

PREPARED BY & RETURN TO:  
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#3813 12/05/97 12/22/97 12/29/97 12/29/97

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MORTGAGE

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THIS MORTGAGE is made as of the 30th day of December, 1997, by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee under trust agreement dated April 18, 1957 and known as Trust 12599 (hereinafter referred to as "Mortgagor") and COHEN FINANCIAL CORPORATION, a Delaware corporation (hereinafter referred to as "Mortgagee").

WITNESSETH:

A. Mortgagor has executed and delivered to Mortgagee a Promissory Note in the principal amount of SEVEN MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$7,700,000.00), (which Promissory Note, together with all notes issued and accepted in substitution or exchange therefor, and as any of the foregoing may from time to time be modified or extended, is hereinafter sometimes called the "Note"), which Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on the first day of July 2000, the Note by this reference thereto being incorporated herein; and

B. Mortgagee is desirous of securing the prompt payment of the Note together with interest and prepayment fees, if any, thereon in accordance with the terms of the Note, together with Deferred Interest (as defined in the Note) and interest thereon, and any additional indebtedness accruing to Mortgagee on account of any future payments, advances or expenditures made by Mortgagee pursuant to the Note or this Mortgage and any additional sums with interest thereon which may be loaned to Mortgagor by Mortgagee or advanced under the Loan Documents (as hereinafter defined) (all hereinafter sometimes collectively referred to as the "indebtedness"). A copy of the Note is attached hereto as EXHIBIT A.

NOW, THEREFORE, Mortgagor, to secure payment of the indebtedness and the performance of the covenants and agreements herein contained to be performed by Mortgagor, for

Handwritten notes: "JFD", "Cord Co, R.", "N 970 1833"

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good and valuable consideration in hand paid, the receipt and sufficiency whereof are hereby acknowledged, hereby agrees and covenants that:

I. Granting Clauses Mortgagor hereby irrevocably and absolutely does by these presents grant, mortgage, convey, transfer, assign, bargain, and sell to Mortgagee, its successors and assigns, with all powers of sale (if any) and all statutory rights under the laws of the State of Illinois, all of Mortgagee's present and hereafter acquired estate, right, title and interest in, to and under, and grants to Mortgagee a security interest in, the following:

(a) The real property described in **EXHIBIT B** attached hereto and incorporated herein by this reference, together with all buildings, structures and improvements now or hereafter erected thereupon and together with the fixtures and personal property hereinafter described (which real property, buildings, structures, improvements, fixtures and personal property is hereinafter sometimes referred to as the "Premises"),

(b) All and singular the easements, rights-of-way, licenses, permits, rights of use or occupancy, privileges, tenements, appendages, hereditaments and appurtenances and other rights and privileges thereunto belonging or in any wise appertaining, whether now or in the future, and all the rents, issues and profits therefrom;

(c) All right, title and interest, if any, of Mortgagor, in and to the land lying within any street, alley, avenue, roadway or right-of-way open or proposed or hereafter vacated in front of or adjoining said Premises; and all right, title and interest, if any, of Mortgagor in and to any strips and gores adjoining said Premises;

(d) All machinery, apparatus, equipment, goods, systems, building materials, carpeting, furnishings, fixtures and property of every kind and nature whatsoever, now or hereafter located in or upon or affixed to the said Premises, or any part thereof, or used or usable in connection with any construction on or any present or future operation of said Premises, now owned or hereafter acquired by Mortgagor, including, but without limitation of the generality of the foregoing: all heating, lighting, refrigerating, ventilating, air-conditioning, air-cooling, fire extinguishing, plumbing, cleaning, communications and power equipment, systems and apparatus; all stoves, ranges, refrigerators, garbage disposals; and all elevators, switchboards, motors, pumps, screens, awnings, floor coverings, cabinets, partitions, conduits, ducts and compressors; and all cranes and craneways, oil storage, sprinkler/fire protection and water service equipment; and also including any of such property stored on said Premises or in warehouses and intended to be used in connection with or incorporated into said Premises; it being understood and agreed that all such machinery, equipment, apparatus, goods, systems, fixtures, and property are a part of the 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 said real estate or not), excluding, however, personal property and trade fixtures owned by tenants of the Premises; and

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(e) All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Premises and any part thereof or respecting any business or activity conducted on the Premises and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including without limitation, the right, while any default remains uncured, to receive and collect any sums payable to Mortgagor thereunder; and

(f) All trade names, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Premises; and

(g) Subject to Paragraphs 8 and 20 hereof, any and all awards, payments or insurance proceeds, including interest thereon, and the right to receive the same, which may be paid or payable with respect to the Premises as a result of:

(1) the exercise of the right of eminent domain; or

(2) the alteration of the grade of any street; or

(3) any fire, casualty, accident, damage or other injury to or decrease in the value of the Premises, to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award or payment by Mortgagee, and of the reasonable counsel fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment. Mortgagor agrees to execute and deliver, from time to time, such further instruments as may be requested by Mortgagee to confirm such assignment to Mortgagee of any such award or payment.

TO HAVE AND TO HOLD the Premises with all rights, privileges and appurtenances thereunto belonging, and all rents, issues and profits therefrom, unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein expressed.

## **THIS MORTGAGE IS GIVEN TO SECURE:**

(i) payment of the indebtedness;

(ii) payment of such additional sums with interest thereon which may hereafter be loaned to Mortgagor by Mortgagee or advanced under the Loan Documents, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note (provided, however, that the indebtedness secured hereby shall in no event exceed an amount equal to three hundred percent (300%) of the face amount of the Note); and

(iii) the due, prompt and complete performance of each and every

covenant, condition and agreement contained in this Mortgage, the Note, and every other agreement, document and instrument to which reference is expressly made in this Mortgage or which at any time evidences or secures the indebtedness evidenced by the Note (this Mortgage, the Note and all such other instruments are hereinafter sometimes collectively referred to as the "Loan Documents").

2. A Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, etc. Mortgagor shall:

(a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Premises which may become damaged or be destroyed, such buildings or improvements to be of at least equal value and substantially the same character as prior to such damage or destruction;

(b) keep said Premises in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien (except the lien of current general taxes duly levied and assessed but not yet due and payable);

(c) immediately pay when due any indebtedness which may be secured by a lien or charge on the Premises (no such lien, except for current general taxes duly levied and assessed but not yet payable and the First Mortgage (as defined in Section 35 hereof), to be permitted hereunder), and upon request exhibit satisfactory evidence of the discharge of such lien to Mortgagee;

(d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said Premises;

(e) comply with all requirements of law (including, without limitation, pollution control and environmental protection laws), ordinance or other governmental regulation in effect from time to time affecting the Premises and the use thereof, and covenants, easements and restrictions of record with respect to the Premises and the use thereof,

(f) except for non-structural leasehold improvements, which Mortgagor may make in connection with the leasing of the Premises, make no single Alterations in said Premises that will cost in excess of Fifty Thousand and No/100 Dollars (\$50,000.00),

(g) suffer or permit no change in the general nature of the occupancy of the Premises, without Mortgagee's written consent;

(h) initiate or acquiesce in no zoning reclassification or variance without Mortgagee's written consent; and

(i) not cause or permit any non-conforming use to be discontinued or abandoned if, under applicable zoning provisions, the use of all or any portion of the Premises shall become a non-conforming use, and

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(j) not permit its Beneficiary to change its corporate, partnership or other structure without notifying Mortgagee of such change in writing and without first obtaining the prior written consent of Mortgagee; and

(k) not permit its Beneficiary to: (i) engage in business other than owning the beneficial interest in Mortgagor and operating the Premises, (ii) acquire or own any asset other than the beneficial interest in Mortgagor and incidental personal property, (iii) fail to hold itself out to the public as a separate legal entity, (iv) fail to conduct business solely in its name, and (v) file or consent to a petition under any applicable bankruptcy, insolvency, liquidation or organization statute or make an assignment for the benefit of creditors; and

(l) pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or of said Note and acceptance by Mortgagee of any payment in an amount less than the amount then due shall be deemed an acceptance on account only and the failure to pay the entire amount then due shall be and continue to be a default hereunder.

2. B. Right of Contest Lien and Taxes. Notwithstanding anything contained herein to the contrary, Mortgagor may in good faith and with diligence contest the validity or amount of any tax lien or mechanic's lien and defer payment and discharge thereof during the pendency of such contest, provided: (i) that Mortgagor is not in default following the expiration of any applicable cure or grace period hereunder; (ii) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such tax lien or mechanic's lien; (iii) that within ten (10) days after Mortgagor has received its tax bill, but in no event later than twenty (20) days before said taxes are due and payable, and within ten (10) days after Mortgagor has been notified of the filing of such mechanic's lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such taxes or mechanic's lien; and (iv) that Mortgagor shall have obtained a title insurance endorsement over such tax lien or mechanic's lien from the title insurance company that has insured the lien of this Mortgage insuring Mortgagee against loss or damage by reason of the existence of such tax lien or mechanic's lien or Mortgagor shall have deposited or caused to be deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the place of payment designated in the Note, a sum of money which will be sufficient in the judgment of Mortgagee to pay in full such tax lien or mechanic's lien and all interest which might become due thereon and all other fees, costs and expenses incurred by Mortgagee in respect to any such tax lien or mechanic's lien, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest, fees, costs and expenses whenever, in the judgment of Mortgagee, such increase is advisable. Such deposits are to be held without any allowance of interest and need not be kept separate and apart from other funds of Mortgagee.

In case Mortgagor shall fail to maintain or cause to be maintained sufficient funds on deposit as hereinafter provided, shall fail to prosecute such contest or cause such contest to be prosecuted with reasonable diligence or shall fail to pay or cause to be paid the amount of the tax lien or

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mechanic's lien plus any interest finally determined to be due upon the conclusion of such contest, Mortgagee may, at its option, apply the money so deposited in payment of or in account of such tax lien or mechanic's lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such tax lien or mechanic's lien, together with all interest thereon and other fees, costs and expenses incurred by Mortgagee in respect to any such tax lien or mechanic's lien, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make payment in full. In the event the contest of the tax lien or mechanic's lien claim is ultimately resolved in favor of the claimant, Mortgagee shall apply the money so deposited in full payment of such tax lien or mechanic's lien or that part thereof then unpaid, together with all interest thereon (provided Mortgagor is not then in default hereunder) when furnished with evidence satisfactory to Mortgagee of the amount of payment to be made. Any surplus remaining in the control of Mortgagee including interest earned shall be paid to Mortgagor, provided Mortgagor is not then in default hereunder.

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3. Payment of Taxes. Mortgagor shall pay before any penalty or interest attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor.

4. Tax Deposits. Mortgagor covenants and agrees to deposit with such depository as the Mortgagee from time to time may in writing appoint, and in the absence of such appointment, then at the office of Cohen Financial Corporation in Chicago, Illinois, commencing on the date of disbursement of the loan secured hereby and on the first day of each month following the month in which said disbursement occurred until the indebtedness secured by this Mortgage is fully paid, a sum equal to one-twelfth (1/12th) of the last total annual taxes and assessments for the last ascertainable year (general and special) on said Premises (unless said taxes are based upon assessments which exclude the improvements or any part thereof now constructed or to be constructed, in which event the amount of such deposits shall be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed). Such deposits are to be held with an allowance of interest at the American National Bank and Trust Company of Chicago's money market rate and are to be used for the payment of taxes and assessments (general and special) on said Premises next due and payable when they become due. Upon demand by such depository, Mortgagor shall deliver and pay over to such (repository from time to time such additional sums or such additional security as are necessary to make up any deficiency in the amount necessary to enable such depository to fully pay any of the items hereinabove mentioned as they become payable. If the funds so deposited exceed the amount required to pay such items hereinabove mentioned for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee or such depository.

