

TAX DEFERRED EXCHANGE AGREEMENT

THIS TAX DEFERRED EXCHANGE AGREEMENT No. _____ is entered into this _____ day of _____, 200__, between _____ ("Exchangor") and Lakeside Bank, an _____ ("Lakeside Bank").

ARTICLE I **DEFINITIONS**

- 1.1 **Beginning Date.** The day on which the Old Asset is transferred to the Old Asset Buyer.
- 1.2 **Designation Period.** The period which begins on the Beginning Date and ends at midnight on the 45th day thereafter.
- 1.3 **Exchange Period.** The period which begins on the Beginning Date and ends at midnight on the earlier of the 180th day thereafter or the due date (including extensions) of the Exchangor's tax return for the year which includes the Beginning Date.
- 1.4 **End Date.** The earliest of (a) the day on which Exchangor receives the New Asset to which it is entitled hereunder (but not earlier than the 45th day after the Beginning Date); (b) the day (but not earlier than the 45th day after the Beginning Date) on which there occurs a material and substantial contingency that (i) relates to the deferred exchange, (ii) is provided for in writing and (iii) is beyond the control of Exchangor or any disqualified person (as defined in Treasury Regulations Section 1.1031(k)-1(k)) other than the person obligated to transfer the New Asset to Exchangor; (c) the last day of the Designation Period if no New Asset has been identified by the end of the Designation Period; or (d) the last day of the Exchange Period.
- 1.5 **Old Asset.** Those certain items of real and/or personal property described in the Old Asset Contract (defined below), to be assigned to Lakeside Bank pursuant to this Agreement and qualifying as "relinquished property" within the meaning of Treasury Regulations Section 1.1031(k)-1(a).
- 1.6 **Old Asset Buyer.** The purchaser of the Old Asset.
- 1.7 **Old Asset Contract.** The contract or other agreement providing for the purchase of the Old Asset by the Old Asset Buyer. The Exchangor's rights under the Old Asset Contract is to be assigned to Lakeside Bank pursuant to Section 4.1.
- 1.8 **New Asset.** Those certain items of real and/or personal property qualifying as "replacement property" within the meaning of Treasury Regulations Section 1.1031(k)-1(a) and either (a) received by Exchangor within the Designation Period in accordance with Treasury Regulations Section 1.1031(k)-1(c)(1) or (b) identified in a written Designation Notice signed by Exchangor and hand delivered, mailed, telecopied or otherwise sent to Lakeside Bank before the end of the Designation Period in accordance with Treasury Regulations Section 1.1031(k)-1(b) and (c). New Assets shall not include property the identification of which has been revoked in accordance with Treasury Regulations Section 1.1031(k)-1(c)(6).
- 1.9 **New Asset Seller.** The seller of the New Asset.
- 1.10 **New Asset Contract.** The contract or other agreement providing for the sale of the New Asset by the New Asset Seller. The Exchangor's rights under the New Asset Contract are to be assigned to Lakeside Bank pursuant to Section 4.2.

1.11 Exchange Funds. Proceeds from the transfer of the Old Property held in accordance with Section 3.1.

ARTICLE II **EXCHANGE**

Exchangor owns the Old Asset and desires to exchange the same for the New Asset in a series of mutually interdependent transactions pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"). Lakeside Bank agrees to act as a qualified intermediary as defined in Treasury Regulations Sections 1.1031(k)-1(g)(4).

ARTICLE III **EXCHANGE FUNDS**

3.1 Collection of Exchange Funds. Proceeds from transfer of the Old Asset and any additional funds tendered by Exchangor shall be deposited with Lakeside Bank to be held in a trust capacity and invested into a Lakeside Bank money market account (the "Exchange Account"). Interest earned on the Exchange Account balance will be includible in Exchangor's taxable income and Lakeside Bank shall notify the Internal Revenue Service of interest earned by Exchangor.

3.2 Disbursement of Exchange Funds. Funds in the Exchange Account shall be disbursed in the following rank and order:

(a) To pay any fees, expenses and other amounts due to Lakeside Bank under this Agreement. Such expenses include, without limitation, expenses paid or incurred pursuant to the terms of this Agreement (unless this Agreement specifically imposes the economic burden of such expenses upon Lakeside Bank) or in any way connected with the Old Asset, the New Asset, the Old Asset Contract, the New Asset Contract or this Agreement (such as, but not limited to, expenses (including attorney's fees) incurred as a result of being named in or otherwise joined to or involved in any litigation). Lakeside Bank shall be reimbursed by Exchangor immediately upon request for all out-of-pocket expenses paid or incurred in connection with its activities under this Agreement not drawn out of the Exchange Funds.

