

REAL ESTATE MORTGAGE AND ASSIGNMENT OF RENTS

~~2000~~ MORTGAGE AND ASSIGNMENT OF RENTS ("Instrument") is made this 1ST day of AUGUST, 2000 by and between VERO ALOIA and ANN ALOIA ("Borrowers"), and GARRY ALOIA and MARGARET ALOIA ("Lenders");

WITNESSETH:

WHEREAS, Borrowers are indebted to Lenders in the principal sum of Fifty Thousand Dollars (\$50,000.00), which indebtedness is evidenced by a Mortgage Note of even date herewith (herein "Note"), executed by Borrowers;

NOW, THEREFORE, TO SECURE TO LENDERS (i) the repayment of the indebtedness evidenced by the Note, with interest thereon, and all renewals, extensions, rewrites, refinances, modifications and replacements thereof and substitutions therefore; (ii) the repayment of any future advances, with interest thereon, made by Lenders to Borrowers; (iii) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Instrument; (iv) the performance of the covenants, agreements and warranties of Borrowers herein contained; (v) all other liabilities of the Borrowers in favor of the Lenders, direct or indirect, absolute or contingent, primary or secondary, matured or unmeasured, whether or not related to or of the same class as any specific debt secured hereby, now existing or hereafter arising;

BORROWERS DO HEREBY mortgage, warrant, grant, convey and assign to Lenders, their successors and assigns, the following described real property in Lake County, State of Indiana, to-wit:

The East Half of Lot 113 in PRAIRIE VIEW, UNIT 2, a ^{addition} ~~Subdivision~~ in the City of Crown Point, Indiana, as per Record Plat thereof appearing in Plat Book 85, Page 42, in the Office of the Recorder of Lake County, Indiana;

Commonly known as 1627 Dogwood Drive, Crown Point, Indiana.

Together with all buildings, improvements, and tenements now or hereafter erected on the said real property, and all easements, rights, right-of-ways, driveways, pavement, curb, and street front privileges, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the said real property, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials and supplies stored on the said real property, appliances and goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in connection with the said real property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire prevention and sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all of which, including improvements, replacements and additions thereto, shall be deemed to be and

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remain a part of the said real property covered by this Instrument, whether actually physically annexed to said real property or not; and all of the foregoing, together with said real property are herein referred to as the "Property."

Borrowers covenant that Borrowers are lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property, that the Property is unencumbered, and that Borrowers will warrant and defend generally the title to the Property against all claims and demands, subject to any easements, covenants, conditions and restrictions of record listed in the schedule of exceptions to coverage in any title insurance policy insuring Lenders' interest in the Property.

Borrowers hereby further covenants and agrees as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. The interest rate shall be 5.0%. All interest shall accrue throughout the lifetime of the Borrowers. The principal and accrued interest shall be due upon 1) the death of the second Borrower; (2) transfer of the real estate for any purpose; (3) sale of the real estate; (4) the addition of any person onto the title of the real estate; or (5) thirty (30) years; whichever happens sooner.

Prepayment may be made at any time without charge.

2. BORROWERS' BREACH AND RIGHTS OF LENDERS. Upon Borrowers' breach of any covenant, agreement or warranty of Borrowers in this Instrument, Lenders may pay, in any amount and in any order as Lenders shall determine in Lenders' sole discretion, any rents, taxes, assessments, insurance premiums, judgment liens, tax liens, mechanic's liens and other charges and impositions attributable to the Property which are now or will hereafter become due, which shall then become immediately due and owing by the Borrowers to the Lenders and secured by this Instrument pursuant to Paragraph 9 hereof.

3. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Lenders from Borrowers under the Note or this Instrument shall be applied by Lenders in the following order of priority: (i) amounts payable to Lenders by Borrowers under Paragraph 2 hereof; (ii) interest and late charges thereon payable on the Note; (iii) principal of the Note; (iv) interest payable on advances made pursuant to Paragraph 9 hereof; (v) principal of advances made pursuant to Paragraph 9 hereof; (vi) interest payable on any future advance, provided that if more than one future advance is outstanding, Lenders may apply payments received among the amounts of interest payable on the future advances in such order as Lenders, in Lenders' sole discretion, may determine; (vii) principal of any future advance, provided that if more than one future advance is outstanding, Lenders may apply payments received among the principal balances of the future advances in such order as Lenders, in Lenders' sole discretion, may determine; and (viii) any other sums secured by this Instrument in such order as Lenders, at Lenders' option, may determine; provided, however, that Lenders may, at Lenders' option, apply any sums payable pursuant to Paragraph 9 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order

of priority of application specified in this Paragraph 3.

