

Date of this copy on 1389518 & 530

10/25/90

Resolutions attached to

5 notes identified, the notes mortgage property (5 tracts, 1 wooded)

ASPHALT PAVING COMPANY

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WJ

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Allied - Hillside plant Cook County, Illinois

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MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT made as of the 17th day of August, 1990, by and between ALLIED ASPHALT PAVING COMPANY, an Illinois corporation, having its principal office and place of business at 1100 Brandt Drive, Eighth, Illinois 60120 ("Borrower"), and CONTINENTAL BANK N.A., a national banking association, having its principal office and place of business at 231 South LaSalle Street, Chicago, Illinois 60697 ("Lender").

W I T N E S S E T H:

WHEREAS, RJP, Inc., an Illinois corporation ("RJP"), has executed and delivered to Lender a Promissory Note of even date herewith payable to the order of Lender in the principal amount of Six Million Sixty-Five Thousand Dollars (\$6,065,000), or such lesser amount as may be disbursed thereon, as provided in the Term Loan Agreement (the "Loan Agreement") of even date herewith executed by RJP and Lender, together with all notes issued in substitution or exchange therefor as any of the foregoing may from time to time be amended, is hereinafter called the "RJP Note", which RJP Note bears interest and is payable to Lender as more fully described therein and in the Loan Agreement, and which RJP Note shall mature as provided therein and in the Loan Agreement, but in no event later than September 30, 1995; and

WHEREAS, RJP has executed and delivered to Lender a Promissory Note of even date herewith payable to the order of Lender in the principal amount of Eleven Million Dollars (\$11,000,000), or such lesser amount as may be disbursed thereon, which amount may be borrowed, repaid and reborrowed, as provided in the Line of Credit Agreement (the "RJP Credit Agreement") of even date herewith executed by RJP and Lender, together with all notes issued in substitution or exchange therefor as any of the foregoing may from time to time be amended, is hereinafter called the "RJP Credit Note", which RJP Credit Note bears interest as more fully described therein and in the RJP Credit Agreement, and which RJP Credit Note is payable to Lender on demand; and

WHEREAS, Boulder Ridge Country Club, Inc., an Illinois corporation ("BRCC"), has executed and delivered to Lender a Promissory Note of even date herewith payable to the order of Lender in the principal amount of Three Million Five Hundred Thousand Dollars (\$3,500,000), or such lesser amount as may be disbursed thereon, as provided in the Term Loan Agreement (the "BRCC Loan Agreement") of even date herewith executed by BRCC and Lender, together with all notes issued in substitution or exchange therefor as any of the foregoing may from time to time be amended, is hereinafter called the "BRCC Note", which BRCC Note bears interest and is payable to Lender as more fully described therein and in the BRCC Loan Agreement, and which BRCC Note shall mature as provided therein and in the BRCC Loan Agreement, but in no event later than September 30, 1995; and

WHEREAS, Par Development, Inc., an Illinois corporation ("Par"), has executed and delivered to Lender a Promissory Note of even date herewith payable to the order of Lender in the principal amount of Three Million Eight Hundred Thousand Dollars (\$3,800,000), or such lesser amount as may be disbursed thereon, as provided in the Term Loan Agreement (the "Par Loan Agreement") of even date herewith executed by Par and Lender (said note,

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NOW, THEREFORE, to secure the performance and observance by Borrower of all of the terms, covenants and conditions in the Notes, in this Mortgage, in the Loan Agreements and in the Other Agreements contained, and in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for and in consideration of the sum of Ten Dollars (\$10.00) Lawful money of the United States of America to Borrower duly paid by Lender on or before the delivery of this Mortgage, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower has executed and delivered this Mortgage and does hereby grant, convey, assign, mortgage, grant a security interest in,

WHEREAS, Lender is desirous of securing the prompt payment of the Notes together with interest and any premium thereon in accordance with the terms of the Notes, and any additional indebtedness accruing to Lender on account of any future payments, advances or expenditures made by Lender pursuant to (i) the Notes, (ii) this Mortgage (said Mortgage, as the same may be amended from time to time, is hereinafter called the "Mortgage"), (iii) the Loan Agreements, (iv) any other document or instrument securing the indebtedness evidenced by the Notes, or (v) any agreement providing for the extension of credit by Lender to any one or more of RJP, BRCC, Par, or any of their subsidiaries or affiliates, and term, structure or type of indebtedness (the "Other Agreements").

WHEREAS, Raymond E. Ploie ("Ploie") and Janice Ploie own 100% of the outstanding common stock of RJP, and Ploie owns 100% of the outstanding common stock of BRCC and Par, and RJP owns 100% of the outstanding common stock of Beverly and 58% of the outstanding common stock of Borrower (the remaining 42% of the outstanding common stock of Ploie being owned by Milburn Brothers, Incorporated, an Illinois corporation, 100% of the outstanding common stock of which is owned by RJP), and as such, Borrower, Ploie, BRCC, Par, Beverly and RJP are related entities, each with related financial interests; and

WHEREAS, the Notes will be secured by, among other things, mortgages encumbering property legally owned by Borrower, RJP, BCR, Par, and Beverly; Gravel, Inc., an Illinois corporation ("Beverly"); and

WHEREAS, the Loan Agreement, the RJP Credit Agreement, the BRCC Loan Agreement, the Par Loan Agreement and the Par Credit Agreement are sometimes collectively hereinafter called the "Notes"; and

WHEREAS, Par has executed and delivered to Lender a Promissory Note of even date herewith payable to the order of Lender in the principal amount of Two Million Dollars (\$2,000,000), or such lesser amount as may be disbursed thereon, which amount may be borrowed, repaid and reborrowed, as provided in the line of Credit Agreement (the "Par Credit Agreement") or even date herewith executed by Par and Lender (said note, together with all notes issued in substitution or exchange therefor as any of the foregoing may from time to time be amended, is hereinafter called the "Par Credit Note"), which Par Credit Note bears interest as more fully described therein and in the Par Credit Agreement, and which Par Credit Note is payable to Lender on demand; and

and in the Par Loan Agreement, and which Par Note shall mature as provided therein and in the Par Loan Agreement, but in no event later than September 30, 1995; and

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THIS MORTGAGE IS GIVEN TO SECURE: (a) payment of the principal and interest evidenced by the Notes and (b) performance of each and every of the covenants, conditions and agreements contained in this Mortgage, in the Notes, in the Loan Agreements, in the other agreements, and in any other agreement, document or

WITHOUT limitation of the foregoing, Borrower hereby further grants unto Lender, pursuant to the provisions of the Uniform Commercial Code of the State of Illinois, a security interest in all of the above-described property, which property includes, without limitation, goods which are or are to become fixtures.

