

# UNOFFICIAL COPY

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OAK BROOK BANK  
1400 WEST 16TH STREET  
OAK BROOK, IL 60521

COOK COUNTY, ILLINOIS  
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1992 JUN 23 PM 1:04

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**WHEN RECORDED MAIL TO:**

OAK BROOK BANK  
1400 WEST 16TH STREET  
OAK BROOK, IL 60521

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**SEND TAX NOTICES TO:**

OAK BROOK BANK  
1400 WEST 16TH STREET  
OAK BROOK, IL 60521

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SC 278044

## MORTGAGE

**THIS MORTGAGE IS DATED JUNE 2, 1992, between Cole Taylor Bank/Main, not personally, but as Trustee under Trust Agreement dated April 6, 1988 and known as Trust Number 88134, whose address is 350 E. Dundee Rd., Wheeling, IL (referred to below as "Grantor"); and OAK BROOK BANK, whose address is 1400 WEST 16TH STREET, OAK BROOK, IL 60521 (referred to below as "Lender").**

**GRANT OF MORTGAGE.** For valuable consideration, Grantor not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to Grantor pursuant to a Trust Agreement dated April 6, 1988 and known as 88134, mortgages and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in Cook County, State of Illinois (the "Real Property"):

**SEE ATTACHED EXHIBIT A**

**The Real Property or its address is commonly known as 12 Corey Dr., South Barrington, IL 60010. The Real Property tax identification number is 01-35-202-001.**

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

**Borrower.** The word "Borrower" means Ashwin M. Shah and J. A. Shah.

**Grantor.** The word "Grantor" means Cole Taylor Bank/Main, Trustee under that certain Trust Agreement dated April 6, 1988 and known as 88134. The Grantor is the mortgagor under this Mortgage.

**Guarantor.** The word "Guarantor" means and includes without limitation, each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness.

**Improvements.** The word "Improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means OAK BROOK BANK, its successors and assigns. The Lender is the mortgagee under this Mortgage.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

**Note.** The word "Note" means the promissory note or credit agreement dated June 2, 1992, in the original principal amount of \$300,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Note is a variable interest rate based upon an index. The index currently is 6.500% per annum. The interest rate to be applied to the unpaid principal balance of this mortgage shall be at a rate equal to the index, subject however to the following maximum rate, resulting in an initial rate of 6.500% per annum. **NOTICE:** Under no circumstances shall the interest rate on this Mortgage be more than the lesser of 9.900% per annum or the maximum rate allowed by applicable law. The maturity date of this Mortgage is June 10, 1999. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

**Related Documents.** The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**GRANTOR'S WAIVERS.** Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that: (a) this Mortgage is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power and right to enter into this Mortgage and to hypothecate the Property; (c) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (d) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Borrower shall pay to Lender all Indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall strictly perform all their respective obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor and Borrower agree that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

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MORTGAGE (Continued)

Duty to Maintain. Grantor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Hazardous Substances. The terms "hazardous waste," "hazardous substance," "release," and "treated release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant to any of the foregoing. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in this Mortgage, any release, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property; and (c) Except as previously disclosed to and acknowledged by Lender in this Mortgage, the release, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, or about the Property shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous wastes. Grantor hereby (a) releases and waives any future claims against Lender for indemnification or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same has or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance. Waste. Grantor shall not cause, conduct or permit any nuisance or permit any conduct, use or activity which shall constitute a nuisance, waste, or release of any substance on, under, or about the Property. Specifically without limitation, Grantor will not remove, or grant to any other party the right to remove, any or the Property or any part of the Property. Grantor shall not cause, conduct or permit any excavation, trenching, piling, or other activity involving soil, gravel or rock products, oil and gas, or any other substance to be removed from the Property or any part of the Property without Lender's prior written consent. Removal or improvement. Grantor shall not demolish or remove any improvements from the Real Property without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improved means of at least equal value. Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interest and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage. Compliance with Governmental Requirements. Grantor shall comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may conduct in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest. Duty to Protect. Grantor agrees neither to abandon, nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property. DUE ON SALE - CONSENT BY LENDER. Lender may, at its option, declare immediately due and payable all sums secured by this upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal or equitable; whether voluntarily or involuntarily; whether by outright sale, deed, installment sale contract, and contract, to deed, installment interest, or to a trust holding title to the Real Property, or by any other method of contract, or by sale, assignment, or transfer of any beneficial interest in the Real Property, or by the operation of any law, ordinance, or regulation. If any Grantor is a corporation or partnership, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock or partnership interest, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are a part of this Mortgage. Payment. Grantor shall pay when due (and in all events prior to delinquency), all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against, or on account of the Property, and shall pay when due all claims for work done on or for services rendered or materials furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due and except as otherwise provided in the following paragraphs. Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is levied as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or it released by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security, satisfactory to Lender in an amount sufficient to discharge the lien plus any costs or other charges that could accrue as a result of a foreclosure or sale under the lien, in any contest. Grantor shall defend itself and Lender against any adverse judgment, order or enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings. Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appraiser or governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property. Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is commenced on the Property or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted in a claim for work, services, or materials furnished upon request of Lender to Lender advance assurance satisfactory to Lender that Grantor can and will pay the cost of such improvements. PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage. Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Grantor shall deliver to Lender certificates of coverage containing a form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage containing a form as may be reasonably acceptable to Lender. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgage clause in favor of Lender. Grantor shall deliver to Lender certificates of coverage containing a form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage containing a form as may be reasonably acceptable to Lender. Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage. Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property. Grantor agrees to establish a reserve account to be retained from the loans proceeds in such amount deemed to be sufficient by Lender and shall pay monthly into that reserve account an amount equal to 1/12 of the annual real estate taxes and insurance premiums, as estimated by Lender, so as to provide sufficient funds for the payment of such taxes and insurance premiums one month prior to the date the taxes and insurance premiums become due. The Property may accrue against Lender the amount of the unpaid taxes and insurance charges which may accrue against Lender.

