

CHICAGO TITLE INSURANCE COMPANY
INDIANA DIVISION

POL. 392492
Return to:
Steve Nelson
Chicago Title Ins. Co.

WRAP AROUND MORTGAGE

653379

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THIS INDENTURE OF MORTGAGE, made as of the 1st day of November, 1981, by and between DUNES PLAZA ASSOCIATES, an Indiana limited partnership having a place of business at 330 Third Avenue, New York, New York (herein called "Mortgagor"), and MBI ASSOCIATES, an Indiana limited partnership, having an office and place of business at 122 East 42nd Street, New York, New York 10168 (herein called "Mortgagee").

W I T N E S S E T H :

WHEREAS, Mortgagor has today executed and delivered to Mortgagee its promissory note (the "Note") evidencing Mortgagor's obligation to repay a loan of \$3,475,000, with interest thereon at the nominal rate of 18% per annum to accrue as therein provided, upon the terms and conditions therein set forth, a copy of which note is annexed hereto as Schedule "A" incorporated herein.

NOW, THEREFORE, in order to secure the payment of all sums due or to become due under the Note, or under the terms of this Mortgage, or any extensions or modifications of any or all thereof, as well as to secure the performance of all of Mortgagor's covenants and agreements contained in this Mortgage, the Note, or any amendments thereto, Mortgagor by these presents does grant, bargain and sell, and confirm unto Mortgagee, its successors and assigns:

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
DEC 10 2 29 PM '81
WILLIAM BELLS, JR.
RECORDER

Le 5650

All right, title and interest, if any, of Mortgagor in and to (i) the lessee's interest in and to that certain Lease Agreement dated as of June 27, 1970, made by and between OLIND SKINNER as Landlord and CITIZENS BANK OF MICHIGAN CITY INDIANA as Trustee under Trust Number 606, as Tenant the "Ground Lease" covering the that certain plot, piece or parcel of land, consisting of a shopping center known as DUNES PLAZA located at the intersection of U.S. Highway 20 and U.S. Highway 51, being in the City of Gary, County of Lake, State of Indiana, more particularly described in Schedule "B" annexed hereto and made a part hereof together with the buildings and improvements thereon erected; (ii) any and all fixtures, appliances, furnishings and equipment of any nature whatsoever, real, personal, or mixed, now or hereafter owned by Mortgagor which are intended to be, or are, used in improving said premises or constructing, equipping or operating any improvements thereon, all of which, regardless of whether or not physically affixed, regardless of degree of affixation, shall be deemed to be part of the realty as between

the Mortgaged Property, in whole or in part, or in the event of the taking of less than the whole of the Mortgaged Property, insurance proceeds, and/or partial condemnation awards, as the case may be, shall, if not applied to the restoration of the Improvements, be paid over to the mortgagees under the ^{PRIOR} Mortgages ~~and any other mortgages~~ before same are paid over to Mortgagee.

8. Mortgagor hereby warrants and represents:

(a) Mortgagor has full power and lawful authority to grant, bargain, sell, convey, assign, transfer, mortgage, pledge and confirm all of its estate and interest in and to the Mortgaged Property, and all rights and benefits in the manner and form herein provided; and

(b) the lien, security interest and arrangements provided for in this Mortgage are and will remain a valid lien and security interest upon the Mortgaged Property and all future additions and replacements thereto.

9. Mortgagor will not create, permit or suffer, and will promptly discharge, any lien, assignment or encumbrance on any part of the Mortgaged Property, other than Permitted Encumbrances which may have priority in lien or in payment, with respect to any part of the sums now or hereafter secured hereby, to the lien or security interest of this Mortgage or to any assignments provided for herein.

10. Mortgagor will, at its sole cost and expense, diligently warrant, protect and defend Mortgagor's title to the Mortgaged Property, this Mortgage, and the lien, security interest, assignments and all other rights intended to be conferred on Mortgagee hereby, against all persons making any claim inconsistent with the provisions hereof.

11. Mortgagor shall, promptly upon request of Mortgagee:

(a) do all acts and things, including but not limited to the execution, filing or recording of any further documents and assurances, including financing statements under the Uniform Commercial Code, deemed necessary by Mortgagee, to establish, confirm, perfect, maintain and continue the lien and security interest created and intended to be created hereby, all assignments made or intended to be made pursuant hereto and all other rights and benefits conferred or intended to be conferred on Mortgagee hereby, and Mortgagor shall pay any costs incurred by Mortgagee in connection therewith, including all filing and recording costs; and

(b) furnish Mortgagee with a written certificate signed by Mortgagor as to all then existing Tenant Leases covering or affecting any part of the Mortgaged Property,

and the names of the tenants and the rents payable there-
under, together with executed copies of all such Tenant
Leases.

12. Mortgagor will at all times duly observe and
perform or cause to be observed and performed all of its
obligations and liabilities as landlord under the Tenant
Leases.

13. In addition to any other notice required of
Mortgagor under this Mortgage, or any other related docu-
ments, Mortgagor shall notify Mortgagee in writing promptly
of the occurrence of any of the following:

(a) a fire or other casualty causing material
damage to the Mortgaged Property;

(b) receipt of notice of a taking or threatened
taking by condemnation or eminent domain of the Mortgaged
Property, or any part thereof; and

(c) receipt of any notice of default from
the holder of any of the Permitted Encumbrances.

