

# UNOFFICIAL COPY

## MORTGAGE

THIS INDENTURE, made February 23, 1994 by and between DEVON BANK, f/k/a DEERBROOK STATE BANK, not personally but as Trustee u/t/a dated 12-29-86 and known as LT# 434 ("Mortgagors") and DEVON BANK, an Illinois Banking Corporation ("Mortgagee").

WITNESSETH

DEPT-01 RECORDING \$43.00  
120600 TRAN 2780 04/15/94 14:29:00  
#5224 ? # - 74 - 3401325

THAT WHEREAS, the Mortgagor(s) hereinafter called the "~~Mortgagor~~" are justly indebted to Mortgagee upon a Mortgage Note in the principal sum of One Hundred Forty Thousand and no/100----- (\$140,000.00) evidenced by one certain Mortgage Note of Mortgagor(s) of even date herewith, made payable to the order of DEVON BANK and delivered to the Mortgagee in and by which Mortgagor(s) promises to pay the principal sum of \$140,000.00 and interest at the rate (sometimes referred to as "mortgage rate") as provided in said Note, with a final payment of the balance due on February 23, 1999. All of said principal and interest is made payable at such place as the holders of the note may from time to time, in writing appoint, and in absence of such appointment, then at the office of the Devon Bank, 6445 North Western Avenue, Chicago, Illinois 60645.

NOW, THEREFORE, for the purpose of securing the payment of said principal sum of money and said interest on the note, of even date herewith, and the performance of the covenants and agreements herein contained, by Mortgagor to be performed, and in further consideration of the sum of One Dollar (\$1.00) in hand paid, the Mortgagor, do by these presents hereby MORTGAGE, CONVEY, AND WARRANT unto Mortgagee, its successors and assigns, the following described real estate situated in the County of Cook and State of Illinois, to wit:

THE SOUTH 158 FEET (EXCEPT THE EAST 158 FEET THEREOF AND EXCEPT THAT PART TAKEN OR USED FOR OAKTON STREET) OF THE EAST 4 ACRES OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.  
P.I.N. 10-20-302-036  
COMMONLY KNOWN AS: 6004 Oakton, Morton Grove, IL 60053

TOGETHER with all and singular tenements, easements, privileges, appendages and appurtenances thereto belonging or in any wise appertaining, all buildings, and improvements now located thereon or which may hereafter be placed thereon, fixtures, and appurtenances thereto belonging or in any wise appertaining, and all rents, issues and profits thereof (which are hereby expressly assigned to the Mortgagee) for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all shades, awnings, venetian blinds, screens, screen doors, storm doors and windows, gas and electric fixtures, curtain fixtures, partitions, attached floor covering, furnace pumps and all other fixtures, apparatus and equipment including inventory equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditions, water, light, power, sprinkler protection, waste removal, refrigeration (whether single units or centrally controlled), and ventilation; it being understood that the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned. All of the land, estate and property here in above described, real, personal, and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified) and all rights hereby conveyed and mortgaged are intended so to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate, and to be appropriated to the use of the real estate, and shall for the purposes of this mortgage be deemed to be real estate and conveyed and mortgaged hereby.

TO HAVE AND TO HOLD the mortgaged premises and property unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, hereby releasing and waiving all rights of the Mortgagor under and by virtue of the Homestead Exemption Laws of the State of Illinois in and to the premises hereby conveyed.

ATTEST: TITLE GUARANTEE FUND, INC.  
\$ 43.00 16A

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IN CONSIDERATION of the premises and for the better securing of the payment of said principal sum, interest, and of all indebtedness hereby secured, the said Mortgagor(s) and the Maker(s) hereby covenant(s) and agree(s) to and with the Mortgagee(s) for the use of the legal holder of said notes, as follows:

1. To pay said indebtedness and the interest thereon as herein and in said notes provided, or according to any agreement extending the time of payment thereof; to pay prior to the delinquent date in each year, all taxes and assessments levied or assessed upon said premises or any part thereof, and, upon demand by the Mortgagee, or any noteholder, to exhibit receipts therefor; to pay, within thirty (30) days after the same shall become due under the ordinances, requirements or regulations of the municipality in which the real estate described herein is situated, all water charges against said premises, and, upon demand by the Mortgagee, or any noteholder, to exhibit receipts therefor; not to allow any building erected on said premises to remain unfinished, nor do, nor permit to be done upon said premises, anything that might impair the value thereof, or the security intended to be effected by virtue of this instrument; and in case of the failure of the Mortgagor(s) so to pay taxes, water charges, or special assessments, or to keep the mortgaged property in good repair and in a completed condition, free from any liens thereon, then the Mortgagee, or the legal holder of any notes may pay such taxes, water charges, or special assessments, or redeem said premises from any tax sale, or discharge or purchase any tax claims or other liens thereon, or make repairs on any part of the mortgaged property, or complete any unfinished building on said premises, or pay out any other sum or sums necessary for the protection, enforcement, or collection of this security, and any and all monies paid for any such purpose, with interest thereon from the respective dates of payment at the rate of sixteen per cent (16%) annually, shall become so much additional indebtedness secured hereby, and shall be included in any decree of foreclosure hereof, and shall be paid out of the rents and proceeds of sale of said premises if not otherwise paid by said Mortgagor(s); and it shall not be obligatory, in advancing or disbursing monies for any purpose above authorized, to inquire into the validity of any claim or lien for which such disbursement is made. Nothing herein contained shall be construed as requiring the Mortgagee or noteholder to advance or expend monies for any of the aforesaid purposes.

#### PAYMENT OF TAXES

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to Mortgagee duplicate receipts therefor to prevent default hereunder; and in case of the failure of the Mortgagor to pay such taxes, water charges, or special assessments, then the Mortgagee or legal holder of the Note may but not be obligated to pay such taxes, water charges or special assessments, or redeem said premises from any tax sale, or discharge or purchase any tax claims or other liens thereon, or pay-out any other sum or sums necessary for the protection, enforcement, or collection of this security, and any and all monies paid for such purpose with interest thereon from the respective dates of payment at the rate of Thirteen (13%) annually, shall become so much additional indebtedness secured hereby, and shall be included in any decree of foreclosure hereof, and shall be paid out of the rents and proceeds of sale of said premises, if not otherwise paid by the Mortgagor. The Mortgagor shall not be required to pay any tax or assessment deemed excessive or invalid so long as Mortgagor shall, in good faith, object to or otherwise contest the validity of same by appropriate legal proceedings which shall operate to prevent the collection of any such taxes or assessments, or the sale of any part of the property to satisfy the same, provided always that prior to the institution of any such proceedings the Mortgagor shall, upon demand by the Mortgagee or any subsequent noteholder as protection and indemnity against loss or damage resulting therefrom, deposit either in cash or securities acceptable to the Mortgagee an amount sufficient in its judgment to cover the unpaid or protested portion of any such tax or special assessment together with any costs and penalties thereon which may thereafter accrue. During the pendency of such legal proceedings neither the Mortgagee nor any noteholder shall have a right to pay any taxes or assessment so contested unless (a) the Mortgagor shall fail, in the judgment of the Mortgagee or such noteholder, to prosecute such proceeding with reasonable diligence, (b) a tax receiver shall be appointed for said premises, or (c) said premises shall be

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advertised for sale for nonpayment of any such taxes or assessments. In any one of which events the Mortgagee or any noteholder shall have the right to make such payment; and during the pendency of such proceedings, and upon the termination of the same and the overruling or sustaining of such objections or proceeds, in whole or in part, the Mortgagee or any noteholder is hereby given full power and authority, without notice to the Mortgagor, to use and apply so much of said cash or securities as may be necessary, in its sole judgment and discretion, to pay any balance owing and unpaid upon any taxes, assessments, or water charges so contested, together with interest, penalties, and costs, and the Mortgagor further covenant to make such additional deposits as the Mortgagee and any noteholder from time to time may deem necessary in order that the Mortgagee shall at all times have on deposit a sufficient amount to protect it against any loss or damage as aforesaid.

## INSURANCE

3. Mortgagor(s) shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee. Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may reasonably require. All policies of insurance to be furnished hereunder shall be in forms, from companies and in amounts reasonably satisfactory to Mortgagee, with mortgagee clauses attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidence thereby shall not be terminated or materially modified without ten (10) days prior written notice to Mortgagee. Mortgagor shall deliver all policies to Mortgagee and, in the case of insurance about to expire, shall deliver renewal policies not less than ten (10) days prior to their respective dates of expiration.

## ADJUSTMENT OF LOSSES WITH INSURER AND APPLICATION OF PROCEEDS OF INSURANCE.

4. In case of loss, Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized either (a) to settle and adjust any claim under such insurance policies without consent of Mortgagor, or (b) to allow Mortgagor to agree with the insurance company or companies on the amount to be paid upon the loss.