(b) To pay transactional expenses that relate to the disposition of the Old Asset or to the acquisition of the New Asset; payment shall be limited to expenses of the type that are described in Treasury Regulations Section 1.1031(k)-1(g)(7), to wit, transactional items that appear under local standards in the typical closing statement as the responsibility of a buyer or seller (e.g., commissions, pro rated taxes, recording or transfer taxes and title company fees).

(c) To acquire the New Asset (including earnest money deposits made under any New Asset Contract and progress payments under any so-called "build-to-suit" New Asset Contract).

(d) Following the End Date, to Exchangor or as Exchangor may direct.

3.3 Deficit Funding. Exchangor shall deliver available funds to Lakeside Bank equal to the amount by which the sum estimated by Lakeside Bank as necessary to discharge the obligations described in Section 3.2, above (except for paragraph (d) thereof), exceeds the then-outstanding balance in the Exchange Account, less any portion of such "deficit" that Exchangor will otherwise make available to the settlement agent at closing.

3.4 Disbursement Instructions. All instructions for disbursement of Exchange Funds shall be given by Exchangor (or Exchangor's attorney) to Lakeside Bank in writing and shall set forth the intended use of the requested disbursement; said use shall be a use permitted by Code Section 1031, the Treasury Regulations

thereunder and this Agreement. Lakeside Bank shall be entitled to rely upon any such written instruction without any duty to inquire of Exchangor or any other person.

3.5 RESTRICTIONS UPON EXCHANGE FUNDS. EXCHANGOR SHALL HAVE NO RIGHT TO RECEIVE, PLEDGE, BORROW OR OTHERWISE OBTAIN THE BENEFIT OF ANY MONEY IN THE EXCHANGE ACCOUNT OR ANY OTHER MONEY OR PROPERTY HELD BY LAKESIDE BANK UNTIL AFTER THE END DATE. THIS PROVISION SHALL APPLY NOTWITHSTANDING ANY INCONSISTENT INSTRUCTION GIVEN BY EXCHANGOR ON OR PRIOR TO THE END DATE AND NOTWITHSTANDING ANY DECISION BY EXCHANGOR NOT TO PURSUE A DEFERRED EXCHANGE OR TO ABANDON THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

3.6 Timing Restrictions on Return of Exchange Funds. The exchange regulations, as more fully referenced in Paragraph 1.4 herein, require the deposit of any Exchange Funds to remain in the Qualified Trust account within the forty-five (45) day property identification period regardless of a taxpayer's election to discontinue the exchange within that period. In the event no replacement property is designated the exchange funds may be returned to the taxpayer upon expiration of the forty-five (45) day identification period. In the event one or more properties are identified within the identification period, subject to the exception referenced in Paragraph 1.4(b) herein, the exchange regulations require the deposit of any Exchange Funds to remain in the Qualified Trust until the taxpayer has received all of the identified replacement property to which the taxpayer is entitled or until the end of the one hundred eighty (180) day exchange period, regardless of a taxpayer's election to discontinue the exchange within that period.

ARTICLE IV **CONVEYANCING PROCEDURES**

4.1 Assignment of Old Asset Contract. (a) Lakeside Bank shall take an assignment of Exchangor's rights under the Old Asset Contract.

(b) Exchangor shall, prior to the transfer of the Old Asset, notify all parties to the Old Asset Contract of the assignment.

(c) The Old Asset shall be conveyed by Exchangor directly to Old Asset Buyer in accordance with Treasury Regulations Section 1.1031(k)-1(g)(4)(iv)(B).

(d) Proceeds of the transfer of the Old Asset shall be deposited into the Exchange Account.

4.2 Assignment of New Asset Contract. (a) Lakeside Bank shall take an assignment of Exchangor's rights under the New Asset Contract.

(b) Exchangor shall, prior to the transfer of the New Asset, notify all parties to the New Asset Contract of the assignment.

(c) The New Asset shall be conveyed by New Asset Seller directly to Exchangor in accordance with Treasury Regulations Section 1.1031(k)-1(g)(4)(iv)(C).

