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EXHIBIT A 7 1 9 3 7 7

PARCEL 1:

LOTS 40 AND 41 IN THE SUBDIVISION OF LOTS 138 AND 139 AND THE RESUBDIVISION OF LOTS 142 TO 151 IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN

PARCEL 2:

LOT 37 AND THE NORTH 1/2 OF LOT 42 IN THE SUBDIVISION OF LOTS 138 AND 139 AND THE RESUBDIVISION OF LOTS 142 TO 151 INCLUSIVE IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

LOT 46 (EXCEPT THE EAST 1.3 FEET THEREOF) AND THE SOUTH 3 FEET OF LOT 43 (EXCEPT THE EAST 1.8 FEET THEREOF) IN THE SUBDIVISION OF LOTS 138 AND 139 AND THE RESUBDIVISION OF LOTS 142 TO 151 INCLUSIVE IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 4:

LOT 43 (EXCEPT THE SOUTH 3 FEET OF SAID LOT 43) AND THE SOUTH 1/2 OF LOT 42 IN THE SUBDIVISION OF LOTS 138 AND 139 AND THE RESUBDIVISION OF LOTS 142 TO 151 INCLUSIVE IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 5:

LOT 44 (EXCEPT THE SOUTH 3 FEET OF SAID LOT 44) IN THE SOUTH 1/2 OF SUBDIVISION LOTS 41 AND 42 IN SUBDIVISION OF LOTS 138 AND 139 AND THE RESUBDIVISION OF LOTS 142 TO 151 INCLUSIVE IN BRONSON'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

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17-04-203-063  
17-04-203-064  
17-04-203-067  
17-04-203-068

17-04-203-060

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1415-21 N. WILCAND ST.  
1416-20 N. WELLS ST.  
CHICAGO, ILL.

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This document prepared by and after recording mail to:

Loan No. 75-1

Joyce R. Gradl  
University Savings and Loan Association  
5250 S. Lake Park Ave.  
Chicago, IL 60615

## MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (the "Mortgage") is made as of June 28, 1988, by and between American National Bank & Trust Co. of Chicago, as Trustee under Trust Agreement dated June 10, 1988 and known as Trust Number 105695 (the "Mortgagee"), with offices at Chicago, Illinois, whose sole beneficiary is ~~\_\_\_\_\_~~ "Beneficiary"), with offices at ~~\_\_\_\_\_~~ Chicago, Illinois and University Savings and Loan Association (the "Mortgagee"), with offices at 5250 South Lake Park Avenue, Chicago, Illinois 60615.

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

WHEREAS the sole beneficiary of the Mortgagee is the Beneficiary, as hereinafter defined, and the Beneficiary is justly indebted to the Mortgagee in the principal sum of \$900,000.00 evidenced by that certain PROMISSORY NOTE of Mortgagee of even date herewith (the "Note"), made payable to the order of and delivered to the Mortgagee, whereby the Mortgagee promised to pay the said principal sum, late charges, and interest at the rate and in installments, all as provided in the Note. The final payment of principal and interest, if not sooner paid, shall be due on June 27, 1989. All such payments on account of the Indebtedness (as that term is hereinafter defined) secured hereby shall be applied first to interest on the unpaid principal balance, secondly to any other sums due thereunder, thirdly to all other advances and sums secured hereby, and the remainder to principal, all of said principal and interest being made payable at such place as the holder of the Note may from time to time in writing appoint, and in the absence of such appointment, then at the office of the Mortgagee; and

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WHEREAS, to secure the Note the Mortgagee has required that the Beneficiary direct the Trustee to cause this Mortgage to be duly executed in favor of Mortgagee.

NOW, THEREFORE, the Mortgagor, to secure the payment of said principal sum of money and said interest and late charges in accordance with the terms, provisions and limitations of this Mortgage and of the Note, and the performance of the covenants and agreements herein contained by the Mortgagor to be performed, and also in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid, the receipt whereof is hereby acknowledged, does by these presents MORTGAGE, GRANT, REMISE, RELEASE, ALIEN AND CONVEY unto the Mortgagee and its successors and assigns, the following described real estate and all of its present and hereafter-acquired estate, right, title and interest therein, situated, lying and being in the County of Cook and State of Illinois, without any relief whatsoever from valuation or appraisement laws of the State of Illinois to-wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO  
AND MADE A PART HEREOF AS EXHIBIT "A"

which, with the property hereinafter described, if and when same shall exist, is collectively referred to herein as the "Premises."

TOGETHER with all improvements, tenements, reversions, remainders, easements, fixtures and appurtenances now or hereafter thereto belonging, and all rents, issues and profit hereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily); all tenant security deposits, utility deposits and insurance premium rebates to which Mortgagor may be entitled or which Mortgagor may be holding; and of Mortgagor's rights, title and interest in all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, refrigerators, curtain fixtures, partitions and attached floor covering now or hereafter therein or thereon, and all fixtures, apparatus, equipment and articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation (whether single units or centrally controlled) including (without restricting the foregoing): all fixtures, apparatus, equipment and articles (other than trade fixtures used in the operation of a business and other than inventories held for sale) which relate to the use, occupancy, and enjoyment of the Premises; it being understood that the enumeration of any specific articles of property shall in no wise exclude or be held to

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exclude any items or property not specifically mentioned. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared (to the maximum extent permitted by law) to form part and parcel of the real estate and to be appropriated to the use of the real estate, and shall be, for the purposes of this Mortgage, deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the Premises unto the Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

## Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, etc.

