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Note. The word "Mortgage" means the mortgage or deed of trust agreement dated September 1, 1990, in the original principal amount of \$60,000.00 from Borrower to Lender together with all notes, extensions of time, amendments, assignments of, and substitutions for the promissory note or deed of trust agreement. The interest rate is a variable rate based upon an index. The index is the prime rate as published in the Wall Street Journal.

Mortgage. The word "Mortgage" means the mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Real Property.

Lender. The word "Lender" means Heritage Bank Tinley Park, its successors and assigns. The Lender is the mortgagee under this Mortgage.

Borrower. The word "Borrower" means H & M Realty Ltd. d/b/a REMAX 77.

Existing indebtedness. The words "Existing indebtedness" mean the indebtedness described below in the existing indebtedness section of this Mortgage.

Grantor. The word "Grantor" means Heritage Bank Trust Company, Trustee under that certain Trust Agreement dated February 28, 1974 and known as 74-491. The Grantor is the mortgagor under this Mortgage.

Guarantor. The word "Guarantor" means and includes without limitation, each and all of the guarantors, sureties, and accommodation parties in connection with the indebtedness.

Improvements. The word "Improvements" means and includes without limitation all existing and future improvements, fixtures, buildings, structures, mobile homes affixed on the Real Property, facilities, additions and other construction on the Real Property.

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. In addition to the Note, the word "Indebtedness" includes all obligations, debts and liabilities, plus interest thereon, of Borrower or any one or more of them, whether arising now or later, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Borrower may be liable individually or jointly with others, whether obligated as guarantor or otherwise, and whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations, and whether such indebtedness may be or hereafter may become unenforceable. Specifically, without limitation, this Mortgage secures a revolving line of credit, which obligates Lender to make advances to Borrower so long as Borrower complies with all the terms of the Note.

**GRANT OF MORTGAGE.** For valuable consideration, Grantor not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to Grantor pursuant to a Trust Agreement dated February 28, 1974 and known as 74-491, 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 created or affixed buildings, improvements and fixtures; all water, water rights, water courses and ditch rights; all mineral, oil, gas, geothermal and similar matters, located in Cook County, State of Illinois (the "Real Property"); (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in Cook County, State of Illinois (the "Real Property").

Lot Six (6) in Block One (1) in William C. Grobe & Company's Kimberly Heights Addition to Tinley Park, situated in the West half of the Southwes Quarter of Section 20, Township 36 North, Range 13, East of the Third Principal Meridian, Cook County, Illinois, according to the Plat thereof registered in the Office of the Registrar of Titles of Cook County, Illinois, on May 11, 1955, as Document Number 1593767 and Certificate of Correction thereof registered as Document Number 1601732.

The Real Property or its address is commonly known as 627 James, Tinley Park, IL 60477. The Real Property tax identification number is 28-20-302-006.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all assets of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meaning attributed to such terms in the Illinois Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Borrower. The word "Borrower" means H & M Realty Ltd. d/b/a REMAX 77.

Existing indebtedness. The words "Existing indebtedness" mean the indebtedness described below in the existing indebtedness section of this Mortgage.

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Lender. The word "Lender" means Heritage Bank Tinley Park, its successors and assigns. The Lender is the mortgagee under this Mortgage.

Mortgage. The word "Mortgage" means the mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Real Property.

Note. The word "Note" means the promissory note or deed of trust agreement dated September 1, 1990, in the original principal amount of \$60,000.00 from Borrower to Lender together with all notes, extensions of time, amendments, assignments of, and substitutions for the promissory note or deed of trust agreement. The interest rate is a variable rate based upon an index. The index is the prime rate as published in the Wall Street Journal.

