

UNOFFICIAL COPY

JUNIOR MORTGAGE, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS

1997 MAY 20 10:00 AM
199711 TRAN 7371 05/30/97 13:53:06
45639 + KP # -97-385152
COOK COUNTY RECORDER

97385152

\$ 59 50
RP.

THIS INDENTURE, made this 20th day of May, 1997, by **FRIENDSHIP MOTELS OF HARVEY INC.**, an Illinois corporation ("Mortgagor"),

WITNESSETH:

WHEREAS, **JACOBSON INC.**, an Illinois corporation, executed and delivered to **SOUTH SHORE BANK OF CHICAGO** ("Mortgagee") that certain note of even date herewith (such note and all notes delivered in substitution, replacement or exchange therefor, as any of the foregoing may from time to time be amended, are hereinafter collectively called the "Note") payable to the order of Mortgagee in the principal amount of Two Million and 00/100 Dollars (\$2,000,000.00), with interest thereon provided in the Note, and payable as provided therein, all as set forth in the Note and as hereinafter described, with a final payment of principal and interest, if not sooner paid, due and payable on the 1st day of November, 2012, and Mortgagor has agreed to grant Mortgagee a junior mortgage lien encumbering the Mortgaged Premises; and,

WHEREAS, Mortgagor desires to secure the prompt and timely payment of the principal of the Note together with interest thereon in accordance with the terms of the Note, and all extensions or renewals thereof; and,

WHEREAS, Mortgagor desires to induce Mortgagee to extend the financing accommodations as evidenced by the Note;

421007270293

NOW THEREFORE, to secure payment of the indebtedness secured hereby and the performance of the covenants, agreements and provisions herein and contained in the Note, and for TEN and 00/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid, the receipt, adequacy and sufficiency of which are hereby acknowledged, Mortgagor does by these presents grant, mortgages and conveys unto Mortgagee, its successors and assigns, the real estate legally described on Exhibit "A" attached hereto and made a part hereof (the "Real Estate" or the "Mortgaged Premises");

97385152

TOGETHER with all and singular easements, rights-of-way, licenses, privileges, tenements, appendages, hereditaments, waters, water courses, appurtenances, other rights, liberties and privileges thereunto belonging or in any wise appertaining, including without limitation any claim at law or in equity as well as any after-acquired title, franchise or license and the reversions and remainders thereof; and also all the rents, issues, proceeds and profits now or hereafter accruing therefrom;

TOGETHER with all rents, issues, profits, revenues, royalties, bonuses, receipts, rights and benefits due, payable or accruing or to accrue (including without limitation all deposits of money as advanced rent or for security) under any and all leases or subleases and renewals thereof of, or under any contracts or options for the sale of all or any part of, the Real Estate after any foreclosure or other sale,

UNOFFICIAL COPY

11/11/11

11/11/11

Property of Cook County Clerk's Office

UNOFFICIAL COPY

together with the right, but not the obligation, to collect, receive and receipt for all Real Estate after any foreclosure or other sale, together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the indebtedness secured hereby and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee;

TOGETHER with all the estate, right, title and interest, if any, (including without limitation any after-acquired title, franchise or license and the reversions and remainders thereof), in and to the land lying within any alley way, street, roadway, strips and gores, beds adjoining the Real Estate;

TOGETHER with all rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion with respect thereto;

TOGETHER with all buildings, structures and improvements now or hereafter erected or placed on the Real Estate, and all materials intended for construction, reconstruction, alterations and repairs thereof, all of which materials shall be included within the Mortgaged Premises and subjected to the lien hereof immediately upon the delivery thereof to the Real Estate; and, also together with all machinery, equipment, apparatus, goods, systems, fixtures and items of personal property of every kind and nature whatsoever, now or hereafter located in or upon or affixed to the Real Estate or the buildings or improvements located thereon, or any part thereof, and used or usable in connection with any present or future operation of the Real Estate, including without limitation all heating, lighting, incinerating, refrigerating, ventilating, air-conditioning, air-cooling, lifting, fire extinguishing, plumbing, cleaning, electrical, communications and power equipment, systems and apparatus; all gas, water and electrical equipment, systems, fixtures and apparatus; and all elevators, escalators, switchboards, computers, engines, motors, tanks, pumps, screens, storm doors, storm windows, shades, blinds, awnings, floor coverings, cabinets, partitions, conduits, ducts and compressors; and all renewals, additions and accessories to and replacements of and substitutions for each and all of the foregoing (it being understood and agreed that all such machinery, equipment, apparatus, goods, systems, fixtures, renewals, additions, accessories, replacements and substitutions are a part of said premises and are declared to be a portion of the security for the indebtedness secured hereby, whether in single units or centrally controlled, and whether physically attached to the Real Estate or the buildings thereon, or not); and that the enumeration of any specific items of property shall in no wise exclude or be held to exclude any items of property not specifically enumerated; all of the foregoing enumerated in this and the preceding four (4) paragraphs, together with the Real Estate, are herein sometimes collectively referred to as the "Premises" or the "Mortgaged Premises";

TOGETHER with all judgments, settlements, awards and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Mortgaged Premises for any taking by eminent domain, either permanent or temporary, of all tenance thereof, including without limitation for severance and consequential damage therefor or for change in grade of streets.

