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UNOFFICIAL COPY

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Mortgage

THIS MORTGAGE is made on August 17 1992 between George E. Mullen and Joy L. Mullen not personally, but as Trustee under a Trust Agreement dated 19 and known as Trust No. George E. Mullen and Joy L. Mullen whose address is 6 Grange Court, Elk Grove Village, IL 60007 (the "Mortgagor") and NBD Bank Mount Prospect, N.A. (Bank Name) is National (national/state) banking Association (association/corporation) whose address is 1190 S. Elmhurst Road, Mount Prospect, IL 60056 (the "Mortgagee"). * To be deleted when this Mortgage is not executed by a Land Trust.

The Mortgagor MORTGAGES, CONVEYS AND WARRANTS to the Mortgagee real property and all the buildings, structures and improvements on it described as: Land located in the Village of Elk Grove County of COOK State of Illinois:

LOT 1999 IN ELK GROVE VILLAGE SECTION 6, BEING A SUBDIVISION IN THE EAST OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 16, 1959, AS DOCUMENT ~~17429393~~ IN COOK COUNTY, ILLINOIS. DEPT-01 RECORDING #27.00
17429393 142222 TRAN 2202 11/05/92 13:54:00
8198 1 B * - 72 - 824832
COOK COUNTY RECORDER

Commonly known as: 542 Carswell, Elk Grove Village, Ill 60007
Tax Parcel Identification No. 08-33-210-026-0000

- The Premises shall also include all of the Mortgagor's right, title and interest in and to the following:
- (1) All easements, rights-of-way, licenses, privileges and hereditaments.
 - (2) Land lying in the bed of any river, or the like, opened, proposed or vacated, or any strip or gore, adjoining the Premises.
 - (3) All machinery, apparatus, equipment, fittings, fixtures, and articles of personal property of every kind and nature whatsoever located now or in the future in or upon the Premises and used or useable in connection with any present or future operation of the Premises (all of which is called "Equipment"). It is agreed that all Equipment is part of the Premises and appropriated to the use of the real estate and, whether affixed or annexed or not, shall for the purposes of this Mortgage unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged and warranted to the Mortgagee.
 - (4) All mineral, oil, gas and water rights, royalties, water and water stock, if any.
 - (5) All awards or payments including interest made as a result of: the exercise of the right of eminent domain; the alteration of the grade of any street, any loss of or damage to any building or other improvement on the Premises, any other injury to or decrease in the value of the Premises, any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Premises, and the reasonable attorneys' and paralegal's fees, costs and disbursements incurred by the Mortgagee in connection with the collection of any such award or payment.
 - (6) All of the rents, issues and profits of the Premises under present or future lease or otherwise.

The Premises are unencumbered except as follows: 92024832 92024832

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

This Mortgage secures the indebtedness or obligation evidenced by:

- The note(s) dated August 17, 1992 in the principal amount(s) of \$200,000.00 respectively, maturing on July 31, 1993 executed and delivered by George E. Mullen & Joy L. Mullen Mortgagee with interest at the per annum rate of One percent (1 %) above the rate announced from time to time as the Prime Rate on the principal balance remaining from time to time unpaid. Interest after default or maturity of the note, whether by acceleration or otherwise, on the principal balance of the note remaining from time to time unpaid shall be at the per annum rate of Four percent (4 %) Above the Prime Rate and Four percent (4 %) Above the Prime Rate.
- the guaranty of the debt of George E. Mullen & Joy L. Mullen dated August 17, 1992 to the Mortgagee; and
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including any extensions, renewals, modifications or replacements without limit as to the number or frequency (the "Debt").

LIMITATION ON AMOUNT SECURED BY MORTGAGE. Notwithstanding anything to the contrary contained in this Mortgage, the amount secured by this Mortgage shall not exceed the principal sum of \$ 200,000.00 at any one time outstanding.

