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EXHIBIT "A" ATTACHED TO AND MADE A PART OF THAT CERTAIN MORTGAGE AND SECURITY AGREEMENT AND FINANCING STATEMENT DATED 7/16/90, 1990 BY AND BETWEEN Quaker State Corp., AS MORTGAGOR, AND Subed Devt Co., AS MORTGAGEE.

## LEGAL DESCRIPTION

PARCEL 2: Lot 21 (except the West 37 feet thereof), Lot 22 and the West 17.58 feet of Lot 23 and that part of the South 1/2 of the vacated alley lying East of the North extension of the East line of the West 37 feet of Lot 21 and West of the North extension of the East line of the East line of the West 17.58 feet of Lot 23, in Block 1 in Baethke's Subdivision of the South 372 feet of the East 1/2 of the South East 1/4 of Section 17, Township 39 North, Range 12 East of the Third Principal Meridian, (except the East 295 feet of the South 295 feet, the West 150 feet of the South 200 feet, and the East 100 feet of the West 250 feet of the South 180 feet thereof) (excepting therefrom that part lying Southerly of a straight line described as follows: Beginning at a point in the West line of said Lot 20 distant 21.25 feet North of the South West corner; thence Northeasterly in a straight line, a distance of 100.06 feet to a point in the East line of said Lot 21 distant 23.75 feet North of the South East corner of said lot; thence Northeasterly in a straight line a distance of 50.03 feet to a point in the East line of said Lot 22 distance 25 feet North of the South East corner and except the South 25 feet of Lot 23), all in Cook County, Illinois.

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SCHEDULE OF LEASES ATTACHED TO AND MADE A PART OF THAT CERTAIN MORTGAGE SECURITY AGREEMENT AND FINANCING STATEMENT DATED July 16, 1990 BY AND BETWEEN United Development Company, Inc. AS MORTGAGOR, AND Banker State AS MORTGAGEE.

A corporation

| TENANT | SPACE | TERM | RENT |
|--------|-------|------|------|
|--------|-------|------|------|

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Property of Cook County Clerk's Office

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**MORTGAGE AND SECURITY AGREEMENT  
AND FINANCING STATEMENT**

THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (the "Mortgage") is made as of July 16, 1990, by and between LUBEOIL DEVELOPMENT COMPANY, INC., ("Mortgagor"), whose mailing address is 7110 N. Alpine Road, Loves Park, Illinois, and QUAKER STATE CORPORATION (the "Mortgagee"), whose mailing address is 255 Elm Street, Oil City, Pennsylvania.

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

WHEREAS, the Mortgagor is justly indebted to Mortgagee in the principal sum of One hundred seventy-three thousand, two hundred dollars (\$173,200.00) evidenced by one certain Reimbursement PROMISSORY NOTE of the Mortgagor of even date herewith (the "Note"), made payable to the order of and delivered to the Mortgagee, whereby the Mortgagor promises to pay the said principal sum, late charges, and interest at the rate or rates and in installments, all as provided in the Note. All such payments on account of the indebtedness 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 Mortgagee.

NOW, THEREFORE, the Mortgagor, to secure the payment of said principal sum of money and said interest and late charges and prepayment premiums in accordance with the terms, provisions and limitations of this Mortgage and of the Note, and all promissory notes hereafter executed by Mortgagor evidencing all renewals or refinancings of said Note, and the performance of the covenants and agreements herein contained by the Mortgagor to be

THIS DOCUMENT PREPARED BY:  
DAVID T. COHEN & ASSOC., LTD.  
62 ORLAND SQ. DRIVE; #32  
ORLAND PARK, IL 60462  
460-7711

PERMANENT INDEX NO.:  
15-17-414-021

PROPERTY ADDRESS:  
4020 W. ROOSEVELT RD.  
HILLSIDE, ILLINOIS

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72-VC-15 D.2  
1208648  
COMM  
Resolution attached to doc 3899575  
Dear effects part of app for Cert 1277924  
Att and other app.  
7/26/90

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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 to-wit, which Property is legally described on Exhibit "A" attached hereto and made a part hereof, which, with the property hereinafter described, 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 profits thereof 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 all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, stoves and ranges, refrigerators, curtain fixtures, partitions and attached floor covering, if any, 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 exclude any items of 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.

