate the Ashland property, and not commit any waste of or on the ashland property. In the event waste is committed on the Ashland property, mortgagee shall be entitled to declare a default under the loan documents, and proceed with all rights and remedies granted hereunder.

H. The written permission of Mortgagee shall be first obtained prior to the construction of any improvement upon the subject premises which could give rise to any lien or claim superior to the lien of the purchase money mortgage provided for herein. In the event that any governmental authority shall require the purchaser to construct any fence or barrier upon the subject property to prevent trespassers or the public at large from having general access to the property, such improvement required by such

07000653

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

governmental authority shall be considered a permitted exception to this paragraph, and shall not require the written consent of the seller, but shall require the purchaser to notify the seller of the demand from said governmental authority.

X. Waiver of Redemption

Mortgagor hereby waives the benefit of all appraisement, valuation, stay, extension, redemption and equity of redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Land or any part thereof or any interest therein.

XI. Remedies are Cumulative.

Each right, power and remedy of Noteholder now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power and remedy provided for in this Mortgage, and the exercise of any right, power or remedy shall not preclude the simultaneous or later exercise of any other right, power or remedy.

XII. Notices.

Any notice, demand or other communication given pursuant to the terms hereof shall be in writing and shall be delivered by personal service or sent by registered mail, return receipt requested, postage prepaid, addressed as follows:

If to Mortgagor: Mr. Cheng-Fu Kao
Mrs. May-Fay Kao
1048 Illinois Road
Wilmette, Illinois 60091

If to Noteholder: Elston Partnership
1837 N. Elston Ave.
Chicago, Illinois 60622
Attention: Jack Brennan
Hugh Heneghan

XIII. Cross-Default Clause.

Any default by Mortgagor in the performance or observance of any covenant or condition hereof in accordance with Paragraph 15 above shall be deemed default or event of default under each of the Loan Documents, entitling Noteholder to exercise all or any remedies available to Noteholder under the terms of any or all Loan Documents, and any default or event of default under any other Loan Document shall be deemed a default hereunder, entitling Noteholder to exercise any or all remedies provided for herein. Failure by Noteholder to exercise any right which it may have hereunder shall not be deemed a waiver thereof unless so agreed in writing by Noteholder, and the waiver by Noteholder of any default by

97020683

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagor hereunder shall not constitute a continuing waiver or a waiver of any other default or of the same default on any future occasion.

Neither the Mortgagor, nor any person claiming under Mortgagor, shall have or enjoy any right to marshalling of assets, all such right being hereby expressly waived as to the Mortgagor and all persons claiming under Mortgagor, including junior lienors. No release of personal liability of any person whatever and no release of any portion of the property now or hereafter subject to the lien of any of the Mortgage Instruments shall have any effect whatever by way of impairment or disturbance of the lien or priority of any of said Mortgage Instruments. Any foreclosure or other appropriate remedy sought may be brought and prosecuted as to any part of the mortgaged security, wherever located, without regard to the fact that foreclosure proceedings or other appropriate remedies have or have not been instituted elsewhere on any other land subject to the lien of said Mortgage Instruments or any of them.

XV. Miscellaneous provisions

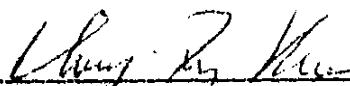
A. The headings in this Mortgage are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

B. If any clause, phrase, paragraph or portion of this Mortgage or the application thereof to any person, party or circumstances shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Mortgage nor any other clause, phrase, paragraph or portion hereof, nor shall it affect the application of any clause, phrase, paragraph or provision hereof to other persons, parties or circumstances.

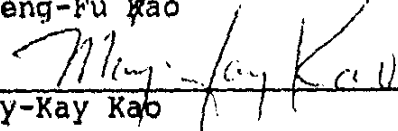
C. This Mortgage is negotiated in the County of Cook, Chicago, Illinois and shall be governed by and construed in accordance with the laws of the State of Illinois. It is expressly agreed that all parties hereto waive any right they now or in the future may have to remove any claim or dispute arising here from.

IN WITNESS thereof, Mortgagor have caused this Mortgage to be executed as of the date and year first written above.

MORTGAGORS:



Cheng-Fu Kao



May-Kay Kao

07920583

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "B"

LEGAL DESCRIPTION

THE SOUTH 5 FEET OF LOT 7 AND LOTS 8, 9, AND 10 IN THE SUBDIVISION OF LOT 1 OF BLOCK 17 IN SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS

PIN NO. 14-32-302-010-0000

COMMONLY KNOWN AS: 1837 N. ELSTON AVENUE, CHICAGO, ILLINOIS

ADDITIONAL PARCEL

LOT 30 IN BLOCK 4 IN FULLERTON'S SECOND ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART LYING EAST OF A LINE 50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION TAKEN FOR WIDENING ASHLAND AVENUE) IN COOK COUNTY, ILLINOIS

PIN NO. 14-30-408-041-0000

COMMONLY KNOWN AS: 2512 NORTH ASHLAND, CHICAGO, ILLINOIS

Property of Cook County Clerk's Office

97930653

UNOFFICIAL COPY

Property of Cook County Clerk's Office