

MORTGAGE



MAIL TO:

ELMORE & DeMICHAEL  
15507 S. Cicero Avenue  
Suite 200  
Oak Forest, IL 60452

NAME & ADDRESS OF TAXPAYER:

G. RICHARD BENZINGER, III and  
TAMMIE LEE SMITH BENZINGER  
2243 West 138th Street  
Blue Island, IL 60406

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DEPT-01 RECORDING \$35.50  
T2222 TRAN 5971 03/11/96 11:19:00  
#0051 : REC \*--96-179839  
COOK COUNTY RECORDER

RECORDER'S STAMP

MORTGAGE

This Mortgage is dated March 1, 1996, between G. RICHARD BENZINGER, III and TAMMIE LEE SMITH BENZINGER, husband and wife, ("GRANTOR"), whose address is 2393 West 138th Street, Blue Island, Illinois 60406; and G. RICHARD BENZINGER, JR. and EDITH MOORE BENZINGER, as joint tenants, ("LENDER"), whose address is 1131 LaClair Avenue, Pittsburgh, PA 15218.

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages and conveys to Lender all of Grantor's right, title and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures, all appurtenances and all rights relating to the real property, located in Cook County, State of Illinois (the "Real Property").

The West 37 1/2 feet of Lot 4 in Reichardt's Subdivision of the East 1/2 of Lot 35 in England's Subdivision of the Northwest 1/4 of Section 6, Township 36 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

The Real Property or its address is commonly known as 2243 W. 138th Street, Blue Island, Illinois.

The property tax identification number(s) of the Real Property is: 29-06-109-009-0000

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to the Rents from the Real Property.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage:

Borrower. The word "Borrower" means G. RICHARD BENZINGER, III and TAMMIE LEE SMITH BENZINGER.

Grantor. The word "Grantor" means G. RICHARD BENZINGER, III and TAMMIE LEE SMITH BENZINGER. The Grantor is the mortgagor under this Mortgage.

Improvements. The word "Improvements" means without limitation all existing and future buildings, structures, facilities, additions and similar construction, under, upon or within the Real Property.

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**Indebtedness.** The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means G. RICHARD BENZINGER, JR. and EDITH MOORE BENZINGER, as joint tenants. The Lender is the mortgagee under this Mortgage.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignment provisions relating to the Rents.

**Note.** The word "Note" means that certain Promissory Note dated March 1, 1996, in the original principal amount of \$40,657.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of and substitutions for the Note or agreement. The interest rate on the Note is 6.625 percent. The currently scheduled final payment of principal and interest on the Note will be due March 1, 2006.

**Property.** The word "Property" means the Real Property.

**Related Documents.** The words "Related Documents" mean and include the Promissory Note, executed in connection with this Mortgage.

**Rents.** The word "Rents" means all rents, revenues, income, issues, and profits from the Real Property.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS IS GIVEN TO SECURE PAYMENT OF THE INDEBTEDNESS AND PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall perform all of Grantor's obligations.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor covenants and agrees to the following provisions:

**Duty to Maintain.** Grantor shall maintain the Property in first class condition and promptly perform all repairs and maintenance necessary to preserve its value.

**Hazardous Substances.** Grantor represents and warrants that to the best of his knowledge the Property never has been, and never will be so long as this Mortgage remains a lien on the Property, used for the generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous substance, as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA") or similar federal or state law. Grantor agrees to indemnify and hold harmless Lender against any and all claims and losses resulting from a breach of this provision of the Mortgage.

**Nuisance, Waste.** Grantor shall neither conduct or permit any nuisance nor commit or suffer any waste of the Property or any portion thereof, including without limitation removal, or alienation by Grantor of the right to remove, any timber, minerals (including oil and gas), or soil, or gravel or rock products.

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**Removal or Modification of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property unless Grantor make arrangements reasonably satisfactory to Lender to replace any Improvements which Grantor proposes to remove with Improvements of at least equal value. Grantor shall not perform any significant modifications to the improvements without the prior written consent of the Lender.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property provided he shall give at least twenty-four hours notice (except in the case of emergency, in which case notice, shall be given as soon as possible).