14. Mortgagor and Mortgagee shall within fifteen
(15) days upon request by mail furnish to the other a duly
acknowledged written statement setting forth the amount of
the debt secured by this Mortgage, the outstanding balance,
to what date interest has been paid, the rate of interest,

whether any modification or extensions have been made, whether any security has been released therefrom, and stating either that no offsets or defenses exist against the Mortgage debt or, if such offsets or defenses are alleged to exist, the nature and extent thereof.

15. Mortgagor shall pay or cause to be paid, as the same respectively become due, all taxes, assessments, and governmental charges that may at any time be lawfully assessed or levied against or with respect to the Mortgaged Property, and all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Mortgaged Property, provided that with respect to special assessments or other governmental charges that lawfully may be paid in installments over a period of years, Mortgagor shall be obligated to pay or cause to be paid only such installments as are required to be paid during the term hereof and shall be required to pay such installments only as and when they become due.

Mortgagor may, at its expense, in good faith, contest or cause to be contested any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that such act

will not constitute an Event of Default under the Ground
Lease, ^{OR PRIOR} Mortgage Deeds ~~or Second Mortgage~~. Mortgagee will
cooperate fully in any such contest. If Mortgagor shall
fail to pay or cause to be paid any of the foregoing
required items, Mortgagee may (but shall be under no
obligation to) pay the same, and any amounts so advanced
therefor by Mortgagee shall become an additional obligation
of Mortgagor to Mortgagee, which amounts Mortgagor agrees
to pay on demand.

16. Mortgagor shall keep, or cause to be kept,
the Mortgaged Property and every part thereof in good
repair and order and shall make all repairs, replacements
and restorations, structural or otherwise, interior or
exterior, foreseen or unforeseen, so that the value of the
Mortgaged Property shall be preserved and maintained,
ordinary wear and tear excepted. Mortgagor will not make,
allow or permit any waste of the Mortgaged Property.

17. (a) Mortgagor shall keep the Mortgaged
Property and all equipment and items of tangible personal
property affixed to or used in the operation of such
Improvements, including all alterations, replacements and
additions thereto, insured for the benefit of lessor under
the Ground Lease, Mortgagee, Mortgagor and the holders of
the ^{PRIOR} Mortgage Deeds ~~or Second Mortgage~~, as their respective

interests may appear, by fire, casualty and extended coverage insurance the amount of their full insurable value, all of which policies shall provide that loss, if any, payable thereunder shall be adjusted with and payable to Mortgagee, Mortgagor, and the holders of the ^{PRIOR} Mortgage Deeds ~~as their respective interests~~ as their respective interests may appear. Mortgagee agrees that if the Improvements or personal property or any part thereof comprising part of the Mortgaged Property shall be damaged by fire or other contingencies against which insurance shall then be carried by Mortgagor, or against which the tenants under the Tenant Leases shall be carrying insurance, then Mortgagee shall, and subject to the rights of the holders of the ^{PRIOR} Mortgage Deeds ~~and Mortgagor~~, pay over to Mortgagor and/or the tenants under the Tenant Leases (if provided in the Tenant Leases) for the purpose of reconstruction, repair or replacement, all or such portions of such insurance proceeds paid to Mortgagee as shall be required to carry out the reconstruction, repair or replacement of the portion of the Mortgaged Property so damaged; such amount to be made available progressively over the construction period promptly upon written requisition therefor.

(b) Mortgagor shall provide or cause to be provided for the benefit of Mortgagee and Mortgagor public liability insurance in an amount not less than \$2,000,000

in respect of any one accident or disaster, and in an amount of not less than ^{\$}1,000,000. in respect of injuries to any one person, and in an amount of not less than \$100,000 in respect of property damage.

(c) To the extent that any Tenant Leases at the Mortgaged Property require the tenants thereunder to procure or carry any such insurance which Mortgagor is required hereunder to provide, or permit such tenants to self-insure against such hazards, the procurement of such insurance or the providing of such self-insurance by tenants shall to that extent relieve Mortgagor of its obligations hereunder.

(d) Mortgagor shall provide or cause to be provided for the benefit of Mortgagee and Mortgagor rental insurance in an amount sufficient to cover the loss of income plus all costs of operation of the Mortgaged Property for a period of six (6) months.

18. If the whole or any part of the Mortgaged Property shall be taken or condemned by any competent authority, then and in such event the following shall pertain:

(i) If the taking shall be of the whole of the Mortgaged Property, the award, subject to the rights of the holders of the ^{PRIOR} Mortgage Deeds ~~and the Mortgagee~~,

shall be paid to Mortgagee, to the extent required, and shall be applied to the payment of the principal balance of the Note and all accrued and unpaid interest, and the balance, if any, shall be paid to and be the property of Mortgagor.