4.3 Limitations. (a) Lakeside Bank will be acting in relation to the Old Asset Contract and the New Asset Contract as an assignee of rights only; Lakeside Bank shall have no personal liability under the Old Asset Contract or the New Asset Contract or with respect to the Old Asset or New Asset, all such liability being disclaimed by Lakeside Bank. Any New Asset Seller or Old Asset Buyer shall look solely to

Exchangor in respect of any breach, claim, demand or complaint made with respect to the Old Asset Contract or the New Asset Contract or the subject matters thereof.

(b) Lakeside Bank shall not take title to or possession of all or any part of the Old Asset or the New Asset, and all responsibility for the custody and transfer of the same, including all rights and obligations in relation to any lease payments, insurance, assessments and general risk of loss shall be borne by Exchangor, but if not by Exchangor, then by New Asset Seller or Old Asset Buyer, but in no event by Lakeside Bank.

ARTICLE V FEE FOR SERVICES

For its services hereunder Lakeside Bank shall receive a fee of \$_____, (earned in its entirety upon execution of the Agreement), payable not later than the Beginning Date by Exchangor out of Exchangor's separate funds, or by the settlement agent presiding over the transfer of the Old Asset, but if not so paid, Lakeside Bank shall be entitled to withdraw Exchange Funds in accordance with Section 3.2(a).

ARTICLE VI EXCHANGOR'S AGREEMENTS

Exchangor agrees as follows:

6.1 Like-Kind. The New Asset designated by Exchangor will be of "like kind" to the Old Asset (Lakeside Bank shall have no duty to verify or confirm the same). In case of any Old Asset that is personal property, each item of Old Asset and its corresponding New Asset will be (a) in the same General Asset Class (being one of the asset classes 00.11 through 00.28 and 00.4 of Revenue Procedure 87-56, 1987-2 C.B. 674), or (b) in the same Product Class according to the North American Industry Classification System Manual issued by the Executive Office of the President, Office of Management and Budget), or (c) will otherwise be of like-kind within the meaning of Treasury Regulations Sections 1.1031(a)-1(b) and 1.1031(a)-2.

6.2 Multiple Designations. If there is more than one New Asset, multiple designations shall be made in accordance with Treasury Regulations Section 1.1031(k)-1(c)(4).

6.3 Legal Compliance and Consents. To the best of Exchangor's knowledge, neither the Old Asset nor the New Asset is in violation of any statute, regulation, court order or any other rule, ruling or order. Exchangor shall be solely responsible for obtaining or making any consent, approval, clearance, filing or tax payment, and satisfying any other condition, in connection with the transfer of the Old Asset and the New Asset.

6.4 Tax Matters. (a) Under penalties of perjury, Exchangor certifies that Exchangor is a "United States Person" as that term is defined in Internal Revenue Code Section 7701(a)(30), and that Exchangor's true address is the address set forth below Exchangor's signature hereto.

(b) Under penalties of perjury, Exchangor certifies that (i) Exchangor's Federal taxpayer identification number is the number set forth below its signature hereto and (ii) Exchangor is not subject to backup withholding because (A) Exchangor is exempt from backup withholding, (B) Exchangor has not been notified by the Internal Revenue Service that Exchangor is subject to backup withholding as a result of a failure to report all interest or dividends or (C) the Internal Revenue Service has notified Exchangor that

Exchangor is no longer subject to backup withholding. Exchangor must cross out item (ii), above, if Exchangor has been notified by the internal revenue service that Exchangor is currently subject to backup withholding because of under-reporting interest or dividends on Exchangor's tax return.

(c) EXCHANGOR SHALL BE SOLELY RESPONSIBLE FOR ALL OF THE TAX INCIDENCES OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING COMPLIANCE WITH ANY TIMING REQUIREMENTS UNDER CODE SECTION 1031 OR THE TREASURY REGULATIONS THEREUNDER. Exchangor has consulted with its counsel to determine and is satisfied with the legal and tax consequences of the transactions contemplated by this Agreement, and hereby acknowledges that it is not relying upon any representation of or any information obtained from Lakeside Bank or any of its agents with respect to such legal or tax consequences.

ARTICLE VII

LAKESIDE BANK'S DUTIES AND OTHER AGREEMENTS

7.1 Actions. (a) Lakeside Bank shall not be obligated to take any action under this Agreement except in pursuance of specific written instructions delivered by Exchangor or Exchangor's representative to Lakeside Bank reasonably in advance of the action to be taken, such instructions to be consistent with the terms of this Agreement, Code Section 1031 and the Treasury Regulations thereunder.