Grantor agrees to establish a reserve account to be retained from the loans proceeds in such amount deemed to be sufficient by Lender and shall pay monthly into that reserve account an amount equal to 1/12 of the annual real estate taxes and insurance premiums, as estimated by Lender, so as to provide sufficient funds for the payment of such taxes and insurance premiums one month prior to the date the taxes and insurance premiums become due. The Property may accrue against Lender the amount of the unpaid taxes and insurance charges which may accrue against Lender. Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property. Grantor agrees to establish a reserve account to be retained from the loans proceeds in such amount deemed to be sufficient by Lender and shall pay monthly into that reserve account an amount equal to 1/12 of the annual real estate taxes and insurance premiums, as estimated by Lender, so as to provide sufficient funds for the payment of such taxes and insurance premiums one month prior to the date the taxes and insurance premiums become due. The Property may accrue against Lender the amount of the unpaid taxes and insurance charges which may accrue against Lender.

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premiums, assessments and other charges, Grantor shall pay the difference on demand of Lender. All such payments shall be carried in an interest-free reserve account with Lender, provided that if this Mortgage is executed in connection with the granting of a mortgage on a single-family owner-occupied residential property, Grantor, in lieu of establishing such reserve account, may pledge an interest-bearing savings account with Lender to secure the payment of estimated taxes, insurance premiums, assessments, and other charges. Lender shall have the right to draw upon the reserve (or pledge) account to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an event of default as described below.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**CONDEMNATION.** The following provisions relating to condemnation of the Property are a part of this Mortgage.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees or Lender in connection with the condemnation.

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Borrower.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default (as defined below), and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage.

**Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Grantor and Borrower under the Note, this Mortgage, and the Related Documents, and (b) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Borrower pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage:

**Default on Indebtedness.** Failure of Borrower to make any payment when due on the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents.

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**Breaches.** Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor or Borrower under this Mortgage, the Note or the Related Documents is, or at the time made or furnished was, false in any material respect.

**Insolvency.** The insolvency of Grantor or Borrower, appointment of a receiver for any part of Grantor or Borrower's property, any assignment for the benefit of creditors, the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor or Borrower, or the dissolution or termination of Grantor or Borrower's existence as a going business (if Grantor or Borrower is a business). Except to the extent prohibited by federal law or Illinois law, the death of Grantor or Borrower (if Grantor or Borrower is an individual) also shall constitute an Event of Default under this Mortgage.

**Foreclosure, etc.** Commencement of foreclosure, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity of a foreclosure or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach by Grantor or Borrower under the terms of any other agreement between Grantor or Borrower and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor or Borrower to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or such Guarantors or becomes incompetent, insolvency, Lender reasonably deems itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate indebtedness.** Lender shall have the right at its option without notice to Borrower to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor or Borrower, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness, in furtherance of this right. Lender may, terminate any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, it as Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment to Lender's name of Grantor and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgages in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor or Borrower hereby waives any and all right to have the property marshaled, in exercising its rights and remedies, Lender shall be entitled to bid at any public sale, or any portion of the Property, separate sales. Lender shall be entitled to bid at any public sale, or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

**Waiver, Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor or Borrower under this Mortgage after failure of Grantor or Borrower to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

**Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudicate reasonable. Whether or not any court action is involved, all reasonable expenses incurred by Lender that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its right shall become a part of the indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the Note rate. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's legal expenses whether or not there is a lawsuit, including expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appraisals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports, surveys, reports, and appraisal fees, and title insurance), to the extent permitted by applicable law. Borrower also will pay any court costs, in addition to all other sums provided by law.

