

092545

PROZDOKY + BROSK
101 N. WACKER PR.
SUITE 1130
CHGO, IL 60606
ATTN: JOEL BROSK
5000

446440 LP

MORTGAGE

THIS INSTRUMENT ("Mortgage") WITNESSES: That CHEROKEE LIMITED PARTNERSHIP, an Illinois limited partnership ("Mortgagor"), in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, hereby MORTGAGES and WARRANTS to BANK OF LINCOLNWOOD, an Illinois banking association, 4433 West Touhy Avenue, Lincolnwood, Illinois, ("Mortgagee"), the real estate ("Real Estate") and property located in _____ County, State of Indiana, more particularly described as follows:

APR 7 9 55 AM '90
PROPERTY RECORDS
LAKE COUNTY

STATE OF INDIANA/S.S. HQ.
LAKE COUNTY
FILED FOR RECORD

Part of the North one-half, Northwest one-quarter Section 28, Township 36 North, Range 7 West of the 2nd P.M., more particularly described as follows:

NOT OFFICIAL!

Beginning at a point 40 feet South and 35 feet East of the Northwest corner of said Section 28; thence South 00°00'00" West and parallel to the West line of said Section 28 a distance of 290.0 feet; thence South 88°28'40" East and parallel to the North line of said Section 28 a distance of 160.00 feet; thence South 00°00'00" West, 50.00 feet; thence South 88°28'40" East, 192.10 feet; thence South 00°00'00" West, 162.24 feet; thence South 88°28'40" East, 252.60 feet; thence North 00°00'00" East, 11.15 feet; thence South 88°28'40" East, 90.30 feet; thence South 00°00'00" West, 128.91 feet to a point 660 feet South of the North line of said Section 28; thence South 88°28'40" East, 626.65 feet to the East line of the Northwest one-quarter, Northwest one-quarter of said Section 28; thence North 00°02'20" East along the East line of the Northwest one-quarter, Northwest one-quarter of said Section 28 a distance of 220.00 feet; thence South 88°28'40" East, 99.00 feet; thence North 00°02'20" East, 400.00 feet to the South line of U.S. Highway #6; thence North 88°28'40" West, 1386.09 feet to the point of beginning, containing 16.087 acres more or less.

Common Address: Southeast Corner of Hobart Road and Indiana Avenue
Hobart, Indiana

Amount 092546

CHICAGO TITLE INSURANCE COMPANY
INDIANA DIVISION

17.00
ct

together with all rights, title and interest of Mortgagor in and to: (i) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter pertaining to the Real Estate ("Easements"); (ii) All buildings and other improvements of every kind and description now or hereafter placed on the Real Estate, together with all fixtures, machinery and other articles of personal property now or hereafter attached to or regularly used in connection with the Real Estate, and all replacements thereof, ("Improvements"); (iii) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Easements or Improvements ("Additions"); (iv) All rents, issues, proceeds, income and profits of the Real Estate, Easements, Improvements and Additions, including all payments made in connection with leases, subleases and other agreements affecting the Real Estate, Easements and Appurtenances, Improvements or Additions ("Rents"); and (v) All awards, payments or proceeds of conversion, whether voluntary or involuntary, of any of the foregoing, including, without limitation, all insurance, condemnation and tort claims ("Proceeds"). (Hereinafter, the Real Estate, Easements, Improvements, Additions, Rents and Proceeds are referred to together as the "Mortgaged Property.")

