

# UNOFFICIAL COPY

PROMISSORY NOTE

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\$335,000.00

First Bank of Whiting  
Highland, Indiana  
December 30, 1986

FOR VALUE RECEIVED, the undersigned, American National Bank, a national banking association not personally but as Trustee under the provisions of a deed or deeds in trusts duly recorded and delivered to said Trustee in pursuance of a Trust Agreement dated May 1, 1975 and known as Trust Number 90887 ("Trustee 90887") and Oak Park Trust and Savings Bank, a national banking association not personally but as Trustee under the provisions of a deed or deeds in trusts duly recorded and delivered to said Trustee in pursuance of a Trust Agreement dated May 11, 1962 and known as Trust Number 4094 ("Trustee 4094"), (Trustee 90887 and Trustee 4094 hereinafter collectively referred to as the "Trustees") hereby jointly and severally promise, out of the Trust Estates subject to said Trust Agreements, to pay to the order of First Bank of Whiting, an Indiana banking association, at its offices at 9701 Indianapolis Blvd., Highland, Indiana 46222 the principal sum of Three Hundred Thirty Five Thousand Dollars (\$335,000.00) together with interest computed on a basis of a year of 365 or 366 days, as the case may be prior to maturity on the balance of principal remaining from time to time unpaid hereon at the rate of eight percent (8%) as follows:

Pursuant to the terms and provisions of a certain Agreement made 30th day of December, 1986, by and between the First Bank of Whiting, Bank One, Merrillville, N.A., Lowell Industrial Park, Inc., William J. Huber and Alice A. Huber, husband and wife, John L. Black and Betha Black, husband and wife, which is made a part hereof and attached hereto as Attachment No. 1.

All payments on the account of the indebtedness evidenced by this Note shall be first applied to interest on the unpaid principal balance and the remainder to principal.

The Trustees jointly and severally promise to pay out of said Trust Estate, interest to the holder hereof on overdue principal for the period after the date on which such principal becomes due and payable until payment in full thereof, at the rate of eight percent (8%) per annum.

If any payment of principal on this Note shall fall due on a Saturday, Sunday or on another day which is a legal holiday for banks in the State of Illinois, interest at the rate which this Note bears for the period prior to maturity shall continue to accrue on such principal from the stated due date thereof to and including the next succeeding bank business day on which the same shall be payable.

EXHIBIT A

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This Note may be prepaid in whole or in part at any time or from time to time without penalty.

Payment of this Note is secured by, among other things, two Mortgages and Security Agreements with Assignments of Rents bearing even date herewith from Trustee 90887 and Trustee 4094, respectively, to First Bank of Whiting, on real estate in Cook County and DuPage County, Illinois. This Note and the holder hereof are entitled to all of the benefits and security afforded by such Mortgages. This Note may be declared due prior to its expressed maturity in the events and on the terms and in the manner provided for in said Mortgages.

This Note shall be governed and construed in accordance with the laws of the State of Illinois. The Trustees hereby waive presentment for payment and demand.

This Note is executed by the undersigned, not personally but as Trustees as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustees, and is payable only out of the property specifically described in said Mortgages securing the payment hereof by the enforcement of the provisions contained in said Mortgages and by resort to any other collateral security hereof or guarantors hereof. No personal liability shall be asserted or be enforceable against either of the undersigned because or in respect of this Note or the making, issue or transfer thereof, 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 any guarantor hereof, and each original and successive holder of this Note accepts the same upon the express condition that no duty shall rest upon the undersigned to sequester the rents, issues and profits arising from the property described in said Mortgages, or the proceeds arising from the sale or other disposition thereof, but that in case of default in the payment of this Note or of any installment hereof, the sole remedy of the holder hereof shall be by foreclosure of the said Mortgages given to secure the indebtedness evidenced by this Note in accordance with the terms and provisions in said Mortgages set forth, by realization on other collateral security hereof and/or by action to enforce the personal liability of any guarantor of the payment hereof.

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AMERICAN NATIONAL BANK  
as Trustee under its Trust  
Number 90887 as Aforesaid  
and not Personally

By \_\_\_\_\_  
Vice President

ATTEST:

\_\_\_\_\_  
Assistant Secretary

OAK PARK TRUST AND SAVINGS BANK  
As Trustee under its Trust  
Number 4094 as Aforesaid and  
not Personally

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Assistant Secretary

Property of Cook County Clerk's Office

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## AGREEMENT

This Agreement made and entered into this <sup>28th</sup> ~~30th~~ day of December, 1986, by and between The First Bank of Whiting, (First Bank), Bank One, Merrillville, N.A., (Bank One), Lowell Industrial Park, Inc., (Lowell) and William J. Huber, Alice A. Huber, Husband and Wife, and John L. Black and Jetha Black, Husband and Wife, (Guarantors).

## RECITALS

1. That Lowell is the owner of sixty-five (65) acres of real estate located in Lake County, Indiana, more particularly described in Exhibit "A", attached hereto and made a part hereof, "Indiana Real Estate";

2. That First Bank, Bank One and Indiana Federal Savings and Loan, (Indiana Federal), hold certain mortgage liens against the Indiana Real Estate;

3. That Lowell desires to transfer the Indiana Real Estate to a third party and in exchange therefore, obtain two (2) parcels of real estate in Cook County, Illinois: the first being a fourteen (14) unit apartment building commonly known as 3901-03 Warren, Belwood, Illinois, (BELLWOOD), and legally described as shown on Exhibit "B" attached hereto and made a part hereof; and nine (9) townhouses commonly known as 889-893 West North Avenue, Villa Park, Illinois, (VILLA PARK) and legally described as shown on Exhibit "C" attached hereto and made a part hereof;

4. That Lowell is in default with respect to the payment of the various notes which are secured by the mortgage liens held by First Bank, Bank One and Indiana Federal against the Indiana Real Estate;

5. That the banks have commenced litigation for the collection of the notes and a foreclosure of their respective mortgage liens;

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6. That the parties hereto wish to amicably settle their litigation and to provide for the payment of the obligations owed to the banks by Lowell through the transfer by Lowell of the Indiana Real Estate for BELLWOOD and VILLA PARK;

NOW, THEREFORE, in consideration of the foregoing and hereafter contained covenants, the parties agree as follows:

A. TRANSFER OF REAL ESTATE.

1. That Lowell shall transfer the Indiana Real Estate for fee simple title to BELLWOOD and VILLA PARK, all pursuant to the terms and conditions of a real estate exchange contract, a copy of which is attached hereto, marked Exhibit "D" and made a part hereof. That if the fee simple title to BELLWOOD and VILLA PARK are in the name of a Trustee, then Lowell may take an Assignment of Beneficial Interest (with power of direction) as evidence of ownership;

2. That Bank One, in consideration for the issuance of a Letter of Credit more specifically set forth in Paragraph C. 1(c), infra, and the conditions of this Agreement, shall release its mortgage lien now held against the Indiana Real Estate;

3. That First Bank, in consideration for receiving a mortgage lien subordinate only to the present first mortgages against the BELLWOOD and VILLA PARK property, and the assignment of all rents and proceeds thereof, hereby agrees to release any and all mortgage liens which it now has or which it may acquire through this agreement, against the Indiana Real Estate, (That First Bank may also obtain as collateral an assignment of beneficial interest if Lowell obtains BELLWOOD and VILLA PARK while such real estate is held in Trust);

4. That First Bank shall pay the sum of Sixty-Five Thousand (\$65,000.00) Dollars to Indiana Federal which shall release its mortgage lien against the Indiana Real Estate, which lien has a current balance of approximately \$ 101,000.00 2/2/11

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B. OBLIGATIONS OWING.