4. CHARGES AND LIENS. Borrowers shall pay all utility, water and sewer charges, taxes, assessments, premiums, and other charges and impositions attributable to the Property. Borrowers shall promptly furnish to Lenders, upon request, all notices of amounts due under this Paragraph 4, and in the event Borrowers shall make payment directly, Borrowers shall, upon request, promptly furnish to Lenders receipts evidencing such payments. Borrowers shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument, and Borrowers shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property; provided that Borrowers shall not be required to discharge any such lien so long as Borrowers shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lenders, or shall in good faith contest such lien by, or defend enforcement of such lien in legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

5. HAZARD INSURANCE. Borrowers shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lenders against loss by fire, hazards included with the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Lenders shall require, and in such amounts and for such periods as Lenders shall require. During the course of any construction or repair of improvements on the Property, builder's completed value risk insurance against "all risks of physical loss," including collapse and transit coverage, with deductibles not to exceed One Thousand and 00/00 Dollars (\$1,000.00), in non-reporting form, covering the total value of work performed and equipment, supplies and materials furnished shall be required. Said builder's completed value risk policy of insurance shall contain the "permission to occupy upon completion of work or occupancy" endorsement. All premiums on insurance policies shall be paid, at Lenders' option, in the manner provided under Paragraph 33 hereof, or by Borrowers making payment, when due, directly to the carrier, or in such other manner as Lenders may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lenders and shall include a Standard Mortgage Clause in favor and in form acceptable to Lenders, naming Lenders as additional insureds. Lenders shall have the right to hold the policies, and Borrowers shall promptly furnish to Lenders all renewal notices and all receipts of said premiums. At least thirty (30) days prior to the expiration date of a policy, Borrowers shall deliver to Lenders a renewal policy in form satisfactory to Lenders.

In the event of loss, Borrowers shall give immediate written notice to the insurance carrier and to Lenders. If the Property is abandoned by Borrowers, or if Borrowers fail to respond to Lenders within thirty (30) days from the date notice is mailed by Lenders to Borrowers that the insurance carrier offers to settle a claim for insurance benefits, Borrowers authorize and empower Lenders as attorney-in-fact for Borrowers to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct there from Lenders' expenses incurred

in the collection of such proceedings; provided, however, that nothing contained in this Paragraph 5 shall require Lenders to incur any expense or take any action hereunder.

Unless Lenders and Borrowers otherwise agree in writing, insurance proceeds shall be applied to the sums secured by this Instrument, with the excess, if any, paid to Borrowers. Any such application to the sums secured by this Instrument shall not postpone the Borrowers' obligations to make the next scheduled payment of interest and principal.

If the insurance proceeds are held by Lenders to reimburse Borrowers for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as the parties may mutually approve in writing. Lenders may, at Lenders' option, condition disbursement of said proceeds on Lenders' approval of waivers of liens, sworn statements of mechanics and material men and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lenders may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the payments provided for in the Note or herein or change the amounts of such payments. If the Property is sold pursuant to Paragraph 27 hereof, or if Lenders acquire title to the Property, Lenders shall have all of the right, title and interest of Borrowers in and to any insurance policies and unearned premiums thereon, and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. PRESERVATION AND MAINTENANCE OF PROPERTY. Borrowers shall not: (i) commit waste or permit impairment or deterioration of the Property; (ii) shall not abandon the Property; (iii) shall keep the Property, including improvements thereon, in good repair; (iv) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; and (v) shall give notice in writing to Lenders of, and unless otherwise directed in writing by Lenders, appear in and defend any action or proceeding purporting to affect the Property, the security to this Instrument or the rights or powers of Lenders. Without the written consent of Lenders, Borrowers shall not remove, demolish or alter any improvement now existing or hereafter erected on the Property.

7. USE OF PROPERTY. Unless required by applicable law or unless Lenders have otherwise agreed in writing, Borrowers shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrowers shall not initiate or acquiesce in a change in the zoning classification of the Property or any portion thereof without Lenders' prior written consent.

8. PROTECTION OF LENDERS' SECURITY. If Borrowers fail to perform the covenants, agreements and warranties contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lenders therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lenders, at Lenders' option, may make such appearances, disburse such sums and take such action as Lenders

deem necessary, in their sole discretion, to protect Lenders' interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in Paragraph 5 hereof.

Any amounts disbursed by Lenders pursuant to this Paragraph 9, with interest thereon, shall become additional indebtedness of Borrowers secured by this Instrument. Unless Borrowers and Lenders agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Note unless collection from Borrowers of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrowers under applicable law. Borrowers hereby covenant and agree that Lenders shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this Paragraph 9 shall require Lenders to incur any expense or take any action hereunder.

9. INSPECTION. Lenders may make or cause to be made reasonable entries upon and inspections of the Property.

10. CONDEMNATION. Borrowers shall promptly notify Lenders of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrowers shall appear and prosecute any such action or proceeding unless otherwise directed by Lenders in writing. Borrowers authorize Lenders, at Lenders' option, as attorney-in-fact for Borrowers, to commence, appear in and prosecute, in Lenders' or Borrowers' name, any action or proceeding relating to any condemnation or other taking or any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lenders for application as set out below.

In the event of a total taking of the Property, Borrowers authorize Lenders to apply such awards, payments, proceeds or damages, after the deduction of Lenders' expenses incurred in the collection of such amounts to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in Paragraph 3 hereof, with the balance, if any, to Borrowers. In the event of a partial taking of the Property, unless Borrowers and Lenders otherwise agree in writing, there shall be applied to the sums secured by this Instrument such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Instrument immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of proceeds paid to Borrowers. Unless Borrowers and Lenders otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly interest payments and the principal payments required under the Note, or the payments required under this Instrument, or change the amount of such payments. Borrowers agree to execute such further evidence of

assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lenders may require.

11. MODIFICATIONS. From time to time, Lenders may agree in writing with Borrowers, at Lenders' option, without giving notice to or obtaining the consent of any junior lien holder or guarantor, without liability on Lenders' part and notwithstanding Borrowers' breach of any covenant, agreement, or warranty of Borrowers in this Instrument, to extend the time for payment of the principal or interest indebtedness secured by this Instrument, or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefore, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, and join in any extension or subordination agreement. Any action taken by Lenders pursuant to the terms of this Paragraph 14 shall not affect the obligation of Borrowers or Borrowers' successors or assigns to pay the sums secured by this Instrument and to observe the covenants, agreements and warranties of Borrowers contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured by this Instrument, and shall not affect the lien or priority of lien hereof on the Property. Borrowers shall pay Lenders a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Lenders' option, for any such action if taken at Borrowers' request.

12. FORBEARANCE BY LENDERS NOT A WAIVER. Any forbearance by Lenders in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lenders of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lenders' right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lenders shall not be a waiver of Lenders' right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lenders' receipt of any awards, proceeds or damages under Paragraphs 5 and 13 hereof operate to cure or waive Borrowers' default in payment of sums secured by this Instrument.

13. REMEDIES CUMULATIVE. Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

14. ACCELERATION IN CASE OF BORROWERS' INSOLVENCY. If a petition under the United States Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, insolvency act, be filed by or against the Borrowers, or if a trustee or receiver shall be appointed for Borrowers or Borrowers' property, or if the Property shall become subject to the jurisdiction of a United States Bankruptcy Court or similar state court, or if Borrowers shall make an assignment for the benefit of Borrowers' creditors, or if there is an attachment, execution or other judicial seizure of

any portion of Borrowers' assets, then Lenders may, at Lenders' option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Borrowers, and Lenders may invoke any remedies permitted by Paragraph 27 hereof. Any attorney's fees and other expenses incurred by Lenders in connection with Borrowers' bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrowers secured by this Instrument pursuant to Paragraph 9 hereof.

15. SALE OR TRANSFER OF THE PROPERTY. Subject to the provisions of Paragraph 1 and 11 of this Instrument, on sale or transfer of: (i) all or any part of the Property, or any interest therein, or (ii) beneficial interests in the Borrowers without the prior written consent of Lenders, the Lenders may, at Lenders' option, declare all of the sums secured by this Instrument to be immediately due and payable, and Lenders may invoke any remedies permitted by Paragraph 27 of this Instrument.

16. NOTICE. Except for any notice required under applicable law to be given in another manner, (i) any notice to Borrowers provided for in this Instrument or in the Note, other than notice of an interest rate change, shall be given by mailing such notice by certified mail addressed to Borrowers at Borrowers' address or at such other address as Borrowers may designate by notice to Lenders as provided herein, and (ii) any notice to Lenders shall be given by certified mail, return receipt requested, to Lenders' address stated herein or to such other address as Lenders may designate by notice to Borrowers as provided herein. Any notice provided for in this Instrument or in the Note, other than notice of an interest rate change, shall be deemed to have been given to Borrowers or Lenders when given in the manner designated herein.

17. SUCCESSORS AND ASSIGNS, BINDING EFFECT, AGENTS AND CAPTIONS. The covenants, agreements and warranties herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lenders and Borrowers, subject to the provisions of this paragraph. In exercising any rights hereunder or taking any actions provided for herein, Lenders may act through its employees, agents or independent contractors as authorized by Lenders. The captions and headings of the Paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

18. GOVERNING LAW AND SEVERABILITY. This Instrument shall be governed by the laws of the State of Indiana. In the event that any provision of this Instrument or the Note conflicts with applicable law, such shall not affect other provisions of this Instrument or the Note which can be given effect with the conflicting provisions, and to this end the provisions of this Instrument and the Note are declared to be severable.

In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrowers are interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law and Borrowers are entitled to the

benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lenders in excess of the amounts payable to Lenders pursuant to such charges as reduced shall be applied by Lenders to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrowers have been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as other charges levied in connection with such indebtedness which constitutes interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated term of the Note.

19. WAIVER OF STATUTE OF LIMITATIONS. Borrowers hereby waive the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

20. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interest in the Property held by Lenders or by any other party, Lenders shall have the right to determine the order in which any or all of the Property and the Additional Collateral shall be subjected to the remedies provided herein. Lenders shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrowers, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property or the Additional Collateral and who has actual or constructive notice hereof, hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

21. ACCELERATION AND REMEDIES. Upon Borrowers' breach of any covenant, warranty, condition or agreement of Borrowers in this Instrument, in the Note evidencing the indebtedness secured by this Instrument, including but not limited to, the covenants to pay when due any sums secured by this Instrument, or in any other agreement or instrument executed by Borrowers in connection herewith and the failure of Borrowers to cure such breach within the applicable cure period, Lenders, at Lenders' option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may foreclose this Instrument by judicial proceedings, and may invoke any other remedies permitted by applicable law or provided herein. Lenders shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, appraisal fees, expert witness fees, costs of court reporters, travel expenses, costs of documentary evidence, abstracts and title reports.

22. RELEASE. Upon payment of all sums secured by this Instrument, Lenders shall release this Instrument. Borrowers shall pay Lenders' reasonable costs incurred in releasing this Instrument.

23. OTHER ENCUMBRANCES. Borrowers will not further mortgage or encumber the Property or the Additional Collateral in any way without the express written consent of the Lenders.

24. WAIVER OF VALUATION AND APPRAISEMENT. Borrowers hereby waive all right of valuation and appraisal.

25. FURTHER ADVANCES. Upon request of Borrowers, Lenders, at Lenders' option and sole discretion, so long as this Instrument secures indebtedness held by Lenders, may make future advances to Borrowers. Such future advances, with interest thereon, shall be secured by this Instrument.

26. HAZARDOUS MATERIALS. Borrowers represent and warrant to the Lenders that (i) the Borrowers have not used Hazardous Materials (as defined below), on, from or affecting the Property in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Borrowers' knowledge, no prior owner of the Property or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Property in any manner which violates federal, state or local law, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (ii) the Borrowers have never received any notice of any violations (and is not aware of any existing violations) of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, or disposal of Hazardous Materials at the Property and, to the best of the Borrowers' knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Property; (iii) Borrowers shall keep or cause the Property to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable federal, state and local laws and regulations; and, without limiting the foregoing, Borrowers shall not cause or permit the Property to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Borrowers cause or permit, as a result of any intentional or unintentional act or omission on the part of Borrowers or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazard Materials onto the Property or onto any other contiguous property; (iv) Borrowers shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Property as required by all applicable federal, state and local laws, ordinances, rules, regulations and policies to the satisfaction of the Lenders, and in accordance with the orders and directives of all federal, state and local governmental authorities. If the Borrowers fail to conduct an environmental audit required by the Lenders, the Lenders may at their option and at the expense of the Borrowers, conduct such audit.

