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 COOK COUNTY RECORDER

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REAL ESTATE MORTGAGE

To Secure a Loan

From THE BANK OF HIGHWOOD

91264435

(Secured by a First Lien on Real Estate)

1. DATE AND PARTIES. The date of this Real Estate Mortgage (Mortgage) is May 13, 1991, and the parties and their mailing addresses are the following:

MORTGAGOR:

AMERICAN NATL BANK & TRUST CO. OF WAUKEGAN TRUST #2119
 2323 W. Grand
 Waukegan, Illinois 60085

BANK:

THE BANK OF HIGHWOOD
 an ILLINOIS banking corporation
 10 Highwood Avenue
 Highwood, Illinois 60040
 Tax I.D. # 30-2401000
 (as Mortgagor)

THIS INSTRUMENT WAS PREPARED BY:
 LAURA FACCHINI
 BANK OF HIGHWOOD
 10 HIGHWOOD AVENUE
 HIGHWOOD, IL 60040

91264435



OBLIGATIONS DEFINED. The term "Obligations" is defined as and includes the following:

- A. A promissory note, No. 300451310071 (Note) dated May 13, 1991, and executed by LEROY J. DIETZ and PAULA C. DIETZ (Borrower) payable to the order of Bank, which evidences a loan (Loan) to Borrower in the amount of \$5,000.00, and all extensions, renewals, modifications or substitutions thereof.
- B. All future advances by Bank to Borrower (whether or not this Mortgage is specifically referred to in the evidence of indebtedness with regard to such future and additional indebtedness).
- C. All additional sums advanced, and expenses incurred, by Bank for the purpose of insuring, preserving or otherwise protecting the Property (as hereinafter defined) and its value, and any other sums advanced, and expenses incurred by Bank pursuant to this Mortgage, plus interest at the same rate provided for in the Note computed on a simple interest method.
- D. All other obligations, now existing or hereafter arising, by Borrower owing to Bank to the extent the value of the Property (as hereinafter defined) as security therefor is not prohibited by law, including but not limited to liabilities for overdrafts, all advances made by Bank on Borrower's, and/or Mortgagor's, behalf as authorized by this Mortgage and liabilities as guarantor, endorser or guaranty, of Borrower to Bank, due or to become due, direct or indirect, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several.
- E. Borrower's performance of the terms in the Note or Loan, Mortgagor's performance of any terms in this Mortgage, and Borrower's and Mortgagor's performance of any terms in any deed of trust, any trust deed, any other mortgage, any deed to secure debt, any security agreement, any assignment, any construction loan agreement, any loan agreement, any assignment of beneficial interest, any guaranty agreement or any other agreement which secures, guarantees or otherwise relates to the Note or Loan.

However, this Mortgage will not secure another debt:

- A. if this Mortgage is in Borrower's principal dwelling and Bank fails to provide (to all persons entitled) any notice of right of rescission required by law for such other debt; or
- B. if Bank fails to make any disclosure of the existence of this Mortgage required by law for such other debt.

3. MAXIMUM OBLIGATION LIMIT. The total principal amount (plus all interest, attorneys' fees, paralegal fees, costs and other legal expenses) of the Obligations secured by this Mortgage, not including, however, any sums advanced for the protection of the Property or Bank's interest therein, shall not exceed the sum of \$5,000.00, provided, however, that nothing contained herein shall constitute a commitment to make additional or future loans or advances in any amounts.

4. CONVEYANCE. To induce Bank to make the Loan to Borrower, to continue the Obligations to Bank, and to secure the Obligations (which includes the Note according to its specific terms and the obligations in this Mortgage), Mortgagor hereby bargains, grants, mortgages, sells, conveys and warrants to Bank, as Mortgagor, the following described property (Property) situated in COOK County, ILLINOIS, to-wit:

Mortgago
DIETZ, LEROY J.

05/13/91

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** READ ANY PAGE WHICH FOLLOWS FOR ANY REMAINING PROVISIONS.**

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RE TITLE SERVICES # R4-38-3

UNIT 05-D TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN CHELSEA COVE CONDOMINIUM NUMBER 1, AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT NUMBER 22604300, IN THE SOUTHEAST 1/4 OF SECTION 3, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. PIN #03-03-400-063-1028