Mortgagor shall: (a) promptly repair, restore or rebuild any buildings and other improvements now or hereafter on the Premises which may become damaged or destroyed to substantially the same character as prior to such damage or destruction, without regard to the availability or adequacy or any casualty insurance proceeds or eminent domain awards; (b) keep the Premises constantly in at least the condition and repair as of the date, hereof, without waste; (c) keep the Premises free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien hereof (collectively called "Liens"), subject, however, to the rights of the Mortgagor set forth in Paragraph 1.a. below; (d) immediately pay when due any indebtedness which may be secured by a lien or charge on the Premises on a parity with or superior to the lien hereof, and upon request, exhibit satisfactory evidence of the discharge of such lien to Mortgagee; (e) complete within a reasonable time any building(s) or other improvement(s) now or at any time in process of erection upon the Premises; (f) comply with all federal, state and local requirements of law, regulations, ordinances, orders and judgments and all covenants, easements and restrictions of record with respect to the Premises and the use thereof; (g) make no material (in excess of \$10,000 in value) structural improvements or alterations in or on the Premises without Mortgagee's prior written consent; (h) suffer or permit no change in the general nature of the occupancy of the Premises without Mortgagee's prior written consent; (i) observe and comply with all conditions and requirements (if any) necessary to preserve and extend all rights, easements, licenses, permits (including without limitation zoning

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variations and any non-conforming uses and structures), privileges, franchises and concessions applicable to the Premises or contracted for in connection with any present or future use of the Premises; and (j) pay each item of Indebtedness secured by this Mortgage when due according to the terms hereof and of the Note. As used in this Paragraph 1 and elsewhere in this Mortgage, the term "Indebtedness" means and includes the unpaid principal sum evidenced by the Note, together with all interest and late charges, and all other sums at any time as provided in the Note and secured by this Mortgage.

## Right to Contest.

1. a. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any Lien not expressly subordinated to the lien hereof, and defer payment and discharge thereof during the pending of such contest, provided: (i) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such Lien; (ii) that, within thirty (30) days after Mortgagor has been notified of the assertion of such Lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such Lien, and (iii) that Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may, from time to time in writing appoint, a sum of money which shall be sufficient, in the reasonable judgment of the Mortgagee, to pay in full such Lien and all interest which might become due thereon, and shall keep on deposit an amount so sufficient at all times, increasing such amount to cover additional interest whenever, in the judgment of the Mortgagee, such increase is advisable. If Mortgagor shall fail to prosecute such contest with reasonable diligence or shall fail to pay the amount of the Lien plus any interest finally determined to be due upon the conclusion of such contest, to the extent such amount exceeds the amount which Mortgagee will pay as provided below, or shall fail to maintain sufficient funds on deposit as hereinabove provided, Mortgagee may, at its option, after ten (10) days' prior notice to Mortgagor, apply the money so deposited with Mortgagee in payment of or on account of such Lien, or that part thereof then unpaid, together with all interest thereon, if any. If the amount of money so deposited with Mortgagee shall be insufficient for the payment in full of such Lien, together with all interest thereon, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Mortgagee shall, upon the final disposition of such contest, apply the money so

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deposited in full payment of such Lien or that part thereof then unpaid, together with all interest thereon, if any, (provided Mortgagor is not then in default hereunder) when so requested in writing by Mortgagor and when furnished by Mortgagor with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount of payment to be made. After such payments, any sums thereafter remaining shall be refunded to Mortgagor.

**Payment of Taxes.**

2. Mortgagor shall pay all general taxes before any penalty or interest attaches, and shall pay all special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor within thirty (30) days following the date of payment. Mortgagor shall pay in full "under protest" any tax or assessment which Mortgagor may desire to contest, in the manner provided by law.

**Tax Deposits.**

3. [Intentionally Deleted.]

**Insurance Deposits.**

[Intentionally Deleted.]

**Mortgagee's Interest In and Use of Tax and Insurance Deposits; Security Interest.**

4. [Intentionally Deleted].

**Insurance.**

5. Mortgagor shall keep all buildings and the Collateral (defined in Paragraph 27 below) now or hereafter situated on said Premises insured against loss or damage by fire on a so-called "All Risks" basis and against such other hazards as may reasonably be required by Mortgagee, including without limitation of the generality of the foregoing: (a) rent loss or business interruption insurance whenever in the opinion of the Mortgagee such protection is necessary; and (b) flood insurance whenever same is available and, in the opinion of Mortgagee, such protection is necessary. Mortgagor shall also provide insurance coverages with such limits for personal injury and death and property damage as Mortgagee may require. All policies of insurance to be fur-

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nished hereunder shall be in forms, companies and amounts satisfactory to Mortgagee, with waiver of subrogation and replacement cost endorsements and a standard non-contributory mortgagee clause attached to all policies, including a provision requiring that the coverages evidenced thereby shall not be terminated or materially modified without thirty (30) days' prior written notice to the Mortgagee. Mortgagor shall deliver all original policies, including additional and renewal policies, to Mortgagee and, in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration. Mortgagor shall not be required to carry fire or other hazard insurance or business interruption insurance on the Premises while the Premises are unimproved.

Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon under a standard non-contributory mortgagee clause acceptable to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee the original policy or policies of such insurance. In the event of a foreclosure of the lien of this Mortgage, or of a transfer of title to the Premises either in lieu of foreclosure or by purchase at the foreclosure sale, all interest in all insurance policies in force shall pass to Mortgagee, transferee or purchaser, as the case may be.

