

FNB

1st Natl Bank / Indiana
Valpo

\$1041707 COMMERCIAL REAL ESTATE MORTGAGE

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THIS MORTGAGE is entered into on the 31st day of July, 19 91, between Elizabeth C. Marshall and John Marshall and Paul R. Marshall and Anne Marie Marshall a/k/a Elizabeth Marshall, hereinafter referred to as "MORTGAGOR," and FIRST NATIONAL BANK, VALPARAISO, hereinafter referred to as "MORTGAGEE." Said parties hereby agree as follows:

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1. The Mortgagor has become indebted to the Mortgagee in the sum of Three Hundred Four Thousand and no/100 Dollars (\$304,000.00), according to the terms and conditions of a certain Note concurrently executed by the Mortgagor and delivered to the Mortgagee in accordance with the terms of said Note, all without relief from valuation and appraisal laws and with attorneys fees, principal and interest payments being payable in the manner provided in said Note, the terms and conditions of said Note are incorporated by reference and made a part hereof. The parties to this mortgage are desirous of securing the prompt payment of the principal and interest of such Note, and any renewal or extension thereof, and any additional indebtedness accruing to the Mortgagee on account of any future payments, advances, or expenditures made by the Mortgagee.

2. **GRANT OF MORTGAGE** The Mortgagor, for the purpose of securing the prompt payment of the indebtedness as it becomes due, and also for and in consideration of the sum of one dollar (\$1.00) paid by the Mortgagee, the receipt whereof is hereby acknowledged, hereby MORTGAGES AND WARRANTS to the Mortgagee the real estate situated in Lake County, Indiana, as more particularly described as follows, to-wit:

The West 190.36 feet of Lot 1, Except the North 248.32 feet thereof in Commercial Park Subdivision, as per plat thereof, recorded in Plat Book 54, page 31, in the Office of the Recorder of Lake County, Indiana.



STATE OF INDIANA/S.S.NO.
LAKE COUNTY
FILED FOR RECORD
AUG 16 10 51 AM '91
TICOR TITLE INSURANCE
Crown Point, Indiana
ROBERT (BOB) FREELAND
RECORDER

including all buildings and improvements now thereon, or which may hereafter be placed thereon, together with the tenements, hereditaments, and appurtenances and all other rights belonging to said real estate, or in any way now or hereafter appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits from said real estate, together with any and all articles of personal property attached to or used in any way in connection with the operation or renting of the premises, including but not limited to the generality of the foregoing, all partitions, elevators, engines, motors, boilers, furnaces, fuel oil, coal; heating, refrigerating, air conditioning, plumbing, gas, and electric light equipment; vacuum cleaning system, sprinkler system, or other fire prevention or extinguishing material; stoves, ranges, refrigerators, awnings; screens, shades, furniture, and in furnishing for common halls and lobbies; also all other articles constituting a part of, or used in connection with the operation of the mortgaged premises. Said real estate, buildings, improvements, and fixtures sometimes hereafter called "Premises."

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3. SECURITY INTEREST IN PERSONALTY The Mortgagor hereby grants to the Mortgagee full security interest in and to all furnishings and equipment situated, or to become situated, in or on the Premises, and the Mortgagee may file any and all statements and other documents required to perfect said security interest.

4. PAYMENT OF NOTE If the Mortgagor fulfills its obligations and pays to the Mortgagee the entire indebtedness evidenced by said Note, and all other indebtedness of the Mortgagor, to the Mortgagee, however evidenced, and however otherwise secured, if secured at all, now or hereafter existing, according to the terms stipulated in each such evidence of indebtedness, and according to all of the terms and conditions of this Mortgage, regardless of whether such obligations or indebtedness are the individual obligations or indebtedness of one Mortgagor or whether such obligations or indebtedness be several or jointly with others, together with principal, interest, and attorneys' fees, and without relief from valuation and appraisal laws, then the lien created and established by the Mortgage shall terminate and be void.