The Property may be commonly referred to as 774 BARNABY PLACE, WHEELING, ILLINOIS 60090

such property constituting the homestead of Borrower, together with all buildings, improvements, fixtures and equipment now or hereafter attached to the Property, including, but not limited to, all heating, air conditioning, ventilation, plumbing, cooling, electrical and lighting fixtures and equipment; all landscaping; all exterior and interior improvements; all easements, issues, rights, appurtenances, rents, royalties, oil and gas rights, privileges, proceeds, profits, other minerals, water, water rights, and water stock, crops, grass and timber of any time growing upon said land, including replacements and additions thereto, all of which shall be deemed to be and remain a part of the Property. The term "Property" further includes, but is not limited to, any and all walls, water, water rights, ditches, laterals, reservoirs, reservoir sites and dams, used, appurtenant, connected with, or attached to the Property, whether or not evidenced by stock or shares in an association or corporation howsoever evidenced. All of the foregoing Property shall be collectively hereinafter referred to as the Property. To have and to hold the Property, together with the rights, privileges and appurtenances thereto belonging, unto Bank forever to secure the Obligations. Mortgagor does hereby warrant and defend the Property unto Bank forever, against any claim or claims, of all persons claiming or to claim the Property or any part thereof. Mortgagor further releases and waives all rights under and by virtue of the homestead laws and exemption laws of the state of ILLINOIS.

5. INTEREST AND REPAYMENT OF THE OBLIGATIONS. The Note accrues interest from May 13, 1991, on the unpaid principal balance at the rate of 11% per annum (Contract Rate) until the Note matures or the obligation is accelerated. After maturity or acceleration, the unpaid balance shall thereafter bear interest at the rate of 18% per annum, or if less, the maximum allowable rate permitted by law, until the Note is paid in full. If the interest accrued and collected exceeds the Maximum Lawful Interest as of the time of collection, such excess shall be applied to reduce the principal amount outstanding, unless otherwise required by applicable law. If or when no principal amount is outstanding, any excess interest shall be refunded to Borrower according to the actuarial method. Unless otherwise required by applicable law, all fees and charges, accrued, assessed or collected shall be amortized and prepaid over the full term of the loan for purposes of determining the Maximum Lawful Interest. Interest shall be computed on the basis of the actual calendar year and the actual number of days elapsed.

Principal and accrued interest are due and payable in 36 equal monthly payments of \$163.74 on the 13th day of each month, beginning June 13, 1991, or the day following if the payment day is a Bank holiday or is a non-business day for Bank. Unless paid prior to maturity, all other unpaid principal, accrued interest, costs and expenses are due and payable on May 13, 1994, which is the date of maturity. These payment amounts are based upon timely payment of each installment. All amounts shall be paid in legal U.S. currency. Any payment made with a check will constitute payment only when collected.

6. LIENS AND ENCUMBRANCES. Mortgagor warrants and represents that the Property is free and clear of all liens and encumbrances whatsoever, except: 1st Mortgage was granted to The Bank of Highwood in the amount of \$45,720.05. Mortgagor agrees to pay all claims when due that might result, if unpaid, in the foreclosure, execution or imposition of any lien, claim or encumbrance on or against the Property or any part thereof. Mortgagor may in good faith contest any such lien, claim or encumbrance by posting any bond in an amount necessary to prevent such claim from becoming a lien, claim or encumbrance or to prevent its foreclosure or execution.

~~7. CORPORATE WARRANTIES AND REPRESENTATIONS. Mortgagor makes to Bank the following warranties and representations which shall be continuing so long as the Obligations remain outstanding:~~

- A. Mortgagor is a corporation which is duly organized and validly existing in the State as represented in the DATE AND PARTIES paragraph above; Mortgagor is in good standing under the laws of all States in which Mortgagor transacts business; Mortgagor has the corporate power and authority to own the Property and to carry on its business as now being conducted; Mortgagor is qualified to do business in every jurisdiction in which the nature of its business or its property makes such qualification necessary, and Mortgagor is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to it.
- B. The execution, delivery and performance of this Agreement by Mortgagor and the transactions evidenced by the Note: (1) are within the corporate powers of Mortgagor; (2) have been duly authorized by all required corporate action; (3) have received all necessary governmental approval; (4) will not violate any provision of law, any order of any court or other agency of government or Mortgagor's Articles of Incorporation or Bylaws; and (5) will not violate any provision of any Indemnity, agreement or other instrument to which Mortgagor is a party or to which Mortgagor is or any of Mortgagor's property is subject, including but not limited to any provision prohibiting the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Mortgagor's property or assets. The Note and this Mortgage when executed and delivered by Mortgagor will constitute the legal, valid and binding obligations of Mortgagor, and those of other obligors named therein, if any, in accordance with their respective terms.
- C. All other information, reports, papers and data given to Bank with respect to Mortgagor or to others collected under the terms of this Mortgage are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Bank a true and accurate knowledge of the subject matter.
- D. Mortgagor has not changed its name within the last 8 years, unless otherwise disclosed in writing; other than the trade names or fictitious names actually disclosed to Bank prior to execution of this Mortgage, Mortgagor uses no other names; and until the Obligations shall have been paid in full, Mortgagor hereby covenants and agrees to preserve and keep in full force and effect its existing name, corporate existence, rights, franchises and trade names.