If any such taxes or assessments (general or special) shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessments shall also be a levy, charge, assessment or imposition upon or for any other premises not covered by

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the lien of this Mortgage, then the computation of any amount to be deposited under this Paragraph 4 shall be based upon the entire amount of such taxes or assessments, and Mortgagor shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation.

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5. Mortgagee's Interest In and Use of Deposits. In the event of a default in any of the provisions contained in this Mortgage or the Note secured hereby or any of the other Loan Documents, and following the expiration of any applicable grace or cure period, the Mortgagee may at its option, without being required to do so, apply any monies at the time on deposit pursuant to Paragraphs 4 and 7 hereof, on any of Mortgagor's obligations herein or in said Note or any of the other Loan Documents contained, in such order and manner as the Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor or to the then owner or owners of the Premises. A security interest within the meaning of the Illinois State Uniform Commercial Code is hereby granted to the Mortgagee in and to any monies at any time on deposit pursuant to Paragraphs 4 and 7 hereof and such monies and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, all as additional security for the indebtedness hereunder and shall in the absence of default hereunder be applied by the depository for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagor; provided, however, that neither the Mortgagee nor said depository shall be liable for any failure to apply to the payment of taxes and assessments and insurance premiums any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested Mortgagee or said depository in writing to make application of such funds to the payment of the particular taxes and assessments and insurance premiums for payment of which they were deposited, accompanied by the bills for such taxes and assessments and insurance premiums. Neither Mortgagee nor any depository hereunder shall be liable for any act or omission taken in good faith or pursuant to the instruction of any party but only for its gross negligence or willful misconduct.

6. Insurance. Until the indebtedness secured hereby is fully paid, all buildings and improvements upon the Premises and all fixtures, equipment and property therein contained or installed shall be kept unceasingly insured against loss and damage by such Hazards, casualties and contingencies in such amounts and for such periods as may from time to time be required by Mortgagee. All insurance shall be written in policies and by insurance companies approved by Mortgagee. All policies of insurance and renewals thereof shall contain standard non-contributory mortgagee clauses as required by Mortgagee or loss payable clauses to the Mortgagee as required by Mortgagee or naming the Mortgagee as an additional insured all as required by Mortgagee and shall provide for at least 30 days prior written notice of cancellation to Mortgagee without cost to the Mortgagee as well as a waiver of subrogation endorsement and such other endorsements as Mortgagee shall require. All policies of insurance and renewals thereof shall contain such further endorsements as the Mortgagee may require, in form and content acceptable to the Mortgagee. Without limiting the generality of the foregoing, all policies of insurance shall contain clauses or endorsements to the effect that no act or negligence of Mortgagor or its beneficiary, or anyone acting for Mortgagor or its beneficiary, or of any tenant under any lease or other occupant, or

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failure to comply with the provisions of any policy which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way effect the validity or enforceability of the insurance insofar as Mortgagee is concerned. At Mortgagee's option all policies shall, with all premiums fully paid, be delivered to Mortgagee as issued at least thirty (30) days before the expiration of old policies and shall be held by Mortgagee until all sums hereby secured are fully paid. Upon request by Mortgagee, Mortgagor shall furnish Mortgagee evidence of the replacement cost of the Premises without cost to the Mortgagee. In case of sale pursuant to a foreclosure of this Mortgage or other transfer of title to the Premises and extinguishment of the indebtedness secured hereby, complete title to all policies held by Mortgagee and to all prepaid or unearned premiums thereon shall pass to and vest in the purchaser or grantee. Mortgagee shall not by reason of accepting, rejecting, approving or obtaining insurance incur any liability for payment of losses.

Without in any way limiting the generality of the foregoing, Mortgagor covenants and agrees to maintain insurance coverage on the Premises to include: (i) all risk coverage insurance (including vandalism and malicious mischief for an amount equal to not less than ninety percent (90%) of the full replacement cost of the improvements and fixtures located on the Premises owned by Mortgagor, written on a replacement cost basis and with a replacement cost endorsement (without depreciation) and an agreed amount endorsement pertaining to the co-insurance clause. If at any time a dispute arises with respect to replacement cost, Mortgagor agrees to provide at Mortgagor's expense, an insurance appraisal prepared by an insurance appraiser approved by Mortgagee, establishing the full replacement cost in a manner satisfactory to the insurance carrier; (ii) rent loss insurance insuring against loss arising out of the perils insured against in the policy or policies referred to in Subsection (i) above, in an amount equal to not less than gross revenue from the premises for six (6) months from the operation and rental of all improvements now or hereafter forming part of the Premises, based upon one hundred percent (100%) occupancy of such improvements, less any allocable charges and expenses which do not continue during the period of restoration [All insurance proceeds payable to Mortgagee pursuant to this subsection shall be held by Mortgagee and shall be applied to the indebtedness and other obligations from time to time due and payable under this Mortgage and the Note; provided, however, that nothing herein contained shall be deemed to relieve Mortgagor of its obligations to pay the indebtedness and the other obligations secured by this Mortgage on the respective dates of payment provided for in the Note except to the extent such amounts are actually paid out of the proceeds of such rent loss insurance; (iii) comprehensive general public liability and property damage insurance with a broad form coverage endorsement for an amount as reasonably required from time to time by the Mortgagee but not less than an aggregate amount of Two Million Dollars (\$2,000,000.00) per location and an occurrence limit of not less than Two Million Dollars (\$2,000,000.00) combined single limit; (iv) flood insurance whenever such protection is necessary and is available; (v) insurance covering pressure vessels, pressure piping and machinery, if any, and all major components of any centralized heating or air-conditioning systems located in the buildings and improvements forming part of the Premises, satisfactory to Mortgagee, such policies also to insure against physical damage to such buildings and improvements arising out of peril

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covered thereunder; (vi) such other insurance that may be reasonably required from time to time by Mortgagee.

Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder.

The insurance required under this Paragraph 6 may be effectuated by so called blanket insurance coverage wherein more than one property location is insured.

7. **Insurance Premium Deposits** It is further covenanted and agreed that for the purpose of providing funds with which to pay the premiums as the same become due on the policies of insurance as herein covenanted to be furnished by the Mortgagor, Mortgagor shall deposit with Mortgagee or the depository referred to in paragraph 4 hereof on the date of disbursement of the proceeds of the loan secured hereby and on the first day of each month following the month in which said disbursement occurred, an amount equal to the premiums that will next become due and payable on such policies less any amount then on deposit with the Mortgagee or such depository divided by the number of months to elapse prior to the date when such premiums become delinquent. Such deposits are to be held with an allowance of interest at the American National Bank and Trust Company of Chicago's money market rate and said deposits need not be kept separate and apart from any other funds of the Mortgagee or such depository.

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8. **Adjustment of Losses with Insurer and Application of Proceeds of Insurance**  
In case of loss or damage by fire or other casualty, Mortgagor shall immediately give Mortgagee and the insurance companies that have insured against such risks, notice of such loss or damage; and Mortgagee is authorized:

a. to settle and adjust any claim under insurance policies which insure against such risks; or

b. to allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, Mortgagee is authorized to collect and receipt for any such insurance money. Such insurance proceeds, after deducting therefrom any expenses incurred in the collection thereof, may, at the option of the Mortgagee, be applied in the reduction of the indebtedness secured hereby, whether due or not, in such order as Mortgagee shall determine, or be held by the Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said Premises. In the event that the Mortgagee elects to make said proceeds available to reimburse Mortgagor for the cost of the rebuilding or restoration of the buildings or improvements on said Premises, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require. Regardless of whether Mortgagee makes insurance proceeds available to reimburse Mortgagor for the cost of the rebuilding or restoration of the buildings or improvements, the buildings and improvements shall be so restored or rebuilt so as to be of at least equal value and substantially

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the same character as prior to such damage or destruction. If the cost of rebuilding, repairing or restoring the buildings and improvements can reasonably exceed the sum of Fifty Thousand and No/100 (\$50,000.00) Dollars, then the Mortgagee shall approve plans and specifications of such work before such work shall be commenced. If the proceeds are made available by the Mortgagee to reimburse the Mortgagor for the cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of such cost of rebuilding or restoration shall, at the option of the Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any party entitled thereto and under the conditions that the Mortgagee may require. No interest shall be allowed to Mortgagor on any proceeds of insurance held by the Mortgagee.

9. Stamp Tax. If, by the laws of the United States of America, or of any state having jurisdiction over the Mortgagor, any tax is due or becomes due in respect of the issuance of the Note hereby secured, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to reimburse the Mortgagee for any sums which Mortgagee may expend by reason of the imposition of any tax on the issuance of the Note secured hereby.

10. Observance of Lease Assignment. As additional security for the performance of the Note secured hereby and for the faithful performance of the terms and conditions contained herein, Mortgagor, as landlord, has assigned to the Mortgagee all of its right, title and interest as landlord in and to all present and future leases of the Premises, and the rents, issues and profits therefrom.

All future commercial leases of the Premises in excess of five thousand (5,000) square feet are subject to the approval of the Mortgagee as to form, content and tenants, and without limiting the generality of the foregoing, Mortgagor will not, without Mortgagee's prior written consent, make any commercial lease of the Premises. Any lease of the Premises shall require actual occupancy by the lessee thereunder. Mortgagor has furnished to Mortgagee the lease form used by Mortgagor, or its beneficiary, to lease residential space in the Premises. All residential leases of the Premises shall be prepared on such form and without material deviation therefrom, unless such material deviation shall be first approved by the Mortgagee.

Mortgagor will not, without Mortgagee's prior written consent: (i) execute an assignment or pledge of any rents of the Premises and/or any leases of the Premises; or (ii) accept any prepayment of any installment of any rents more than thirty (30) days before the due date of such installment.

Mortgagor at its sole cost and expense will: (i) at all times promptly and faithfully abide by, discharge and perform all of the covenants, conditions and agreements contained in all leases of the Premises, on the part of the landlord thereunder to be kept and performed; (ii) enforce or secure the performance of all of the covenants, conditions and agreements of such leases on the part of the lessees to be kept and performed, but Mortgagor shall not modify, amend, renew,

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extend, cancel, terminate or accept surrender of any lease without the prior written consent of Mortgagee; (iii) appear in and defend any action or proceeding arising under, growing out of or in any manner connected with such leases or the obligations, duties or liabilities of landlord or of the lessees thereunder; (iv) collaterally assign to Mortgagee upon written request of Mortgagee, any lease or leases of the Premises heretofore or hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (v) furnish Mortgagee, within twenty (20) days after a request by Mortgagee so to do, a written statement containing the names of all lessees, terms of all leases of the Premises, including the spaces occupied and the rentals payable thereunder; and (vi) exercise within five (5) days of any demand therefor by Mortgagee any right to request from the lessee under any lease of the Premises a certificate with respect to the status thereof.