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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.**

1. 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 of any casualty insurance proceeds or eminent domain awards; (b) keep the Premises constantly in good condition and repair, 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 1a 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 (no such lien to be permitted hereunder), 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 alterations in 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 variations and any non-conforming uses and structure), 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, additional interest and late charges and prepayment premiums thereon, and all other sums at any time secured by this Mortgage.

## RIGHT TO CONTEST

1a. Anything in this Mortgage to the contrary notwithstanding, 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 ten (10) 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) in the case of a lien not expressly subordinated to the lien hereof, that Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, and in the absence of

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such appointment, then at the office of Mortgagee, a sum of money which shall be sufficient in the reasonable judgment of 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 reasonable judgment of Mortgagee, such increase is advisable which sums shall be deposited in an interest bearing account payable to Mortgagor, or Mortgagor shall deposit with Chicago Title Insurance Company funds sufficient to induce Chicago Title Insurance Company to insure over the lien and insure that Mortgagee will suffer no loss as a result of said lien. Such deposits are to be held without any allowance of interest unless otherwise agreed. 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, apply the money deposited in payment of or on account of such lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such 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 deposited in full payment of such lien or that part thereof then unpaid, together with all interest thereon (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.

## **PAYMENT OF TAXES**

2. Mortgagor shall pay all general taxes before any penalty or interest attaches, and shall pay special taxes, special assessments, water charges, sewer service charges, and all other charges against the Premises of any nature whatsoever when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor 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, except for Certificate of Error proceeding where the proper statutory procedure must be followed.

## **TAX DEPOSITS**

3. Mortgagor shall, upon demand from time to time, deposit with Mortgagee or such depository ("Depository") as the Mortgagee may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee, a sum equal to the amount of all real estate taxes and assessments (general and special) next due upon or for the Premises (the

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amount of such taxes next due to be based upon the Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with the Mortgagee or the Depository, divided by the number of months to elapse before one month prior to the date when such taxes and assessments will become due and payable. Such deposits are to be held and are to be used for the payment of taxes and assessments (general and special) on the Premises next due and payable when they become due. If the funds so deposited are insufficient to pay any such taxes or assessments (general or special) when the same become due and payable, the Mortgagor shall, within ten (10) days after receipt of demand therefor from the Mortgagee or Depository, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for the year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of the Mortgagee or the Depository.

Anything in this paragraph 3 to the contrary notwithstanding, if the funds so deposited are insufficient to pay taxes or assessments (general or special) or any installment thereof, Mortgagor will, not later than the thirtieth (30) day prior the last day on which the same may be paid without penalty or interest, deposit with the Mortgagee or the Depository the full amount of any such deficiency.

If any such taxes or assessments (general or special) shall be levied, charged, assessed or imposed upon or for the Premises, or any portion thereof, and if such taxes or assessments shall also be a levy, charge, assessment or imposition upon or for any other premises not encumbered by the lien of this Mortgage, then the computation of any amount to be deposited under this paragraph 3 shall be based upon the entire amount of such taxes or assessments, and Mortgagor shall not have the right to apportion the amount of any such taxes or assessments for the purposes of such computation. No interest shall be allowed to Mortgagor on account of any deposit hereunder and said deposit need not be kept separate and apart from any other funds of Mortgagee or Depository.

## INSURANCE

5. Mortgagor shall keep all buildings and improvements 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 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 furnished 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 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) days 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, Mortgagee is authorized: (a) to settle and adjust any claim under insurance policies which insure against such risks; or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, Mortgagee is authorized to collect and receipt for any such insurance monies. However, if Mortgagor is not in default, Mortgagee will cooperate with Mortgagor and allow Mortgagor to negotiate with the insurer in the settlement and adjustment of any claim. However, in the event of a dispute between the Mortgagee and Mortgagor, the decision of Mortgagee shall control. So long as: (a) all leases of the Premises are in full force and effect and each tenant thereunder is not in default and such loss or damage shall not result in the termination or cancellation of any of those leases or give any tenant thereunder the right to terminate or cancel its lease; (b) no insurer denies liability as to any insured or claims any right of

