

# UNOFFICIAL COPY

## RECORDATION REQUESTED BY:

Heritage Bank  
12015 South Western Avenue  
Blue Island, IL 60406

## WHEN RECORDED MAIL TO:

Heritage Bank  
12015 South Western Avenue  
Blue Island, IL 60406

## SEND TAX NOTICES TO:

Heritage Trust Company  
17500 S. Oak park Ave.  
Tinley Park, IL 60477

22461026

DEPT-01 RECORDING \$29.00  
T#3333 TRAN 6256 06/16/93 16:06:00  
\$1799 \* -93-461626  
COOK COUNTY RECORDER

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## ASSIGNMENT OF RENTS

Heritage Trust Company, not personally but as <sup>Successor</sup> Trustee

THIS ASSIGNMENT OF RENTS IS DATED MAY 27, 1993, between Heritage Trust Company, whose address is 17500 S. Oak park Ave., Tinley Park, IL (referred to below as "Grantor"); and Heritage Bank, whose address is 12015 South Western Avenue, Blue Island, IL 60406 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor assigns and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Cook County, State of Illinois:

THE EAST 200 FEET OF LOT 1 IN ALSIP INDUSTRIAL PARK, UNIT NO. 1, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, TOGETHER WITH THE WEST 1/2 OF VACATED MILLARD AVENUE LYING EAST AND ADJACENT TO SAID LOT 1; ALSO, THAT PART OF LOT 1 IN CLARK OIL AND REFINING CORPORATION, A SUBDIVISION IN SECTION 35, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH FALLS NORTH OF A LINE WHICH IS 390 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 35 AND WEST OF A LINE WHICH IS 33 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE EAST 20 ACRES OF THE NORTHWEST 1/4 OF SAID SECTION, EXCEPT THAT PART OF LOT 1 DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 120.01 FEET TO A POINT; THENCE EAST ALONG A LINE LYING 120 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 33.06 FEET, MORE OR LESS, TO A POINT ON THE EAST LINE OF SAID LOT 1, SAID POINT LYING 120.01 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 1; (AS MEASURED ALONG SAID EAST LINE); THENCE NORTH ALONG SAID EAST LINE A DISTANCE OF 120.01 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 33.02 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

The Real Property or its address is commonly known as 3855 W. 127th St., Alsip, IL 60658. The Real Property tax identification number is 24-35-100-028, 24-35-100-033 & 24-35-100-010.

**DEFINITIONS.** The following words shall have the following meanings when used in this Assignment. Terms not otherwise defined in this Assignment 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.

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

**Borrower.** The word "Borrower" means Deniston Company.

**Event of Default.** The words "Event of Default" mean and include any of the Events of Default set forth below in the section titled "Events of Default."

**Grantor.** The word "Grantor" means any and all persons and entities executing this Assignment, including without limitation all Grantors named above. Any Grantor who signs this Assignment, but does not sign the Note, is signing this Assignment only to grant and convey that Grantor's interest in the Real Property and to grant a security interest in the Rents and Personal Property to Lender and is not personally liable under the Note except as otherwise provided by contract or law.

**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 Assignment, together with interest on such amounts as provided in this Assignment. In addition to the Note, the word "Indebtedness" includes all obligations, debts and liabilities, plus interest thereon, of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Borrower may be liable individually or jointly with others, whether obligated as guarantor or otherwise, and whether recovery upon such Indebtedness may be or hereafter may become barred by any statute of limitations, and whether such Indebtedness may be or hereafter may become otherwise unenforceable.

**Lender.** The word "Lender" means Heritage Bank, its successors and assigns.

**Note.** The word "Note" means the promissory note or credit agreement dated May 27, 1993, in the original principal amount of \$500,000.00 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 8.750%.

**Property.** The word "Property" means the real property, and all improvements thereon, described above in the "Assignment" section.

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Property Definition" 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 rents, revenues, income, issues, and profits from the Property, whether due now or later, including without limitation all Rents from all leases described on any exhibit attached to this Assignment.

THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR AND BORROWER UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT 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 Assignment 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 Assignment and to hypothecate the Property; (c) Grantor has established

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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).