Nothing in this Mortgage or in any other documents relating to the loan secured hereby shall be construed to obligate Mortgagee, expressly or by implication, to perform any of the covenants of Mortgagor as landlord under any of the leases assigned to Mortgagee or to pay any sum of money or damages therein provided to be paid by the landlord, each and all of which covenants and payments Mortgagor agrees to perform and pay.

Mortgagor will not permit any lease of the Premises or any part thereof to become subordinate to any lien other than the lien hereof.

It is covenanted and agreed that a default under any Assignment of Rents and Leases executed pursuant to this Paragraph 10 or otherwise shall constitute a default hereunder on account of which the whole of the indebtedness secured hereby shall at once, at the option of the Mortgagee, become immediately due and payable upon notice to the Mortgagor.

11. **Effect of Extensions of Time.** If the payment of said indebtedness, or any part thereof, be extended or varied, or if any part of any security for the payment of the indebtedness be released, or if any person or entity liable for the payment of the indebtedness be released, or if the Mortgagee takes other or additional security for the payment of the indebtedness, or if the Mortgagee waives or fails to exercise any right granted herein, or in the Note secured hereby, or in any other instrument given to secure the payment hereof, all persons now or at any time hereafter liable for the payment of the indebtedness, or any part thereof, or interested in the Premises shall be held to assent to such extension, variation, release, waiver, failure to exercise or the taking of additional security, 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, release, waiver, failure to exercise, or the taking of additional security.

12. **Effect of Changes in Laws Regarding Taxation.** In the event of the enactment after this date of any law of the state in which the Premises are located deducting from the value of the land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured

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by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holders thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, However, that if in the opinion of counsel for the Mortgagee:

(a) it might be unlawful to require Mortgagor to make such payment; or

(b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

13. Mortgagee's Performance of Defaulted Acts. In case of default herein, Mortgagee may, but need not, and whether electing to declare the whole of the indebtedness due and payable or not, and without waiver of any other remedy, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said Premises or contest any tax or assessment or cure any default of landlord in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses

paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Paragraphs 9 and 12 hereof or to protect the Premises or the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the Default Rate of interest set forth in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

14. Mortgagee's Reliance on Tax Bills, Etc. Mortgagee in making any payment hereby authorized:

(a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof, or

(b) relating to insurance premiums, may do so according to any bill or statement procured from the appropriate company without inquiry into the accuracy of such bill or statement; or

(c) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

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15. Acceleration of Indebtedness in Case of Default. If:

(a) default be made in the due and punctual payment of the Note secured hereby, or any payment of principal, Deferred Interest or interest due in accordance with the terms thereof subject to the grace or cure periods provided therein; or

(b) any of the following events shall occur: (i) the entry of a decree or order for <sup>9810419</sup> a court having jurisdiction in respect of the Mortgagor, the beneficiary or beneficiaries thereof or any guarantor of the Note secured hereby, in any involuntary case under the Federal Bankruptcy Laws now or hereafter constituted, or any other applicable federal or state bankruptcy, insolvency or other similar law, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) for the Mortgagor, the beneficiary or beneficiaries thereof or any guarantor of the Note secured hereby or any substantial part of the property of any such person or entity, or for the winding up or liquidating of the affairs of any such person or entity and the continuance of any such decree or order unstay and in effect for a period of sixty (60) consecutive days; or (ii) the commencement by the Mortgagor, the beneficiary or beneficiaries thereof or any guarantor of the Note secured hereby or of a voluntary case under federal bankruptcy laws, as now constituted or hereafter amended, or any other applicable federal or state bankruptcy, insolvency or any other similar laws or the consent by any such person or entity to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Mortgagor, the beneficiary or beneficiaries thereof or any guarantor of the Note secured hereby or of any substantial part of the property of any such person or entity or the making by any such person or entity of an assignment for the benefit of creditors or the failure of any such person or entity generally to pay the debts of any such person or entity as such debts become due, or the taking of action by any such person or entity in furtherance of any of the foregoing; (iii) the death of any guarantor of the Note secured hereby, unless a beneficiary or beneficiaries of the decedent having a net worth or an aggregate net worth, as the case may be, greater than five million dollars and with at least one and one-half times the amount of all obligations guaranteed by any such guarantor of liquid assets shall become liable by assumption under the guaranty within five (5) days of the appointment of the executor; or

(c) default shall be made in the due observance or performance of any of the covenants, agreements or conditions contained and required to be kept or observed by Mortgagor hereunder; or

(d) default shall be made in the due observance or performance of any of the covenants, agreements or conditions contained and required to be kept or observed by Mortgagor or its beneficiary or beneficiaries in any other instrument given to secure the payment of the Note secured hereby; or

(e) any warranty, representation, certification, financial statement, or other information furnished or to be furnished by or on behalf of Mortgagor or its beneficiary or any guarantor of the

Note to Mortgagee to induce Mortgagee to loan the money evidenced by the Note proves to have been materially inaccurate or false in any material respect when made; or

(f) default or breach of any representation or warranty shall occur under any guaranty of payment of the Note;

then and in every such case the whole of the indebtedness hereby secured shall, at once, at the option of the Mortgagee, become immediately due and payable without notice to Mortgagor. If, while any insurance proceeds or condemnation awards are being held by the Mortgagee to reimburse Mortgagor for the cost of rebuilding or restoration of buildings or improvements on the Premises, as set forth in Paragraphs 8 or 21 hereof, the Mortgagee shall be or become entitled to, and shall accelerate the indebtedness secured hereby, then and in such event, the Mortgagee shall be entitled to apply all such insurance proceeds and condemnation awards then held by it in reduction of the indebtedness hereby secured and any excess held by it over the amount of indebtedness then due hereunder shall be returned to Mortgagor or any party entitled thereto without interest.

16. Foreclosure; Expense of Litigation. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraisers fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens' Certificates and similar data and assurances with respect to the title as Mortgagee may deem 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 the value of the Premises. All expenditures and expenses of the nature in this paragraph mentioned and such expenses and fees as may be incurred in the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorneys employed by Mortgagee in any litigation or proceeding affecting this Mortgage, said Note or said Premises, including appellate, probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceedings or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate of interest as set forth in the Note and shall be secured by this Mortgage.

17. Application of Proceeds of Foreclosure Sale. 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 may, under the terms hereof or of the Note or under any other instrument given to secure the Note, constitute indebtedness additional to that evidenced by the Note, with interest thereon as herein or therein provided and all principal and interest and other sums (including prepayment premiums) remaining unpaid on the Note; and third, any overplus to any party entitled thereto as their rights may appear.

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18. Appointment of Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of said Premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor 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 hereunder or any holder of the Note 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 Mortgagor, 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:

(a) 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; and

(b) the deficiency in case of a sale and deficiency.

19. Rights Cumulative; Modification. Each right, power and remedy herein conferred upon the Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of one right power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

20. Mortgagee's Right of Inspection. Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

Without limiting the generality of the foregoing, if Mortgagee deems it reasonably necessary, Mortgagee (by its officers, managers, employees and agents) at any time and from time to time, either prior to or after the occurrence of a default hereunder for any reason in its reasonable discretion, may contract for the services of persons (the "Site Reviewers") to perform environmental assessments (the "Site Assessment") on the Premises for the purposes of determining whether there exists on or near the Premises any environmental conditions which could reasonably be expected to result in liability,

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cost or expense to the owner, occupier or operator of the Premises arising under any state, federal or local law, rule or regulation relating to Hazardous Substances (as defined in Paragraph 32 hereof). The Site Assessments may be performed at any time or times, upon reasonable notice, and under reasonable conditions established by Mortgagor which do not impede the performance of the Site Assessments. The Site Reviewers are hereby authorized to enter upon the Premises for such purposes. The Site Reviewers are further authorized to perform both above and below the ground testing for the presence of Hazardous Substances on the Premises and such other tests on the Premises as may be appropriate to conduct the Site Assessments in the reasonable opinion of the Site Reviewers. Mortgagor will supply to the Site Reviewers such historical and operation information regarding the Premises as may be reasonably requested by the Site Reviewers to facilitate the Site Assessments and will make available for meetings with the Site Reviewers appropriate personnel having knowledge of such matters. On request, Mortgagee shall make the results of such Site Assessments fully available to Mortgagor, which (prior to the occurrence of a default hereunder), may at its election participate at its election under reasonable procedures in the direction of such Site Assessments and the descriptions of Tasks of the Site Reviewers. The cost of performing such Site Assessments shall be paid by Mortgagor upon demand of Mortgagee and such obligations shall be indebtedness secured by this Mortgage.

21. **Condemnation.** Mortgagor Hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any award or any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. The Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or make said proceeds available for restoration or rebuilding of the Premises. In the event that the Mortgagee elects to make said proceeds available to reimburse Mortgagor for the cost of the rebuilding or restoration of the buildings or improvements on said Premises, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require. In any event, the buildings and improvements shall be restored or rebuilt in accordance with plans and specifications to be submitted to and approved by the Mortgagee. If the proceeds are made available by the Mortgagee to reimburse the Mortgagor for the cost of said rebuilding or restoration, any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall at the option of the Mortgagee be applied on account of the indebtedness secured hereby without prepayment penalty or be paid to any party entitled thereto. No interest shall be allowed to Mortgagor on the proceeds of any award held by the Mortgagee.

22. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby.

23. **Giving of Notice.** All notices required or permitted under this instrument shall be in writing and shall be either by: (i) hand delivery to the address for notices; (ii) delivery by overnight courier service to the address for notices; or (iii) by certified mail, return receipt requested, addressed to the address for notices by United States Mail, postage prepaid.

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All notices shall be deemed received upon the earlier to occur of: (i) the hand delivery of such notice to the address for notices; (ii) one day after the deposit of such notice with an overnight courier service addressed to the address for notices, or (iii) three (3) days after depositing the notice in the United States Mail as set forth in (iii) above.

All notices shall be addressed to the following addresses:

If to Mortgagor: **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, not personally but as Trustee under trust agreement dated April 18, 1957 and known as Trust No. 12599  
33 North LaSalle Street  
Chicago, Illinois 60690

With a copy to: **RUTTENBERG & RUTTENBERG**  
325 W. Huron, Suite 806  
Chicago, Illinois 60610  
Attn: Jacob J. Kaufman

If to Mortgagee: **COHEN FINANCIAL CORPORATION**  
2 North LaSalle Street, Suite 800  
Chicago, Illinois 60602  
Attn: Mortgage Loan Department

With a copy to: **FREEMAN & MERMALL**  
Two North LaSalle Street, Suite 800  
Chicago, Illinois 60602

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or to such other person or at such other place as any party herein may by notice designate as a place for service of notice.

24. **Waiver of Defense.** 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

25. **Waiver of Statutory Rights.** Mortgagor shall not, and will not, apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to leave the property and estates comprising the Premises marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety. Mortgagor does hereby expressly waive any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, the trust estate and all persons beneficially

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interested therein and each and every person, acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

26. Furnishing of Financial Statements to Mortgagee. Mortgagor covenants and agrees that it (or its beneficiary if the owner of the Premises is an Illinois land trust) will keep and maintain books and records of account, or cause books and records of account to be kept and maintained in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times and on reasonable notice, be open to the inspection of the Mortgagee and its accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained either:

(a) in accordance with generally accepted accounting practices consistently applied;

or

(b) in accordance with a cash basis or other recognized comprehensive basis of accounting consistently applied.

