

# UNOFFICIAL COPY

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## FLOATING RATE NOTE AND MORTGAGE ASSIGNMENT OF RENTS SECURITY AGREEMENT THIRD MODIFICATION AGREEMENT

This Floating Rate Note and Mortgage, Assignment of Rents and Security Agreement Third Modification Agreement (the "Agreement") is made as of the 1st day of July, 1991 by and among American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated May 16, 1988 and known as Trust Number 105403-00 ("Borrower/Mortgagor"), and Old Kent Bank - Chicago, Illinois banking association ("OKBC");

CHIEF OF RECORDING \$21.00  
T#2222 TRAN 5187 08/02/91 14:39:00  
#1748 # B \* -91-391499  
COOK COUNTY RECORDER

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### WITNESSETH:

WHEREAS, OKBC has loaned ONE MILLION TWO HUNDRED THOUSAND and 00/100 Dollars (\$1,200,000.00) to Borrower (the "Loan"); and

WHEREAS, the Loan is evidenced by a Note dated July 5, 1989, made by Borrower in the Principal Amount of One Million Two Hundred Thousand and 00/100 Dollars (\$1,200,000.00) (the "Note"); a copy of which is attached hereto; and

WHEREAS, the Note is secured by a Mortgage, Assignment of Rents and Security Agreement dated July 5, 1989 to OKBC and Recorded August 11, 1989 in the office of the Recorder of Cook County, Illinois as Document Number 89373094 (the "Mortgage"), which Mortgage encumbers the property described in Exhibit A attached hereto; and

WHEREAS, the Note and Mortgage, were modified by a First Modification Agreement ("First Modification"); and

WHEREAS, the Note and Mortgage, were modified by a Second Modification Agreement ("Second Modification"); and

WHEREAS, the Borrower has requested and OKBC has agreed to increase the loan to One Million Five Hundred Thirty Thousand and 00/100 Dollars. (\$1,530,000.00); and

WHEREAS, the Borrower has requested and OKBC has agreed to modify the terms and conditions of the Note and Mortgage, in accordance with the terms and conditions herein contained;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, Borrower, and OKBC agree as follows:

1. The date "July 10, 1990" (the "Former Maturity Date"), whenever it appears in the Note and Mortgage, is hereby deleted and the date "July 1, 1991" wherever it appears in the Note and Mortgage by reason of the Second Modification is hereby deleted and "July 1, 1992 (the "New Maturity Date") is substituted therefor, thereby extending the maturity date of the Note to the New Maturity Date.

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2. Notwithstanding any provisions of the Note which may be for appear to be to the contrary, from and after the July 1, 1991 until the full amount of the principal indebtedness evidenced by the Note becomes due, whether by acceleration or otherwise, the Note shall bear interest at and annual rate of Prime Rate plus (1%) percent floating; provided, however, that any payment of principal or interest which is not paid when due, whether by acceleration or otherwise, shall bear interest at an annual rate of Index Rate Plus 5% floating.
3. Notwithstanding any provisions of the Note which may be or appear to be to the contrary, from and after the date of this Agreement and continuing until the full amount of the principal indebtedness evidenced by the Note becomes due, whether by acceleration or otherwise, the monthly payments of interest only to be paid by Borrower under the Note shall be based on the then outstanding principal balance and is payable on the Tenth day of each month.
4. The Borrower hereby acknowledges that, as of the date of this Agreement, the outstanding principal balance owed under the Note is One Million Fourty Six Thousand Eight Hundred Fifty Five and 00/100 Dollars, (\$1,046,855.82) and interest owed under the Note which is due as of the date of this Agreement is Four Thousand Six Hundred Ninety Six and 31/100 Dollars. (\$4,096.31).
5. As used in the Note and Mortgage, the terms "Note" and "Mortgage" shall mean and include each of said instruments, respectively, as supplemented and modified by this Agreement.
6. As supplemented and modified hereby each of the Note and Mortgage, is hereby ratified, adopted and confirmed.

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be executed as of the day and year first written above.

OLD KENT BANK - CHICAGO,

BY: \_\_\_\_\_

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

Vice -

President

AGENT:

Real Estate Loan Officer

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Borrower  
American National Bank and Trust Company  
of Chicago, as Trustee under Trust  
Agreement dated May 16, 1988 and known  
as Trust Number 105403-00.

This instrument is executed by the undersigned and Trustee, not personally but solely as Trustee in the exercise of the power and authority vested in and vested in it as such Trustee. It is expressly understood that the undersigned, in executing, in signing, in representations, covenants, conditions, warranties and agreements on the part of the Trustee are under no duty, obligation, liability, and not personally. No personal liability or personal responsibility, or liability, or that it may have assumed or enforceable against the Trustee for execution of any warranty, indemnity, representation, covenant, undertaking or agreement on the part of the instrument.

BY: [Signature]

Its: UP

ATTEST: [Signature]  
Its: Asst Secy

State of Illinois  
County of Cook ~~XXXXXX~~ BORROWER

I, L. M. Soviński, a Notary Public in and for said County and State, do hereby certify that the above named ~~XXXXXXXXXXXX~~ President and Anita M. Lutkus Secretary of American National Bank and Trust Company of Chicago personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such ~~XXXXXXXXXXXX~~ President and ASSISTANT SECRETARY respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

Given under my hand and official seal, this JUL 25 1991 day of JULY, 1991..