(b) In the event that Lakeside Bank (i) should be uncertain as to its duties arising under this Agreement or (ii) shall receive instructions from any person as to the Exchange Account which, in Lakeside Bank's opinion, are in conflict with any of the provisions of this Agreement, Lakeside Bank may elect to deposit the funds in the Exchange Account with the registry of any court of competent jurisdiction in a proceeding to which all parties in interest are joined pending the settlement of any such controversy or adjudication by a court of competent jurisdiction.

7.2 Claims. In connection with any demand, claim or complaint made upon Lakeside Bank, Lakeside Bank may notify such person or persons that as an assignee of Exchangor's rights only, Lakeside Bank has no obligation with respect to any such demand, claim or complaint. Lakeside Bank shall use reasonable efforts to notify Exchangor of any demand, claim or complaint.

7.3 Exculpation. Each and every document or instrument to be executed or delivered in connection with this Agreement shall be deemed to include (and Lakeside Bank is hereby authorized to insert) a provision exculpating Lakeside Bank from any and all liability. In no event shall Lakeside Bank be liable or responsible to any person or entity with respect to any action taken or omitted to be taken by it hereunder except for acts or omissions constituting gross negligence or willful misconduct, and in all events Lakeside Bank's liability shall be limited to three times the fee payable by Exchangor to Lakeside Bank under this Agreement.

ARTICLE VIII

MISCELLANEOUS

8.1 Modification. The provisions of this Agreement may be modified, amended or waived only with the written consent of the person to be charged with such modification, amendment or waiver.

8.2 Survival. All representations, warranties, covenants and agreements contained herein or made in writing in connection herewith shall be deemed to have been relied upon and shall survive the execution and delivery of this Agreement and the consummation of the transaction contemplated hereby.

8.3 Inurement and Benefit. This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns.

8.4 Governing Law; Jurisdiction. This Agreement and the rights and obligations of the parties hereto shall be deemed to be contracts under the laws of the State of Illinois and for all purposes shall be governed by and construed and enforced in accordance with the laws of such state, except for its rules relating to the conflict of laws. Any suit, action or proceeding arising out of this Agreement shall be instituted in State or Federal court in the City of Chicago, Illinois. The parties hereto waive any objection which any of them may now or hereafter have to the laying of venue of any such suit, action or proceeding in such jurisdiction. The parties hereto waive any right they may have to a jury trial.

8.5 Notices. All notices and other communications given or made to any party hereto in connection with this Agreement (but specifically excluding Designation Notices, which shall be given and received in accordance with Treasury Regulations Section 1.1031(k)-1(c)) shall be in writing and be sent by hand delivery, postage prepaid U.S. mail or facsimile transmission to the respective parties at the addresses shown on the last page hereof, or in accordance with any subsequent written direction from the recipient party to the sending party. All such notices and other communications shall, except as otherwise expressly herein provided, be effective (a) upon delivery if delivered by hand, (b) upon deposit in the U.S. mail or (c) when received, in the case of telegraph, telex or facsimile transmission. Lakeside Bank shall be entitled to give or receive notices (excluding Designation Notices) in the manner aforesaid (i) to or from Exchangor's representative (attorney, accountant, officer or agent) or (ii) to or from any Exchangor when the term Exchangor is used herein to refer to more than one person, and such notices shall be as effective as if given or received personally to or by Exchangor or all Exchangors, as the case may be.

8.6 Counterparts; Facsimiles. (a) This Agreement and related instruments may be executed in any number of counterparts, but all such counterparts shall together constitute one and the same instrument.

(b) Signatures transmitted via facsimile shall be considered authentic and binding.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

LAKESIDE BANK

EXCHANGOR:

By:
Its:

Signature

[Please refer specifically to the restrictions contained in Paragraph 3.6 hereunder prior to executing this Agreement]

55 W. Wacker Drive
Chicago, IL 60601
Attn: Vince Tolve
Attn: Vince Tolve
Phone: 312- 435-1634
Fax: 312- 578-4360

Address:

Tax ID/Social Security Number:

EXCHANGOR'S ATTORNEY:

Print Name

Address:

Phone: _____
Fax: _____

JOINDER

The undersigned hereby agrees to receive the Exchange Funds described in Section 3.1 above, and to hold the same, for the benefit of Exchangor, as a qualified trust in accordance with Treasury Regulations Section 1.1031(k)-1(g)(3)(iii) and the terms of the above Agreement including, without limitation, the restrictions contained in Section 3.5

Lakeside Bank agrees to act as the trustee of a qualified trust within the meaning of Treasury Regulations Section 1.1031(k)-1(g)(3)(iii). Insofar as concerns Lakeside Bank, this Agreement shall be governed by the Trust and Trustee's Act of the State of Illinois (760 ILCS 5/1 et seq.) (the "Act"). Lakeside Bank shall have all of the fiduciary duties and responsibilities that are set forth in the Act, subject to the provisions of this Agreement. Lakeside Bank shall have no duty to maximize the earnings of the trust provided that all funds of which Lakeside Bank is possessed pursuant to this Agreement are deposited into the accounts described in

Article III, and Lakeside Bank is hereby relieved of any duty to diversify the manner in which such funds are invested.

