

10011512

UNOFFICIAL COPY

TRUST DEED

3985801

(Handwritten mark)

THE ABOVE SPACE FOR RECORDERS USE ONLY

THIS INDENTURE, Made July 30, 1991, between Parkway Bank & Trust Co., Harwood Heights, Illinois, an Illinois Banking Corporation, not Personally but as Trustee under the provisions of a Deed or Deeds in trust duly recorded and delivered to said Bank in pursuance of a Trust Agreement dated July 1, 1991 and known as trust number 0063 and 0062, herein referred to as "First Party," and Parkway Bank and Trust Co.

herein referred to as TRUSTEE, witnesseth: THAT, WHEREAS First Party has concurrently herewith executed an instalment note bearing even date herewith in the Principal Sum of One Million Six Hundred Twenty Thousand and No/100ths - - Dollars

made payable to the order of BEARER and delivered, in and by which said Note the First Party promises to pay out of that portion of the trust estate subject to said Trust Agreement and hereinafter specifically described, the said principal sum and interest from date of disbursement on the balance of principal remaining from time to time unpaid at the rate of Base per cent per annum in instalments as follows: Interest only payable monthly commencing 30 days after disbursement of loan

Dollars to the order of

Dollars to the order of thereafter until said note is fully paid except that the final payment of principal and interest, if not sooner paid, shall be due on the 30th day of June, 1992.

All such payments on account of the indebtedness evidenced by said note to be first applied to interest on the unpaid principal balance and the remainder to principal; provided that the principal of each instalment unless paid when due shall bear interest at the rate of Base per cent per annum, and all of said principal and interest being made payable at such banking house or trust company, as the holders of the note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of First State Bank of Chicago

NOW, THEREFORE, First Party to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this trust deed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents grant, remise, release, alien and convey unto the Trustee, its successors and assigns, the following described Real Estate situated, lying and being in the COUNTY OF Cook AND STATE OF ILLINOIS, to wit:

Rider attached hereto and made a part thereof.

* First State Bank of Chicago BASE RATE as determined from time to time. BASE RATE is defined as the starting point from which we calculate interest. Your individual charge may be above or below the BASE RATE based upon our sole discretion after considering all factors affecting the loan.

73-04-267DT
NOTE IDENTIFIED
8-6-91 legal description affects property on Certificate and other property

THIS INSTRUMENT PREPARED BY
AUDREY RICHMOND
4646 N. CUMBERLAND AVE,
CHICAGO, IL 60656

3985801

which, with the property hereinafter described, is referred to herein as the "premises." TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as First Party, its successors or assigns may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily), and all apparatus, equipment, or articles now or hereafter therein or thereon used to supply gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inlaid beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by First Party or its successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the said Trustee, its successors and assigns, forever, for the purposes, and upon the uses and trusts herein set forth. IT IS FURTHER UNDERSTOOD AND AGREED THAT: 1. Until the indebtedness aforesaid shall be fully paid, and in case of the failure of First Party, its successors or assigns to: (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien hereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Trustee or to holders of the notes; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) refrain from making material alterations in said premises except as required by law or municipal ordinance; (7) pay before any penalty attaches all general taxes, and pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and upon written request, to furnish to Trustee or to holders of the note duplicate receipts therefor; (8) pay in full under protest, in the manner provided by statute, any tax or assessment which First Party may desire to contest; (9) keep all buildings and improvements now

NAME First State Bank of Chicago
STREET 4646 N. Cumberland ave.
CITY Cghgo, Il. 60656

(1220-1221 N. Depot Glenview, Il.
and 1254 Depot, Glenview, Il.

INSTRUCTIONS

3985801

REGISTRAR OF TITLES
CAROL MOSELEY BRAUN

1991 AUG - 6 PM 2:10

3985801

mitted by

3985801

(Handwritten signatures and initials)

or hereafter situated on said premises... shall be deemed to be made by first lien... providing for payment by the insurance companies of moneys sufficient to pay the cost of replacing or repairing the same or to pay all the indebtedness secured hereby...