[Signature]  
Notary Public

My commission expires: \_\_\_\_\_



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STATE OF ILLINOIS)

LENDERS

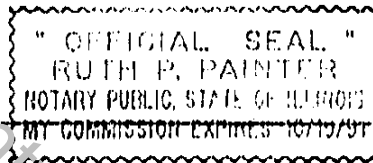
COUNTY OF DuPage)

I, Ruth P. Painter, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Robert Burke, Vice President of Old Kent Bank, Chicago and James West, Real Estate Loan Officer Secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Real Estate Loan Officer Secretary, respectively, 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, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 30 day of July, 1991.

Ruth P. Painter  
Notary Public

My Commission Expires:



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## EXHIBIT A

All of Block 15 in G. Webster's Subdivision of the East 1/2 of the Northwest 1/4 of Section 34, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN #20-34-115-001

Property Address 8130 S. Prairie Ave.  
Chicago, Illinois

This Document was prepared by:

Old Kent Bank - Chicago  
Sears Tower  
Chicago, IL 60606

Attn: James West

Return to Box ~~124~~ 15

Property of Cook County Clerk's Office

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## SECURED PROMISSORY NOTE

\$1,200,000.00

July 5, 1989.

FOR VALUE RECEIVED, the undersigned, American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated May 16, 1988 and known as Trust Number 105401-00, ("Borrowers") hereby promises to pay to the order of Old Kent Bank - Chicago, an Illinois banking association (the "Bank"), at its principal office and place of business at Sears Tower, Chicago, Illinois 60606, or at such other place as the holder hereof may from time to time direct, on or before the Maturity Date (hereinafter defined), the principal sum of ONE MILLION TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,200,000.00) or such lesser amount thereof as may be advanced together with interest thereon as herein provided.

The unpaid principal amount from time to time outstanding from the initial disbursement to the date on which the entire principal balance of this Note becomes due and payable, by acceleration or otherwise, shall bear interest at the rate per annum equal to the sum of the Banks Prime Rate (hereinafter defined) plus one percent (1%) floating. As used herein the term "Prime Rate" shall mean the rate of interest from time to time published by the Wall Street Journal. If the Wall Street Journal ceases to publish the prime rate then the prime rate will be that Prime Rate announced by the First National Bank of Chicago as its prime rate. The loan shall be payable interest only monthly on the then outstanding principal amount and shall be payable on the Tenth day of each and every calendar month commencing with the Tenth day of the first calendar month immediately following the initial disbursement of the loan and on the Tenth day of each and every calendar month thereafter with a final payment of unpaid principal together with interest due and accrued payable on July 10, 1990. If the required payment is not received within ten days of the due date then a late charge equal to 5% of the monthly payment will also become payable.

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Interest hereunder shall be computed on the actual number of days elapsed on the basis of a 360 day year. As used herein the term Maturity Date shall mean July 10, 1990 or such earlier date on which the entire principal amount evidenced by this Note shall be paid or be required to be paid in full, whether pursuant to the provisions of the following sentence, by prepayment, acceleration or otherwise.

Any prepayment of the full principal amount owing hereunder shall include all accrued and unpaid interest. All payments on the account of the indebtedness evidenced hereby shall first be applied to interest on the unpaid principal balance which is due and payable and the remainder shall be applied to principal, except that if advances made by the holder hereof under the terms of any instrument securing the Note have not been repaid, any monies received on account of the indebtedness evidenced hereby may, at the option of such holder, be applied first to repay such advances and interest thereon, and the balance, if any, applied to accrued and unpaid interest and the remainder to principal.

If any amount owing under this Note or in connection with the indebtedness evidenced hereby is not paid when due, whether at maturity or by acceleration, the Borrower promises to pay all costs of collection, including, but not limited to, reasonable attorneys' fees, and all reasonable expenses incurred in connection with the protection or realization of any security given for the payment hereof, incurred by the holder on account of such collection, whether or not suit is filed hereon.

Additionally, after the Maturity Date or in the event of any default under this Note (the Occurrence of any default described in the second following paragraph being deemed a default hereunder), the interest rate provided for herein shall immediately, without notice, become the rate per annum equal to the sum of the Bank's Prime Rate plus five percent (5%) floating. Without limitation to the foregoing, should interest not be paid when due; it shall, to the extent permitted by law, or regulatory agency bear like interest as principal.

No delay on the part of the Bank in the exercise of any right or remedy shall operate as a waiver thereof. The Bank's remedies are cumulative and no single or partial exercise of any right or remedy available to the Bank shall preclude other or further exercise thereof or the exercise of any other right or remedy.

This loan may be prepaid in whole or in part at any time without premium or penalty.