1. That it is agreed between the parties that the indebtedness to Bank One is in the sum of One Hundred Sixty Thousand (\$160,000.00) Dollars. Said indebtedness shall be evidenced by a new promissory note in like amount, which shall until satisfied, bear interest at the rate of eight (8%) percent per annum, all pursuant to the terms and conditions of said Note;

2. That it is agreed between the parties that the indebtedness of First Bank is in the amount of Two Hundred Seventy Thousand (\$335,000.00) Dollars. Said indebtedness shall be evidenced by a new promissory note in like amount, which shall bear interest at the rate of eight (8%) percent per annum, all pursuant to the terms and conditions of said note. The obligation owing First Bank includes the Sixty-Five (\$65,000.00) Dollars paid to Indiana Federal pursuant to Paragraph A 4, supra;

C. PAYMENT OF OBLIGATIONS AND INDEBTEDNESS.

1. Bank One.

(a) Bank One shall receive payment of all net proceeds from the sale of BELLWOOD and VILLA PARK, or any portions thereof. Net proceeds shall be defined as the gross sales price less first mortgage lien, sales commission and other ordinary and necessary closing expenses, except attorney's fees of Lowell. Proceeds received from the sale of VILLA PARK and BELLWOOD property shall be paid to Bank One and applied by Bank One to a reduction of principal. All indebtedness under the Note described in B. 1 above, be paid in full by Lowell on or before November 15, 1990;

(b) That from the monthly rental received from both BELLWOOD and VILLA PARK, Lowell shall first make all debt service payments to the holders of the first mortgage liens and then other necessary operating expenses. The balance of said rent shall be paid as follows:

First: To Bank One in an amount equal to pay monthly interest;

Second: To First Bank in an amount equal to pay monthly interest;

Third: Balance to To Bank One as principal reduction;

(c) That to ensure the payment of the Bank One indebtedness, First Bank will issue on behalf of Lowell, as account party, a Letter of Credit to Bank One, as beneficiary. The Letter of Credit in the same form and substance as attached hereto as Exhibit "E", shall allow Bank One to make draws as follows:

- (i) Failure of Bank One to receive its interest payment due on its Note pursuant to Paragraph C 1(b), supra;
- (ii) Failure of Bank One to have been paid in full, including all principal and interest by November 15, 1990;
- (iii) Default by Lowell in the performance of any obligation in this Agreement which inures to the benefit of Bank One;

In the event of a draw made pursuant to Paragraph C 1(c)(ii) and (iii), Bank One may draw upon the Letter of Credit for payment in full. In the event that there is a conflict in the terms of this Agreement with those of the Letter of Credit, then the terms of the Letter of Credit shall control.

Further, First Bank hereby agrees to pay all sums to be paid by Lowell to Bank One under this agreement, upon default, irrespective of the letter of credit and notwithstanding any failure of Bank One to exercise its rights to draw against said letter of credit. That any payments by the Bank to Bank One, pursuant to the terms of this Agreement, shall be made as if there had been a

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draw by Bank One against the Letter of Credit referred to herein. That First Bank has the right to pay Bank One any sums provided for hereunder, whether Bank One makes demand on First Bank or not.

## 2. First Bank.

(a) Lowell shall execute a note payable to First Bank in the principal sum of Three Hundred Thirty-Five (\$335,000.00) Dollars, with interest at the rate of eight (8%) percent per annum. Said note will be due and payable within three (3) years or whenever Bank One is paid in full, whichever shall occur first.

(b) First Bank shall have its interest kept current by way of the rental payments from BELLWOOD and VILLA PARK, pursuant to Paragraph C 1(b), supra;

(c) That the note payable to First Bank, by Lowell, as provided for herein, along with the terms and conditions of this Agreement, and the performance by Lowell thereby, shall all be secured by mortgage liens (or Trust Deeds) against the BELLWOOD and VILLA PARK real estate, along with an assignment of rents. Such mortgage liens shall be subject only to the current first mortgage liens held against said real estate. First Bank may, at its option, obtain additional collateral or assignment of beneficial interest in the trusts that hold fee simple title to BELLWOOD and VILLA PARK;

D. REPRESENTATIONS AND WARRANTIES OF LOWELL. Lowell represents and warrants as follows:

1. That BELLWOOD and VILLA PARK shall be immediately listed for sale with a qualified and certified real estate broker in the State of Illinois. All listing agreements and offers to purchase shall be submitted to First Bank. First Bank must approve of the sale of each parcel of real estate. That Lowell shall make a good faith effort to sell BELLWOOD and VILLA PARK.



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2. That Lowell shall maintain BELLWOOD and VILLA PARK in as good a condition as it currently is, keeping it in good repair, less normal wear and tear;

3. That Lowell shall keep BELLWOOD and VILLA PARK fully insured for amounts not less than the aggregate of obligations owing the first mortgage liens, Bank One and First Bank, with each bank being named as loss payee as their respective interests may appear. Copies of all insurance policies and notices thereof shall be submitted to Bank One and First Bank, at their request;

4. That Lowell shall sell the BELLWOOD and VILLA PARK real estate at prices which are reasonably comparable to the actual fair market value thereof;

5. That for the purposes of determining net rental proceeds to be paid to First Bank and Bank One pursuant to this Agreement, the ordinary and necessary monthly costs and expenses of maintaining BELLWOOD is \$ 1,600/mo<sup>2/92</sup> and for VILLA PARK is \$ 500/mo<sup>2/92</sup>.

6. That the balance of the first mortgage lien for BELLWOOD is \$ 97,763.77<sup>2/92</sup>;

7. That the balance of the mortgage liens held on the respective townhouses of VILLA PARK are as follows: 115,286.46

## E. COVENANTS OF LOWELL.

1. That Lowell shall maintain all bank accounts with respect to the operation of BELLWOOD and VILLA PARK, at First Bank. First Bank shall provide Bank One, at the latter's request and expense, copies of all Bank statements with respect to such accounts;

2. That Lowell shall provide Bank One and First Bank with copies of all documents pertaining to the sale of BELLWOOD or each of the townhouses comprising VILLA PARK, including offers to purchase, whether accepted or not, and closing statements;

3. That Lowell shall provide First Bank and Bank One all financial documentation with respect to BELLWOOD and VILLA PARK, including but not limited to, income tax returns, profit or loss statements, balance sheets, etc.;

4. That Lowell shall provide First Bank with a complete list of all personal property purchased in the transfer of the real estate contemplated herein;

5. That Lowell shall execute any and all documentation necessary to effectuate the terms of this Agreement, including but not limited to, mortgages, security agreements, notes, assignments, and any other documentation Bank One and First Bank deem necessary in order to perfect their various interests afforded them pursuant to the terms of this Agreement, "Supplemental Documentation";

F. GUARANTORS' OBLIGATIONS.

1. Guarantors hereby agree to the terms of this Agreement and the transfer of the real estate contemplated herein. Guarantors waive any defenses which they have or might have by virtue of the transactions contemplated within this Agreement. Guarantors will reaffirm and execute new guarantees as may be required by First Bank and Bank One. Such guarantees will be for the full amount of all obligations owing First Bank and Bank One by the respective guarantors.

G. EVENTS OF DEFAULT. The following shall be events of default hereunder:

1. Failure of Lowell to make any and all payments provided for hereunder or the Supplemental Documentation for a period of ten (10) days after Lowell receives notice thereof;

2. Failure in the due, prompt and complete observation and performance of any of the conditions, covenants or obligations of this Agreement, or the Supplemental Documentation provided for herein, for a period of ten (10) days after written notice to the defaulting party from the non-defaulting parties specifying the nature thereof; provided,

however, in the case of an event of default which cannot, in the exercise of reasonable diligence, reasonably be cured within such ten (10) day period, the continuation thereof beyond such period as is required to cure the same with the exercise of reasonable diligence.