In either case Mortgagee is authorized to collect and receipt for any such insurance money. If the insurers do not deny liability as to the insureds, such proceeds, after deducting therefrom any expenses incurred in the collection thereof, shall be used to reimburse Mortgagor for the cost of rebuilding or restoration of buildings and improvement on said premises. In all other cases, such insurance proceeds may, at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby, whether due or not, or be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoration of buildings or improvements on said premises. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. In the event Mortgagor is entitled to reimbursement out of insurance proceeds, such proceeds shall be made available, from time to time, upon Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractors' sworn statements and other evidence of the estimated cost of completion thereof, and with such architects certificates, waivers of lien, contractors' sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve, and if the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, with all plans and specifications for such rebuilding or restoration as Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said proceeds remaining in the hands of Mortgagee shall be at least sufficient to pay for the cost of the work free and clear of liens.

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In case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the buildings or improvements, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same or as the court may direct. In case of the foreclosure of this mortgage, the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be canceled; and any such foreclosure decree may further provide, that in case of one or more redemptions under said decree, pursuant to the statute in such case made and provided, then and in every such case, each successive redeemer may cause the proceeding loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

## STAMP TAX

5. If, by the laws of the United States of America, or of any state having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the note hereby secured, Mortgagor covenant and agree to pay such tax in the manner required by any such law. Mortgagor further covenant to hold harmless and agree to pay such tax in the manner required by any such law. Mortgagor further covenant to hold harmless and agree to indemnify Mortgagee, its successor or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the note secured hereby.

## FUTURE ADVANCE

6. This Mortgage shall secure future advances, if any, made by Mortgagee under any subsequent agreement unless otherwise provided herein. All such advances made shall be secured hereby and shall have and be entitled to the same lien priority as that indebtedness first extended to Mortgagor by Mortgagee under the Mortgage Note. All future advances shall be made under the terms of the note or new notes and in no event shall be made after twenty years from the date hereof.

## PREPAYMENT PRIVILEGE

7. At such time as Mortgagor(s) are not in default either under the terms of the note secured hereby or under the terms of this mortgage, Mortgagor shall have the privilege of making prepayments on the principal of said note (in addition to the required payments) in accordance with the terms and conditions, if any, set forth in said note.

## OBSERVANCE OF LEASE ASSIGNMENT

8. In the event Mortgagor(s), as additional security for the payment of the indebtedness described in and secured hereby, has sold, transferred and assigned, or may hereafter sell, transfer and assign, to Mortgagee, its successors and assigns, any interest of Mortgagor as lessor in any lease or leases, Mortgagor expressly covenant and agree that if Mortgagor, as lessor under such lease or leases assigned, shall fail to perform and fulfill any term, covenant, condition or provision in said lease or leases, or any of them, on its part to be performed or fulfilled, at the times and in the manner in said lease or leases provided, or if Mortgagor shall suffer or permit to occur any breach or default under the provisions of any assignment of any lease or leases of the premises given as additional security for the payment of the indebtedness secured hereby and such default shall continue for three (3) days, then and in any such event, such breach or default shall constitute a default hereunder.

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## EFFECT OF EXTENSIONS OF TIME

9. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation or release.

Any person, firm or corporation taking a junior mortgage or other lien upon the Premises or any interest therein, shall take the said lien subject to the rights of the Mortgagee herein to amend, modify and supplement this Mortgage, the Note and the Assignment and to vary the rate of interest and the method of computing the same, and to impose additional fees and other charges, and to extend the maturity of the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien;

Nothing in this Section contained shall be construed as waiving any provision of Sections 28 and 29 hereof which provides, among other things, that it shall constitute an Event of Default if the Premises be sold, conveyed or encumbered.

## EFFECT OF CHANGES IN LAWS REGARDING TAXATION

10. In the event of the enactment after this date of any law of the state in which the premises are located deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of whole or any part of the taxes or assessments or charge or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then, and in any such event, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice. Notwithstanding anything to the contrary contained herein, Mortgagee shall not be liable for any federal, state or local income, excess profit, franchise or capital stock taxes of Mortgagor.

## MORTGAGEE'S PERFORMANCE OF DEFAULTED ACTS

11. In case of default therein, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payment of principal of interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contract any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at a rate of Thirteen (13%). Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

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## MORTGAGEE'S RELIANCE ON TAX BILLS, ETC.