TO HAVE AND TO HOLD the Mortgaged Premises, together with the privileges, fixtures and appurtenances thereunto belonging, and all rents, issues, profits and proceeds therefrom, and the other properties, rights and privileges herein granted unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein expressed. Mortgagor covenants that Mortgagor is well seized of an indefeasible estate in fee simple in authority to grant, warrant, mortgage and convey the Mortgaged Premises in the manner and form herein provided; and that Mortgagor will warrant and defend the title to the Mortgaged Premises with the privileges and appurtenances thereunto belonging unto Mortgagee, its successors and assigns, forever, against all claims and demands whatsoever, and that the Mortgaged Premises is free and clear of all encumbrances.

07387150

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

THIS MORTGAGE IS GIVEN TO SECURE:

- (a) payment of principal and interest evidenced by the Note and all other of the indebtedness secured hereby, and
- (b) performance of each and every of the agreements, obligations, terms, provisions and conditions on the Mortgagor's part to be performed or observed as provided herein and in the Note and in any other document or instrument to which reference is made in this Mortgage.

AND MORTGAGOR HEREBY COVENANTS AND AGREES that:

1. **PAYMENT OF INDEBTEDNESS.** Mortgagor will pay when due the principal and interest evidenced by the Note, and all other of the indebtedness secured hereby; and Mortgagor shall duly and punctually perform and observe all of the terms, provisions, covenants, conditions and agreements on Mortgagor's part to be performed or observed as provided in this Mortgage.
2. **PAYMENT OF IMPOSITIONS.** Mortgagor will pay to Mortgagee, on each date on which a payment is due under the Note, an amount equal to one-twelfth (1/12) of the amount Mortgagee may from time to time estimate will be required to pay (before the same becomes past due) all taxes, assessments and other governmental liens or charges against the property hereby mortgaged. Mortgagor shall procure and deliver to Mortgagee, in advance, statements for such charges. In the event of any default under the terms of this Mortgage, any part or all of the amounts paid by Mortgagee may be applied to the indebtedness secured hereby, and in refunding any part of such amounts, Mortgagee may deal with whomever is represented to be the owner of the Premises at that time. No interest shall be payable on amounts deposited with Mortgagee under this provision, but until application by Mortgagee, such amounts shall be deemed to be trust funds. Mortgagor will, at all times, maintain in the real estate tax escrow account, an account balance equal to not less than five (5) months' real estate taxes, based on the most recent ascertainable annual real estate tax bill(s) for the Real Estate.
3. **INSURANCE.** Mortgagor will procure, deliver to and maintain for the benefit of Mortgagee during the continuance of this Mortgage and until the same is fully satisfied and released, a policy or policies of insurance insuring the buildings, structures and improvements now existing or hereafter erected which constitute part of the Mortgaged Premises against loss or damage by fire and against loss or damage by all risks embraced by coverage of a type now known as broad form of extended coverage, all risk, including without limitation riot and civil commotion, vandalism and malicious mischief and against such other insurable hazards as, under good insurance practices in the municipality in which the Mortgaged Premises are located, from time to time are insured against for buildings, structures and improvements of like character. The amount of such insurance shall be sufficient to prevent Mortgagor or Mortgagee from becoming a co-insurer of any whole or partial loss under applicable policies and in any event not less than one hundred percent (100%) of the full replacement cost of such building, structures and improvements without deduction for physical depreciation, and in any event not less than the original principal balance of the Note. The policy or policies insuring such buildings, structures and improvements shall contain a replacement cost endorsement. Mortgagor shall procure and deliver to Mortgagee and maintain for the benefit of Mortgagee liability insurance (including without limitation comprehensive public liability), with such limits for personal injury and death and property damage as Mortgagee may require and shall cause Mortgagee to be named as an insured thereunder. Mortgagor will procure, deliver to, and maintain for the benefit of Mortgagee such other insurance on the Mortgaged Premises and in such amounts as are commonly insured against in the case of premises similarly situated, due regard being given to the height and type of improvements, their construction, location, use and occupancy. Mortgagor will cause standard mortgage clauses to be attached to all such policies, modified as to be consistent with the provisions hereof. Mortgagor will deliver such policy or policies or evidence of the existence thereof

0700159

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

reasonably satisfactory to Mortgagee at its principal office or at such other place as it may designate in writing; and will likewise deliver to Mortgagee renewals of such policy or policies one (1) week in advance of the expiration of the same, stamped "Paid" by the agent or company issuing same, or evidence thereof reasonably satisfactory to Mortgagee. Premiums on policies so furnished shall not be financed in any manner whereby any lender, upon default or otherwise, shall have the right or privilege of surrendering the policies. All insurance furnished hereunder shall be subject to the approval of Mortgagee as to insurance companies, amounts, contents, substance and forms of policies and expiration dates. All insurance provided for in this Paragraph 3 shall provide by endorsement or other manner that same may not be cancelled or amended without at least ten (10) days prior written notice to Mortgagee. If, after five (5) days' notice from Mortgagee, Mortgagor fails to procure and maintain any insurance required under this Mortgage, Mortgagee may (but shall not be obligated to) procure and maintain such insurance in the amounts provided above or in such lesser amounts as Mortgagee then deems appropriate and any amount paid by Mortgagee for such insurance shall become immediately due and payable by Mortgagor with interest as described in the Note hereof until paid and shall be secured by this Mortgage.

Upon any loss or damage, Mortgagor shall immediately notify Mortgagee in writing, and:

A. Loss, if any, under each insurance policy shall be adjusted with the insurance company by Mortgagee;

B. all insurance proceeds shall be paid directly and solely to Mortgagee, and each insurance company is authorized and directed to make such payment directly and solely to Mortgagee, and the insurance policies shall so stipulate; and

C. with respect to any adjustment undertaken by Mortgagee, Mortgagee is hereby authorized to so adjust, collect and compromise all claims under such policies, and Mortgagor shall sign, upon demand by Mortgagee, all receipts, vouchers and releases required by the insurance companies.