3. The appointment pursuant to an Order of a Court of competent jurisdiction of a trustee, receiver or liquidator of Lowell of BELLWOOD or VILLA PARK, or any part thereof;

4. The filing by Lowell of a Petition in bankruptcy or a Petition for an arrangement or a reorganization pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or the adjudication of Lowell as a bankrupt or as an insolvent by decree of a Court of competent jurisdiction, or the making of the assignment for the benefit of creditors;

5. The liquidation, termination or dissolution of Lowell; or

6. A suit by any entity to foreclose a lien on property owned by Lowell, including but not limited to BELLWOOD and VILLA PARK;

H. REMEDIES. If any of the events of default set forth in this Agreement shall occur and a defaulting party fails to cure the same within the expressed time period herein provided the other parties, either jointly or severally, in addition to any other right that party(s) may have under this Agreement or exhibits attached thereto, may, at its option without prior notice or demand:

1. Declare default under any of the Supplemental Documentation and exercise any remedies or powers contained in said documents;

2. Exercise any rights and remedies available at law or equity;

3. No remedy herein is intended to be exclusive of any other remedy herein or by law provided, that each shall be

cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or admission of any party in exercising any remedies or power accruing under any event of default shall impair any remedies or power or shall be construed to be a waiver of any event of default or any acquiescence thereunder;

I. PROFESSIONAL FEES. If any party brings an action for any damages, collection of any sums payable or secured herein, protection of a lien, or other relief, the losing party shall pay the prevailing party a reasonable sum for attorney's fees, accountants, engineers, brokers and other professional fees in such suit, and such obligation shall be incurred on the commencement of any action whether or not said action is prosecuted to judgment or final determination;

J. SEVERABILITY. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law;

K. EXHIBITS. All exhibits, addendums, attachments, riders and schedules, if any, attached hereto shall be deemed a part of this Agreement and incorporated herein. If the provisions of any exhibits, addendums, attachments, riders or schedules to this Agreement are inconsistent with the provisions of the Agreement, the provisions of this Agreement shall prevail, except that in case of the Letter of Credit to Bank One, the terms and provisions of the Letter of Credit shall prevail;

L. NOTICES. All notices under this Agreement shall be writing and shall be delivered personally or shall be sent by pre-paid registered mail addressed to the parties hereafter set forth:

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Lowell Industrial Park  
C/O WILLIAM J. AUGER  
5003 W. 154th AVE.  
LOWELL, IN. 46256

Bank One, Merrillville, N.A.  
Attn: C.F. THORNE  
1000 E 80th Place  
MERRILLVILLE, IN 46410

The First Bank of Whiting  
Attn: Commercial Loan Department  
9701 Indianapolis Blvd.  
Highland, IN 46322

M. FURTHER ASSURANCES. Each undersigned party will, whenever it shall be reasonably requested to do so by any other, promptly execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further conveyances, confirmations, instruments or further assurances and consents as may be necessary or proper, in order to effectuate the covenants and agreements herein provided. Each of the undersigned parties shall cooperate in good faith with the other and shall do any and all other acts and execute, acknowledge and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement;

N. INTERPRETATIONS. Any uncertainty or ambiguity existing herein shall not be interpreted against any party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of the rules of interpretation of contracts generally. If a conflict shall occur between this Agreement and the Supplemental Documentation, then the Supplemental Documentation shall control;

O. CONSTRUCTION. Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant;

P. EXECUTION OF COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts, each of which shall be in an original, but all of which shall constitute one in the same instrument;

Q. GOVERNING LAW. All aspects of this Agreement shall be governed by the laws of the State of Indiana;

R. TITLES OF ARTICLES, SECTIONS AND PARAGRAPHS. Any title of the several parts, articles, sections and paragraphs of this Agreement are inserted for the convenience of reference only and shall be disregarded in construing or interpreting any of the provisions;

S. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legatees, devisees, personal representatives, successors and permitted assigns;

T. That Lowell shall provide the BANK with current appraisals no later than sixty days old, of the fair market value of BELLWOOD and VILLA PARK. Such appraisals shall be done by persons or firms acceptable to First Bank.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals on the date and year first above written.

BANK ONE, MERRILLVILLE, N.A.

By: [Signature]  
VICE PRESIDENT  
(Title)

THE FIRST BANK OF WHITING

By: [Signature]  
(Title)

LOWELL INDUSTRIAL PARK, INC.

By: [Signature]  
WILLIAM J. HUBER,  
Secretary

GUARANTORS:

[Signature]  
JOHN L. BLACK

[Signature]  
WILLIAM J. HUBER

[Signature]  
JITHA BLACK

[Signature]  
ALICE A. HUBER

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## LEGAL DESCRIPTION

The East Half of the Southwest Quarter of Section 22, Township 33 North, Range 9 West of the Second Principal Meridian, containing 80 acres more or less, in the Town of Lowell, Lake County, Indiana (excepting from said 80 acres, Lots 1 through 14, Unit 10, Indian Heights; Lots 57 and 58, Unit 9, Indian Heights; Lowell Industrial Park 85A, Unit 2, 86A, Unit 1 and 200, Unit 4). All of the above is hereinafter called "Parcel C" (excepting Lot 15, Unit 12, Indiana Heights).

EXHIBIT "A"



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## LEGAL DESCRIPTION

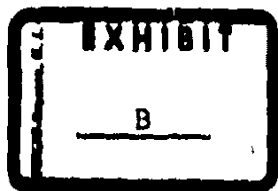
Lots 110, 111 and 112 in Levi G. Hetzels  
Addition to Bellwood in the West Half of  
the Southwest Quarter of Section 9,  
Township 39 North, Range 12, East of the  
Third Principal Meridian in Cook County,  
Illinois.

EEO - 15-09-318 -039, ALL  
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Property of Cook County Clerk's Office

3623470

EXHIBIT "B"





Parcel 8: That part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 44.79 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 49.50 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 10: The South 21.14 feet of that part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 87.09 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 91.80 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 11: The South 21.14 feet of that part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 108.23 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 112.94 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 12: The South 21.16 feet of that part of Lot 21 in Block 2 lying South of a line drawn from a point on the West line of said Lot 21, 129.39 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 134.10 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 13: Lot 21 (except that part thereof lying North of a line drawn from a point on the West line of said Lot 21, 129.39 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 134.10 feet South of the Northeast corner thereof, and except the South 27.75 feet, as measured along the East and West lines thereof) in Block 2 in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded

Parcel 3: The South 21.19 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 86.37 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 90.12 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the North quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 4: The South 21.18 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 107.55 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 111.30 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 5: The South 21.13 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 128.68 feet South of the Northwest corner and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 132.43 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 6: Lot 20 (except that part thereof lying North of a line drawn from a point on the West line of said Lot 20, 128.68 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 132.43 feet South of the Northeast corner thereof, and except the South 29.0 feet, as measured along the East and West lines thereof) in Block 2 in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed

EXHIBIT C

0150200

REAL ESTATE EXCHANGE CONTRACT

THIS CONTRACT made this 23rd day of October, 1985 by and between Ssay & Sons Management Corporation, an Illinois corporation ("Ssay") and Lowell Industrial Park, Inc., an Indiana corporation ("Lowell").

WITNESSETH

1. In consideration of the mutual agreements hereinafter made,

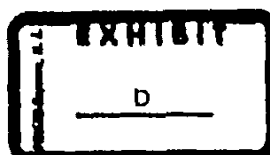
A. Ssay as sole beneficiary of America National Bank and Trust Company of Chicago as trustee under trust agreement dated May 1, 1975 and known as Trust No. 22887, Harris Bank, Roselle, as trustee under trust agreement dated May 24, 1976 and known as Trust No. 10040, and trust agreement dated August 5, 1976 and known as Trust No. 10063, Oak Park Trust & Savings Bank, dated May 11, 1962 and Ssay & Sons Management Corporation agrees to convey or cause to be conveyed to Lowell the following real property:

Parcel 1: a 14 unit apartment building commonly known as 3901-03 Warren, Bellwood, Illinois and legally described as follows:

Lots 110, 111 and 112 in Levi G. Hetzels Addition to Bellwood in the West Half of the Southwest Quarter of Section 9, Township 39 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois.

together with the following personal property, per attached Exhibit "A" located on the premises

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Parcel 2: 9 townhouses commonly known as 889-893 West North Avenue, Villa Park, Illinois, legal description to be inserted at a later date and attached hereto as Exhibit "B" together with the following personal property per Exhibit "C" located on the premises belonging to the building, all of which is hereinafter called "Parcel B."

B. Real property of approximately 65 acres commonly known as Lowell Industrial Park, Lowell, Indiana and legally described as follows:

The East Half of the Southwest Quarter of Section 22, Township 33 North, Range 9 West of the Second Principal Meridian, containing 80 acres more or less, in the Town of Lowell, Lake County, Indiana (excepting from said 80 acres, Lots 1 through 14, Unit 10, Indian Heights; Lots 57 and 58, Unit 9, Indian Heights; Lowell Industrial Park 85A, Unit 2, 86 A, Unit 1 and 86 B, Unit 4). All of the above is hereinafter called "Parcel C."

Property A

excepting Lot 15, Unit 12 Indian Heights.

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2. The parties agree that for the purpose hereof, the value of Parcel A is \$425,000.00. The value of Parcel B is \$540,000.00 and the value of Parcel C is \$762,000.00.