(ii) If the taking or condemnation shall affect less than the whole of the Mortgaged Property, the award shall be applied, subject to the rights of the holders of the ^{PRIOR} Mortgage Deeds ~~and the~~ ~~Notes~~, to the the payment of the cost of restoration of the Improvements to a complete architectural unit.

19. In the event that the holder of the ^{PRIOR} Mortgage Deeds ~~and the~~ ~~Mortgage~~ retain condemnation awards or insurance proceeds, an amount equal to (i) the sum so retained by the holder of the ^{PRIOR} Mortgage Deeds ~~and the~~ ~~Mortgage~~, less (ii) any amounts expended by the Mortgagee as tenant under the Sublease to restore, repair or rebuild the Mortgaged Premises in excess of insurance proceeds made available to Mortgagee as tenant, shall be deemed to be a prepayment by the Mortgagor under the Note and this Mortgage. The amount of such prepayment shall be allocated to the principal balance and unpaid accrued interest in the same proportion as the principal balance and unpaid accrued interest each bear on the date of such prepayment to the

total amount (both principal and accrued interest) then due under the Note and this Mortgage, and future interest accruals and payments under the Note shall be calculated and adjusted as therein provided. If the amount of the condemnation award or insurance proceeds so applied is sufficient to pay in full the then principal balance and unpaid accrued interest under the Note and this Mortgage, then in such event the excess, if any, shall be paid to and be the property of Mortgagor.

20. Mortgagor covenants and agrees: (a) to indemnify and save Mortgagee harmless from and against all costs, liabilities, loss, damage or expense based on personal injury or death or loss or damage to property suffered or incurred by any person, firm or corporation and arising out of or attributable to the presence, condition, use, operation or maintenance of the Mortgaged Property, except if due to the willful misconduct or negligence of Mortgagee. Mortgagee shall give prompt notice to Mortgagor of any such claim asserted against Mortgagee; provided, however, that the failure on the part of Mortgagee to give such notice shall not relieve Mortgagor from its obligation to indemnify and save Mortgagee harmless as aforesaid, except to the extent that the failure to give such notice results in a failure of coverage of any of Mortgagor's liability insurance or

causes actual loss or damage to Mortgagor; and in case any action or proceeding be brought against Mortgagee by reason of any such claim, Mortgagor, upon notice from Mortgagee, covenants and agrees to resist or defend such action or proceeding at Mortgagor's cost and expense, provided, however, that Mortgagee cooperate and assist in the defense of such action or proceeding if requested to do so by Mortgagor.

(b) Mortgagor will duly observe and perform or cause to be observed and performed all of the covenants and agreements on the part of mortgagor under the ^{PRIOR} Mortgage Deeds ~~and the Second Mortgage~~ to be observed and performed other than the covenants and agreements relating to the payment of principal, interest and percentage rentals, if any thereunder.

21. Mortgagee, in making any payment hereby authorized or permitted in the place and stead and for the account of Mortgagor relating to taxes, assessments, water rates, sewer rentals and other governmental or municipal charges, fines or liens asserted against the Mortgaged Property, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement or estimate or into the validity of any tax, assessment,

Mortgagee and Mortgagor, their respective successors and assigns, and all persons claiming through them, including creditors; (iii) all streets, alleys, passages, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining; (iv) any and all awards or payments, and all claims therefor and the right to prosecute the same on behalf and in the name of Mortgagor, as well as the right to receive the same, which may be made with respect to the foregoing or any part thereof, as a result of: (a) the exercise of the right of eminent domain; (b) the change of grade or vacation of any adjacent street; or (c) any other injury or damage to the Mortgaged Property (as hereinafter defined), to the extent of all amounts which may be secured by this Mortgage at the date of receipt of any such award of payment; and (v) all estate, right, title, interest, property claim and demand whatsoever of Mortgagor in law, equity or otherwise of, in and to the foregoing and every part thereof.

This Mortgage shall also constitute a security agreement under the ^{INDIANA} ~~Law~~ Uniform Commercial Code with respect to the property covered by part (ii) of the above granting clauses.

For purposes of this Mortgage, and in addition to the terms elsewhere defined in this Mortgage, the following

sale, forfeiture, tax lien or title or claim thereof; or relating to the expense of repairs or replacement of any Improvements, fixtures, merchandise or appurtenances upon the Mortgaged Property, may do so in accordance with any bill, statement or invoice of the person(s) or the firm(s) doing the work.

22. As additional and collateral security for the payment of the Note and the indebtedness secured hereby, and subject to the rights of the holders of the Mortgage Deed ~~and of the Mortgagee~~, Mortgagor hereby assigns to Mortgagee all of the rents, remainders, profits and issues of the Mortgaged Property, including all present and future Tenant Leases and the right to direct any lessee under the Tenant Leases to pay to Mortgagee all rents and additional rents and any rents or additional rents so received shall be applied as a credit on the indebtedness hereby secured, but without waiver of any default hereunder, and without any obligation on Mortgagee to collect same; provided, that so long as no event of default has occurred hereunder or under the Note, Mortgagor shall be entitled to retain possession of the Mortgaged Property and Mortgagor further shall be entitled to appropriate and use all income, issues, and profits derived therefrom and to collect all rent and additional rent due under

any Tenant Leases of all or a portion of the Mortgaged Property.