TO HAVE AND TO HOLD the mortgaged property and all parts thereof unto Lender, its successors and assigns, to its own proper use, benefit and advantage forever, subject, however, to the terms, covenants and conditions herein contained;

Law, as well as in equity, or Borrower or, in and to the same; interest, property, possession, claim and demand whatsoever at (funds and reserve funds), and all the estate, right, title, insurance, condemnation payments, tenant security deposits, escrow limitation, all payments under leases or tenancies, proceeds of mortgaged property from time to time accruing, including, without remainder, and the rents, issues, profits, and revenues of the Borrower and the reversion and reversions, remainder and apportionment thereto, whether now owned or hereafter acquired by the mortgagor or hereafter shall in any way belong, relate or be relating or appertaining to the mortgaged property, or any part hereof, or which hereafter shall in any way belong, relate or be relating or appertaining to the mortgaged property, in any way belonging, hereditaments and appurtenances whatsoever, in any way belonging, titles, interests, licenses, privileges, liberties, tenements, vaults, streets, ways, alleys, passages, sewer rights, waters, All easements, rights-of-way, strips and gores of land,

B. All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, and all furnishings, furniture, fixtures, machinery, equipment, appliances, systems, building materials, vehicles and personal property of every kind and nature whatsoever, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures and systems, carpeting and other floor coverings, washers, dryers, water heaters, mirrors, mantels, air conditioning apparatus and systems, refrigerating plant, refrigerators, computers and all hardware and software therefor, cooking apparatus and appurtenances, window screens, awnings and storm doors, which are or shall be attached to said buildings, structures or improvements, or which are or shall be located in, on or about the Land, or which, wherever located (including, without limitation, in warehouses or other storage facilities or in the possession of or on the premises of vendors or manufacturers thereof), are used or intended to be used in or in connection with the construction, fixing, equipping, furnishing, use, operation or enjoyment of the Land or the improvements thereon all warehouse receipts or other documents of title relating to any of the foregoing and all permits, licenses and franchises now or hereafter owned by Borrower and not owned by tenants, including all extensions, additions, improvements, betterments, renewals and replacements of any of the foregoing, together with the benefit of any deposits or payments now or hereafter made by Borrower or on its behalf in connection with any of the foregoing; and

A. All those certain tracts, pieces or parcels of land more particularly described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Land");

Warrant and confirm, unto Lender and its successors and assigns, however, all of the following described property (which is hereinafter sometimes referred to as the "Mortgaged Property"), to-wit:

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(a) Borrower will pay promptly, when and as due, and will, upon Lender's request, promptly exhibit to Lender receipts for the payment of, all taxes, assessments, water rates, license fees, dues, charges, fines and impositions of every nature, whatsoever charged, imposed, levied or assessed or to be charged, imposed, levied or assessed upon or against the Mortgaged Property or any part thereof; or upon the interest of Lender in the Mortgaged Property, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States or any state, county, municipality or other taxing authority in respect of the Mortgaged Property or any

1.04 Taxes, Liens and Other Charges.

1.03 Taxes. Borrower will pay before they become due, all taxes, assessments and other similar charges against the Mortgaged Property or any part thereof.

1.02 Warranty of Title. At the time of the recordation of these presents, Borrower shall well seized of an indefeasible estate in fee simple in the portion of the Mortgaged Property which constitutes real property, and owns good title to the portion of the Mortgaged Property which constitutes personal property, subject only to the matters set forth in Exhibit B attached hereto and made a part hereof, and has good right, full power and lawful authority to convey, mortgage and grant a security interest in the same in the manner and form aforesaid; that the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever other than those set forth in Exhibit B, including, as to the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature; and that Borrower shall and will forever defend the title to the Mortgaged Property against the claims of all persons whatsoever.

1.01 Performance. Borrower will perform, observe and comply with, or cause to be performed, observed and complied with, all of the provisions hereof, and of the Notes and the Loan Agreements, and will duly and punctually pay to Lender the sums of money expressed in Notes with interest thereon at the times and in the manner provided in the Notes and the Loan Agreements, and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage, all without any deductions or credit for taxes or other similar charges paid by Borrower.

ARTICLE I

AND Borrower covenants and agrees with Lender that:

PROVIDED, HOWEVER, that these presents are upon the condition that, if Borrower shall pay or cause to be paid to Lender the principal and interest payable pursuant to the Notes, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Borrower, and shall keep, perform and observe all and singular the covenants and promises in the Notes, the Loan Agreements, the Other Agreements and in this Mortgage expressed to be kept, performed and observed by and on the part of Borrower then this Mortgage shall cease, terminate and be void, but shall otherwise remain in full force and effect.

It is expressly understood and agreed that the indebtedness secured hereby will in no event exceed two hundred percent (200%) of the total face amount of the Notes.

INSTRUMENT to which reference is expressly made in this Mortgage or which secures the Notes (all of which are sometimes referred to as the "indebtedness secured hereby" or the "indebtedness").

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Lender is hereby authorized and empowered, at its option, to make or file proofs of loss or damage and to adjust or compromise any loss under any insurance policies on the mortgaged property, and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Lender instead of to Borrower. After deducting from said insurance

force shall pass to the purchaser or grantee. interest of Borrower in and to all insurance policies then in part of the indebtedness secured hereby, all right, title and title to the mortgaged property in extinguishment in whole or in event of the foreclosure of this mortgage or any other transfer of indebtedness secured hereby of all unearned premiums. In the shall constitute an assignment as further security for the policies and renewals. The delivery of the insurance policies to Lender receipts evidencing the payment for all such insurance to Lender shall be delivered to Lender. Borrower shall deliver to Lender date of each such policy, renewal thereof satisfactory satisfactory to Lender. At least thirty (30) days prior to the Non-Contradictory Mortgage Clause, or its equivalent, in a form policies shall be in accordance with the Loan Agreement and such and the amounts, forms, expiration dates and substance of such premiums on such policies. The companies issuing such policies, may be reasonably requested by Lender. Borrower shall pay for all insurable perils as Lender may reasonably require, and (11) insured against under "extended coverage", and such other policy or policies (1) insuring (the mortgaged property against fire, lightning, vandalism, malicious mischief, all other perils Mortgage, all insurance required by the Loan Agreement and a maintain for the benefit of Lender during the term of this 1.06 Insurance. Borrower will procure for, deliver to and

or any part thereof by reason of the Notes or this Mortgage. shall be claimed from the taxable value of the mortgaged property to Lender's interest in the mortgaged property. No deduction thereof, as are applicable to the indebtedness secured hereby or charges assessed against the mortgaged property or any part secured hereby, for so much of the taxes, assessments or similar interest payable under the terms of the Notes or on any other sum be entitled to receive any credit or credits on the principal or 1.05 No Tax Credits. Borrower will not claim or demand or

apportionance to the mortgaged property. or other charges for the use of vaults, canopies or other mortgaged property or any part thereof and all license fees, rents utilities, whether public or private, with respect to the (d) Borrower will pay when due any charges for

sole discretion. Indemnified by Borrower in a manner satisfactory to Lender in its payable forthwith at the option of Lender unless Lender is interest accrued thereon shall, without notice, become due and affect adversely Lender, all sums secured by this mortgage and all secured by mortgages or the manner of collecting taxes so as to the laws now in force governing the taxation of mortgages or debts subsequent to the date hereof, in any manner changing or modifying municipal or other governmental law, order, rule or regulation, (c) In the event of the passage of any state, federal,

a manner satisfactory to Lender, in its sole judgment. upon any of the mortgaged property unless same are bonded over in laborer's, materialmen's, statutory or other lien or any security (b) Borrower will not suffer any mechanic's, interest or encumbrance to be created or to remain outstanding

part thereof, or any charge which, if unpaid, would or could become a lien or charge upon the mortgaged property, or any part thereof.

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(d) Lender or its representative is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours during the term of this Mortgage.