This Mortgage is given to secure performance by Mortgagor of the covenants and agreements contained in this Mortgage and to secure payment of: (i) the principal of and interest on the indebtedness evidenced by a certain Mortgage Installment Note ("Note") dated January 25, 1990, executed and delivered by the Mortgagor, hereinafter sometimes referred to as "Borrower") to Mortgagee in the principal sum of Four Hundred Thousand and No/Hundredths (\$400,000.00) Dollars, with the final payment due on May 31, 1992, and with interest computed on the unpaid balance from time to time at the rate of twelve percent (12%) per annum, and any other amounts payable to Mortgagee pursuant to the terms and provisions of the Note ("Primary Debt"); (ii) all sums advanced and costs and expenses incurred by Mortgagee which are made or incurred pursuant to, or allowed by, the terms of this Mortgage, plus interest thereon at the rate of fifteen percent (15%) per annum ("Default Rate") from the date paid or incurred until reimbursement ("Advancements"); (iii) all costs of repossession, collection, disposition and reasonable attorneys' fees incurred by Mortgagee ("Costs"); (iv) all other indebtedness, obligations and liabilities of Borrower (and each of them, if more than one) to Mortgagee, now existing or hereafter arising, whether fixed or contingent, direct or indirect, primary or secondary, joint or several, and regardless of how created or evidenced ("Additional Liabilities"); and (v) any and all extensions or renewals of any of the foregoing indebtedness ("Extensions"). (Hereinafter, the Primary Debt,

Advancements, Costs, Additional Liabilities and Extensions are referred together as the "Indebtedness".)

Mortgagor hereby further covenants with the Mortgagee as follows:

1. **Payment of Sums Due.** Mortgagor covenants and agrees to promptly pay the principal of and interest on the Primary Debt and the other Indebtedness, as and when the payment(s) thereof become due, all without relief from valuation and appraisal laws and with attorneys' fees.

2. **Care and Condition of Mortgaged Property.** Mortgagor shall (a) promptly repair, restore or rebuild the Mortgaged Property, or any portion thereof, which is damaged or destroyed; (b) keep the Mortgaged Property in good condition and repair, without waste, and free from encroachments and form mechanic's or materialmen's liens or claims for lien not expressly subordinated to this Mortgage; (c) pay when due any indebtedness which may be secured by a lien or charge on the Mortgaged Property, whether or not superior to this lien; (d) comply with all requirements of law and covenants and restrictions of record applicable to the Mortgaged Property or its use; (e) permit no change in or alteration of the design, structural character or general nature of the Real Estate and the Improvements without Mortgagee's prior written consent (which consent shall not be withheld unreasonably); and (f) permit Mortgagee to enter upon and inspect the Mortgaged Property at all reasonable times.

3. **Warranties.** Mortgagor covenants and warrants that: (a) Mortgagor is lawfully seized of the Real Estate in fee simple, has valid and indefeasible title to the Mortgaged Property and has a good and legal right to convey and mortgage the Mortgaged Property; and (b) the Mortgaged Property is and will remain free from all liens and encumbrances, and Mortgagor will warrant and defend title to the Mortgaged Property against all claims made thereon.

4. **Insurance.** Mortgagor will keep the Mortgaged Property insured against loss by fire, extended casualty, vandalism, malicious mischief and such other hazards as reasonably may be required from time to time by Mortgagee for the benefit and protection of Mortgagee, including comprehensive and contractual liability insurance (together, the "Required Insurance"). The Required Insurance shall be written in forms, amounts, and by companies satisfactory to Mortgagee, and losses thereunder shall be payable to Mortgagee pursuant to standard noncontributing mortgage endorsements in favor of Mortgagee. Unless otherwise agreed by Mortgagee, all policies of Required

Insurance, including additional and renewal policies, shall be deposited with and held by Mortgagee. Any monies received as payment for any loss under any of the Required Insurance paid over to Mortgagee may be applied, at the option of Mortgagee, either to the prepayment of any portion, as Mortgagee may select, of the Indebtedness, without premium, or to the reimbursement of Mortgagor for expenses incurred by Mortgagor in the restoration or repair of the Mortgaged Property. Proceeds paid or payable to Mortgagor of the Required Insurance shall be applied to restoration of the Mortgaged Property in such fashion as Mortgagee reasonably may require.

5. **Taxes.** Mortgagor will pay and discharge or cause to be paid and discharged when due, and before any penalty attaches, all taxes (including real and personal property taxes), general and special assessments, water and sewer rents or assessments, and all other governmental and municipal charges and impositions of any kind imposed upon or assessed against Mortgagor or the Mortgaged Property, or any part thereof, or arising in respect of the occupancy, use or possession thereof.

