



UNOFFICIAL COPY

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Mortgage

THIS MORTGAGE is made on December 27, 1990 between _____
 _____ not personally, but as Trustee under a Trust Agreement dated _____ 19____ and known as
 Trust No. _____ ANIL K. AGARWAL (Married to Shashi P. Agarwal)
 whose address is 9208 S. Karlov Ave., Oak Lawn, IL 60453 (the "Mortgagor")
 and NBD BANK EVANSTON, N.A. (Bank Name)
 a National (national state) banking Association
 (association/corporation) whose address is 1603 Orrington Avenue, Evanston, IL 60204 (the "Mortgagee").
 * To be deleted when this Mortgage is not executed by a Land Trust.

The Mortgagor MORTGAGES, CONVEYS AND WARRANTS to the Mortgagee real property and all the buildings, structures and improvements on it described as:

Land located in the City _____ of Chicago Heights
 County of Cook State of Illinois

Lot 4 in Block 17, in the Original Town of Chicago Heights, a Subdivision of Section 21, Township 35 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

This is Not Homestead Property

(the Premises")
 Commonly known as 1415 1416 Emerald Ave., Chicago Heights, Illinois
 Tax Parcel Identification No. 32-21-300-005

The Premises shall also include all of the Mortgagor's right, title and interest in and to the following:

- (1) All easements, rights-of-way, licenses, privileges and hereditaments.
- (2) Land lying in the bed of any road, or the like, opened, proposed or vacated, or any strip or gore, adjoining the Premises.
- (3) All machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever located now or in the future in or upon the Premises and used or useable in connection with any present or future operation of the Premises (all of which is called "Equipment"). It is agreed that all Equipment is part of the Premises and appropriated to the use of the real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged and warranted to the Mortgagee.
- (4) All mineral, oil, gas and water rights, royalties, water and water stock, if any.
- (5) All awards or payments including interest made as a result of: the exercise of the right of eminent domain, the alteration of the grade of any street, any loss of or damage to any building or other improvement on the Premises, any other injury to or decrease in the value of the Premises.

The Premises are unencumbered except as follows:

(Permitted Encumbrances). If the Premises are encumbered by Permitted Encumbrances, the Mortgagor shall perform all obligations and make all payments as required by the Permitted Encumbrances. The Mortgagor shall provide copies of all writings pertaining to Permitted Encumbrances, and the Mortgagee is authorized to request and receive that information from any other person without the consent or knowledge of the Mortgagor.

This Mortgage secures the indebtedness or obligation evidenced by:

(i) The note(s) dated December 27, 1990 in the principal amount(s) of \$50,000.00 respectively, maturing on December 27, 1995 executed and delivered by Anil K. Agarwal to the Mortgagee with interest at the per annum rate of NBD Bank Corp Prime + 1/2% percent (P+1/2%) Adjusted as of the day of change in said prime rate on the principal balance remaining from time to time unpaid. Interest after default or maturity of the note, whether by acceleration or otherwise, on the principal balance of the note remaining from time to time unpaid shall be at the per annum rate of NBD BanCorp Prime Rate Plus 4% percent (P+4%) Adjusted as of the day of change in Prime and

(ii) the guaranty of the debt of COOK COUNTY, ILLINOIS dated _____ executed and delivered by _____ to the Mortgagee; and

(iii) _____ 1990 DEC 26 PM 3:08 90629007

including any extensions, renewals, modifications or replacements without limit as to the number or frequency (the "Debt").

CROSS-LIEN. The Debt shall also include all other present and future, direct and indirect obligations and liabilities of the Mortgagor or any one or more of them, with or without others, to the Mortgagee. This shall not apply to any obligation or debt incurred previously for personal, family or household purposes unless the note or guaranty expressly states that it is secured by this Mortgage.

This Mortgage shall also secure the performance of the promises and agreements contained in this Mortgage.

The Mortgagor promises and agrees as follows:

1. PAYMENT OF DEBT; PERFORMANCE OF OBLIGATIONS. The Mortgagor shall promptly pay, when due, whether by acceleration or otherwise, all the Debt for which the Mortgagor is liable, and shall promptly perform all obligations to which the Mortgagor has agreed under the terms of this Mortgage and any loan documents evidencing the Debt.