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or surety bond (reasonable satisfactory to Lender) to protect Lender's interest.

**Duty to Protect.** Grantor shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer of all or any part of the Real Property, without the Lender's prior written consent. A "sale or transfer" means the conveyance of title to the Real Property or any right, title, or interest therein; whether legal or equitable; by outright sale; deed; installment sale contract; land contract; contract for deed; sale, assignment or transfer of any beneficial interest in or to any land trust holding title to the Real Property; or any other method of conveyance of Real Property interest; provided however that "sale or transfer" shall not include the lease of the Real Property or the Mortgage of the real estate.

## TAXES AND LIENS.

**Payment.** Subject to the tax escrow provisions in the Note, if any, Grantor shall pay when due before they become delinquent all taxes, special taxes, assessments, water charges and sewer charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due, and except as otherwise provided in the following paragraph.

**Right to Consent.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay so long as Lender's interest in the Property is not jeopardized. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

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## PROPERTY DAMAGE INSURANCE.

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty days prior written notice to Lender.

Application of Proceeds. Grantor shall promptly notify Lender of any loss of or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen days of the casualty. Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default hereunder. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used to pay any amounts owing to Lender under this Mortgage or other mortgages in favor of the Lender or other agreement. If Lender holds any proceeds after payment in full of all Indebtedness, such proceeds shall be paid to Grantor.

Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any sheriff's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

EXPENDITURES BY LENDER. If Grantor fails to comply with any provisions of this Mortgage or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender may, at its option upon ten days' written notice to Borrower, on Grantor's behalf take the required action and any amount that it expends in so doing shall be added to the Indebtedness. Amounts so added shall be payable on demand with interest from the date of expenditure until paid at the Note rate. The rights provided for in this section shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. By taking the required action, Lender shall not thereby cure the default so as to bar it from any remedy that it otherwise would have had.

## WARRANTY; DEFENSE OF TITLE.

Title. Grantor warrants that it holds merchantable title to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in any policy of title insurance issued in favor of, and accepted by, Lender in connection with this Mortgage or a leasehold interest that is subordinate to this Mortgage.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at its expense provided Grantor and Grantee shall first submit the claim to Mortgagee's Title Insurance Company. Grantor may be the nominal party in such proceeding but

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Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as may be requested by it from time to time to permit such participation.

**Compliance with Laws.** Grantor warrants that to the best of his knowledge its use of the Property complies with all existing applicable laws, ordinance, and regulations of governmental authorities.

## CONDEMNATION.

**Application of Net Proceeds.** If all or any part of the Property is condemned, Lender may at its election require that all or any portion of the net proceeds of the award to be applied to the Indebtedness. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees necessarily paid or incurred by Grantor, or Lender in connection with the condemnation.

**Proceedings.** If any proceedings in condemnation are filed, Grantor shall promptly notify Lender in writing and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered, to Lender such instruments as may be requested by it from time to time to permit such participation.

## SECURITY AGREEMENT; FINANCING STATEMENTS.

**Security Agreement.** This instrument shall constitute a security agreement to the extent of any of the Rents and Lender shall have all the rights of a secured party under the Illinois Uniform Commercial Code. This instrument shall constitute an assignment of all rents now or hereafter paid or to be paid with respect to the Improvements of any portion thereof. Lender shall have the right to require all payors of rents to make such payments direction to Lender. Notice of Lender's exercise of this right, by reference to this paragraph, shall be sufficient to release such payor from any liability to Grantor or Borrower with respect to the payments thereafter made directly to Lender.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Rents. In addition to recording this Mortgage in the Real Property records, Lender may, at any time and without further authorization from Grantor, file copies or reproductions of this Mortgage as a financing statement as to the assignment of Rents.