6. **Protection of Security by Mortgagee.** Mortgagee may, at Mortgagee's option, but without any duty or obligation of any sort to do so and without in any way waiving or relieving any default by Mortgagor, make any payment and perform any act required of Mortgagor by this Mortgage, including but not limited to, payment of insurance premiums, taxes, assessments, repair expenses and prior liens and encumbrances. All expenses so incurred, including reasonable attorneys' fees and any other reasonable expenses incurred by Mortgagee to protect the Mortgaged Property shall constitute Advancements and shall be immediately due and payable by Mortgagor.

7. **Transfer of Mortgaged Property.** Mortgagor shall not, without the prior written consent of Mortgagee, lease, transfer, sell, contract to sell or in any way further encumber all or any part of the Mortgaged Property.

8. **Condemnation.** If all or any part of the Mortgaged Property is taken or damaged pursuant to an exercise, or threat of exercise, of the power of eminent domain, the entire proceeds of the award of compensation payable in respect of the part so taken or damaged are hereby assigned to and shall be paid directly to Mortgagee. The proceeds of any award or compensation actually received by Mortgagee after deduction therefrom of all costs and expenses including reasonable attorneys' fees incurred by Mortgagee in connection with the taking, at Mortgagee's option, shall be applied, without premium, in part or entirely to payment of the Indebtedness or to restoration of the Mortgaged Property.

9. **Default and Acceleration.** Time is of the essence of this Mortgage. Upon the occurrence of any "Event of Default" (as hereinafter defined), and at any time thereafter, then, in any and every such case, the entire Indebtedness shall, at the option of Mortgagee, become immediately due and payable without any notice, presentment, demand, protest, notice of protect, or other notice of dishonor or demand of any kind, all of which are hereby expressly waived by Mortgagor, and Mortgagee shall have the right immediately to foreclose the mortgage lien created by this Mortgage against the Mortgaged Property, to enforce every other security interest created by this Mortgage and to institute any action, suit or other proceeding which Mortgagee may deem necessary or proper for the protection of its interests. The following shall each constitute an "Event of Default" for purposes of this Mortgage:

(a) **Default:** (i) in the payment when due of any of the Indebtedness, or (ii) in the performance of any covenant or term of this Mortgage of the Note secured hereby;

(b) Lease, sublease, assignment, sale, contracting for sale, transfer or encumbrances of all or any part of the Mortgaged Property, or any interest therein, without Mortgagee's prior written consent;

(c) If Mortgagor or Borrower (or any one of them, if more than one) becomes the subject of an order for relief under the United States Bankruptcy Code, takes any action to obtain relief under the United States Bankruptcy Code, files an answer admitting bankruptcy or insolvency or in any manner is adjudged bankrupt or insolvent;

(d) Any part of the Mortgaged Property or all or any substantial part of the property or assets of Borrower (or any one of them, if more than one) is placed in the hands of any receiver or trustee, or Borrower (or any one of them, if more than one) consents, agrees or acquiesces to the appointment of any such receiver or trustee;

(e) Institution of proceedings to enforce or foreclose any Prior Mortgage Lien or any other mortgage or lien upon all or any part of the Mortgaged Property;

(f) Voluntary or involuntary dissolution of the Mortgagor, the death or resignation of any partner of the Mortgagor, or the voluntary or involuntary transfer or sale of the interest of any partner of the Mortgagor without the prior written consent of the Mortgagee.

10. **Foreclosure and Application of Proceeds.** All expenses which may be paid or incurred by or on behalf of Mortgagee in connection with the foreclosure of this Mortgage for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and cost of procuring all title searches, policies and examinations and similar data and assurances with respect to title as Mortgagee reasonably may deem necessary to prosecute such suit shall constitute Advancements, shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate, and shall be allowed and included as Indebtedness in the judgment for sale. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order or priority: First, on account of all advancements incident to the foreclosure proceedings and all Costs; second, all other items which under the terms of this Mortgage constitute Indebtedness additional to the primary Debt; third, all principal, interest and other amounts remaining unpaid on the Primary Debt; and fourth, any remainder to the person or persons entitled thereto as determined by the court in the foreclosure proceedings.