8. ASSIGNMENT OF LEASES AND RENTS. Mortgagor hereby absolutely assigns as additional security all present and future leases, and rents, issues and profits. Mortgagor also covenants and agrees to keep, observe and perform, and to require that the tenants keep, observe and perform, all of the covenants, agreements and provisions of any present or future leases of the Property. In case Mortgagor shall neglect or refuse to do so, then Bank may, at Bank's option, perform and comply with, or require performance and compliance by the tenants, with any such lease covenants, agreements and provisions. Any sums expended by Bank in performance or compliance therewith or in enforcing such performance or compliance by the tenants (including costs, expenses, attorneys' fees and paralegal fees) shall accrue interest from the date of such expenditures at the same rate as the Obligations and shall be paid by Mortgagor to Bank upon demand and shall be deemed a part of the debt and Obligations and recoverable as such in all respects.

In addition to the covenants and terms herein contained and not in limitation thereof, Mortgagor covenants that Mortgagor will not in any case cancel, abridge or otherwise modify tenancies, subtenancies, leases or subleases of the Property or accept prepayments of installments of rent to become due thereunder. The Obligations shall become due at the option of Bank if Mortgagor fails or refuses to comply with the provisions of this paragraph. Each lease of the Property shall provide that, in the event of enforcement by Bank of the remedies provided for by law or by this Mortgage, any person succeeding to the interest of Mortgagor as a result of such enforcement shall not be bound by any payment of rent or additional rent for more than one month in advance. All leases made with tenants of the Property shall provide that their lease securities shall be

Mortgagor
DIETZ, LEROY J.

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** READ ANY PAGE WHICH FOLLOWS FOR ANY REMAINING PROVISIONS.**

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treated as trust funds not to be commingled with any other funds of Mortgagor and Mortgagor shall on demand furnish to Bank satisfactory evidence of compliance with this provision together with a verified statement of all lease securities deposited by the tenants and copies of all leases.

- 9. **EVENTS OF DEFAULT.** Mortgagor shall be in default upon the occurrence of any of the following events, circumstances or conditions (Events of Default):
 - A. Failure by any party obligated on the Obligations to make payment when due thereunder; or
 - B. A default or breach under any of the terms of this Mortgage, the Note, any construction loan agreement or other loan agreement, any security agreement, mortgage, deed to secure debt, deed of trust, trust deed, or any other document or instrument evidencing, guaranteeing, securing or otherwise relating to the Obligations; or
 - C. The making or furnishing of any verbal or written representation, statement or warranty to Bank which is or becomes false or incorrect in any material respect by or on behalf of Mortgagor, Borrower, or any one of them, or any co-signor, endorser, surety or guarantor of the Obligations; or
 - D. Failure to obtain or maintain the insurance coverages required by Bank, or insurance as is proper for the Property or Collateral (as hereinafter defined); or
 - E. The death, dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Mortgagor, Borrower, or any one of them, or any co-signor, endorser, surety or guarantor of the Obligations; or
 - F. A good faith belief by Bank at any time that Bank is insecure with respect to Borrower, or any co-signor, endorser, surety or guarantor, that the prospect of any payment is impaired or that the Property or Collateral (as hereinafter defined) is impaired; or
 - G. Failure to pay and provide proof of payment of any tax, assessment, rent, insurance premium or overdraw on or before its due date; or
 - H. A transfer of a substantial part of Mortgagor's money or property; or
 - I. If all or any part of the Property or any interest therein is sold, leased or transferred by Mortgagor except as permitted in the paragraph below entitled "DUE ON SALE OR ENCUMBRANCE".

10. **REMEDIES ON DEFAULT.** At the option of Bank, all or any part of the principal of, and accrued interest on, the Obligations shall become immediately due and payable without notice or demand, upon the occurrence of an Event of Default or at any time thereafter. In addition, upon the occurrence of any Event of Default, Bank, at its option, may immediately foreclose and may immediately invoke any or all other remedies provided in the Note, Mortgage or Related Documents. All rights and remedies are distinct, cumulative and not exclusive, and Bank is entitled to all remedies provided by law or equity, whether or not expressly set forth.

