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**INDEMNIFYING REAL ESTATE MORTGAGE**

This Mortgage made the 9th day of January 1996, by MERCANTILE NATIONAL BANK OF INDIANA, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 14, 1978 AND KNOWN AS TRUST NUMBER 3808 (380800) of 5243 Hohman Ave., Hammond, IN 46320, hereinafter referred to as "Mortgagor" unto MERCANTILE NATIONAL BANK OF INDIANA, with offices at 5243 Hohman Avenue, Hammond, Indiana, 46320, hereinafter referred to as "Mortgagee",

**WITNESSETH:**

This Mortgage is given in consideration of any loan, letter of credit, or other financial accommodations by MERCANTILE NATIONAL BANK OF INDIANA to Mercantile National Bank of Indiana, as Trustee under Trust Agreement dated November 14, 1978 and known as Trust Number 3808 (380800), and specifically to secure the payment of certain letters of credit and certain notes herewith, and all renewals, extensions, rewrites, refinances, modifications, consolidations and replacements thereof and substitutions therefor, not to exceed in the aggregate the principal sum of Two Hundred Twenty Thousand and NO/100 Dollars (\$220,000.00), plus interest and charges, given to MERCANTILE NATIONAL BANK OF INDIANA by Mercantile National Bank of Indiana, as Trustee under Trust Agreement dated November 14, 1978 and known as Trust Number 3808 (380800) (hereinafter, "Borrower"), payable as therein provided, and to further secure the guaranty of said letters of credit and notes by Donald E. Webber, Michael A. Webber and August Oaks, a Limited Liability Company (hereinafter, collectively "Guarantors") and for the purpose of securing the repayment of said obligations, and to indemnify the Mortgagee from any loss or damage that it may incur by the failure of said obligations to be paid as agreed, the undersigned hereby mortgage and warrant to the Mortgagee, the property situated in Lake County, State of Indiana, described as follows, to-wit:

"SEE ATTACHED SHEET FOR LEGAL DESCRIPTION"

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together with all buildings, improvements, structures, appurtenances, fittings, equipment and fixtures attached, erected or used in connection with the property or hereafter acquired attached, erected, appurtenant or used in connection with the property, including but not limited to storm and screen windows and doors, cabinets, bathroom fixtures, drapes, shades, floor coverings, stoves, refrigerators and other appliances, gas, steam, electric and other air-conditioning, heating, and lighting apparatus, all of which are to be deemed to be a part of the property, whether physically attached or not, together with all rents, issues, income, profits, rights, privileges, interests, easements and hereditaments thereof (hereinafter, "Property").

And that said Mortgagor does covenant with the said Mortgagee as follows: First, that Mortgagor is lawfully seized of the Property in fee simple; Second, that Mortgagor has a good right to convey the same; Third, that the same are free from all liens and encumbrances except as set out in Clause 5 below; Fourth, that the Mortgagee shall quietly enjoy and possess the same; and that the Mortgagor will warrant and defend the title to the same against all lawful claims.

The Mortgagor for himself, herself, his or her heirs, executors, administrators, successors, and assigns, covenants and agrees with the Mortgagee, its successors and assigns as follows:

1. If there is a default in the payment of any obligations hereby secured or in the performance of any of the Mortgagor's, Borrower's, or Guarantor's, covenants set forth in this Mortgage or other instruments signed in connection with the obligations this Mortgage secures, or if Mortgagor should abandon the Property, or if the Property or any part thereof should be attached, levied upon or seized, or if the Mortgagor, Borrower, or Guarantor, should become bankrupt or insolvent or make an assignment for the benefit of creditors, or if a receiver should be appointed for the Mortgagor, Borrower, or Guarantor, then all obligations secured hereby shall, at Mortgagee's option, become immediately due and payable, without notice or demand, and the Property shall be subject to foreclosure of this Mortgage, and the Mortgagee, if

STATE OF INDIANA  
LAKE COUNTY  
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it elects to foreclose the same, shall become entitled to the immediate possession of the Property together with all the rents, issues, income and profits therefrom and all amounts due are payable without relief from valuation or appraisal laws and Mortgagor will pay all costs and attorney's fees incurred by Mortgagee in the enforcement of the terms of this Mortgage.