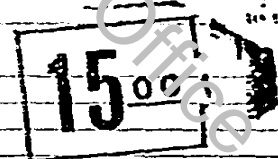
2. TAXES. The Mortgagor shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions, and other charges which may become a lien prior to this Mortgage. Should the Mortgagor fail to make such payments, the Mortgagee may, at its option and at the expense of the Mortgagor, pay the amounts due for the account of the Mortgagor. Upon the request of the Mortgagee, the Mortgagor shall immediately furnish to the Mortgagee all notices of amounts due and receipts evidencing payment. The Mortgagor shall promptly notify the Mortgagee of

any lien on the Premises or any part of the Premises and shall promptly discharge any unpermitted lien or encumbrance.

3. CHANGE IN TAXES. In the event of the passage of any law or regulation, state, federal or municipal, subsequent to the date of this Mortgage in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting such taxes, the entire principal secured by this Mortgage and all interest accrued shall become due and payable immediately at the option of the Mortgagee.

4. INSURANCE. The Mortgagor shall keep the Premises and the present and future buildings and other improvements on the Premises, or interests insured for the benefit of the Mortgagee, until the Debt is fully paid, against fire and such other hazards and risks customarily covered by the standard form of extended coverage endorsement available in the State of Illinois, including risks of vandalism and malicious mischief, and shall further provide flood insurance (if the Premises are situated in an area designated as a flood risk area by the Director of the Federal Emergency Management Agency, or as otherwise required by the Flood Disaster Protection Act of 1973 and regulations issued under it), and such other appropriate insurance as the Mortgagee may require from time to time. All insurance policies and renewals must be acceptable to Mortgagee, must provide for payment to the Mortgagee in the event of loss, must require 30 days notice to the Mortgagee in the event of nonrenewal or cancellation, and must be delivered to the Mortgagee. Should the Mortgagor fail to insure

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Notary Public

My Commission Expires:

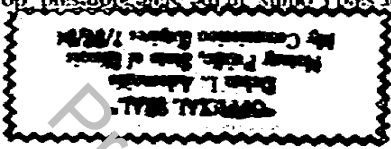
19

Given under my hand and notarial seal, this _____ day of _____

(association), as Trustee, for the uses and purposes therein set forth. of said (corporation) (association) to said instrument as his own free and voluntary act, and as the free and voluntary act of said (corporation) did also then and there acknowledge that he, as custodian of the corporate seal of said (corporation) (association), affixed the said corporate seal

acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said (corporation) (association), as Trustee, for the uses and purposes therein set forth; and the said such _____ and _____ respectively, appeared before me this day in person and of said (corporation) (association) personally known to me to be the same persons whose names are subscribed to the foregoing instrument as _____ (corporation) (association) and _____ of _____

a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____



State of Illinois) County of Cook) SS)

My Commission Expires: 7/26/97 Notary Public

Given under my hand and notarial seal this _____ day of _____ 19__

and voluntary act, for the uses and purposes herein set forth. instrument, appeared before me this day in person, and acknowledged that _____ he _____ subscribed to the foregoing _____ subscribed to the foregoing _____

1. Debra L. Adomaitis, a Notary Public in and for said County and State, do hereby certify that _____ personally known to me to be the same person(s) whose name(s) _____ is _____

State of Illinois) County of Cook) SS)

Filed by M.L. To NBD Bank, Easton 1605 Dunnington Pl. Easton, IL 60120 Classy Dept.

By: _____ 90629006

833153-0/17336-44 Not personally, but as Trustee under a Trust Agreement dated _____, 19__ and known as Trust No. _____

ANIL K. AGARWAL

Witness the hand _____ of Mortgagor the day and year set forth above.

23. WAIVER OF JURY TRIAL. The Mortgagor and the Mortgagee after consulting or having had the opportunity to consult with 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 Mortgage or any related instrument or agreement or any of the transactions contemplated by this Mortgage or any course of conduct, dealing, statements, whether oral or written or actions of either of them. Neither the Mortgagee nor the Mortgagor shall seek to avoid the Mortgagor's consent or otherwise, any such action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. These provisions shall not be deemed to have been modified in any respect or relinquished by either of them. The Mortgagee or the Mortgagor except by a written instrument executed by both of them.

