

NOTE IDENTIFIED

UNOFFICIAL COPY

TORRENS ORIGINAL TRUST DEED Individual Form

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[Handwritten signature]

70-29-641 DF L Smith

The undersigned, PATRICK E. HOGAN and VIRGINIA HOGAN, his wife

(hereinafter called the "Mortgagors") to secure the payment of the indebtedness hereinafter described hereby CONVEY AND WARRANT to THE LAKE SHORE NATIONAL BANK, a National Banking Association (hereinafter called "the Trustee") certain real estate located at

718 CORONET, GLENVIEW, ILLINOIS 60025

and bearing the following legal description:

****LOT 21 (EXCEPT THE NORTH 20 FEET THEREOF) AND ALL OF LOT 22 IN GEORGE F. NIXON AND COMPANY'S POLO AND GOLF SUBDIVISION, A SUBDIVISION IN SECTION 36, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.** PERMANENT INDEX NUMBER 04-36-401-039-0000 VOLUME 134**

Property of Cook County Clerk's Office

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(which, together with the property immediately hereinafter described, is referred to as "the mortgaged property"),

TOGETHER WITH all buildings, improvements, fixtures, appurtenances, easements and hereditaments thereto belonging; and together with all equipment and machinery now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration, and ventilation; and together with any other fixtures, equipment, machinery or other property now or hereafter placed on the above described property which shall be employed in connection with the operation, use, occupancy or enjoyment of the above described property; and together with all rents, issues and profits of the above described property. All the above described property is declared to form part and parcel of the real estate whether physically attached thereto or not, shall for the purposes of this Trust Deed be deemed to be a part of the real estate and shall be subject to the mortgage created by this Trust Deed. It is agreed that all buildings, improvements, fixtures and any other property of any type described above hereafter placed on the real estate described above shall be deemed to be a part of the mortgaged property and shall be fully subject to the mortgage created by this Trust Deed.

TO HAVE AND TO HOLD the mortgaged property unto the Trustee, its successors, and assigns forever, for the purpose, and upon the uses and trusts set forth in this Trust Deed.

THIS TRUST DEED HAS BEEN GIVEN TO SECURE:

(a) The payment of a certain note (hereinafter called the "Note"), signed by Mortgagors, dated January 2, 1986, and made payable to the order of the LAKE SHORE NATIONAL BANK in the principal sum of TWO HUNDRED FOUR THOUSAND AND NO/100THS (\$ 204,000.00)

Dollars, which principal sum together with interest is payable as provided in the Note; and

(b) The payment of all amounts in addition to the indebtedness represented by the Note for which mortgagors are or shall be liable to the Trustee or Holder under the provisions of this Trust Deed, including but not limited to the amounts of all expenses which may be incurred and payments which may be made by the Trustee or the Holder for which Mortgagors are obligated to make reimbursement under the terms of this Trust Deed.

DEFINITIONS: (a) The term "Holder" refers to the person who shall be the legal holder of the Note at the time as of which the term shall be applied. For any period during which two or more persons shall be the legal holders of the Note, the term "Holder" shall be read "Holders" and all singular word forms used in connection with the term "Holder" shall be deemed to be plural word forms where context and construction so require. (b) The Note, this Trust Deed, and any other writing (whether heretofore made or hereafter executed) which by its terms secures or contains agreements with respect to all or any part of the indebtedness evidenced by the Note are each sometimes hereinafter referred to as a "Mortgage Instrument". (c) The term "Default Interest Rate" means the simple interest rate of seven and one half percent per annum. (d) All persons who have executed this Trust Deed are hereinafter sometimes collectively referred to as "Mortgagors" and any one such person is sometimes referred to as a "Mortgagor". (e) Any person who is not a Mortgagor under the foregoing definition is sometimes hereinafter referred to as a "third party".

