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2000-08-17 09:56:31  
Cook County Recorder 67.50

REAL ESTATE MORTGAGE



THIS INDENTURE WITNESSETH, that YALE C. HENDERSON (herein referred to as "Mortgagor or "Yale"), hereby mortgages and waives to NEIL M. HENDERSON, a resident of Salt Lake City, Utah (hereinafter referred to as "Mortgagee"), the real estate located in Cook County, Illinois, described in Exhibit "A" attached hereto and by reference made a part hereof, together with all buildings, improvements, structures and fixtures (including but not limited to all lighting fixtures and mechanical equipment) now or hereafter erected or placed in or upon said above-described real estate or now or hereafter attached to or used in connection with such real estate to the extent such items may be considered part of the real estate under applicable law, and all tenements, hereditaments, easements, appurtenances and other rights and privileges thereunto attaching and belonging, or in any way appertaining, and the rents, issues and profits thereof (hereinafter collectively referred to as the "Mortgaged Premises"), all to the use and benefit of Mortgagee, his successors and assigns.

**MORTGAGOR HEREBY COVENANTS AND AGREES:**

1. This Mortgage is given as security for the performance and observance of the covenants and agreements herein contained and any other agreement executed by Mortgagor to Mortgagee in connection with the indebtedness secured hereby and to secure the payment when due of the principal of and interest on indebtedness evidenced by a certain promissory note, dated February 15, 2000, executed by Yale and payable to the order of Mortgagee in the aggregate principal sum of Three Hundred Fifty Thousand and no/100 Dollars (\$350,000.00), or any notes in renewal thereof (hereinafter referred to as the "Note"), with interest thereon at the rate and payable in the manner described in the Note, due and payable on or before March 1, 2010, or as from time to time renewed or extended, at 5518 Walker Woods Lane, Salt Lake City, Utah 84117, or at such place as the holder hereof may from time to time designate by notice in writing to Mortgagor.

2. Mortgagor is the owner in fee simple of the Mortgaged Premises and has full power to mortgage the same, and the Mortgaged Premises are free and clear of any and all liens and encumbrances, except use restrictions of record, zoning ordinances, rights-of-way and easements of record, the rights of tenants now in possession, and the lien of current taxes and assessments not delinquent (hereinafter collectively referred to as "Permitted Encumbrances"). The lien of this Mortgage shall be superior to the rights of any lessee or lessees to all or any other liens and encumbrances, whensoever arising, with the sole exception of Permitted Encumbrances. Mortgagor will make any further assurances of title that Mortgagee may require and will warrant and defend the Mortgaged Premises against all lawful claims and demands whatsoever.

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3. Mortgagor will pay the Note, or cause the Note to be paid, in accordance with its terms and will perform and comply, or will cause to be performed and complied with, all of the terms and provisions thereof.

4. Mortgagor will procure and maintain in effect at all times public liability insurance with respect to the Mortgaged Premises with such insurance companies and in form and amounts as are acceptable to and approved by Mortgagee against loss of destruction on account of injury to the person or property. All insurance policies shall have Mortgagor and Mortgagee as named insureds as their interests may appear.

5. Mortgagor will pay, before the same become delinquent or any penalty for non-payment attaches thereto, all taxes, assessments and charges of every nature now or hereafter levied or assessed against or upon the Mortgaged Premises or any part thereof or upon the rents, issues, income or profits therefrom, which by reason of non-payment could become a lien prior or junior to this Mortgage, whether any or all of said taxes, assessments or charges be levied directly or indirectly or as excise taxes or as income taxes, and will submit to Mortgagee such evidence of the timely payment of such taxes, assessments and charges as Mortgagee may require, and Mortgagor will also pay all taxes, assessments or charges which may be levied on this Mortgage or the Note, excepting any state or federal income taxes or state intangibles taxes.

6. If Mortgagor shall neglect or refuse to keep the Mortgaged Premises in good repair, to maintain and pay the premiums for insurance which may be required, or to pay and discharge all taxes, assessments and charges of every nature assessed against Mortgagor or the Mortgaged Premises, all as provided for under the terms of this Mortgage, Mortgagee may, at his election, cause such repairs or replacements to be made, obtain such insurance or pay said taxes, assessments and charges, and any amounts paid as a result thereof, together with interest thereon at the rate of twelve percent (12%) per annum from the date of payment, shall be immediately due and payable by Mortgagor to Mortgagee, and until paid shall be added to and become a part of the indebtedness evidenced by the Note and secured hereby, and the same may be collected in any suit hereon or upon the Note, or Mortgagee, by payment of any tax, assessment or charge may, at his discretion, be subrogated to the rights of the governmental subdivisions levying such tax, assessment or charge. No such advances shall be deemed to relieve Mortgagor from any default hereunder or impair any right or remedy of Mortgagee, and the exercise by Mortgagee of the right to make advances shall be optional with Mortgagee and not obligatory and Mortgagee shall not in any case be liable to Mortgagor for a failure to exercise any such right.