(c) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, Borrower will give immediate written notice of the same to Lender.

(b) Except as otherwise provided herein or in the Loan Agreement, no buildings, structures, improvements, fixtures, personal property or other part of the Mortgaged Property shall be removed, added to, demolished or altered structurally to any extent or altered non-structurally in any material respect without the prior written consent of Lender.

(a) Borrower will preserve and maintain the Mortgaged Property in good condition and repair, will not commit or suffer any waste thereof, and will keep the same in a clean orderly and attractive condition. Borrower will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

1.08 Care of the Property.

1.07 Condemnation. If all or any part of the Mortgaged Property (other than a portion which Lender deems insignificant) shall be damaged or taken through condemnation (which term, when used in this Mortgage, shall include any damage or taking by any governmental authority and any transfer by private sale in lieu thereof) either temporarily or permanently, the entire indebtedness secured hereby shall, at the option of Lender, become immediately due and payable. Lender shall be entitled to all compensation to the extent of the indebtedness secured hereby, awards and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or Borrower's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights, actions and proceedings, and the right thereto, are hereby assigned by Borrower to Lender. After deducting from said condemnation proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, Lender may apply the net proceeds or any part thereof, at its option, either toward restoring the Mortgaged Property or as a credit on any portion of the indebtedness secured hereby selected by it whether than matured or to mature in the future, or for any other purpose or object satisfactory to Lender without affecting the lien of this Mortgage. Borrower agrees to execute such further assignments of any compensations, awards, damages, claims, rights, actions and proceedings as Lender may require. Lender shall not be held responsible for any failure to collect any amount in connection with any such proceeding regardless of the cause of such failure.

proceeds all of its expenses incurred in the collection and administration of such sums, including reasonable attorneys' fees, Lender may apply, subject to the provisions of the next paragraph, the net proceeds or any part thereof, at its option, either toward restoring the Mortgaged Property or as a credit on any portion of the indebtedness secured hereby selected by it, whether then matured or to mature in the future, or at the option of Lender, such sums either wholly or in part may be paid over to Borrower, on such terms and conditions as Lender in its discretion may specify, to be used to repair the buildings, structures or improvements, or to build new ones in their place, or for any other purpose or object relating to the Mortgaged Property and reasonably satisfactory to Lender, without affecting the lien of this Mortgage for the full amount secured hereby before such payment took place. Lender shall not be held responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

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1.10 Leases and other agreements affecting the mortgaged property. Borrower will duly and punctually perform all terms, covenants, conditions and agreements binding upon it or the mortgaged property under any lease or any agreement or instrument of any nature whatsoever which involves or affects the mortgaged property or any part thereof. Borrower represents and warrants that it has heretofore furnished Lender with true and complete copies of all such contracts, leases, agreements and instruments existing on the date of this mortgage. Borrower agrees to furnish Lender with executed copies of all leases heretofore entered into with respect to all or any part of the mortgaged property. Borrower will not, without the express written consent of Lender, enter into any new lease or modify, surrender, terminate, extend or renew, either orally or in writing, any lease now existing or hereafter created upon the mortgaged property or any part thereof, nor will Borrower permit an assignment or sublease without the express written consent of Lender, which consent will not be unreasonably withheld. If Lender so requests, Borrower shall cause the tenant under each or any of such leases to enter into subordination and attornment agreements with Lender which are satisfactory to Lender. Borrower will not accept payment of advance rents or security deposits equal, in the aggregate, to more than one (1) month's rent without the express written consent of Lender. In order to further secure payment of the Notes and the observance, performance and discharge of Borrower's obligations hereunder, Borrower hereby assigns, transfers and sets over to Lender all of Borrower's right, title and interest in, to and under all of the leases now or hereafter affecting the mortgaged property or any part thereof and in and to all of the rents, issues, profits, revenues, awards and other benefits now or

1.09 Further Assurances; After Acquired Property. At any time and from time to time, upon reasonable request by Lender, Borrower will make, execute and deliver or cause to be made, executed and delivered, to Lender, and where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender, any and all such other and further mortgages, security agreements, financing statements, continuation statements, instruments of further assurances, certificates and other documents as may, in the reasonable opinion of Lender, be necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, (a) the obligations of Borrower under the Notes and this mortgage, and (b) the lien and security interest of this mortgage as a first priority lien and security interest upon all of the mortgaged property, whether now or hereafter acquired by Borrower. The lien and security interest hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the mortgaged property or any part thereof.

(f) If all or any part of the mortgaged property shall be damaged by fire or other casualty, Borrower will promptly restore the mortgaged property to the equivalent of its original condition, regardless of whether or not there shall be any insurance proceeds therefor and regardless of whether or not insurance proceeds are made available to Borrower. If a part of the mortgaged property shall be physically damaged through condemnation, Borrower will promptly restore, repair or alter the remaining property in a manner satisfactory to Lender. Without limitation of any other provision hereof, failure by Borrower to comply with the provisions of this section will constitute an Event of Default hereunder.

(g) Borrower will promptly comply, and cause the mortgaged property and the occupants or users thereof to comply with all present and future laws, ordinances, orders, rules and regulations and other requirements of any governmental authority affecting the mortgaged property or any part thereof or the use or occupancy thereof.

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1.15 Impairment of Security. Without limitation of any other provision hereof, Borrower will not assign, in whole or in part, the rents, income or profits arising from the Mortgaged Property without the prior written consent of Lender; any such assignment made without Lender's prior written consent shall be null and void and of no force and effect and the making thereof shall, at the option of Lender, constitute a default under this Mortgage. Without limitation of the foregoing, Borrower will not in any other manner impair the security of this Mortgage for the payment of the indebtedness secured hereby.

1.14 Subrogation. Lender shall be subrogated to the claims and liens of all parties whose claims or liens are discharged or paid with the proceeds of the indebtedness secured hereby.

1.13 Stopped Affidavits. Borrower, within ten (10) days after written request from Lender, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal or not any offsets or defenses exist against such principal and interest.

1.12 Books, Records and Accounts. Borrower will keep and maintain or will cause to be kept and maintained proper and accurate books, records and accounts reflecting all items of income and expense in connection with the operation of the Mortgaged Property or in connection with any services, equipment or furnishings provided in connection with the operation of the Mortgaged Property, whether such income or expenses be realized by Borrower or by any other person or entity whatsoever. Lender or its designee shall have the right from time to time, upon reasonable notice, at all times during normal business hours to examine such books, records and accounts at the office of Borrower or other person or entity maintaining such books, records and accounts and to make copies or extracts thereof as Lender shall desire. Borrower will from time to time furnish to Lender such financial statements and information as required in the loan agreement or such other financial information as Lender may otherwise reasonably request.

1.11 Expenses. Borrower will immediately upon demand pay or reimburse Lender for all reasonable attorneys' fees, costs and expenses incurred by Lender in any proceedings involving the estate of a decedent, an insolvent or a bankrupt, or in any action, proceeding or dispute of any kind in which Lender is made a party, or appears as an intervenor or party plaintiff or defendant affecting or relating to the Notes, this Mortgage, the Loan Agreement, Borrower, or the Mortgaged Property, including, but not limited to, the foreclosure of this Mortgage, any condemnation action involving the Mortgaged Property, or any action to protect the security hereof, and any such amounts paid by Lender shall be added to the indebtedness secured hereby and secured by the lien and security interest of this Mortgage, shall bear interest at a rate per annum equal to the Reference Rate (as such term is defined in the Loan Agreement) in effect from time to time plus two percent (2%) (the "Default Rate") and shall be due and payable upon demand.