- 11. **DUE ON SALE OR ENCUMBRANCE.** Bank may, at Bank's option, declare the entire balance with all accrued interest on the Obligations to be immediately due and payable upon the creation of any lien, encumbrance, transfer, sale or contract to transfer or sell the Property, or any portion thereof, by Mortgagor, except as stated below. The following events shall not cause the Obligations to be immediately due and payable:
 - A. the creation of a lien or other encumbrance subordinate to Bank's security instrument which does not relate to a transfer of rights of occupancy in the Property;
 - B. the creation of a purchase money security interest for household appliances;
 - C. a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;
 - D. the granting of a leasehold interest of three years or less not containing an option to purchase;
 - E. a transfer to a relative resulting from the death of Mortgagor;
 - F. a transfer where the spouse or children of Mortgagor becomes an owner of the Property;
 - G. a transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of Mortgagor becomes an owner of the Property;
 - H. a transfer into an inter vivos trust in which Mortgagor is and remains a co-fiduciary and which does not relate to a transfer of rights of occupancy in the Property, assignment of beneficial interest or direction to execute; or
 - I. any other transfer or disposition described in regulations prescribed by the Office of Thrift Supervision on account of which a lender is prohibited from exercising a due-on-sale clause.

In the preceding paragraph, the term "Property" also includes any interest in all or any part of the Property; the phrase "sells or transfers" means the conveyance of any right, title or interest in the Property, whether voluntary or involuntary, by contract, sale, deed, installment contract, lease, contract, contract for deed, leasehold interest with a term greater than 3 years, lease-option contract, or any other method of conveyance of the Property interests; the term "interest" includes, whether legal or equitable, any right, title, interest, lien, claim, encumbrance or proprietary right, charge or incense, any of which is superior to the lien created by this Mortgage. This covenant shall run with the Property and shall remain in effect until the Obligations and this Mortgage are fully paid. Bank may impose conditions on such consent to transfer, sale or encumbrance, including, but not limited to, a fee therefor, an adjustment in the interest rate, a modification in any term of the Note or the payment plan, and an alteration in the prepayment privilege. Lapse of time or the acceptance of payments by Bank after any such transfer shall not be deemed a waiver or outloppel of Bank's right to accelerate the Note. If Bank exercises such option to accelerate, Bank shall mail, by certified mail or otherwise, Mortgagor notice of acceleration to the address of Mortgagor shown on Bank's records; the notice shall provide for a period of not less than 30 days from the date the notice is mailed within which Mortgagor shall pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Bank may, without further notice or demand on Mortgagor, invoke any remedies permitted on Default.

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- 12. **POSSESSION ON FORECLOSURE.** If an action is brought to foreclose this Mortgage for all or any part of the Obligations, Mortgagor agrees that the Bank shall be entitled to immediate possession as Mortgagor in possession of the Property to the extent not prohibited by law, or the court may appoint, and Mortgagor hereby consents to such appointment, a receiver to take possession of the Property and to collect and receive rents and profits arising therefrom. Any moneys so collected shall be used to pay taxes on, provide insurance for, pay costs of needed repairs and for any other expenses relating to the Property or the foreclosure proceedings, sale expenses or as authorized by the court. Any sum remaining after such payments will be applied to the Obligations.
- 13. **PROPERTY OBLIGATIONS.** Mortgagor shall promptly pay all taxes, assessments, levies, water rents, other rents, insurance premiums and all amounts due on any encumbrances, if any, as they become due. Mortgagor shall provide written proof to Bank of such payment(s).
- 14. **INSURANCE.** Mortgagor shall insure and keep insured the Property against loss by fire, and other hazard, casualty and loss, with extended coverage including but not limited to the replacement value of all improvements, with an insurance company acceptable to Bank and in an amount acceptable to Bank. Such insurance shall contain the standard "Mortgagee Clause" and where applicable, "Loss Payee Clause", which shall name and endorse Bank as mortgagee and loss payee. Such insurance shall also contain a provision under which the insurer shall give Bank at least 10 days notice before the cancellation, termination or material change in coverage.

If an insurer elects to pay a fire or other hazard loss or damage claim rather than to repair, rebuild or replace the Property lost or damaged, Bank

shall have the option to apply such insurance proceeds upon the Obligations secured by this Mortgage or to have said Property repaired or rebuilt. Mortgagor shall deliver or cause to deliver evidence of such coverage and copies of all notices and renewals relating thereto. Bank shall be entitled to pursue any claim under the insurance if Mortgagor fails to promptly do so.

Mortgagor shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates. In the event Mortgagor fails to pay such premiums, Bank may, at its option, pay such premiums. Any such payment by Bank shall be repayable upon demand of Bank or if no demand is made, in accordance with the paragraph below titled "BANK MAY PAY".