Mortgagee shall not incur any liability in connection with the adjustment or collection of insurance claims and proceeds (or the failure thereof) regardless of the cause of such failure. In the event any sum or sums of money are received by Mortgagee by reason of any such insurance as aforesaid, Mortgagee may, at its sole option, apply, in whole or in part, whatever monies are received to the payment of the last maturing installments of the indebtedness secured hereby or to the repair, restoration and replacement of the damaged or destroyed property, and any application thereof to the indebtedness shall not release or relieve Mortgagor from making the payments or performing the other agreements and obligations herein required until the indebtedness is paid in full. Notwithstanding the foregoing, if no Event of Default as hereinafter defined or event which with the lapse of time or the giving of notice or both would constitute an Event of Default, shall have occurred and shall be continuing, loss, if any, under each insurance policy shall be adjusted with the insurance company by Mortgagee and the proceeds of any such insurance shall be released to Mortgagor for the purpose of repair, restoration or replacement of the damaged or destroyed property.

4. MAINTENANCE; REPAIRS; RESTORATION; COMPLIANCE WITH LAW

A. Mortgagor will keep and maintain the Mortgaged Premises in good order and condition and will make, as and when the same shall become necessary, all structural and non-structural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen, repairs, maintenance and restoration necessary or appropriate. Furthermore, and without limiting the generality of the foregoing, Mortgagor will suffer or commit no waste to the Mortgaged Premises or any portion thereof. All repairs, maintenance and restoration required of Mortgagor shall be of first-class quality and shall in all respects

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

be in compliance with all matters provided in Subparagraph B of this Paragraph 4. Mortgagee, and other person authorized by Mortgagee, shall have the right (but not the duty) to enter upon and inspect the Mortgaged Premises at all reasonable times.

Mortgagor will promptly repair, restore, replace and rebuild all or any part of the Mortgaged Premises now or hereafter subject to the lien of this Mortgage, which may be damaged or destroyed by any casualty or as the result of any taking under the power of eminent domain, without regard to whether the insurance proceeds or eminent domain award are sufficient for such purpose.

B. Mortgagor will promptly comply with all present and future laws, ordinances, rules, regulations and other requirements of all governmental authorities with respect to the Mortgaged Premises or any portion thereof, or the use, occupancy or possession thereof.

5. OTHER LIENS AND CHARGES.

A. Mortgagor will keep and maintain the Mortgaged Premises free from all liens of persons supplying labor and materials entering into the construction, modification, repair, restoration or maintenance of the Mortgaged Premises or any portion thereof. If any such liens for labor or materials shall be filed against the Mortgaged Premises, Mortgagor shall discharge the same of record by payment and satisfaction in full (or cause same to be bonded or insured over by a bonding company or title insurer satisfactory to Mortgagee) within thirty (30) days after the date of filing thereof.

B. Mortgagor will pay promptly when due all charges for utilities or services, including but not limited to electricity, gas, water and sewer. If Mortgagor fails to pay promptly all such charges, Mortgagee, at its option, may pay same and any amounts so paid by Mortgagee shall become immediately due and payable by Mortgagor with interest as described in the Note hereof, and shall be secured by this Mortgage.

C. If any action or proceeding shall be instituted to evict Mortgagor or recover possession of the Mortgaged Premises or any part thereof, or for any other purposes affecting the Mortgaged Premises or this Mortgage, or any notice relating to a proceeding or a default is served on Mortgagor, Mortgagor immediately upon service thereof on or by Mortgagee, will deliver to Mortgagee a true copy of each petition, summons, complaint, notice of motion, order to show cause, and all other process, pleadings and papers, however designated, served in any such action or proceeding.

6. CONDEMNATION AND EMINENT DOMAIN. If all or any part of the Mortgaged Premises are damaged, taken or acquired, either temporarily or permanently, as a result of any condemnation proceeding, or by exercise of the power of eminent domain, or by agreement among Mortgagor, Mortgagee and those authorized to exercise such power (it being agreed that Mortgagor will not enter into any agreement for the taking of the Mortgaged Premises, or any part thereof, with anyone authorized to acquire the same in or by condemnation proceedings or by exercise of any power of eminent domain unless and until Mortgagee shall have consented thereto in writing), or by the alteration of the grade of any street affecting the Mortgaged Premises, the amount of any award or payment for such taking or damage made in consideration thereof, to the extent of the full amount of the then remaining unpaid indebtedness secured hereby, is hereby assigned to Mortgagee, who is empowered to adjust and compromise the claim for and collect and receive the same and to give proper receipts therefor in the name of Mortgagor, and the same shall be paid forthwith to Mortgagee. Any award or payment so received by Mortgagee shall be released to Mortgagor for the purpose of altering, restoring, or rebuilding any part of the Mortgaged Premises which may have been altered, damaged or destroyed as the result of such taking, alteration, or proceeding, but Mortgagee shall not be obligated to see to the application of any amounts so released. Mortgagor further covenants and agrees to make, execute and deliver to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagee, at any time or times upon request, free, clear and discharged of any liens, claims or encumbrances of any kind whatsoever, any and all further assignments or instruments deemed necessary by Mortgagee for the purpose of validity and sufficiently assigning to Mortgagee all awards and other compensation theretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

7. **DUE ON SALE.** It shall be an immediate default hereunder if, without the prior written consent of Mortgagee, Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer or alienation of the Mortgaged Premises or any part, or interest in and to, the Mortgaged Premises.