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

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

The Mortgagor promises and agrees as follows:

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

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

the Mortgagor. Upon the request of the Mortgagee, the Mortgagor shall immediately furnish to the Mortgagee all notices of amounts due and receipts evidencing payment. The Mortgagor shall promptly notify the Mortgagee of any lien on all or any part of the Premises and shall promptly discharge any unpermitted lien or encumbrance.

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

4. INSURANCE. Until the Debt is fully paid, the Mortgagor shall keep the Premises and the present and future buildings and other improvements on the Premises constantly insured for the benefit of the Mortgagee against fire and such other hazards and risks customarily covered by the standard form of extended coverage endorsement available in the State of Illinois, including risks of vandalism and malicious mischief, and shall further provide flood insurance (if the Premises are situated in an area designated as a flood risk area by the Director of the Federal Emergency Management Agency or as otherwise required by the Flood Disaster Protection Act of 1973 and regulations issued under it),

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and such other appropriate insurance as the Mortgagee may require from time to time. All insurance policies and renewals must be accepted by the Mortgagee, and provide for payment to the Mortgagee in the event of loss, must require 30 days notice to the Mortgagee in the event of nonrenewal or cancellation, and must be delivered to the Mortgagee within thirty (30) days prior to their respective effective dates. Should the Mortgagee fail to insure or fail to pay the premiums on any insurance or fail to deliver the policies or certificates or renewals to the Mortgagee, then the Mortgagee at its option may have the insurance written or renewed and pay the premiums for the account of the Mortgagor. In the event of loss or damage, the proceeds of the insurance shall be paid to the Mortgagee alone. No loss or damage shall itself reduce the Debt. The Mortgagee is authorized to adjust and compromise a loss without the consent of the Mortgagor, to collect, receive and receipt for any proceeds in the name of the Mortgagee and the Mortgagor and to endorse the Mortgagor's name upon any check in payment of proceeds. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds and then toward payment of the Debt or any portion of it, whether or not then due or payable, or the Mortgagee at its option may apply the proceeds, or any part to the repair or rebuilding of the Premises provided that Mortgagor is not then or at any time during the course of restoration of the Premises in default under this Mortgage and has complied with all requirements for application of the proceeds to restoration of the Premises as Mortgagee, in its sole discretion may establish.

5. RESERVES FOR TAXES AND INSURANCE. Mortgagor shall, if requested by Mortgagee, pay to Mortgagee, at the time of and in addition to the monthly installments of principal and/or interest due under the Debt a sum equal to one-twelfth (1/12) of (a) the amount estimated by Mortgagee to be sufficient to enable Mortgagee to pay at least thirty (30) days before they become due and payable, all taxes, assessments and other similar charges levied against the Premises, and (b) the amount of the annual premiums on any policies of insurance required to be carried by Mortgagor. Mortgagee shall apply the sums to pay the tax and insurance items. These sums may be commingled with the general funds of Mortgagee, and no interest shall be payable on them nor shall these sums be deemed to be held in trust for the benefit of Mortgagor. Upon notice at any time, the Mortgagor will, within ten (10) days, deposit such additional sum as may be required for the payment of increased taxes, assessments, charges or premiums. In the event of foreclosure of this Mortgage, any of the moneys then remaining on deposit with the Mortgagee or its agent shall be applied against the Debt prior to the commencement of foreclosure proceedings. The obligation of the Mortgagor to pay taxes, assessments, charges or insurance premiums is not affected or modified by the arrangements set out in this paragraph. Any default by the Mortgagor in the performance of the provisions of this paragraph shall constitute a default under this Mortgage.

6. WASTE. The Mortgagor shall keep the Premises in good repair, shall not commit or permit waste on the Premises nor do any other act causing the Premises to become less valuable. Non-payment of taxes and cancellation of insurance shall each constitute waste. Should the Mortgagor fail to effect the necessary repairs, the Mortgagee may at its option and at the expense of the Mortgagor make the repairs for the account of the Mortgagor. The Mortgagor shall use and maintain the Premises in conformance with all applicable laws, ordinances and regulations. The Mortgagee or its authorized agent shall have the right to enter upon and inspect the Premises at all reasonable times.