Mortgagor covenants and agrees to furnish, or cause to be furnished to the Mortgagee, annually, within ninety (90) days of the end of each fiscal year of the Mortgagor (or its beneficiary if the owner of the Premises is an Illinois land trust), a copy of a report on a review basis of the operations of the improvements on the Premises, prepared by an accountant, including a balance sheet and supporting schedules and containing a detailed statement of income and expenses. The beneficiary of Mortgagor or such other person satisfactory to Mortgagee shall certify that each such report presents fairly the financial position of the Premises.

If Mortgagor omits to prepare and deliver promptly any report required by this Paragraph 26, the Mortgagee may elect, after giving prior notice to Mortgagor, in addition to exercising any remedy for an event of default as provided for in this Mortgage, to make an audit of all books and records of Mortgagor (or its beneficiary if the owner of the Premises is an Illinois land trust), including its bank accounts which in any way pertain to the Premises and to prepare the statement or statements which Mortgagor failed to procure and deliver. Such audit shall be made and such statement or statements shall be prepared by an independent Certified Public Accountant to be selected by the Mortgagee. Mortgagor shall pay all expenses of the audit and other services, which expenses shall be secured hereby as additional indebtedness and shall be immediately due and payable with interest thereon at the Default Rate of interest as set forth in the Note and shall be secured by this Mortgage.

27. Mortgagor will pay all filing, registration or recording fees and all expenses incident to the execution and acknowledgment of this's Mortgage and all federal, state, county and municipal taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of said Note and this Mortgage

28. Business Purpose. Mortgagor covenants and agrees that all of the proceeds of the Note secured by this Mortgage will be used solely business purposes and in furtherance of the regular

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business affairs of the Mortgagor and Mortgagor's beneficiary, and the entire principal obligation secured hereby constitutes: (i) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4, Subsection (1)(c); and (ii) "a loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4, Subsection 1(1).

29. **Security Agreement.** Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Illinois Uniform Commercial Code (hereinafter in this paragraph referred to as the "Code") with respect to: (1) all sums on deposit with the Mortgagee pursuant to Paragraphs 4, 7, 8 and 21 hereof ("Deposits"), and (ii) all property described in paragraph 1.(d) above, which property may not be deemed to form a part of the real estate described in EXHIBIT B or may not constitute a "Fixture" (within the meaning of Section 9-313 of the Code) and all property described 1.(e) and 1.(f) above, and all replacements, substitutions and additions to such property described in this paragraph and the proceeds thereof, such property described in this paragraph and all replacements of, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as the "Collateral", and that a security interest in and to the Collateral and the Deposits is hereby granted to the Mortgagee in the Deposits and all of Mortgagor's right, title and interest therein are hereby assigned to the Mortgagee, all to secure payment of the indebtedness and to secure performance by the Mortgagor of the terms, covenants and provisions hereof. In the event of a default under this Mortgage, the Mortgagee, pursuant to the appropriate provisions of the Code, shall have the option of proceeding with respect to the Collateral in accordance with its rights and remedies with respect to the real property, in which event the default provisions of the Code shall not apply. The parties agree that, in the event the Mortgagee shall elect to proceed with respect to the Collateral separately from the real property, ten (10) days' notice of the sale of the Collateral shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by the Mortgagee shall include, but not be limited to, reasonable attorneys' fees and legal expenses incurred by Mortgagee. The Mortgagor agrees that, without the written consent of the Mortgagee, he Mortgagor will not remove or permit to be removed from the Premises any of the Collateral except that so long as the Mortgagor is not in default hereunder, Mortgagor shall be permitted to sell or otherwise dispose of the Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, upon replacing the same or substituting for the same other Collateral at least equal in value to the initial value to that disposed of and in such a manner so that said Collateral shall be subject to the security interest created hereby and so that the security interest of the Mortgagee shall be second in priority and subject only to the security interest of the holder of the First Note, it being expressly understood and agreed that all replacements of the Collateral and any additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered Hereby. The Mortgagor shall, from time to time, on request of the Mortgagee, deliver to the Mortgagee an inventory of the Collateral in reasonable detail. The Mortgagor covenants and represents that all Collateral, and all replacements thereof, substitutions therefor or additions thereto, unless the Mortgagee otherwise consents, now is and will be free and clear of liens, encumbrances or security interest of others, except for the holder of the First Note. Mortgagor shall, upon demand, 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,

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reasonably request or as may be necessary or appropriate to establish and maintain a second perfected security interest in the Deposits and Collateral, subject to no liens, encumbrances or security interests of others, except to the holder of the First Note.

This Mortgage also constitutes a financing statement for the purpose of Section 9402 of the Code and shall constitute a "fixture filing" under such statutes and shall be filed in the real estate records of Cook County, Illinois.

(a) Name of Debtor:

**AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, not personally but as Trustee under trust agreement dated April 18, 1957 and known as Trust No. 12599

Debtor's Mailing Address:

33 North LaSalle Street  
Chicago, Illinois 60602

Name of Secured party:

**COHEN FINANCIAL CORPORATION**

Address of Secured party:

2 North LaSalle Street, Suite 800  
Chicago, Illinois 60602

(b) This financing statement covers the Collateral.

(c) Some of the above goods are or are to become fixtures on the real property described herein. Mortgagor is the recorded owner of the real property described herein upon which the foregoing fixtures and other items and types of property are located.

30. Due on Sale or Further Encumbrance. Mortgagor covenants and agrees that Mortgagee, at its option, has the unqualified right to accelerate the maturity of the indebtedness evidenced by the Note and secured Hereby causing the full principal balance and accrued interest under the Note, together with a prepayment premium in the amount, if any, required to be paid pursuant to the terms of the Note in the event of a prepayment at the time of such acceleration to be immediately due and payable without notice to Mortgagor, in the event that:

(a) Mortgagor shall, without the prior written consent of Mortgagee, sell, transfer, convey, or assign the legal or equitable title to all or any portion of the Premises, whether by operation of law, voluntarily, or otherwise; or

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(b) the beneficiary of Mortgagor shall, without the prior written consent of Mortgagee, sell, transfer, convey, assign or create a security interest in the beneficial interest, or any part thereof, in Mortgagor, whether by operation of law, voluntarily, or otherwise, or shall contract to do any of the foregoing; or

(c) any general partner of the beneficiary of Mortgagor or any shareholder of any corporation which is a general partner of the beneficiary of Mortgagor shall, without the prior written consent of the Mortgagee, sell, transfer, convey, assign or create a security interest in the general partnership interest or shares owned by any such general partner or shareholder, or any part thereof, whether by operation of law, voluntarily, or otherwise, or shall contract to do any of the foregoing; or

(d) Mortgagor shall, without the prior written consent of Mortgagee, directly or indirectly, create, suffer or permit to be created or filed against the Premises, or any portion thereof, or against the rents, issues or profits therefrom (including, without limitation, any lien arising with respect to the payment of taxes, assessments and other charges described in Paragraph 2 above), any mortgage lien, security interest, or other lien or encumbrance, except the lien of current general taxes duly levied and assessed but not yet due and payable and the lien of this Mortgage and the First Mortgage.

The foregoing provisions of this paragraph are for the purpose of:

(1) protecting Mortgagee's security, both of repayment of the indebtedness secured hereby and the value of the Premises;

(2) giving the Mortgagee the full benefit of its bargain with the beneficiaries of Mortgagor;

(3) allowing the Mortgagee to raise the interest rate and collect assumption fees; and

(4) keeping the Premises and the beneficial interest in Mortgagor free of subordinate financing liens or security interests.

31. **Environmental Matters; Notice; Indemnity.**

(a) Mortgagor will not, and Mortgagor's beneficiary will not, install, use, generate, manufacture, produce, store, release, discharge or dispose of on, under or about the Premises, nor transport to or from the Premises, any Hazardous Substance (as defined below) nor allow any other person or entity to do so except in minor amounts and under conditions permitted by applicable laws, regulations and ordinances. Mortgagor covenants and agrees that its beneficiary has truthfully and fully provided to Mortgagee, in writing, any and all information relating to environmental conditions in, on, under or from the Premises that is known to its beneficiary and that is contained in the files

and records of its beneficiary, including but not limited to any reports relating to Hazardous Substances.

(b) Mortgagor and Mortgagor's beneficiary will keep and maintain the Premises in compliance with, and shall not cause or permit the Premises to be in violation of, any Environmental Law (as defined below).

(c) Mortgagor or Mortgagor's beneficiary will give prompt written notice to Mortgagee of,

(1) any proceeding, investigation or inquiry commenced by any governmental authority with respect to the presence of any Hazardous Substance on, under or about the Premises or the migration thereof to or from adjoining property;

(2) all claims made or threatened by any individual or entity against Mortgagor or Mortgagor's beneficiary or the Premises relating to any loss or injury allegedly resulting from any Hazardous Substance; and

(3) the discovery by Mortgagor or Mortgagor's beneficiary of any occurrence or condition on any real property adjoining or in the vicinity of the Premises which might cause the Premises or any part thereof to be subject to any restriction on the ownership, occupancy, transferability or use of the Premises under any Environmental Law.

(d) Mortgagee shall have the right and privilege to: (i) join in and participate in, as a party if it so elects, any one or more legal proceedings or actions initiated with respect to the Premises under any Environmental Law; and to (ii) have all costs and expenses thereof (including without limitation Mortgagee's reasonable attorneys' fees and costs) paid by Mortgagor.

(e) Mortgagor shall protect, indemnify and hold Mortgagee and its directors, officers, employees, agents, successors and assigns harmless from and against any and all loss, damage, cost, expense and liability (including without limitation reasonable attorneys' fees and costs) directly or indirectly arising out of or attributable to the installation, use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence of a Hazardous Substance on, under or about the Premises, including without limitation: (i) all foreseeable damages; (ii) the costs of any required or necessary repair, cleanup or detoxification of the Premises; and (iii) the preparation and implementation of any closure, remedial or other required plans. This indemnity shall survive the satisfaction, release or extinguishment of the lien of this Mortgage, except this indemnification shall not apply to any liability incurred by Mortgagee as a result of actions of the Mortgagee, or its agents or representatives, as owner or operator of the Premises after Mortgagee, or its agents or representatives, has taken possession of the Premises and which actions are the cause of damage resulting from the introduction of a Hazardous Substance upon the Premises.