5. RELATED DOCUMENTS INCORPORATED The conditions and obligations imposed on the Mortgagor by a certain commitment letter from the Mortgagee to the Mortgagor dated the _____ day of _____,

19 _____, and accepted by the Mortgagor on the _____ day of _____, 19 _____, the note described above, all related guarantees, assignments, and agreements, and all addenda to said documents, hereafter will sometime be called collectively the "related documents." Said related documents are hereby made a part of this Mortgage to the same extent and with the same effect as if fully set forth herein.

6. MORTGAGOR'S COVENANTS The Mortgagor, in order to more fully protect the security of this Mortgage, hereby covenants and agrees as follows:

a. The Mortgagor owns the Premises in fee simple and clear of all liens except current real estate taxes, which are not delinquent, and such restrictions as Mortgagor has advised Mortgagee about at the date of this Mortgage; Mortgagor will not permit any additional liens or encumbrances to exist on the Premises except current taxes and this Mortgage without the written consent of Mortgagee first had and obtained.

b. The Mortgagor will pay, when due, all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions levied upon the Premises, and will promptly deliver the official receipts therefore to the Mortgagee.

c. The Mortgagor will comply fully and promptly with all government laws, rules, regulations, and ordinances which are now or may hereafter become applicable to the Premises.

d. The Mortgagor will take reasonable care of the Premises, and will maintain the Premises in as good repair and condition as at the date of this Mortgage or as constructed or improved, ordinary wear and tear alone excepted. The Mortgagor will not commit or permit any waste and will do any act which would duly impair or depreciate the value of the Premises as security for this Mortgage, including alteration, removal, or demolishing the premises or any part of them without the prior written consent of the Mortgagee.

e. The Mortgagor will insure the premises and, until the debt secured by this Mortgage has been paid in full, will keep the Premises insured against damage by fire, explosion, wind storm and other hazards as the Mortgagee may reasonably require, in an amount and with the Company satisfactory to the Mortgagee. All such insurance policies shall be written in the name of the Mortgagor with the loss payable to the Mortgagee. All such insurance policies shall be written in the name of the Mortgagor with the loss payable to the Mortgagee as its interest may appear and such policies and paid premium receipts shall be delivered to and remain in the custody of the Mortgagee. In the event of loss, Mortgagor will give immediate notice in writing to the Mortgagee, who may make proof of loss, if not made promptly by the Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Mortgagee, instead of to the Mortgagor and Mortgagee jointly. The insurance proceeds, or a part thereof, may be applied by the Mortgagee as its option either to the reduction of the indebtedness secured by this Mortgage or to the restoration or repair of the property damaged. The Mortgagor shall also maintain liability insurance and such other insurance as required by the Mortgagee. In the event of foreclosure of this Mortgage or other transfer of title to the mortgaged property in extinguishment of the indebtedness secured by this Mortgage, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.

f. The Mortgagor shall pay to the Mortgagee, upon request, such amounts at such times as the Mortgagee may request to be held in escrow and disbursed by the Mortgagee for the payment of existing taxes, future taxes, insurance premiums, and other charges, liens or assessments covering the Premises.

g. If applicable, the execution and delivery of this Mortgage has been duly authorized by the Board of Directors of the Mortgagor and the certificate of incorporation of the Mortgagor does not require any vote or consent of the shareholders to authorizing the making of this Mortgage.

7. PAYMENT OF TAXES AND OTHER CHARGES BY MORTGAGEE If default is made in the payment of any taxes, assessments, and insurance premium, or any other charges promptly upon the day or days when they first become due and payable, or if the Mortgagor fails to keep the Premises in good repair, the Mortgagee, without prejudice to and in addition to all other remedies hereunder, may pay such taxes, assessments, insurance premiums, and charges and may make such repairs as in its discretion it may deem necessary properly to preserve its security, and any sums so paid shall be a further lien on the Premises under this Mortgage, payable immediately, with interest at the rate of 18% per annum until paid.