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This Note is secured by and entitled to the benefits of, among other things, a Mortgage, of even date herewith (the "Mortgage") from the Borrower in favor of the bank to which Mortgage reference is hereby made for a description of the property covered thereby and the nature and extent of the security. In case an event of default, as described in the Mortgage, shall occur and be continuing for a period of ten (10) days with regard to monetary defaults and thirty (30) days with regard to non-monetary defaults, following written notice including, without limitation, a failure to make any payments provided for herein, the principal of this Note, together with all accrued interest thereon, may at the option of the holder hereof, and without further demand or notice of any kind immediately become due and payable.

All notices, demands and requests required or desired to be given hereunder shall be in writing and shall be delivered in person or by United States registered or certified mail, return receipt request, postage prepaid, addressed as follows:

If to the Borrower: D.J. Travis Development Co.  
840 E. 87th Street  
Chicago, Illinois 60614

If to the Bank: Old Kent Bank - Chicago  
Sears Tower  
Chicago, Il. 60605  
Attn: James West

or at such changed address as may from time to time be designated by the party to be addressed by written notice to the other in the manner herein provided. Notices, demands and requests given by mail in the manner aforesaid shall be deemed sufficiently served or given for all purposes hereunder two (2) days after the day such notice, demand or request shall be deposited in the mails aforesaid.

The Borrower and all sureties, endorsers and guarantors of this Note, severally, (a) waived demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notice, filing of suit and diligence in collecting this Note or enforcing any of the security therefor, (b) agree to any substitutions, exchange or release of any party primarily or secondarily liable hereon, (c) agree that the bank or other holder hereof shall not be required first to institute suit or exhaust its remedies hereon against the Borrower or other liable or to become liable hereon or to enforce its rights against any security therefor in order to enforce payment of this Note by them, (d) consent to any extension or postponement of time of payment of this Note and to any other indulgence with



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respect hereto without notice thereof to any of them, and (e) agree that the failure to exercise any option or election herein provided upon the occurrence of any default in respect hereto shall not be construed as a waiver of the right to exercise such option or election at any later date upon the occurrence of a subsequent default in respect hereto.

The Borrowers represent that the proceeds of this Note will be used for the purposes specified in Section 4(1) (c) of Chapter 17, Paragraph 6404 of the Illinois Revised Statutes, and that the indebtedness evidenced hereby constitutes a business loan which comes within the purview of said Section 4(1) (c).

Borrowers represent and warrant that Borrowers have full power, authority, and legal right to execute and deliver this Note and represents that the debt evidenced hereby constitutes a valid and binding obligation of the borrowers strictly enforceable in accordance with its terms.

This Note shall be governed by the laws of, the State of Illinois, which laws shall also govern and control the construction, enforceability, validity and interpretation of this Note.

This Note shall inure to the benefit of the Bank and its successors and assigns and shall be binding upon borrowers, their heirs, administrators, personal representatives and assigns. Without limiting the generality of the foregoing, the bank (or its successors and assigns) may, from time to time and without notice to or approval of borrowers, transfer, assign, sell, negotiate, grant participation in, pledge or otherwise hypothecate all or any portion of this note without in any way affecting or diminishing the obligations of borrowers hereunder, which shall remain bound by and obligated to perform under and with respect to this note as though there has been no such transfer assignment, sale, negotiation, grant of participations in, pledge, or hypothecation by the bank (or its successors or assigns), provided that from and after any such sale or transfer by the bank (or its successors or assigns) no defenses, offsets or counterclaims which borrowers may have against the then holder of the note shall be valid or effective against such transferee or assignee.

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IN WITNESS WHEREOF, the undersigned has caused this Note to be executed as of the day and year first above written.

American National Bank and Trust Company  
of Chicago, as Trustee under Trust  
Agreement dated 5-16-88 known as Trust  
Number 105403-00, not personally but  
solely as Trustee under Trust Agreement.

BY: [Signature]  
Its: Vice President

Attest: [Signature]  
Its: Assistant Secretary

The terms and conditions contained in this instrument to the contrary notwithstanding this instrument is subject to the provisions of the Trustee's Exculpatory Rider attached hereto and made a part hereof.

This Note is executed by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable only out of the property specifically described in said Mortgage securing the payment hereof, by the enforcement of the provisions contained in said Mortgage. No personal liability shall be asserted or be enforceable against the Trustee promisor because or in respect of this note or the making, issue or transfer thereof, all such liability, if any, being expressly waived by each taker and holder hereof, but nothing herein contained shall modify or discharge the personal liability expressly assumed by the guarantor or co-maker hereof, if any, and such original and successive holder of this note accepts the same upon the express condition that no duty shall rest upon the undersigned to sequester the rents, issues and profits arising from the property described in said Mortgage, or the proceeds arising from the sale or other disposition thereof, but that in case of default in the payment of this note or of any instalment hereof, the sole remedy of the holder hereof shall be by foreclosure of the said Mortgage given to secure the indebtedness evidenced by this note, in accordance with the terms and provisions in said Mortgage set forth or by action to enforce the personal liability of the guarantor or co-maker, if any, of the payment hereof, or both.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO,  
As Trustee as aforesaid and not personally.

By: [Signature]  
Vice President  
ATTEST: [Signature]  
Assistant Secretary

Form 3908 3/87

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