Within ninety (90) day following the end of each fiscal year of Mortgagor, at the request of the Mortgagee, Mortgagor agrees to furnish evidence of replacement cost, without cost to the Mortgagee, such as are regularly and ordinarily made by insurance companies to determine the then replacement cost of the building(s) and other improvements on the Premises.

## Adjustment of Losses with Insurer and Application of Proceeds of Insurance.

6. In case of loss or damage by fire or other casualty, and Mortgagor is required to carry insurance against same pursuant to the terms hereof, Mortgagee shall allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. Mortgagee is authorized to collect and receipt for any such insurance monies. Such insurance proceeds may, at the option of the Mortgagee be: (a) applied in reduction of the indebtedness, whether due or not; or (b) held by the Mortgagee and applied to pay for the cost of repair, rebuilding or restoration of the buildings and other improvements on the Premises. If the Mortgagee shall allow the insurance proceeds to be used for repair, restoration or rebuilding, then the Mortgagee agrees

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to make said proceeds available to reimburse Mortgagor for the cost of repair, rebuilding or restoration of buildings or other improvements on the Premises, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require; in such event, the buildings and other improvements shall be so repaired, restored or rebuilt so as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the cost of rebuilding, repairing or restoring the buildings and other improvements may reasonably exceed the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) then the Mortgagee must approve plans and specifications of such work before such work shall be commenced. If the proceeds are made available by the Mortgagee to reimburse the Mortgagor or any lessee for the cost of repair, rebuilding or restoration, any surplus, after payment of the cost of repair, rebuilding, restoration and the reasonable charges of the Disbursing Party (hereinafter defined) shall, at the option of the Mortgagee, be applied on account of the Indebtedness or paid to any party entitled thereto as the same appear on the records of the Mortgagee. No interest shall be allowed to Mortgagor on any proceeds of insurance held by the Disbursing Party. If the proceeds of insurance are insufficient to satisfy the cost of rebuilding, repairing or restoring the buildings or other improvements, then the Mortgagor will immediately deposit with the Mortgagee that amount of money in cash which will equal the difference between the amount of the insurance proceeds and the cost of such rebuilding, repairing or restoring. Failure of the Mortgagor to so deposit said amount will be an event of default hereunder.

As used in this Paragraph 6, the term "Disbursing Party" refers to the Mortgagee and to any responsible trust company or title insurance company selected by the Mortgagee.

**Stamp Tax; Effect of Changes in Laws Regarding Taxation.**

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

7.1 In the event of the enactment, after this date, of any law of the State of Illinois deducting from the value of

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the land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then, and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee: (a) it might be unlawful to require Mortgagor to make such payment; or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law; then and in any such event, the Mortgagee may elect, by notice in writing given to the Mortgagor, to declare all of the indebtedness to be and become due and payable sixty (60) days from the giving of such notice.

**Observance of Lease Assignment.**

8. As additional security for the payment of the Note and for the faithful performance of the terms and conditions contained herein, Mortgagor has assigned to the Mortgagee all of its right, title and interest as landlord in and to the leases listed on the SCHEDULE OF LEASES attached hereto, if any, and all future leases of the Premises.

Mortgagor will not, without Mortgagee's prior written consent: (i) execute any assignment or pledge of any rents or any leases of the Premises except an assignment or pledge securing the Indebtedness; or (ii) accept any payment of any installment of rent more than thirty (30) days before the due date thereof.

Mortgagor at its sole cost and expense will: (i) at all times promptly discharge and perform all of the covenants, conditions and agreements contained in all leases of the Premises, on the part of the landlord thereunder to be kept and performed; (ii) enforce or secure the performance of all of the covenants, conditions and agreements of such leases on the part of the tenants to be kept and performed, but Mortgagor shall not modify, amend, cancel, terminate or accept surrender of any lease without prior written consent of Mortgagee; (iii) appear in and defend any action or proceeding arising under, growing out of or in any manner connected with such leases or the obligations, duties or liabilities of the landlord or of any tenants thereunder; (iv) transfer and assign or cause to be separately trans-

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ferred and assigned to Mortgagee, upon written request of Mortgagee, any lease or leases of the Premises or any portion thereof hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (v) furnish Mortgagee, within ten (10) days after a request by Mortgagee so to do, a written statement containing the names of all tenants and the terms of all leases of the Premises, including the spaces occupied and the rentals payable thereunder; and (vi) exercise within five (5) days of any demand therefor by Mortgagee any right to request from the tenant under any lease of the Premises or any portion thereof, a certificate with respect to the status thereof.

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

At the option of the Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any award in eminent domain), to any one or more leases affecting any part of the Premises, upon the execution by Mortgagee and recording or registration thereof, at any time hereafter, in the office wherein this Mortgage was registered or filed for record, of a unilateral declaration to that effect.

In the event of the enforcement by Mortgagee of any remedies provided for by law or by this Mortgage, the tenant under each lease of the Premises shall, at the option of the Mortgagee (but provided automatic attornment is provided for in each such lease), attorn to any person succeeding to the interest of landlord as a result of such enforcement and shall recognize such successor-in-interest as landlord under such lease without change in the terms or other provisions thereof; provided, however, that said successor-in-interest shall not be bound by any payment of rent or additional rent for more than one month in advance or any amendment or modification to any lease made without the consent of Mortgagee or said successor-in-interest. Each tenant, upon request by said successor-in-interest, shall execute and deliver an instrument or instruments confirming such attornment.