15. **INSURANCE ON CONDOMINIUM UNIT.** So long as the condominium association maintains a "master" or "blanket" hazard insurance policy (the "Association Policy") acceptable to Bank, Mortgagor's obligation to maintain hazard insurance coverage on the Property is satisfied by the Association Policy to the extent that the coverage required is provided in the Association Policy. Mortgagor shall notify Bank promptly of any lapse in the Association Policy. If, in accordance with the declaration of condominium, following a casualty loss to the Property or the common elements of the condominium, the proceeds of the Association Policy are distributed to the unit owners in lieu of restoration and repair of the casualty damage, all proceeds payable to Mortgagor are assigned to and shall be paid directly to Bank for application to the reduction of the Obligations, with the excess, if any, paid to Mortgagor.
16. **WASTE.** Mortgagor shall not alienate or encumber the Property to the prejudice of Bank, or commit, permit or suffer any waste, impairment or deterioration of the Property, and regardless of natural depreciation, shall keep the Property and all its improvements at all times in good condition and repair. The term "waste" is used herein in its traditional sense and further, specifically includes, but is not limited to, hazardous waste. The term "hazardous waste" as used herein, includes, but is not limited to, hazardous and/or toxic waste, substances, pollutants and/or contaminants. Mortgagor shall comply with and not violate any and all laws and regulations regarding the use, ownership and occupancy of the Property. Mortgagor shall perform and abide by all obligations and restrictions under any declarations, covenants and other documents governing the use, ownership and occupancy of the Property.
17. **CONDITION OF PROPERTY.** As to the Property, Mortgagor shall:
- keep all buildings occupied and keep all buildings, structures and improvements in good repair.
 - refrain from the commission or allowance of any acts of waste or impairment of the value of the Property or improvements thereon.
 - not cut or remove, or permit to be cut or removed, any wood or timber from the Property, which cutting or removal would adversely affect the value of the Property.
 - not permit the Property to become subject to or contaminated by or with waste.
 - prevent the spread of noxious or damaging weeds, preserve and prevent the erosion of the soil and continuously practice approved methods of farming on the Property if used for agricultural purposes.

To the best of Mortgagor's knowledge, the Property does not contain hazardous and/or toxic waste, substances, pollutants and/or contaminants. Mortgagor makes this affirmative warranty fully intending Bank to rely upon it in extending the Loan to Borrower.

18. **SPECIAL INDEMNIFICATION.** Mortgagor agrees to protect, indemnify, defend and hold harmless Bank to the fullest extent possible by law and not otherwise, from and against all claims, demands, causes of action, suits, losses, damages (including, without limitation, punitive damages, if permitted by law), violations, environmental response and/or clean-up, costs, fines, penalties and expenses, including, without limitation, reasonable attorneys' fees, costs and expenses incurred in investigating and defending against the assertion of such liabilities, as such fees, costs and expenses are incurred, of any nature whatsoever, which may be sustained, suffered or incurred by Bank based upon, without limitation: the ownership and/or operation of the Property and all activities relating thereto; any knowing or material misrepresentation or material breach of warranty by Mortgagor; any violations of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and any other applicable federal, state or local rule, ordinance or statute; the clean-up or removal of hazardous waste or evaluation and investigation of the release or threat of release of hazardous waste; any loss of natural resources including damages to air, surface or ground water, soil and biota; and any private suits or court injunctions.
19. **INSPECTION BY BANK.** Bank or its agents may make or cause to be made reasonable entries upon the Property and inspect the Property provided that Bank shall make reasonable efforts to give Mortgagor prior notice of any such inspection.
20. **PROTECTION OF BANK'S SECURITY.** If Mortgagor fails to perform any covenant, obligation or agreement contained in the Note, this Mortgage or any loan documents or if any action or proceeding is commenced which materially affects Bank's interest in the Property, including, but not limited to, foreclosure, eminent domain, insolvency, housing or environmental code or law enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Bank, at Bank's sole option, may make such appearances, disburse such sums, and take such action as is necessary to protect Bank's interest. Mortgagor hereby assigns to Bank any right Mortgagor may have by reason of any prior encumbrance on the Property or by law or otherwise to cure any default under said prior encumbrance. Without Bank's prior written consent, Mortgagor will not partition or subdivide the Property. Without Bank's prior written consent, Mortgagor will not consent to the abandonment or termination of the condominium (except for abandonment or termination provided for by law following substantial destruction of the condominium improvements resulting by condemnation), any amendment to the declaration of condominium, bylaws, or rules and regulations of the condominium association, the termination of professional management of the condominium association (if any), or any action rendering the condominium association's public liability insurance unacceptable to Bank. Mortgagor shall take all actions reasonably necessary to ensure that the condominium association maintains a public liability insurance policy acceptable to Bank in form, amount, and extent of coverage.
21. **COLLECTION EXPENSES.** In the event of any default or action by Bank for collection of the Obligations, for protection of the Property or for foreclosure, Mortgagor agrees to pay all fees and expenses incurred by Bank. Such fees and expenses include but are not limited to filing fees, attorney's fees, witness fees, costs of publication, foreclosure minutes, and other expenses of collecting, enforcing and protecting the Property and Obligations. Any such collection expenses shall be added to the principal amount of the Obligations, shall accrue interest at the same rate as the Obligations and shall be secured by this Mortgage.
22. **ATTORNEYS' FEES.** In the event of any default or action by Bank for collection of the Obligations, for protection of the Property or for foreclosure, Mortgagor agrees to pay reasonable attorneys' fees, paralegal fees and other legal expenses incurred by Bank. Any such reasonable attorneys' fees shall be added to the principal amount of the Obligations, shall accrue interest at the same rate as the Obligations and shall be secured by this Mortgage.
23. **CONDEMNATION.** In the event all or any part of the Property (including but not limited to any easement therein) is sought to be taken by private taking or by virtue of the law of eminent domain, Mortgagor will promptly give written notice to Bank of the institution of such proceedings. Mortgagor further agrees to notify Bank of any attempt to purchase or appropriate the Property or any easement therein, by any public authority or by any other person or corporation claiming or having the right of eminent domain or appropriation. Mortgagor further agrees and directs that all