8. **EVENTS OF DEFAULT.** Each of the following shall constitute a default and an Event of Default hereunder:

A. Failure to pay when due (whether such failure is caused by lapse of time, acceleration, or otherwise) any payment provided for in the Note, or any payment of any other indebtedness secured hereby or otherwise required herein, which payment continues unpaid for ten (10) days after written notice to Mortgagor;

B. Failure to perform or observe any other term, covenant, provision, agreement, condition or obligation herein contained which is not hereinabove specifically referred to and such failure shall continue for a period of twenty (20) days after written notice thereof to Mortgagor (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such twenty (20) day period and Mortgagor shall diligently and continuously prosecute the same to completion);

C. If Mortgagor or a shareholder of Mortgagor shall:

(1) file a voluntary petition in bankruptcy;

(2) be adjudicated a bankrupt or insolvent;

(3) file any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal, state or other bankruptcy act or any other present or future applicable federal, state or other statute or law;

(4) seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Mortgagor, or of all or any substantial part of its properties or of any of the Mortgaged Premises;

(5) make any assignment for the benefit of creditors, or admit in writing its insolvency or inability to pay its debts generally as they become due;

D. If within sixty (60) days after the commencement of any proceeding against Mortgagor or a shareholder of Mortgagor seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal, state or other bankruptcy act or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment of any trustee, receiver or liquidator of Mortgagor or any shareholder thereof (without the consent or acquiescence of Mortgagor or any said shareholder) of all or any substantial part of properties of such shareholder, or any

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

of the Mortgaged Premises, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within thirty (30) days after the expiration of any such stay, such appointment shall not have been vacated;

E. If a lien in excess of Ten Thousand Dollars (\$10,000.00), for the performance of work or the supply of materials, fixtures or articles be filed against the Mortgaged Premises, or any portion thereof, and remains filed and not fully satisfied and released (or bonded or insured over by a bonding company or title insurer satisfactory to Mortgagee) for a period of thirty (30) days after the date of filing thereof;

F. If the Mortgaged Premises shall be abandoned;

If any one or more of the foregoing Events of Default shall occur, then Mortgagee shall have the right, but not the obligation, to exercise any one or more of the following rights and remedies, at any time and from time to time, singularly, successively or together, as Mortgagee in its sole discretion from time to time may determine:

(1) Without further notice, Mortgagee may declare all indebtedness secured hereby, including, without limitation, the whole of the principal amount remaining unpaid on the Note, together with all interest accrued thereon, to be immediately due and payable, whereupon all of the foregoing shall become and be immediately due and payable, and may be recovered at once, whether or not such default be thereafter remedied by Mortgagor.

(2) Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder by either or both:

(i) any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or

(ii) the foreclosure of this Mortgage

(3) Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard to the solvency or insolvency of Mortgagor or its beneficiaries or the then value of the Mortgaged Premises, be entitled to have a receiver appointed of all or any part of the Mortgaged Premises and the rents, issues and profits thereof, as provided herein, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment.

(4) Mortgagee may cure any default of Mortgagor, take possession of the Mortgaged Premises, and collect the avails, rents issues and profits of the Mortgaged Premises, all as set forth in Paragraph 9 hereof.

(5) Mortgagee may exercise any other rights, powers and remedies provided by any one or more of this Mortgage, the Note, and any one or more of any other collateral or documents securing all or any part of the indebtedness secured hereby.

(6) Mortgagee may exercise any other rights, powers and remedies provided by law or in equity.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

9. MORTGAGEE MAY CURE DEFAULTS OF MORTGAGOR, MORTGAGEE MAY TAKE POSSESSION OF THE PREMISES. Without limitation of any other provisions of this Mortgage:

A. If Mortgagor shall fail to pay any Impositions described in Paragraph 2 hereof or to make any other payment required to be made by Mortgagor under this Mortgage, at the time and in the manner provided in this Mortgage, or if Mortgagor shall be in default in the performance or observance of any other agreement, obligation, term, provision or condition required to be performed or observed by Mortgagor under this Mortgage, then, upon expiration of the applicable cure period, without limiting the generality of any other provision of this Mortgage, and without waiving or releasing Mortgagor from any of its agreements and obligations hereunder, Mortgagee shall have the right, but shall be under no obligation, to:

- (1) pay any of such Impositions (including, without limitation, any penalties or interest thereon) or other payment (receipt of the proper recipient being conclusive evidence of the payment, amount and validity thereof), and
- (2) perform any other act or take such action as may be appropriate to cause such other agreement, obligation, term, provision or condition to be promptly performed or observed on behalf of Mortgagor.

Mortgagee and any person designated by Mortgagee shall have, and is hereby granted, the right to enter upon and take possession of the Mortgaged Premises, or any part thereof, at any time and from time to time for the purpose of performing any such act or taking any such action whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder. Without limiting the foregoing, whenever pursuant to the foregoing, Mortgagee desires to enter upon and take possession of the Mortgaged Premises, then upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Mortgaged Premises, or any part thereof, personally or by its agent or attorneys, as in condition broken and Mortgagee in its discretion may enter upon and take and maintain possession of all or any part of the records, papers, and accounts of the Mortgagor or the then owner of the Mortgaged Premises relating thereto, and may exclude the Mortgagor, its agents, or servants, wholly therefrom, and may as attorney in fact or agent of the Mortgagor, or in its own name as Mortgagee and under the powers herein granted, take any one or more of the following actions:

- (3) hold, operate, manage, and control the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Mortgaged Premises including actions for recovery of rent, actions in forcible detainer and actions in distress for rent, Mortgagor hereby granting to Mortgagee full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to the Mortgagor;
- (4) cancel or terminate any leases or subleases for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (5) elect to disaffirm any lease or sublease made subsequent to this Mortgage or subordinated to the lien hereof;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(6) extend or modify any then existing leases and make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or any such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Mortgaged Premises are subject to the lien hereof and shall be binding also upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;

(7) make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the Mortgaged Premises as to Mortgagor may seem commercially reasonable;

(8) insure and reinsure the Mortgaged Premises and all risks incidental to Mortgagor's possession, operation and management thereof; and,

(9) receive all avails, rents, issues, and profits. All sums expended by Mortgagee in connection with such exercise by Mortgagee of any or all of its rights and remedies pursuant to this Paragraph 9, including without limitation legal expenses and disbursements, shall become immediately due and payable by Mortgagor with interest as described in the Note hereon until paid, and shall be secured by this Mortgage, and Mortgagee shall have, in addition to any other right or remedy of Mortgagee, the same rights and remedies in the event of non payment of any such sums by Mortgagor as in the case of a default by Mortgagor in the payment of indebtedness evidenced by the Note.

B. Any avails, rents, issues and profits of the Mortgaged Premises received by Mortgagee after having possession of the Mortgaged Premises, or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage, shall be applied in payment of or on account of the following, in such order as Mortgagee may determine:

(1) to the payment of the operating expenses of the Mortgaged Premises, including reasonable compensation to Mortgagee and its agent or agents, if management of the Mortgaged Premises has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(2) to the payment of impositions now due or which may hereafter become due on the Mortgaged Premises, or which may become a lien prior to the lien of this Mortgage;

(3) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Mortgaged Premises, including, without limitation, the cost from time to time of installing or replacing such fixtures, furnishings and equipment therein, and of placing the Mortgaged Premises in such condition as will, in the judgment of Mortgagee or receiver, make it readily rentable;

(4) to the payment of any indebtedness secured hereby, or any deficiency which may result from any foreclosure sale;

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(5) any overplus or remaining funds and other sums to Mortgagor, its successors, or assigns, as their rights may appear.

10. FORECLOSURE; FEES AND EXPENSES; DISTRIBUTION OF PROCEEDS OF FORECLOSURE SALE.

A. When the indebtedness secured hereby or any part thereof shall become due and payable, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness secured hereby, or part thereof. Without limitation of any other provisions of this Mortgage, if Mortgagee shall incur or expend any sums, including without limitation reasonable attorneys' fees, whether in connection with any action or proceeding or not, to sustain the lien of this Mortgage or its priority, or to protect or enforce any of the Mortgagee's rights hereunder, or to recover any indebtedness secured hereby (including without limitation any foreclosure proceeding), all such sums shall become immediately due and payable by Mortgagor with interest thereon as described in the Note hereof. All such sums shall be secured by this Mortgage and be a lien on the Mortgaged Premises prior to any right, title, interest, or claim, in, to, or upon the Mortgaged Premises attaching or accruing subsequent to the lien of this Mortgage. Without limitation of the generality of the foregoing, in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness secured hereby in the decree for sale all costs and expenses which may be paid or incurred by or on behalf of Mortgagee or holders of the Note for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the Mortgaged Premises, stenographer's charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, guarantee policies and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the Mortgaged Premises or for any other reasonable purpose. The amount of any such costs and expenses which may be paid or incurred after the decree for sale is entered may be estimated and the amount of such estimate may be allowed and included as additional indebtedness secured hereby in the decree for sale.

B. The proceeds of any foreclosure sale of the Mortgaged Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure or other proceedings; second, to all other items which, under the terms hereof, constitute indebtedness secured hereby in addition to that evidenced by the Note, with interest on such items as herein provided; third, to interest remaining unpaid upon the Note; fourth, to the principal remaining unpaid upon the Note; fifth, any overplus to the Mortgagor, its successors or assigns, as their rights may appear.

C. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings and the balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the Mortgagee's clause attached to each of the casualty insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable pursuant to said decree, pursuant to the statutes in each such case made and provided, then in every such case, each and every successive redemtor may cause the preceding loss clause attached to each casualty insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemtor. Upon any foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the said insurance policies without credit or allowance to Mortgagor for prepaid premiums thereon.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

11. **APPOINTMENT OF RECEIVER.** Upon or at any time after the filing of a suit or bill to foreclose this Mortgage, or as otherwise provided by Paragraph 8 hereof, Mortgagee may make application, and the court in which such suit or bill is filed may appoint a receiver of the Mortgaged Premises. Such appointment may be made either before or after sale, with notice, without regard to the solvency or insolvency at the time of application for such receiver of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the Mortgaged Premises whether the same shall then be occupied as a homestead or not and Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, sales proceeds, issues, profits and proceeds of the Mortgaged Premises during the pendency of such foreclosure suit, as well as during any further times when Mortgagor, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, sales proceeds, issues, proceeds 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 Mortgaged 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: (a) the indebtedness secured hereby or by any decree foreclosing this Mortgage, or any tax, special assessment or previous calendar year certified by such persons and entities and in such form, substance and execution as may be acceptable to Mortgagee. Upon request, Mortgagor will furnish to Mortgagee such interim financial statements as Mortgagee may request, covering periods submitted at such times, certified by such persons or entities and in such form, substance and execution as may be acceptable to Mortgagee.