3. The conveyance of Parcel A and Parcel B to Lowell, or to nominee shall be by stamped recordable warranty deed and/or assignment of beneficial interest of land trust and a proper bill of sale for personal property, subject only to:

- A. Covenants, conditions and restrictions of record;
- B. Private, public and utility easements and roads and highways, if any;
- C. Party wall rights and agreements, if any;

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belonging to the building, all of which is hereinafter called "Parcel A";

Parcel 2; 9 townhouses commonly known as 889-893 West North Avenue, Villa Park, Illinois, legal description to be inserted at a later date and attached hereto as Exhibit "B" together with the following personal property per Exhibit "C" located on the premises belonging to the building, all of which is hereinafter called "Parcel B."

B. Real property of approximately 65 acres commonly known as Lowell Industrial Park, Lowell, Indiana and legally described as follows:

2. The parties agree that for the purpose hereof, the value of Parcel A is \$425,000.00. The value of Parcel B is \$540,000.00 and the value of Parcel C is \$762,000.00.

3. The conveyance of Parcel A and Parcel B to Lowell, or to nominee shall be by stamped recordable warranty deed and/or assignment of beneficial interest of land trust and a proper bill of sale for personal property, subject only to:

- A. Covenants, conditions and restrictions of record;
- B. Private, public and utility easements and roads and highways, if any;
- C. Party wall rights and agreements, if any;

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D. Existing leases and tenancies (as listed in Exhibit A attached);

E. General taxes for the year 1985 and subsequent years;

4. The conveyance of Parcel C to Ssay or its nominee shall be by a stamped recordable warranty deed and a proper bill of sale for the personal property, subject only to:

A. Covenants, conditions and restrictions of record;

B. The private, public and utility easements and roads and highways, if any;

C. General taxes for the year 1985 and subsequent years.

5. The Real Estate Exchange Contract is expressly contingent upon the following:

A. FINANCING: Lowell's procurement within 60 days of a firm commitment for a loan to be secured by a first mortgage on:

1. Parcel A in the amount of \$300,000.00 with interest not to exceed 12% a year amortized over 30 years and the commission and service charge not to exceed 1%.

2. Parcel B in the amount of \$459,000.00 with interest not to exceed 12% a year amortized over 30 years and the commission and service charge not to exceed 1%.

B. PROCEEDS OF FINANCING:

1. From the proceeds of \$300,000.00 loan on Parcel A, Lowell will pay existing mortgage in an amount not to exceed the balance of \$108,000.00.

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2. From the proceeds of \$459,000.00 loan on Parcel B, Lowell will pay existing mortgage in an amount not to exceed the balance of \$120,000.00.
3. From the proceeds of the new mortgages on Parcel A and Parcel B Lowell will pay a total of \$445,000.00 on the existing mortgages on Parcel C reducing balance on remaining mortgage to \$25,000.00 and retain for Lowell the net new mortgage proceeds in the amount of \$86,000.00.
6. The date of closing shall be December 15, 1985 or the date, if any, to which such time is extended by reasons of Sections 8 and 9 hereof being operative (whichever date is latest) unless subsequently mutually agreed otherwise, provided the title to the respective parcels is shown to be good or is otherwise accepted by the party to whom such parcel is to be conveyed. The closing shall be at Lender's office or at the office of a Title Insurance Company through escrow hereinafter described. Possession of the parcels shall be delivered at closing subject to the leases or tenancies shown on Schedules A and B.
7. At the election of Seller or Purchaser upon notice to the other party not less than 5 days prior to the time of closing, this sale shall be closed through an escrow with Chicago Title and Trust Company, in accordance with the general provisions of the usual form of Deed and Money Escrow Agreement then in use Chicago Title and Trust Company, with such special provisions inserted in the escrow agreement as may be required to conform with this contract. Upon the

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creation of such an escrow, anything herein to the contrary notwithstanding, payment of purchase price and delivery of deed shall be made through the escrow and this contract and the earnest money shall be deposited in the escrow. The cost of the escrow shall be divided equally between Seller and Purchaser. In lieu of Chicago Title and Trust Company, parties may substitute Intercounty Title Insurance Company of Illinois or Ticor Title Insurance for escrow closing.

8. Not less than five days prior to the time of closing Ssay shall deliver to Lowell a Title commitment for owners Title insurance issued by one of the above Title Insurance Companies in the amount of \$425,000.00 covering Parcel A and in the amount of \$540,000.00 covering Parcel B showing title in the intended grantor subject only to (a) the general exceptions contained in the policy, (b) the title exceptions set forth in Section 3 above, and (c) the title exceptions pertaining to liens and encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of the closing and which Ssay may remove at that time either by using funds to be paid to him upon delivery of the deed, if any, or otherwise (all of which exceptions are herein referred to as the permitted exceptions). The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions as therein stated. Ssay shall furnish Lowell an affidavit of title in customary form covering the date of closing showing title in Ssay, subject only

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to the permitted exceptions in foregoing items (b) and (c) and unpermitted exceptions as to which the title insurer commits to extend insurance in the matter specified herein. If the title commitment discloses unpermitted exceptions, Ssay shall have thirty (30) days from the date of delivery thereof to have the exceptions removed from the commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions and in such event the date of closing shall be 35 days after the delivery of the commitment or the date specified in Section 5 hereof, whichever is later. If Ssay fails to have the exceptions removed or in the alternative to obtain the commitment for title insurance specified above as to such exceptions within the specified time, Ssay may terminate this Contract or may elect upon notice to Lowell within ten (10) days after the expiration of the thirty (30) day period to take title as it then is with the right to deduct from sums payable by it to Ssay hereunder, if any, liens or encumbrances of a definite or ascertainable amount. If Lowell does not so elect, this Contract shall become null and void without further action of the parties.

9. Not less than five days prior to the time of closing Lowell shall deliver to Ssay a Title commitment for owners Title insurance issued by one of the above Title Insurance Companies in the amount of \$762,000.00 covering Parcel C showing title in the intended grantor subject only to (a) the general exceptions contained in the policy, (b) the title



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exceptions set forth in Section 3 above, and (c) the title exceptions pertaining to liens and encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of the closing and which Lowell may remove at that time either by using funds to be paid to him upon delivery of the deed, if any, or otherwise (all of which exceptions are herein referred to as the permitted exceptions). The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions as therein stated. Lowell shall furnish Ss an affidavit of title in customary form covering the date of closing showing title in Lowell, subject only to the permitted exceptions in foregoing items (b) and (c) and unpermitted exceptions as to which the title insurer commits to extend insurance in the matter specified herein. If the title commitment discloses unpermitted exceptions, Lowell shall have thirty (30) days from the date of delivery thereof to have the exceptions removed from the commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions and in such event the date of closing shall be 35 days after the delivery of the commitment or the date specified in Section 5 hereof, whichever is later. If Lowell fails to have the exceptions removed or in the alternative to obtain the commitment for title insurance specified above as to such exceptions within the specified time. Lowell may terminate this Contract or may elect upon notice

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to Lowell within ten (10) days after the expiration of the thirty (30) day period to take title as it then is with the right to deduct from sums payable by it to Lowell hereunder, if any, liens or encumbrances of a definite or ascertainable amount. If Ssay does not so elect, this Contract shall become null and void without further action of the parties.

10. Rents, premiums under assignable insurance policies, water and other utility charges, fuels, prepaid service contracts, general taxes and other similar items relative to each of the Parcels which are the subject matter of this Contract shall be adjusted ratably as of the time of closing. If the amount of the current general taxes is not then ascertainable, the adjustment thereof, except for the amount which may accrue by reason of new or additional improvements, shall be on the basis of the amount of the most recent ascertainable taxes. All prorations are final. Ssay's interest in existing leases and assignable insurance policies, if any, relative to Parcels A and B shall then be assigned to Lowell. Each of the conveying parties shall pay the amount of any stamp tax imposed by state law on the transfer of title and shall pay any stamp tax imposed by local ordinance of the property being received and shall furnish any completed real estate transfer declarations as may be required by law. Each of the parties to which a conveyance is made shall pay any fee or tax charged upon recording.