11. **Foreclosure Proceedings and Receiver.** Upon the commencement of any proceedings to foreclose this Mortgage, Mortgagee shall be entitled forthwith to the appointment of a receiver or receivers, as a matter of right, without the giving of notice to any other party, without regard to the adequacy or inadequacy of any security by the Indebtedness and without the requirement of any bond. Mortgagee shall be entitled to recover judgment either before or after or during the pendency of any proceedings for the enforcement of this Mortgage. The right of Mortgagee to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of this Mortgage, or the foreclosure of the lien of this Mortgage.

12. **No Exclusive Remedy.** Each and every right, power and remedy conferred upon or reserved to Mortgagee in this Mortgage is cumulative and shall be in addition to every other right, power and remedy given in this Mortgage or now or hereafter existing at law or in equity. No delay or omission of Mortgagee in the exercise of any right, power or remedy shall be construed to be a waiver of any Event of Default or any acquiescence therein.

13. **Provisions Severable.** In the event any one or more of the provisions of this Mortgage for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage, but this Mortgage shall be

construed as if such invalid, illegal or unenforceable provisions had never been contained in this Mortgage.

14. **Notices.** All notices pursuant to this Mortgage shall be in writing and shall be deemed to be sufficiently given or served for all purposes when sent by certified mail, properly addressed with return receipt requested:

(a) To the Mortgagor as follows:

CHEROKEE LIMITED PARTNERSHIP
c/o Joel Brosk
Brozosky & Brosk
101 North Wacker Drive
Suite 1130
Chicago, Illinois 60606

(b) To the Mortgagee as follows:

BANK OF LINCOLNWOOD
4433 West Touhy Avenue
Lincolnwood, Illinois 60646
Attn: Mr. Lee P. Gubbins
Senior Vice President

or to such other place as either party may, by notice in writing, designate as the place for service of notice.

15. **Successors and Assigns.** This Mortgage shall (a) run with the land, (b) apply and extend to, be binding upon and inure to the benefit of Mortgagor, Mortgagor's heirs, administrators, successors and assigns and all persons claiming under or through Mortgagor, and the word "Mortgagor" shall include all such persons, and (c) shall apply and extend to, be binding upon and inure to the benefit of Mortgagee and Mortgagee's successors and assigns. The word "Mortgagee" shall include the successors and assigns of Mortgagee, and the holder or holders, from time to time, of the Note and any other Indebtedness instruments.

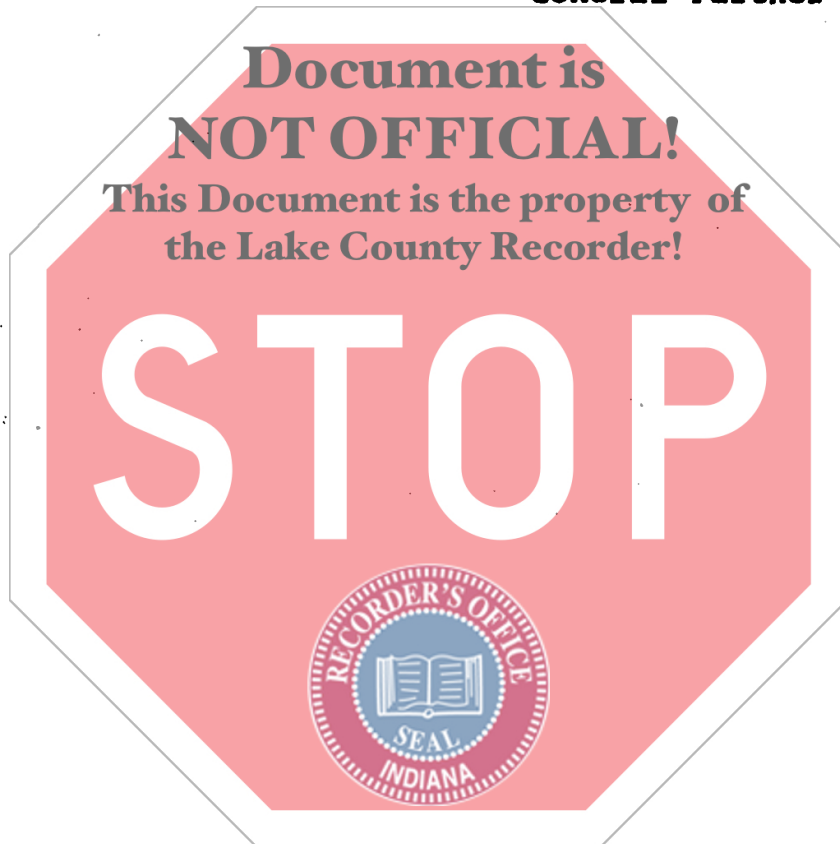
16. **Miscellaneous.** The captions in this Mortgage are for convenience only and do not define or limit the provisions of this Mortgage. All changes to this Mortgage must be in writing signed by Mortgagee and, if this Mortgage is recorded, shall not be effective until being recorded. Wherever used, the singular number shall include the plural, the plural the singular, and use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage
this 25th day of January, 1990.