12. **MORTGAGEE'S EXERCISE OF RIGHTS AND REMEDIES; WAIVER.** If Mortgagee:

- A. grants any extension of time or forbearance with respect to the payment of any of the indebtedness secured hereby;
- B. takes other or additional security for the payment thereof;
- C. waives or fails to exercise any right granted herein or under the Note;
- D. grants any release, with or without consideration of the whole of any part of the security held for the payment of the indebtedness secured hereby;
- E. amends or modifies in any respect with the consent of Mortgagor any of the agreements, obligations, terms, provisions and conditions hereof or of the Note;
- F. consents, with Mortgagor's approval, to the filing of any map, plat, replat or condominium declaration affecting all or any part of the Mortgaged Premises;
- G. consents, with Mortgagor's approval, to the granting of any easement or other right affecting all or any part of the Mortgaged Premises; or
- H. makes or consents to any agreement subordinating the lien hereof,

then and in any such event, such act or omission to act shall not release, discharge, modify, change or affect (except to the extent of changes referred to in clause (e) above) the liability under this Mortgage or the Note, or any guaranty, and any such act or omission to act shall not release Mortgagor, or any makers, sureties, or guarantors of this Mortgage or of the Note or of any guaranty, under any agreement, obligation, term, provision or condition of this Mortgage or of the Note, or of any additional collateral or of any guaranty, nor preclude Mortgagee from exercising any right, power, or privilege herein granted or intended to be granted upon the occurrence of an Event of Default or otherwise, and any such act or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

omission to act shall not in any way impair or affect the lien or priority of this Mortgage. No right or remedy of Mortgagee shall be exclusive of, but shall be in addition to every other right or remedy now or hereafter existing at law or in equity. No delay in exercising, or omission to exercise, any right or remedy accruing on any default shall impair any such right or remedy, or shall be construed to be a waiver of any such right or remedy or acquiescence in such default, nor shall it affect any rights and remedies of Mortgagee arising under the agreements, obligations, terms, provisions and conditions contained in this Mortgage and the Note shall be separate, distinct and cumulative and none of them shall be in exclusion of the others and no act of Mortgagee shall be construed as an election to proceed under any of the provisions herein or in such other documents to the exclusion of any other provision, anything herein or otherwise to the contrary notwithstanding, and every such right or remedy may be exercised concurrently or independently, and when and as often as Mortgagee in its sole discretion may determine. A waiver in one or more instances of any of the agreements, obligations, terms, provisions or conditions hereof or of the Note or any guaranty shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver, but all of the agreements, obligations, terms, provisions and conditions of this Mortgagee and of such other documents shall survive and continue to remain in full force and effect.

13. **EFFECTS OF CHANGES IN LAWS REGARDING TAXATION.** In the event of the passage after the date of this Mortgage of any statute, ordinance or court decree deducting or having the effect of deducting from the value of real property for purposes of taxation, imposing any lien thereon, or changing in any way the laws in force for the taxation of mortgages or debts secured thereby, for federal, state or local purposes, or the manner of the collections of any such taxes, or imposing upon Mortgagee the payment of the whole or any part of the impositions or liens herein required to be paid by Mortgagor, so as to affect this Mortgage, or the indebtedness secured hereby, or the interest of Mortgagee hereunder, then Mortgagor, upon demand of Mortgagee shall pay same and upon failure of Mortgagor to so pay same the whole of the principal sum secured by this Mortgage, with interest and charges, if any, thereon, shall, at the option of Mortgagee, become immediately due, payable and collectible without further notice or demand.

14. **RELEASE AND WAIVER OF HOMESTEAD AND EQUITY OF REDEMPTION.** Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension of law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. Mortgagor hereby expressly releases and waives any and all rights under and by virtue of the homestead exemption laws of the state in which the Mortgaged Premises are located, all rights to retain possession of the Mortgaged Premises after an Event of Default, and any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage or under any sale or statute or order, decree, or judgment of any court, on behalf of itself and each and every person acquiring any interest in or title to the Mortgaged Premises or any portion thereof subsequent to the date hereof, except decree and judgment creditors of Mortgagor. Mortgagor will not hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, or invoke or utilize any law or laws which will accomplish same, but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been made or enacted.

15. **USE OF PROCEEDS.** Mortgagor represents and agrees that the principal obligation secured hereby constitutes a business loan not subject to any usury laws.

07000150

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

16. **ASSIGNMENT OF LEASES AND RENTS.** To further secure the indebtedness secured hereby, Mortgagor does hereby assign and transfer to Mortgagee all rights, title and interest of Mortgagor or the landlord in and to any and all existing and future leases of all or any part of the Mortgaged Premises, together with all of the rents, income, receipts, revenues, issues and profits due from or due or arising out of the Mortgaged Premises. Mortgagor does hereby appoint, irrevocably, Mortgagee its true and lawful attorney in its name and stead with or without taking possession of the Mortgaged Premises to rent, lease or let all or any portion of the Mortgaged Premises to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all said rents, income, receipts, revenues, issues and profits arising from or accruing at any time hereafter. Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability of landlord under any lease of the Mortgaged Premises, and Mortgagor does hereby indemnify, protect, defend and hold Mortgagee harmless from and against any and all liabilities, losses, damages, claims, demands, costs, expenses and fees which Mortgagee may or might incur under any lease of the Mortgaged Premises or by reason of this assignment. Although it is the intention of the parties that the assignment contained in this paragraph shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until and unless one or more of the Events of Default set forth herein shall have occurred.

17. **TIME OF ESSENCE.** Time is of the essence of this Mortgage and of the performance by Mortgagor of its obligations hereunder.