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Mortgagee shall have the option to declare this Mortgage in default because of material default of landlord in leases of the Premises whether or not such default is cured by Mortgagee pursuant to the right granted herein. It is covenanted and agreed that a default under any Assignment of Rents or Leases executed pursuant to this Paragraph 8 shall, after expiration of any applicable cure period, constitute a default hereunder, on account of which the whole of the Indebtedness shall at once, at the option of the Mortgagee, become immediately due and payable, without notice to the Mortgagor.

**Mortgagor and Lien Not Released.**

9. From time to time Mortgagee may, at Mortgagee's option, without giving notice to or obtaining the consent of Mortgagor or Mortgagor's successors or assigns or the consent of any guarantor or tenant, without liability on Mortgagee's part and notwithstanding Mortgagor's breach of any covenant, agreement or condition: (a) release anyone primarily or secondarily liable on any of the Indebtedness; (b) accept a renewal note or notes therefor; (c) release from the lien of this Mortgage any part of the Premises; (d) take or release other or additional security for the Indebtedness; (e) consent to any plat, map or plan of the Premises; (f) consent to the granting of any easement; (g) join in any extension or subordination agreement; (h) agree in writing with Mortgagor to modify the rate of interest or period of amortization of the Note or change the time of payment or the amount of the monthly installments payable thereunder; and (i) waive or fail to exercise any right, power or remedy granted by law or herein or in any other instrument given at any time to evidence or secure the payment of the Indebtedness.

Any actions taken by Mortgagee pursuant to the terms of this Paragraph 9 shall not impair or affect: (a) the obligation of Mortgagor or Mortgagor's successors or assigns to pay any sums at any time secured by this Mortgage and to observe all of the covenants, agreements and conditions herein contained; (b) the guaranty of any individual or legal entity for payment of the Indebtedness; and (c) the lien and priority of the lien hereof against the Premises.

Mortgagor shall pay to Mortgagee a reasonable service charge and such title insurance premiums and reasonable attorney's fees as may be incurred by Mortgagee for any action described in this Paragraph 9 taken at the request of Mortgagor.

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## Mortgagee's Performance of Defaulted Acts.

10. In case of default herein and same is not cured within the period herein provided, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner Mortgagee deems expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said Premises or contest any tax or assessment or cure any default of any landlord in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in Paragraphs 7 or 7.1 or to protect the Premises or the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the rate of interest set forth in the Note applicable to a period when a default exists thereunder. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

## Mortgagee's Reliance on Tax Bills, etc.

11. Mortgagee, in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

## Acceleration of Indebtedness in Case of Default

12. If: (a) default be made in the due and punctual payment of principal or interest on the Note, or any other payment due in accordance with the terms thereof and same is not cured within five (5) days after notice thereof from Mortgagee to Mortgagor, or (b) the Mortgagor or any guarantor of the Note shall file (i) a petition of liquidation, reorganization or adjustment or debt under Title 11 of the United States Code (11 U.S.C. §§101 et seq.) or any similar law, state or federal, whether now or hereafter existing, or (ii) any answer admitting insolvency or inability to pay its debts, or (iii) fail to obtain a vacation or stay of involuntary proceedings within sixty (60) days, as hereinafter

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provided; or (c) any order for relief of the Mortgagor or any guarantor of the Note shall be entered in any case under Title 11 of the United States Code, or a trustee or a receiver shall be appointed for the Mortgagor or for any guarantor of the Note, or for all or the major part of the property of Mortgagor or of any guarantor of the Note in any voluntary or involuntary proceeding, or any court shall have taken jurisdiction of all or the major part of the property of the Mortgagor or of any guarantor of the Note in any voluntary or involuntary proceeding for the reorganization, dissolution, liquidation, adjustment of debt or winding up of the Mortgagor or of any guarantor of the Note and such trustee or receiver shall not be discharged or such jurisdiction not be relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days; or (d) the Mortgagor or any guarantor of the Note shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of all or any major part of its property; or (e) default shall be made in the due observance or performance of any other covenant, agreement or condition hereinbefore or hereinafter contained and required to be kept or performed or observed by the Mortgagor and same is not cured within twenty (20) days after notice thereof from Mortgagee to Mortgagor (unless such default cannot, with due diligence on the part of the Mortgagor, be cured within said twenty (20) day period, same shall not be deemed a default hereunder if, within said twenty (20) day period, Mortgagor uses reasonable efforts to proceed to cure same and thereafter continuously prosecutes the curing of same with due diligence); (f) default shall be made in the due observance or performance of any covenant, agreement or condition required to be kept or observed by Mortgagor in any other instrument given at any time to secure the payment of the Note and same is not cured within twenty (20) days after notice thereof from Mortgagee to Mortgagor (unless such default cannot, with due diligence on the part of the Mortgagor, be cured within said twenty (20) day period, same shall not be deemed a default hereunder if, within said twenty (20) day period Mortgagor uses reasonable efforts to proceed to cure same and thereafter continuously prosecutes the curing of same with due diligence), or (g) if after the death or disability of any guarantor of the Note, a successor guarantor of equal or greater credit worthiness (in the reasonable opinion of Mortgagee) is not appointed and this successor guarantor has not executed a replacement guaranty to the Mortgagee within 75 days after the event of death or disability then, and in any such event, the whole of the indebtedness shall at once, at the option of the Mortgagee,

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become immediately due and payable without further notice to Mortgagor. If, while any insurance proceeds or condemnation awards are held by or for the Mortgagee to reimburse Mortgagor or any lessee for the cost of repair, rebuilding or restoration of building(s) or other improvement(s) on the Premises, as set forth in Paragraphs 6 and 18 hereof, the Mortgagee shall be or become entitled to accelerate the maturity of the Indebtedness, then and in such event, the Mortgagee shall be entitled to apply all such insurance proceeds and condemnation awards then held by or for it in reduction of the Indebtedness, and any excess held by it over the amount of the Indebtedness shall be paid to Mortgagor or any party entitled thereto, without interest, as the same appear on the records of the Mortgagee.