2. The Trustee or the holders of the note hereby secured making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

3. At the option of the holder of the note and without notice to First Party, its successors or assigns, all unpaid indebtedness secured by this trust deed shall, notwithstanding anything in the note or in this trust deed to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note; or (b) in the event of the failure of First Party or its successors or assigns to do any of the things specifically set forth in paragraph one hereof and such default shall continue for three days, said option to be exercised at any time after the expiration of said three day period.

4. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, holders of the note or Trustee shall have the right to foreclose the lien hereof, in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Trustee or holders of the note for attorneys' fees, trustee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, guarantee policies, Torrens certificates, and similar data and assurances with respect to title as Trustee or holders of the note may deem to be reasonably necessary either to prosecute such suit or to evidence to holders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the rate of seven per cent per annum, when paid or incurred by Trustee or holders of the note in connection with (a) any proceedings, including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this trust deed or any indebtedness hereby secured; or the preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

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

6. Upon, or at any time after, the filing of a bill to foreclose this trust deed, the court in which such bill is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby, and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Trustee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when First Party, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by any decree foreclosing this trust deed, or any tax, special assessment or other lien which may be or become superior to the lien hereof or in such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

7. Trustee or the holders of the note shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

8. Trustee has no duty to examine the title, location, existence, or condition of the premises, nor shall Trustee be obligated to record this trust deed or to exercise any power herein given unless expressly obligated by the terms hereof, nor be liable for any acts or omissions hereunder, except in case of its own gross negligence or misconduct or that of the agents or employees of Trustee, and it may require indemnities satisfactory to it before exercising any power herein given.

9. Trustee shall release this trust deed and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this trust deed has been fully paid; and Trustee may execute and deliver a release hereof to and at the request of any person who shall, either before or after maturity thereof, produce and exhibit to Trustee the note representing that all indebtedness hereby secured has been paid, which representation Trustee may accept as true without inquiry. Where a release is requested of a successor trustee, such successor trustee may accept as the genuine note herein described any note which bears a certificate of identification purporting to be executed by a prior trustee hereunder or which conforms in substance with the description herein contained of the note and which purports to be executed by a prior trustee hereunder or which conforms in substance with the description herein contained of the note and which purports to be executed on behalf of First Party.

10. Trustee may resign by instrument in writing filed in the office of the Recorder or Registrar of Titles in which this instrument shall have been recorded or filed, in case of the resignation, inability or refusal to act of Trustee, the then Recorder or Registrar of Deeds of the county in which the premises are situated shall be Successor in Trust. Any Successor in Trust hereunder shall have the identical title, powers and authority as are herein given Trustee, and any Trustee or successor shall be entitled to reasonable compensation for all acts performed hereunder.

THIS TRUST DEED is executed by PARKWAY BANK AND TRUST COMPANY, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said PARKWAY BANK AND TRUST COMPANY) hereby warrants that it possesses full power and authority to execute this instrument, and it expressly understood and agreed that nothing herein or in said note contained shall be construed as creating any liability on the said First Party or on said PARKWAY BANK AND TRUST COMPANY personally to pay the said note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Trustee and by every person now or hereafter claiming any right or security hereunder, and that so far as the First Party and its successors and said PARKWAY BANK AND TRUST COMPANY personally are concerned, the legal holder or holders of said note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said note provided or by action to enforce the personal liability of the guarantor, if any.

IN WITNESS WHEREOF, PARKWAY BANK AND TRUST COMPANY, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Vice-President-Trust Officer, and its corporate seal to be hereunto affixed and attested by its Assistant Vice-President, the day and year first above written.

PARKWAY BANK AND TRUST COMPANY As Trustee as aforesaid and not personally,

[Signature] Asst. VICE-PRESIDENT TRUST OFFICER
[Signature] ASSISTANT VICE PRESIDENT

STATE OF ILLINOIS
COUNTY OF COOK

Notary Public in and for said County, in the State aforesaid, Do Hereby Certify, that
Rosanne DuPass Asst. Vice-President-Trust Officer
Joan M. Schwartz

of Parkway Bank and Trust Company, Assistant Vice President of Parkway Bank and Trust Company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice-President-Trust Officer, and Assistant Vice President, respectively, appeared before me this day in person and acknowledged that they signed and delivered the foregoing instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Vice President then and there acknowledged that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

OFFICIAL SEAL
GLOUA WIELGOS
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXPIRES AUG 25, 1991

GIVEN under my hand and Notarial Seal this 3rd day of August A.D. 19 91

[Signature] Notary Public

3985801

IMPORTANT
FOR THE PROTECTION OF BOTH THE BORROWER AND LENDER, THE NOTE SECURED BY THIS TRUST DEED SHOULD BE IDENTIFIED BY THE TRUSTEE NAMED HEREIN BEFORE THE TRUST DEED IS FILED FOR RECORD.

