

UNOFFICIAL COPY

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PROPERTY ADDRESS : 240 W. 33RD PLACE
CHICAGO, IL

P. I. N. : 17-33-210-047

RETURN TO: **Dixieland Bank**
S. J. Bochnowski
2268 S. King Drive
Chicago, Illinois 60628

94243118

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(Space above this line for recording purposes)

ASSIGNMENT OF RENTS AND LEASES

As Security for a Loan
From **LAKESIDE BANK**

DEPT-11 \$29.50
T53833 TRAN 6631 03/22/94 11:00:00
BOOK COUNTY RECORDER
94-24-243118

1. DATE AND PARTIES. The date of this Assignment of Rents and Leases (Agreement) is March 8, 1994, and the parties are the following:

OWNER/BORROWER:

PIONEER BANK AND TRUST CO. AS TRUSTEE U/T/A DATE 12-15-82 A/K/A TRUST #23404
a trust
4000 W. NORTH AVE.
CHICAGO, ILLINOIS 60630

BANK:

LAKESIDE BANK
an ILLINOIS banking corporation
141 W. Jackson Blvd. Suite 1212
Chicago, Illinois 60604
Tax I.D. # 38-2583514

DEPT-01 RECORDING \$29.50
T51111 TRAN 6679 03/17/94 14:42:00
66867 # 94-24-243118
COOK COUNTY RECORDER

2. OBLIGATIONS DEFINED. The term "Obligations" is defined as and includes the following:

- A. A promissory note, No. 3305, (Note) dated March 8, 1994, and executed by PIONEER BANK AND TRUST CO. AS TRUSTEE U/T/A DATE 12-15-82 A/K/A TRUST #23404 (Borrower) payable in monthly payments in the order of Bank, which evidences a loan (Loan) to Borrower in the amount of \$100,000.00, plus interest, and all extensions, renewals, modifications or substitutions thereof.
- B. All future advances by Bank to Borrower, to Owner, to any one of them or to any one of them and others (and all other obligations referred to in the subparagraph(s) below, whether or not this Agreement is specifically referred to in the evidence of indebtedness with regard to such future and additional indebtedness).
- C. All additional sums advanced, and expenses incurred, by Bank for the purpose of insuring, preserving or otherwise protecting the Collateral (as herein defined) and its value, and any other sums advanced, and expenses incurred by Bank pursuant to this Agreement, plus interest at the same rate provided for in the Note computed on a simple interest method.
- D. All other obligations, now existing or hereafter arising, by Borrower owing to Bank to the extent the taking of the Collateral (as herein defined) as security therefor is not prohibited by law, including but not limited to liabilities for overdrafts, all advances made by Bank on Borrower's, and/or Owner's, behalf as authorized by this Agreement and liabilities as guarantor, endorser or surety, of Borrower to Bank, due or to become due, direct or indirect, absolute or contingent, primary or secondary, liquidated or unliquidated, or joint, several, or joint and several.
- E. Borrower's performance of the terms in the Note or Loan, Owner's performance of any terms in this Agreement, and Borrower's and Owner's performance of any terms in any deed of trust, any trust deed, any trust indenture, any mortgage, any deed to secure debt, any security agreement, any other assignment, any construction loan agreement, any loan agreement, any assignment of beneficial interest, any guaranty agreement or any other agreement which secures, guarantees or otherwise relates to the Note or Loan.

However, this security interest will not secure another debt:

- A. If Bank fails to make any disclosure of the existence of this security interest required by law for such other debt.

3. BACKGROUND. The Loan is secured by, but is not limited to, a mortgage (Mortgage) dated March 8, 1994, on the following described property (Property) situated in COOK County, ILLINOIS, to-wit:

LOT 148 IN LARMON'S SUBDIVISION OF BLOCK 3 IN THE CANAL TRUSTEES' SUBDIVISION OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. P.I.N. 17-33-210-047

The Property may be commonly referred to as 240 W. 33RD STREET CHICAGO, IL

4. ASSIGNMENT. In consideration of the Loan, Owner assigns, bargains, sells and conveys to Bank all of Owner's right, title and interest in and to all rents and profits from the Property and all leases of the Property now or hereafter made, effective immediately upon the execution of this Agreement (all of which are collectively known as the Collateral), which Collateral is described as follows:

- A. all leases (Leases) on the Property. The term "Leases" in this Agreement shall include all agreements, written or verbal, existing or hereafter arising, for the use or occupancy of any portion of the Property and all extensions, renewals, and substitutions of such agreements, including subleases thereunder.