24. MISCELLANEOUS. If any provision of this Mortgage is in conflict with any statute or rule of law or is otherwise unenforceable for any reason whatsoever, then the provision shall be deemed null and void to the extent of such conflict or unenforceability and shall be deemed severable from and shall not invalidate any other provisions of this Mortgage. No waiver by the Mortgagee of any right or other provisions of this Mortgage, nor failure to insist on strict performance by the Mortgagee shall affect or act as a waiver of any right or remedy of the Mortgagee, nor shall the Mortgagee be deemed to have waived any right or remedy of the Mortgagee, nor shall the Mortgagee be deemed to have waived any right or remedy of the Mortgagee, nor shall the Mortgagee be deemed to have waived any right or remedy of the Mortgagee, nor shall the Mortgagee be deemed to have waived any right or remedy of the Mortgagee.

OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE. IN THE EVENT THE PREMISES IS AGRICULTURAL PROPERTY AND MORTGAGOR IS AN ILLINOIS CORPORATION, A FOREIGN CORPORATION LICENSED TO DO BUSINESS IN THE STATE OF ILLINOIS OR A CORPORATE TRUSTEE OF AN EXPRESS TRUST, MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OF JUDGMENT OF FORECLOSURE OF THIS MORTGAGE AND ANY RIGHTS OF REINSTATEMENT PURSUANT TO THE LAWS OF THE STATE OF ILLINOIS REGARDING FORECLOSURE OF MORTGAGES, ON MORTGAGOR'S OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF MORTGAGOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES, AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE. IN THE EVENT THE PREMISES IS RESIDENTIAL PROPERTY, AS DEFINED UNDER THE LAWS OF THE STATE OF ILLINOIS REGARDING FORECLOSURE OF MORTGAGES, BUT PRIOR TO THE FILING OF A COMPLAINT FOR FORECLOSURE, THE PREMISES CEASES TO QUALIFY AS RESIDENTIAL PROPERTY. MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OF JUDGMENT OF FORECLOSURE OF THIS MORTGAGE PURSUANT TO THE LAWS OF THE STATE OF ILLINOIS REGARDING FORECLOSURE OF MORTGAGES, ON MORTGAGOR'S OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF MORTGAGOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE.

subject to the terms of the Mortgage, the Mortgagor shall not be liable for any part of the Premises shall have full responsibility for the maintenance of the Mortgage or acceptance of a deed in lieu of foreclosure.

The Mortgagor shall have no indemnity obligations with respect to any Hazardous Materials introduced to the Premises or any part of the Premises by the Mortgagor, its successors or assigns.

The Mortgagor agrees that in the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the Premises to the Mortgagee free of any and all Hazardous Materials which are then required to be removed whether ever time or immediately pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Premises.

For purposes of this Mortgage, "Hazardous Materials" includes, without limitation, any flammable, explosive, 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 9601, 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, ordinance, rule or regulation.

The provisions of this paragraph shall not apply to any release, spill, discharge or other release of the Mortgagor may have to the Mortgagor under the following conditions: (1) any loan document and in common law, and shall survive for the repayment of all sums due for the debt, (b) the satisfaction of all of the other obligations of the Mortgagor in this Mortgage and under any loan document, (c) the discharge of this Mortgage, and (d) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Mortgage, it is the intent of the Mortgagor and the Mortgagee that the indemnity provisions of this paragraph shall only apply to an action commenced against any owner or operator of the Premises in which any interest of the Mortgagor is threatened or any claim is made against the Mortgagor for the payment of money.