11. The provisions of the Uniform and Purchaser Risk Act of the State of Illinois shall be applicable to this contract.

12. All notices herein required shall be in writing and shall be served in person or by registered or certified mail on:

SSAY: SSAY & Sons Management Corporation  
c/o John W. Baber  
2138 Westchester Boulevard  
Westchester, Illinois 60153

LOWELL: Lowell Industrial Park, Inc.  
c/o John L. Black  
1040 Commercial Avenue  
Lowell, Indiana 46356

Lowell Industrial Park, Inc.  
c/o William J. Huber  
Route 41  
Schneider, Indiana 46376

All notices shall be deemed given on the date of service if in person or two days after the date deposited in the United States mails if by registered or certified mail.

13. Time is of the essence of this Exchange Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year first above written.

SSay & Sons Management, Inc.

By John W. Baber Pres.

Attest:

\_\_\_\_\_

John W. Baber

Lowell Industrial Park, Inc.

By William J. Huber, Sec.

Attest:

William J. Huber, Sec.

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## Parcel B

### Rent and Security Deposit Schedule

Townhouse - 889 W. North Avenue, Villa Park, Illinois

<u>Units</u>	<u>Rental</u>	<u>Term</u>	<u>Security Deposit</u>
A	\$ 465.00	Mo-Mo	\$ 465.00
C	510.00	8-15-86	510.00
D	510.00	7-15-86	510.00
E	510.00	7-31-86	510.00
	495.00	7-31-86	495.00
<b>Total</b>	<b>\$2,490.00</b>		<b>\$2,490.00</b>

Townhouse - 893 W. North Avenue, Villa Park, Illinois

<u>Units</u>	<u>Rental</u>	<u>Term</u>	<u>Security Deposit</u>
C	\$ 475.00	Mo-Mo	\$ 475.00
D	510.00	7-31-86	510.00
E	500.00	6-15-86	500.00
F	510.00	8-31-86	510.00
<b>Total</b>	<b>\$2,015.00</b>		<b>\$1,995.00</b>

**Total Monthly Rental**  
889 W. North Avenue - \$2,490.00  
893 W. North Avenue - 2,015.00  
**Total** \$4,505.00

**Total Security Deposit**  
889 W. North Avenue - \$2,490.00  
893 W. North Avenue - 1,995.00  
**Total** \$4,485.00

All above rentals are due and payable on the 1st day of each month. If rent is paid by the 5th day of the month a \$25.00 discount is given each tenant with the exception of Unit A, 889 West North Avenue.

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## Exhibit A

A-1	Stove	
B-4	Stove	Refrigerator
B-5	Stove	
B-6	Stove	
C-1	Stove	Refrigerator
C-3	Stove	
C-4	Stove	Refrigerator
C-5		Refrigerator
C-6	Stove	Refrigerator

Above as only personal property on the premises.

## Exhibit C

Nine stoves, screens, storm doors and windows.

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h.6.T.B 889 W

Parcel 8: That part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 44.79 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 49.50 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 10: The South 21.14 feet of that part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 87.09 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 91.80 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 11: The South 21.14 feet of that part of Lot 21 in Block 2 lying North of a line drawn from a point on the West line of said Lot 21, 108.23 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 112.94 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 12: The South 21.16 feet of that part of Lot 21 in Block 2 lying South of a line drawn from a point on the West line of said Lot 21, 129.39 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 134.10 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 13: Lot 21 (except that part thereof lying North of a line drawn from a point on the West line of said Lot 21, 129.39 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 21, to a point on the East line of said Lot 21, 134.10 feet South of the Northeast corner thereof, and except the South 27.75 feet, as measured along the East and West lines thereof) in Block 2 in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded

893 W NORTH AVE VILLA PARK, ILLINOIS

Parcel 3: The South 21.19 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 86.37 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 90.12 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 4: The South 21.18 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 107.55 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 111.30 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 5: The South 21.13 feet of that part of Lot 20 in Block 2 lying North of a line drawn from a point on the West line of said Lot 20, 128.68 feet South of the Northwest corner and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 132.43 feet South of the Northeast corner thereof, in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed June 9, 1955 as Document 760296, in DuPage County, Illinois.

Parcel 6: Lot 20 (except that part thereof lying North of a line drawn from a point on the West line of said Lot 20, 128.68 feet South of the Northwest corner thereof and at 90 degrees to the West line of said Lot 20, to a point on the East line of said Lot 20, 132.43 feet South of the Northeast corner thereof, and except the South 29.0 feet, as measured along the East and West lines thereof) in Block 2 in Lombard Heights, being a Subdivision of part of the Northeast quarter of Section 5, Township 39 North, Range 11, East of the Third Principal Meridian, lying North of the North line of the Subdivision entitled Lombard Vista, as Document 243024, according to the Plat thereof recorded December 28, 1953 as Document 704195, and Certificate of Correction filed

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## Parcel A

### Monthly Income

A1	3 Bedroom	\$ 700.00
A2	2 Bedroom	475.00
A3	2 Bedroom	475.00
B2	1 Bedroom	385.00
B3	2 Bedroom	475.00
B4	1 Bedroom	385.00
B5	2 Bedroom	475.00
B6	1 Bedroom	385.00
C1	1 Bedroom	385.00
C2	2 Bedroom	475.00
C3	1 Bedroom	385.00
C4	2 Bedroom	475.00
C5	1 Bedroom	385.00
C6	2 Bedroom	<u>475.00</u>
Total/month		\$6,335.00

Security deposits and copies of existing leases to be supplied Lowell no later than December 1, 1985.

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## IRREVOCABLE LETTER OF CREDIT

THE FIRST BANK OF WHITING  
9701 Indianapolis Blvd.  
Highland, IN 46322

NO.

DATED:

TO: Bank One, Merrillville, N.A. (Bank One)

Amount: \$160,000.00, with interest at 8% per annum, from  
(date of issuance)

Expires: January 30, 1991

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit No. \_\_\_\_\_ in an amount not to exceed \$160,000.00, plus interest at the rate of 8% per annum.

We hereby authorize you to draw on The First Bank of Whiting drafts at sight.

All drafts hereunder must be identified as drawn under The First Bank of Whiting Credit No. \_\_\_\_\_, dated \_\_\_\_\_.

All drafts drawn hereunder must be accompanied by the following statement:

1. That Bank One has not been paid interest for the month preceding, by Lowell Industrial Park, Inc., on the principal obligation owing it by Lowell Industrial Park, Inc., pursuant to that certain Agreement dated December \_\_\_\_, 1986;

or

2. That the principal indebtedness owing Bank One by Lowell Industrial Park, Inc., pursuant to that certain Agreement dated December \_\_\_\_, 1986, has not been paid and the outstanding principal balance thereof is \$ \_\_\_\_\_, and the accrued interest thereon is \$ \_\_\_\_\_, all pursuant to the terms and conditions of that Agreement dated December \_\_\_\_, 1986;

or



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3. That Lowell Industrial Park, Inc., has defaulted in the performance of its obligations pursuant to that certain Agreement dated December \_\_\_\_, 1986, and that the principal balance owing Bank One by Lowell Industrial Park, Inc., is \$ \_\_\_\_\_, with accrued interest of \$ \_\_\_\_\_.

The amount of each draft drawn under this Letter of Credit must be endorsed hereon, and the presentation of each, if negotiated, shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

We hereby engage with the drawers, endorsers, and bona fide holders of drafts drawn under the terms and conditions of said Letter of Credit and in compliance with same, the same shall be duly honored on presentation and delivery of documents as specified herein and negotiated on or before January 30, 1991.

THE FIRST BANK OF WHITING

By: \_\_\_\_\_

This Letter of Credit is subject to Uniform Customs and Practice for Documentary Credits I.C.C. Publications 290.