## Foreclosure; Expense of Litigation.

13. When the Indebtedness or any part thereof become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or any part thereof. In any civil action to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the order or judgment for foreclosure and sale all reasonable expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of said order or judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens' Certificates and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such civil action or to evidence to bidders at any sale which may be had pursuant to such order or judgment the true condition of the title to, or the value of, the Premises. All expenditures and expenses of the nature in this paragraph mentioned and such expenses and fees as may be incurred in the protection of the Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorneys employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Premises, including probate, appellate and bankruptcy proceedings, or in preparations for the commencement or defense of any action or proceeding or threatened action proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at the rate set forth in the Note applicable to a period when a default exists thereunder, and shall be secured by this Mortgage.

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At all times, the Mortgagor shall appear in and defend any suit, action or proceeding that might in any way in the sole judgment of Mortgagee materially affect the value of the Premises, the priority of this Mortgage or the rights and powers of Mortgagee hereunder or under any document given at any time to secure the Indebtedness. Mortgagor shall, at all times, indemnify, hold harmless and reimburse Mortgagee on demand for any and all loss, damage, expense or cost, including cost of evidence of title and reasonable attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Mortgage, and shall bear interest after demand at the rate specified in the Note applicable to a period when a default exists thereunder, and such interest shall be secured hereby and shall be due and payable on demand.

#### **Application of Proceeds of Foreclosure Sale.**

14. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which may under the terms hereof constitute secured Indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; and fourth, any overplus to any party entitled thereto as their rights may appear on the records of the Mortgagee.

#### **Appointment of Receiver or Mortgagee In Possession.**

15. Upon, or at any time after, the commencement of an action to foreclose this Mortgage, the court in which such action was commenced may, upon request of the Mortgagee, appoint a receiver of the Premises either before or after foreclosure sale, without notice and without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not; and the Mortgagee or any holder of the Note may be appointed as such receiver or as Mortgagee in possession. Such receiver or the Mortgagee in possession shall have power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure action and, in case of a sale and a deficiency, during the full statutory period of redemption (if any), whether there be redemption or not, as well as during any further times (if any) when Mortgagor, except for the intervention of such receiver or Mort-

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gagee in possession, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net income in its hands in payment in whole or in part of; (a) the Indebtedness or by any order or judgment foreclosing the lien of this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or the lien of such order or judgment, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

### Rights Cumulative.

16. Each right, power and remedy conferred upon the Mortgagee by this Mortgage and by all other documents evidencing or securing the Indebtedness and conferred by law and in equity is cumulative and in addition to every other right, power and remedy, express or implied, given now or hereafter existing, at law and in equity; and each and every right, power and remedy herein or therein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Mortgagee; and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of, or discontinuance by, the Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

### Mortgagee's Right of Inspection.

17. Mortgagee shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose, but Mortgagee shall not exercise such right in a manner which unreasonably interferes with the business of any tenant.

### Condemnation

18. Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any award and any claim for damages for any of the Premises taken or damaged under the power of the eminent domain or by condemnation. The Mortgagee may elect: (a) to apply the proceeds of the award or claim upon or in reduction of the Indebtedness,

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whether due or not; or (b) to make those proceeds available to Mortgagor or any lessee for repair, restoration or rebuilding of the Premises, in the manner and under the conditions that the Mortgagee may require. In any event, if the building(s) and improvement(s) are repaired, restored or rebuilt, it shall be accomplished in accordance with plans and specifications to be submitted to and approved by the Mortgagee. If the proceeds are made available by the Mortgagee, any surplus which may remain out of said award after payment of such cost of repair, rebuilding, restoration and the reasonable charges of the Disbursing Party shall, at the option of the Mortgagee, be applied on account of the Indebtedness or paid to any party entitled thereto as the same appear on the records of the Mortgagee.

**Release Upon Payment and Discharge of Mortgagor's Obligations.**

19. Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness and upon payment of a reasonable fee to Mortgagee for the execution of such proper instrument.

**Giving of Notice.**

20. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and may be personally delivered or mailed, by certified mail addressed to the Mortgagor or to the Mortgagee, as the case may be, at the respective addresses set forth on the first page hereof or at such other place as any party hereto may by notice in writing designate as a place for service of notice. Notices deemed received on date of personal delivery or 3 days after mailing.

**Waiver of Defense.**

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

**Waiver of Statutory Rights.**

22. 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 the lien of this Mortgage, but hereby waives the benefit of such laws. Mortgagor, for it-

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self and all who may claim through or under it, waives any and all right to have the property and estates comprising the Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Premises sold as an entirety. Mortgagor and Beneficiary do hereby expressly waive any and all rights of redemption from sale under any order or judgment of foreclosure of the lien of this Mortgage on behalf of the Mortgagor or Beneficiary, the trust estate and all persons beneficially interested therein and each and every person, except judgment creditors of the Mortgagor in its representative capacity, the Beneficiary, and of the trust estate, acquiring any interest in or title to the Premises subsequent to the date of this Mortgage.