8. EMINENT DOMAIN If the Premises, or any part thereof, are taken or condemned for public or quasi-public purposes by proper authorities, the Mortgagor shall have no claim against the award for damages, or be entitled to any portion of the award until the indebtedness secured by this Mortgage is paid in full. All the Mortgagor's rights to damages in the event of public taking or condemnation are hereby assigned to the Mortgagee to the extent of any indebtedness that then remains unpaid. The Mortgagor may, however, appeal any such award to the court(s) of competent jurisdiction.

9. ASSIGNMENT OF RENTS The Mortgagor hereby irrevocably assigns to the Mortgagee all of the leases, rents (including deposits held as security under leases), issues, and profits of the Premises, and the parts thereof, as further security for the payment of the indebtedness secured by this Mortgage. The Mortgagor grants to the Mortgagee the right to enter upon the Premises for the purpose of collecting same and to manage, operate, maintain or let the Premises or any part thereof, and to apply the rents, issues, and profits after payment of all necessary charges and expenses, to the unpaid indebtedness. This assignment and grant shall continue in effect until this Mortgage is paid. The Mortgagee hereby waives the right to enter upon such Premises for the purpose of collecting such rents, issues, and profits, and the Mortgagor may collect and receive such rents, issues, and profits until default under any of the covenants, conditions, or agreements contained in this Mortgage and related documents, and agrees to use such rents, issues, and profits in payment of principal and interest becoming due on this Mortgage and in payment of taxes, assessments, sewer, rents, water rates, and carrying charges becoming due against such Premises, but such right of the Mortgagor may be revoked by the Mortgagee upon any default. The Mortgagor will not, without written consent of the Mortgagee, receive or collect rent from any tenant of the Premises or any part thereof for a period of more than one month in advance, and in the event of any default under this Mortgage will pay monthly in advance to the Mortgagee, or to any receiver appointed to collect such rents, issues, and profits, the fair and reasonable rental value for the use and occupation of such Premises or such part there as may be in possession of the Mortgagor, and upon default in any such payment will vacate and surrender the possession of the Premises to the Mortgagee or to such receiver.

10. **RENT ROLL STATEMENT** That the Mortgagor will furnish to the Mortgagee, within 15 days after the mailing by the Mortgagee of a written request therefore, a detailed certified statement in writing, duly sworn, showing all income derived from the operation of said Premises, and all disbursements made in connection therewith, and containing a list of the names of all tenants of said Premises and all occupants other than those claiming possession through such tenants, the portion or portions of the Premises occupied by each such tenant and occupant, the rent and other charges payable under the terms of their leases or other agreements and the periods covered by such leases or other agreements. Such statement shall cover the period of time specified in such request therefore.

11. **JUNIOR LIENS** Any person, firm, or corporation taking or acquiring a junior mortgage or other lien upon the Premises, shall take or acquire and shall hold said lien subject to the rights of the Mortgagee to extend the maturity of the indebtedness secured by this Mortgage and to increase the indebtedness secured by this Mortgage without obtaining the consent of the holder of said junior lien and without the lien of this Mortgage losing its priority over any such junior lien. Any proceedings instituted on any such mortgage or lien shall constitute a default of this Mortgage.

12. **SUPPLEMENTAL NOTES** When requested by the Mortgagee, the Mortgagor shall execute and deliver supplemental note or notes for the sum or sums advanced by the Mortgagee for the alteration, modernization, improvement, maintenance, or repair of the Premises, for taxes and other charges and insurance premiums for the Premises, and for any other purpose. Said note or notes shall be secured by this Mortgage on a parity with and as fully as if the advance evidenced by said note or notes were included in the Note first described above. Said supplemental note or notes will bear interest at the prevailing rate of interest for the Mortgage borrowing as of the date said supplemental note is made, but in no event less than the interest established on the Note first described above, and shall be payable in approximately equal monthly payments for such period as may be agreed upon, but in no event will the maturity extend beyond the ultimate maturity of the Note first described above unless specifically agreed to in writing by the Mortgagee.