23. This Mortgage is a wraparound mortgage subordinate to and wrapping around the ^{PRIOR} Mortgage Deeds ~~and Second Mortgage~~. Mortgagee covenants and agrees with Mortgagor to make all payments of principal and interest due under the ^{PRIOR} Mortgage Deeds ~~and the Second Mortgage~~, plus any and all percentage rentals payable thereunder. If any grace period in the ^{PRIOR} Mortgage Deeds ~~or Second Mortgage~~ for the performance of any such payment obligation thereunder is shorter than the applicable grace period hereunder for the performance of an equivalent obligation, such shorter grace period shall govern with respect to the performance of such obligation by Mortgagee under this Mortgage. Mortgagee agrees without qualification that to the extent Mortgagee fails or refuses to make any payment of principal and/or interest due under the ^{PRIOR} Mortgage Deeds ~~or Second Mortgage~~, plus any and all percentage rentals payable thereunder, then in such event Mortgagor shall have the absolute and unconditional right, but not the obligation, to make any such payments due under the ^{PRIOR} Mortgage Deeds ~~and Second Mortgage~~ and, in such event, offset and deduct the full amount of all amounts so paid, including any penalty or premium, plus all costs incurred by Mortgagor in connection therewith, from amounts otherwise

due from Mortgagor to Mortgagee under the Note and this Mortgage.

24. In the event the Note is refinanced and replaced by the Replacement Note in accordance with the terms and provisions set forth in the Note, then in such event this Mortgage shall be replaced by a Replacement Mortgage which shall secure Mortgagor's obligations under the Replacement Note and, except to the extent the financial terms of the Replacement Note vary from those of the Note, contain substantially the same terms and provisions of this Mortgage.

25. Mortgagee covenants and agrees that on payment to Mortgagee by Mortgagor of all monies secured hereby, all accrued interest thereon to date of payment and all other sums provided to be paid hereunder, whether at maturity, by prepayment as permitted hereunder or in the Note or after acceleration, Mortgagee shall deliver or cause to be delivered to Mortgagor the original Note and Replacement Note, and shall execute and deliver a satisfaction of this Mortgage and the Replacement Mortgage, or at the option of Mortgagor an assignment without recourse of this Mortgage and the Replacement Mortgage in recordable form. All taxes, fees and expenses in connection with the satisfaction or assignment of this

Mortgage and the Replacement Mortgage shall be paid by Mortgagee.

26. Mortgagor shall be in default hereunder upon the occurrence of any of the following events:

(a) if Mortgagor while the owner of the Mortgaged Property shall make a general assignment for the benefit of creditors, or if during such time a receiver be appointed for Mortgagor for all or any part of the Mortgaged Property, or any other property of Mortgagor, or if a petition in bankruptcy or any other insolvency proceeding is filed against Mortgagor and is not dismissed within ninety (90) days of the filing thereof, or if Mortgagor files any petition or institutes any proceedings under the Federal Bankruptcy Act or under any other insolvency law or law providing relief for debtors; or

(b) if any warranty, representation or agreement of Mortgagor, or anyone acting on behalf of Mortgagor, herein or otherwise previously made to Mortgagee, in connection with this loan transaction shall prove to be false in any material respect; or

(c) if Mortgagor shall fail to pay any sum, or fail to observe or perform any agreement on its part to be paid, observed or performed promptly when due under this Mortgage or the Note secured hereby.

In case (i) default be made and continue for a period of fifteen (15) days after notice in the payment of any installment of principal and/or interest or other amounts due to be paid hereunder or under the Note, or (ii) default be made and continue for a period of thirty (30) days after notice in the observance or performance by Mortgagor of any other agreement of Mortgagor hereunder or under the Note, an event of default shall be deemed to have occurred hereunder.

Mortgagor and Mortgagee are parties to a certain Sublease of even date herewith in which Mortgagor is landlord and Mortgagee is tenant. Anything herein to the contrary notwithstanding, in the event the failure of Mortgagor to perform any of its obligations hereunder shall be due to the failure of Mortgagee to fulfill its obligations as tenant under the said Sublease, then in such event Mortgagor shall be deemed not to be in default hereunder.

27. If an event of default shall be deemed to have occurred hereunder, the entire unpaid balance of the indebtedness secured hereby shall at the option of Mortgagee become immediately due and payable, and all such sums together with reasonable attorneys' fees, may be enforced and recovered by Mortgagee at once, anything herein or in the Note contained to the contrary notwithstanding.