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**JUN 23 MORTGAGE**

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**RECORDATION REQUESTED BY:** Heritage Bank Tinley Park, 17500 Oak Park Avenue, Tinley Park, IL 60477

**WHEN RECORDED MAIL TO:** Heritage Bank Tinley Park, 17500 Oak Park Avenue, Tinley Park, IL 60477

**SEND TAX NOTICES TO:** Heritage Bank Trust Company as Trustee w/va #74-491 dated 2/28/74, 17500 S. Oak Park Ave., Tinley Park, IL 60477

currently is 10.00% per annum. The interest rate to be applied to the unpaid principal balance of the Mortgage shall be a rate of 1.00 percentage point(s) over the index, resulting in an initial rate of 11.00% per annum. NOTICE: Under no circumstances shall the interest rate on this Mortgage be more than the maximum rate allowed by applicable law. NOTICE TO GRANTEE: The note contains all features, benefits and rebates of Personal Property. The words "Personal Property" mean all equipment, fixture, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or related to the Real Property, together with all accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property, and together with all proceeds (including without limitation all insurance proceeds and rebates of premiums) from any sale or other disposition of the Property.

Real Property. The word "Property" means collectively the Real Property and the Personal Property. The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section. Related Documents. The words "Related Documents" mean all promissory notes, security agreements, mortgage, deeds of trust, and all other instruments, agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, and documents, whether now or hereafter existing, executed in connection with Borrower's indebtedness to Lender. The word "Fruit" means all present and future rents, royalties, profits, and other benefits derived from the Property.

THE MORTGAGE INCLUDING THE ASSIGNMENT OF RIGHTS AND THE SECURITY INTEREST IN THE RIGHTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE DEBTS, OBLIGATIONS AND PERFORMANCE OF ALL OBLIGATIONS OF GRANTEE UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THE MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

**GRANTEE'S WARRANTIES.** Grantee warrants that (a) the Mortgage is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power and right to enter into the Mortgage and to hypothecate the Property; (c) Grantor has established adequate means of obtaining from Borrower, on a continuing basis, information about Borrower's financial condition; and (d) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

**PAYMENT AND PERFORMANCE.** Except as set forth in the Mortgage, Borrower shall pay to Lender all indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall jointly and severally perform all their respective obligations under the Mortgage, governed by the following provisions:

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the rents from the Property. Grantor shall maintain the Property in tenable, orderly condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** The terms "hazardous waste," "hazardous substance," "deposited," "release," and "treated release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 49 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant to any of the foregoing. Grantor represents and warrants that (a) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on any prior owner or occupants of the Property and (ii) any actual or threatened litigation or claims of any person relating to such matters. (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any person, contractor, agent or other authorized user of the Property and (ii) any actual or threatened release, disposal, release, or threatened release of any hazardous waste or substance on, under, or about the Property and (iii) any such activity shall be excluded in compliance with all applicable local, state, and federal laws, regulations and ordinances, including without limitation those laws, regulations, orders, rules, and ordinances described above. Grantor authorizes Lender and Property with the section of the Mortgage. Any imposition or award made by Lender shall be for Lender's purposes only and shall not be deemed herein as based on Grantor's due diligence or contribution in the event Grantor becomes liable for hazardous waste. Grantor hereby (a) releases and waives any future claims against Lender for indemnity and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release, or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Maintenance, Waste.** Grantor shall not cause, conduct or permit any nuisance, conduct or rock products without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to compliance with governmental requirements, or to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage. Grantor shall not cause, conduct or permit any nuisance, conduct or rock products without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Removal of Improvements.** Grantor shall not cause, conduct or permit any nuisance, conduct or rock products without the prior written consent of Lender. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Property or any portion of the Property.** Specifically without limitation, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**Compliance with Governmental Requirements.** Grantor shall comply with all applicable laws, regulations, and ordinances, including without limitation any laws, regulations, or ordinances of all governmental authorities having jurisdiction over the Property, together with all accessories, parts, and additions to, all replacements of, and all substitutions for, any of such property, and together with all proceeds (including without limitation all insurance proceeds and rebates of premiums) from any sale or other disposition of the Property.

**Loan No 00-91-1980**

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security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT OF LENDER.** Lender may, at its option, declare immediately due and payable all sums secured by this upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If any Grantor is a corporation or partnership, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock or partnership interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service 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, except for the Existing Indebtedness referred to below, and except as otherwise provided in the following paragraph.