**NOTICES TO GRANTOR AND OTHER PARTIES.** Any notice under this Mortgage, including without limitation any notice of default and any notice of sale to Grantor, shall be in writing and shall be effective when actually delivered or, if mailed, shall be deemed effective when deposited in the United States mail first class, registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices or foreclosures from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be changed or bound by the alteration or amendment.

**Applicable Law.** This Mortgage has been delivered to Lender in the State of Illinois. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Multiple Parties.** All obligations of Grantor and Borrower under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each of the persons signing below is responsible for all obligations in this Mortgage.

**Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

**Successors and Assigns.** Subject to the limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon Lender, without notice to Grantor, may deal with Grantor's successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Grantor, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of preparation or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by this Mortgage.

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ENVIRONMENTAL EXCULPATION MORTGAGE

Cole Taylor Bank, as Trustee under the aforesaid Trust Agreement has, to the best of its knowledge, no independent knowledge, except the following:

- (a) None
- (b) See Attached

\*Strike one

and has conducted and will conduct no investigation as to any environmental issues, conditions, circumstances, statements, representations, covenants, undertakings or warranties, made, granted, extended or asserted, whether expressly made or implied by any document to which this exculpation and the Trustee's signature, is attached regardless of whether said issues, conditions, circumstances, statements, representations, covenants, undertakings or warranties are contained herein, or formed a part of the consideration or inducement for the execution of this document to, or for the benefit of, the grantee herein. Further, said Trustee hereby represents that, to the best of its knowledge, it does not now have, nor has it ever had, any use, possession, management or control rights or responsibilities with regard to the real property to which title is held by this Land Trust.

This document is executed by the Trustee not personally, but solely as Trustee aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and the undersigned hereby represents that, to the best of its knowledge, it possesses full power and authority to execute this instrument. Further, this document has been executed solely upon the direction of the beneficiaries of this Trust who have the power to make such direction, and all indemnifications, representations, covenants, undertakings and warranties made herein are those of the beneficiaries of said Trust, and are not those of the Trustee.

It is expressly understood and agreed that nothing herein or in said Note secured hereby shall be construed as creating any liability on the undersigned personally to pay the said Note or any interest or penalty that may accrue thereof, or any indebtedness accruing thereunder, or to perform any covenants either expressed or implied herein or in the Note secured hereby. All such liability, if any, is hereby expressly waived by the Mortgagee and by every person now or hereafter claiming any right or security hereunder, or under the Note secured hereby. That by acceptance of this Mortgage, or the Note secured hereby, the Mortgagee and legal holders of the Note secured hereby, and the owner or owners of any indebtedness accruing thereunder, and all of their respective successors and assigns, agree to look solely to the premises hereby conveyed for the payment thereof by the enforcement of the lien hereby created, in the manner herein and in said Note provided or by action to enforce the personal liability of the guarantor, if any, and not to the Trustee personally, for any liability and obligation created hereby.

Trustee has affixed its exculpatory clause limiting the Trustee's liability under this document, and acceptance of this document by the mortgagee herein, or by the party for whose benefit it is executed, shall be deemed acceptance of the terms, conditions and provisions of this exculpatory provision.

IN WITNESS WHEREOF, COLE TAYLOR BANK, not personally but as Trustee aforesaid, has caused these presents to be signed by its Vice President and its corporate seal to be hereunto affixed and attested by its Assistant Secretary, this \_\_\_\_\_ day of \_\_\_\_\_, 199\_.

COLE TAYLOR BANK, as Trustee aforesaid and not personally,

by: Phillip J. Lidstrom  
Its Vice President

Attest:

Kathleen L. Lamm  
Its Assistant Secretary

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**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor or Borrower, shall constitute a waiver of any of Lender's rights or any of Grantor or Borrower's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**GRANTOR'S LIABILITY.** This Mortgage is executed by Grantor, not personally but as Trustee as provided above in the exercise of the power and the authority conferred upon and vested in it as such Trustee (and Grantor thereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that with the exception of the foregoing warranty, notwithstanding anything to the contrary contained herein, that each and all of the warranties, indemnities, representations, covenants, undertakings, and agreements made in this Mortgage on the part of Grantor, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of Grantor, are nevertheless each and every one of them made and intended not as personal warranties, indemnities, representations, covenants, undertakings, and agreements by Grantor or for the purpose or with the intention of binding Grantor personally, and nothing in this Mortgage or in the Note shall be construed as creating any liability on the part of Grantor personally to pay the Note or any interest that may accrue thereon, or any other indebtedness under this Mortgage, or to perform any covenant, undertaking, or agreement, either express or implied, contained in this Mortgage, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under this Mortgage, and that so far as Grantor and its successors personally are concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness shall look solely to the Property for the payment of the Note and indebtedness, by the enforcement of the lien created by this Mortgage in the manner provided in the Note and herein or by action to enforce the personal liability of any Guarantor.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