THE UNDERSIGNED REPRESENT, COVENANT AND AGREE AS FOLLOWS:

1. Mortgagors hereby agree: (a) to pay all indebtedness secured by this Trust Deed and all interest thereon as provided in the Note, in this Trust Deed and in any other Mortgage Instrument; (b) to commit or suffer no waste of the mortgaged property, and to keep the mortgaged property in good condition and repair, and (c) to keep the mortgaged property free of any mortgage, mechanic's lien, or other lien or encumbrance or claim of mortgage lien or encumbrance except for mortgages, liens, and encumbrances clearly subordinate to the mortgage created by this Trust Deed or which shall have been in each case expressly permitted by the Holder or Trustee in writing; (d) to suffer or permit no unlawful use nor any nuisance to exist upon the mortgaged property; (e) not to weaken, diminish or impair the value of the mortgaged property or the mortgage created by this Trust Deed by any act or omission to act; (f) to appear in any proceeding which in the opinion of the Trustee or the Holder may affect the mortgage created by this Trust Deed and at the sole expense of Mortgagors to take all steps necessary to protect, maintain or defend the primacy, enforceability and validity of the mortgage created by this Trust Deed and at the sole expense of Mortgagors, to do, make, execute and deliver any acts, things, assurances and writings which the Holder or the Trustee may require to protect, defend, or make more secure the mortgage created by this Trust Deed; (g) to pay when due any indebtedness or liability which may be secured by a mortgage, lien, other encumbrance or charge on all or any part of the mortgaged property equal or senior in priority to the mortgage created by this Trust Deed, and upon request to exhibit satisfactory evidence of the discharge of any such equal or senior mortgage, lien, other encumbrance or charge to the Trustee or to the Holder; (h) to complete within a reasonable time any buildings or other improvements now or at any time in the process of erection upon the mortgaged property; (i) immediately after destruction or damage to all or any part of the mortgaged property to commence and promptly complete the rebuilding or restoration of buildings, improvements and all other property now or hereafter on the mortgaged

(d) there shall be any execution or levy on, the institution of any suit to foreclose any mortgage lien or other encumbrance against, or any seizure, attachment, forced sale or forfeiture of all or any part of the mortgaged property; or (e) any proceeding shall be instituted by or against any Mortgagor under any chapter of the federal Bankruptcy Act, under any insolvency law or under any law relating to the reorganization, readjustment of indebtedness, reorganization, arrangement, composition or extension; or (f) any Mortgagor shall make any assignment for the benefit of creditors or shall apply for or consent to the appointment of a receiver for any Mortgagor or for all or any part of the mortgaged property; or (g) any Mortgagor or all or any part of the mortgaged property shall be placed under the control or in the custody of any court or other governmental authority or of a receiver or trustee; or (h) Mortgagors shall vacate or abandon the mortgaged property or any part thereof.

8. In the event any Material Default (as defined in paragraph 7) shall occur, the Holder and the Trustee are hereby authorized and empowered, at the election of either, without notice of such election, without affecting the validity, enforceability, or priority of the mortgage created by this Trust Deed, and regardless of whether any default shall be subsequently remedied by Mortgagors, to do any or all of the following: (a) To declare all unpaid principal and accrued interest under the Note and all other amounts secured by this Trust Deed immediately due and payable whereupon all such principal, interest and other amounts shall without notice or demand become immediately due and payable; and (b) to apply and set off against any indebtedness secured by this Trust Deed whether or not then due (i) the balance of any checking or savings account which any Mortgagor may then maintain with the Holder, and (ii) any other indebtedness owing from the Holder in any capacity to any Mortgagor whether or not then due, and (iii) any money (including but not limited to all deposits made pursuant to paragraph 4), securities, or other property of any Mortgagor then in the possession of the Holder in any capacity. At any time after the unpaid principal balance of the Note shall have become due (whether by acceleration or otherwise) and regardless of whether or not a Material Default shall have occurred, the Holder and the Trustee shall have the right to do any or all of the following: (a) to foreclose the mortgage created by this Trust Deed in any manner permitted by law; (b) to institute appropriate legal action for a personal deficiency judgment, for the appointment of a receiver, and for any other relief permitted by law; and (c) to exercise all other rights which may accrue to the Holder or the Trustee under or by reason of the provisions of any Mortgage Instrument or under law.