**Addresses.** The mailing address of Grantor (debtor) and the mailing address of Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Illinois Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FULL PERFORMANCE.** If at any time permitted under this instrument and under the Promissory Note which this instrument Grantor pays all of the Indebtedness imposed upon Grantor under this Mortgage and the Note, Lender shall execute and deliver to Grantor a suitable release of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents secures no termination fee shall apply and there shall be no prepayment penalty in the event of an authorized prepayment.

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**DEFAULT.** The following shall constitute events of default:

**Default on Indebtedness.** Borrower fails to make any payment when due on the Indebtedness.

**Default Cure.** Borrower shall have the right to cure any default in payment according to the terms of the Promissory Note which this instrument secures.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or for any other payment required under the "Taxes and Liens" paragraph.

**Compliance Default.** Failure to comply with any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents. If such a failure is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve months, it may be cured (and no event of default will have occurred) if Grantor, after receiving written notice from the Lender demanding cure of such failure: (a) cures the failure within fifteen days; or (b) if the cure requires more than fifteen days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

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

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any event of default (unless cured as provided above) and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable.

**UCC Remedies.** With respect to all or any part of the Rents, Lender shall have all the rights and remedies of a secured party under the Illinois Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, with prior notice to Grantor, to collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or the user of the Property to make payment of rent or use fees directly to Lender. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** In the event the Property is abandoned or is suffering substantial waste, the Lender shall have the right to have a receiver appointed to manage and care for the Property.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

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**Tenancy at Will.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at will of Lender or the purchaser of the Property and shall pay while in possession a reasonable rental for use of the Property.

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

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal if the appeal is successful. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including successful efforts to modify or vacate any automatic stay or injunction). Borrower also will pay any court costs, in addition to all other sums provided by law.

**NOTICES TO GRANTOR AND OTHER PARTIES.** Any Note under this Mortgage, including without limitation any Notice of Default and any Notice of Sale to Grantor, shall be in writing and shall be effective when actually delivered or, if mailed, shall be deemed effective on the third day after being deposited as either first class mail, registered or certified mail, postage prepaid, directed to the addresses shown at the top of page 1. Any party may change its address for notices by written notice to the other parties. Lender requests that copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage be sent to Lender's address, as shown near the top of the first page of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

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

**Applicable Law.** This Mortgage has been delivered to Lender in the State of Illinois. The law of that state shall be applicable for the purposes of construing and determining the validity of this Mortgage and, to the fullest extent permitted by the law of any state in which any of the Property is located, deeming the rights and remedies of Lender on default. The laws of the State of Illinois shall control whether the Property may be sold without judicial foreclosure.

**Time of Essence.** Time is of the essence of this Mortgage.

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Waiver of Homestead Exemption. Grantor hereby releases and waives the benefit of the homestead exemption as to all indebtedness secured by this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Amendment. No alteration or amendment of this Mortgage or the Note shall be effective unless in writing and signed by the parties sought to be charged or bound by the alteration or amendment.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Severability. The unenforceability or invalidity of any provision or provisions of this Mortgage as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other persons or circumstances, and all provisions of this Mortgage, in all other respects, shall remain valid and enforceable.

G. RICHARD BENZINGER, III and TAMMIE LEE SMITH BENZINGER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND ALL OF THE PROVISIONS OF THIS MORTGAGE.

G. Richard Benzinger, III  
G. RICHARD BENZINGER, III

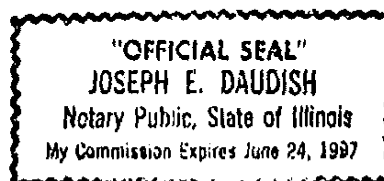
Tammie Lee Smith Benzinger  
TAMMIE LEE SMITH BENZINGER

STATE OF ILLINOIS, COUNTY OF COOK ) SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that G. RICHARD BENZINGER, III and TAMMIE LEE SMITH BENZINGER, husband and wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and seal, this 1st day of March, 1996.

Joseph E. Daudish Notary Public



This Document Prepared By:  
Joseph E. Daudish  
ELMORE & DeMICHAEL  
15507 South Cicero Ave., Suite 200  
Oak Forest, Illinois 60452  
(708) 687-9000  
4:benzinger.mort:rr3

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