### Furnishing of Financial Statements to Mortgagee.

23. Mortgagor covenants and agrees that it will keep and maintain, or cause its Beneficiary or Beneficiaries from time to time to keep and maintain, books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Premises, which books and records of account shall, at reasonable times and on reasonable notice, be open to the inspection of the Mortgagee and its accountants and other duly authorized representatives. Such books of record and account shall be kept and maintained in accordance with generally accepted accounting principles consistently applied.

23.1 Mortgagor covenants and agrees to furnish to the Mortgagee, within ninety (90) days following the end of every fiscal year applicable to the operation of the improvements on the Premises, a copy of a report of the operations of the improvements on the Premises for the year then ended, to be certified by a beneficiary of Mortgagor (or a general partner, if the beneficiary of Mortgagor is a partnership or the chief financial officer if the beneficiary of Mortgagor is a corporation) satisfactory to the Mortgagee, including a balance sheet and supporting schedules and containing a detailed statement of income and expenses. Each such certificate to each such annual report shall certify that the certifying party examined such records as were deemed necessary for such certification and that those statements are true, correct and complete.

23.2 [Intentionally Omitted]

23.3 If Mortgagor fails to furnish promptly any report required by Paragraph 23.1, the Mortgagee may elect (in addition to exercising any other right, remedy and power) to make

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an audit of all books and records of Mortgagor and its beneficiaries which in any way pertain to the Premises and to prepare the statement or statements which mortgagor failed to procure and deliver. Such audit shall be made and such statement or statements shall be prepared by an independent Certified Public Accountant to be selected by the Mortgagee. Mortgagor shall pay all reasonable expenses of the audit and other services which expenses shall be secured hereby as additional Indebtedness and shall be immediately due and payable with interest thereon at the rate set forth in the Note applicable to a period when a default exists thereunder.

## Filing and Recording Charges and Taxes.

24. Mortgagor will pay all filing, registration, recording and search and information fees, and all expenses incident to the execution and acknowledgement of this Mortgage and all other documents securing the Note and all federal, state, county and municipal taxes, other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery, filing, recording or registration of the Note, this Mortgage and all other documents securing the Note and all assignments thereof.

## Usury Exemption.

25. Mortgagor represents that the proceeds of the loan secured by this Mortgage will be used for the purposes constituting a "business loan".

## Miscellaneous.

26. Binding Nature. This Mortgage and all provisions hereof shall extend to and be binding upon the original Mortgagor named on page 1 hereof and its successors, grantees, assigns, each subsequent owner or owners of the Premises and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons primarily and secondarily liable for the payment of the Indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage.

26.1 Release of Previous Holder. The word "Mortgagee" when used herein shall include the successors and assigns of the original Mortgagee named on page 1 hereof, and the holder or holders, from time to time, of the Note. However, whenever the Note is sold, each prior holder shall be automatically freed and relieved, on and after the date of

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such sale, of all liability with respect to the performance of each covenant and obligation of Mortgagee hereunder thereafter to be performed, provided that any monies in which the Mortgagor has an interest, which monies are then held by the seller of the Note, are turned over to the purchaser of the Note.

**26.2 Severability and Applicable Law.** In the event one or more of the provisions contained in this Mortgage or in the Note or in any other document given at any time to secure the payment of the Note shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, the Note or other document and this Mortgage, the Note or other document shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. The validity and interpretation of this Mortgage and the Note it secures are to be construed in accordance with and governed by the laws of the State of Illinois.

**26.3 Governmental Compliance.** Mortgagor shall not, by act or omission, permit any lands or improvements not subject to the lien of this Mortgage to include the Premises or any part thereof in fulfillment of any governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises to be so used. Similarly, no lands or improvements comprising the Premises shall be included with any lands or improvements not subject to the lien of this Mortgage in fulfillment of any governmental requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as a single zoning lot or lots separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

**26.4 Estoppel Certificate.** Mortgagor, within fifteen (15) days after mailing of a written request by the Mortgagee, agrees to furnish from time to time a signed statement setting forth the amount of the Indebtedness and where or not any default, offset or defense then is alleged to exist against the Indebtedness and, if so, specifying the nature thereof.

**26.5 Non-Joinder of Tenant.** After an event of default, Mortgagee shall have the right and option to commence a civil action to foreclose the lien of this Mortgage and to obtain an order or judgment of foreclosure and said subject

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to the rights of any tenant or tenants of the Premises. The failure to join any tenant or tenants of the Premises as party defendant or defendants in any such civil action or failure of any such order or judgment to foreclose their rights shall not be asserted by the Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

**26.6 Evasion of Prepayment Premium.**

{Intentionally Omitted.}

**26.7 Regulation G Clause.** Mortgagor covenants that the proceeds evidenced by the Note will not be used for the purchase or carrying of registered equity securities within the purview and operation of Regulation G issued by the Board of Governors of the Federal Reserve System.

**26.8 Hazardous Waste Materials.**

(a) Mortgagor and Beneficiary shall keep and maintain the Premises, including, without limitation, the groundwater on or under the Premises in compliance with, and shall not cause or permit the Premises to be in violation of any federal, state or local laws, ordinances or regulations, now or hereafter in effect, relating to environmental conditions, industrial hygiene or Hazardous Materials, as hereinafter defined, on, under or about the Premises, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. Section 6901, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., the Clean Air Act, 42 U.S.C. Section 7401, et seq., the Toxic Substances Control Act, 15 U.S.C. Sections 2601 through 2629, the Safe Drinking Water Act, 42 U.S.C. Sections 300f through 300j, the Illinois Environmental Protection Act, 111 1/2 Ill. Rev. Stat. Ann. ¶1001, et seq., any similar state and local laws and ordinances and the regulations now or hereafter adopted, published and/or promulgated pursuant thereto (collectively, the Hazardous Material Laws").