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MORTGAGE AND SECURITY AGREEMENT WITH  
ASSIGNMENT OF RENTS

3623470

*note identified*

This Mortgage dated December 30, 1986 between American National Bank and Trust Company of Chicago, a national banking association of 38 N. LaSalle St., Chicago, Illinois 60690 not personally but as Trustee under the provisions of a deed or deeds in trusts duly recorded and delivered to said Trustee in pursuance of a Trust Agreement dated May 1, 1975 and known as Trust Number 90887 (hereinafter referred to as "Mortgagor") and First Bank of Whiting, an Indiana banking association with a place of business at 9701 Indianapolis Blvd., Highland, Indiana 46322 (hereinafter referred to as "Mortgagee"):

W I T N E S S E T H T H A T :

WHEREAS, Mortgagor is justly and truly indebted to Mortgagee in the principal sum of Three Hundred Thirty Five Thousand Dollars (\$335,000.00) as evidenced by that certain Promissory Note bearing even date herewith and payable to the order of Mortgagee whereby Mortgagor promises to pay said principal sum together with interest at the rates per annum set forth therein, at the times therein provided, with a final maturity of all principal and interest not required to be sooner paid as provided, a copy of which Note is attached as Exhibit A hereto (such promissory note and any and all notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the "Note");

NOW, THEREFORE, to secure the payment of the principal and premium, if any, of and interest on the Note as and when the same becomes due and payable (whether by lapse of time, acceleration or otherwise), the payment of all other indebtedness, obligations and liabilities which this Mortgage secures pursuant to any of its terms and the observance and performance of all covenants and agreements contained herein or in the Note or in any other instrument or document at any time evidencing or securing any of the foregoing or setting forth terms and conditions applicable thereto (all of such indebtedness, obligations and liabilities being hereinafter collectively referred to as the "indebtedness hereby secured"), Mortgagor does hereby grant, ~~grant~~ sell, convey, mortgage, assign, and pledge unto Mortgagee, its successors and assigns, and grant to Mortgagee, its

This Instrument Prepared By and Mail To:

George W. Groble  
33 W. Jackson Blvd.  
Chicago, Illinois 60604

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successors and assigns a security interest in all and singular the properties, rights, interests and privileges described in Granting Clauses I, II, III, IV, V and VI below, all of the same being collectively referred to herein as the "Mortgaged Premises":

## GRANTING CLAUSE I

That certain real estate lying and being in County of Cook and State of Illinois more particularly described in Schedule I attached hereto and made a part hereof.

## GRANTING CLAUSE II

All buildings and improvements of every kind and description heretofore or hereafter erected or placed on the property described in Granting Clause I and all materials intended for construction, reconstruction, alteration and repairs of the buildings and improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the premises immediately upon the delivery thereof to the said real estate, and all fixtures, machinery, apparatus, equipment, fittings and articles of personal property of every kind and nature whatsoever now or hereafter attached to or contained in or used or useful in connection with said real estate and the buildings and improvements now or hereafter located thereon and the operation, maintenance and protection thereof, including but not limited to all machinery, motors, fittings, radiators, awnings, shades, screens, all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures, all fire prevention and extinguishing equipment and apparatus, all cooling and ventilating apparatus and systems, all plumbing, incinerating, and sprinkler equipment and fixtures, all elevators and escalators, all communication and electronic monitoring equipment, all window and structural cleaning rigs and all other machinery and equipment of every nature and fixtures and appurtenances thereto and all items of furniture, appliances, draperies, carpets, other furnishings, equipment and personal property used or useful in the operation, maintenance and protection of the said real estate and the buildings and improvements now or hereafter located thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said real estate, buildings or improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the real estate and for the purpose of this Mortgage to be real estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a Security Agreement under the provisions of the Uniform Commercial Code for the purpose of creating hereby a security interest in said property, which is hereby granted by Mortgagor as debtor to

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Mortgagee as secured party, securing the indebtedness hereby secured. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at the beginning hereof.

## GRANTING CLAUSE III

All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and royalties, mineral, oil, and water rights belonging or in any wise appertaining to the property described in the preceding Granting Clause I and the buildings and improvements now or hereafter located thereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advanced rent or for security) under any and all leases or subleases and renewals thereof of, or under any contracts or options for the sale of all or any part of, said property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the indebtedness hereby secured and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this Mortgage, Mortgagee agrees, not as a limitation or condition hereof, but as a personal covenant available only to Mortgagor that until an event of default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive (but not more than 30 days in advance) and enjoy such rents.

## GRANTING CLAUSE IV

All judgments, awards of damages, settlements and other compensation heretofore or hereafter made resulting from condemnation proceedings or the taking of the property described in Granting Clause I or any part thereof or any building or other improvement now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights

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appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively "Condemnation Awards").

## GRANTING CLAUSE V

All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter, by installation or writing of any kind, be subjected to the lien hereof by Mortgagor or by anyone in Mortgagor's behalf.

## GRANTING CLAUSE VI

All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the property described in Granting Clause I or any part thereof.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, pledged and assigned, and in which a security interest is granted, or intended so to be, unto Mortgagee, its successors and assigns, forever; provided, however, that this instrument is upon the express condition that if the principal of and interest on the Note shall be paid in full and all other indebtedness hereby secured shall be fully paid and performed, then this instrument and the estate and rights hereby granted shall cease, determine and be void and this instrument shall be released by Mortgagee upon the written request and at the expense of Mortgagor, otherwise to remain in full force and effect.

It is expressly understood and agreed that the indebtedness hereby secured will in no event exceed two hundred percent (200%) of (i) that total face amount of the Note plus (ii) the total interest which may hereafter accrue under the Note on such face amount plus (iii) all fees, costs and expenses incurred hereunder.

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. Payment of the Indebtedness. The indebtedness hereby secured will be promptly paid as and when the same becomes due.

2. Further Assurances. Mortgagor will execute and deliver such further instruments and do such further acts as may be necessary or proper to carry out more effectively the purpose



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of this instrument and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the Granting Clauses hereof or intended so to be.

3. Possession. While Mortgagor is not in default hereunder, Mortgagor shall be suffered and permitted to remain in full possession, enjoyment and control of the Mortgaged Premises, subject always to the observance and performance of the terms of this instrument.

4. Payment of Taxes. Mortgagor shall pay before any penalty attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the Mortgaged Premises or any part thereof and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall, upon written request, exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the Mortgaged Premises or any part thereof to satisfy the same, conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or requested by Mortgagee.

5. Payment of Taxes on Note, Mortgage or Interest of Mortgagee. Mortgagor agrees that if any tax assessment or imposition upon this Mortgage or the indebtedness hereby secured or the Note or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of or as a holder of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the indebtedness hereby secured imposed by the United States or any State) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon demand of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee upon 30 days' notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment. Mortgagor agrees to exhibit to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

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6. Recordation and Payment of Taxes and Expenses Incident Thereto. Mortgagor will cause this Mortgage, all mortgages supplemental hereto and any financing statement or other notice of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the rerecording and refiling of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or rerecording, including any documentary stamp tax or tax imposed upon the privilege of having this instrument or any instrument issued pursuant hereto recorded.

7. Insurance. Mortgagor will, at its expense, keep all buildings, improvements, equipment and other property now or hereafter constituting part of the Mortgaged Premises insured against loss or damage by fire, lightning, windstorm, explosion and such other risks as are usually included under extended coverage policies, or which are usually insured against by owners of like property, in amount sufficient to prevent Mortgagor or Mortgagee from becoming a co-insurer of any partial loss under applicable policies and in any event not less than the then full insurable value (actual replacement value without deduction for physical depreciation) thereof, as determined at the request of Mortgagee and at Mortgagor's expense by the insurer or insurers or by an expert approved by Mortgagee, all under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the usual standard non-contributory form of mortgage clause to be attached to each policy. Mortgagor shall not carry separate insurance concurrent in kind or form and contributing in the event of loss, with any insurance required hereby. Mortgagor shall also obtain and maintain public liability, property damage and workmen's compensation insurance in each case in form and content satisfactory to Mortgagee and in amounts as are customarily carried by owners of like property and approved by Mortgagee. Mortgagor shall also obtain and maintain such other insurance with respect to the Mortgaged Premises in such amounts and against such insurable hazards as Mortgagee from time to time may require, including, without limitation, boiler and machinery insurance, insurance against flood risks, host liquor liability, war risk insurance when and to the extent obtainable from the United States Government or any agency thereof, and insurance against loss of rent due to fire and risks now or hereafter embraced by so-called "extended coverage". All insurance required hereby shall be maintained with good and responsible insurance companies satisfactory to Mortgagee and shall not provide for any deductible amount not approved in writing by Mortgagee, shall provide that any losses shall be payable not-

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withstanding any act or negligence of Mortgagor, shall provide that no cancellation thereof shall be effective until at least thirty days after receipt by Mortgagor and Mortgagee of written notice thereof, and shall be satisfactory to Mortgagee in all other respects. Upon the execution of this Mortgage and thereafter not less than 15 days prior to the expiration date of any policy delivered pursuant to this instrument, Mortgagor will deliver to Mortgagee originals of any policy or renewal policy, as the case may be, required by this instrument, bearing notations evidencing the payment of all premiums. In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in amounts aforesaid for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor to cancel any or all existing insurance policies.