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B. All guarantees of the performance of any party under the Lease...

C. The right to collect and receive all revenue (Rent) from the Lease on the Property now due or which may become due. Rent includes, but is not limited to the following: revenue, issue, profit, rent, minimum rent, percentage rent, additional rent, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, security deposits, insurance premium contributions, liquidated damages following default, cancellation premiums, "one of unit" insurance or other proceeds, and all rights and claims which Owner may have against any person under the terms of the Lease.

5. COLLECTION OF RENT. Owner shall give notice of Bank's rights to all Rent and notice of direct payment to Bank to those obligated to pay Rent. Prior to an Event of Default, Owner may continue to collect all Rent from the Lease on the Property now due or which may become due. Owner agrees to direct all tenants that in certain instances they may be required to pay Rent due to or to become due to Bank. Owner shall endorse and deliver to Bank any money order, check or draft which represents Rent from the above-described Property, apply the proceeds to the Obligations, and give notice of Bank's rights in any of said Rent and notice of direct payment to Bank to those obligated to pay such Rent. Bank shall be the creditor of each Lease in respect to assignments, bankruptcy, reorganization, insolvency, dissolution or receivership proceedings by Lease, and Owner shall irrevocably pay over to Bank all sums Owner may receive as creditor from such actions or proceedings. Also, Bank may collect or receive all payments paid by any Lease, whether or not pursuant to the terms of the Lease, for the right to terminate, cancel or modify the Lease, and Owner shall irrevocably pay over to Bank all such payments as Owner may receive from any Lease. Bank shall have the option to apply any amounts received from such creditor to the Obligations. The collection or receipt of any payments by Bank shall not constitute Bank as being a mortgagee in possession.

6. APPLICATION OF COLLATERAL PROCEEDS. Any Rent or other payments received or to be received by virtue of the Collateral, will be applied to any amount Borrower owes Bank on the Obligations and shall be applied first to costs and expenses, then to accrued interest and the balance, if any, to principal or cost of an ultimate required by law.

7. WARRANTIES. To induce Bank to make the Loan, Owner makes the following representations and warranties:

A. Owner has good title to the Lease and Rent and good right to assign them, and no other person has any right in them;

B. Owner has duly performed all of the terms of the Lease that Owner is obligated to perform;

C. Owner has not previously assigned or encumbered the Lease or the Rent and will not further assign or encumber the Lease or future Rent;

D. No Rent for any period subsequent to the current month has been collected or received from Lease, and no Rent has been compromised, "The term "Lease" in this Agreement shall include all persons or entities obligated to Owner under the Lease;

E. Upon request by Bank, Owner will deliver to Bank a true and complete copy of an accounting of Rent which is current as of the date requested;

F. Owner has complied and will continue to comply with any applicable landlord-tenant laws;

G. No Lease in default of any of the terms of the Lease;

H. Owner has not and will not waive or otherwise compromise any obligation of Lease under the Lease and will enforce the performance of every obligation to be performed by Lease under the Lease;

I. Owner will not modify the Lease without Bank's prior written consent, will not consent to any Lease's assignment of the Lease, or any subleasing thereunder, without Bank's prior written consent and will not sell or remove any personal property located on the Property unless replaced in like kind for like or better value; and

J. Owner will not subordinate any Lease to any mortgage, lien or encumbrance affecting the Property without Bank's written consent.

8. OWNER'S AGREEMENT. In consideration of the Loan, Owner agrees:

A. to deliver to Bank upon execution of the Agreement copies of the Lease, certified by Owner, as being true and correct copies which accurately represent the transactions between the parties;

B. not to amend, modify, extend or in any manner alter the terms of any Lease, or cancel or terminate the same, or accept a surrender of any premises covered by such Lease without the prior written consent of Bank in each instance;

C. to observe and perform all obligations of Lease under the Lease, and to give written prompt notice to Bank of any default by Lease or Lease under any Lease;

D. to notify each Lease in writing that any deposits previously delivered to Owner have been retained by Owner or assigned and delivered to Bank in the case may be;

E. to appear in and defend any action or proceeding pertaining to the Lease, and upon the request of Bank, to do so in the name and on behalf of Bank but at the expense of Owner, and to pay all costs and expenses of Bank, including reasonable attorney's fees to the extent not prohibited by law, in any such action or proceeding in which Bank may appear;

F. to give written notice of this Agreement to each Lease which notice shall contain instructions to each Lease that in certain instances Lease shall make all payments of Rent directly to Bank;

