

→ 5243 Hammond Ave
Hammond IN 46320

REAL ESTATE MORTGAGE

3

This indenture witnesseth that

Daniel W. Burgess, John L. Burgess
and Burgess Truck Sales & Service, Inc.

96006897

of Lake County, Indiana,

as MORTGAGOR,

Mortgages and warrants to

Eva Kirsch, Trustee of the Eva Kirsch
Trust dated December 27, 1988

and

→ Mercantile National Bank of Indiana,
Successor-Trustee of the Victor A. Kirsch Trust
dated December 27, 1988 and known as Trust No. 5936

of Lake County, Indiana,
the following real estate in Lake
State of Indiana, to wit:

as MORTGAGEE,

96 FEB - 1 AM 9:26
RECORDED
LAKE COUNTY

STATE OF INDIANA
RECORD LAKE COUNTY
5243F HAMMOND IN 46320
MERCANTILE NATIONAL BANK OF INDIANA
ATTN: TRUST DEPT.

Commonly known as:

Parcel 1: The South Half (S1/2) of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) in Section Ten (10), Township Thirty-Six (36) North, Range Nine (9) West of the Second Principal Meridian, in the City of Hammond, Lake County, Indiana, EXCEPTING THEREFROM that part thereof taken and deducted for a public highway known as Cline Avenue, and EXCEPTING THEREFROM that part thereof taken by the State of Indiana for highway purposes, for the State Highway known as Cline Avenue.

Parcel 2: The West 500.00 feet of the following described tract: Part of the Southeast Quarter of the Southeast Quarter of Section 10, Township 36 North, Range 9 West of the Second Principal Meridian, described as follows: Beginning at the Northwest corner of said Southeast Quarter of the Southeast Quarter; thence Southerly, along the West line of said Southeast Quarter of the Southeast Quarter, a distance of 429.3 feet to the Northwest corner of Oakcrest Manor Addition to the City of Hammond, as per plat thereof in the Office of the Recorder of Lake County, Indiana; thence Easterly, along the North line of said Oakcrest Manor Addition, a distance of 986.50 feet to a point 340.02 feet Westerly of the East line of said Southeast Quarter of the Southeast Quarter, as measured along said Oakcrest Manor Addition North line; thence North, parallel with the East line of said Southeast Quarter of the Southeast Quarter, a distance of 208.0 feet; thence Easterly, parallel with the North line of said Oakcrest Manor Addition, a distance of 144.85 feet to a point on the Westerly right-of-way line of the Cline Avenue Frontage Road No. 6; thence Norhtwesterly, along said Westerly right-of-way, 221.07 feet to a point on the North line of said Southeast Quarter of the Southeast Quarter; thence Westerly, along said North line, a distance of 1124.05 feet to the place of beginning in the City of Hammond, Lake County, Indiana.

A To secure the payment, when the same shall become due, of the following indebtedness of even date herewith:

Promissory Note dated December 31, 1995

in the amount of \$163,149.06

with interest at the rate of nine percent (9%) per annum computed on the unpaid balance during such period when there shall be no delinquency or default in the payment of any moneys to be paid on this obligation but with interest at the rate of Twelve (12%) percent per annum computed semi-annually during such period when there shall be any delinquency or default in the payment of any moneys to be paid on this obligation and to be computed to the next interest period following such delinquency or default, and said rate shall continue to be paid until all delinquencies and defaults are removed by the beginning of a succeeding interest period, all without relief from Valuation and Appraisement Laws, and with attorney's fees;

B Also securing any renewal or extension of such indebtedness;

C Also securing all future advances to the full amount of this mortgage;

D Also securing all indebtedness or liabilities incurred by the holder hereof for the protection of this security or for the collection of this mortgage.

200
136944
1300
B

Mortgagor agrees to pay to Mortgagee, in addition to the regular payments, an amount in equal monthly installments which will cover future payments of taxes, insurance and assessments against said real estate; and these payments shall constitute a trust fund out of which all future taxes, insurance and assessments shall be paid by Mortgagee so far as it shall cover such payments, and any deficiency shall be paid by Mortgagor as and when the payments become due, and any permanent surplus shall be credited to the principal.

Mortgagor further covenants and agrees as follows:

1. To keep all buildings, fixtures and improvements on said premises, now or hereafter erected thereon, and all equipment attached to or used in connection with the fixtures on said premises herein mortgaged insured against loss or damage by fire, windstorm and extended coverage in such sums and with such insurers as may be approved by Mortgagee as a further security for said indebtedness, which insurance policy or policies shall carry a mortgage clause with loss payable to Mortgagee in form satisfactory to Mortgagee to be delivered to possession of Mortgagee to be held continuously through period of the existence of said indebtedness or any portion thereof.

2. To exercise due diligence in the operation, management and occupation of said real estate and the improvements thereon and not to remove or suffer to be removed any fixtures and/or appliance, now or hereafter placed on said premises; and to keep said real estate and improvements thereon in their present condition and repair, normal and ordinary depreciation excepted; Mortgagor shall not do or suffer to be done any acts which will impair the security of this mortgage nor any illegal or immoral acts on said premises; and Mortgagee shall have the right to inspect said premises at all reasonable times.