12. Mortgagee in making payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

## ACCELERATION OF INDEBTEDNESS IN CASE OF DEFAULT

13. Except for failure to provide the insurance described in paragraph 3 hereof for which there will be no cure period if (a) default be made in the due and punctual payment of said notes, or any installment due in accordance with the terms thereof, either of principal or interest and such default shall not be cured within the earlier of ten (10) days following the sending of notice thereof to Mortgagor or as otherwise provided in said notes; or (b) Mortgagor shall file a petition in voluntary bankruptcy or under Chapter 7, chapter 11, or Chapter 13 of the Federal Bankruptcy Code or any similar law, state, or federal, whether now or hereafter existing, or an answer admitting insolvency or inability to pay its debts within ten (10) days; or (c) Mortgagor shall fail to obtain a vacation or stay of involuntary proceedings within sixty (60) days, as hereinafter provided; or (d) Mortgagor shall be adjudicated a bankrupt, or a mortgagee or a receiver shall be appointed for Mortgagor or for all of its property or the major part thereof in any involuntary proceeding, or any court shall have jurisdiction of the property for the reorganization, dissolution, liquidation or winding up of Mortgagor, and such mortgagee or receiver shall not be discharged or such jurisdiction relinquished or vacated or stayed on appeal or otherwise stayed within sixty (60) days; or (e) Mortgagor shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or mortgagee or liquidator of all of its property or the major part thereof; or, (f) default shall be made in the due observance or performance of any other of the covenants, agreements or conditions hereinafter contained, required to be kept or performed or observed by Mortgagor and the same shall continue for thirty (30) days following the delivery of notice thereof to Mortgagor, then and in every such case the whole of said principal sum hereby secured shall, at once, at the option of Mortgagee, become immediately due and payable, together with accrued interest thereon, without notice to Mortgagor.

## FORECLOSURE; EXPENSE OF ALL TYPES OF LITIGATION

14. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said premises, including probate, housing and building code violation, and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Mortgagor, with interest thereon at a rate of Thirteen percent (13%) and shall be secured by this mortgage.

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## APPLICATION OF PROCEEDS OF FORECLOSURE SALE

15. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

## REMEDIES; FORBEARANCE

16. In addition to each and every remedy heretofore or hereafter described or otherwise existing bylaw or equity for Mortgagor's breach of any of the terms of this Mortgage or the Mortgage Note it secures, Mortgagor grants Mortgagee, its successors and assigns, the right of set-off against and a lien upon any deposit, monies, credits and other property held by such Mortgagee, successor or assignee belonging to the Mortgagor. Each remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever. Mortgagee's forbearance to exercise any remedy hereunder shall not be deemed and shall not constitute a waiver of any right or remedy hereunder.

## APPOINTMENT OF RECEIVER

17. Upon, or at any time after the filing of a complaint to foreclose this mortgage, the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall or then occupied as a homestead or not and Mortgagee hereunder or any holder of the note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of; (a) the indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

## MORTGAGEE'S RIGHT OF POSSESSION IN CASE OF DEFAULT

18. In any case in which under the provisions of this mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the premises or any part thereof personally, or by its agents or attorneys, and Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of said premises, together with all documents, books, records, papers and accounts of mortgagor or the then owner of the premises relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may as attorney in fact or agent of Mortgagor, or in its own name as Mortgagor and under the powers herein granted, hold, operate, manage and control the premises and conduct the business, if any, thereof, either personally

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or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same, to elect to disaffirm any lease or sublease made subsequent to this mortgage or subordinated to the lien hereof, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the premises as to it may seem judicious, insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof and to receive all of such avails, rents, issues and profits.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under leases, and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and for many and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge and of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

## APPLICATION OF INCOME RECEIVED BY MORTGAGEE

19. Mortgagee in the exercise of the rights and powers herein conferred upon it by paragraph 18 hereof shall have full power to use and apply the avails, rents, issues and profits of the premises to the payment of or on account of the following, in such order as Mortgagee may determine:

- (a) to the payment of the operating expenses of said property, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents, if management be delegate to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases); established claims for damages, if any, and premiums on insurance hereinabove authorized;
- (b) to the payment of taxes and special assessments now due or which may hereafter become due on said premises;
- (c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of said premises, and of placing said property in such condition as will, in the judgment of Mortgagee, make it readily rentable;
- (d) to the payment of any indebtedness secured hereby or any deficiency which may result from any foreclosure sale.