13. **MODIFICATION/WAIVER** The terms and provisions of this Mortgage shall not be changed, modified or discharged in whole or in part except by an instrument in writing, signed by the party against whom enforcement of such change, modification, or discharge is sought, or by its agents thereunto duly authorized in writing.

No delay on the part of the Mortgagee in the exercise of any right or remedy granted it by this Mortgage or by any document secured by it shall operate as a waiver thereof, and no single or partial exercise by the Mortgagee of any right or remedy shall preclude other or future exercises thereof nor the exercise of any other right or remedy. **NO WAIVER BY THE MORTGAGEE OF ANY RIGHT OR REMEDY SHALL BE EFFECTIVE UNLESS IN WRITING, NOR OPERATE AS A WAIVER OF A LIKE RIGHT OR REMEDY ON A FUTURE OCCASION.**

14. **DEFAULT.** Default under this Mortgage will result on the occurrence of any specific condition of default specified in this Mortgage, or in any related document, or in the event of failure by the Mortgagor to keep, observe, or perform any of the conditions, obligations, or covenants imposed on the Mortgagor by this Mortgage or by any related document. In the event of default the Mortgagee may exercise its rights and remedies under this Mortgage and available at law. The death, dissolution, liquidation, termination of existence, insolvency, appointment of a receiver of, or assignment for the benefit of creditors by, or the commencement of any proceedings under any bankruptcy or insolvency law by or against, the Mortgagor or any guarantor or surety on the indebtedness secured by this Mortgage, or a reasonable determination in good faith by the Mortgagee that the prospect of its payment of the indebtedness or other performance by the Mortgagor is impaired, shall be conditions of default under this Mortgage.

15. **MORTGAGEE'S COSTS** If the Mortgagee is required to take any extraordinary actions to collect, enforce, or foreclose this Mortgage or said Note, or to protect Mortgagee's interest in any other proceedings, then any sums necessarily expended by the Mortgagee for proof of title to the real estate, attorney's fees, court costs, and all other proper costs and expenses related to such collection, enforcement, protection, or foreclosure, together with interest thereon at the rate of 18% per annum from the date of payment, shall become a part of the debt secured by this Mortgage and shall be collectible as such.

16. **APPOINTMENT OF RECEIVER** If proceedings to foreclose this Mortgage are instituted, the Mortgagee may apply for the appointment of a receiver (and the Mortgagor hereby irrevocably consents to the appointment of a receiver if there has been any default in the performance of any of the conditions of this Mortgage), and such receiver is hereby authorized to take possession of the real estate, collect any rental accrued or that may accrue, whether in money or kind, for the use or occupancy of said Premises by any person, firm or corporation, or may let or lease the Premises, or any part thereof, receive the rents income and profits therefrom and hold the proceeds subject to the orders of the Court, or the judge thereof, for the benefit of the Mortgagee, pending the final decree in said proceedings, and during any period allowed by law for the redemption from any sale ordered in said cause. Said receiver may be appointed irrespective of the solvency or insolvency of the Mortgagor. In the event of a default of the conditions of this Mortgage, the Mortgagee may also take possession of and hold the mortgaged Premises with or without process of law and collect the rents and profits therefrom, applying the same to the charges and payments due under the condition of the Mortgage so long as default shall continue, and such taking possession will in no way waive the right of the Mortgagee to foreclose this Mortgage because of any default.

17. **TENANCY ON DEFAULT** On and after any default by the Mortgagor on any provision of this Mortgage, upon demand of the Mortgagee, the Mortgagor shall become a month to month tenant of the Mortgagee and shall pay as monthly rental for the Premises the respective sums agreed to be paid as monthly payments in the Note in advance on the dates and in the manner provided for such payment in the Note, and failing so to do, the Mortgagor may be dispossessed by proceedings under the laws of the State of Indiana, or any other appropriate summary proceeding, and this covenant shall be effective either with or without any action being brought to foreclose this Mortgage and without applying for a receiver to collect rents.