The Installment Note mentioned in the within Trust Deed has been identified herewith under identification No. 3972 Parkway Bank and Trust Co. [Signature] Trustee

UNOFFICIAL COPY

0 5 9 8 5 0 1

3985801

Property of Cook County Clerk's Office

COMMONLY KNOWN AS 1221 DEPOT STREET, GLENVIEW, ILLINOIS.

- LOT 9 - 04-35-107-004-0000
- LOT 10 - 04-35-107-003-0000
- LOT 11 - 04-35-107-002-0000
- LOT 12 - 04-35-107-001-0000

LOTS 9, 10, 11 AND 12 IN C.D. RUGEN'S SUBDIVISION OF PART OF THE NORTH WEST 1/4 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXHIBIT "A"

EXHIBITS "A" & "B" REFER TO Land Trust No. 10063 at Parkway Bank and Trust Co.

UNOFFICIAL COPY

0 0 9 3 5 0 1

BEGINNING ON THE WESTERLY LINE OF LOT 18 IN THE SAID C.D. RUGEN'S SUBDIVISION, 161.37 FEET SOUTHERLY OF THE NORTHWESTERLY CORNER OF LOT 16 IN SAID C.D. RUGEN'S SUBDIVISION (THE WESTERLY BOUNDARY OF SAID LOTS BEING THE EASTERLY BOUNDARY LINE OF THE STATION GROUNDS OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY); THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF SAID LOT 18, 31.54 FEET TO THE SOUTH WEST CORNER OF SAID LOT 18, THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE CENTER LINE OF THE RIGHT OF WAY OF SAID CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, A DISTANCE OF 50.00 FEET TO A LINE 50.00 FEET NORTHWESTERLY OF AND

PARCEL 3: ALL THAT PART OF THE SOUTH WEST 1/4 OF THE NORTH WEST 1/4 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH WEST CORNER OF LOT 15 AFORESAID; THENCE NORTHERLY ALONG THE WESTERLY BOUNDARY OF SAID LOTS 13, 14 AND 15 A DISTANCE OF 161.48 FEET TO THE NORTH WEST CORNER OF SAID LOT 13 (SAID WESTERLY BOUNDARY OF LOTS 13, 14 AND 15 BEING THE NORTHEAST-ERLY LINE OF THE PRESENT RIGHT OF WAY OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY) THENCE SOUTHEASTERLY IN A STRAIGHT LINE A DISTANCE OF 172.00 FEET MORE OR LESS TO A POINT ON THE SOUTH LINE OF SAID LOT 15 DISTANCE 26.50 FEET, EAST OF THE SOUTH WEST CORNER OF SAID LOT 15; THENCE WEST ALONG SAID SOUTH LINE OF LOT 15 A DISTANCE OF 26.90 FEET TO THE PLACE OF BEGINNING;

PARCEL 2: THAT PART OF LOTS 13, 14 AND 15 IN C.D. RUGEN'S SUBDIVISION IN SECTION 35, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH WEST CORNER OF LOT 15 AFORESAID; THENCE NORTHERLY ALONG THE WEST BOUNDARY LOTS 15, 14 AND 13 AFORESAID, A DISTANCE OF 161.37 FEET TO THE NORTH WEST CORNER OF LOT 13 AFORESAID (SAID WESTERN BOUNDARY OF LOTS 15, 14 AND 13, BEING THE NORTHEASTERLY LINE OF THE PRESENT RIGHT OF WAY OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD) THENCE SOUTHEASTERLY ON A STRAIGHT LINE A DISTANCE OF 172.2 FEET MORE OR LESS TO A POINT ON THE SOUTH LINE OF SAID LOT 15 AFORESAID DISTANT 26.9 FEET EAST OF THE SOUTH WEST CORNER OF LOT 15 AFORESAID; THENCE WEST ALONG SAID SOUTH LINE OF LOT 15 A DISTANCE OF 26.9 FEET TO THE POINT OF BEGINNING

PARCEL 1: LOTS 13, 14 AND 15 (EXCEPT THOSE PORTIONS OF SAID LOTS LYING IN THE FOLLOWING TRACT OF LAND:

EXHIBIT "B"

3985801

UNOFFICIAL COPY

Property of Cook County Clerk's Office

P.I.N. 04-35-106-010-0000 & 04-35-106-010-0000
COMMONLY KNOWN AS 1234 N. Depot Glenview, Ill.

Parcel 2: Lot 1 in Swain Nelson's Subdivision Number 3, being a subdivision of Part of the North 1/2 of the North West 1/4 of Section 35, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 1: Lot 1 in Swain Nelson's Subdivision Number 2, being a subdivision of Part of the North 1/2 of the North West 1/4 of Section 35, Township 42 North, Range 12, in Cook County, Illinois.

EXHIBIT "C"

EXHIBIT "C" REFERS TO Land Trust No. 10082 AT PARKWAY BANK & TRUST CO.

COMMONLY KNOWN AS 1220 DEPOT STREET, GLENVIEW, ILLINOIS.

P.I.N.: LOTS 13 - 18: 04-35-106-018-0000
PARCEL 3: 04-35-106-028-0000
PARCEL 4: 04-35-106-029-0000

PARCEL 4: THAT PART OF THE SOUTH WEST 1/4 OF THE NORTH WEST 1/4 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: STARTING AT THE POINT WHERE THE NORTH LINE OF SAID QUARTER SECTION INTERSECTS THE EASTERLY BOUNDARY LINE OF THE STATION GROUND OF THE CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD AS GRANTED BY DEED FROM SARAH HUTCHINGS TO THE CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY, CORPORATION OF ILLINOIS, BY DEED RECORDED MARCH 23, 1882, AS DOCUMENT 382989, BEING THE WESTERLY LINE OF LOTS 16, 17 AND 18 IN RUGEN'S SUBDIVISION OF PART OF THE NORTH WEST 1/4 OF SAID SECTION 35, THENCE SOUTHERLY ALONG SAID BOUNDARY LINE 161.37 FEET, THENCE NORTHWESTERLY ON A STRAIGHT LINE 172.2 FEET MORE OR LESS TO A POINT IN THE NORTH LINE OF SAID SOUTH WEST 1/4 OF THE NORTH WEST 1/4 26.90 FEET WEST OF THE POINT OF BEGINNING THENCE EASTERLY ALONG SAID NORTH LINE 26.9 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARALLEL WITH THE CENTERLINE OF SAID RIGHT OF WAY, THENCE NORTHWESTERLY 138.49 FEET TO A POINT 49.0 FEET NORTHEASTERLY OF SAID CENTERLINE (AS MEASURED AT RIGHT ANGLES TO SAID CENTERLINE); THENCE NORTHEASTERLY 74.47 FEET TO THE SOUTH WEST CORNER OF SAID LOT 15; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 15, 27.01 FEET TO A POINT ON SAID SOUTH LINE OF LOT 15, 26.90 FEET WEST OF THE NORTH WEST CORNER OF LOT 16 AFORESAID; THENCE SOUTHWESTERLY 172.20 FEET MORE OR LESS TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EXHIBIT "B", continued