Unless and until an Event of Default occurs, Borrower shall be entitled to collect the rents, issues, profits, revenues, awards and other benefits of the Mortgaged Property (except as otherwise provided in this Mortgage) as and when they become due and payable. Lender shall be liable to account only for rents, issues, profits, revenues, awards and other benefits of the Mortgaged Property actually received by Lender pursuant to any provision of this Mortgage.

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"Hazardous Material" means: (1) "hazardous substances", as defined by the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq.; the Illinois Environmental Protection Act, Ill. Rev. Stat. Ch. 111-1/2, §1001 et seq.; (2) "hazardous wastes", as defined by the Resource Conservation and Recovery Act, 42 U.S.C. §6902 et seq.; (3) any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials, or substances within the meaning of any other applicable federal, state, or local law, regulation, ordinance, or requirement (including consent decrees and administrative orders) relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous

1.20 Environmental Matters.

1.19 Prohibition of Further Encumbrance. Borrower will not, without the prior written consent of Lender, further mortgage, grant a deed of trust, pledge or otherwise encumber, whether by operation of law or otherwise, all or any of its interest in the mortgaged property except as provided in the Loan Agreement. Any such encumbrance, including without limitation an encumbrance of the beneficial interest in Borrower, made without Lender's prior written consent shall be null and void and of no force or effect, but the attempt at making thereof shall, at the option of Lender, constitute an event of default under this mortgage.

1.18 Prohibition of Transfer. Borrower will not, without the prior written consent of Lender, sell, assign or transfer, whether directly or indirectly, by operation of law or otherwise, all or any portion of its interest in the mortgaged property or in Borrower except as provided in the Loan Agreement. Any such sale, assignment or transfer, or a sale, assignment or transfer of the beneficial interest in Borrower, made without Lender's prior written consent, shall be null and void and of no force and effect, but the attempt at making thereof shall, at the option of Lender, constitute an event of default under this mortgage.

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

1.17 Use of Proceeds.

1.16 Use of Mortgaged Property. Borrower will not make, suffer or permit, without the prior written consent of Lender, any use of the mortgaged property for any purpose other than that for which the same is used or intended to be used as of the date of this mortgage.

(a) Borrower represents and agrees that the proceeds of the Notes secured by this mortgage will be used for the purposes specified in Ill. Rev. Stat. Ch. 17, Paragraph 6404, §41(c), and that the indebtedness secured hereby constitutes a business loan which comes within the purview of said Section.

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(11) Absence of Hazardous Material. Other than Permitted Material, no Hazardous Material shall be introduced to or handled on the Mortgaged Property without thirty (30) days prior written notice to Lender.

(1) Compliance. The Mortgaged Property and the use and operation thereof, shall comply with all Environmental Laws. All required governmental permits and licenses shall remain in effect, and Borrower shall comply therewith. All Hazardous Material present, handled or generated on the Mortgaged Property will be disposed in a lawful manner. Borrower will satisfy all requirements of applicable Environmental Laws for the maintenance and removal of all underground storage tanks on the Mortgaged Property, if any. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

(c) Borrower's Covenants. Borrower hereby covenants and agrees with Lender as follows:

(iii) Proceedings and Actions. There have been no past and there are no pending or threatened: (1) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Mortgaged Property, or the disposal or presence of Hazardous Material, or regarding any Environmental Laws; or (2) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Mortgaged Property or the priority of the mortgage lien.

(iii) Absence of Hazardous Material. No generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred or is occurring on or from the Mortgaged Property, except as has been disclosed in writing to and approved by Lender ("Permitted Material"). "Permitted Material" shall include Hazardous Materials which are customarily used in a construction project of the type and size of the project, in quantities no greater than required in connection with said construction. No environmental or public health or safety hazards currently exist with respect to the Mortgaged Property or the business or operations conducted thereon. No underground storage tanks (including petroleum storage tanks) are present on or under the Mortgaged Property except as has been disclosed in writing to and approved by Lender ("Permitted Tanks").

(1) Compliance. The Mortgaged Property (including underlying groundwater and areas leased to tenants, if any), and the use and operation thereof, are currently in compliance with all applicable laws, ordinances, requirements and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment, including those statutes, laws, regulations, and ordinances identified in subparagraph (a) above, all as amended and modified from time-to-time (collectively, "Environmental Laws"). All required governmental permits and licenses are in effect, and Borrower is in compliance therewith. All Hazardous Materials generated or handled on the Mortgaged Property have been disposed of in a lawful manner.

(b) Representations and Warranties. Borrower hereby represents and warrants to Lender that:

waste, substance or material, all as amended or hereafter amended; (iv) more than 100 gallons of crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute); (v) any radioactive material, including any source, special nuclear or by-product material as defined at 42 U.S.C. §2011 et seq., as amended or hereafter amended; and (vi) asbestos in any form or condition.

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Borrower, its successors and assigns, hereby waive, release and agree not to make any claim or bring any cost recovery action against Lender under CERCLA or any state equivalent, or any

Borrower agrees to indemnify, defend (at trial and appellate levels and with counsel acceptable to Lender and at Borrower's sole cost) and hold Lender and its Affiliates free and harmless from and against Lender's Environmental Liability. The foregoing indemnification, defense and hold harmless obligations shall survive repayment of the Notes or any transfer of the Mortgaged Property by foreclosure or by a deed in lieu of foreclosure for any Lender's Environmental Liability.

(iv) the imposition of any lien for damages caused by or the recovery of any costs for the cleanup, release or threatened release of Hazardous Material.

(iii) any violation or claim of violation by Borrower of any Environmental Laws; or

(ii) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this paragraph;

(i) any Hazardous Material on, in, under or affecting all or any portion of the Mortgaged Property, the groundwater, or any surrounding areas;

(e) Indemnification. The term "Lender's Environmental Liability" shall mean any losses, liabilities, obligations, penalties, claims, litigation demands, defenses, costs, judgments, suits, proceedings, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including attorneys' fees at trial and appellate levels and experts, fees and disbursements and expenses incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Lender or any of Lender's parent and subsidiary corporations, and their affiliates, shareholders, directors, officers, employees, and agents, and agents (collectively "Affiliates") in connection with or arising from:

(d) Lender's Right to Rely. Lender is entitled to rely upon Borrower's representations and warranties contained in this Section despite any independent investigations by Lender or its consultants. Borrower shall take reasonable actions to determine for itself, and to remain aware of, the environmental condition of the Mortgaged Property and shall have no right to rely upon any environmental investigations or findings made by Lender or its consultants.

(iv) Environmental Audit. Borrower shall provide such information and certifications which Lender may reasonably request from time to time to insure Borrower's compliance with this paragraph. To investigate Borrower's compliance with Environmental Laws and with this Section, Lender shall have the right, but no obligation, at any time to enter upon the Mortgaged Property, take samples, review Borrower's books and records, interview Borrower's employees and officers, and conduct similar activities. Borrower shall cooperate in the conduct of such an audit.

