

UNOFFICIAL COPY

RECORDATION REQUESTED BY:

Parkway Bank & Trust Company
4800 North Harlem Avenue
Harwood Heights, IL 60656

WHEN RECORDED MAIL TO:

Parkway Bank & Trust Company
4800 North Harlem Avenue
Harwood Heights, IL 60656

SEND TAX NOTICES TO:

Parkway Bank and Trust Company, not individually but as trustee u/v/n 10344 dated June 9, 1992
4800 N. Harlem Avenue
Harwood Heights, IL 60656

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SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

CONSTRUCTION MORTGAGE

THIS MORTGAGE IS DATED AUGUST 2, 1993, between Parkway Bank and Trust Company, not individually but as trustee u/v/n 10344 dated June 9, 1992, whose address is 4800 N. Harlem Avenue, Harwood Heights, IL (referred to below as "Grantor"); and Parkway Bank & Trust Company, whose address is 4800 North Harlem Avenue, Harwood Heights, IL 60656 (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 June 9, 1992 and known as Parkway Bank and Trust Company Trust #10344, 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 LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

The Real Property or its address is commonly known as 736, 738, 740, 742, 744, and 746 E. Whispering Court, Palatine, IL 60067.

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 each and every person or entity signing the Note, including without limitation Whispering Oaks Development Co., Inc.

Grantor. The word "Grantor" means Parkway Bank and Trust Company, Trustee under that certain Trust Agreement dated June 9, 1992 and known as Parkway Bank and Trust Company Trust #10344. 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. 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 Parkway Bank & Trust Company, 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 August 2, 1993, in the original principal amount of \$508,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancing 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 8.000% per annum. The interest rate to be applied to the unpaid principal balance of this Mortgage shall be at a rate of 2.000 percentage point(s) over the Index, resulting in an initial rate of 8.000% per annum. NOTICE: Under no circumstances shall the interest rate on this Mortgage be more than the maximum rate allowed by applicable law. 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, guarantees, 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 INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL SUBSEQUENT LIENS AND ENCUMBRANCES, INCLUDING STATUTORY LIENS, EXCEPTING SOLELY TAXES AND ASSESSMENTS LEVIED ON THE REAL PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SECURED HEREBY. 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

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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 the 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.

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

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

Removal of Improvements. 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 improvements of at least equal value.

Lender's Right to Enter. Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests 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 promptly 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 contest in good faith any such law, ordinance, or regulation and shall not be deemed in violation of this Mortgage until a final judgment is rendered by a court of competent jurisdiction. Grantor shall promptly 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 material 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 paragraph.

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 filed 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 if requested by Lender, deposit with Lender cash or a surety bond in an amount satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees 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 and shall settle any adverse judgment before 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 appropriate 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, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender advance assurance satisfactory to Lender that Grantor can and will pay the cost of such improvements.

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 mortgagee clause in favor of Lender. Policies shall be within a year by each insurance company and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, to the extent such insurance is required and is or becomes available, for the term of the loan and for the full unpaid principal balance of the loan, or the maximum limit of coverage that is available, whichever is less.

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 option, 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 expenditures, pay or reimburse Grantor 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, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any 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 from any remedy that it otherwise would have had.

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 amortized 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. The 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 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:
Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in its entirety, free and clear of all liens and encumbrances other than those set forth in the Real Property Description and (b) Grantor has the right, power, and authority to execute and deliver the Mortgage and to execute and accept by Lender (if applicable) with the Mortgage, 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 incurred by 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, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation 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 Real 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. 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 this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor or Borrower, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (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 practical.

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, 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.

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 Guarantor dies or becomes incompetent or any Guarantor revokes any guaranty of the Indebtedness. 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

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doing so, cure the Event of Default.

Insufficiency. 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 request 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 rights under this subparagraph either in person, by agent, or through a receiver.

Mortgagee 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 Property and all other proceeds, over and above the cost of the receivership, against the indebtedness. Lender may also 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.

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 free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all 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.

Attorney's Fees; 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 adjudge reasonable as attorney's 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 attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any and all post-judgment collection services, the cost of searching records, obtaining or vacating any automatic stay or injunction, reports, surveys 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 address set forth in the Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure or of foreclosure from the holder of any lien which 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 of or amendment to this Mortgage 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.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. Net operating income shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Applicable Law. This Mortgage has been delivered to Lender and accepted by 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; Corporate Authority. 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 modified to be valid and enforceable in all other respects so that the Mortgage shall remain valid and enforceable. Subject to the limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon Lender 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, for balance 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.

Waiver of Right of Redemption. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS MORTGAGE, GRANTOR HEREBY WAIVES, TO THE EXTENT PERMITTED UNDER ILL. REV. STAT., CH. 110 SECTION 15-1001(b) OR ANY SIMILAR LAW, ANY OTHER PERSONS PERMITTED TO REDEEM THE PROPERTY.

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 the party's right otherwise to demand strict compliance with that provision or any other provision. No provision of this Mortgage shall be binding upon Lender and Grantor or Borrower, shall constitute a waiver of any rights or obligations of Lender in any future transactions. Whenever conflict or inconsistency is required in the 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.

At the direction of the beneficiary
GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. At the direction of the beneficiary

GRANTOR:

Parkway Bank and Trust Company, not individually but as trustee w/n 10344 dated June 9, 1992

By: Diane Y. Pezyna, Trust Officer
Diane Y. Pezyna, Trust Officer

By: Marcelene J. Kawczynski, Asst. Cashier
Marcelene J. Kawczynski, Asst. Cashier

The Trustee in executing this document SPECIFICALLY EXCLUDES all references to the Trustee in the premises where the Trustee is acting as a Trustee under the MORTGAGE ACT or in any capacity as a Trustee or representative but not as agent for or on behalf of the Trustee.

PARKWAY BANK & TRUST COMPANY, as Trustee

This Mortgage prepared by: Jacqueline Szcbara
4800 N. Harlem Avenue
Harwood Heights, IL 60656

CORPORATE ACKNOWLEDGMENT

STATE OF Ill.
COUNTY OF Cook) ss

On this 6 day of August, 1993, before me, the undersigned Notary Public, personally appeared Diane Y. Pezyna and Marcelene J. Kawczynski, Vice Pres.-Trust Officer and Asst. Cashier of Parkway Bank and Trust Company, not individually but as trustee w/n 10344 dated June 9, 1992, 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: Diane Y. Pezyna
Notary Public in and for the State of Ill.

Residing at Harwood Heights
My commission expires 8/25/95

LASER PRO, Reg. U.S. Pat. & T.M. Off., Ver. 3.16 (c) 1993 CFI Bankers Service Group, Inc. All rights reserved. (IL-GCM) SPECIFICALLY EXCLUDES all references to the Trustee in the premises where the Trustee is acting as a Trustee under the MORTGAGE ACT or in any capacity as a Trustee or representative but not as agent for or on behalf of the Trustee.

PARKWAY BANK & TRUST COMPANY, as Trustee

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UNOFFICIAL COPY

PARCEL 1:

THE SOUTH 100 FEET OF THE NORTH 700 FEET OF THE EAST 871.2 FEET OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN;

ALSO

PARCEL 2:

THE SOUTH 100 FEET OF THE NORTH 700 FEET OF THE EAST 871.2 FEET OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN;

ALSO

PARCEL 3

THAT PART OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST AND WEST QUARTER LINE OF SAID SECTION WITH THE CENTER LINE OF RAND ROAD, SAID INTERSECTION BEING 1514.39 FEET WEST OF THE EAST LINE OF SAID SECTION MEASURED ON SAID EAST AND WEST QUARTER LINE; THENCE SOUTHEAST ALONG THE CENTER LINE OF SAID RAND ROAD, SAID CENTER LINE FORMING AN ANGLE OF $47^{\circ}00'30''$ WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION, A DISTANCE OF 38.40 FEET TO AN ANGLE IN THE CENTER LINE OF SAID RAND ROAD; THENCE SOUTHEAST ALONG THE CENTER LINE OF RAND ROAD, SAID CENTER LINE FORMING AN ANGLE OF $4^{\circ}24'30''$ TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 18.57 FEET; THENCE NORTHEASTERLY ON A LINE THAT FORMS AN ANGLE OF $94^{\circ}24'30''$ TO THE LEFT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, A DISTANCE OF 778.88 FEET TO A POINT; THENCE NORTHWESTERLY ON A LINE THAT FORMS AN ANGLE OF $127^{\circ}23'30''$ TO THE LEFT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 125.89 FEET; THENCE SOUTHWESTERLY TO A POINT IN THE CENTER LINE OF RAND ROAD THAT IS 45.08 FEET NORTHWEST OF THE POINT OF BEGINNING; THENCE SOUTHEAST 45.08 FEET TO THE PLACE OF BEGINNING. EXCEPT THAT PART OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE EAST AND WEST QUARTER LINE WITH THE CENTER LINE OF RAND ROAD, SAID INTERSECTION BEING 1514.39 FEET WEST OF THE EAST LINE OF SAID SECTION MEASURED ON SAID EAST AND WEST QUARTER LINE; THENCE SOUTHEAST ALONG THE CENTER OF SAID RAND ROAD, SAID CENTER LINE FORMING AN ANGLE OF $47^{\circ}00'30''$ WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION, A DISTANCE OF 38.40 FEET TO AN ANGLE IN THE CENTER LINE OF SAID RAND ROAD; THENCE SOUTHEAST ALONG THE CENTER LINE OF RAND ROAD, SAID CENTER LINE FORMING AN ANGLE OF $04^{\circ}24'30''$ TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 18.57 FEET; THENCE NORTHEAST ON A LINE THAT FORMS AN ANGLE OF $94^{\circ}24'30''$ TO THE LEFT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE A DISTANCE OF 49.01 FEET TO A POINT ON THE NORTHEASTERLY LINE OF RAND ROAD AS WIDENED AND THE PLACE OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ON THE LAST DESCRIBED LINE A DISTANCE OF 327.70 FEET; THENCE NORTHWESTERLY PERPENDICULAR TO THE LAST DESCRIBED LINE A DISTANCE OF 100.0 FEET; THENCE SOUTHWESTERLY PERPENDICULAR TO THE LAST DESCRIBED LINE A DISTANCE OF 328.0 FEET TO A POINT ON THE NORTHEASTERLY LINE OF RAND ROAD AS WIDENED, SAID POINT BEING 49.44 FEET NORTHEASTERLY OF THE CENTER OF RAND ROAD ON A CURVED LINE WHICH IS CONVEX NORTHEASTERLY, HAVING A RADIUS OF 10,798.53; THENCE SOUTHEASTERLY ON SAID CURVED LINE BEING THE NORTHEASTERLY LINE OF RAND ROAD AS WIDENED A DISTANCE OF 100.01 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

ALSO

PARCEL 4

THE SOUTH 200 FEET OF THE NORTH 900 FEET OF THE EAST 871.2 FEET OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, SITUATED IN THE TOWNSHIP OF PALATINE, COOK COUNTY, ILLINOIS, SAID LAND ALSO DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, 700 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG SAID EAST LINE 200 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SOUTH 1/2 OF THE NORTHEAST 1/4, 871.2 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE THEREOF, 200 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE THEREOF, 871.2 FEET TO THE POINT OF BEGINNING;

ALSO

PARCEL 5:

THAT PART OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING ON THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 2, 871.2 FEET WEST OF THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 418 FEET TO A POINT OF BEGINNING; THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID SECTION 419.88 FEET; THENCE NORTHWESTERLY ON A LINE THAT FORMS AN ANGLE OF $100^{\circ}4'30''$ TO THE RIGHT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 159.41 FEET; THENCE NORTH PARALLEL TO THE EAST LINE OF SAID SECTION 393.15 FEET; THENCE EAST PARALLEL TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 157.03 FEET TO THE POINT OF BEGINNING (THE NORTH 33 FEET AND THE EAST 33 FEET AND THE SOUTH 10 FEET OF SAID PARCEL TO THE LEFT OPEN FOR USE AS ROADS); ALL IN COOK COUNTY, ILLINOIS.

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