(b) Mortgagor and Beneficiary shall not use, generate, manufacture, treat, handle, refine, produce, process, store, discharge, release, dispose of or allow to exist on, under or about the Premises any flammable

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explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous waste, toxic substances or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous waste", "hazardous materials", or "toxic substances" under the Hazardous Material Laws (collectively, "Hazardous Materials"), except for asbestos located at the Premises which has been disclosed in writing to Mortgagee. Furthermore, Mortgagor and Beneficiary shall not allow to exist on, under or about the Premises, any underground storage tanks or underground deposits.

(c) Mortgagor and Beneficiary shall immediately advise Mortgagee in writing of: (i) any and all enforcement, clean up, removal, mitigation or other governmental or regulatory actions, instituted, contemplated or threatened pursuant to any Hazardous Materials Laws affecting the Premises, (ii) all claims made or threatened by any third party against Mortgagor or Beneficiary or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"), (iii) Mortgagor's or Beneficiary's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Premises that could cause the Premises or any part thereof to be classified as "border-zone property" under the provisions of California Health and Safety Code Section 25220, et seq., or any regulation adopted in accordance therewith or which may support a similar claim or cause of action under the Hazardous Materials Laws, and (iv) Mortgagor's or Beneficiary's discovery of any occurrence or condition on the Premises or any real property adjoining or in the vicinity of the Premises which could subject the Mortgagor or Beneficiary or the Premises to any restrictions on ownership, occupancy, transferability or use of the Premises under any Hazardous Materials Laws.

(d) Mortgagee shall have the right to join and participate in, as a part if it so elects, any settlements, remedial actions, legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid by Mortgagor or Beneficiary. Mortgagor or Beneficiary shall be solely responsible for, and shall indemnify and hold harmless Mortgagee, its directors, officers, employees, agents, successors and assigns from and against, any claim, demand, judgment, penalty, loss, damage, cost, expense or

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liability directly or indirectly arising out of or attributable to the use, generation, manufacture, treatment, handling, refining, production, processing, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under or about the Premises, including, without limitation: (i) all foreseeable and unforeseeable consequential damages; (ii) the costs of any required or necessary repair, cleanup or detoxification of the Premises, and the preparation and implementation of any closure, remedial or other required plans; and (iii) all reasonable costs and expenses incurred by Mortgagee in connection with clauses (i) and (ii), including without limitation, reasonable attorneys' fees.

26.9 Further Advancements. Upon request of the then owner of record of the Premises, Mortgagee may, at its sole option at any time before satisfaction in full of the indebtedness secured hereby, make further advancements to such owner in such amounts and at such rates of interest as Mortgagee shall determine, and every such further advancement, together with any interest thereon, shall be secured by this Mortgage and shall be evidenced by an additional note given by such owner if required by law or otherwise contemplated by the structure of the loan transaction; provided, however, that the amount of principal secured by this Mortgage and remaining unpaid shall not at any time exceed the original principal sum secured hereby and that the time of repayment of any such advancement shall not extend the time of repayment beyond the maturity of the original debt secured hereby.

#### Security Agreement and Financing Statement.

27. Mortgagor and Mortgagee agree: (i) that this Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code (the "Code") of the State of Illinois with respect to all sums on deposit with the Mortgagee pursuant to Paragraphs 6 and 18 hereof ("Deposits") and with respect to any property included in the definition herein of the word "Premises", which property may not be deemed to form a part of the real estate described in Exhibit "A" or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code), and all replacements of such property, substitutions for such property, additions to such property, and the proceeds thereof whether now or hereinafter existing and the beneficial interests of Beneficiary in Mortgagor (said property, replacements, substitutions, additions and the proceeds thereof being sometimes herein collectively referred to as the "Collateral"); and (ii) that a security interest in and to the Collateral and the Deposits is hereby

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granted to the Mortgagee; and (iii) that the Deposits and all of the Mortgagor's right, title and interest therein are hereby assigned to the Mortgagee; all to secure payment of the Indebtedness and to secure performance by the Mortgagor of the terms, covenants and provisions hereof.

In the event of a default under this Mortgage, the Mortgagee, pursuant to the appropriate provisions of the Code, shall have an option to proceed with respect to both the real property and Collateral in accordance with its rights, powers and remedies with respect to the real property, in which event the default provisions of the Code shall not apply. The parties agree that if the Mortgagee shall elect to proceed with respect to the Collateral separately from the real property, five (5) days notice of the sale of the Collateral shall be reasonable notice. The reasonable expenses of retaining, holding, preparing for sale, selling and the like incurred by the Mortgagee shall include, but not be limited to, reasonable attorneys' fees and legal expenses incurred by Mortgagee. The Mortgagor agrees that, without the written consent of the Mortgagee, the Mortgagor will not remove or permit to be removed from the Premises any of the Collateral except that so long as the Mortgagor is not in default hereunder, Mortgagor shall be permitted to sell or otherwise dispose of the Collateral when obsolete, worn out, inadequate, unserviceable or unnecessary for use in the operation of the Premises, but only upon replacing the same or substituting for the same other Collateral at least equal in value and utility to the initial value and utility of that disposed of and in such manner that said replacement or substituted Collateral shall be subject to the security interest created hereby and that the security interest of the Mortgagee shall be perfected and first in priority, it being expressly understood and agreed that all replacements, substitutions and additions to the Collateral shall be and become immediately subject to the security interest of this Mortgage and covered hereby. The Mortgagor shall, from time to time, on request of the Mortgagee, deliver to the Mortgagee at the cost of the Mortgagor: (i) such further financing statements and security documents and assurances as Mortgagee may require, to the end that the liens and security interests created hereby shall be and remain perfected and protected in accordance with the requirements of any present or future law; and (iii) an inventory of the Collateral in reasonable detail. The Mortgagor covenants and represents that all Collateral now is, and that all replacements thereof, substitutions therefor or additions thereto, unless the Mortgagee otherwise consents, will be free and clear of liens, encumbrances, title retention devices and security interests of others.