(iii) Proceedings and Actions. Borrower shall immediately notify Lender and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Property or compliance with Environmental Laws. Borrower shall promptly cure and have dismissed with prejudice any such actions and proceedings to the satisfaction of Lender. Borrower shall keep the Mortgaged Property free of any lien imposed pursuant to any Environmental Laws.

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(h) The transfer or further encumbrance of the mortgaged property by Borrower not consented to by Lender as described in Paragraphs 1.18 and 1.19, respectively, hereof.

(g) The entry by a court of competent jurisdiction of an order, judgment or decree approving a petition filed against Borrower or any of the guarantors of the Notes seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other similar relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of Borrower or such guarantor or of all or any part of the mortgaged property or of any or all of the rents, issues, profits or revenues thereof without its consent or acquiescence, which appointment shall remain unvacated or unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(f) The filing by Borrower or any of the guarantors of the Notes of a voluntary petition in bankruptcy or the filing by Borrower or any such guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, liquidation, dissolution or similar relief for itself under any present or future federal, state or other law or regulation relating to bankruptcy, insolvency or other relief for debtors or Borrower's or any such guarantor's seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of itself or any portion of its assets or of all or any part of the mortgaged property or of any or all of the rents, issues, profits or revenues thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of its inability to pay its debts generally as they become due; or

(e) Failure by Borrower to duly observe or perform any term, covenant, condition or agreement in any assignment or other agreement or instrument given or made as additional security for the performance of the notes or this Mortgage; or

(d) The occurrence of an "Event of Default", as defined in the mortgages (other than this Mortgage), trust deeds and other instruments which secure or which are pledged to secure the Notes, or any default under any of said mortgages, trust deeds or other instruments; or

(c) The occurrence of an "Event of Default", as defined in any of the loan agreements; or

(b) Failure by Borrower to duly observe or perform any other term, covenant, condition or agreement of this Mortgage; or

(a) Failure by Borrower to pay when due any payment of principal or interest under any of the Notes or this Mortgage; or

2.01 Events of Default. Without limitation of any other provision hereof, the terms "Event of Default" or "Events of Default", wherever used in this Mortgage, shall mean any one or more of the following events:

ARTICLE II

similar law now existing or hereafter enacted. It is expressly understood and agreed that to the extent that Lender is strictly liable under any Environmental Laws, Borrower's obligation to Lender under this Indemnity shall likewise be without regard to fault on the part of Borrower with respect to the violation or condition which results in liability to Lender.

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(e) If any Event of Default shall occur and be continuing, Lender may, in addition to any other rights and remedies hereunder, exercise any and all remedies provided in the Loan Agreement or in any documents or instruments securing the Notes.

(d) Upon event such entering upon or taking of possession, Lender may hold, store, use, operate, manage and control the Mortgaged Property and conduct the business thereof, and, from time to time (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personally or other (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of borrower to the same extent as borrower could in its own name or otherwise with respect to the same; and (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted to Lender, all as Lender from time to time may determine to be to its best advantage. Lender may collect and receive all the rents, issues, profits and revenues of the same, including those part due as well as those accruing thereafter, and, after deducting (aa) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes); (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions; (cc) the cost of such insurance; (dd) such taxes, assessments and other similar charges as Lender may determine to pay; (ee) other proper charges upon the Mortgaged Property or any part thereof; and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of Lender, shall apply the remainder of the monies and proceeds so received by Lender, first to payment of accrued interest; second to the payment of taxes, assessments and other charges against the Mortgaged Property; and third to the payment of principal.

(c) Borrower will pay to Lender, upon demand, all expenses (including, without limitation, fees and expenses of attorneys, accountants and agents) of obtaining such judgment or decree or of otherwise seeking to enforce its rights under the Notes, the Loan Agreement or this Mortgage; and all such expenses shall, until paid, be secured by this Mortgage and shall bear interest at the Reference Rate (as defined in the Notes) from time to time in effect plus two percent (2%) per annum (the "Default Rate").

(b) If Borrower shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Lender, Lender may obtain a judgment or decree concerning on Lender the right to immediate possession or regarding the delivery of immediate possession of all or part of such Mortgaged Property to Lender, to the entry of which judgment or decree Borrower specifically consents.

(a) If an Event of Default shall have occurred and be continuing, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession, and if and to the extent permitted by law, Lender itself, or by such officers or agents as it may appoint, may enter and take possession, or all or any part of the Mortgaged Property, and may exclude Borrower and its agents and employees wholly therefrom.

2.03 Lender's Right to Enter and Take Possession, Operate and Apply Revenues.

2.02 Acceleration of Maturity. If an Event of Default shall have occurred and be continuing, then the entire indebtedness secured hereby shall, at the option of Lender, immediately become due and payable without notice or demand.

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2.09 Fees and Expenses; Application of Proceeds of Sale. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness secured hereby in the decree

2.08 Purchase by Lender. Upon any foreclosure sale, Lender may bid for and purchase the mortgaged property and shall be entitled to apply all or any part of the indebtedness secured hereby as a credit to the purchase price.

2.07 Lender's Power of Enforcement. If an event of default shall have occurred and be continuing, Lender may, either with or without entry or taking possession as herein provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to enforce payment of the Notes or the performance of any term, covenant, condition or agreement of this Mortgage or any other right, (b) to foreclose this Mortgage and to sell the mortgaged property as an entirety or otherwise, as Lender may determine, and (c) to pursue any other remedy available to it, including any remedy available to it under the Loan Agreement or under any of the Loan Documents, all as Lender shall deem most effectual for such purposes. Lender may take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Lender may determine. Lender may elect to pursue any one or more or all of the foregoing.

2.06 Receiver. If an event of default shall have occurred and be continuing, Lender, upon application to a court of competent jurisdiction, shall be entitled as a matter of strict right without notice and without regard to the occupancy or value of any security for the indebtedness or the insolvency of any party bound for its payment to the appointment of a receiver to take possession of and to operate the mortgaged property and to collect and apply the rents, issues, profits and revenues thereof. The receiver shall have all of the rights and powers to the fullest extent permitted by law. Borrower will pay to Lender upon demand (with interest thereon at the Default Rate) all expenses, including receiver's fees, attorneys' fees, costs and agents' compensations, incurred pursuant to the provisions of this Paragraph 2.06; and all such expenses shall be secured by this Mortgage and shall bear interest at the Default Rate.

2.05 Loan. The aggregate principal amount evidenced by each of the Notes is to be used for the purposes set forth in the respective Loan Agreements, in accordance with the terms of the respective Loan Agreements. Borrower covenants that it will perform, or cause to be performed, all of the terms, covenants and conditions of the Loan Agreements to be kept and performed by Borrower.

2.04 Performance by Lender of Defaults. If default shall occur in the payment, performance or observance of any term, representation, warranty, covenant or condition of this Mortgage (whether or not the same shall constitute an Event of Default), Lender may, at its option, pay, perform or observe the same or take any action necessary to cause any representation or warranty to be true, and all payments made or costs or expenses incurred by Lender in connection therewith, shall be secured hereby and shall be, on demand, immediately repaid by Borrower to Lender with interest thereon at the Default Rate. Lender shall be the sole judge of the necessity for any such actions and of the amounts to be paid. Lender is hereby empowered to enter and to authorize others to enter upon the mortgaged property or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to Borrower or any person in possession holding under Borrower.