9. Mortgagors shall reimburse the Trustee and the Holder in an amount equal to the amount of all costs and expenses (hereinafter called "Foreclosure Expenses") incurred by the Trustee or by the Holder in connection with foreclosure proceedings or in connection with the exercise of any other action authorized in paragraph 8 of this Trust Deed and shall pay interest at the Default Interest Rate from the date each of such costs and expenses shall be paid by the Trustee or the Holder on the amount of such costs and expenses remaining from time to time unreimbursed. The Foreclosure Expenses shall include but shall not be limited to: attorneys' fees, Trustee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, sheriff's costs and fees, costs (which may be estimated as to items to be expended after entry of a foreclosure decree) of procuring all minutes of foreclosure, abstracts of title, title examinations, title insurance, Torrens certificates, and such similar data and assurances with respect to title as the Trustee or the Holder may deem reasonably necessary either to prosecute a foreclosure suit or to evidence to bidders at any sale which may be had pursuant to such a suit the true condition of the title to or the value of the mortgaged property. The Foreclosure Expenses together with all other amounts for which Mortgagors are or shall be liable to the Trustee or the Holder under the provisions of this Trust Deed and together with all interest on such Foreclosure Expenses and other amounts shall be immediately due and payable without notice or demand, shall be secured by the mortgage created by this Trust Deed, and if not paid by Mortgagors, shall be included in any decree or judgment as part of the indebtedness secured hereby, shall be payable from the rents and proceeds of sale of the mortgaged property, and if not satisfied pursuant to one of the foregoing provisions, shall be included in any deficiency judgment.

10. The proceeds of any foreclosure sale of the mortgaged property shall be distributed and applied in the following order of priority: First, to accrued interest on the foreclosure decree; second, to all Foreclosure Expenses and all other amounts secured by this Trust Deed additional to amounts evidenced by the Note and all accrued interest thereon; third, to all principal and accrued interest remaining unpaid on the Note; and fourth, any overplus to Mortgagors.

11. Upon, or at any time after the filing of a foreclosure suit under this Trust Deed, the court in which such suit is filed may appoint a receiver of the mortgaged property or may, with the consent of the party appointed, appoint the Holder or Trustee as receiver or as mortgagee in possession. The appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of any Mortgagor at the time of application for such receiver or mortgagee in possession and without regard to the then value of the mortgaged property or whether or not the mortgaged property shall be then occupied as a homestead. The receiver or mortgagee in possession shall have all powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the mortgaged property, including but not limited to the power to do any or all of the following: To enter upon and take possession of the mortgaged property; to put and maintain the mortgaged property in first class condition; to employ all personnel necessary for the successful operation of the mortgaged property; to provide insurance against such risks and in such amounts as the receiver or mortgagee in possession may deem desirable; to lease the mortgaged property to such persons, for such terms (whether or not extending beyond the probable period of possession by the receiver or mortgagee in possession) at such rentals and on such conditions as shall appear desirable to the receiver or mortgagee in possession; and to collect the rents, issues and profits of the mortgaged property (including those which shall be overdue) during the pendency of the 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 during which Mortgagors, except for the intervention of such receiver or mortgagee in possession, would be entitled to collect such rents, issues and profits. No lease of all or any part of the mortgaged property shall be terminated by the entry into possession by the receiver or mortgagee in possession, but the receiver or mortgagee in possession may elect to terminate any lease which may be junior to the mortgage created by this Trust Deed. Mortgagors agree to pay a reasonable rent to any receiver or mortgagee in possession appointed in connection with any foreclosure proceedings for the whole of any time during which any Mortgagor shall occupy any portion of the mortgaged property subsequent to the appointment of such a receiver or mortgagee in possession. Net income (i.e., income remaining after payment of expenses incurred by the receiver or mortgagee in possession of the exercise of powers authorized by this paragraph 11 and after payment of the fees of the receiver and Trustee) shall be applied in such amounts as the Holder shall determine to payment of any amount owing on the Note or secured by this Trust Deed, to payment of any amount owing on any judgment on the Note or on any foreclosure decree hereon, or to payment of any tax, special assessment or other amount which may be secured by any lien or encumbrance equal or senior in priority to the mortgage created by this Trust Deed or by a judgment on this Trust Deed, provided any such application is made prior to the foreclosure sale; subsequent to a foreclosure sale, net income may be applied only against any deficiency remaining after such sale.