G. to indemnify and hold Bank harmless for all liabilities, damages, costs and expenses, including reasonable attorney's fees, Bank incurs when Bank, at its discretion, elects to exercise any of its remedies upon default of Lease;

H. that if the Lease provides for abatement of Rent during repair due to fire or other casualty, Bank shall be provided satisfactory insurance coverage; and

I. that the Lease shall remain in full force and effect regardless of any merger of the Lease and Lease's interest in.

9. EVENTS OF DEFAULT. Owner shall be in default upon the occurrence of any of the following events, circumstances or conditions (Events of Default):

A. Failure by any party obligated on the Obligations to make payment when due; or

B. A default or breach by Borrower, Owner or any co-signer, endorser, surety, or guarantor under any of the terms of the Agreement, the Note, any contract for assignment or other loan agreement, guaranty, securing, securing, mortgage, deed to secure debt, deed of trust, trust deed, or any other document or instrument evidencing, guaranteeing, securing, or otherwise relating to the Obligations; or

C. The making or fulfilling of any verbal or written representation, statement or warranty to Bank which is or becomes false or incorrect in any material respect by or on behalf of Owner, Borrower, or any co-signer, endorser, surety or guarantor of the Obligations; or

D. Failure to obtain or maintain the insurance coverage required by Bank, or insurance as in customary and proper for the Collateral (as herein defined); or

E. The death, dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment of creditors by or on behalf of, the voluntary or involuntary termination of assignment by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Owner, Borrower, or any co-signer, endorser, surety or guarantor of the Obligations; or

F. A good faith check by Bank at any time that Bank in its discretion deems to be unpaid or that the Collateral (as herein defined) is impaired; or

G. Failure to pay or provide proof of payment of any tax, assessment, rent, insurance premium, interest or escrow deficiency on or before the due date; or

10. REMEDIES ON DEFAULT. At the option of Bank, all or any part of the principal, and accrued interest on, the Obligations shall become immediately due and payable without notice or demand, upon the occurrence of an Event of Default or at any time thereafter. In addition, upon the occurrence of an Event of Default or at any time thereafter by Mortgagee, Bank, at Bank's option, shall have the right to exercise any or all of the following remedies:

A. To continue to collect direct and retain Rent in Bank's name without taking possession of the Property and to demand, collect, receive, and sue for the Rent, giving proper receipts and returns, and, after deducting all reasonable expenses of collection, apply the balance as legally permitted to the Note, first to accrued interest and then to principal.

B. To recover reasonable attorneys' fees to the extent not prohibited by law.

C. To declare the Obligations immediately due and payable, and, at Bank's option, exercise any of the remedies provided by law, the Note, the Mortgage or the Agreement.

D. To enter upon, take possession of, manage and operate all or any part of the Property, make, modify, enlarge or cancel any Lease, evict any Lessee, increase or reduce Rent, decorate, clean and make repairs, and do any act or incur any cost Bank shall deem proper to protect the Property as fully as Owner could do, and to apply any funds collected from the operation of the Property in such order as Bank may deem proper, including, but not limited to, payment of the following: operating expenses, management, brokerage, attorneys' and accountants' fees, the Obligations, and toward the maintenance or repairs for repair or replacement. Bank may take such action without regard to the adequacy of the security, with or without any action or proceeding, through any person or agent, mortgaged under a mortgage, or receiver to be appointed by a court, and irrespective of Owner's possession.

The collection and application of the Rent or the entry upon and taking possession of the Property as set out in this section shall not cure or waive any default, or modify or waive any notice of default under the Note, Mortgage or the Agreement, or invalidate any act done pursuant to such notice. The enforcement of a mortgage by Bank, once exercised, shall constitute a lien in favor of Bank on all real estate, notwithstanding that such collection and application of Rent may have cured the original default. If Bank shall thereafter elect to discontinue the exercise of any such remedy, the same or any other remedy under the law, the Note, Mortgage or the Agreement may be asserted at any time and from time to time following any subsequent default. The word "default" has the same meaning as contained within the Note or any other instrument evidencing the Obligations, and the Mortgage, or any other document securing, guaranteeing or otherwise relating to the Obligations.

In addition, upon the occurrence of any Event of Default, Bank shall be entitled to all of the remedies provided by law, the Note and any related loan documents. All rights and remedies are cumulative and not exclusive, and Bank is entitled to all remedies provided at law or equity, whether or not expressly set forth.

11. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES

A. As used in the paragraph:

(1) "Environmental Law" means, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA", 42 U.S.C. 9601, et seq.), or federal, state and local laws, regulations, ordinances, court orders, attorney general orders, or interpretive letters concerning the public health, safety, welfare, environment or a Hazardous Substance (as defined herein);

(2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or the environment. This term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

B. Owner represents, warrants and agrees that, except as provably disclosed and acknowledged in writing:

(1) No Hazardous Substance has been, is or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property except in the ordinary course of business and in strict compliance with all applicable Environmental Laws.

(2) Owner has not and will not cause, contribute to or permit the release of any Hazardous Substance on the Property.

(3) Owner shall immediately notify Bank if: (a) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (b) there is a violation of any Environmental Law concerning the Property. In such an event, Owner shall take all necessary remedial action in accordance with any Environmental Law.

(4) Owner has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (a) any Hazardous Substance located on, under or about the Property or (b) any violation by Owner or any tenant of any Environmental Law. Owner shall immediately notify Bank in writing as soon as Owner has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Bank has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

(5) Owner and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.

(6) There are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well shall be added unless Bank first agrees in writing.

(7) Owner will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

(8) Owner will permit, or cause any tenant to permit, Bank or Bank's agent to enter and inspect the Property and review all records at any reasonably time to determine: (a) the existence, location and nature of any Hazardous Substance that has been released on, under or about the Property; (b) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; (c) whether or not Owner and any tenant are in compliance with any applicable Environmental Law.

(9) Upon Bank's request, Owner agrees, at Owner's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Bank. The choice of the environmental engineer who will perform such audit is subject to the approval of Bank.

(10) Bank has the right, but not the obligation, to perform any of Owner's obligations under this paragraph at Owner's expense. As a consequence of any breach of any representation, warranty or promise made in this paragraph, (a) Owner will indemnify and hold Bank and Bank's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, removal and restoration costs, penalties and expenses, including without limitation all costs of litigation and reasonably attorney's fees, which Bank and Bank's successors or assigns may sustain; and (b) at Bank's discretion, Bank may release the Agreement and in return Owner will provide Bank with collateral of at least equal value to the Property secured by this Agreement without prejudice to any of Bank's rights under this Agreement.

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This Assignment of Rents
12715782 is executed by the PIONEER BANK & TRUST COMPANY, not personally, but as Trustee under Trust Agreement dated and known as Trust No. 23404 in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing herein or in said principal note or obligation contained shall be construed as creating any liability on the said mortgagor, or on the PIONEER BANK & TRUST COMPANY, personally to pay the said obligation or any interest that may accrue therein, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein or in said obligation contained, all such liability, if any, being expressly waived by said mortgage and by every person now or hereafter claiming any right or security thereunder.

IN WITNESS WHEREOF, the PIONEER BANK & TRUST COMPANY, not personally, but, as Trustee as aforesaid, has caused these presents to be signed by its Vice President/Trust Officer and its corporate seal to be hereunder affixed and attested by its Assistant Secretary, this 11th day of March A.D. 19 94.

PIONEER BANK & TRUST COMPANY

By: [Signature]
Vice President/Trust Officer

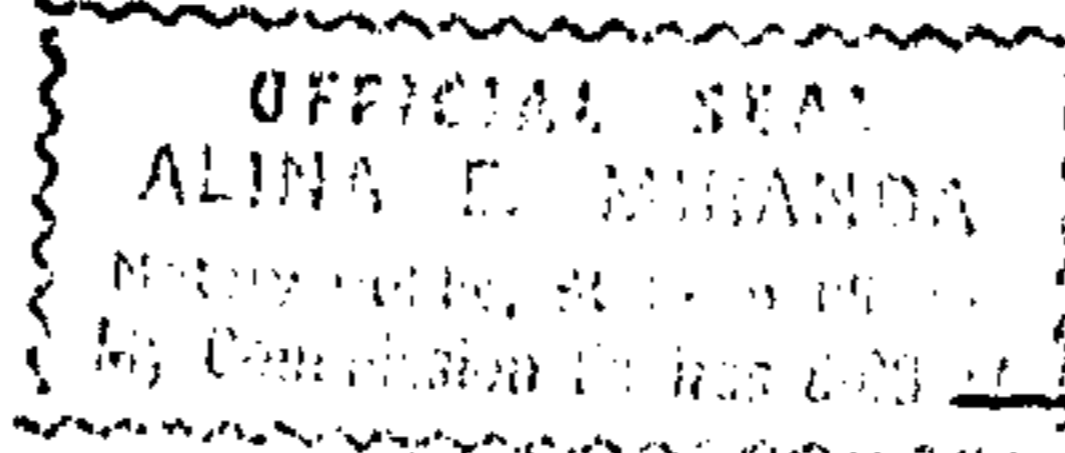
Attest: [Signature]
Assistant Secretary

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above named Vice President/Trust Officer of the PIONEER BANK & TRUST COMPANY, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President/Trust Officer and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said Corporation, caused the corporate seal of said Corporation to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 11th day of March, 19 94.



[Signature]
Notary Public

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(12) Notwithstanding any of the language contained in the Agreement to the contrary, the terms of this paragraph shall survive any foreclosure or satisfaction of any deed of trust, mortgage or any obligation regardless of any passage of this to Bank or any deposition by Bank of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

12. ADDITIONAL POWERS OF BANK. In addition to all other powers granted by the Agreement and the Mortgage, Bank also has the rights and powers, pursuant to the provisions of the Illinois Code of Civil Procedure, Section 15-1101, et seq.

13. TERM. The Agreement shall remain in effect until the Obligations are fully and finally paid. Upon payment in full of all such indebtedness, Bank shall execute a release of the Agreement upon Cwiter's request.

14. GENERAL PROVISIONS.
- A. TIME IS OF THE ESSENCE. Time is of the essence in Cwiter's performance of all duties and obligations imposed by the Agreement.
 - B. NO WAIVER BY BANK. Bank's course of dealing, or Bank's forbearance from, or delay in, the exercise of any of Bank's rights, remedies, privileges or right to insist upon Cwiter's strict performance of any provisions contained in the Agreement, or other loan documents, shall not be construed as a waiver by Bank, unless any such waiver is in writing and is signed by Bank.
 - C. AMENDMENT. The provisions contained in the Agreement may not be amended, except through a written amendment which is signed by Cwiter and Bank.
 - D. INTEGRATION CLAUSE. This written Agreement and all documents executed concurrently herewith, represent the entire understanding between the parties as to the Obligations and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties.
 - E. FURTHER ASSURANCES. Cwiter, upon request of Bank, agrees to execute, acknowledge, deliver and record or file such further instruments or documents as may be required by Bank to secure the Note or confirm any loan.
 - F. GOVERNING LAW. The Agreement shall be governed by the laws of the State of Illinois, provided that such laws are not otherwise preempted by federal laws and regulations.
 - G. FORUM AND VENUE. In the event of litigation pertaining to the Agreement, the exclusive forum, venue and place of jurisdiction shall be in the State of Illinois, unless otherwise designated in writing by Bank or otherwise required by law.
 - H. SUCCESSION. The Agreement shall survive to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties, provided however, that Cwiter may not assign, transfer or delegate any of the rights or obligations under this Agreement.
 - I. NUMBER AND GENDER. Whenever used, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.
 - J. DEFINITIONS. The terms used in the Agreement, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously, or in conjunction, with this Agreement.
 - K. PARAGRAPH HEADINGS. The headings at the beginning of any paragraph, or any subparagraph, in the Agreement are for convenience only and shall not be dispositive in the event of any conflict or inconsistency in the Agreement.
 - L. IF FIELD UNENFORCEABLE. If any provision of the Agreement shall be held unenforceable or void, then such provision shall be severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions not the validity of the Agreement.
 - M. NO ACTION BY BANK. Nothing contained herein shall require the Bank to take any action.

OWNER/BORROWER:

PIONEER BANK AND TRUST CO. AS TRUSTEE U/TA DATE 12-15-82 A/K/A TRUST #23404

94257953

BY:

BY: As Co-Trustee

BY: As Co-Trustee

SEE SIGNER APPEARANCE HEREIN
MADE A PART HEREOF
94257953

STATE OF

001

COUNTY OF

On this _____ day of _____, 19____, the undersigned, personally known to me to be the same person whose name and subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the instrument as their free and voluntary act, for the uses and purposes set forth.

My commission expires: _____

NOTARY PUBLIC

This document was prepared by LAKEBIDE BANK, 141 W. Jackson Blvd. Suite 1212, Chicago, Illinois 60604.

Please return this document after recording to LAKEBIDE BANK, 141 W. Jackson Blvd. Suite 1212, Chicago, Illinois 60604.

THIS IS THE LAST PAGE OF A 4 PAGE DOCUMENT, EXHIBITS AND/OR APPENDA MAY FOLLOW.

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Attn: S. J. Bochnowski
2258 S. King Drive
Chicago, Illinois 60616