## 8. Damage to or Destruction of Mortgaged Premises.

(a) Notice. In case of any material damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor shall promptly give written notice thereof to Mortgagee, generally describing the nature and extent of such damage or destruction.

(b) Restoration. In case of any damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor, whether or not the insurance proceeds, if any, received on account of such damage or destruction shall be sufficient for the purpose, at Mortgagor's expense, will promptly commence and complete (subject to unavoidable delays occasioned by strikes, lockouts, acts of God, inability to obtain labor or materials, governmental restrictions and similar causes beyond the reasonable control of Mortgagor) the restoration, replacement or rebuilding of the Mortgaged Premises as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

(c) Adjustment of Loss. Mortgagor hereby authorizes Mortgagee, at Mortgagee's option, to adjust and compromise any losses under any insurance afforded, but unless Mortgagee elects to adjust the losses as aforesaid, said adjustment and/or compromise shall be made by Mortgagor, subject to final approval of Mortgagee in the case of losses exceeding \$10,000.

(d) Application of Insurance Proceeds. Net insurance proceeds received by Mortgagee under the provisions of this Mortgage or any instruments supplemental hereto or thereto or under any policy or policies of insurance covering the Mortgaged Premises or any part thereof

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shall first be applied toward the payment of the amount owing on the indebtedness hereby secured in such order of application as Mortgagee may elect whether or not the same may then be due or be otherwise adequately secured; provided, however, that Mortgagee shall have the right, but not the duty, to release the proceeds thereof for use in restoring the Mortgaged Premises or any part thereof for or on behalf of Mortgagor in lieu of applying said proceeds to the indebtedness hereby secured and for such purpose may do all acts necessary to complete such restoration, including advancing additional funds, and any additional funds so advanced shall constitute part of the indebtedness hereby secured and shall be payable on demand with interest at the Interest Rate (hereinafter defined).

9. Eminent Domain. Mortgagor acknowledges that Condemnation Awards have been assigned to Mortgagee, which awards Mortgagee is hereby irrevocably authorized to collect and receive, and to give appropriate receipts and acquittances therefor, and at Mortgagee's option, to apply the same toward the payment of the amount owing on account of the indebtedness hereby secured in such order of application as Mortgagee may elect and whether or not the same may then be due and payable or otherwise adequately secured, and Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any proceedings under condemnation or eminent domain affecting all or any part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and consequential damage and change in grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

10. Construction, Repair, Waste, Etc. Mortgagor agrees that no building or other improvement on the Mortgaged Premises and constituting a part thereof shall be altered, removed or demolished nor shall any fixtures or appliances on, in or about said buildings or improvements be severed, removed, sold or mortgaged, without the consent of Mortgagee and in the event of the demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby, Mortgagor covenants that the same will be replaced promptly by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those

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replaced, free from any security interest in or encumbrance thereon or reservation of title thereto; to permit, commit or suffer no waste, impairment or deterioration of the Mortgaged Premises or any part thereof; to keep and maintain said Mortgaged Premises and every part thereof in good and first class repair and condition; to effect such repairs as Mortgagee may reasonably require and from time to time to make all needful and proper replacements and additions so that said buildings, fixtures, machinery and appurtenances will, at all times, be in good and first class condition, fit and proper for the respective purposes for which they were originally erected or installed; to comply with all statutes, orders, requirements or decrees relating to the Mortgaged Premises by any Federal, State or Municipal authority; to observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including, but not limited to, zoning variances, special exceptions and non-conforming uses), privileges, franchises and concessions which are applicable to the Mortgaged Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the Mortgaged Premises or any part thereof and not to initiate or acquiesce in any changes to or terminations of any of the foregoing or of zoning classifications affecting the use to which the Mortgaged Premises or any part thereof may be put without the prior written consent of Mortgagee; and to make no material alterations in or improvements or additions to the Mortgaged Premises except as required by governmental authority or as permitted by Mortgagee.

11. Liens and Encumbrances. Mortgagor will not, without the prior written consent of Mortgagee, directly or indirectly, create or suffer to be created or to remain and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge of, or conditional sale or other title retention agreement with respect to, the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof, except for this instrument.

12. Right of Mortgagee to Perform Mortgagor's Covenants, Etc. If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder, Mortgagee, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Mortgagor, and may enter upon the Mortgaged Premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums to be paid by Mortgagee and all costs and expenses (including without limitation reasonable attorney's fees and expenses) so incurred, together with interest thereon from the date of payment or incurrence at the Interest Rate shall constitute so much additional indebtedness hereby

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secured and shall be paid by Mortgagor to Mortgagee on demand. Mortgagee in making any payment authorized under this Section relating to taxes or 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. Mortgagee, in performing any act hereunder, shall be the sole judge of whether Mortgagor is required to perform same under the terms of this Mortgage.

13. After-Acquired Property. Any and all property hereafter acquired which is of the kind or nature herein provided, or intended to be and become subject to the lien hereof, shall ipso facto, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

14. Inspection by Mortgagee. Mortgagee and any participant in the Indebtedness hereby secured shall have the right to inspect the Mortgaged Premises at all reasonable times, and access thereto shall be permitted for that purpose.

15. Financial Reports. Mortgagor will furnish to the Mortgagee such information and data with respect to the financial condition, business affairs and operations of the beneficiary of Mortgagor and the Mortgaged Premises as may be reasonably requested (all such information and data to be prepared in accordance with generally accepted accounting principles consistently applied), such information and data to be prepared and certified by independent public accountants satisfactory to the Mortgagee if so requested by the Mortgagee not more often than annually.

16. Subrogation. Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of the loan evidenced by the Note or out of any advance by Mortgagee hereunder, irrespective of whether or not any such lien may have been released of record.

17. Events of Default. Any one or more of the following shall constitute an Event of Default:

(a) Default in the payment when due of the principal of or interest on the Note or of any other indebtedness hereby secured; or

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(b) Default for more than 15 days in the observance or compliance with any terms or provisions of this Mortgage or the Note or of any separate assignment of leases and/or rents securing the Note or of any other instrument or document securing the Note or relating thereto; or

(c) Any representation or warranty made by Mortgagor herein or in any separate assignment of leases and/or rents securing the Note or in any other instrument or document securing the Note or relating thereto or in any statement or certificate furnished by it pursuant hereto or thereto proves to be untrue in any material respect as of the date of issuance or making thereof; or

(d) Any indebtedness, obligation or liability of the Mortgagor (or of any beneficiary of Mortgagor who has guaranteed payment of the Note), at any time owing to First Bank of Whiting shall not be paid when due (whether by lapse of time, acceleration, or otherwise) provided that the foregoing shall constitute an event of default only if and so long as First Bank of Whiting is the holder of the Note; or

(e) The Mortgaged Premises or any part thereof shall be sold, transferred, or conveyed, whether voluntarily or involuntarily, by operation of law or otherwise, except for sales of obsolete, worn out or unusable fixtures or personal property which are concurrently replaced with similar fixtures or personal property at least equal in quality and condition to those sold and owned by Mortgagor free of any lien, charge or encumbrance other than the lien hereof; or

(f) All or any portion of the beneficial interest in Mortgagor is encumbered or sold, transferred, assigned or conveyed, whether voluntarily or involuntarily; or

(g) Mortgagor or any person, firm or corporation at any time guaranteeing all or any part of the indebtedness hereby secured (a "Guarantor") becomes insolvent or bankrupt or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee, custodian or receiver for the major part of its property or such a trustee, custodian or receiver is appointed for Mortgagor or a Guarantor or for the major part of the properties of any of them and is not discharged within 45 days after such

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appointment or bankruptcy, reorganization, arrangement, insolvency, readjustment, liquidation, dissolution or other proceedings for relief under any present or future bankruptcy law or laws or other statute, law or regulation for the relief of debtors are instituted by or against Mortgagor or any Guarantor and if instituted against any such party are consented to or acquiesced in or are not dismissed within 45 days after such institution, or Mortgagor or any Guarantor takes any action in contemplation of or furtherance of any of the foregoing; or

(h) Any event occurs or condition exists which is specified as an event of default in any separate assignment of leases and/or rents securing the Note or of any other instrument or document securing the Note or relating thereto; or

(i) Any Guarantor dies or any financial or other information submitted by any Guarantor to Mortgagee proves untrue in any material respect; or

(j) The Mortgaged Premises is abandoned; or

(k) Any lease of the Mortgaged Premises between Mortgagor, as landlord, and a tenant, is, or purportedly is, cancelled, terminated, modified or amended in any respect without the prior written consent of Mortgagee.