(f) Lender shall have no liability for any loss, damage, injury, cost or expense resulting from any action or omission by it or its representatives which was taken or omitted in good faith.

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2.13 Discontinuance of Proceedings and Restoration of the Parties. In case Lender shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to Lender, then and in every such case Borrower and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding had been taken.

2.12 Leases. Lender, at its option, is authorized to foreclose this Mortgage subject to the rights of any tenants of the mortgaged property, and the failure to make such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by Borrower, a defense to any proceedings instituted by Lender to collect the sums secured hereby, or any deficiency remaining unpaid after the foreclosure sale of the mortgaged property.

2.11 Waiver of Marshalling of Security. Borrower and all parties who may claim through or under Borrower hereby waive and release any right to require the marshalling of security for the payment of the indebtedness hereby secured.

2.10 Waiver of Appraisal, Valuation, Stay, Extension and Redemption Laws. Borrower agrees to the full extent permitted by law, that in the event of default occurs hereunder, neither Borrower nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, homestead or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this mortgage, or the absolute sale of the property hereby conveyed, or the final and absolute putting into possession thereof, immediately after such sale, of the purchase thereat, and Borrower, for itself and all who may at any time claim through or under it, hereby waives and releases to the full extent that it may lawfully so do, the benefit of all such laws (including, without limitation, all rights under and by virtue of the homestead exemption laws and redemption laws of the state in which the land is located) and any and all rights to have the assets comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof.

For sale all costs and expenses which may be paid or incurred by or on behalf of Lender or holders of the Notes for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the mortgaged property, stenographer's charges, publication cost and costs of procuring all abstracts of title, title searches and examinations, guaranties policies, certificates of title issued by the Registrar of Titles (Torrens certificates), and similar data and assurances with respect to title as Lender or holders of the Notes may deem to be necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or value of the mortgaged property or for any other reasonable purpose. The amount of any such costs and expenses which may be paid or incurred after the decree for sale is entered may be estimated and the amount of such estimate may be allowed and included as additional indebtedness secured hereby in the decree for sale. In the event of a foreclosure sale of the mortgaged property, the proceeds of said sale shall be applied, first, to the expenses of such sale and of all proceedings in connection therewith, including reasonable attorneys' fees, then to insurance premiums, liens, assessments, taxes and charges, including utility charges, then to payment of the outstanding principal balance of the indebtedness secured hereby, then to the accrued interest on all of the foregoing, and finally the remainder, if any, shall be paid to Borrower.

Borrower agrees that Lender, in addition to any and all rights and remedies that it may otherwise have pursuant to this Mortgage, may consent to the substitution, exchange or release of all or any portion of any other security Lender may hold with respect to the indebtedness secured by this Mortgage and in the

prohibition against such sale or transfer set forth in Paragraph 1.18 hereof. The foregoing shall not limit the obligations or undertakings. Without in any way releasing or discharging any liabilities, same extent as it might deal with the original parties hereto and covenants, conditions or agreements hereof, as fully and to the address secured hereby, or with reference to any of the terms, transferred with reference to the Mortgaged Property or the indebtedness secured hereby, and empowered to deal with any such vendee or authorized part of the Mortgaged Property, Lender, without notice is hereby sale or transfer, by operation of law or otherwise, of all or any not they consent to any of the foregoing. In the event of the thereby, whether or not there are junior liens and whether or the lien of this Mortgage or the priority thereof be altered provided in an instrument or instruments executed by Lender, shall any subsequent default, nor, except as otherwise expressly intended to be granted in the event of any default then made or of exercising any right, power or privilege herein granted or guarantor; nor shall any such act or omission include Lender from of Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or liability under the Notes, this Mortgage or any other obligation of the changes referred to in clause (e) above] the original release, discharge, modify, change or affect [except to the extent subordinating the lien hereof; any such act or omission shall not the Mortgaged Property; or (h) makes or consents to any agreement consents to the granting of any easement or other right affecting condominium declaration affecting the Mortgaged Property; (g) Notes; (f) consents to the filing of any map, plat or report or this Mortgage or in any other document or instrument securing the terms, covenants, conditions or agreements of the Notes or the payment of the indebtedness secured hereby; (e) changes any of property from the lien of this Mortgage or any other security for (d) releases with or without consideration any of the Mortgaged Notes or in any other document or instrument securing the Notes; (c) waives or does not exercise any right granted herein or in the additional security for the payment of any sums secured hereby; (b) takes other or the payment of any sums secured hereby; (a) grants forbearance or an extension of time for If Lender (a) grants forbearance or an extension of time for

2.15 Waiver. No delay or omission of Lender or of any holder of the Notes to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender. No consent or waiver, expressed or implied, by Lender to or of any breach or default by Borrower in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of the same or any other obligations of Borrower hereunder. Failure on the part of Lender to complain of any acts or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by Lender of its rights hereunder or impair any rights, powers or remedies on account of any breach or default by Borrower.

2.14 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

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(3) business days after mailed or given in the manner provided provided that no change in address shall be effective until three designated by written notice to Lender given as herein required, or to such other address as Borrower may from time to time

Warren R. Fuller, Esq.  
150 North Michigan Avenue  
Suite 2810  
Chicago, Illinois 60601

With a copy to:

Allied Asphalt Paving Company  
1100 Brandt Drive  
Egin, Illinois 60120  
Attention: Mr. Raymond E. Ploie

3.04 Notices. All notices, demands and requests given or required to be given by either party hereto to the other party shall be in writing. All such notices, demands and requests by Lender to Borrower shall be deemed to have been properly given if served in person or if sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to Borrower at:

3.03 Successors and Assigns. This Mortgage shall inure to the benefit of and be binding upon Borrower and Lender and their respective heirs, executors, legal representatives, successors and assigns. Whenever a reference is made in this Mortgage to Borrower or Lender, such reference shall be deemed to include a reference to the heirs, executors, legal representatives, successors and assigns of Borrower or Lender.

3.02 Lender May File Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting Borrower, its creditors or its property, Lender, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Lender allowed in such proceedings for the entire amount due and payable by Borrower under this Mortgage at the date of the institution of such proceedings and for any additional amount which may become due and payable by Borrower hereunder after such date.

3.01 Suits to Protect the Mortgaged Property. Upon the occurrence of an Event of Default hereunder, Lender shall have the power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the mortgaged property by any acts which may be unlawful or in violation of this Mortgage; (b) to preserve or protect its interest in the mortgaged property and in the rents, issues, profits and revenues arising therefrom; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, regulation, rule, order or other requirement that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, regulation, rule, order or other requirement would impair the security hereunder or be prejudicial to the interest of Lender, and all costs and expenses incurred by Lender in connection therewith (including, without limitation, attorneys' fees) shall be paid by Borrower to Lender on demand (with interest at the Default Rate) and shall be additional indebtedness secured hereby.

ARTICLE III

mortgages, trust deeds and other instruments securing or pledged to secure the indebtedness evidenced by the Notes immediately prior to an such decree or judgment of foreclosure, except such mortgage or trust deed.