condemnation proceeds or purchase money which may be agreed upon or which may be found to be due shall be paid to Bank as a prepayment under the Note. Mortgagor also agrees to notify the Bank of any proceedings instituted for the establishment of any sewer, water, conservation, ditch, drainage, or other district relating to or binding upon the Property or any part thereof. All awards payable for the taking of title to, or possession of, or damage to all or any portion of the Property by reason of any private taking, condemnation, eminent domain, change of grade, or other proceeding shall, at the option of Bank, be paid to Bank. Such awards or compensation are hereby assigned to Bank, and judgment therefor shall be entered in favor of Bank.

When paid, such awards shall be used, at Bank's option, toward the payment of the Obligations or payment of taxes, assessments, repairs or other items provided for in this Mortgage, whether due or not, all in such order and manner as Bank may determine. Such application or release shall not cure or waive any default. In the event Bank deems it necessary to appear or answer in any condemnation action, hearing or proceeding, Mortgagor shall hold Bank harmless from and pay all legal expenses, including but not limited to reasonable attorneys' fees and paralegal fees, court costs and other expenses.

24. **OTHER PROCEEDINGS.** If any action or proceeding is commenced to which Bank is made or chooses to become a party by reason of the execution of the Note, this Mortgage, any loan documents or the existence of any Obligations or in which Bank deems it necessary to appear or answer in order to protect its interests, Mortgagor agrees to pay and to hold Bank harmless for all liabilities, costs and expenses paid or incurred by Bank in such action or proceedings, including but not limited to reasonable attorneys' fees, paralegal fees, court costs and all other damages and expenses.

25. **WAIVER BY MORTGAGOR.** To the extent not specifically prohibited by law, Mortgagor hereby waives and releases any and all rights and remedies Mortgagor may now have or acquire in the future relating to:

- A. homestead;
- B. exemptions as to the Property;
- C. appraisalment;
- D. marshalling of liens and assets; and
- E. statutes of limitations.

In addition, redemption by Mortgagor after foreclosure sale is expressly waived to the extent not prohibited by law.

26. **PARTIAL FORECLOSURE.** In case of default in the payment of the Obligations or in case of payment by Bank of any tax, insurance premium, cost or expense or the filing, imposition or attachment of any lien, judgment or encumbrance, Bank shall have the right, without declaring the whole indebtedness due and payable, to foreclose against the Property or any part thereof on account of such specific default. This Mortgage shall continue as a lien on any of the property not sold on foreclosure for such unpaid balance of the Obligations.

27. **BANK MAY PAY.** If Mortgagor fails to pay when due any of the items it is obligated to pay or fails to perform when obligated to perform, Bank may, at its option:

- A. pay, when due, installments of principal, interest or other obligations, in accordance with the terms of any mortgage or assignment of beneficial interest senior to that of Bank's lien interest;
- B. pay, when due, installments of any real estate tax imposed on the property; or
- C. pay or perform any other obligation relating to the Property which affects, at Bank's sole discretion, the interest of Bank in the Property.

Mortgagor agrees to indemnify Bank and hold Bank harmless for all the amounts so paid and for Bank's costs and expenses, including reasonable attorneys' fees and paralegal fees.

Such payments when made by Bank shall be added to the principal balance of the Obligations and shall bear interest at the rate provided for by the Note as of the date of such payment. Such payments shall be a part of this lien and shall be secured by this Mortgage, having the benefit of the lien and its priority. Mortgagor agrees to pay and to reimburse Bank for all such payments.