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(f) If any investigation, site monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature (the "Remedial Work") is necessary or desirable under any applicable federal, state or local law, regulation or ordinance, or under any judicial or administrative order or judgment, or by any governmental person, board, commission or agency, because of or in connection with the current or future presence, release of a Hazardous Substance into the air, soil, ground-water, surface water or soil vapor at, on, about, under or within the Premises or portion thereof, Mortgagor or Mortgagor's beneficiary shall within thirty (30) days after written demand for tile performance by Mortgagee (or within such shorter time as may be required under applicable law, regulation, ordinance, order or agreement), commence and thereafter diligently prosecute to completion all such Remedial Work to the extent required by law. All Remedial Work shall be performed by contractors reasonably approved in advance by Mortgagee and under the supervision of a consulting engineer reasonably approved in advance by Mortgagee. All costs and expenses of such Remedial Work (including without limitation the reasonable fees and expenses of Mortgagee's counsel) incurred in connection with monitoring or review of the Remedial Work shall be paid by Mortgagor. If Mortgagor shall fail to neglect to timely commence or cause to be commenced, or shall fail to diligently prosecute to completion, such Remedial Work, the Mortgagee may (but shall not be required to) cause such Remedial Work to be performed; and all costs and expenses thereof, or incurred in connection therewith (including, without limitation, the reasonable fees and expenses of Mortgagee's counsel), shall be paid by Mortgagor to Mortgagee forthwith after demand and shall be a part of the indebtedness secured hereby.

(g)

(1) The term "Environmental Law" means and includes, without limitation, any federal, state or local law, statute, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions on, under or about the Premises, including without limitation each of the following: the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"); the Federal Hazardous Materials Transportation Act, as amended; the Toxic Substance Control Act, as amended; the Illinois Environmental Protection Act, as amended, the Clean Air Act, as amended; the Federal Water Pollution Control Act, as amended; and the laws, rules, regulations and ordinances of the U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency and the County in which the Premises is located, and of all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the Premises or the use or operation thereof.

(2) The term "Hazardous Substance" means and includes, without limitation: (i) those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances" or "solid waste" in any of the Environmental Laws; (ii) those substances listed in the U.S. Department of Transportation Table or amendments thereto (49 CFR 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and any amendments thereto); (iii) those other substances, materials and wastes which are or become regulated under any applicable federal, state or local law,

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regulation or ordinance or by any federal, state or local governmental agency, board, commission or other governmental body, or which are or become classified as hazardous or toxic by any such law, regulation or ordinance; and (iv) any material, waste or substance which is any of the following: (A) asbestos; (B) polychlorinated biphenyl; (C) designated or listed as a "hazardous substance" pursuant to §307 or §311 of the Clean Water Act (33 U.S.C. §§1251 et. al.); (D) explosive; or (E) radioactive.

32. Miscellaneous. This Mortgage and all provisions hereof shall extend to and be binding upon Mortgagor and its successors, grantees and assigns, any subsequent owner or owners of the Premises and all persons claiming under or through Mortgagor (but this clause shall not be construed as constituting the consent by Mortgagee to the transfer of any interest in the Premises), and the word "Mortgagor" 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 said 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.

In the event one or more of the provisions contained in this Mortgage or the Note secured hereby, or in any other security documents given to secure the payment of the Note secured hereby, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, the Note secured hereby or such other security documents and this Mortgage, the Note secured hereby or such other security documents shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The validity and interpretation of this Mortgage and of all other documents evidencing or securing the indebtedness shall be construed in accordance with the laws of the State of Illinois.

Mortgagor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as zoning lot separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

Mortgagor, on written request of the Mortgagee, will furnish a signed statement of the amount of the indebtedness secured hereby and whether or not any default then exists hereunder and specifying the nature of such default.

The Note secured hereby requires the payment of a late charge in the event any installment of principal or interest due thereunder and/or any escrow fund payment for taxes and insurance due hereunder shall become overdue for a period in excess of fifteen (15) days. Said Note

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requires the payment to the Mortgagee of a late charge of four cents (\$0.04) for each dollar so overdue to defray part of the cost of collection. Said late charge shall be secured hereby as indebtedness, as that term is used herein.

Mortgagee shall have the right and option to commence a civil action to foreclose the Mortgage and to obtain a Decree of Foreclosure and Sale subject to the rights of any tenant or tenants of the Premises. The failure to join any such tenant or tenants as party defendant or defendants in any such civil action or the failure of any Decree of Foreclosure and Sale to foreclose their rights shall not be asserted by the Mortgagor as a defense in any civil action instituted to collect the indebtedness secured hereby, or any part thereof, or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

At the option of the Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in condemnation) to any and all leases of all or any part of the Premises upon the execution by Mortgagee and recording or registration thereof, at any time hereafter, in the Office of the Recorder of Deeds or Registrar of Titles in and for the County wherein the Premises are situated, of a unilateral declaration to that effect.

All agreements between Mortgagor and Mortgagee (including, without limitation, those contained in this Mortgage and the Note) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to the Mortgagee exceed the highest lawful rate of interest permissible under the laws of the State of Illinois. If, from any circumstances whatsoever, fulfillment of any provision hereof or the Note or any other documents securing the indebtedness secured hereby, at the time performance of such provision shall be due, shall involve the payment of interest exceeding the highest rate of interest permitted by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of the State of Illinois; and if for any reason whatsoever, the Mortgagee shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the last maturing installment or installments of the principal indebtedness secured hereby without prepayment premium (whether or not then due and payable) and not to the payment of interest.

Mortgagor covenants and agrees that it shall constitute a default hereunder if any of the proceeds of the loan for which the Note is given will be used, or were used, as the case may be, for the purpose (whether immediate, incidental or ultimate) of "purchasing" or "carrying" any "margin security" as such terms are defined in Regulation G of the Board of Governors of the Federal Reserve System (12 CFR Part 207) or for the purpose of reducing or retiring any indebtedness which was originally incurred for any such purpose.

Mortgagor shall include a "no lien" provision in any future property management agreement hereafter entered into by Mortgagor or its beneficiary with a property manager for the

Premises, whereby the property manager waives and releases any and all mechanics' lien rights that he, or anyone claiming through or under him, may have pursuant to 770 ILCS 60/1.

To the extent that Mortgagee, on or after the date hereof, pays any sum due under any provision of law or any instrument or document creating any lien prior or superior to the lien of this Mortgage, or Mortgagor or any other person pays any such sum with the proceeds of the loan secured hereby, Mortgagee shall have and be entitled to a lien on the Premises equal in priority to the lien discharged, and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee in securing the indebtedness secured Hereby. Mortgagee shall be subrogated, notwithstanding their release of record, to the lien of all mortgages, trust deeds, superior titles, vendors' liens, liens, charges, encumbrances, rights and equities on the Premises, to the extent that any obligation under any thereof is directly or indirectly paid or discharged with proceeds of disbursements or advances under the Note secured hereby.

Mortgagor acknowledges and confirms that Mortgagee shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification and amendment of its loans, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the Premises, or (d) the review of any lease or proposed lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "Event"). Mortgagor hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Mortgagee from time to time, upon the occurrence of any Event or otherwise. Wherever it is provided for herein that Mortgagor pay any costs and expenses, such costs and expenses shall include, but not be limited to, all legal fees and disbursements of Mortgagee, whether retained firms, the reimbursement for the expenses of in-house staff or otherwise.

33. **Exculpatory.** This Mortgage is executed by **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant or environmental indemnification, either expressed or implied herein contained, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** personally is concerned the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder shall look to any or all of the following for the payment thereof.

(a) to the Premises hereby conveyed by the enforcement of the lien hereby created, in the manner herein and in said Note provided;

(b) to any other security given to secure the payment of said Note; and

(c) to the personal liability of each guarantor (if any) of the payment of the Note and the performance of the Mortgagor hereunder and the personal liability of the parties to that certain Certificate and Agreement bearing even date herewith.

34. **Opportunity to Cure.** Notwithstanding anything contained herein or in any of the Loan Documents to the contrary, if Mortgagor shall default in the performance or breach any of the covenants or agreements of Mortgagor contained herein or in any other documents securing the Note, except to pay each item of indebtedness secured by this Mortgage when due according to the terms hereof or said Note, except if Mortgagor shall default in the performance of or breach any of the covenants or agreements of Mortgagor contained in Section 35 hereof, except if this Mortgage shall be in default as a result of the operation of the second grammatical paragraph of Section 35 hereof, or except for any default under the First Mortgage, ("Performance Default"), Mortgagee shall not declare a default or the indebtedness to be due and payable unless Mortgagee shall first give Mortgagor notice of such default and Mortgagor shall have fifteen (15) days after giving of notice in which to cure the same, except that if such Performance Default is of a nature that it cannot be cured within said fifteen (15) day period, Mortgagee shall not declare a default or the indebtedness to be due and payable if Mortgagor shall, within such fifteen (15) days, commence the cure of such default and complete the same with diligence, and without unreasonable delay, in a manner satisfactory to Mortgagee and within a reasonable period, not to exceed one hundred eighty (180) days after the date notification of default was issued by Mortgagee; provided that any abandonment or unreasonable delay in the prosecution of the cure of such default shall, without further notice or period of grace, give the Mortgagee the right to declare the indebtedness due and payable.

Notwithstanding anything contained herein or in any of the Loan Documents to the contrary, if Mortgagor shall fail to make any payment of principal, interest or any other payment due hereunder or under any of the Loan Documents, such failure shall not constitute a default unless such failure continues for a period of five (5) days after the date such payment was due.

35. **First Mortgage.** This Mortgage is subject to that certain mortgage dated December 1, 1993 and recorded December 28, 1993 in the office of the Recorder of Cook County, Illinois, from Mortgagor to John Hancock Mutual Life Insurance Company, which mortgage secures a note in the original amount of Eleven Million and No/100 Dollars (\$11,000,000.00). Said mortgage is herein called the "First Mortgage" and the note secured thereby is hereinafter called the "First Note".

If the First Mortgage or the First Note shall be in default for any reason and Mortgagor fails to cure said default within five (5) days of the occurrence of said default, or should any suit be commenced to enter judgment on the First Note or to foreclose the First Mortgage, such default or

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commencement of foreclosure or commencement of suit shall constitute a default under this Mortgage on account of which the whole of the indebtedness secured hereby shall, at once, at the option of the Mortgagee, become due and payable without notice to the Mortgagor; and Mortgagee may, but shall not be required to, cure any such default and/or perform such acts that may be necessary to secure the dismissal of any such suit, and all monies advanced for that purpose, with interest thereon at the Default Rate of interest as set forth in the Note from the time of the advance or advances therefor shall, without demand or notice, be immediately due and payable by Mortgagor to Mortgagee and shall be added to the indebtedness secured by this Mortgage.

Mortgagor agrees that Mortgagor will not consent to the modification or amendment of the First Note, the First Mortgage or any other instruments securing the First Note without the prior written consent of the Mortgagee.

Mortgagor hereby represents, covenants and agrees that:

(a) This Mortgage is lawfully executed and delivered in conformity with the First Mortgage.

(b) Mortgagor will promptly perform and observe all of the terms, covenants and conditions required to be performed and observed by the under the First Mortgage and under the First Note and will do all things necessary to preserve and to keep the First Mortgage and the First Note free from default.

(c) Mortgagor will promptly notify the Mortgagee in writing of any default in the performance or observance of any of the terms, covenants or conditions on the part of the mortgagor to be performed under the First Mortgage and the First Note.

(d) Mortgagor will (i) promptly notify the Mortgagee in writing of the receipt by the Mortgagor of any notice (other than notices customarily sent on a regular periodic basis) from the mortgagee under the First Mortgage and the holder of the First Note, and (ii) promptly cause to be delivered to the Mortgagee a copy of each such notice received by the mortgagor from the mortgagee under the First Mortgage and from the holder of the First Note.