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STATE OF ILLINOIS  
COUNTY OF COOK

RECORDING OFFICE  
100 N. LAUREL ST.  
CHICAGO, ILL. 60610

100-1000

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RECORDING OFFICE  
100 N. LAUREL ST.  
CHICAGO, ILL. 60610

3.11 Delivery of Summons, Etc. If any action or proceeding shall be instituted to evict borrower or recover possession of the mortgaged property or any part thereof or otherwise affecting the mortgaged property or this mortgage, borrower will immediately, upon service thereof on or by borrower, deliver to lender a true copy of each precept, petition, summons, complaint, notice or

3.10 No Merger. It being the desire and the intention of the parties hereto that this mortgage and the lien hereon do not merge in fee simple title to the mortgaged property, it is hereby understood and agreed that should lender acquire any additional or other interests in or to said property or the ownership thereof, then, unless a contrary interest is manifested by lender as evidenced by an appropriate document duly recorded, this mortgage and the lien hereon shall not merge in the fee simple title, and toward the end that this mortgage may be foreclosed as if owned by a stranger to the fee simple title.

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

3.08 Security Agreement. This mortgage shall be construed as a "Security Agreement" within the meaning of and shall create a security interest under the Uniform Commercial Code as adopted by the State of Illinois with respect to any part of the mortgaged property which constitutes fixtures or personal property. Lender shall have the rights with respect to such fixtures and personal property afforded to it by said Uniform Commercial Code in addition to, but not in limitation of, the other rights afforded lender by this mortgage or any other agreement.

3.07 Applicable Law. This mortgage shall be interpreted, construed and enforced in accordance with the laws of the State of Illinois.

3.06 Severability. If any provision of this mortgage or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this mortgage and the application of such provision to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

3.05 Terminology. All personal pronouns used in this mortgage, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles and sections are for convenience only and neither limit nor amplify the provisions of this mortgage itself, and all references herein to Articles, Sections or Paragraphs shall refer to the corresponding Article, Section or Paragraph of this mortgage unless specific reference is made to such Articles, Sections or Paragraphs of another document or instrument.

or to such other address as lender may from time to time designate by written notice to borrower given as herein required. Notices, demands and requests given by mail in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder three (3) business days after the time such notice, demand or request shall be deposited in the mails.

Continental Bank N.Y.  
231 South LaSalle Street  
Chicago, Illinois 60697  
Attention: Mr. John Edinger

above. All notices, demands and requests by borrower to lender shall be deemed to have been properly given if served in person or if sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to lender at:

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3.17 Waiver of Jury Trial. BORROWER WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS MORTGAGE. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY BORROWER, AND BORROWER ACKNOWLEDGES THAT NEITHER LENDER NOR ANY PERSON ACTING ON BEHALF OF LENDER HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. BORROWER FURTHER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH

3.16 Waiver of Statutory Rights. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in §15-1201 of the Act) or residential real estate (as defined in §15-1219 of the Act), and to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under §15-1201(b) of the Act, and to the full extent permitted by law, present and future valuation, appraisal, exemption, stay, redemption and moratorium laws under any state or federal law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under §15-1510 and §15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Paragraph 2.09 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

(b) If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of Borrower which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law, 111. Rev. Stat. Ch. 110, §15-110 et seq. (the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

3.15 Compliance with Illinois Mortgage Foreclosure Law.

3.14 Time is of the Essence. Time is of the essence of this Mortgage and of every part hereof.

3.13 No Partnership. Borrower acknowledges and agrees that in no event shall Lender be deemed to be a partner or joint venturer with Borrower. Without limitation of the foregoing, Lender shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document securing any portion of the indebtedness secured hereby or on account of receiving contingent interest, if any, or any release fee for partial releases of this Mortgage, or otherwise.

3.12 Joint and Several. If Borrower consists of more than one person or entity, the liability of each hereunder shall be joint and several.

motion, order to show cause and all other process, pleadings and papers, however designated, served in any such action or proceeding.

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Property of Cook County

ATTEST:  
By: [Signature]  
Secretary

Allied Asphalt Paving Company,  
an Illinois corporation  
by: [Signature]  
President

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly authorized representatives as of the day, month and year first above written.

3.15 Exercise of good faith. In connection with the rights, powers and discretions granted to Lender pursuant to and in accordance with the terms and provisions of this Mortgage or any other document or instrument securing the indebtedness, Lender hereby agrees that such rights, powers and discretions will be exercised in good faith and in a commercially reasonable manner.

3.16 Revolving credit. This Mortgage secures, among other obligations which comprise the indebtedness secured hereby, the notes which evidence loans and advances made by or to be made by Lender to Borrower from time to time pursuant to the Loan Agreements, the aggregate principal amount of which shall not exceed at any one time a maximum amount of \$13,000,000, plus interest thereon and any disbursements made for the payment of taxes, special assessments or insurance on the mortgaged property, with interest on such disbursements. A portion of such loans or advances constitute "revolving credit" as defined in section 4.1 of Chapter 17, Paragraph 6405, of the Illinois Revised Statutes. All future advances made from the date hereto will have the same priority as the original loan evidenced by the Notes and secured by, among other things, this Mortgage. All future advances must be made within twenty (20) years from the date hereof.

[Signature]  
Borrower's Initials

COUNSEL. BORROWER FURTHER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION AND AS EVIDENCE OF THIS FACT SIGNS ITS INITIALS.



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10/20/2011

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COOK COUNTY CLERK  
VICTOR V. GIBSON

10/20/2011

3922641

Property of Cook County Clerk's Office

This document prepared by  
and should be returned to:  
Howard S. Thompson, Esq.  
Katten Muchin & Zavis  
525 West Monroe Street  
Suite 1600  
Chicago, Illinois 60606

( S E A L )

My Commission Expires: 5/1/94

Notary Public

*David T. Verdico*

October, 1990.

GIVEN under my hand and Notarial Seal this 15th day of

and purposes therein set forth.

as the free and voluntary act of said corporation, for the uses  
delivered said instrument as their own free and voluntary act and

before me this day in person and acknowledged that they signed and  
Secretary of said corporation, respectively, appeared

the foregoing instrument as such President and  
known to me to be the same persons whose names are subscribed to

Secretary of said corporation, who are personally  
Robert Schalk

ALLIED ASPHALT PAVING COMPANY, an Illinois corporation, and  
Victor V. Verdico

said county, in the state aforesaid, DO HEREBY CERTIFY THAT  
I, David Verdico, the undersigned, a Notary Public in and for

STATE OF ILLINOIS )  
COUNTY OF Cook )  
SS.

UNOFFICIAL COPY

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1990 OCT 30 11 20  
CAROL ROSE E. BRAUN  
REGISTRAR OF TITLES

Submitter  
Address  
Promo  
Deliver  
Office  
3922641

CHICAGO TITLE INS. CO.