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## MORTGAGEE'S RIGHT OF INSPECTION

20. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

## CONDEMNATION

21. Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any award or any claim for damages for any of the mortgaged property taken or damaged under the power of eminent domain or by condemnation. Mortgagee may elect to apply the proceeds of the award upon or in reduction of the indebtedness secured hereby, whether due or not, or to require Mortgagor to restore or rebuild, in which event the process shall be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring or buildings or improvements on said premises, in accordance with plans and specifications to be submitted to and approved by Mortgagee. If Mortgagor is obligated to restore or replace the damaged or destroyed buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this mortgage and if such taking does not result in cancellation or termination of such lease, the award shall be used to reimburse Mortgagor for the cost of the rebuilding or restoring of buildings or improvements on said premises, provided Mortgagor is required or authorized, either by Mortgagee's election as aforesaid, or by virtue of any such lease, to the same manner as is provided in paragraph 4 hereof for the payment of insurance proceeds toward the cost of rebuilding or restoration. If the amount of such award is insufficient to cover the cost of rebuilding or restoration, Mortgagor shall pay such cost in excess of the award, before being entitled to reimbursement out of the award. Any surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall, at the option of Mortgagee, be applied on account of the indebtedness secured hereby or be paid to any other party entitled thereto.

## RELEASE UPON PAYMENT AND DISCHARGE OF MORTGAGOR'S OBLIGATIONS

22. Mortgagee shall release this mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

## GIVING OF NOTICE

23. Any notice which either party hereto may desire or be required to give to the other party shall be in writing and the mailing thereof by certified mail addressed to Mortgagor at the mortgaged premises (designate by street address) or to the Mortgagee at its place of business or at such other place as any party hereto may by notice in writing designate as a place for service of notice, shall constitute service of notice hereunder.

## WAIVER OF STATUTORY RIGHTS

24. Mortgagor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so-called "moratorium laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of this mortgage, but hereby waives the benefit of such laws. Mortgagor for themselves and all who may claim through or under it waives any and all right to have the property and estates comprising the mortgaged property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the mortgaged property sold as an entirety. Mortgagor hereby waives all rights of homestead exemption in the premises and any and all rights of redemption from sale under any order or decree of foreclosure of this mortgage on its behalf and on behalf of each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the premises subsequent to the date of this mortgage.

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## FURNISHING OF FINANCIAL STATEMENTS TO MORTGAGEE

25. Mortgagor covenant and agree to furnish to Mortgagee such financial statements as Mortgagee may reasonably require.

## BINDING ON SUCCESSORS AND ASSIGNS

26. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of Mortgagee named herein, and the holder or holders, from time to time, of the note secured hereby.

## LESSEE ATTORNMENT

27. In the event of the enforcement by Mortgagee of the remedies provided for by the law or by this Mortgage, the lessee under each lease of all or any part of the Premises made after the date of recording this Mortgage, if any, shall, at the option of the Mortgagee, attorn to any person succeeding to the interest of Mortgagee, as a result of such enforcement and shall recognize such successor in interest as landlord under such lease without change in the terms or other provisions thereof, provided, however, that the said successor in interest shall not be bound by any payment of rent or additional rent for more than one month in advance or any amendment or modification to any lease made without the prior written consent of Mortgagee or said successor in interest, shall execute and deliver an instrument or instruments confirming such attornment, and Mortgagor shall cause each such lease of all or any part of the Premises to contain a covenant on the lessee's part evidencing its agreement to such attornments.

## TRANSFER OF PROPERTY OR INTEREST BY MORTGAGOR; ASSUMPTION

28. Upon sale or transfer of (i) all or any part of the premises, or any interest therein, or (ii) any beneficial interest in any land trust which may now or hereafter acquire title to the premises, or any person or entity, Mortgagee may, at its option, declare all sums secured by this Mortgage to be immediately due and payable, and Mortgagee may invoke any other remedies provided by this Mortgage, law or equity. This option shall not apply when the Mortgagee prior to the transfer or sale consents in writing to such transfer or sale subject to whatever terms the Mortgagee may require, including, an increase in the rate of interest payable under the note secured hereby.

29. Mortgagor covenant and agree that it will not, without the prior written consent of Mortgagee, which shall not be unreasonably withheld, further mortgage, grant a deed of trust, pledge or otherwise dispose of or further encumber, whether by operation of law or otherwise, any or all of its interest in the premises and any such mortgage, deed of trust, pledge or encumbrance made without the Mortgagee's prior written consent shall be null and void and the making thereof shall constitute a default under this Mortgage.

30. The Mortgagor represent and warrant that the Premises complies in all material respects and covenants and agrees to cause the Premises to at all times comply, with all applicable federal, state, regional, county or local laws, statutes, rules, regulations or regulations or ordinances, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. ss 9601 et seq., the Resource Conservation and Recovery Amendments of 1976, as amended by the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. ss 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. ss 2601 et seq., the Emergency Planning and Community Right-to-know Act of 1986, 42 U.S.C. ss 11001 et seq., the Clean Air Act of 1966, as amended, 42 U.S.C. ss 7401 et seq., the National Environmental Policy Act of 1975, 42 U.S.C. ss 4321, the Rivers and Harbours Act of 1899, 33 U.S.C. ss 401 et seq., the Occupational Safety and Health Act of 1970, 29 U.S.C. ss 651 et seq., and the Safe Drinking Water Act of 1974, as

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amended, 42 U.S.C. §300(f) et seq., and all rules, regulations and guidance documents promulgated or published thereunder, and any state, regional, county or local statute, law, rule, regulation or ordinance relating to public health, safety or the environment, including, without limitation, relating to release, discharge, emissions or disposals to air, water, land or groundwater, to the withdrawal or use of groundwater, to the use, handling or disposal of polychlorinated biphenyls (PCB's), asbestos or area formaldehyde, to the treatment, storage disposal or management of hazardous substances (including, without limitation, petroleum, its derivatives, by-products or other hydrocarbons), to exposure to toxic, hazardous, or other controlled, prohibited or regulated substances, to the transportation, storage, disposal, management or release of gaseous or liquid substances, and any regulation, order, injunction, judgement, declaration, notice of demand issued thereunder.

31. The Mortgagor represent and warrant that it has not given, nor should it give, nor has it received, any notice, letter, citation, order, warning, complaint, injury, claim or demand that: (i) the mortgagor has violated, or is about to violate, any federal, state, regional, county or local environmental, health or safety statute, law, rule, regulation, ordinance, judgement or order; (ii) there has been a release, or there is threat of release, of hazardous substances (including, without limitation, petroleum by its by-products or derivatives or other hydrocarbons) from the Premises; (iii) the mortgagor may be or is liable, in whole or in part, for the costs of cleaning up, remediating or responding to a release of hazardous substances (including, without limitation, petroleum, its by-products or derivatives, or other hydrocarbons); (iv) any of the mortgagor's property or assets are subject to a lien in favor of any Governmental Body for any liability, costs or damages, under federal, state or local environmental law, rule or regulation arising from or costs incurred by such governmental entity in response to a release of a hazardous substance (including, without limitation, petroleum, its by-products or derivatives, or other hydrocarbons). In the event that the Mortgagor receives or gives any notice of the type described in this Section 26, the Mortgagor shall promptly provide a copy of to Mortgagee, and in no event, later than fifteen (15) days from the Mortgagor's receipt or submission thereof.

## CAPTION

32. The captions and headings of various paragraphs of this mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

IN WITNESS WHEREOF, Mortgagor have caused these present to be signed, as of the day, month and year, first above written.

/s/ \_\_\_\_\_  
\_\_\_\_\_(Borrower)\_\_\_\_\_

Devon Bank, as Successor Trustee to  
Deerbrook State Bank U/T 434

BY: Deborah L. Brown  
Deborah L. Brown  
Vice President & Trust Officer

/s/ \_\_\_\_\_  
\_\_\_\_\_(Borrower)\_\_\_\_\_

ATTEST: Mary L. Plotke  
Mary L. Plotke  
Land Trust Administrator

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STATE OF ILLINOIS,

) SS

9 4 3 4 0 1 3 )

COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the State and County aforesaid, hereby certify, that Deborah L. Brown, Vice President of the Devon Bank, and Mary L. Plotke, Assistant Cashier of said Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant Cashier 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 Company, for the uses and purposes therein set forth; and the said Assistant Cashier did also then and there acknowledge that he, as custodian of the corporate seal of said Company, did affix the said corporate seal of said Company to said instrument as his own free and voluntary act, and as the free and voluntary act of said Company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 24th February, 1994.

Anna Kowal  
NOTARY PUBLIC



THIS INSTRUMENT PREPARED BY:

DEVON BANK  
Susan C. Smith  
70 S. Waukegan Rd.  
Deerfield, IL 60015

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