18. **INVALIDITY.** Nothing herein or in the Note contained nor any transaction related thereto shall be construed or shall so operate, either presently or prospectively:

A. to require Mortgagor to pay interest at a rate greater than is at any time lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate, or

B. to require Mortgagor to make any payment or do any act contrary to law.

Any provision or provisions of this Mortgage which are unenforceable, invalid or contrary to law, or the inclusion of which would affect the validity or enforceability of this Mortgage, shall be of no force or effect, and in such event each and all of the remaining provisions of this Mortgage shall subsist and remain and be fully effective according to the tenor of this Mortgage the same as though any such invalid, unenforceable or unlawful provision or provisions had never been included in this Mortgage. If it should be held that the interest payable under the Note or otherwise is in excess of the maximum permitted by law, the interest chargeable thereunder (whether included in the face amount or otherwise) shall be reduced to the maximum amount permitted by law, and any excess of the said maximum amount permitted by law shall be cancelled automatically and, at the option of the Mortgagee, if theretofore or thereafter paid, shall be either refunded to the maker or credited to the principal balance of the Note and applied to the payment of the last maturing installment or installments of the indebtedness secured hereby (whether or not then due and payable) and not to the payment of interest.

19. **IMPAIRMENT OF SECURITY.** Without limitation of any other provision of this Mortgage, Mortgagor will not assign or permit the assignment of, in whole or in part, the rents, income, profit or contract rights or sales or other proceeds arising from the Mortgaged Premises without the prior written consent of Mortgagee; and such assignment made without Mortgagee's prior written consent shall be null and void and of no force and effect and the making thereof shall at the option of Mortgagee constitute a default under this Mortgage. Without limitation of the foregoing, Mortgagor will not in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby, it being

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

understood that any such impairment shall at the option of Mortgagee also constitute a default hereunder.

20. **WAIVER OF DEFENSE.** No action for the enforcement of the lien hereof or of any provision hereof shall be subject to any defense which would not be good and valid to the party interposing same in an action at law upon the Note.

21. **INSPECTION OF MORTGAGED PREMISES.** Mortgagor shall permit Mortgagee or its agents to inspect the Mortgaged Premises from time to time at normal business hours and as frequently as Mortgagee considers reasonable.

22. **UNIFORM COMMERCIAL CODE.** Without limitation of any other provision of this Mortgage, this Mortgage constitutes a Security Agreement under the Uniform Commercial Code of the state where the Mortgaged Premises are located (herein called the "Code") with respect to any part of the Mortgaged Premises which may or might now or hereafter be or be deemed to be personal property, fixtures or property other than real estate owned by Mortgagor for the purposes of this paragraph ("Collateral"); and Mortgagor hereby grants to Mortgagee a security interest in such Collateral; all of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Mortgaged Premises; and the following provisions of this paragraph shall not limit the generality or applicability of any other provisions of this Mortgage but shall be in addition thereto:

A. Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof.

B. The Collateral is to be used by Mortgagor solely for business purposes, being installed upon the Mortgaged Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Mortgaged Premises.

C. The Collateral will be kept at the real estate comprised within the Mortgaged Premises, and will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code) or any other person and the Collateral may be affixed to such real estate but will not be affixed to any other real estate.

D. The only persons having any interest in the Mortgaged Premises are Mortgagor and its permitted tenants and users thereof.

E. No Financing Statements covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor will at its own cost and expense, upon demand, furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts and things as Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the indebtedness secured hereby, subject to no adverse liens or encumbrances and Mortgagor will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be necessary or desirable.

F. Upon any Event of Default hereunder and at any time thereafter (such default not having previously been cured), Mortgagee at its option may declare the indebtedness secured hereby

67082159

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

immediately due and payable, and thereupon Mortgagee shall have the remedies of a secured party under the Code, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace), upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Mortgaged Premises. Mortgagee may require the Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least fifteen (15) business days notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified mail or equivalent, postage prepaid, to the address of Mortgagor shown in Paragraph 23 (B) of this Mortgage at least fifteen (15) business days before the time of the sale or disposition. Mortgagee may buy at any public sale and if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may buy at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the Real Estate of which the Mortgaged Premises are a part, the Collateral and Real Estate to be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorney's fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the indebtedness secured hereby. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

G. The remedies of Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of the Mortgagee, including having the Collateral deemed part of the Real Estate upon any foreclosure thereof so long as any part of the indebtedness secured hereby remains unsatisfied.

H. The terms and provisions contained in this Paragraph 22 hereof shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

I. This Mortgage is intended to be a financing statement within the purview of Section 9-402(6) and other appropriate sections of the Code with respect to the Collateral and the goods described at the beginning of this Mortgage which goods are or are to become fixtures relating to the Mortgaged Premises. The addresses of the Mortgagor (Debtor and Mortgagee (Secured Party)) are set forth in Paragraph 23 (B) of this Mortgage. This Mortgage is to be filed for record with the Recorder of Deeds of the county or counties where the Mortgaged Premises are located. Mortgagor is the record owner of the Mortgaged Premises.

23. MISCELLANEOUS.

A. No change, amendment, modification, cancellation or discharge hereof, or any part hereof, shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

B. All notices, demands and requests given or required to be served by either party hereto to the other party shall be in writing. All such notices, demands and requests by Mortgagee to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Mortgagor shall be deemed to have been properly served if delivered in person or if sent by United States registered or certified mail, postage prepaid, addressed to Mortgagor at:

c/o **JAGDISH J. PATEL**
10035 Redbud Road
Munster, Indiana 46321

or to such other address in Illinois as Mortgagor may from time to time designate in written notice to Mortgagee given as herein required. All notices, demands and requests by Mortgagor to Mortgagee shall be deemed to have been properly served if delivered in person or if sent by United States registered or certified mail, postage prepaid, addressed to Mortgagee at:

c/o **DAVID SHRYOCK**
7054 South Jeffery Boulevard
Chicago, Illinois 60649

or to such other address as Mortgagee from time to time may designate by written notice to Mortgagor given as herein required.