Mortgagee may, upon or after the occurrence of such an event of default, at its election, forthwith exercise concurrently or otherwise any or all rights and remedies available to Mortgagee pursuant to the Note, this Mortgage, or available by law, equity, statute or otherwise including (i) institution by Mortgagee of any appropriate action or actions, proceeding or proceedings to foreclose this Mortgage; and (ii) entry upon and taking possession of the Mortgaged Property subject to the Permitted Encumbrances and, upon so doing, Mortgagee may, in its discretion and in addition to all other rights as Mortgagee in possession, alter, improve, or repair the same or any part thereof, and in doing so Mortgagee shall have the right to use without any liability for conversion, rent, use and occupancy; or otherwise whatsoever, any of the property mentioned in the granting clauses hereof, and to expend such amounts for that purpose as Mortgagee shall deem best, all of which shall be secured hereby, and may, subject to the provisions of paragraph 22 hereof, in the name of the Mortgagor or Mortgagee operate or lease the same or any part thereof upon such terms or conditions as Mortgagee shall deem best and collect the rents, leases and profits therefrom and after deduction of all costs and expenses, including reasonable attorneys' fees and the costs of any

such alterations, improvements or repairs incurred by Mortgagee in doing any of the foregoing, and apply the net income to the sums secured hereby in such a manner as Mortgagee in its discretion shall determine. For such purposes Mortgagor hereby empowers Mortgagee to endorse to Mortgagee any rent or other checks payable to Mortgagor or to any other person or in any other name connected with the Mortgaged Property.

28. Mortgagee by its acceptance hereof hereby agrees that the liability of Mortgagor or any partner of Mortgagor, or any disclosed or undisclosed principal of Mortgagor (all, in this paragraph, herein called Mortgagor) hereunder for payment of the indebtedness, with interest, secured hereby, and for the payment of any other sums owing by Mortgagor or performance of any obligations imposed upon Mortgagor hereunder or under the Note, is limited and restricted to the property now or hereafter covered or intended to be covered under this Mortgage, as security for such indebtedness, and any other collateral therefor now or hereafter given to the holder hereof, to the extent not then received by the Mortgagor, or to the extent received in violation of any of the terms and provisions hereof; and the enforcement of any judgment entered on this Mortgage or on the Note shall be limited

to such property, and the holder hereof shall not have the right to levy execution against any property of Mortgagor, except such property. In furtherance thereof, any holder who institutes suit to collect the Note or this Mortgage shall state such limitation and restriction in pleadings or otherwise of record in such action and shall request the appropriate public official to note the same on the judgment index and docket, in the office where such judgment is to be entered and in any other office where such judgment is to be docketed to perfect a judgment or to perfect the lien thereof, but shall have no liability or responsibility for such officer's failure or refusal to do so.

29. Any assignment by Mortgagee of its rights under this Mortgage shall be binding and effective only if any such assignee shall have agreed in writing to assume all of the obligations of Mortgagee hereunder.

30. All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when delivered personally or mailed postage prepaid, by registered or certified mail, return receipt requested, and addressed to the parties at their

addresses as set forth at the beginning of this Mortgage, or to such other addresses as the parties hereto may designate in writing.

31. All grants, covenants, waivers, releases, options, stipulations, promises, undertakings, agreements, warrants or attorney, and rights and benefits given to, and obligations or liabilities imposed upon, Mortgagee and Mortgagor respectively, shall inure to and bind them and each of their respective successors, assigns, executors, administrators and heirs.

32. This Mortgage may not be changed or terminated orally.

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

Signed and Acknowledged
in the Presence of:

Signed and Acknowledged
in the Presence of:

DUNES PLAZA ASSOCIATES (Mortgagor),
an Indiana limited partnership

By: Anthony Hevia
Anthony Hevia, General Partner

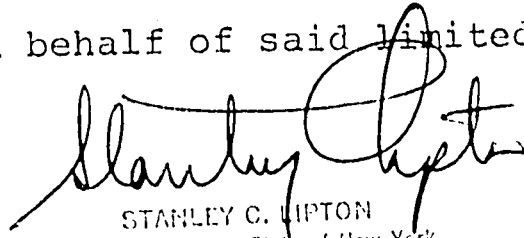
MBI ASSOCIATES (Mortgagee) an
Indiana limited partnership

By Millind Dunes Corp, General Partner

By: Howard Braitman
Howard Braitman, President

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

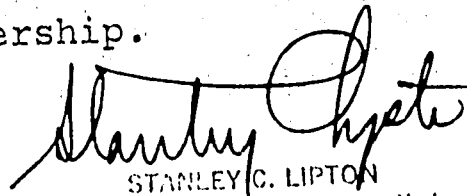
On this ~~First~~^{25th} day of November, 1981, before me personally appeared Anthony Hevia, who acknowledged himself to be the General Partner of Dunes Plaza Associates an Indiana limited partnership, and that, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of said limited partnership.



STANLEY C. LIPTON
NOTARY PUBLIC, State of New York
No. 30-2377550 - Nassau County
Term Expires March 30, 1983

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

On this ~~First~~^{25th} day of November, 1981 before me personally appeared Howard Braitman, who acknowledged himself to be the President of Millind Dunes Corp., the General Partner of MBI Associates, an Indiana limited partnership, and that, being authorized to do so, executed the foregoing instrument for the purposes therein contained on behalf of said limited partnership.



STANLEY C. LIPTON
NOTARY PUBLIC, State of New York
No. 30-2377550 - Nassau County
Term Expires March 30, 1983

terms shall have the meanings specified:

(a) All of said premises and the property, rights and benefits hereinabove described and granted or intended to be granted are herein collectively called the "Mortgaged Property".