**BORROWER'S WAIVERS AND RESPONSIBILITIES.** Lender need not tell Borrower about any action or inaction Lender takes in connection with this Agreement. Borrower assumes the responsibility for being and keeping informed about the Property. Borrower waives any delay by Lender in

Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right; operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE RENTS.** With respect to the Rents, Grantor represents and warrants to Lender that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power, and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Agreement.

**LENDER'S RIGHT TO COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property, demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents, institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Illinois and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agents or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and act with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor and Borrower's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the indebtedness.

All expenditures made by Lender under this Assignment and not reimbursed to Lender shall become a part of the indebtedness secured by this Agreement, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable required by law shall be paid by Grantor if permitted by applicable law.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any other term, obligation, covenant or condition contained in this Assignment, the Note or in any 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 the term of any applicable insurance policy or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Assignment 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 considered as curing the default so as to bar Lender from any remedy that it otherwise would have had.

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

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

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Assignment, the Note or in any of the Related Documents. If such a failure is curable and if Grantor or Borrower has not been given a notice of a breach of the same provision of the Assignment within the preceding twelve (12) months, it may be cured (and to Event of Default will have occurred) if Grantor or Borrower, after Lender sends written notice demanding cure of such failure, (a) cures the failure and thereafter continues and completes all reasonable and necessary steps sufficient to cure the failure and (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practicable.

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

**Other Defaults.** Failure of Grantor or Borrower to comply with any term, obligation, covenant, or condition contained in any other agreement between Grantor or Borrower and Lender.

**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 bankruptcy or insolvency laws by or against Grantor or Borrower, or the distribution or formation of Grantor or Borrower's estate as a going business (if Grantor or Borrower is a business). (Except to the extent provided 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 the Assignment.)

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency 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 or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Events Affecting Grantor.** Any of the preceding events occur with respect to any Guarantor or any of the Indebtedness or such Guarantor dies or becomes incompetent. Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

**Insolvency.** Lender reasonably deems there is a substantial risk of insolvency of Grantor or Borrower or of the guaranty. Lender may exercise any one or more of the following rights and remedies in addition to any other rights or remedies provided by law. Even if the occurrence of an Event of Default has not occurred at any time prior to the exercise of any one or more of the following rights and remedies, Lender may exercise any one or

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**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.

**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 require 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, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its right under this subparagraph either in person, by agent, or through a receiver.

**Mortgages in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgagee 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.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Assignment 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 Assignment after failure of Grantor or Borrower to perform shall not affect Lender's right to declare a default and exercise its remedies under this Assignment.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover attorneys' fees at trial and on any appeal. 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 rights 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 attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), survivor's 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.

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

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

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

**Multiple Parties; Corporate Authority.** All obligations of Grantor and Borrower under this Assignment 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 Assignment.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Assignment by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment 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 Assignment in all other respects shall remain valid and enforceable.

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

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

**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 Assignment.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON BEHALF OF GRANTOR AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.

**Waivers and Consents.** Lender shall not be deemed to have waived any rights under this Assignment (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 Assignment 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 Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

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

GRANTOR: Heritage Trust Company, not personally but as Successor Trustee

Heritage Trust Company

By: [Signature]  
X Lynda Lee Lutz Legal Trust Officer

By: [Signature]  
X Lynda K. Blust Asst. Secretary

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REDEMPTION HERETO IS DEPENDENTLY PART HEREOF

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Property of Cook County Clerk's Office

## CORPORATE ACKNOWLEDGMENT

05-27-1993

ASSIGNMENT OF RENTS

(Continued)

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STATE OF

ILLINOIS

COUNTY OF

COOK

On this

27th

day of

May

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and

Land Trust Officers

and

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Land Trust Officers

Assignment of Rents and acknowledged the Assignment 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 Assignment and in fact executed the Assignment on behalf of the corporation.

By

Anne M. Marchert

Notary Public in and for the State of

IL

My commission expires

OFFICIAL SEAL

ANNE M. MARCHERT

My Commission Expires 4/23/94

NOTARY PUBLIC, STATE OF ILLINOIS

My Commission Expires 4/23/94

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It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee, are nevertheless, each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee, and that no personal responsibility is assumed by nor shall at any time be asserted or enforceable against Heritage Trust Company, under said Trust Agreement on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

HERITAGE TRUST COMPANY

County Clerk's Office

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