Cole Taylor Bank/Main as Trustee under Trust No. 88-134

By: Phyllis Lindstrom  
Phyllis Lindstrom, Trust Officer

By: Kathleen Dunne  
Kathleen Dunne, Authorized Signer

Exoneration provision restricting any liability of Cole Taylor Bank stamped on the reverse side hereof or attached hereto is hereby expressly made a part hereof.

This Mortgage prepared by: X William E. Navolio/mlj

### CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On this 3rd day of June, 1992, before me, the undersigned Notary Public, personally appeared Phyllis Lindstrom and Kathleen Dunne, Trust Officer of Cole Taylor Bank/Main, and known to me to be authorized agents of the corporation that executed the Mortgage and acknowledged the Mortgage to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Mortgage and in fact executed the Mortgage on behalf of the corporation.

By Bonnie Brill Residing at 350 E. Dundee, Wheeling, IL  
Notary Public In and for the State of Illinois My commission expires \_\_\_\_\_

OFFICIAL SEAL  
BONNIE BRILL  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. AUG. 21, 1995

Office

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Property of Cook County Clerk's Office

RECEIVED  
JUL 12 2015  
CLERK OF COOK COUNTY  
CHICAGO, ILL.

# UNOFFICIAL COPY

## EXHIBIT A - LEGAL DESCRIPTION

### PARCEL I:

LOT 30 IN THE GLEN OF SOUTH BARRINGTON UNIT THREE, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL II:

EASEMENT FOR THE BENEFIT OF PARCEL I AS CREATED BY GRANT OF EASEMENT MADE BY THE GLEN OF SOUTH BARRINGTON PROPERTY OWNERS ASSOCIATION TO RIDGEWAY ENTERPRISES, INC., A CORPORATION OF ILLINOIS AND WILLIAM R. ROSE RECORDED DECEMBER 2, 1986 AS DOCUMENT 86-574,085 AND RECORDED DECEMBER 2, 1986 AS DOCUMENT 86-574,086 AND RE-RECORDED JANUARY 20, 1987 AS DOCUMENT 87-034,180 AND RECORDED MARCH 4, 1987 AS DOCUMENT 87-119,055 AND RECORDED MARCH 4, 1987 AS DOCUMENT 87-119,056 AND RECORDED JULY 24, 1987 AS DOCUMENT 87-409,106 AND RECORDED JUNE 21, 1988 AS DOCUMENT 88-270,296 FOR INGRESS AND EGRESS OVER:

- (A) VACATED BLANCHARD CIRCLE, AS SAID STREET IS SHOWN ON THE PLAT OF THE GLEN OF SOUTH BARRINGTON UNIT 2 RECORDED FEBRUARY 11, 1982 AS DOCUMENT 26,142,879;
- (B) VACATED ROSE BOULEVARD, AS SAID STREET IS SHOWN ON THE PLAT OF THE GLEN OF SOUTH BARRINGTON UNIT 2, AND ON THE PLAT OF THE GLEN OF SOUTH BARRINGTON RECORDED APRIL 7, 1978 AS DOCUMENT 24,393,998;
- (C) VACATED GREGORY LANE, AS SAID STREET IS SHOWN ON SAID PLAT OF THE GLEN OF SOUTH BARRINGTON;
- (D) VACATED LAKE ADALYN DRIVE, AS SAID STREET IS SHOWN ON SAID PLAT OF THE GLEN OF SOUTH BARRINGTON;
- (E) LAKE ADALYN DRIVE, A PRIVATE ROAD SHOWN ON THE PLAT OF THE GLEN OF SOUTH BARRINGTON UNIT 6 RECORDED OCTOBER 11, 1985 AS DOCUMENT NUMBER 85-232,411; AND
- (F) AMBROSE LANE, A PRIVATE ROAD SHOWN ON SAID PLAT OF THE GLEN OF SOUTH BARRINGTON UNIT 6; ALL IN COOK COUNTY, ILLINOIS.
- (G) COREY LANE, A PRIVATE ROAD SHOWN ON THE PLAT OF THE GLEN OF SOUTH BARRINGTON UNIT THREE RECORDED OCTOBER 30, 1986 AS DOCUMENT NUMBER 86-509,907, ALL IN COOK COUNTY, ILLINOIS.

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