**Right To Contest.** 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. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or is filed, secure the discharge of the lien, or it requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that may be assessed against Grantor as a result of a foreclosure or sale under the lien, in any contest. Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory 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.

**Notice of Completion.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property. If any mechanic's lien, materialman's lien, or other lien could be asserted on account of the work, services, materials or equipment, Grantor shall deliver to Lender certificates of coverage from each insurer containing a

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage.

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with a standard extended coverage endorsement on a replacement basis for the full insurable value covering all improvements on the Real Property to avoid application of any co-insurance clause, and with a standard mortgage 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 ten (10) days' prior written notice to Lender.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property, the estimated cost of repair or replacement exceeds \$1,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, 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 satisfaction 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 first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the 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 trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**Grantor's Report on Insurance.** Upon request of Lender, however, not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining that value; and (e) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, including any obligation to maintain Existing Indebtedness in good standing as required below, or if any action or proceeding is commenced that would materially affect Lender's interest in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in the paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as cutting the details so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to the Property are a part of this Mortgage.

This Grantor warrants that (a) the title to the Property is free of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any the insurance policy, the report, or final the option issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full

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Attorney-in-Fact. If Grantor is to do any of the things set forth in this paragraph, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to the extent of the power, and authority to execute and deliver the Mortgage to Lender.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of the Mortgage.

**Address.** The mailing address of Grantor (debtor) and 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.

**Security Agreement.** This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Lender shall have all of the rights of a secured party under the Illinois Uniform Commercial Code as amended from time to time.

**SECURITY AGREEMENT; FINANCING STATEMENT.** The following provisions relating to the Mortgage as a security agreement are a part of the Mortgage.

**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 Real and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, the executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing the security interest.

**Upon default.** Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender.

**Address.** The mailing address of Grantor (debtor) and 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.

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accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Borrower pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under the Mortgage, Lender shall execute and deliver to Grantor a suitable statement of termination of termination of any financing statement on the evidencing Lender's security interest in the Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage: **Default on Indebtedness.** Failure of Borrower to make any payment when due on the indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**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 or Borrower has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Grantor or Borrower, after fifteen (15) 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.

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

**Insolvency.** The insolvency of Grantor or Borrower, appointment of a receiver for any part of Grantor or Borrower's property, any assignment for the benefit of creditors, or commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor or Borrower, or the dissolution or termination of Grantor or Borrower's existence as a going business (if Grantor or Borrower is a business). Except to the extent prohibited by federal law or state law, the death of Grantor or Borrower (if Grantor or Borrower is an individual) also shall constitute an Event of Default under this Mortgage.

**Foreclosure, etc.** Commencement of foreclosure, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach of Grantor or Borrower under the terms of any other agreement between Grantor or Borrower and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor or Borrower to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or such Guarantor dies or becomes incompetent or any Guarantor revokes any guaranty of the indebtedness. Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure the Event of Default.

**Insecurity.** Lender reasonably deems itself insecure.

**Existing Indebtedness.** Default of Grantor under any existing indebtedness, or under any instrument on the Property securing any Existing Indebtedness, or commencement of any suit or other action to foreclose any existing lien on the Property.

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Borrower to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, 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, without notice to Grantor or Borrower, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. Lender may require any tenant or other user of the Property to make payments of rent or use (as applicable) to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for it's demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Mortgage in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property for foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall extend whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**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.

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

**Sale of the Property.** To the extent permitted by applicable law, Grantor or Borrower hereby waives any and all right to have the property marshaled, in exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale or all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.



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include pursuit of any other remedy, and an action to make expenditures or take action to perform an obligation of Grantor or Borrower under this Mortgage after failure of Grantor or Borrower to perform shall not affect Lender's right to declare a default and exercise its remedies under this Mortgage.

Attorney's 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 attorney's fees at that and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender in enforcing its rights shall become a part of the indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the Note rate. Expenses covered by the paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorney's fees and legal expenses whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any and all post-judgment collection services, the cost of searching records, obtaining the Borrower's report, surveyor's reports, and appraisal fees, and the insurance, to the extent permitted by applicable law.