(e) Mortgagor will not, without the prior written consent of the Mortgagee, enter into any agreement or accept the benefit of any arrangement whereby the holder of the First Note or the mortgagee under the First Mortgage waives, postpones, extends, reduces, or modifies the payment of any installment of principal or interest or any other item or amount now required to be paid under the terms of the First Mortgage or the First Note or modifies any provision thereof.

(f) Mortgagor will, within ten (10) days after written demand from the Mortgagee, use its best efforts to obtain from the mortgagee of the First Mortgage and the holder of the First Note and deliver to the Mortgagee a certificate stating that the First Mortgage and the First Note are in full force and effect, and unmodified, that no notice of default thereunder has been served on the

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mortgagor thereunder and stating whether or not there are any defaults thereunder, and specifying the nature of such defaults, if any.

(g) Mortgagor will use its best efforts to furnish to the Mortgagee, upon demand, proof of payment of all items which are required to be paid by the mortgagor pursuant to the First Mortgage and the First Note and proof of payment of which is required to be paid by the Mortgagor pursuant to the First Mortgage and the First Note.

(h) Mortgagor shall execute and deliver, on request of the Mortgagee, such instruments as the Mortgagee may deem useful or required to permit the Mortgagee to cure any default under the First Mortgage and the First Note or permit the Mortgagee to take such other action as the Mortgagee considers desirable to cure or remedy the matter in default and preserve the interest of the Mortgagee in the Premises.

[NO FURTHER TEXT ON THIS PAGE]



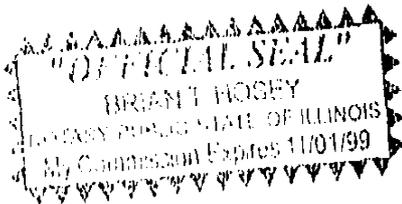
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STATE OF IL )  
COUNTY OF COOK ) SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Mark J. Da Grazia Trust Officer (Vice) President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO and EILEEN F. NEARY ASSISTANT SECRETARY Assistant Trust Officer/Assistant Cashier/Assistant Secretary of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such (Vice) President, and Assistant Trust Officer/Assistant Cashier/Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Trust Officer/Assistant Cashier/Assistant Secretary then and there acknowledged that \_\_\_\_\_ as Custodian of the seal of said Bank, did affix the seal to said instrument as \_\_\_\_\_ own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this DEC 29 1947 day of \_\_\_\_\_



B. H. Kelly  
Notary Public

My Commission expires: \_\_\_\_\_

COOK County Clerk's Office

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## EXHIBIT A

### PROMISSORY NOTE LIBOR RATE

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\$7,700,000.00

Dated as of December \_\_\_\_, 1997  
Chicago, Illinois

FOR VALUE RECEIVED, the undersigned, **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, not personally but as Trustee under trust agreement dated April 18, 1957 and known as Trust No. 12599 ("Maker"), hereby promises to pay to the order of **COHEN FINANCIAL CORPORATION**, a Delaware corporation ("Lender") at 2 North LaSalle Street, Suite 800, Chicago, Illinois 60602 or at such other place in Illinois as Lender may designate, the principal sum of **SEVEN MILLION SEVEN HUNDRED THOUSAND AND 00/100 DOLLARS (\$7,700,000.00)** or so much thereof as may from time to time be disbursed hereunder with interest thereon as hereinafter provided.

1. For purposes of this Promissory Note (herein referred to as this "Note"), the following capitalized terms shall have the following meanings:

(a) "Additional Costs". The costs incurred and increases in effective costs and decreases in the effective spread resulting from the introduction of, (i) any change in, (ii) any changed effect of, (iii) any change in the interpretation of, and/or (iv) any change in Lender's direct cost of complying with, any law, rule, regulation or other requirement imposed, interpreted, administered and/or enforced by any federal, state or other governmental or monetary authority (such as reserve requirement), which is, is deemed to be or is made applicable against any assets held by, or deposits or accounts in or with, or credits extended by Lender, and which causes Lender to incur any cost in, or increases the effective cost to Lender of, lending to Maker at the LIBOR based rate, or decreases the effective spread of yield of 2.50% which would be made by Lender between LIBOR and the LIBOR Based Rate. As used in the preceding sentence or in any other applicable section of this Section 1, the term Lender shall mean any holder of this Note or participant of such holder and, if the holder hereof itself borrows funds from a third party source (a "Third Party Source") at a LIBOR based rate, such term shall also mean such Third Party Source to the extent the Holder hereof is obligated to pay costs similar to the Additional Costs to such Third Party Source. Maker agrees that it shall pay to Lender, from time to time and on demand, any and all sums required to compensate Lender for any such new, additional or increased cost to Lender or any such reduction in the effective spread or yield to Lender. Each such demand for payment to Lender of compensation for Additional Costs shall include a statement, in reasonable detail, as to the basis upon which the Additional Costs have been computed. Each such demand and each computation of any Additional Costs given or submitted by Lender to Maker shall be deemed to be presumptively correct and presumptive evidence of Maker's obligation to pay the amount demanded absent manifest error.

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(b) "Banking Day". Any Business Day which banks are open for business in Chicago, Illinois and are open for interbank dealings in U.S. Dollar deposits in London, England, the Cayman Islands or Nassau, Bahamas.

(c) "Business Day". Any day except Saturdays, Sundays or other days on which Lender is closed for business to the public.

(d) "Contract". Any contract, for 90 days (or any other period expressly agreed to by Lender and Maker), made by Lender or a Third Party Source in the London, England, Cayman Islands or Nassau, Bahamas Interbank Market to obtain the deposit with Lender or a Third Party Source of the sum required to fund the outstanding principal balance for the applicable Contract Period.

(e) "Contract Payment Date". The Contract Payment Date shall mean the last day of the applicable Contract Period, except that if such Contract Period ends on a day which is not a Banking Day, the Contract Payment Date shall be the next succeeding day which is a Banking Day.

(f) "Contract Period". The Contract Period shall mean the interest period for determining the LIBOR Based Rate, which shall be 90 days (or any other period expressly agreed to by Lender and Maker). No Contract Period shall extend beyond the Maturity Date, provided, however, that if there remains less than 90 days between the expiration of the then most current Contract Period and the Maturity Date, the Contract Period shall be either 30, 60 or 90 days, whichever shall extend the shortest beyond the Maturity Date.

(g) "Default Rate". Shall mean: four percent (4%) per annum plus the Prime Rate.

(h) "Funding Costs". Any costs, expenses, penalties and/or charges incurred by Lender arising from or relating to the early termination, breakage or other disposition of a Contract because of payment or prepayment of the principal hereof or any portion thereof prior to the Contract Payment Date or expiration of the Contract Period, all as determined by Lender in good faith.

(i) "Interbank Market". Any interbank market, whether located in London, England, the Cayman Islands or Nassau, Bahamas or in any other location satisfactory to Lender, where Lender or its participant or any branch, subsidiary, parent or affiliate thereof may purchase or sell deposits of U.S. Dollars to other banks for fixed periods.

(j) "LIBOR". The interest rate quoted by Lender as of the commencement of the applicable Contract Period which shall be the rate of interest per annum (computed on the basis of a 360 day year) at which a deposit in U.S. Dollars in the sum equal to the then outstanding principal balance hereof is offered to Lender (or a Third Party Source) in the Interbank Market for such

Contract Period. Each determination of LIBOR by Lender shall be conclusive and binding for all purposes hereunder absent manifest error.

(k) "LIBOR Based Rate". The sum of (i) the quotient of (a) LIBOR applicable to such Contract Period divided by (b) one minus the Reserve Requirement (expressed as a decimal), plus (ii) two and one half percent (2.50%) per annum, computed on the actual number of days elapsed and a 360 day year.

(l) "Loan". The loan of Seven Million Seven Hundred Thousand Dollars (\$7,700,000.00) made by Lender to Borrower evidenced by this Note.

(m) "Loan Documents". The Loan Documents shall include the Note, the Mortgage and each and every other document or instrument which evidences or secures the Loan.

(n) "Prime Rate". The term "Prime Rate" at any particular time shall mean the rate of interest per annum then most recently announced or published publicly by American National Bank and Trust Company of Chicago ("ANB") as its prime rate for U.S. Dollar loans; provided, however, that if ANB ceases to use the term "Prime Rate" in setting a base rate of interest for commercial loans, then the term Prime Rate, as used in this Note, shall be determined by reference to the rate used by ANB as such a base rate as designated by Lender to Maker. The "Prime Rate" is a base reference rate of interest adopted by ANB as general bench mark from which ANB determines the floating interest rates chargeable on various loans to borrowers with varying degrees of creditworthiness, and Maker acknowledges and agrees that ANB has made no representations whatsoever that the "Prime Rate" is the interest rate actually offered by ANB to borrowers of any particular creditworthiness. A certificate made by any officer of Lender stating the Prime Rate in effect on any given day shall be conclusive evidence of the Prime Rate in effect on such day absent manifest error.

(o) "Regulation D". Regulation D of the Board of Governors of the Federal Reserve System from time to time in effect, and any successor or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

(p) "Reserve Requirement". With respect to any Contract Period, the daily average during each such respective period of the maximum aggregate reserve requirement (including but not limited to all basis supplemental, marginal and other reserves and taking into account any transitional adjustments or other scheduled changes in reserve requirements during such period) which is imposed under Regulation D; the Reserve Requirement shall be expressed as a decimal.

2. Principal and interest shall be payable as follows:

(a) Interest shall accrue on all portions of the outstanding principal balance of the

Loan and on all portions of the outstanding balance of Deferred Interest (as hereinafter defined) at the LIBOR Based Rate.

(b) Interest (except the portion thereof that is deferred) shall be due and payable, in arrears, on the first Business Day of each calendar month and also on each Contract Payment Date. Anything in this Note to the contrary notwithstanding, all accrued and unpaid interest as of the date of any termination, breakage, or other disposition of the Contract, if any, shall be paid to Lender and received by Lender in good, cleared funds, at the place designated by Lender, by 3:00 pm central standard time on the date such interest is due from Lender (or the participant of Lender or the Third Party Source) under such Contract by reason of the termination, breakage or other disposition, time being of the essence. Provided that at the time on which a payment of interest at the LIBOR Based Rate is due, no Event of Default shall have occurred hereunder which is continuing, Maker may elect to defer such payment of interest at the LIBOR Based Rate to the extent, but not in excess of the amount by which, such installment of interest at the LIBOR Based Rate exceeds the Deferral Base Amount (as hereinafter defined) (the amount of interest that the LIBOR Based Rate so deferred being herein referred to as "Deferred Interest"). From and after the date on which said Deferred Interest would have been due and payable had Maker not elected to defer payment thereof, such Deferred Interest shall be added to principal and shall accrue interest at the LIBOR Based Rate. The "Deferral Base Amount" shall mean the amount of interest at the LIBOR Based Rate that would have accrued during any month if the LIBOR Based Rate during that month was nine percent (9%) per annum.

(c) From and after the occurrence of any Event of Default interest shall accrue on the entire amount of the principal balance outstanding hereunder and on the Additional Costs and Funding Costs and on the Deferred Interest at the Default Rate.