28. **EXONERATION AND DISCLAIMER.** This Mortgage is executed by Mortgagor who is acting, not in a personal capacity, but solely as trustee under Trust 2119 in the exercise of the power and authority conferred upon and vested in it as trustee. Mortgagor warrants that Mortgagor possesses full power and authority to execute this Mortgage. It is expressly understood and agreed that nothing contained in the Obligations or this Mortgage shall be construed as creating any liability on Mortgagor, either personally or as mortgagor, for the repayment or performance of the Obligations whatsoever. All such liability, if any, is expressly waived as to Mortgagor by Mortgagee, and so far as Mortgagor is concerned, Mortgagee shall look solely to the Property for the payment thereof by enforcement of the lien created by this Mortgage or by action to enforce the personal liability of the co-signer, maker, endorser or guarantor, if any. Mortgagee accepts this Mortgage upon the express conditions set forth herein and further acknowledges and agrees that Mortgagor is under no duty to equitize the rents, issues and profits arising from the Property or the proceeds arising from the sale or other disposition.

29. **GENERAL PROVISIONS.**

- A. **TIME IS OF THE ESSENCE.** Time is of the essence in Mortgagor's performance of all duties and obligations imposed by this Mortgage.
- B. **NO WAIVER BY BANK.** Bank's course of dealing, or Bank's forbearance from, or delay in, the exercise of any of Bank's rights, remedies, privileges or right to insist upon Mortgagor's strict performance of any provisions contained in this Mortgage, or other loan documents, shall not be construed as a waiver by Bank, unless any such waiver is in writing and is signed by Bank. The acceptance by Bank of any sum in payment or partial payment on the Obligations after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Bank's right to require full and complete cure of any existing default for which such actions by Bank were taken or its right to require prompt payment when due of all other remaining sums due under the Obligations, nor will it cure or waive any default not completely cured or any other defaults, or operate as a defense to any foreclosure proceedings or deprive Bank of any rights, remedies and privileges due Bank under the Note, this Mortgage, other loan documents, the law or equity.
- C. **AMENDMENT.** The provisions contained in this Mortgage may not be amended, except through a written amendment which is signed by Mortgagor and Bank.
- D. **GOVERNING LAW.** This Mortgage shall be governed by the laws of the State of ILLINOIS, provided that such laws are not otherwise preempted by federal laws and regulations.
- E. **FORUM AND VENUE.** In the event of litigation pertaining to this Mortgage, the exclusive forum, venue and place of jurisdiction shall be in the State of Illinois, unless otherwise designated in writing by Bank or otherwise required by law.
- F. **SUCCESSORS.** This Mortgage shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties.
- G. **NUMBER AND GENDER.** Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

ED HERETO AND MADE A PART HEREOF.

- H. DEFINITIONS. The terms used in this Mortgage, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously, or in conjunction, with this Mortgage.
- I. PARAGRAPH HEADINGS. The headings at the beginning of each paragraph, and each sub-paragraph, in this Mortgage are for convenience only and shall not be dispositive in interpreting or construing this Mortgage or any part thereof.
- J. IF HELD UNENFORCEABLE. If any provision of this Mortgage shall be held unenforceable or void, then such provision shall be deemed severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of this Mortgage.
- K. CHANGE IN APPLICATION. Mortgagor will notify Bank in writing prior to any change in Mortgagor's name, address, or other application information.
- L. NOTICE. All notice under this Mortgage must be in writing. Any notice given by Bank to Mortgagor hereunder will be effective upon personal delivery or 24 hours after mailing by first class United States mail, postage prepaid, addressed to Mortgagor at the address indicated below Mortgagor's name on page one of this Mortgage. Any notice given by Mortgagor to Bank hereunder will be effective upon receipt by Bank at the address indicated below Bank's name on page one of this Mortgage. Such address may be changed by written notice to the other party.
- M. FILING AS FINANCING STATEMENT. Mortgagor agrees and acknowledges that this Mortgage also suffices as a financing statement and as such, may be filed of record as a financing statement for purposes of Article 9 of the ILLINOIS Uniform Commercial Code. A carbon, photographic or other reproduction of the Mortgage is sufficient as a financing statement.

30. ACKNOWLEDGMENT. By the signature(s) below, Mortgagor acknowledges that this Mortgage has been read and agreed to and that a copy of this Mortgage has been received by the Mortgagor.