3985831

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11
12
13
14
15

3985801

Property of Cook County Clerk

WAIVER OF REDEMPTION FROM FORECLOSURE

IN THE EVENT OF THE COMMENCEMENT OF JUDICIAL PROCEEDINGS TO FORECLOSE THIS MORTGAGE, MORTGAGOR DOES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS OF REDEMPTION GRANTED BY LAW FOR ANY PROCEEDINGS FROM ANY FORECLOSURE OF THIS MORTGAGE ON BEHALF OF MORTGAGOR AND EACH AND EVERY PERSON IT MAY LEGALLY BIND ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES AFTER THE DATE OF THE EXECUTION OF THIS MORTGAGE AND MORTGAGOR, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, AND FOR ALL IT MAY LEGALLY BIND, AGREES THAT WHEN ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE SHALL BE ENTERED, ANY AUTHORIZED PERSON MAY IMMEDIATELY EXECUTE AND DELIVER TO THE PURCHASER AT A SALE, A DEED CONVEYING THE PREMISES, SHOWING THE AMOUNT PAID THEREFOR, AND IF PURCHASED BY A PERSON IN WHOSE FAVOR THE ORDER OR DECREE IS ENTERED, THE AMOUNT OF HIS BID THEREFOR. FURTHER, THAT THE SALE BE HELD WITHOUT WAITING FOR A REDEMPTION TO TAKE PLACE, BECAUSE REDEMPTION IS WAIVED.

It is expressly agreed and understood by and between the parties hereto that in the event of the sale of the property, execution of Articles of Agreement, transfer of title or change in the beneficial ownership to the aforementioned described real estate, without the prior written approval from the holder of the note secured by this instrument, then at the option of the holder of the note, the entire unpaid balance due on or under this instrument, together with accrued interest thereon, shall immediately become due and payable in full without notice to anyone.

In the event the mortgagor fails to make a payment of principal and interest as agreed, and such default continues for 11 days the holder reserves the right in such event to assess a charge of 5% of the principal and interest amount of such delinquency payment as a "LATE CHARGE" the foregoing right being in addition to all other rights and remedies granted to the holder hereof.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/2011

UNOFFICIAL COPY

Borrowers will not use, generate, manufacture, produce, store, release discharge or dispose of on, under or about the Premises or transport to or from the premises any hazardous substance (as defined herein) or allow any other person or entity to do so.

(2) Keep and maintain the premises in compliance with, and shall not cause or permit the premises to be in violation of any Environmental law (as defined herein) or allow any other person or entity to do so.

(3) Give prompt written notice to Mortgagee of:

(i) any proceeding or inquiry by a governmental authority whether Federal, State, or Local, with respect to the presence of any hazardous substance on the Premises or the migration thereof from or to other property;

(ii) all claims made or threatened by any third party against Mortgagor or any entity affiliated with it or the Premises relating to any loss or injury resulting from any hazardous substance; and

(iii) the discovery by Mortgagor or any occurrence or condition on any real property adjoining or in the vicinity of the Premises that could cause the Premises or any part thereof to be subject to any restriction on the ownership, occupancy transferability or use of the Premises under any Environmental law.

(4) Recognize Mortgagee's right to join and participate in as a party if it so elects, any legal proceedings or actions initiated in connection with the Environmental law and Mortgagor hereby agrees to pay any attorney's fees thereby incurred by the Mortgagee in connection therewith.

(5) Indemnify, defend, and hold harmless Mortgagee, its directors, officers employees agents, contractors, attorneys, other representatives successors, and assigns from and against any and all loss, damage, cost expense or liability, including by way of illustration and not limitation, reasonably attorney's fees and court costs, directly or indirectly or arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge disposal, or presence of hazardous substance on, under or about the premises, including without limitation; (a) all foreseeable consequential damages, and (b) the costs of any required or necessary repair, cleanup or detoxification of the premises, and the preparation and implication of any closure, remedial or other required plans. This indemnity and covenant shall survive the reconveyance of the lien of this Mortgage, or the extinguishment of such lien by foreclosure or action in lieu thereof.