(d) The entire outstanding principal balance of this Note and all Deferred Interest and all accrued and unpaid interest thereon shall be due and payable on July 1, 2000 (the "Maturity Date"), unless due and payable earlier by reason of the acceleration or the maturity of this Note.

3. The first Contract Period shall commence on the date hereof and each subsequent Contract Period shall automatically commence on the expiration of the immediately preceding Contract Period.

4. (a) The principal balance of this note may be prepaid in whole or in part at any time provided maker shall have given Lender not less than three (3) business days notice of its intent to prepay. Concurrently with any prepayment, Maker shall pay to Lender, in addition to the entire principal amount being prepaid, any and all Additional Costs, Funding Costs, and Deferred Interest, and accrued and unpaid interest thereon.

(b) From time to time, upon written request from Lender, Maker shall deliver a written acknowledgment in form reasonably satisfactory to Lender indicating, as of the date thereof the applicable LIBOR Based Rate and the Contract Payment Date.

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5. Prior to the occurrence of an Event of Default (as defined in Paragraph 8 hereof), all payments on account of the indebtedness evidenced by this note shall be first applied to further advances, if any, made by the holder hereof as provided in the Loan Documents, next to interest, if any, accrued at the Default Rate on the outstanding principal, next to any Additional Costs and Funding Costs, next to accrued and unpaid interest on the unpaid principal balance of this Note and Deferred Interest, and the remainder to the outstanding principal balance and Deferred Interest; provided, however, that the provisions of this sentence shall not affect the limitations on, or premiums or other amounts payable as a result of or in connection with, any prepayments as provided in Paragraph 4 above. Subsequent to the occurrence of an Event of Default thereunder, all payments on account of the indebtedness evidenced by this Note shall be applied in whatever priority Lender deems appropriate in its sole and unconfined discretion.

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6. All payments of principal, Deferred Interest and interest hereunder shall be paid in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and shall be made at such place as Lender or the legal Holder or holders of this Note may from time to time appoint, and in the absence of such appointment, then at the offices of Lender, 2 North LaSalle Street, Chicago, Illinois 60602. Any payment received by Lender after 3:00 p.m. central standard time shall not be credited until the next Business Day. Principal payments submitted in funds not available until collected shall continue to bear interest until collected. If payment hereunder becomes due and payable on a date that is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day, and interest shall be payable thereon at the then applicable interest rate during such extension.

7. Payment of this Note is secured by a Mortgage (the "Mortgage") dated of even date herewith from Maker, as mortgagor, to Lender, as mortgagee, on real estate in the County of Cook, State of Illinois. The Mortgage contains a "Due on Sale and Further Encumbrance" clause, which is incorporated herein by this reference.

8. It is hereby expressly agreed by Maker that time is of the essence hereof and that each of the following occurrences shall constitute an Event of Default under this Note:

- (a) The failure, for five (5) days, of the Maker:
  - (i) to make any installment payment of interest or principal or Deferred Interest under this Note on any date on which the same shall fall due; or
  - (ii) to comply with any of the other terms of this Note after receiving notice from Lender;
- (b) The failure of Maker to make payment of any amount due the holder hereof under any Loan Documents other than this Note, on any date on which the same shall fall due and the continuation of such failure beyond any applicable grace or cure period;

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- (c) The occurrence of any default under any of the Loan Documents <sup>9/27/2019</sup> ~~than~~ this Note which is not cured within any applicable grace or cure period; and
- (d) The right to foreclose the Mortgage shall accrue to the holder of this Note.

9. The holder hereof shall have the following rights, privileges, powers, options and remedies whenever any such Event of Default shall occur under this Note:

(a) The entire unpaid principal balance of, and any unpaid interest then accrued on, this Note together with all Additional Costs and Funding Costs, the unpaid amount of Deferred Interest and any unpaid interest then accrued thereon, shall, at the option of the holder hereof and without demand or notice of any kind to Maker or any other person, immediately become due and payable.

(b) From and after the date of the grace or cure period of any such default expires and continuing until such default is fully cured or a judgment is entered foreclosing the Mortgage, the Maker promises to pay interest on the principal balance of this note and Deferred Interest then outstanding at the "Default Rate". The Maker agrees that such additional interest which has accrued shall be paid at the time of and as a condition precedent to the curing of such default; and if such default is not cured prior to entry of a judgment of foreclosure and sale, interest at the Default Rate from the occurrence of such default to the date of entry of judgment of foreclosure shall be included in such judgment. During the existence of any such default the holder of this Note may apply payments received on any amounts due hereunder or under the terms of the Loan Documents as the holder may determine, and if the holder elects (notice of election being expressly waived by the Maker), the principal remaining unpaid with accrued interest shall at once become due and payable, as provided above.

(c) In the event Maker fails to make any payment due under this Note (other than payment of principal at maturity), within fifteen (15) days after the same shall become due, whether by acceleration or otherwise, Maker shall pay a late charge equal to four percent (4%) of the amount of such past due payment. The payment of such late fee (i) is intended to partially defray the administrative and other costs incurred by Lender as a result of such late payment, (ii) shall be due in addition to and without regard to whether interest is accruing hereunder at the Default Rate or whether Lender has accelerated payment of the indebtedness evidenced hereby, and (iii) shall not be deemed to create any cure or grace period hereunder.

(d) The holder hereof shall have, and may exercise any and all rights, powers, privileges, options and remedies available at law or in equity and as provided in any of the Loan Documents.

Upon the occurrence of a default under the Loan Documents, or any of them, the Maker expressly agrees to pay all costs of collection and enforcement of every kind, including without

limitation, all reasonable attorneys' fees, court costs and expenses of every kind incurred by the holder hereof in connection with the protection or realization of any or all of the security for this Note, whether or not any or all of the security for this Note, whether or not any lawsuit is filed with respect thereto, and in connection with the enforcement of any judgment of foreclosure of the Mortgage or deficiency judgment.

The rights, powers, privileges, options and remedies of the holder hereof, as provided in this Note, in any of the Loan Documents, or otherwise available at law or equity, shall be cumulative and concurrent, and may be pursued singly, successively or together at the sole discretion of the holder hereof, and may be exercised as often as occasion therefor shall occur. No delay or discontinuance in the exercise of any right power or privilege, option or remedy hereunder shall be deemed a waiver of such right, power, privilege, option or remedy or be deemed an election of remedies or a waiver of any other right, power, privilege, option or remedy. Without limiting the generality of the foregoing, the failure of the holder hereof promptly after the occurrence of any default hereunder to exercise its right to declare the indebtedness remaining unmatured hereunder to be immediately due and payable shall not constitute a waiver of such right in connection with any future default on the part of the Maker. Acceleration of maturity, once claimed hereunder by the holder, may, at the holder's option, be rescinded by written acknowledgment to that effect, but the tender and acceptance of partial payment or partial performance alone shall not, by itself, in any way affect or rescind such acceleration.

10. Except as set forth in this Note or any of the other Loan Documents, Maker and each guarantor, if any, hereof jointly and severally waive presentment for payment, demand, notice or nonpayment, notice of dishonor, protest or any dishonor, notice of protest and protest of this Note, and all other notices in connection with the delivery, acceptance, performance, default or enforcement of the payment of this Note, and they agree that the liability of each of them shall be joint, several unconditional without regard to the liability of any other party and shall not be in any manner affected by any indulgence, extension of time, renewal, waiver or modification granted or consented to by the holder hereof, and Maker and each guarantor hereof consents to any and all extensions of time, renewals, waivers or modifications that may be granted by the holder hereof with respect to the payment or other provisions of this Note, and to the release of any collateral given to secure the payment hereof, or any part thereof, with or without substitution, and agree that additional makers or guarantors may become parties hereto without notice to them or affecting their liability hereunder.

The holder hereof shall not by any acts of omission or commission be deemed to waive any rights or remedies hereunder unless such waiver be in writing and signed by the holder hereof, and then only to the extent specifically set forth therein; a waiver of one event shall not be construed as continuing or as a bar to or waiver of such right or remedy on a subsequent event.

11. All notices, demands and requests given hereunder by the Maker or the holder hereof, shall be in writing and shall be either by: (i) hand delivery to the address for notices; (ii)

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delivery by overnight courier service to the address for notices; (iii) by certified mail, return receipt requested, addressed to the address for notices by United States mail, postage prepaid.

All notices shall be deemed received upon the earlier to occur of: (i) the hand delivery of such notice to the address for notices; (ii) one day after the deposit of such notice with an overnight courier service addressed to the address for notices; or (iii) three days after depositing the notice in the United States mail as set forth in (iii) above.

All notices shall be addressed to the following addresses:

If to Maker: **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, not personally but as trustee as aforesaid  
33 North LaSalle Street  
Chicago, Illinois 60690

With a copy to: **RUTTENBERG & RUTTENBERG**  
325 W. Huron, Suite 806  
Chicago, Illinois 60610  
Attn: Jacob J. Cofman

If to Lender: **COHEN FINANCIAL CORPORATION**  
2 North LaSalle Street, Suite 800  
Chicago, Illinois 60602  
Attn: Mortgage Loan Department

With a copy to: **FREEMAN & MERMALL**  
Two North LaSalle Street  
Suite 800  
Chicago, Illinois 60602

or to such other person or at such other place as any party hereto may by notice designate as a place for service of notice.

12. Time is of the essence hereof.

13. The proceeds of the loan evidenced by this Note will not be used for the purchase of registered equity securities within the purview of Regulation G issued by the Board of Governors of the Federal Reserve System.

14. Lender shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Maker in the conduct of its businesses.

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15. The obligations and liabilities under this Note of the Maker shall be binding and enforceable against it, and its successors and assigns. This Note shall inure to the benefit of and may be enforced by Lender and its successors and assigns.

16. In the event that one or more of the provisions contained in this Note shall be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this note, and this note shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

17. The federal tax identification number of the beneficiary of the Maker is **98054159**

18. The validity and interpretation of this note shall be governed under the internal laws of the State of Illinois applicable to contracts to be fully performed within such state.

19. This Note is executed and delivered by Maker, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee. No personal liability shall be asserted or be enforceable against **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** personally or any person interested beneficially or otherwise in the property specifically described in the Mortgage or in the property or funds at any time subject to said Trust Agreement because or in respect of this Note or the making, issuance or transfer hereof, all such liability, if any, being expressly waived by each taker and holder hereof, but nothing herein contained shall modify or discharge the personal liability expressly assumed by the guarantors hereof (if any) and the liability of the parties to that Certificate and Agreement bearing even date herewith; and **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO** and each successive holder hereof shall accept this Note upon the express condition that in case of default in the payment of this Note or any installment of principal or interest, the remedies of the holder hereof shall be any or all of:

(i) foreclosure of the Mortgage in accordance with the terms and provisions in the Mortgage set forth;

(ii) action against any other security at any time given to secure the payment hereof;

and

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(iii) action to enforce the personal liability of each guarantor of the payment hereof and the personal liability of each party under that certain Certificate and Agreement bearing even date herewith, all at the sole discretion of the holder hereof as aforesaid.