3. The holder of this obligation may renew the same or extend the time for the payment of the indebtedness or any part thereof or reduce the payments thereon; and any such renewal, extension or reduction shall not release any maker, endorser, or guarantor from any liability on said obligation.

4. No sale of the premises hereby mortgaged or extension of time for the payment of the debt hereby secured shall operate to release, discharge or modify in any manner the effect of the original liability of the Mortgagor; and any extension of time on this mortgage by Mortgagee or his assigns, without the consent of the holder of any junior lien or encumbrance, shall not operate to cause a loss of the priority of this mortgage over such junior lien. Mortgagee shall be subrogated to any lien or claim paid by moneys advanced and hereby secured.

5. In case part of the premises is appropriated under the power of eminent domain, the entire amount paid for said portion of the premises so appropriated shall be paid to this Mortgagee.

6. It is agreed that time is the essence of this agreement and that, in case of default in the payment of any installment when the same shall become due and payable, the holder of the note and mortgage may, at his option, declare all of the debt due and payable, and any failure to exercise said option shall not constitute a waiver of right to exercise the same at a later date. In the event any proceedings shall be instituted on any junior lien or encumbrance against said real estate, then the Mortgagee herein may immediately declare this mortgage due and payable and institute such proceedings as may be necessary to protect his interest. The lien of this mortgage shall include all heating, plumbing and lighting or other fixtures now or hereafter attached to or used in connection with said premises.

7. In the Event of a Default, if Mortgagee elects to proceed against all or any portion of the Collateral, unless Mortgagee shall notify Borrower in writing to the contrary, any transfer of any right, title or interest in and to the Collateral, whether voluntary or through judicial foreclosure, shall not include any Hazardous Substance, as defined herein, it being the express intent of the Mortgagee that it will receive no interest in said Hazardous Substance without Mortgagee's express consent. Failure of the Mortgagee to exercise its rights against such Hazardous Substances shall not release the Mortgagor, or any Guarantor, from the terms of this Security Agreement, and shall not cause the Mortgagee's security interest in other items of Collateral to be waived or released. The term "Hazardous Substances" shall have the meaning defined in the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), both as amended from time to time, any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended from time to time, any regulations promulgated from time to time under CERCLA, SARA or RCRA and shall also include any substance that is toxic, ignitable, reactive or corrosive and/or that is or becomes regulated by any local government, state government or the United States government, or any regulatory agency of any of the foregoing governments. The definition of Hazardous Substance shall include any and all material or substances that are defined as "hazardous waste", or "toxic waste", "toxic chemicals", "extremely hazardous substances", "extremely hazardous wastes", or a "hazardous substance" (whether now or hereafter so defined) pursuant to Federal, state or local governmental law. "Hazardous Substance" includes but is not limited to asbestos, polychlorobiphenyls ("PCBs") and oil, petroleum products and their by-products.

8. In case of delinquency or default in any payment required in this mortgage and the institution of foreclosure proceedings thereunder, Mortgagee is expressly authorized to cause a continuation of the abstract of title at the expense of Mortgagor to show the condition of the title at the date of said continuation and which sums necessarily spent for continuation of the abstract of title to the said real estate, together with the interest thereon at the rate of eight per cent per annum, shall become part of the debt secured by this mortgage and collectable as such; and in case of foreclosure and purchase of said real estate pursuant to said foreclosure by the holder thereof, the abstract of title and any continuation thereof shall be the absolute property of the Mortgagee.

9. In the event of such foreclosure, the Mortgagee, or his assigns, may apply for the appointment of a receiver, which receiver is hereby authorized to take possession of the said real estate, collect the rents, income or profit, in money or in kind, and hold the proceeds subject to the order of the court for the benefit of the Mortgagee pending foreclosure proceedings. Said receiver may be appointed irrespective of the value of the mortgaged property or its adequacy to secure or discharge the indebtedness due or to become due.

10. All terms of this mortgage shall be binding on each and all successors in ownership of said real estate, as well as upon all heirs, executors, administrators of Mortgagor or successors in ownership.

11. Additional Covenants:

State of Indiana, Lake County, ss:
Before me, the undersigned, a Notary public in and for
said County and State this 2 day of
January, 1996 personally appeared:

Dated this 2 day of January, 1996

BURGESS TRUCK SALES & SERVICE, INC.

Daniel W. Burgess, John L. Burgess

and

Burgess Truck Sales & Service, Inc.

John L. Burgess Seal
By: John L. Burgess, President

Daniel W. Burgess Seal
Daniel W. Burgess

John L. Burgess Seal
John L. Burgess

And acknowledged the execution of the foregoing mortgage.
In witness whereof, I have hereunto subscribed my name
and affixed my official seal.

My Commission Expires 11/13 1999

Sandra L. Miller
Notary Public
Sandra L. Miller
Printed signature

Resident of Porter County

This instrument prepared by Kirk A. Pinkerton, PINKERTON AND FRIEDMAN, P.C., 9245 Calumet Avenue, Suite
201, Munster, IN 46321, Attorney at Law
Mail to: