

# UNOFFICIAL COPY

95209709

Mail To

TCF Bank Illinois  
1420 Kensington #320  
Oakbrook, IL 60521

This instrument was prepared by:

TCF BANK ILLINOIS FBO  
(Name)

2600 SOUTH CLEVELAND AVENUE  
DURBANK, IL 60459  
(Address)

**MORTGAGE**

THIS MORTGAGE is made this 10th day of MARCH 19 95, between the Mortgagee **TCF BANK ILLINOIS FBO** (herein "Lender"), and the Borrower **ROBERT R HERBERT AND LINDA M HERBERT, HUSBAND AND WIFE** (herein "Borrower"), and the Mortgage.

TCF BANK ILLINOIS FBO  
a corporation organized and existing under the laws of THE UNITED STATES OF AMERICA  
whose address is 801 MARQUETTE AVE, MINNEAPOLIS, MN 55402  
(herein "Lender").

WHEREAS Borrower is indebted to Lender in the principal sum of U.S. \$ **50,970.25** which indebtedness is evidenced by Borrower's note dated **MARCH 10, 1995** and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of indebtedness, if not sooner paid, due and payable on **MARCH 26, 2010**;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of **COOK**, State of **Illinois**:

THE WEST 54 FEET OF THE EAST 253 FEET OF BLOCK 8 (EXCEPT THE SOUTH 165 FEET THEREOF) AND (EXCEPT THE NORTH 23 FEET THEREOF TAKEN FOR STREET) IN KAUF'S ADDITION TO OAK LAWN, BEING A SUBDIVISION OF LOT 5 IN THE SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 AND 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN # 24-04-102-037-0000

95209709

DEPT-01 RECORDING \$31.50  
T40000 TRAN 1200, 03/29/95 11:37:00  
\$7396 F.A.H. # - 95-209709  
COOK COUNTY RECORDER

RIDER ATTACHED HERETO IS MADE A PART HEREOF.

which has the address of **5515 W ALEXANDER PL,** **OAK LAWN**  
**60453** (Street) (City)  
Illinois (herein "Property Address");  
**60453** (Zip Code)

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property."

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

092-226-0120477

ILLINOIS - HOME IMPROVEMENT - 1/80 - FRMA/FHLMC UNIFORM INSTRUMENT

3150

LND 88 (6/87) IL

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UNIFORM COVENANTS, CONDITIONS, AND RESTRICTIONS

1. Payment of Principal and Interest. Borrower shall pay to Lender the principal and interest... 2. Funds for Taxes and Assessments. Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (the "Funds") equal to one-twelfth of the yearly taxes and assessments (including condemnation and planned unit development assessments, if any) which may accrue prior to or during the term of this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge fee or holding and applying the Funds, analyzing said account or writing and certifying said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of annotation of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credit and debit to the Funds and the purpose for which each such debit to the Funds was made. The Funds are pledged as collateral security for the sums covered by this Mortgage.

If the amount of the Funds held by Lender, together with the current monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first to payments of amounts payable to Lender by Borrower under paragraph 2 hereof, then to interest payments on the Note, and then to the principal of the Note.

4. First Mortgage and Deeds of Trust. Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fees and impositions attributable to the Property which may attain a priority over this Mortgage, and installment payments or ground rents, if any.

5. Hazard Insurance. Borrower shall keep the Improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and receipts therefor shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and receipts therefor, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and to Lender. Lender may make proof of loss if not made promptly by Borrower.

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to pay a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

6. Preservation and Maintenance of Property. Lender, from Planned Unit Development, etc. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a leasehold, a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and applicable law.

7. Protection of Lender's Security. If Borrower fails to perform the obligations and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially impairs Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make and disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest. If Lender requires mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amount disbursed by Lender pursuant to this paragraph in interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Borrower and Lender agree to other terms of payment, each amount shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph shall require Lender to take any action or take any action hereunder.

8. Condemnation. Lender may take or cause to be taken reasonable action upon and impoundments of the Property, provided that Lender shall give Borrower notice prior to any such impoundment or impounding monies unless otherwise provided to Lender's interest in the Property.

9. Condemnation. The proceeds of any award or claim for damages (actual or consequential), in connection with condemnation or other taking of the Property, or part thereof, or by or by reason in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

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Upon acceleration under paragraph 17 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

20. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

21. Waiver of Homestead. Borrower hereby waives all right of homestead exemption in the Property.

## REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrance with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

ROBERT R HERBST *Robert R Herbst* - Borrower

LINDA M HERBST *Linda M Herbst* - Borrower

STATE OF ILLINOIS,

County is:

COOK

I, *Laura C Dantuma* Notary Public in and for said county and state, do hereby certify that

ROBERT R HERBST AND LINDA M HERBST HUSBAND AND WIFE personally known to me to be the same person(s) whose name(s) ARE subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that  they signed and delivered the said instrument as THEIR free voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 10TH day of MARCH 1995

My Commission expires:

*11/16/96*

Notary Public

"OFFICIAL SEAL"  
LAURA C. DANTUMA  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 11/16/96

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(Space Below This Line Reserved for Lender and Recorder)

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## VARIABLE RATE RIDER

THIS VARIABLE RATE RIDER is made this 10th day of NOVEMBER, 1998, and is incorporated into and shall be deemed to amend and supplement the Mortgage (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Consumer Loan and Security Agreement to TCF BANK TLL INDTS FEE (the "Lender") of the same date (the "Note") and covering the property described in the Security Instrument and located at:

5515 W ALEXANDER PL, OAK LAWN, IL 60453

(Property Address)

The Note contains provisions allowing for changes in the interest rate whenever the "index rate" changes, and for annual adjustments to Borrower's payment amount, adjustments in the loan term or adjustment to Borrower's final payment amount.