Subject to the limitations set forth below, the Borrowers shall defend, indemnify and hold harmless the Lenders, their employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorney's and consultant fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from or affecting the Property or the soil, water, vegetation, buildings, personal property, persons or animals; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on the Property; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials with respect to the Property, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Lenders which are based upon or in any way related to such Hazardous Materials used in the Property. The indemnity obligations under this Paragraph 26 are specifically limited as follows:

- (i) Borrowers shall have no indemnity obligation with respect to Hazardous Materials that are first introduced to the Property or any part of the Property subsequent to the date that the Borrowers' interest in and possession of the Property or any part of the Property shall have fully terminated by foreclosure of this Instrument or acceptance of a deed in lieu of foreclosure;
- (ii) Borrowers shall have no indemnity obligation with respect to any Hazardous Materials introduced to the Property or any part of the Property by the Lenders, their successors or assigns.

Borrowers agree that in the event this Instrument is foreclosed or the Borrowers tender a deed in lieu of foreclosure, Borrowers shall deliver the Property to the Lenders free of any and all Hazardous Materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Property.

For the purposes of this Instrument, "Hazardous Materials," includes without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 19601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local governmental law, ordinances, rule or regulation.

The provisions of this Paragraph 32 shall be in addition to any and all other obligations and liabilities the Borrowers may have to the Lenders under the Note, any loan document, and in common law, and shall survive (a) the repayment of all sums due for the debt, (b) the

satisfaction of all of the other obligations of Borrowers in this instrument, the Note and under any other loan documents, (c) the discharge of this Instrument, and (d) the foreclosure of this Instrument or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Instrument, it is the intention of the Borrowers and the Lenders that the indemnity provisions of this Paragraph 32 shall only apply to an action commenced against any owner or operator of the Property in which any interest of the Lenders is threatened or any claim is made against the Lenders for the payment of money.

27. ADDITIONAL AFFIRMATIVE AND NEGATIVE COVENANTS OF BORROWERS.

Until all sums secured by this Instrument have been paid in full and until all obligations of the Borrowers to the Lenders under the Note, this Instrument and in all other agreements and instruments executed by the Borrowers in connection herewith have been satisfied in full, the Borrowers agree that it will strictly observe the following covenants:

- (a) The Borrowers shall furnish to the Lenders the following:
 - (1) True and complete copies of all orders in any material proceedings to which the Borrowers are a party issued by any court or regulatory agency (Federal, state or local), promptly after the issuance of any such order.
 - (3) From time to time such other information concerning the Borrowers together with copies of relevant documents, correspondence and instruments, as the Lenders may reasonably request.
- (b) The Borrowers shall permit the Lenders to inspect the Property at all reasonable times.
- (c) The Borrowers shall maintain material compliance with the applicable provisions of all Federal, state and local statutes, ordinances and regulations and any court orders and orders of regulatory authorities.
- (d) The Borrowers shall not enter into any agreement containing any provision which would be violated or breached in material respect by the performance of its obligations under the Note, this Instrument, or any other agreement or instrument executed by the Borrowers in connection herewith.

28. WAIVER OF JURY TRIAL. The Lenders and the Borrowers after consulting or having had the opportunity to consult with legal counsel, knowingly, voluntarily and intentionally waive any right either of them may have to a trial by jury in any litigation based upon or arising out of this Instrument, the Note or any related instrument or agreement or any of the transactions contemplated by this Instrument or any course of conduct, dealing, statements, whether oral or written, or actions of either of them. Neither the Lenders nor the Borrowers shall seek to consolidate, by counterclaim or otherwise, any action in which a jury has been waived with any other action in which a jury trial cannot be or has not been waived. These provisions shall not be