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participation in any of the Mortgagee's security; and (c) this Mortgage is not in default; then such insurance proceeds, after deducting therefrom any expenses incurred by Mortgagee in the collection thereof, shall be made available by the Mortgagee for the repair, rebuilding or restoration of the building(s) and other improvement(s) on the Premises. In all other cases, 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 used to reimburse Mortgagor (or any lessee) for the cost of the repair, rebuilding or restoration of the building(s) and other improvement(s) on the Premises. If Mortgagee shall be the Disbursing Party, Mortgagee shall deposit said insurance proceeds in an interest-bearing account with interest payable to Mortgagor unless said sums are used to reduce the balance due and owing Mortgagee. In any event, the building(s) and other improvement(s) 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 insurance proceeds are made available for repair, rebuilding or restoration, such proceeds shall be disbursed upon the "Disbursing Party" (hereinafter defined) being furnished with satisfactory evidence of the cost of completion thereof and with architects' certificates, waivers of lien, contractors' and subcontractors' sworn statements, title continuations and other evidence of cost and payments so that the Disbursing Party can verify that the amounts disbursed from time to time are represented by completed and in-place work and that said work is free and clear of mechanics' lien claims. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed from time to time, and at all times the undisbursed balance of such proceeds remaining in the hands of the Disbursing Party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. If the cost of rebuilding, repairing or restoring the buildings and other improvements may reasonably exceed the sum of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00), then the Mortgagee must approve plans and specifications of such work before such work shall be commenced. Any surplus which may remain out of said insurance proceeds, after payment of the 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. No interest shall be allowed to Mortgagor on any proceeds of insurance held by the Disbursing Party. If Mortgagee shall be Disbursing Party, Mortgagee shall deposit said funds in an account bearing interest at Mortgagee's passbook rate with interest payable to Mortgagor unless said sums are used to reduce the sums due and owing Mortgagee by Mortgagor.

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 in which the Premises are located deducting from the value of the land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured 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 ninety (90) 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 and its beneficiary or beneficiaries hereby assigns to the Mortgagee all of their right, title and interest as landlords in and to the leases listed on the SCHEDULE OF LEASES attached hereto, if any, and all future leases of the Premises. All leases of the Premises are subject to the approval of the Mortgagee as to form, content and tenant(s) and shall be subordinated to the lien of this mortgage.

Mortgagor will not and Mortgagor's beneficiary or beneficiaries 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; or (iii) make any lease of the Premises except for actual occupancy by the tenant thereunder.

Mortgagor at its sole cost and expense will: (i) at all times promptly and faithfully abide by, discharge and perform all of the covenants, conditions and agreements contained in all

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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 and Mortgagor's beneficiary or beneficiaries 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 transferred and assigned to Mortgagee, upon written request of Mortgagee, any lease or leases of the Premises heretofore or hereafter entered into, and make, execute and deliver to Mortgagee upon demand, any and all instruments required to effectuate said assignment; (v) furnish Mortgagee, within 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 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.

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, 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, the 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.

Mortgagee shall have the option to declare this Mortgage in default because of a material default of landlord in any lease 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 material default under any assignment of rents or leases executed pursuant to this paragraph 8 shall constitute a default hereunder, on account of which the

whole of the Indebtedness secured hereby shall at once, at the option of the Mortgagee, become immediately due and payable, 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 junior lien holder, 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 or priority of the lien hereof against the Premises.

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

## **MORTGAGEE'S PERFORMANCE OF DEFAULTED ACTS**

10. In case of default herein, 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 reasonable expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by

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Mortgagee in regard to any tax referred to 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 thereof 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 of the Note (which terms are hereby incorporated by reference); or (b) the Mortgagor or any beneficiary thereof or any guarantor of the Note shall file (i) a petition for liquidation, reorganization or adjustment of debt under Title 11 of the United States Code (11 U.S.C. SS 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 ten (10) days, as hereinafter provided; or (c) any order for relief of the Mortgagor or any beneficiary thereof 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 beneficiary thereof or for any guarantor of the Note, or for all or the major part of the property of Mortgagor or of any beneficiary thereof 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 beneficiary thereof 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 beneficiary thereof 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 twenty (20) days; or (d) the Mortgagor or any beneficiary thereof or any guarantor of the Note secured hereby 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

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to the appointment of a receiver or trustee or liquidator of all or any major part of its property; or (e) any 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 or its beneficiary; (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 or its beneficiary or beneficiaries in any other instrument given at any time to secure the payment of the Note; then and in any such event, the whole of the indebtedness shall at once, at the option of the Mortgagee, become immediately due and payable without notice to Mortgagor. If while any insurance proceeds or condemnation awards are 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, plus interest earned on funds deposited by Mortgagee in an interest-bearing account for Mortgagor's benefit.