12. Mortgagors hereby pledge and assign to the Trustee and the Holder all rents payable under any lease of all or any part of the mortgaged property whether presently existing or hereafter made and further pledge and assign any other proceeds arising from any occupancy, use or exploitation of the mortgaged property or any interest therein. While it is the intention of the parties that the foregoing assignment shall be a present assignment, neither the Holder nor the Trustee shall exercise any rights granted under this paragraph unless and until a Material Default (as defined in paragraph 7) shall occur under the terms of this Trust Deed. Upon the occurrence of a Material Default, and regardless of whether the Holder or the Trustee shall have instituted foreclosure proceedings or shall have availed itself of any other right available under paragraph 8: (a) All rents and other proceeds hereby assigned which shall be paid subsequent to the date of the Material Default shall inure to the benefit of the Holder; (b) the Trustee and the Holder shall have the right to terminate, alter and amend any lease of the mortgaged property and to cause new leases to be executed; (c) the Holder and the Trustee shall have the right to notify any lessee or other person in possession of the mortgaged property of this assignment and to require that all subsequent payments hereby assigned be made directly to the Holder or the Trustee; and (d) the Holder and the Trustee shall have the right to collect and receive all rents and proceeds hereby assigned. The collection of rents pursuant to this assignment shall not be deemed to render the Holder of the Trustee a mortgagee in possession. It is the intention of Mortgagors that the rents and proceeds hereby pledged and assigned shall be deemed to be pledged and assigned on a parity with and independently of the mortgaged real estate and that this assignment shall not be deemed merged in any foreclosure decree. Mortgagors agree to execute such attachment notices and other writings as the Holder or the Trustee may require to secure its interest in the rents and proceeds hereby assigned or to facilitate the collection of such rents and proceeds. The collections made pursuant to this assignment shall first be applied to reimburse the Holder and Trustee for all costs incurred to effect such collection and to pay the Trustee's fees; any remaining amounts shall be applied prior to any foreclosure sale in such amounts as the Holder shall determine to payment of any amount owing on the Note or secured by this Trust Deed, to payment of any amount owing on any judgment on the Note or on any foreclosure decree hereon, or to payment of any tax, special assessment, or other amount which may be secured by a lien or encumbrance equal or senior in priority to the interest created by this assignment and shall be applied after any foreclosure sale to any deficiency remaining after such sale.

13. In the event any interest of any one or more of Mortgagors in the mortgaged property shall be sold, conveyed or otherwise transferred (whether voluntarily or involuntarily and whether by operation of law or otherwise) to any third person for any reason (including but not limited to the death of any Mortgagor), then if the Holder shall so elect, but not otherwise all unpaid principal and accrued interest under the Note and all other amounts secured by this Trust Deed shall become immediately due and payable, and the Holder shall have all rights granted to the Holder in paragraph 8 including but not limited to the right to foreclose the mortgage created by this Trust Deed.

14. In the event any part of any Mortgagor's title to or interest in any of the mortgaged property shall pass to or vest in any third person or in the event any third person shall become liable for or shall assume any obligations secured by this Trust Deed or by any other Mortgage Instrument, then and in either such event, the Trustee and the Holder if either so elects (but not otherwise) may without notice to any Mortgagor deal with any such third person in any way in which the Trustee or the Holder may deem necessary or desirable in connection with any indebtedness or obligations secured by this Trust Deed. Without limiting the generality of the foregoing provision, the Trustee and the Holder are hereby authorized: (a) to extend the time for payment of any indebtedness secured by this Trust Deed, (b) to forebear to sue and to forebear to exercise any other right, power or remedy which may be available under law or under any of the Mortgage Instruments; (c) to settle or to compromise any claim against any such third person (which settlement or compromise may have the effect of releasing any or all third persons from any liability to the Holder or the Trustee); and (d) to release any interest in the mortgaged property and to release any other collateral securing any obligation of any third person. No dealings or activities undertaken by the Trustee or by the Holder pursuant to the provisions and authorizations contained in this paragraph 14 shall operate to terminate, limit, subordinate, or impair in any way the liability of any Mortgagor under this Trust Deed, under the Note or under any other Mortgage Instrument.

15. If all or any part of the mortgaged property shall be taken or condemned by any governmental or other competent authority, the Trustee and the Holder are hereby empowered and authorized to collect and receive all compensation which may be paid for any property taken or for damage to any

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