(b) The buildings and improvements erected on the land described in Schedule "B" hereto, referred to in parts (i) and (ii) of the above granting clauses, are herein called the "Improvements".

(c) The plot, piece or parcel of land described in Exhibit "B" hereto is herein called the "Land".

(d) The matters affecting title set forth in paragraph 7 hereof are hereinafter called "Permitted Encumbrances".

TO HAVE AND TO HOLD the Mortgaged Property, unto Mortgagee, its successors and assigns.

Mortgagor hereby expressly covenants and agrees to and with Mortgagee that until all sums secured by this Mortgage are paid in full:

1. Mortgagor will pay all sums (including without limitation principal, interest, late charges, and premiums) and will observe and perform all of the other covenants, conditions and agreements on its part to be

EXHIBIT "A"

NON-RECOURSE PROMISSORY NOTE

\$3,475,000

November 1, 1981
New York, New York

FOR VALUE RECEIVED, the undersigned, DUNES PLAZA ASSOCIATES, an Indiana limited partnership ("Maker"), promises to pay to MBI ASSOCIATES, an Indiana limited partnership ("Payee"), at 122 East 42nd Street, New York, New York 10168, or at such other address as may be designated by Payee, the principal sum of Three Million Four Hundred Seventy-Five Thousand and no/100ths (\$3,475,000) Dollars, together with interest thereon at the nominal rate of 18% per annum which shall accrue as hereinafter provided, and which shall be payable as follows:

(i) \$9,542.33 at the date hereof, which sum shall constitute prepaid interest;

(ii) Consecutive monthly payments of interest on the 1st day of each month as follows:

(a) \$3,441.67 per month commencing December 1, 1981 and ending December 31, 1987;

(b) \$40,108.33 per month commencing January 1, 1988 and ending December 31, 1988;

(c) \$60,525.00 per month commencing January 1, 1989 and ending December 31, 1992;

(d) \$69,370.75 per month commencing January 1, 1993 and ending December 31, 2001.

(iii) Additional payments of interest in the amounts

and dates indicated:

\$343,000	March 1, 1982
363,000	March 1, 1983
399,000	March 1, 1984
399,000	March 1, 1985
399,000	March 1, 1986
399,000	March 1, 1987
160,000	March 1, 1988

Except as hereinafter provided, the entire unpaid principal and accrued interest shall become due and payable on December 31, 2001.

All payments other than the payment of prepaid interest described above shall be applied first to accrued and unpaid interest, and then to principal. The amount of interest which will accrue hereunder each twelve month period (hereafter called a "year") commencing on the date of this Note or any anniversary thereof shall be determined by applying the following formula:

$$(\$3,475,000) \times \frac{\text{Number of years remaining on the } \left(\begin{array}{l} \text{Note at the beginning of the year} \end{array} \right)}{55}$$

Interest to be accrued for any year shall accrue ratably throughout the year.

Payee, or any other holder of this Note, shall have the right to demand prepayment of the unpaid principal amount plus accrued interest on December 31, 1992, provided Payee or such other holder shall make such written demand on Maker on or before October 30, 1992. Upon the maturity date of this Note,

or upon its being called by Payee or any other holder hereof for payment prior thereto, Payee and Maker shall each use its best efforts to refinance the amounts then due by Maker on account of principal and accrued interest, at rates and upon terms as or more favorable than those herein described for the Replacement Note. However, Maker shall, in its sole discretion, have the right to refinance such obligations under this Note by executing and delivering to Payee or other holder of this Note a replacement note (the "Replacement Note") in a principal amount equal to the obligations (principal and interest) to be refinanced. Any such Replacement Note shall bear and accrue interest on the unpaid principal balance thereof at the rate of 11% per annum, and provide for equal monthly payments (to be applied first to accrued interest and then to principal) on the first day of each month in an amount sufficient to amortize the entire principal amount on December 31, 2022. Any such Replacement Note shall be secured by a Replacement Mortgage as described in the Mortgage referred to below.

The principal amount of this Note may be prepaid in whole or in part at any time without penalty or premium provided that all accrued and unpaid interest hereunder be paid on the amount of such prepayment to the date of such payment. If prepayment of the principal amount of this Note is made only in part, then in such event the interest which shall thereafter accrue hereunder and each payment which shall thereafter be due hereunder shall be reduced in the same proportion as the amount of prepayment bears to the unpaid principal amount hereunder at the time of such prepayment.

Maker shall duly and promptly observe and perform all the conditions and obligations on its part to be observed and performed under a mortgage of even date herewith (the "Mortgage") , by and between Maker, as mortgagor, and Payee, as mortgagee. All the terms, obligations and covenants contained in such Mortgage are incorporated herein by reference as fully as if set forth herein, and Maker's obligations hereunder shall be subject thereto.

This Note is non-recourse. Anything in this Note to the contrary notwithstanding, Payee's (or any other holder's) rights to enforce payment or performance by Maker hereunder, or to recover damages for any default by Maker hereunder, shall be exclusively governed by and limited to the provisions set forth in this Note and the Mortgage.