MORTGAGOR:

AMERICAN NATL BANK & TRUST CO. OF WAUKEGAN TRUST #2119

By: _____

As Trustee

STATE OF ILLINOIS

COUNTY OF LAKE

on:

On this _____ day of _____, 19____, I, _____, a notary public, certify that, as Trustee, for AMERICAN NATL BANK & TRUST CO. OF WAUKEGAN TRUST #2119, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that (he/she) signed and delivered the instrument as (his/her) free and voluntary act, for the uses and purposes set forth.
My commission expires: _____

NOTARY PUBLIC

This document was prepared by THE BANK OF HIGHWOOD, 10 Highwood Avenue, Highwood, Illinois 60040.

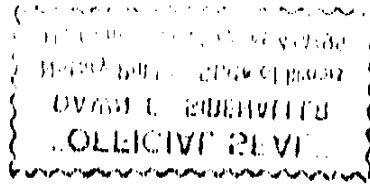
Please return this document after recording to THE BANK OF HIGHWOOD, 10 Highwood Avenue, Highwood, Illinois 60040.

THIS IS THE LAST PAGE OF A 6 PAGE DOCUMENT. EXHIBITS AND/OR ADDENDA MAY FOLLOW.

91264435

UNOFFICIAL COPY

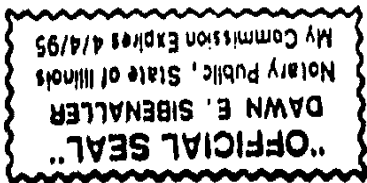
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Property of Cook County Clerk's Office

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UNOFFICIAL COPY



Notary Public

[Signature]

Given under my hand and Notarial seal this 13th day of May, 1991

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that David B. Desalvo Vice President & Trust Officer of American National Bank & Trust Company of Waukegan, Illinois, and Sharon A. Busby, Asst. Vice President of said bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument and such officers appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Asst. Vice President then and there acknowledged that said Asst. Vice President as custodian of the corporate seal of said bank, did affix the corporate seal of said bank to said instrument as said Asst. Vice President on free and voluntary act and as the free and voluntary act of said bank, as Trustee as aforesaid, for the uses and purposes therein set forth.

STATE OF ILLINOIS |
COUNTY OF LAKE |

91264435

By *[Signature]*
Vice President & Trust Officer
Asst. Vice President

American National Bank & Trust Company
of Waukegan, not personally but as Trustee
under Trust No. 2419

IN WITNESS WHEREOF, AMERICAN NATIONAL BANK & TRUST COMPANY OF WAUKEGAN, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Vice President & Trust Officer and its corporate seal to be hereunto affixed and attested by its Asst. Vice President, the 13th day of May, 1991.

THIS INSTRUMENT IS EXECUTED BY THE UNDERSIGNED LAND TRUSTEE, NOT PERSONALLY BUT SOLELY AS TRUSTEE IN THE EXERCISE OF THE POWER AND AUTHORITY CONFERRED UPON AND VESTED IN IT AS TRUSTEE. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ALL OF THE WARRANTIES, COVENANTS, REPRESENTATIONS, UNDERTAKINGS AND AGREEMENTS HEREIN MADE ON THE PART OF THE TRUSTEE ARE UNDERTAKEN BY IT SOLELY IN ITS CAPACITY AS TRUSTEE AND NOT PERSONALLY. IT IS FURTHER UNDERSTOOD AND AGREED THAT THE TRUSTEE HEREBY HOLDS TITLE TO THE PROPERTY HEREIN DESCRIBED AND HAS NO AGENTS, EMPLOYEES OR CONTROL OVER THE MANAGEMENT OF THE PROPERTY AND NO KNOWLEDGE OF OTHER FACTUAL MATTERS EXCEPT AS REPRESENTED TO IT BY THE BENEFICIARIES OF THE TRUST. NO PERSONAL LIABILITY OR PERSONAL RESPONSIBILITY IS ASSUMED BY OR SHALL AT ANY TIME BE ASSERTED OR ENFORCEABLE AGAINST THE TRUSTEE ON ACCOUNT OF ANY WARRANTY, COVENANT, REPRESENTATION, UNDERTAKING OR AGREEMENT OF THE TRUSTEE IN THIS INSTRUMENT, ALL SUCH LIABILITY BEING EXPRESSLY WAIVED BY EVERY PERSON NOW HEREAFTER CLAIMING ANY RIGHT OR SECURITY HEREUNDER; AND THE OWNER OF ANY INTERESTS OR CAUSE OF ACTION FOR BREACH OF ANY WARRANTY, INDEMNITY, REPRESENTATION, COVENANT, UNDERTAKING OR AGREEMENT ACCRUING HEREUNDER SHALL LOOK SOLELY TO THE TRUST ESTATE FOR THE PAYMENT THEREOF.

SEE TRUSTEE'S RIDER ATTACH