18. **ACCELERATION** In the event of any default of any provision of this Mortgage or of any related document, all of the remainder of the indebtedness secured by this Mortgage together with accrued interest, and all sums payable pursuant to the provisions of this Mortgage, shall at the option of the Mortgagee become immediately due and payable, without notice, and the Mortgagee may foreclose this Mortgage, anything in this Mortgage or in any related document to the contrary notwithstanding and any failure to exercise said option will not constitute a waiver of the right to exercise the same at any future time.

19. **TRANSFER OF MORTGAGOR'S INTEREST** If the Mortgagor transfers, sells, or assigns, or if there is any change in the ownership of, legal or equitable title or interest in the Premises, or if the Mortgagor creates or permits any lien or other encumbrance (other than those presently existing or securing the payment of loans and advances made to them by the Mortgagee or the lien of current real estate taxes) to exist on the Premises, or if any stockholder or partner in the Mortgagor transfers his stock or partnership interest to any other person without first obtaining written consent of the Mortgagee, such action or occurrence will constitute a default under the Mortgage and the entire principal and interest accrued thereon shall become due and payable immediately at the option of the Mortgagee.

20. **DEFAULT ON OTHER INDEBTEDNESS** Default by the Mortgagor on any condition or provision of any indebtedness of the Mortgagor to person(s) other than the Mortgagee, which indebtedness is secured by liens either prior or junior to the lien of this Mortgage, will constitute a default under this Mortgage. The Mortgagee may cure any such default under such indebtedness. The costs of curing any such default paid by the Mortgagee will be added to the indebtedness secured by this Mortgage.

21. **TIME OF THE ESSENCE** Time is of the essence of this Mortgage and the waiver of any rights or options, or any obligations secured by this Mortgage, will not at any time thereafter be held an abandonment of the rights and options of the Mortgagee. Notice of the exercise of any option granted to the Mortgagee by this Mortgage or by any related documents shall be made without relief from valuation and appraisal laws.

22. **CONTINUING COVENANTS** All terms, conditions, and covenants continued in this Mortgage and in the related documents shall run with the land and shall bind the successors in interest of the Mortgagor. The taking of possession or control of the Premises by any person shall constitute evidence of their agreement to be bound by said terms, conditions, and covenants and the acceptance

of any title interest in the realty shall render any person, firm or corporation personally liable to perform the terms of this Mortgage and of the related documents and pay all indebtedness secured thereby.

23. **SUCCESSORS IN INTEREST** The provisions of this Mortgage and of the related documents shall bind, and the benefits and advantages thereof shall inure to the benefit of, the successors and assigns of the parties hereto. Whenever used, the singular number shall include, the plural, the plural the singular, and the use of any gender shall include all genders as appropriate in the context.

24. **ADDITIONAL PROVISIONS OF THE MORTGAGE** Additional provisions of the Mortgage, if any, are specified in Exhibit "B," attached to and made a part of this Mortgage.

DATED this 31st day of July, 19 91.

MORTGAGOR (Individual) Elizabeth C. Marshall a/k/a Elizabeth Marshall
John Marshall
Paul R. Marshall
Anne Marie Marshall

MORTGAGOR (corporation):
BY: _____ PRESIDENT

ATTEST:



STATE OF INDIANA, Porter COUNTY SS:
On this 31st day of July, 19 91, before me, the undersigned, a Notary Public in and for said County, personally appeared: Elizabeth C. Marshall and John Marshall and Paul R. Marshall and Anne Marie Marshall a/k/a Elizabeth Marshall and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal.

My commission expires: 4-26-94
Resident of Porter County

Judith A. White
Judith A White Notary Public

This instrument prepared by: Donald J. Wiggins, Vice President, First National Bank, Valparaiso
(name)