MAKER:

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not personally but as  
Trustee under trust agreement dated April 18, 1957  
and known as Trust No. 12599

By: \_\_\_\_\_  
Its: Asst. Vice Pres./Trust Officer

88054159

Property of Cook County Clerk's Office

PIN 14- 33-106-013-0000  
PIN 14- 33-200-011-0000  
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EXHIBIT A  
Legal Description

PARCEL 1: *Belden Centre Clark + Belden*

LOT 1 IN FOSTER SUBDIVISION OF THAT PART OF BLOCK 3 LYING SOUTH OF THE EAST AND WEST CENTER LINE OF BLOCKS 2 AND 3 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. *Chgo. Ill.*

PARCEL 2:

LOT 8 (EXCEPT THE EAST 126 FEET THEREOF) IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. *50054159*

PARCEL 3:

AN EXCLUSIVE PERPETUAL EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY AMENDED AND RESTATED EASEMENT AGREEMENT DATED NOVEMBER 14, 1989 AND RECORDED NOVEMBER 15, 1989 AS DOCUMENT 89544441 AND RE-RECORDED NOVEMBER 27, 1989 AS DOCUMENT NUMBER 89563481 AND SUPPLEMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT RECORDED NOVEMBER 22, 1991 AS DOCUMENT NUMBER 91616961 FOR:

- (i) PURPOSES OF ALLOWING EMPLOYEES, ENGINEERS, ARCHITECTS, CONTRACTORS AND OTHER AGENTS OF THE OWNER OF THE LAND TO CONSTRUCT A SHOPPING CENTER ON THE LAND AND FOR ANY REPAIRS THERETO OR REPLACEMENTS THEREOF,
- (ii) DRIVEWAY AND DELIVERY PURPOSES.
- (iii) PURPOSES OF VEHICULAR AND PEDESTRIAN INGRESS TO AND EGRESS FROM THE LAND FROM AND TO BELDEN AVENUE,
- (iv) PARKING PURPOSES FOR AUTOMOBILES, TRUCKS AND OTHER VEHICLES IN SUCH LOCATIONS THEREON AS THE OWNER OF THE LAND MAY SELECT, AND
- (v) GARBAGE REMOVAL AND
- (vi) FOR OTHR USES CONSISTENT WITH THE FOREGOING AND FOR NO OTHER PURPOSE;

OVER, UPON, ACROSS AND ABOVE (BUT NOT SUBSURFACE EXCEPT AS OTHERWISE PROVIDED IN SAID EASEMENT) THE FOLLOWING DESCRIBED LAND: THE WEST 45.0 FEET OF THE EAST 126.0 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

NON-EXCLUSIVE, PERPETUAL, SUBSURFACE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY AMENDED AND RESTATED EASEMENT AGREEMENT DATED NOVEMBER 14, 1989 AND RECORDED NOVEMBER 15, 1989 AS DOCUMENT NUMBER 89544441 AND RE-RECORDED NOVEMBER 27, 1989 AS DOCUMENT NUMBER 89563481 AND SUPPLEMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT RECORDED NOVEMBER 22, 1991 AS DOCUMENT NUMBER 91616961 FOR AN UNDERGROUND DRIVEWAY EASEMENT FOR VEHICULAR INGRESS TO AND EGRESS FROM UNDERGROUND PARKING GARAGE TO BE CONSTRUCTED ON PARCELS 1 AND 2 FROM AND TO COMMONWEALTH AVENUE OVER, UPON AND ACROSS THE PORTION OF THE UNDERGROUND GARAGE DIRECTLY BENEATH THE FOLLOWING DESCRIBED LAND:

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THE SOUTH 19.92 FEET OF THE NORTH 21.0 FEET OF THE EAST 99.0 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THE WEST 20.0 FEET OF THE EAST 99.0 FEET OF THE NORTH 76.0 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THE SOUTH 18.75 FEET OF THE NORTH 79.78 FEET OF THE WEST 10.0 FEET OF THE EAST 119.0 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

AN EXCLUSIVE, PERPETUAL SUBSURFACE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY AMENDED AND RESTATEMENT EASEMENT AGREEMENT DATED NOVEMBER 14, 1989 AND RECORDED NOVEMBER 15, 1989 AS DOCUMENT NUMBER 89544441 AND RE-RECORDED NOVEMBER 27, 1989 AS DOCUMENT NUMBER 89553481 AND SUPPLEMENT TO AMENDED AND RESTATEMENT EASEMENT AGREEMENT RECORDED NOVEMBER 22, 1991 AS DOCUMENT NUMBER 91616961 FOR CONSTRUCTION REPAIR, REPLACEMENT, USE AND MAINTENANCE OF AND UNDERGROUND GARAGE TO BE LOCATED AT THE LAND BENEATH THE FOLLOWING DESCRIBED LAND:

THE WEST 7.0 FEET OF THE EAST 126.0 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THE SOUTH 15.0 FEET OF THE NORTH 76.0 FEET OF THE WEST 2.0 FEET OF THE EAST 120.50 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

AN EXCLUSIVE, PERPETUAL EASEMENT OVER, UPON, ACROSS AND ABOVE (BUT NOT SUBSURFACE EXCEPT FOR THE GARAGE EASEMENT PARCEL AND ANY DOWN-RAMP TO THE SHOPPING CENTER GARAGE) THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE 'GARAGE ENTRY EASEMENT PARCEL' BELOW FOR (I) PURPOSES OF ALLOWING EMPLOYEES, ENGINEERS, ARCHITECTS, CONTRACTORS AND OTHER AGENTS OF THE SHOPPING CENTER TRUST TO CONSTRUCT THE GARAGE ENTRY FOR THE SHOPPING CENTER AND FOR ANY REPAIRS THERETO OR REPLACEMENTS THEREOF, (II) REPAIR, REPLACEMENT, USE AND MAINTENANCE OF THE GARAGE ENTRY FOR THE SHOPPING CENTER (III) PURPOSES OF VEHICULAR AND PEDESTRIAN INGRESS TO AND EGRESS FROM THE SHOPPING CENTER GARAGE FROM AND TO THE DRIVEWAY AND PARKING EASEMENT PARCEL:

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## GARAGE ENTRY EASEMENT PARCEL

THE WEST 3.00 FEET OF THE EAST 126.0 FEET OF THE NORTH 27.20 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL IN COOK COUNTY, ILLINOIS.

## PARCEL 7:

AN EXCLUSIVE, PERPETUAL EASEMENT OVER, UPON, ACROSS AND ABOVE (BUT NOT SUBSURFACE) THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE "PARKING SIGN EASEMENT PARCEL" BELOW FOR THE REPAIR, REPLACEMENT, USE AND MAINTENANCE OF THE MONOLITH PARKING SIGN LOCATED THEREON:

## PARKING SIGN EASEMENT PARCEL

THE NORTH 3.30 FEET OF THE SOUTH 5.75 FEET OF THE WEST 1.53 FEET OF THE EAST 84.51 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION OF CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

## PARCEL 8:

AN EXCLUSIVE, PERPETUAL EASEMENT OVER, UPON, ACROSS AND ABOVE (BUT NOT SUBSURFACE) THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE "PLANTER EASEMENT PARCEL" BELOW FOR THE REPAIR, REPLACEMENT, USE AND MAINTENANCE OF THE PLANTER LOCATED THEREON: PLANTER EASEMENT PARCEL

THE WEST 7.00 FEET OF THE EAST 126.00 FEET OF THE NORTH 12.50 FEET OF THE SOUTH 16.90 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

## PARCEL 9:

AN EXCLUSIVE, PERPETUAL, SUBSURFACE EASEMENT OVER, UPON, ACROSS AND BENEATH THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE "CABLE TV EASEMENT PARCEL" BELOW FOR THE REPAIR, REPLACEMENT, USE AND MAINTENANCE OF THE CABLE TELEVISION WIRING AND CONTROL BOX, LOCATED THEREON WHICH ENTERS THE APARTMENT BUILDING FROM BELDEN AVENUE, AND SERVES BOTH THE APARTMENT BUILDING AND THE SHOPPING CENTER:

## CABLE T.V. EASEMENT PARCEL

THE NORTH 2.0 FEET OF THE SOUTH 7.0 FEET OF THE WEST 19.0 FEET OF THE EAST 76.08 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK TWO OF CANAL TRUSTEE'S SUBDIVISION OF SECTION 33 TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PARCEL 10:

AN EXCLUSIVE, PERPETUAL SUBSURFACE EASEMENT OVER, UPON, ACROSS AND BENEATH THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE "UNDERGROUND UTILITIES, CONDUIT AND CABLE TV EASEMENT PARCEL" BELOW FOR THE REPAIR, REPLACEMENT, USE AND MAINTENANCE OF CERTAIN UNDERGROUND UTILITIES, CONDUIT AND CABLE T.V. WIRING THEREON;

UNDERGROUND UTILITIES, CONDUIT AND CABLE T.V. EASEMENT PARCEL

THE WEST 49.52 FEET OF THE EAST 126 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 11:

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AN EXCLUSIVE, PERPETUAL EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY AMENDED AND RESTATED EASEMENT AGREEMENT DATED NOVEMBER 14, 1989 AND RECORDED NOVEMBER 15, 1989 AS DOCUMENT NUMBER 89544441 AND RECORDED NOVEMBER 27, 1989 AS DOCUMENT NUMBER 89563481 AND SUPPLEMENT TO AMENDED AND RESTATED EASEMENT AGREEMENT RECORDED NOVEMBER 22, 1991 AS DOCUMENT NUMBER 91616961 OVER, UPON, ACROSS AND BENEATH THE PORTION OF THE APARTMENT BUILDING PARCEL DESCRIBED AS THE "GARAGE DOOR AND CARD READER EASEMENT PARCEL" BELOW FOR THE REPAIR, REPLACEMENT, USE AND MAINTENANCE OF A GARAGE DOOR BETWEEN THE APARTMENT BUILDING GARAGE AND THE SHOPPING CENTER GARAGE AND A CARD READER SERVING SUCH DOOR LOCATION THEREON:

GARAGE DOOR AND CARD READER EASEMENT PARCEL

THE SOUTH 2.0 FEET OF THE NORTH 78.0 FEET OF THE WEST 14.0 FEET OF THE EAST 120.50 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 12:

A NON-EXCLUSIVE EASEMENT FOR THE USE FOR THEIR INTENDED PURPOSE OF ALL "FACILITIES", AS DEFINED IN THE SUPPLEMENT EXISTING AS OF OCTOBER 15, 1991 LOCATED IN THE APARTMENT BUILDING PARCEL DESCRIBED BELOW AND CONNECTED TO FACILITIES LOCATED IN THE SHOPPING CENTER PARCEL (AND ANY REPLACEMENTS THEREOF) WHICH PROVIDE THE SHOPPING CENTER PARCEL WITH ANY UTILITIES OR SERVICES OR WHICH MAY OTHERWISE BE NECESSARY TO THE OPERATION OF, USE AND ENJOYMENT OF THE SHOPPING CENTER PARCEL.

APARTMENT BUILDING PARCEL

THE EAST 126 FEET OF LOT 8 IN BLOCK 2 IN PETERBORO TERRACE ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF BLOCK 2 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PARCEL 13:

EASEMENT FOR ENCROACHMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY GRANT DATED OCTOBER 14, 1991 AND RECORDED MARCH 24, 1992 AS DOCUMENT NUMBER 92195007.

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