7. ALTERATIONS, REMOVAL. No building, structure, improvement, fixture, or personal property constituting any part of the Premises shall be removed, demolished or substantially altered without the prior written consent of the Mortgagee.

8. PAYMENT OF OTHER OBLIGATIONS. The Mortgagor shall also pay all other obligations which may become liens or charges against the Premises for any present or future repairs or improvements made on the Premises, or for any other goods, services, or utilities furnished to the Premises and shall not permit any lien or charge of any kind securing the repayment of borrowed funds (including the deferred purchase price for any property) to accrue and remain outstanding against the Premises.

9. ASSIGNMENT OF LEASES AND RENTS. Further, Mortgagor does hereby pledge and assign to Mortgagee, all leases, written or verbal, rents, issues and profits of the Premises, including without limitation, all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, and all deposits of money as advance rent or for security, under any and all present and future leases of the Premises, together with the right, but not the obligation, to collect, receive, demand, sue for and recover the same when due or payable. Mortgagee by acceptance of this Mortgage agrees, as a personal covenant applicable to Mortgagor only, and not as a limitation or condition hereof and not available to anyone other than Mortgagor, that until a default shall occur or an event shall occur, which under the terms hereof shall give to Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive and enjoy such avails. Upon the request of Mortgagee, Mortgagor shall deliver to Mortgagee all original leases of all or any portion of the Premises, together with assignments of such leases from Mortgagor to Mortgagee, which assignments shall be in form and substance satisfactory to Mortgagee; Mortgagor shall not, without Mortgagee's prior written consent, procure, permit or accept any prepayment, discharge or compromise of any rent or release any tenant from any obligation, at any time while the indebtedness secured hereby remains unpaid.

10. ASSIGNMENT OF INTEREST AS TENANT OR PURCHASER. If the Mortgagor's interest in the Premises is that of a tenant or a purchaser, the Mortgagor also assigns, mortgages and warrants to the Mortgagee, as additional security for the Debt, all of the Mortgagor's right, title and interest in and to any leases, land contracts or other agreements by which the Mortgagor is leasing or purchasing any part or all of the Premises, including all modifications, renewals and extensions and all of the Mortgagor's right, title or interest in any purchase options contained in any lease or other agreement. The Mortgagor agrees to pay each installment of rent, principal and interest required to be paid by it under the lease, land contract or other agreement when each installment becomes due and payable whether by acceleration or otherwise. The Mortgagor further agrees to pay and perform all of its other obligations under the lease, land contract or other agreement.

If the Mortgagor defaults in the payment of any installment of rent, principal, interest or in the payment or performance of any other obligation under the lease, land contract or other agreement, the Mortgagee shall have the right, but not the obligation, to pay the installment or installments and to pay or perform the other obligations on behalf of and at the expense of the Mortgagor. On receipt by the Mortgagee from the landlord or seller under the lease, land contract or other agreement of any written notice of default by the Mortgagor, the Mortgagee

may rely on the notice as cause to take any action it deems necessary or reasonable to cure a default under the Mortgage or to deny the existence or nature of the default.

11. SECURITY AGREEMENT. This Mortgage also constitutes a security agreement within the meaning of the Illinois Uniform Commercial Code ("UCC") and Mortgagor grants to Mortgagee a security interest in any Equipment and other personal property included within the definition of Premises. Accordingly, Mortgagee shall have all of the rights and remedies available to a secured party under the UCC. Upon the occurrence of an event of default under this Mortgage, the Mortgagee shall have in addition to the remedies provided by this Mortgage, the right to use any method of disposition of collateral authorized by the UCC with respect to any portion of the Premises subject to the UCC.