(6) In the event of any investigation, site, monitoring, containment, cleanup, removal, restoration or other remedial work of any kind or nature whatsoever (the "Remedial Work") is reasonably necessary or desirable under any applicable local, state or federal law or regulation, any judicial order, or by any governmental or nongovernmental entity or person because of or in connection with the current or future presence, suspected presence, release or suspected release of a hazardous substance in or into the air, soil, ground water, surface water or soil vapor at, on, about, under or within the Premises, or any portion thereof, Mortgagor shall, within thirty (30) days after written demand for performance thereof by Mortgagee or other party or governmental entity or agency (or such shorter period of time as may be required under any applicable law, regulation, order or agreement) commence to perform, or cause to be commenced, and thereafter diligently prosecuted to completion, all such Remedial Work. All Remedial Work shall be performed by one or more contractors, approved in advance in writing by Mortgagee, and under the supervision of a consulting engineer approved in advance in writing by Mortgagee. All costs and expenses of such Remedial Work shall be paid by the Mortgagor, including, without limitation, the charges of such contractor and the consulting engineer, and Mortgagee's reasonable attorney's fees and costs incurred in connection with the monitoring or review of such Remedial Work. In the event that Mortgagor shall fail to timely commence, or cause to be commenced, or fail to diligently prosecute to completion such Remedial Work, Mortgagee may, but shall not be required to, cause such Remedial Work to be performed and all cost and expenses thereof incurred in connection therewith shall become part of the indebtedness secured thereby.

3985801

UNOFFICIAL COPY

Property of Cook County Clerk's Office

10/20/08

UNOFFICIAL COPY

(7) Without Mortgagee's prior written consent, which shall not be unreasonably withheld, Mortgagor shall not take any remedial action in response to the presence of any hazardous substance on, under, or about the Premises, nor enter into any settlement, agreement, consent decrees, or other compromise in respect to any hazardous substance claims. Said consent may be withheld, without limitation, if Mortgagor in its reasonable judgement, determines that said remedial action, settlement consent, or compromise might impair the value of Mortgagee's security hereunder and the loan Documents, specified in the agreement; provided, however that Mortgagee's prior consent shall not be necessary in the event that the presence of hazardous substances in, on, under, or about the Premises, either poses an immediate threat to the health, safety, or welfare of any individual or is of such a nature that an immediate remedial response is necessary, and it is not possible to obtain Mortgagee's consent before taking such action, provided that in such event Mortgagor shall notify Mortgagee as soon as practicable of any action so taken. Mortgagee agrees not to withhold its consent, when such consent is required hereunder, if either (a) a particular remedial action is ordered by a court of competent jurisdiction; or (b) Mortgagor establishes to the reasonable satisfaction of the Mortgagee that there is no reasonable alternative to such remedial action that would result in materially less impairment of Mortgagee's security under this Mortgage, the Agreement and the Loan documents specified therein.

For the purpose of this Paragraph, the following terms shall have the meaning as set forth below:

(a) Environmental Laws" shall mean any federal, state, or local law statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environmental conditions on, under or about the premises, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Section 9601 et seq. and the Resource Conservation and REcovery Act of 1976, as amended ("RCRA") 42, U.S.C. Section 6901 et seq.

(b) The term Hazardous Substance" shall include without limitation:

(i) Those substances included within the definitions or any one or more of the terms "hazardous substances", hazardous materials", "toxic substances" and "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act, as amended, 49 U.S.C. Section 1801 et seq and in the regulations promulgated pursuant to said laws or under applicable state law;

(ii) Those substances listed in the United States Department of Transportation Table (49 CFR 172.010 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR, Part 302 and amendments thereof);

(iii) Such other substances, materials and wastes which are or become regulated under applicable local, state, or federal laws, or which are classified as hazardous or toxic under federal, state or local laws or regulations; and

(iv) Any material, waste, or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a "Hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1321 et seq (33 U.S.C. Section 1321), or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Section 1317) (E) flammable explosives; or (F) radioactive materials.

3985811

Provide Mortgagee, within fourteen (14) days after Mortgagee's written request therefor with (i) a written history of the use of the Premises, including in particular, but not in limitation any past military, industrial, or landfill use of the Premises, and specifically indicating in such response the presence, if any of underground storage tanks (ii) if such underground storage tanks do exist, evidence of maintenance and repair thereof, copies of any and all clean-up or removal orders issued by any federal state, or local governmental agency, and, if needed in Mortgagee's judgment, evidence of removal of such underground storage tanks and (iii) written indications from the regional office of the federal Environmental Protection Agency, and any state Environmental Protection Agency whether the Premises have been used for the purpose of oil, hazardous waste, any toxic substance, or any Hazardous substance.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/00/00