Maker and Payee are parties to a certain Sublease of even date herewith in which Maker is landlord and Payee is tenant. In the event Payee or any tenant under the sublease defaults under the said Sublease in any of its obligations thereunder requiring the payment of a sum of money, or which default may be cured by the expenditure of a sum of money, then in such event Maker shall have the right to offset the amount of any such payments, or Maker's estimate of the amount required to be expended to cure such default, from the next payments required to be made by Maker to Payee under this Note. Without limiting the foregoing, in the event the Sublease is terminated by landlord by reason of tenant's default thereunder, the Maker may offset against the next payments to be made by Maker to Payee hereunder any loss or damage suffered by Maker as a result of such termination.

In the event (i) default be made and continue for a period of fifteen (15) days in the payment of any installment of principal and/or interest due hereunder, or (ii) default be made and continue for a period of thirty (30) days in the observance or performance by Maker of any other covenant or agreement of Maker hereunder or under the Mortgage, an event of default shall be deemed to have occurred hereunder and the entire unpaid balance of the principal debt evidenced hereby together with all accrued interest shall at the option of the Payee and without further notice become immediately due and payable.

No failure on the part of Payee to exercise any of its rights or remedies shall be deemed a waiver of any such rights or remedies or of any default hereunder.

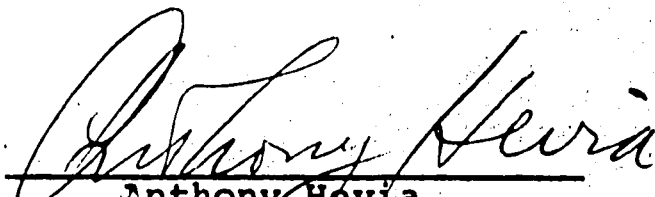
This Note shall bind Maker and its successors and assigns, and the benefits hereof shall inure to Payee and its successors and assigns.

Each and every party to this instrument, whether as Maker, endorser, surety, guarantor or otherwise, hereby waives presentment, demand, notice of protest and dishonor.

IN WITNESS WHEREOF, the Maker has executed this Note on the 1st day of November, 1981.

DUNES PLAZA ASSOCIATES

BY:


Anthony Hevia
General Partner

SCHEDULE "B"

Leasehold Estate created by that certain indenture of Lease to Citizens Bank of Michigan City, Indiana, not individually but as Trustee under the provisions of a Trust Agreement dated the 5th day of May, 1970, and known as Trust No. 606, from Olind Skinner dated June 28, 1970, and recorded October 15, 1970, as Document No. 76188 and re-recorded December 30, 1971 as Document No. 130063, demising and leasing premises described as Part of the Southwest quarter of Section 4, Township 36 North, Range 7 West of the 2nd P.M., described as follows: Commencing at a point on the North line of U.S. Highway No. 20 (100 feet wide) and 401.37 feet Southeasterly (measured along said Northerly line) of its intersection with the West line of the Southwest quarter of said Section 4; thence Southeasterly along said Northerly line of U.S. No. 20, a distance of 920 feet; thence North and parallel with the West line of the Southwest quarter of said Section 4 to the Southerly right of way line of the Baltimore and Ohio Railroad; thence Northwesterly along the Southerly right of way line of the Baltimore and Ohio Railroad a distance of 921.65 feet; thence South and parallel with the West line of the Southwest quarter of said Section 4 a distance of 882.78 feet to the place of beginning, all in the City of Gary, Lake County, Indiana;

Together with all buildings and improvements now situated or which hereafter may be created thereon;

paid, observed and performed under this Mortgage, the Note and any modification or extension thereof, promptly as and when the same shall become due.

2. Mortgagor shall keep or cause to be kept all of the Mortgaged Property of an insurable nature, insured against the hazards covered by the standard fire and extended coverage endorsement in use in ~~INDIANA~~^{INDIANA}, and all other hazards as the mortgagee under the Mortgage Deed (as hereinafter defined) shall from time to time require, including builder's risk insurance during the period of construction of any improvements or additions to the Mortgaged Property, in amounts, with insurance companies and with policy forms and standard mortgagee clauses in favor of Mortgagee, in an amount equal to its full insurable value. Mortgagor shall provide to Mortgagee, with evidence of premium payment, true copies of all policies of insurance upon the Mortgaged Property, and renewals thereof with premium paid shall be delivered to Mortgagee at least five (5) days before expiration of the then existing policies. Notwithstanding the foregoing, Mortgagor shall not be required to furnish any such insurance so long as the tenants' under the tenant leases relating to the lease, rental or use of space at the Mortgaged Property (the "Tenant Leases") shall be fur-

nishing such insurance in an amount at least equal to the above required amount. Subject to the rights of the holders of Permitted Encumbrances, all proceeds of such insurance policies shall be paid directly to Mortgagee under standard mortgagee clauses, and Mortgagee is hereby irrevocably authorized and empowered to adjust, settle, collect and receipt for all such proceeds and benefits, if it wishes so to do, and to endorse for and in behalf and in the name of Mortgagor any check, draft or other instrument representing such proceeds or benefits. If Mortgagee becomes the owner of the Mortgaged Property or any part thereof by foreclosure or otherwise, such policies, including all right, title and interest of Mortgagor thereunder shall, subject to the rights of the holders of the Permitted Encumbrances, become the absolute property of the Mortgagee. Mortgagee may in its sole discretion apply the amount so collected, net of any costs of Mortgagee, including reasonable attorneys' fees incurred in collecting the same, in payment of all or any part of the sums secured by this Mortgage. Mortgagee agrees that if the Improvements or personal property or any part thereof comprising part of the Mortgaged Property shall be damaged by fire or other contingencies against which insurance shall then be carried by Mortgagor, or against which the tenants under the Tenant Leases shall be carrying insurance, then Mort-