All Exchange Funds and other money or property received by Lakeside Bank from or on behalf of Exchangor (excluding amounts paid pursuant to Article V) constitute a grant and settlement in trust, which funds and property Lakeside Bank shall hold and administer in trust for the uses and purposes and subject to all of the terms, conditions and provisions of this Agreement.

LAKESIDE BANK, TRUSTEE

By:

Its:

ASSIGNMENT OF OLD ASSET CONTRACT

Lakeside Bank
55 W. Wacker Drive
Chicago, Illinois 60601
Attn: Vince Tolve

(Insert name of Old Asset Buyer)

The undersigned ("Exchangor") hereby assigns to Lakeside Exchangor's rights under that certain contract or agreement (the "Old Asset Contract") between Exchangor and Old Asset Buyer (identified above) dated _____, 200__. A copy of the Old Asset Contract is being provided to Lakeside Bank. This assignment is made pursuant to Exchange Agreement No. _____ dated _____, 200__. A copy of this assignment is hereby provided to Old Asset Buyer.

Signature

Print Name /Company Name (if applicable)

Date

Title (if applicable)

ACCEPTANCE

Lakeside Bank hereby accepts the above Assignment of Exchangor's rights under the Old Asset Contract.

RECEIPT

Old Asset Buyer hereby acknowledges receipt of notice of the above assignment of Exchangor's rights under the Old Asset Contract.

LAKESIDE BANK

OLD ASSET BUYER

By: _____

Signature

Its: _____

Date: _____

Title (if applicable)

NOTE: Treasury Regulations Section 1.103(k)-1(g)(4)(v) requires That notice of this assignment be given to all parties to the Old Asset Contract; having the recipient(s) receipt for notice is recommended, but is not required

DESIGNATION NOTICE

Lakeside Bank
55 W. Wacker Drive
Chicago, IL 60601
Attn: Vince Tolve

EXCHANGE AGREEMENT NO.

The undersigned Exchangor identifies the following New Asset(s):

1. _____

2. _____

3. _____

If more than one New Asset has been identified, signify the number that Exchangor intends to acquire: _____. Treasury Regulations Section 1.103(k)-(c)(4) generally allows for designation of up to three properties; see the Regulations for provisions permitting designation of more than three properties.

[Please refer specifically to the restrictions contained in Paragraph 3.6 of the Exchange Agreement prior to submitting this form]

SUBMITTED BY:

EXCHANGOR

Signature

Title (if applicable)

Date

RECEIVED BY:

LAKESIDE BANK

Signature

Title

Date

ASSIGNMENT OF NEW ASSET CONTRACT

Lakeside Bank
55 W. Wacker Dr.
Chicago Illinois 60601
Attn: Vincent J. Tolve

(Insert name of New Asset Seller)

The undersigned ("Exchangor") hereby assigns to Lakeside Bank Exchangor's rights under that certain contract or agreement (the "New Asset Contract") between Exchangor and New Asset Seller (identified above) dated _____, 200__. A copy of the New Asset Contract is being provided to Lakeside Bank. This assignment is made pursuant to Exchange Agreement No. _____ dated _____, 200__. A copy of this assignment is hereby provided to New Asset Seller.

Signature

Print Name /Company Name (if applicable)

Date

Title (if applicable)

ACCEPTANCE

Lakeside Bank hereby accepts the above Assignment of Exchangor's rights under the New Asset Contract.

LAKESIDE BANK

By: _____

Its: _____

Date: _____

RECEIPT

New Asset Seller hereby acknowledges receipt of notice of the above assignment of Exchangor's rights under the New Asset Contract.

NEW ASSET SELLER

Signature

Title (if applicable)

NOTE: Treasury Regulations Section 1.103(k)-1(g)(4)(v) requires That notice of this assignment be given to all parties to the New Asset Contract; having the recipient(s) receipt for notice is recommended, but is not required