NOTICES TO GRANITOR AND OTHER PARTIES. Any notice 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 when deposited in the United States mail first class, registered mail, postage prepaid, directed to the address shown near the beginning of this Mortgage. Any party may change its address for notice under the Mortgage by giving written notice to the other parties, specifying that the purpose of the notice is to change the party's address. A copy of notice of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No variation or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be changed or bound by the variation or amendment.

Annual Reports. If the Property is used for purpose other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income derived from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. Net operating income shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Applicable Law. This Mortgage has been governed by Lender and accepted by Lender in accordance with the laws of the State of Illinois. Subject to the provisions on arbitration, this Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

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.

Merger. There shall be no merger or substitution 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.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other person or circumstance. If feasible, any such offending provision shall be deemed to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of the Mortgage which other respects shall remain valid and enforceable.

Successors and Assigns. Subject to the limitations stated in this Mortgage, the Mortgage shall be binding upon the Mortgagee and its 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 the Mortgage or liability under the indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by this Mortgage.

Waivers and Consents. Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, no course of dealing between Lender and Grantor or Borrower, and no delay or omission of any of Lender's rights or any of Grantor or Borrower's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

GRANTOR'S LIABILITY. This Mortgage is secured by Grantor, not personally but as Trustee as provided above in the exercise of the power and the authority conferred upon and vested in it as such Trustee (and Grantor thereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that with the exception of the foregoing warranty, notwithstanding anything to the contrary contained herein, that each and all of the warranties, representations, covenants, undertakings, and agreements made in this Mortgage on the part of Grantor, while in form purporting to be the warranties, representations, covenants, undertakings, and agreements of Grantor, are nevertheless each and every one of them made and intended not as personal warranties, representations, covenants, undertakings, and agreements by Grantor or for the purpose or with the intention of binding Grantor personally, and nothing in this Mortgage or in the Note shall be construed as creating any liability on the part of Grantor personally to pay the Note or any interest that may accrue thereon, or any other indebtedness under the Mortgage, or to perform any covenant, undertaking, or agreement, either express or implied, contained in this Mortgage, and that as far as any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under the Mortgage, and that as far as Grantor and its successors personally are concerned, the legal holder or holders of the Note and the owner of any indebtedness shall look solely to the Property for the payment of the Note and indebtedness, by the enforcement of the lien created by this Mortgage in the manner provided in the Note and herein or by action to enforce the personal liability of any Guarantor.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANITOR AGREES TO ITS TERMS.

GRANTOR: as Successor Trustee to Brecken Bank & Trust Co.

Mortgage Trust Company as Trustee with 874-481 dated 2/23/74

UNOFFICIAL COPY

Land Trust Supervisor, Authorized Signer

Land Trust Supervisor, Authorized Signer

Property of Cook County Clerk

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Notary Public in and for the State of ILL  
Residing at Darlene R. Fila  
My commission expires 8-5-91

On this 15 day of Sept, 1990, before me, the undersigned Notary Public, personally appeared Land Trust Supervisor and Asst. Secretary, of Heritage Trust Company as Trustee with #74-491 dated 2/28/74, and known to me to be authorized agents of the corporation that executed the Mortgage and acknowledged the Mortgage to be the free and voluntary act and deed of the corporation, by authority of the Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the Mortgage and to execute the Mortgage on behalf of the corporation.

STATE OF ILL  
COUNTY OF COOK

**"OFFICIAL SEAL"**  
Darlene R. Fila  
Notary Public, State of Ill.  
Commission Expires 8-5-91

**CORPORATE ACKNOWLEDGMENT**

This Mortgage prepared by:  
Darlene R. Fila for  
Heritage Bank Tinley Park  
17500 S. Oak Park Ave.  
Tinley Park, IL 60477

UNOFFICIAL COPY

Property of Cook County Clerk's Office

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ISS: OCT 30 AM 10 52  
CARD INDEXED  
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