**FORECLOSURE; EXPENSE OF LITIGATION**

13. When the Indebtedness or any part thereof shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof. In any 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 in 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 or proceeding, shall be immediately due and payable by Mortgagor,

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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.

At all times, the Mortgagor shall appear in and defend any suit, action or proceeding that might in any way in the reasonable judgment of Mortgagee 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 attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditure shall be secured by this Mortgage, and shall bear interest after demand at the rate specified in the Note applicable to a period when an uncured 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.

#### **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 Mortgagee 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

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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 secured hereby 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.

## CONDEMNATION

18. Mortgagor hereby assigns, transfers and sets over unto the Mortgagee the entire proceeds of any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation. So long as: (a) each lease listed on the SCHEDULE OF LEASES attached hereto, if any, and all future leases of the Premises are in full force and effect and each tenant thereunder is not in default and such taking shall not result in the termination or cancellation of any of those leases or give any tenant thereunder the right to cancel its lease; (b) the Premises require repair, rebuilding or restoration; and (c) this Mortgage is not in default; then any award, after deducting therefrom any expenses incurred in the collection thereof, shall be made available by the Mortgagee for the repair, rebuilding or restoration of the Premises in accordance with plans and specifications to be submitted to and approved by the Mortgagee.



In all other cases, the Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Indebtedness, whether due or not, or make those proceeds available for repair, restoration or rebuilding of the Premises in accordance with plans and specifications to be submitted to and approved by the Mortgagee. In any case where proceeds are made available for repair, rebuilding or restoration, the proceeds of the award shall be paid out in the same manner and under the same conditions provided in Paragraph 6 hereof for the payment of insurance proceeds toward the cost of repair, rebuilding or restoration. 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. Interest shall be allowed to Mortgagor on account of any proceeds of any award held by Mortgagee and Mortgagee agrees to deposit such funds in an interest-bearing account at Mortgagee unless said funds are used to reduce the balance due and owing on this Mortgage. If Mortgagor is not in default, Mortgagor shall be permitted to negotiate the amount of any condemnation settlement provided that any settlement must be approved by Mortgagee and, if there is a dispute, the decision of Mortgagee shall control.

#### 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 secured hereby (including any prepayment charges and late charged provided for herein or in the Note) 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 the mailing thereof, 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, shall constitute service of notice hereunder.

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## 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 or in equity upon the Note.

## WAIVER OF STATUTORY RIGHTS

22. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of the lien 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 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 does 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, the trust estate and all persons beneficially interested therein and each and every person, except judgment creditors of the Mortgagor in its representative capacity 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, and all business operating in the premises which the Mortgagor, any of Mortgagor's beneficiaries or any of the Guarantors of the Note secured hereby, have an interest as a shareholder, officer, director or employee, 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 sixty (60) days following the end of every calendar quarter March 31, June 30, September 30 and December 31 and every calendar year, a copy of a report of the operations of the improvements on the Premises for the year then ended, to be prepared by a certified public accounting firm acceptable to Mortgagee and using generally accepted accounting procedures and principals, certified by the 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

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is a corporation) satisfactory to the Mortgagee, including 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 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 an audit of all books and records of Mortgagor and its beneficiaries or any other party described in paragraph 23 hereof which in any way pertain to the Premises or any business operated thereon and to prepare the statement or statements which Mortgagor failed to procure and deliver. Such audit shall be made and such statement or statements shall be prepared by an independent certified public accountant to be selected by the Mortgagee. Mortgagor shall pay all expenses of the audit and other services which expenses shall be secured hereby as additional Indebtedness and shall be immediately due and payable with interest thereon at the 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.