17. EVENTS OF DEFAULT/ACCELERATION: Upon the occurrence of any of the following, the Mortgagee shall be entitled to exercise its remedies under this Mortgage or as otherwise provided by law: (1) The Mortgagor or, if other than the Mortgagor, any principal obligor of the Debt ("Principal Obligor") fails to pay when due any amount payable under the note(s), the guaranty, or any other agreement evidencing the Debt; (2) the Mortgagor or Principal Obligor fails to observe or perform any other term of the note(s), the guaranty, or any other agreement evidencing the Debt; (b) makes any materially incorrect or misleading representation in any financial statement or other information delivered to the Mortgagee; (3) the Mortgagor or Principal Obligor defaults under the terms of this Mortgage, any loan agreement, mortgage, security agreement, or other document executed as part of the Debt transaction or any guaranty of the Debt becomes unenforceable in whole or in part, or any guarantor fails to promptly perform under such a guaranty; (4) the Mortgagor fails to pay, when due an amount payable under any note or agreement evidencing debt to the Mortgagee or defaults under the terms of any agreement or instrument relating to or securing any debt for borrowed money owing to the Mortgagee; (5) a "reportable event" as defined in the Employee Retirement Income Security Act of 1974 as amended that would permit the Pension Benefits Guaranty Corporation to terminate any employee benefit plan of the Mortgagor or Principal Obligor or any affiliate of the Mortgagor or Principal Obligor occurs; (6) the Mortgagor or Principal Obligor becomes insolvent or unable to pay its debts as they become due; (7) the Mortgagor or Principal Obligor (a) makes an assignment for the benefit of creditors, or (b) consents to the appointment of a custodian, receiver, or trustee for itself or for a substantial part of its assets, or (c) commences any proceeding under any bankruptcy, reorganization, liquidation, insolvency or similar laws of any jurisdiction, or is subject to such a proceeding, or a trustee is appointed for the Mortgagor or Principal Obligor or a substantial part of its assets, without the consent of the party against which the appointment is made and is not removed within 60 days after such appointment, or the Mortgagor or Principal Obligor consents to such appointment; (8) proceedings are commenced against the Mortgagor or Principal Obligor under any bankruptcy, reorganization, liquidation, or similar laws of any jurisdiction, and such proceedings remain undismissed for 60 days after commencement, or the Mortgagor or Principal Obligor consents to the commencement of such proceedings; (9) any judgment is entered against the Mortgagor or Principal Obligor, or any attachment, levy, or garnishment is issued against any property of the Mortgagor or Principal Obligor; (10) any proceedings are instituted for the foreclosure or collection of any mortgage, judgment or lien affecting the Premises; (11) if Mortgagor sells, transfers or hypothecates any part of the Premises except as provided in this Mortgage without the prior written consent of the Mortgagee; (12) the Mortgagor or Principal Obligor dies; (13) The Mortgagor or Principal Obligor, without the Bank's written consent, (a) is dissolved, (b) merges or consolidates with any third party, (c) sells a material part of its assets or business outside the ordinary course of its business, or (d) agrees to do any of the foregoing; (14) there is a substantial change in the existing or prospective financial condition of the Mortgagor or Principal Obligor which the Mortgagee in good faith determines to be materially adverse.

18. REMEDIES UPON DEFAULT: Upon the occurrence of any of the events of default set forth in this Mortgage, at the discretion of Mortgagee, the note and/or any other liabilities shall become immediately due and payable and Mortgagor shall pay all expenses of Mortgagee including attorneys' and paralegals' fees and all expenses incurred in connection with this Mortgage and all expenses incurred in the enforcement of Mortgagee's rights in the Premises and other costs incurred in connection with the disposition of the Premises. When the indebtedness secured hereby shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien of this Mortgage. In any suit to foreclose the lien of this Mortgage, there shall be allowed and included as additional indebtedness in the judgment of foreclosure all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' and paralegals' fees, appraisers' fees, outlays for documentary and expert evidence, stenographer's charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, tax and lien searches, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute the foreclosure suit or to evidence to bidders at any foreclosure sale. All of the foregoing items, which may be expended after entry of the foreclosure judgment, may be estimated by Mortgagee. All expenditures and expenses mentioned in this paragraph, when incurred or paid by Mortgagee shall become additional indebtedness secured hereby and shall be immediately due and payable, with interest thereon at a rate equivalent to the post maturity interest rate set forth in the note. This paragraph shall also apply to any expenditures or