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The Mortgagor and Mortgagee agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Premises" herein are or are to become fixtures on the land described in Exhibit "A"; (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of Sections 9-313 and 9-402 of the Code; and (iii) Mortgagor is a record owner of the land described in Exhibit "A".

If the Collateral is sold in connection with a sale of the Premises, Mortgagor shall notify the Mortgagee prior to such sale and shall require as a condition of such sale that the purchaser specifically agree to assume Mortgagor's obligations as to the security interests herein granted and to execute whatever agreements and filings are deemed necessary by the Mortgagee to maintain Mortgagee's first perfected security interest in the Collateral, Deposits and the deposits described in Paragraph 4 above.

## **Lien for Loan Commissions, Service Charges and the Like.**

28. So long as the original Mortgagee named on page 1 hereof is the owner of the Note, and regardless of whether any proceeds of the loan evidenced by the Note have been disbursed, this Mortgage also secures the payment of all loan commissions, service charges, liquidated damages, expenses and advances due to or incurred by the Mortgagee in connection with the loan transaction intended to be secured hereby, all in accordance with the application of, and loan commitment issued to and accepted by, one or more of Mortgagor's beneficiaries in connection with said loan.

## **Due on Sale or Further Encumbrance Clause**

29. In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of Beneficiary and each general partner thereof, found them acceptable and relied and continues to rely upon same as the means of repayment of the loan. Mortgagee also evaluated the background and experience of Beneficiary and each general partner thereof, in owning and operating property such as the Premises, found same acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises. Each general partner of the Beneficiary is an entity/person well-experienced in borrowing money and owning and operating property such as the Premises, was ably represented by a licensed attorney at law in the negotiation and

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documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loan, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary or junior financing placed upon the Premises, or the beneficial interest of Beneficiary in Mortgagor, other than as expressly permitted hereby, (a) may divert funds which would otherwise be used to pay the Note; (b) could result in acceleration and foreclosure by any such junior encumbrance which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment by Beneficiary and of the value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Beneficiary and Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens (except as permitted herein), Mortgagor and Beneficiary agree that if this paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Premises or any interest therein (whether voluntary or by operation of law) without the Mortgagee's prior written consent shall be an event of default hereunder. For the purpose of, and without limiting the generality of, the preceding sentence, the occurrence at any time of any of the following events shall be deemed to be an unpermitted transfer of title to the Premises and therefore an event of default hereunder:

(a) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in all or any part of the title to the Premises or the beneficial interest or power of direction under the trust agreement with the Mortgagor;

(b) any sale, conveyance, assignment or other transfer of, or the grant of a security interest in, any

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BENEFICIARY:

\_\_\_\_\_  
\_\_\_\_\_ BY: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_ BY: \_\_\_\_\_

American National Bank & Trust Co. of Chicago  
, not personally,  
but as Trustee under Trust Agreement  
dated June 10, 1988 and known as  
Trust Number 105695-07.

Property of Cook County Clerk's Office

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*[Handwritten signature]*

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Property of Cook County Clerk's Office

67  
Given under my hand and notarial seal, this

day of

A. D. 19

*M. Savanaka*

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share of stock of any corporation ("Corporation") which is the Beneficiary under the trust agreement with the Mortgagor or of any Corporation which is a general partner of the Beneficiary;

(c) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, or admission of a new general partner in, any general partnership interest in any limited partnership or general partnership (herein called the "Partnership") which is the Beneficiary of Mortgagor.

Any consent by the Mortgagee, or any waiver of an event of default, under this paragraph shall not constitute a consent to, or waiver of any right, remedy or power of the Mortgagee upon a subsequent event of default under this Paragraph.

IN WITNESS WHEREOF, the Mortgagor and Beneficiary have executed this instrument as of the day and year first above written.

### MORTGAGEE:

This Mortgage is executed by the American National Bank and Trust Company of Chicago, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said American National Bank and Trust Company of Chicago, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said note contained shall be construed as creating any liability on the said First Party or on said American National Bank and Trust Company of Chicago 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 the First Party and its successors and said American National Bank and Trust Company of Chicago personally are 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 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 the guarantor, if any.

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 one of its Vice-Presidents, or Assistant Vice-Presidents, 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

ATTEST

*[Handwritten signature]*  
Vice-President  
*[Handwritten signature]*  
Assistant Secretary

STATE OF ILLINOIS }  
COUNTY OF COOK }

L. M. SOVIENSKI

a Notary Public, in and for said County, in the State aforesaid,

Vice-President of the AMERICAN NATIONAL BANK

DO HEREBY CERTIFY, that L. MICHAEL STEWART and L. MICHAEL STEWART Assistant Secretary of said Company, who are personally known to me to be the same persons who have executed the foregoing instrument as such Vice-President, and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they have signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this

day of *[Handwritten]* A. D. 19

*[Handwritten signature]*  
Notary Public

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CHICAGO TITLE INS  
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*[Handwritten notes]*  
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