#### **BUSINESS PURPOSE; USURY EXEMPTION**

25. Mortgagor has been advised by its beneficiaries that the proceeds of the loan secured by this Mortgage will be used for the purposes specified in Paragraph 6404 or Chapter 17 of the 1983 Illinois Revised Statutes, and that the principal obligation secured hereby constitutes a "business loan" which comes within the purview and operation of said paragraph.

#### **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 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 secured are to be construed in accordance with and governed by the laws of the State in which the Premises are situated.

**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, or any part thereof, as a single zoning lot separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

**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 whether 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 sale subject 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 the failure of any such

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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 secured hereby, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

26.6 **Regulation G Clause.** Mortgagor covenants and has been advised by its beneficiaries that the proceeds evidenced by the Note secured hereby 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 or for the purpose of releasing or retiring any indebtedness which was originally incurred for any such purpose.

26.7 Mortgagor shall comply with all requirements of the Illinois Responsible Party Transfer Act.

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

In the event of a default under this Mortgage, the Mortgagee, pursuant to the appropriate provisions of the Code, shall have 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, ten (10) days' notice of the sale of the Collateral shall be reasonable notice. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by the Mortgagee shall include, but not be limited to, reasonable attorneys' fees and legal expenses incurred by Mortgagee. The Mortgagor agrees that,

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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, un-serviceable 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 a 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 (ii) 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.

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 procure Mortgagee's consent to said sale and shall require as a condition of such sale that the purchaser specifically agrees 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 other 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, this Mortgage also secures the payment of all service charges, liquidated damages, reasonable expenses and advances due to or incurred by the Mortgagee in connection with the transaction intended to be secured hereby, all

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in accordance with the application of, and commitment issued to and accepted by, one or more of Mortgagor's beneficiaries in connection with said loan.

## DUE ON SALE OR FURTHER ENCUMBRANCE

29. In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of Mortgagor found it 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 Mortgagor in owning and operating property such as the Premises, found it acceptable and relies and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the loan. Mortgagor is a business person or entity well-experienced in borrowing money and owning and operating property such as the Premises, was represented by a licensed attorney at law in the negotiation and 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, (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrancer 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 value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Premises and the beneficial interest free of unpermitted subordinate financing liens, Mortgagor agrees 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, which consent shall not be unreasonably withheld, 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:

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(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.

(b) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, any share of stock 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 Mortgagee upon a subsequent event of default under this Paragraph.

Leases entered into in the ordinary course of Mortgagor's business on lease forms previously approved in writing by Mortgagee and at rental rates not less than those prevailing in the market place at the time of execution of the lease shall be deemed a permitted transfer of title and not an event of default.

## WAIVER OF RIGHT OF REDEMPTION

30. Mortgagor hereby waives any and all right of redemption from sale under any order or decree of foreclosure of this mortgage, on its own behalf and on behalf of each and every person, except decree or judgment creditors of the mortgagors acquiring any interest in or title to the premises subsequent to the date of this mortgage.

## CURE PROVISIONS

2 31. Mortgagor shall have 10 days after mailing of written notice to cure monetary defaults and 30 days after mailing of written notice to cure non-monetary defaults.

32. ENVIRONMENTAL MATTERS; HAZARDOUS SUBSTANCES. Mortgagor hereby warrants that to the best of its knowledge, after due investigation, no portion of the Premises constitutes or contains Hazardous Substances (as defined below), other than in small quantities held in appropriate containers and stored, transported, held, used and disposed of in accordance with all applicable federal, state and local laws, rules and regulations, and that Mortgagor has not received any notice from any federal, state or local agency or department relating to Mortgagor's non-compliance with any federal, state or local law relating to such Hazardous Substances. Mortgagor covenants not to use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Premises, or transport to or from the Premises, any such Hazardous Substance, nor shall Mortgagor allow any other person or entity to do so. Mortgagor agrees to give prompt written notice to Mortgagee of: any proceeding or inquiry by any governmental authority with respect to the presence of any such Hazardous Substance on the Premises or the migration thereof from or to other real property; all claims made or threatened by

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any third party against Borrower or the Premises relating to any loss or injury resulting from any such Hazardous Substance; and Mortgagor's discovery of any occurrence or condition on the Premises or any real property adjoining or in the vicinity of the Premises that might cause the Premises or any part thereof to be subject to any restrictions on the ownership, occupancy transferability or use under any Environmental Law (as defined below). Mortgagee shall have the right to join and participate in, as a party if it selects, any legal proceedings or actions initiated in connection with any such Environmental Law.