expenses incurred or paid by Mortgagee or on behalf of Mortgagee in connection with (a) any proceeding in bankruptcy, reorganization, receivership and liquidation or proceeding in which Mortgagee shall be a party either as plaintiff, claimant or defendant, in connection with this Mortgage or any indebtedness secured hereby, or (b) any preparation for the commencement of any suit for the enforcement of this Mortgage after accrual of the right to foreclose whether or not actually commenced or preparation for the commencement of any suit to collect upon or enforce the provisions of the note or any instrument which secures the note after default, whether or not actually commenced, or to any preparation for the defense of any threatened suit or proceeding which might affect the Premises or the note or the note(s), whether or not actually commenced. The proceeds of any foreclosure sale shall be distributed and applied in the following order of priority: first, to the payment of all costs and expenses incident to the foreclosure proceedings, including all of the items that are above mentioned; second, all other items which under the terms of this Mortgage constitute indebtedness secured by this Mortgage additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note and the liabilities (first to interest and then to principal); fourth, of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. The proceeds of any foreclosure sale shall be distributed and applied in the following order of priority: first, to the payment of all costs and expenses incident to the foreclosure proceedings, including all of the items that are above mentioned, second, to the payment of all costs and expenses incident to the enforcement of this Mortgage, including all of the items that are above mentioned, and third, to the payment of all costs and expenses incident to the enforcement of this Mortgage, including all of the items that are above mentioned. In addition to that evidenced by the note, with interest thereon as herein provided, third, all principal and interest remaining unpaid on the note and the liabilities (first to interest and then to principal); fourth, of any threatened suit or proceeding which might affect the Premises or the security hereof, whether or not actually commenced. The receiver's appointment may be made either before or after entry of judgment of foreclosure, without notice, with respect to the solvency or insolvency of Mortgagor at the time of application for the receiver and without regard to the then value of the Premises or whether the Premises shall be then occupied as a homestead or not. Mortgagee may be appointed as the receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises during the pendency of the foreclosure suit and, in case of an entry of judgment of foreclosure, during the full statutory period of redemption, if any, whether there be redemption or not, as well as during any further times when Mortgagee, except by the intervention of the receiver, would be entitled to collect the rents, issues and profits. Such receiver shall also have all other powers which may be necessary or are usual for the protection, possession, control, management and operation of the Premises. The court in which the foreclosure suit is filed may from time to time authorize the receiver to apply the net income in the receiver's hands in payment in whole or in part of the indebtedness secured hereby, or secured by any judgment foreclosing this Mortgage, or any tax, special assessment or other lien or encumbrance which may be or become superior to the lien hereof or of the judgment, and the deficiency judgment against Mortgagor or any guarantor of the note in case of a foreclosure sale and deficiency. No action for the enforcement of the lien or of any provision of this Mortgage shall be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the note.

19. REPRESENTATIONS: If the Mortgagor is a corporation, it represents that it is a corporation duly organized, existing and in good standing under the laws of its state of incorporation, and that the execution and delivery of this Mortgage and the performance of the obligations it imposes are within its corporate power, and have been duly authorized by all necessary action of its board of directors, and do not violate the terms of its articles of incorporation or by-laws. If the Mortgagor is a general or limited partnership, it represents that it is duly organized and existing under the laws of its state of incorporation and that the performance of the obligations it imposes do not conflict with any provisions of its partnership agreement and have been duly authorized by all necessary action of its partners. Each Mortgagor represents that the execution and delivery of this Mortgage and the performance of the obligations it imposes do not violate any law and do not conflict with any agreement, to which it is bound, and that no consent or approval of any governmental authority or any third party is required for the execution and delivery of this Mortgage or the performance of the obligations it imposes and that this Mortgage is a valid and binding contract enforceable in accordance with its terms. Each Mortgagor further represents that it shall provide all balance sheets, profit and loss statements, and other financial statements as required by Mortgagee. Any such statements that are furnished to the Mortgagee are accurate and fairly reflect the financial condition of the company, its subsidiaries and persons to which they apply on their effective dates, including contingent liabilities of every type, which financial condition has not changed materially and adversely since those dates.

20. NOTICE: Notice from one party to another relating to this Mortgage shall be deemed effective if made in writing (including telex communications) and delivered to the recipient's address, telex number or teleprinter number set forth above by any of the following means: (a) hand delivery, (b) registered or certified mail, postage prepaid, with return receipt requested, (c) first class or express mail, postage prepaid, (d) Federal Express, (e) Parabolic Courier or like overnight courier service or (f) teletype, telex or other wire transmission with request for assurance of receipt in a manner typical with respect to communication of that type. Notice made in accordance with this paragraph shall be deemed delivered upon receipt if delivered by hand or wire transmission, 3 business days after mailing if mailed by registered or certified mail or one business day after mailing or deposit with an overnight courier service if delivered by express mail or overnight courier. This notice provision shall be inapplicable in any judicial or non-judicial proceeding where Illinois law governs the manner and timing of notices at a foreclosure or receivership proceedings.

21. WAIVER OF HOMESTEAD RIGHT: Mortgagor does hereby expressly waive and release all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois. Mortgagor does hereby expressly waive and release any and all rights in respect to marshalling of assets which secure the Debt or to require the Mortgagee to pursue its remedies against any other such assets.

22. WAIVER OF RIGHT OF REDEMPTION, MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE OF THIS MORTGAGE AND ANY RIGHTS OF REINSTATEMENT PURSUANT TO THE LAWS OF THE STATE OF ILLINOIS REGARDING FORECLOSURE OF MORTGAGES, ON MORTGAGOR'S OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF THE MORTGAGOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AS OF

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