### ADDITIONAL COVENANTS.

In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

#### CHANGES IN PAYMENT SCHEDULE DUE TO INTEREST RATE CHANGES.

The Note provides for an initial annual interest rate of 11.40 %, and also provides for changes in the interest rate and payment schedule as follows:

Borrower's rate will be a variable annual rate of 11.40 % in excess of the highest U.S. Prime Rate published daily in the Wall Street Journal under "Money Rates" (the "index rate"). If the index becomes unavailable, Lender will select, to the extent permitted by applicable laws and regulations, some other interest rate index that is comparable to the index and will notify Borrower of the change. Lender will recalculate and reset the annual interest rate each business day (excludes Saturday, Sunday and legal holidays), to reflect changes in the index rate. To figure the Annual Percentage Rate, Lender adds 0 percentage points to the index in effect the previous business day. Lender will change the Annual Percentage Rate on the first business day (excludes Saturday, Sunday and legal holidays) following the day that the index change is published. The interest rate will never be more than 0 % per year or less than 0 % per year. The interest rate in effect on the date 120 days before the final payment is due will be the rate Lender charges after that date.

Borrower's monthly payment will change annually on each anniversary date of the first payment due date. Lender will determine the amount of the monthly payment that would be large enough to repay the unpaid principal balance of the Note plus interest on that amount in full by the final payment due date. Lender will give to Borrower a notice of any changes in the monthly payment at least 25 days (but no more than 120 days) before the date when the change becomes effective. Lender will use the interest rate in effect on the date shown in the notice of payment change (referred to below) to make this calculation. If the Note has not been paid in full by

MARCH 26, 2010, Borrower will pay the remaining unpaid principal and accrued interest in full on that date. Borrower will continue to make regular monthly payments until the unpaid principal and interest due under the Note have been paid in full. Interest rate increases may extend the original payment schedule. If the Note has not been paid in full by

MARCH 26, 2010, Borrower will pay the remaining unpaid principal and accrued interest in full on that date.  Borrower's final payment will be adjusted so that the unpaid principal and interest due under the Note will be paid in full.

#### NOTICE.

Lender will give to Borrower a notice at least once each year during which an interest rate adjustment is implemented without an accompanying change in the amount of the monthly payment. The notice will include the current and prior interest rates, a statement of the loan balance and other information required by law and useful to Borrower.

#### LOAN CHARGES.

If the loan secured by the Security Instrument is subject to a law which sets maximum loan charges, and the law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed permitted limits, then: (1) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (2) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment under the Note.

#### LEGISLATION.

If, after the date hereof, enactment or expiration of applicable laws have the effect either of rendering the provisions of the Note, the Security Instrument or this Variable Rate Rider (other than this paragraph) unenforceable according to their terms, or all or any part of the sums secured hereby uncollectable, as otherwise provided in the Security Instrument and this Variable Rate Rider, or of diminishing the value of Lender's security, then Lender, at Lender's option, may declare all sums secured by the Security Instrument to be immediately due and payable.

IN WITNESS WHEREOF, Borrower has executed this Variable Rate Rider.

Robert R. Herbst (Seal)  
Borrower

Linda M. Herbst (Seal)  
Borrower

LINDA M. HERBST (Seal)  
Borrower

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## DUE-ON-TRANSFER RIDER

Notice: This rider adds a provision to the Security Instrument allowing the Lender to require repayment of the Note in full upon transfer of the property.

This Due-On-Transfer Rider is made this 10TH day of MARCH, 1995, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Deed to Secure Debt (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note to TCF BANK ILLINOIS FSB (the "Lender") of the same date (the "Note") and covering the property described in the Security Instrument and located at:

5515 W ALEXANDER PL, OAK LAWN, IL 60453  
(Property Address)

**AMENDED COVENANT.** In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

### A. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER

Uniform Covenant 16 of the Security Instrument is amended to read as follows:

**16. Transfer of the Property or a Beneficial Interest in Borrower.** If all or any part of the Property or an interest therein is sold or transferred by Borrower (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity) without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Security Instrument which does not relate to a transfer of rights of occupancy in the property, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Security Instrument to be immediately due and payable.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 12 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 17 hereof.

Lender may consent to a sale or transfer if: (1) Borrower causes to be submitted to Lender information required by Lender to evaluate the transferee as if a new loan were being made to the transferee; (2) Lender reasonably determines that Lender's security will not be impaired and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable; (3) Interest will be payable on the sums secured by this Security Instrument at a rate acceptable to Lender; (4) changes in the terms of the Note and this Security Instrument required by Lender are made, including, for example, periodic adjustment in the interest rate, a different final payment date for the loan, and addition of unpaid interest to principal; and (5) the transferee signs an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument, as modified if required by Lender. To the extent permitted by applicable law, Lender also may charge a reasonable fee as a condition to Lender's consent to any sale or transfer.

Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

IN WITNESS WHEREOF, Borrower has executed this Due-On-Transfer Rider.

Robert R. Herbst (Seal)  
Borrower  
ROBERT R. HERBST  
Linda M. Herbst (Seal)  
Borrower  
LINDA M. HERBST

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