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7. Mortgagor will keep the Mortgaged Premises in good order, repair and condition at all times and will not commit waste or allow waste to be committed against the Mortgaged Premises. Mortgagor will not commit or allow the commission of any violation of any law, regulation, ordinance or contract affecting the Mortgaged Premises and will not commit or allow any demolition, removal or material alteration of any of the buildings or improvements (including fixtures) constituting a part of the Mortgaged Premises without the prior written consent of Mortgagee. Mortgagee shall at reasonable times during normal business hours have free access to the Mortgaged Premises for the purposes of inspection and the exercise of his rights hereunder.

8. All awards made by any public or quasi-public authority for damages to the Mortgaged Premises by virtue of an exercise of the right of eminent domain by such authority, including any award for a taking of title, possession or right of access to a public way, or for any change of grade of streets affecting the Mortgaged Premises, are hereby assigned to Mortgagee; and Mortgagee, at his option, is hereby authorized, directed and empowered to collect and receive the proceeds of any such award to the extent of the indebtedness secured by or payable under this Mortgage from the authorities making the same and to give proper receipts and acquittances therefor, and may, at Mortgagee's election, use such proceeds in any one or more of the following ways: (i) apply the same or any part thereof upon the indebtedness secured hereby or payable hereunder, whether or not such indebtedness is then due and payable, (ii) use the same or any part thereof to replace or restore the Mortgaged Premises to a condition satisfactory to Mortgagee, or (iii) release the same to Mortgagor. Mortgagee is authorized, at his option, to appear in and prosecute in his own name any action or proceeding or, with consent and joinder of Mortgagor, to make any compromise or settlement in connection with such taking or damage. Mortgagor will, upon request by Mortgagee, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning all proceeds from such awards to Mortgagee free and clear and discharged of any and all encumbrances or claims of any kind or nature whatsoever.

9. If required by Mortgagee or in the event of a default by Mortgagor hereunder or by Yale under the Note, Mortgagor will pay to Mortgagee, on dates upon which interest is payable, such amounts as Mortgagee from time to time estimates as necessary to create and maintain a reserve fund from which to pay at least thirty (30) days before the same become due, all rental payments, taxes, assessments, liens and charges on or against the Mortgaged Premises and premiums for insurance as herein covenanted to be furnished by Mortgagor. Payments from such reserve fund for such purposes may be made by Mortgagee at his discretion. Such payments shall not be, nor deemed to be, trust funds but may be commingled with the general funds of Mortgagee, and no interest shall be payable in

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respect thereof. In the event of any default under the terms of the First Mortgage or by Yale under the Note, Mortgagee shall be entitled to cure any such event of default. In the event Mortgagee cures any such default on behalf of Yale, then all sums expended for same shall be added to the principal amount due under the note and secured by this mortgage. If the Second Mortgagees fail or refuse to cure the default, then any part or all of said reserve fund may be applied to the indebtedness secured hereby and, in refunding any part of said reserve fund, Mortgagee may deal with whoever is represented to be the owner of the Mortgaged Premises at that time.

10. Mortgagor will indemnify Mortgagee and hold him harmless from any and all loss, damage or expense, including attorneys' fees, resulting from or arising out of the execution and delivery of this Mortgage and the terms hereof and the same is made a part of the indebtedness secured hereby. All sums paid by Mortgagee, including attorneys' fees, to cure a default by Mortgagor hereunder or for the expense of any litigation to prosecute or defend the rights and lien created hereby in any action or proceeding to which Mortgagee is made a party by reason of this Mortgage or the Note, or in which it becomes necessary to defend or uphold the lien of this Mortgage, shall be paid by Mortgagor to Mortgagee, together with interest thereon from date of payment at the rate specified under paragraph 6 above, and any such sums and the interest thereon shall be immediately due and payable and secured hereby, having the benefit of the lien hereby created as a part thereof and with its priority, all without relief from valuation or appraisal laws.

11. Mortgagor will pay all sums which if not paid may result in the acquisition or creation of a lien prior to or of equal priority with or junior to the lien of this Mortgage, or which may result in conferring upon a tenant of any part of the Mortgaged Premises a right to recover such sums as prepaid rent or as a credit or offset against any future rental obligation.

12. Mortgagor will operate the Mortgaged Premises at all times as his residence and, with the exception of the rental unit which Mortgagor may lease on such terms as he deems appropriate, for no other purpose.

13. In the event the ownership of the Mortgaged Premises, or any part thereof, becomes vested in a person or persons other than Mortgagor, and Mortgagee does not exercise the option reserved to him under paragraph 16 hereof to accelerate the indebtedness secured hereby in the event of alienation of all or any part of the Mortgaged Premises, Mortgagee may deal with successor or successors in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as with Mortgagor, without in any manner vitiating or discharging Mortgagor's liability hereunder or Yale's liability under the Note.

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14. Mortgagor shall pay to Mortgagee, or his legal representatives, successors and assigns, reasonable attorneys' fees, any sums expended for the continuation of the abstract of title to the Mortgaged Premises, for title searches, or for title insurance, and all other costs incurred in any action to foreclose this Mortgage, or for the cure of a default by Mortgagor in any of its terms, covenants or agreements, which fees and costs shall be an additional lien and security interest against the Mortgaged Premises.