12. REIMBURSEMENT OF ADVANCES. If Mortgagor fails to perform any of its obligations under this Mortgage, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Premises (including but not limited to a lien priority dispute, eminent domain, code enforcement, insolvency, bankruptcy or probate proceedings), then Mortgagee at its sole option may make appearances, disburse sums and take any action it deems necessary to protect its interest (including but not limited to disbursement of reasonable attorneys' and paralegals' fees and entry upon the Premises to make repairs). Any amounts disbursed shall become additional Debt, shall be immediately due and payable upon notice from the Mortgagee to the Mortgagor, and shall bear interest at the highest rate permitted under any of the instruments evidencing any of the Debt.

13. DUE ON TRANSFER. Notwithstanding any other provisions of this Mortgage, no sale, lease, mortgage, trust deed, grant by Mortgagor of an encumbrance of any kind, conveyance, transfer of occupancy or possession, contract to sell, or transfer of the Premises, or any part thereof, or sale or transfer of ownership of any beneficial interest or power of direction in a land trust which holds title to the Premises, shall be made without the prior written consent of Mortgagee.

14. NO ADDITIONAL LIEN. Mortgagor covenants not to execute any mortgage, security agreement, assignment of leases and rentals or other agreement granting a lien against the interest of Mortgagor in the Premises without the prior written consent of Mortgagee, and then only when the document granting that lien expressly provides that it shall be subject to the lien of this Mortgage for the full amount secured by this Mortgage and shall also be subject and subordinate to any then existing or future leases affecting the Premises.

15. EMINENT DOMAIN. Notwithstanding any taking under the power of eminent domain, alteration of the grade of any road, alley, or the like, or other injury or damage to or decrease in value of the Premises by any public or quasi-public authority or corporation, the Mortgagor shall continue to pay the Debt in accordance with the terms of the underlying loan documents until any award or payment shall have been actually received by Mortgagee. By executing this Mortgage, the Mortgagor assigns the entire proceeds of any award or payment and any interest to the Mortgagee. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee, including reasonable attorneys' and paralegals' fees of the Mortgagee in collecting the proceeds and then toward payment of the Debt whether or not then due or payable, or the Mortgagee at its option may apply the proceeds, or any part to the alteration, restoration or rebuilding of the Premises.

16. HAZARDOUS WASTE. The Mortgagor represents and warrants to the Mortgagee that (a) the Mortgagor has not used Hazardous Materials (as defined below), on, from or affecting the Premises in any manner which violates any Governmental Regulation (as defined below) governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Mortgagor's knowledge, no prior owner of the Premises or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Premises in any manner which violates any Governmental Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials; (b) the Mortgagor has never received any notice of any violations (and is not aware of any existing violations) of any Governmental Regulation governing the use, storage, treatment, transportation, manufacture, refinement, handling, or production or disposal of Hazardous Materials at the Premises and, to the best of the Mortgagor's knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Premises; (c) Mortgagor shall keep or cause the Premises to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable Governmental Regulations; and, without limiting the foregoing, Mortgagor shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable Governmental Regulations, nor shall Mortgagor cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazardous Materials onto the Premises or onto any other contiguous property; (d) the Mortgagor shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Premises as required by all applicable Governmental Regulations to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities; and (e) the Mortgagor represents and warrants that there are no underground storage tanks on the Premises or as reasonably can be ascertainable on property adjacent to, or in close proximity to the Premises. If the Mortgagor fails to conduct an environmental audit required by governmental authorities or the Mortgagee, then the Mortgagee may at its option and at the expense of the Mortgagor, conduct such audit. Any such audit conducted by Mortgagee shall be conducted solely for the benefit of and to protect the interests of Mortgagee and shall not be relied upon by Mortgagor or any third party for any purpose whatsoever, including, but not limited to Mortgagor's or any third party's obligation, if any, to conduct an independent environmental investigation of its own. By conducting any such audit, Mortgagee does not assume any control over the environmental affairs or operations of Mortgagor nor assume any obligation or liability to Mortgagor or any third party.

Subject to the limitations set forth below, the Mortgagor shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorneys', paralegals' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (a)