2. For the duration of any obligation hereby secured: (a) The Mortgagor will keep the Property in its present state of repair, normal wear and tear excepted; (b) Mortgagor will pay all taxes and assessments imposed on the Property and will otherwise take such action and exercise such forbearance as may be necessary in order that the Property shall not hereafter become subject to any lien or encumbrance superior to this Mortgage; (c) Mortgagor will procure and maintain insurance with insurance companies acceptable to Mortgagee, against damage to or destruction of the improvements included in Property by fire and windstorm or by any cause customarily included in the terms "extended coverage" such insurance to be in a sum not at any time less than the value of such improvements or the total of the obligations then hereby secured, plus all taxes, assessments and indebtedness then secured by any liens or encumbrances superior hereto on the Property whichever is smaller, and to be payable to the Mortgagee as its interest may appear; (d) Mortgagor will deliver the policy or a certificate evidencing said insurance to the Mortgagee and will allow Mortgagee possession of the same, and the Mortgagee may collect the proceeds of any insurance. Mortgagor appoints Mortgagee as his attorney-in-fact to endorse any insurance checks and drafts payable to him; (e) This Mortgage and the obligations secured hereby may not be assumed, there can be no transfer or sale of any interest in the Mortgagor or any beneficial interest in Mortgagor, if Mortgagor is not a natural person but is a corporation, partnership, trust, limited liability company or other legal entity, without prior written consent of the Mortgagee; (f) Mortgagor will pay and keep current any mortgage on the Property that is superior to this Mortgage and immediately advise Mortgagee in writing of his failure to do so; (g) Mortgagor will not further mortgage or encumber the Property in any way without the express written consent of the Mortgagee. This prohibition shall include the Mortgagor borrowing any future monies from any senior mortgage holder under any "other indebtedness" or "future advance" clause without the prior written consent of the Mortgagee; (h) Mortgagor shall not allow any judgment liens, mechanic's liens or other liens of any nature or kind to be placed against the Property, and if such lien or liens should be affixed or placed on the Property, Mortgagor shall immediately advise Mortgagee of this fact in writing and cause said lien to be satisfied and released within five (5) days from the entry thereof.

3. If the Mortgagor shall fail to make any payment or to obtain any insurance, service or materials or pay or remove any liens on the Property necessary for the performance of any of Mortgagor's covenants above set forth, then the Mortgagee at its option may do so, and its expenditures for any such purpose shall be added to and become part of the obligations hereby secured. Any amount so added shall, from the date of payment thereof by the Mortgagee, bear interest at the rate of interest set forth in the obligation.

4. The Mortgagee at its option may extend the time or the payment of any obligation hereby secured, or reduce the payments thereon, or accept a note or renewal note therefor, or release any part of the security, or any person liable for the obligations without consent of any junior lienholder, and without the consent of the Mortgagor. No such extension, reduction, renewal or release shall affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the personal liability of the Mortgagor to the Mortgagee. No delay by the Mortgagee in the exercise of any of its rights hereunder shall preclude the exercise thereof so long as the Borrower is in default of any of the obligations hereby secured and no failure of the Mortgagee to exercise any of its rights because of one default shall preclude the exercise thereof for a subsequent default. The Mortgagee may enforce any one or more of its rights or remedies hereunder successively or concurrently.

5. That the Property mortgaged hereby is free, clear and unencumbered except as to (a) real estate taxes not yet due; (b) usual easements, covenants and restrictions of record.

6. In the event this Mortgage is subject to a Mortgage set out in the paragraph above, or any other mortgage or encumbrance and that prior mortgage or encumbrance is in default or is foreclosed upon, or in the event Mortgagor without Mortgagee's prior written consent, sells or transfers any interest in this Property, then at the option of the Mortgagee, this Mortgage and the obligations it secures shall become immediately due and payable in full, and further, that the Mortgagee may immediately foreclose this Mortgage, all without any notice or demand whatsoever.

7. That the Mortgagor will indemnify and save harmless from, and repay on demand the Mortgagee for, any loss, damage, expense, or attorney's fees which may be incurred by the Mortgagee by reason of any suit or proceeding to which the Mortgagee is made a party on account of

this Mortgage, and any loss, damage, expense, or attorney's fees so incurred by the Mortgagee is made a part of the obligations secured by this Mortgage.

8. That the Mortgagee shall, at its option, be entitled to be subrogated to any demand, lien, claim or right paid or satisfied by or with the monies advanced and hereby secured, and that the Mortgagee herein may, at any time or times in succession, without notice, extend the time of payment of the obligations hereby secured, or any part thereof, to any person or persons then under obligation to pay the same or affected by the lien hereby created, upon such terms as may be agreed upon by the Mortgagee and the party requesting the extension, without impairing in any way the lien or priority of this Mortgage.

9. Neither Borrower nor, to the best of Borrower's knowledge, any other party has used, generated, released, discharged, stored, or disposed of any hazardous waste, toxic substance, or related material (cumulatively "Hazardous Materials") in connection with the Property or transported any Hazardous Materials to or from the Property. Borrower shall not commit or permit such actions to be taken in the future. The term "Hazardous Materials" shall mean any substance, material, or waste which is or becomes regulated by any governmental authority including, but not limited to, (i) petroleum; (ii) friable or nonfriable asbestos; (iii) polychlorinated biphenyls; (iv) those substances, materials or wastes designated as a "hazardous substance" pursuant to Section 307 of the Clean Water Act or any amendments or replacements to these statutes; (v) those substances, materials or wastes defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act or any amendments or replacements to that statute; or (vi) those substances, pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), or any amendments or replacements to that statute or any other similar statute, rule, regulation or ordinance now or hereafter in effect.

Borrower has not violated and shall not violate any statute, regulation, ordinance, rule of law, contract or other agreement which might materially affect the Property (including, but not limited to, those governing Hazardous Materials) or Lender's rights or interest in the Property pursuant to this Instrument.

The Property: (1) contains no facilities that are subject to reporting under Section 312 of the Federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C.11022); (2) is not the site of any underground storage tanks for which notification is required under 42 U.S.C.6991a and IND. CODE 13-7-20-13 (a) (8); (3) is not listed on the Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) in accordance with Section 116 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C.9616); and (4) there are no environmental defects, as that term is defined in IND. CODE 13-7-22.5-1.5, in the Property.

Borrower covenants and agrees to indemnify, defend and save harmless Lender from all liability, claims, obligations, losses, damages, actions, cases of action, costs and expenses (including, without limitation, reasonable attorneys' fees) which may arise or occur because of Borrower's breach of the aforesaid representations and warranties.

10. That all agreements and representations of the Mortgagor herein contained are made also for the benefit of any successor or assignee of the Mortgagee.

11. That all rights and remedies secured to the Mortgagee by the covenants and agreements contained in this Mortgage are to be deemed cumulative and not in any way in derogation of the rights of the Mortgagee under laws of the State of Indiana.

12. The covenants, agreements, and conditions hereof shall be binding upon the Mortgagor and the heirs, personal representatives, successors, and assigns of the Mortgagor, and shall inure to the benefit of the Mortgagee and its successors and assigns. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

IN WITNESS WHEREOF, this Mortgage has been executed by the Mortgagor or has caused the same to be executed by its representatives thereunto duly authorized on the date first written above.

Mercantile National Bank of Indiana,  
as Trustee under Trust Agreement  
dated November 14, 1978 and known as  
Trust Number 3808 (380800)

SEE SIGNATURE PAGE ATTACHED

\_\_\_\_\_  
By:  
Its:

Attest:

\_\_\_\_\_  
By:  
Its:

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me the undersigned, a Notary Public, personally appeared \_\_\_\_\_ as \_\_\_\_\_ and \_\_\_\_\_ as \_\_\_\_\_ of Mercantile National Bank of Indiana, as Trustee under Trust Agreement dated November 14, 1978 and known as Trust Number 3808 (380800) to me known to be the persons described in and who executed the foregoing Mortgage Instrument and acknowledged that they executed the same as their free act and deed as Trustee.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_  
County of Residence:

\_\_\_\_\_

This Instrument prepared by W.H. Stoll as Sr. Vice President of  
Mercantile National Bank of Indiana



**PARCEL I**

Lots 1 through 6, both inclusive, and Lots 10 through 18, both inclusive, all in Block 8, in Cedar Gardens Subdivision, as per plat thereof, recorded in Plat Book 24 page 37, in the Office of the Recorder of Lake County, Indiana, together with all of the vacated 20 foot vacated public alley lying between the West line of 3rd Street and the East line of 4th Street in Block 8, excepting therefrom the North 10 feet of said 20 foot alley lying South of and adjacent to Lots 5 through 9, both inclusive, in said Block 8.

**PARCEL II**

Lots 1 through 12, both inclusive, in August Oaks Subdivision, Unit 1, an Addition to the Town of Cedar Lake, as per plat thereof, recorded in Plat Book 80 page 10, in the Office of the Recorder of Lake County, Indiana.