Borrower shall indemnify, defend and hold harmless Mortgagee, its directors, officers, employees, agents, successors and assigns, from and against any and all loss, damage, cost, fee, expense or other liability (including attorney's fees, legal expenses and costs) directly or indirectly arising out of, or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence of any such Hazardous Substance on, under or about the Premises or from the violation by Mortgagor (on any person or entity under the control of Mortgagor) of any such Environmental Law. This indemnity shall survive the reconveyance of the lien of the deed of the Mortgage, the extinguishment of the lien by foreclosure or any action in lieu thereof.

The term Environmental Law as used herein shall include, without limitation, any law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") as amended, 42 U.S.C., Section 9601 et. seq., and the Resource Conservation Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et. seq. The term Hazardous Substance as used herein shall include, without limitation: those substances included within the definitions of hazardous substances, hazardous materials, hazardous wastes, toxic substances, toxic wastes or solid wastes in CERCLA, RCRA, and the Hazardous Materials Transportation Act 49 U.S.C. Sections 1801 et. seq., and in the regulations promulgated pursuant to said laws; those substances defined as hazardous substances, hazardous materials, hazardous wastes, toxic substances, toxic wastes, or solid wastes, under the laws of the State of Illinois and in the regulations promulgated pursuant to said laws; those substances listed in the United State Department of Transportation Table (49 CFR 172.101 and amendments thereto) and by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto); and such other substances, materials and wastes which are or become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws or regulations.

From time to time upon the reasonable request of Mortgagee, Mortgagor shall furnish, at Mortgagor's expense, a certification (the "Environmental Certification") from an independent engineer or other qualified environmental consultant or expert satisfac-

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tory to Mortgagee certifying: that the above representations and warranties are correct; that no asbestos, urea formaldehyde foam, lead-based paint or equipment that contains polychlorinated byphenyls (PCB's) is present in any form on the Premises; and as to such other environmental matters as Quaker State may reasonably request. If any Environmental Certification reveals any condition that, in Mortgagee's opinion, adversely affects Mortgagee's security for payment and performance of Mortgagor's obligations under this Agreement, the Note or any other obligations secured by the Mortgage, or the value of the Premises, Mortgagee may, at its option, treat such condition as an Event of Default hereunder. All provisions of the paragraph 32 shall survive the expiration of the Guaranty and the expiration or any earlier termination of this Agreement.

Anything herein to the contrary notwithstanding, nothing contained in this paragraph 32 shall be construed or interpreted to prohibit or inhibit Mortgagor from operating a so-called "fast lube facility" on the Premises. It is, therefore, acknowledged and agreed that in the operation of said business Mortgagor may bring on to the Premises motor oils, greases and other related or similar type petroleum based lubricants and, provided that Borrower shall at all times comply with all Environmental Laws (as defined herein) relevant thereto, the use of such products in the said business of Mortgagor on the Premises shall not constitute a breach of the provisions of this paragraph 32 or a default hereunder.

IN WITNESS WHEREOF, the Mortgagor has executed this Instrument as of the day and year first above written.

Lukeoil Development Co, Inc.

BY: [Signature]

ATTEST: [Signature] SEC

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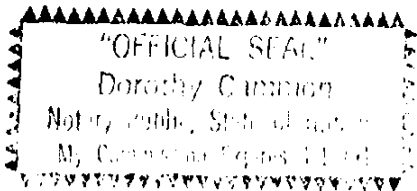
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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K)

I, Dorothy Cannon, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel K. Ericson, as Vice-President, and Phil Robinson, as Secretary, as Trustee under Trust Agreement dated \_\_\_\_\_ and known as Trust No. \_\_\_\_\_, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice-President and 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 officers for the uses and purposes therein set forth; and said Phil Robinson did then and there acknowledge that he, as custodian of the corporate seal of said Wheel Development Co., Inc. did affix the corporate seal of said Wheel Development Co., Inc. to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20<sup>th</sup> day of July, 1990.

Dorothy Cannon  
NOTARY PUBLIC



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Cook County Clerk's Office

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05/08/08

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Submitted by

Address

From

Date

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C.T. JONNELL



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