18. Remedies. When any event of default has happened and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument and of the adequacy of the security for the Note) and in addition to such other rights as may be available under applicable law, but subject at all times to any mandatory legal requirements:

(a) Acceleration. Mortgagee may, by written notice to Mortgagor, declare the Note and all unpaid indebtedness of Mortgagor hereby secured, including any interest then accrued thereon, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

(b) Uniform Commercial Code. Mortgagee shall, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Uniform Commercial Code, have all the rights, options and remedies of a secured party

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under the Uniform Commercial Code of Illinois, including without limitation, the right to the possession of any such property, or any part thereof, and the right to enter without legal process any premises where any such property may be found. Any requirement of said Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least 10 days prior to the sale or other event for which such notice is required. The expenses of retaking, selling, and otherwise disposing of said property, including reasonable attorney's fees and legal expenses incurred in connection therewith, shall constitute so much additional indebtedness hereby secured and shall be payable upon demand with interest at the Interest Rate.

(c) Foreclosure. Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Mortgage.

(d) Appointment of Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of Mortgagor or its beneficiaries or the then value of the Mortgaged Premises, be entitled to have a receiver appointed of all or any part of the Mortgaged Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

(e) Taking Possession, Collecting Rents, Etc. Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof and manage, operate, insure, repair and improve the same and take any action which, in Mortgagee's judgment, is necessary or proper

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to conserve the value of the Mortgaged Premises. Mortgagee may also take possession of, and for these purposes use, any and all personal property contained in the Mortgaged Premises and used in the operation, rental or leasing thereof or any part thereof. Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues and profits of the Mortgaged Premises or any part thereof (and for such purpose Mortgagor does hereby irrevocably constitute and appoint Mortgagee its true and lawful attorney-in-fact for it and in its name, place and stead to receive, collect and receipt for all of the foregoing, Mortgagor irrevocably acknowledging that any payment made to Mortgagee hereunder shall be a good receipt and acquittance against Mortgagor to the extent so made) and to apply same to the reduction of the indebtedness hereby secured. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate and conserve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which Mortgagor promises to pay upon demand together with interest at the Interest Rate. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises becomes vacant or is abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional indebtedness hereby secured payable upon demand with interest thereon at the Interest Rate.

19. Waiver of Right to Redeem From Sale - Waiver of Appraisalment, Valuation, Etc. Mortgagor shall not and will not apply for or avail itself of any appraisalment, 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 have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this instrument, the whole

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of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Note and the other indebtedness hereby secured, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure pursuant to rights herein granted, on behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

20. Costs and Expenses of Foreclosure. 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 attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as the items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, all of which expenditures shall become so much additional indebtedness hereby secured which Mortgagor agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Interest Rate.

21. Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Section 18(b) hereof shall be distributed in the following order of priority: First, on account of all costs and expenses incident to the foreclosure or other proceedings including all such items as are mentioned in Sections 18(b) and 20 hereof; Second, to all other items which under the terms hereof constitute indebtedness hereby secured in addition to that evidenced by the Note with interest thereon as herein provided; Third, to all principal of and interest on the Note with any over plus to whomsoever shall be lawfully entitled to same.

22. Mortgagee's Remedies Cumulative - No Waiver. No remedy or right of Mortgagee shall be exclusive of but shall be cumulative and in addition to every other remedy or right now or

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hereafter existing at law or in equity or by statute or otherwise. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

23. Mortgagee Party to Suits. If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the indebtedness hereby secured or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses in preparation for the commencement of any foreclosure proceedings or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately and without demand, all reasonable costs, charges, expenses and attorney's fees incurred by Mortgagee in any such case, and the same shall constitute so much additional indebtedness hereby secured payable upon demand with interest at the Interest Rate.

24. Modifications Not to Affect Lien. Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the indebtedness hereby secured, may extend the time of payment of any of the indebtedness hereby secured and may grant waivers or other indulgences with respect hereto and thereto, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the indebtedness hereby secured (including modifications in the rates of interest applicable thereto), without in any way affecting or impairing the liability of any party liable upon any of the indebtedness hereby secured or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and any party acquiring any direct or indirect interest in the Mortgaged Premises shall take same subject to all of the provisions hereof.

25. Notices. All communications provided for herein shall be in writing and shall be deemed to have been given when delivered personally or mailed by first class mail, postage prepaid, addressed to the parties hereto at their addresses as shown at the beginning of this Agreement or to such other and different address as Mortgagor or Mortgagee may designate pursuant to a

Written notice **UNOFFICIAL COPY** in accordance with the provisions of this Section 25.

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26. Partial Invalidity. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid, illegal or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

27. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

28. Headings. The headings in this instrument are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

29. Changes, Etc. This instrument and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

30. Interest Rate. Interest Rate means the rate per annum at Eight (8%) per cent on any balance of principal unpaid from time to time and adding (18) % to the rate applicable to the Note at default. *Eighteen*

31. Exculpation. 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 Trustee 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 said Trustee personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express 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 said Trustee personally is concerned, the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment

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thereof, by the enforcement of the lien hereby created, in the manner herein and in said Note provided or by action to enforce the personal liability of any guarantors of the indebtedness hereby secured or by proceeding against any other collateral security therefor.

IN WITNESS WHEREOF, American National Bank and Trust Company of Chicago not personally but as Trustee as aforesaid, has caused these presents to be signed by its Vice President, and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO  
as Trustee as Aforesaid  
and not Personally

By [Signature]  
Its Third Vice President

W. G. BAKER  
Type or Print Name

(SEAL)

ATTEST:

Its [Signature] Secretary

P. JOHANNEN

Type or Print Name

Property of Cook County Clerk's Office

3623470

UNOFFICIAL COPY

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

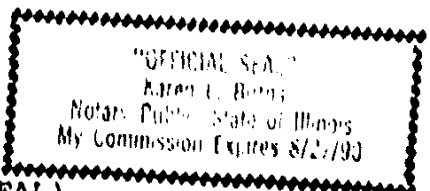
I, KAREN L. BURNS a Notary Public in and for said County, in the State aforesaid, do hereby certify that SUZANNE G. DAVER Second Vice President Vice President of American National Bank & Trust Company of Chicago, a national banking association, and Assistant Secretary Secretary of said bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Second Vice President Vice President and Assistant Secretary 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 Trustees as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary Secretary then and there acknowledged that he, as custodian of the seal of said bank, did affix the corporate seal of said bank to said instrument, as his 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.

FEB 19 1987

Given under my hand and notarial seal, this \_\_\_ day of \_\_\_\_\_, 1986.

Karen L. Burns  
Notary Public

(TYPE OR PRINT NAME)



(SEAL)

My Commission Expires: 8/27/90

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SCHEDULE I

## LEGAL DESCRIPTION

Lots 110, 111 and 112 in Levi G. Hetzel's Addition to Bellwood, in the West 1/2 of the Southwest 1/4 of Section 9, Township 39 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as 3901-03 Warren, Bellwood, Illinois 60104

Permanent Tax Number 15-09-318-039, Volume 160

EEO ✕

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3623170

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1/12 PIP  
1/19 PIP

3623470

Submitted by \_\_\_\_\_  
 Address \_\_\_\_\_  
 Promised \_\_\_\_\_  
 Deliver certif. to \_\_\_\_\_  
 Address \_\_\_\_\_  
 Deliver Duplicate Trust \_\_\_\_\_  
 Deed to \_\_\_\_\_  
 Address \_\_\_\_\_  
 Notified \_\_\_\_\_  
 L.T.L.

**INTERCOUNTY**  
**TRUST INS. CO. 51123786**  
**BOX 97**

3623470