CHEROKEE LIMITED PARTNERSHIP,
an Illinois limited partnership

By: 
General Partner

By: 
General Partner



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

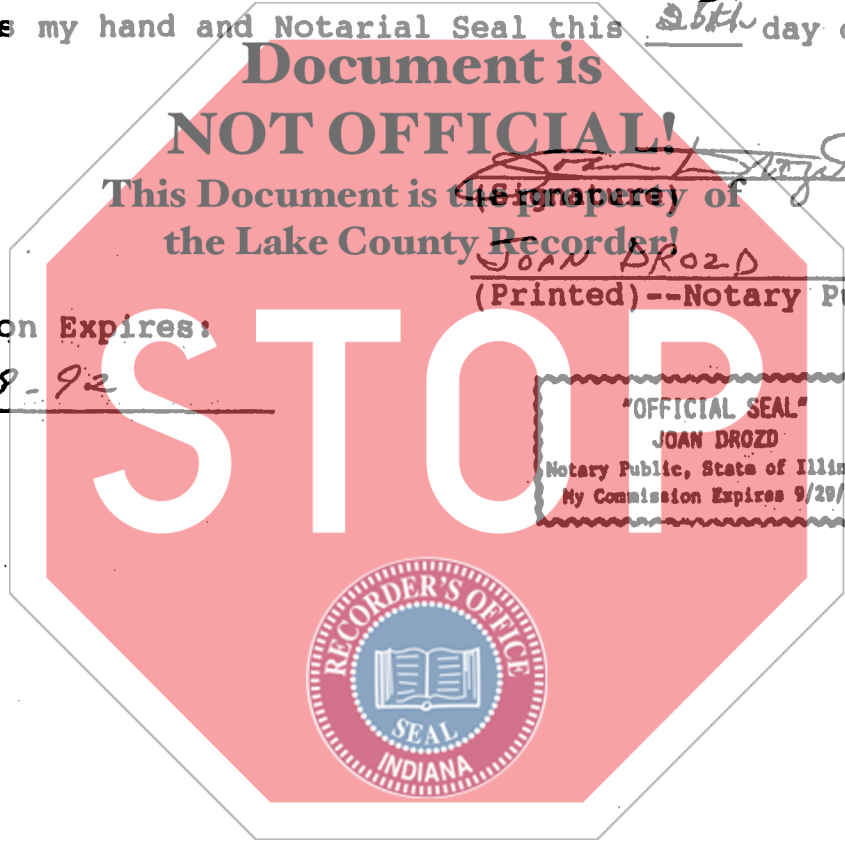
Before me, a Notary Public in and for the State of Illinois,
and a resident of Cook County, Illinois, personally appeared _____
THOMAS C. HAVERSTOCK, and DONNA K.
CONJAR, general partners of **CHEROKEE LIMITED**
PARTNERSHIP, an Illinois limited partnership, who acknowledged
execution of the foregoing Mortgage as the free and voluntary act
of such partners, for and on behalf of said partnership.

Witness my hand and Notarial Seal this 25th day of January,
1990.

**Document is
NOT OFFICIAL!**

This Document is the signature of _____
the Lake County Recorder!
JOAN DROZD
(Printed) -- Notary Public

My Commission Expires:
9-29-92



"OFFICIAL SEAL"
JOAN DROZD
Notary Public, State of Illinois
My Commission Expires 9/29/92