72-61-757

Property of Cook County Clerk's Office

3922641

15-17-404-037-0000  
15-17-404-038-0000

PERMANENT INDEX NUMBERS:

Property

(EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS:  
 BEGINNING ON THE WEST LINE OF THE AFORESAID EAST 1/2 AT THE POINT OF  
 INTERSECTION WITH THE EASTERLY EXTENSION OF THE SOUTH LINE OF LOT 7 IN  
 BLOCK 1 IN BOGERS SUBDIVISION OF THAT PART OF THE NORTH WEST 1/4 OF  
 THE SOUTH EAST 1/4 LYING NORTH OF THE RIGHT OF WAY OF THE CHICAGO,  
 MADISON AND NORTHERN RAILROAD COMPANY (EXCEPT THE EAST 5 CHAINS OF THE  
 NORTH 10 CHAINS AND EXCEPT THE WEST 166.5 FEET THEREOF) OF SAID SECTION  
 17, THENCE NORTH 00 DEGREES, 00 MINUTES, 15 SECONDS EAST, A DISTANCE  
 OF 593.14 FEET TO THE SOUTHERLY LINE OF CONGRESS ST. EXPRESSWAY AS  
 CONDEMNED IN SUPERIOR COURT CASE 5554420, THENCE SOUTH 82 DEGREES, 23  
 MINUTES, 49 SECONDS EAST, A DISTANCE OF 437.269 FEET, THENCE SOUTH 70  
 DEGREES, 07 MINUTES, 59 SECONDS EAST, A DISTANCE OF 50.00 FEET, THENCE  
 SOUTH 14 DEGREES, 41 MINUTES, 43 SECONDS WEST, A DISTANCE OF 357.88  
 FEET, THENCE SOUTH 57 DEGREES, 59 MINUTES, 59 SECONDS WEST, A DISTANCE  
 OF 189.90 FEET, THENCE SOUTH 51 DEGREES, 47 MINUTES, 08 SECONDS WEST,  
 A DISTANCE OF 122.02 FEET, THENCE SOUTH 63 DEGREES, 00 MINUTES, 41  
 SECONDS WEST, A DISTANCE OF 124.4 FEET, THENCE NORTH 66 DEGREES, 52  
 MINUTES, 33 SECONDS WEST, A DISTANCE OF 25.03 FEET TO THE WEST LINE OF  
 THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 17 AT A POINT 50.00 FEET  
 SOUTHERLY OF THE HEREINAFORE DESCRIBED POINT OF BEGINNING, THENCE NORTH  
 00 DEGREES, 00 MINUTES, 15 SECONDS EAST, A DISTANCE OF 50.00 FEET TO  
 THE HEREIN DESIGNATED POINT OF BEGINNING, AND  
 EXCEPT LOT 1 IN ALLIED ASPHALT SUBDIVISION OF PART 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), ALL IN COOK COUNTY, ILLINOIS.

THAT PART 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, LYING  
 NORTHERLY OF THE RIGHT OF WAY OF THE ILLINOIS CENTRAL RAILROAD AND  
 WESTERLY OF THE RIGHT OF WAY OF THE CHICAGO AURORA AND ELGIN RAILROAD  
 AND SOUTHERLY OF AND ADJOINING THE SOUTHERLY LINE OF THE CONGRESS  
 STREET EXPRESSWAY AS CONDEMNED IN CASE NO. 5554420 AS DESCRIBED IN  
 JUDGMENT ORDER REGISTERED AS DOCUMENT LR2478288,

PARCEL 2:

ILLINOIS,  
 REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY,  
 ILLINOIS ON MAY 16, 1980 AS DOCUMENT LR3161191, IN COOK COUNTY,  
 EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE  
 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF  
 LOT 1 IN ALLIED ASPHALT SUBDIVISION, BEING A SUBDIVISION OF PART OF THE

PARCEL 1:

ALLIED - HILLSIDE PLANT

LEGAL DESCRIPTION

EXHIBIT A

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11/11/2011

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COOK COUNTY CLERK'S OFFICE  
11/11/2011

14022361

ILLINOIS  
ALLIED ASPHALT PAVING COMPANY TO WILLET, INC., A CORPORATION OF  
1978 AND FILED DECEMBER 29, 1978 AS DOCUMENT LR3068598 MADE BY  
ADJOINING SAID PARCEL 2, AS CREATED BY EASEMENT DATED OCTOBER 14,  
FEET OF PARCEL 2 FOR THE BENEFIT OF THE LAND NORTH OF AND  
PURPOSES, IN, UPON, UNDER, OVER, ALONG AND ACROSS THE WEST 20  
SEWER CONNECTION, TOGETHER WITH RIGHT OF ACCESS THERE TO FOR SAID  
EASEMENT TO INSTALL, MAINTAIN, OPERATE, RENEW AND REMOVE A STORM

NOTE: AN AFFIDAVIT REFERRING TO THIS GRANT WAS FILED AS DOCUMENT  
LR 2887622

ILLINOIS GAS COMPANY RECORDED JUNE 17, 1958 AS DOCUMENT 17236105.  
ACCESS TO SAID EQUIPMENT, AS CREATED BY GRANT TO NORTHERN  
LAND AND OTHER PROPERTY WITH GAS, SERVICE TOGETHER WITH RIGHT OF  
INSTALL MAINTAIN ALL EQUIPMENT FOR THE PURPOSE OF SERVING THE  
STREET EXPRESSWAY IN PROVIDED TOWNSHIP COOK COUNTY, ILLINOIS TO  
PROLONGATION OF THE LAST DESCRIBED LINE FOR A DISTANCE OF 151.6  
NORTHERLY AT AN ANGLE OF 12 DEGREES 12 MINUTES 45 SECONDS WITH A  
PARALLEL LINE FOR A DISTANCE OF 10 FEET TO A POINT, THENCE  
AND ELGIN RAILWAY COMPANY, THENCE NORTHEASTERLY ALONG SAID  
PARALLEL TO THE WESTERLY RIGHT-OF-WAY LINE OF THE CHICAGO, AURORA  
DESCRIBED LINE TO A LINE DRAWN 5 FEET NORTHWESTERLY OF AND  
EASTERLY DIRECTION AT AN ANGLE OF 128 DEGREES WITH THE LAST  
DISTANCE OF 6.34 FEET TO THE PLACE OF BEGINNING, THENCE IN AN  
DIRECTION ALONG A PROLONGATION OF THE LAST DESCRIBED LINE, A  
DISTANCE OF 425 FEET, THENCE CONTINUING IN A NORTHEASTERLY  
DIRECTION AT RIGHT ANGLES TO THE LAST DESCRIBED LINE FOR A  
RAILROAD COMPANY, A DISTANCE OF 225 FEET, THENCE IN A NORTHERLY  
ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF THE ILLINOIS CENTRAL  
CENTRAL RAILROAD COMPANY, THENCE IN A STRAIGHT LINE WESTERLY  
RIGHT-OF-WAY LINE OF THE CHICAGO, AURORA AND ELGIN RAILWAY  
BEGINNING AT THE POINT OF INTERSECTION OF THE WESTERLY

17, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL  
LINES 5 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTER  
EASEMENT IN, UPON, UNDER, OVER AND ALONG A 10 FOOT WIDE EASEMENT  
LINED LOCATED ON THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION

EASEMENT FROM CONSUMERS COMPANY DIVISION OF VULCAN MATERIALS  
COMPANY TO NORTHERN ILLINOIS GAS COMPANY REFERRED TO IN DEED  
FILED JANUARY 2, 1970 AS DOCUMENT LR2486563

RIGHTS OF WAY FOR DRAINAGE DITCHES, FEEDERS AND LATERALS, IF ANY

General real estate taxes for 1990 and subsequent years.

ALLIED - HILLSIDE PLANT

PERMITTED EXCEPTIONS

EXHIBIT B

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11/10/2011

COOK COUNTY CLERK'S OFFICE  
11/10/2011

EXHIBIT B