Notices, demands and requests given in the manner aforesaid shall be deemed delivered or served for all purposes hereunder at the time such notice, demand or request shall be delivered or on the date shown on the return receipt, as the case may be.

C. Whenever used in this instrument, unless the context shall otherwise clearly require, the term "Mortgagor" shall include the legal representatives, successors and assigns, as the case may be, of Mortgagor and all persons claiming by, through or under Mortgagor, the term "Mortgagee" shall include the legal representatives, successors and assigns of Mortgagee; the term "person" shall include any individual, partnership, corporation, joint venture, trust, unincorporated association or government, or any trust, unincorporated association or government, or any agency or political subdivision thereof, or any two (2) or more of the foregoing acting in concert; the singular shall include the plural, and the plural, the singular; the gender uses shall include the other genders.

D. Mortgagor will do, execute, acknowledge and deliver or cause to be done all such further acts, conveyances, notes, mortgages, and assurances as Mortgagee shall reasonably require for accomplishing the purposes of this Mortgage.

E. Subject to and without limitation of the provisions hereof restricting or limiting Mortgagor's rights of assignment and transfer, all of the agreements, obligations, terms, provisions and conditions herein set forth shall be binding upon and inure to the benefit of the Mortgagor and Mortgagee and their respective legal representatives, successors and assigns.

F. If the payment of the indebtedness secured hereby, or any part thereof, be extended or varied, or if any part of the security therefor or any guarantor thereof, be released, all persons now or at any time hereafter liable therefor, or interested in the Mortgaged 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 and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Mortgaged Premises or any interest therein, shall take the said lien subject to the rights of the Mortgagee to amend, modify and supplement this Mortgage, and the Note, and to extend the maturity 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. Notwithstanding the above, or any other provision

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

of this Mortgage, no junior mortgage or lien shall be permitted without the express prior written consent of Mortgagee.

G. Nothing herein contained shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Premises.

H. This Mortgage shall be governed by the laws of the State of Illinois, which laws shall also govern and control the construction, enforceability, validity and interpretation of this Mortgage.

I. All of the covenants hereof shall run with the land.

J. In the event of the voluntary sale, or transfer by operation of law, or otherwise, of all or any part of the Mortgaged Premises, Mortgagee is hereby authorized and empowered to deal with such vendor or transferee with reference to said Mortgaged Premises, or the debt secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might with Mortgagor, without in any way releasing or discharging Mortgagor from the said Mortgagor's covenants and undertakings hereunder, and without Mortgagee waiving its rights to accelerate the Note or declare an Event of Default hereunder as set forth in said Paragraphs 7 and 8 above.

K. The captions and headings of various paragraphs are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

PROVIDED, NEVER THELESS, that if Mortgagor shall pay to Mortgagee the said sums of money described in the Note and the rate of interest thereon, in the manner and at the time mentioned in said Note and any and all other sums which may become payable by Mortgagor hereunder, and shall keep and perform the agreements, obligations, terms, provisions and conditions hereof by Mortgagor to be kept and performed, then this Mortgage and the estate hereby granted shall cease, determine, and be void, and this Mortgage shall thereupon be released by Mortgagee at the cost and expense of Mortgagor (all claims for statutory penalties, in case of Mortgagee's failure to release, being hereby waived).

FRIENDSHIP MOTELS OF HARVEY INC.,
an Illinois corporation

BY: James J. Patel
JAGDISH J. PATEL, President

ATTEST: [Signature]
VIJAY J. PATEL, Secretary

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that on this day personally appeared before me JAGDISH J. PATEL and VIJAY J. PATEL, personally known to me to be the same persons whose names are subscribed to the foregoing instrument and personally known to me to be, respectively, the President and Secretary of FRIENDSHIP MOTELS OF HARVEY INC., and acknowledged that as such President and Secretary, they signed, sealed, and delivered the said instrument, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 28 day of May, 1997.

Christine E. Hayes
NOTARY PUBLIC

my commission expires: 10-14-98



Notary Public of Cook County Clerk's Office

02202150

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

That part of the South 1/4 of the East 702.88 feet of the North 1/2 of the East 1/2 of the Northeast 1/4 of Section 29, Township 36 North, Range 14 East of the Third Principal Meridian, described as follows: beginning at a point on the South line of said South 1/4 at a distance of 83.00 feet West of the East line of said South 1/4; thence West along said South line, 293.30 feet; thence North at right angles, 101.42 feet; thence East at right angles, 37.50 feet; thence North at right angles, 60.00 feet; thence East at right angles, 256.56 feet to said line, 83.00 feet West of the East line of the Northeast 1/4 of Section 29, thence Southerly 161.42 feet to the point of beginning, all in Cook County, Illinois

STREET ADDRESS OF REAL ESTATE

16940 South Halsted, Harvey, Illinois

PERMANENT REAL ESTATE INDEX NUMBER

29-29-201-004

This document prepared by and after recording should be returned to:
Thomas S. Eisner
900 Maple Road
Homewood, Illinois 60430



UNOFFICIAL COPY

Property of Cook County Clerk's Office

DEPT-01 RECORDING 459.50
140011 TRM 7371 05/30/97 13158100
45430 * K/P 4-97-385 152
COOK COUNTY RECORDER

DEPT-01 RECORDING 459.50
140011 TRM 7371 05/30/97 13158100
45430 * K/P 4-97-385 152
COOK COUNTY RECORDER