gatee shall, as provided in the Tenant Leases, and subject to the rights of the holders of the ^{PRIOR} Mortgage Deeds ~~and~~ ~~the~~, pay over to Mortgagor and/or the tenants under the Tenant Leases for the purpose of reconstruction, repair or replacement, all or such portions of such insurance proceeds paid to Mortgagee as shall be required to carry out the reconstruction, repair or replacement of the portion of the Mortgaged Property so damaged; such amount to be made available progressively over the construction period promptly upon written requisition therefor.

3. Mortgagor shall keep (or cause to be kept) the Mortgaged Property and every part thereof in good and tenantable repair and order and shall whenever necessary for any reason whatsoever make all repairs, replacements, restorations and renewals thereof, structural or otherwise, interior or exterior, foreseen or unforeseen, so that the value and security of the Mortgaged Property shall be fully preserved and maintained, notwithstanding the reduction from time to time of the amounts secured hereby. Mortgagor will not make, allow or permit any waste of the Mortgaged Property and will not make, allow or permit any structural or other substantial alteration or any addition or improvement thereto, or the demolition or removal of any part thereof, without the prior written consent of Mortgagee.

4. Subject to the rights of the tenants under the Tenant Leases, Mortgagee shall have the right to enter upon the Mortgaged Property at all times, either by its employees or by any agent, contractor or other person authorized by Mortgagee, for the purpose of inspecting the Mortgaged Property or any part thereof, or for the performing of any covenant or agreement of Mortgagor which may then be in default.

5. Mortgagor shall promptly comply with: (i) all laws, ordinances, rules, regulations, orders, directions and requirements of any legislative, executive, administrative or judicial body, officer or department, or of any insurance underwriters, applicable to the Improvements or any other part of the Mortgaged Property, or to the use thereof; and (ii) all requirements or conditions of any covenant, right or benefit appurtenant to, or obligation or restriction on, the Mortgaged Property.

Mortgagor may, at its expense, contest the validity of any law, order, rule, regulation or requirement, and so long as the non-compliance therewith shall not subject Mortgagor and/or Mortgagee to prosecution for a criminal offense, such non-compliance by Mortgagor during such contest shall not be deemed a breach of the covenants herein, or constituted a default under the Mortgage Deed,

Ground Lease or Prior Mortgages, provided Mortgagor shall indemnify and hold harmless Mortgagee against the cost and expenses thereof and against liability for any damages, interest, penalties and expenses (including, but not limited to, reasonable attorneys' fees of Mortgagee) resulting from or incurred in connection with such contest and non-compliance.

6. If at any time the then existing use or occupancy of the Mortgaged Property shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, Mortgagor will not cause or permit such use or occupancy to be discontinued or consent to such discontinuance without the prior written consent of Mortgagee.

7. This Mortgage is subject and subordinate to the following:

a) First Mortgage Deed dated September 26, 1972, covering the Land and Improvements and securing Mortgage Notes in the original total principal amount of \$2,200,000, recorded on September 30, 1972 as Document No. 169320 Lake County Indiana records in favor of Equitable Life Assurance Society of the United States.

b) A Wrap Around Mortgage from Dunes Plaza as Mortgagor to Equity Dunes Plaza as Mortgagee wrapping around the mortgage described in a) above, and around two mortgage notes of

even date in the principal amounts of \$900,000 and \$200,000 respectively given by Dunes Plaza Associates to Equity Dunes Plaza.

c) A mortgage of even date and intended to be recorded simultaneously herewith given by Dunes Plaza Associates as mortgagor to North American Multicapital Corporation as mortgagee in the principal amount of \$150,000.

d) A mortgage of even date and intended to be recorded simultaneously herewith given by Dunes Plaza Associates as mortgagor to Casual Stop, Inc. as mortgagee in the principal amount of \$100,000.

e) Sublease of even date herewith by and between the Mortgagor, as lessor, and Mortgagee, as lessee.

f) All existing and future Tenant Leases.

g) Covenants, restrictions and easements of record.

All rights of Mortgagee hereunder shall be subject and subordinate to the rights of the mortgagees under and pursuant to the prior Mortgage Deeds and wherever hereunder Mortgagor shall have assigned to Mortgagee the right to receive any rents, insurance proceeds, condemnation awards or any other sum available to Mortgagee as the holder of a security interest in the Mortgaged Property, such rights of Mortgagee shall be subject and subordinate to the rights of the prior mortgagees. Mortgagee by acceptance of this Mortgage covenants and agrees with Mortgagor that in the event of damage or destruction to