15. This Mortgage creates a continuing lien to secure the full and final payment of the Note and the performance of the other obligations of Mortgagor under this Mortgage and all obligations under any or under any other security documents or agreements executed by Mortgagor or Yale in connection with the indebtedness secured hereby.

16. Upon any default in the payment of any indebtedness evidenced by the Note or secured hereby or of any installment thereof as due, or in the payment of the taxes, assessments or charges as required hereunder, or otherwise under the terms of this Mortgage or upon any default in the performance and observance by Mortgagor and/or Yale, as the case may be, of any other of the terms, covenants or agreements of this Mortgage, the Note or any other security instrument executed in connection with indebtedness secured hereby, or upon the institution of any foreclosure proceeding by the holder of any mortgage or lien upon the Mortgaged Premises, or if any law is hereafter passed by the State of Illinois or local authority deducting from the value of the Mortgaged Premises any lien thereon for the purpose of taxation of Mortgagee or changing in any way the laws now in force for the taxation of mortgages, or the indebtedness secured hereby, for state or local purposes, or changing the manner of collection of any such taxation from Mortgagor so as to affect this Mortgage or the indebtedness secured hereby, or in case Mortgagor or Yale should become insolvent, make an assignment for the benefit of creditors, or petition to be adjudicated a voluntary bankrupt, or proceedings are instituted against Mortgagor or Yale to place it in involuntary bankruptcy or for the appointment of a receiver for it or its property, or the Mortgaged Premises are seized under any writ or process of court or by any trustee or receiver, or if Mortgagor shall sell, assign or otherwise transfer ownership of the Mortgaged Premises or any part thereof, then in any of said events, Second Mortgagees shall first be given the opportunity to cure any of the said events and if Second Mortgagees shall fail or refuse to so cure the events, the whole of the indebtedness secured hereby shall, at the election of Mortgagee, become immediately due and payable, without notice or demand, and Mortgagee, at his option, may proceed to foreclose this Mortgage without relief from valuation and appraisal laws, and thereupon, or at any time during the existence of any such default, Mortgagee shall be entitled to enter into possession of the Mortgaged Premises and to collect the rents, issues and profits thereof, accrued and to accrue, and to apply the same on any indebtedness secured hereby

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or, if Mortgagee so elects, Mortgagee shall be entitled to the appointment of a receiver in any court of competent jurisdiction to collect such rents, issues and profits under the direction of the court, notice of the exercise thereof being hereby waived. In the event of an acceleration of the indebtedness secured hereby by reason of a default hereunder or by Yale under the Note, Mortgagor shall in addition to all amounts then due and payable be liable to Mortgagee for the payment of the prepayment premium which would have been payable if the indebtedness had been paid in full on the date when such acceleration occurred or, if occurring during the period in which prepayment is not allowed, on the date on which prepayment privileges commence.

17. No failure by Mortgagee in the exercise of any of his rights under this Mortgage shall preclude Mortgagee from the exercise thereof in the event of subsequent default by Mortgagor hereunder, or by Yale under the Note, and no delay by Mortgagee in the exercise of his rights under this Mortgage shall preclude Mortgagee from the exercise thereof so long as Mortgagor is in default hereunder or Yale is in default under the Note. Mortgagee may enforce any one or more of his rights or remedies hereunder successively or concurrently.

18. Mortgagee, at his option, may extend the time for the payment of the indebtedness secured hereby, or reduce the payments thereon, or accept a renewal note or notes therefor, without the consent of any endorser or guarantor and without the consent of Mortgagor if Mortgagor has conveyed title to the Mortgaged Premises, and any such extension, reduction or renewal shall not affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the primary liability of Mortgagor or any endorser or guarantor to Mortgagee.

19. Any part of the Mortgaged Premises covered by this Mortgage may be released by Mortgagee without affecting the lien and security interest hereby granted as to the remainder, and the security of this Mortgage shall not affect or be affected by any other security for the indebtedness secured hereby nor shall the taking of additional security release or impair the security hereof or liability for the indebtedness secured hereby in any manner whatsoever.

20. The covenants, conditions and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, Mortgagor and Mortgagee, their respective successors, assigns, heirs and legal representatives.

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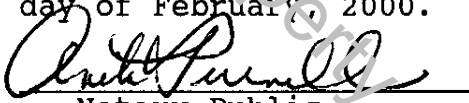
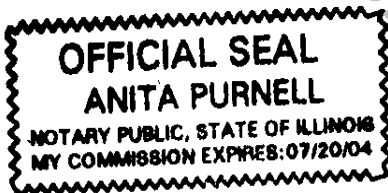
21. This Mortgage is executed under and shall be construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed and delivered this 15th day of February, 2000.

YALE C. HENDERSON



Subscribed and Sworn to  
before me this 15th  
day of February, 2000.

  
Notary Public

This Instrument was prepared by John E. Partelow, Esq., 820 West Jackson Boulevard, Suite 300, Chicago, Illinois 60607.

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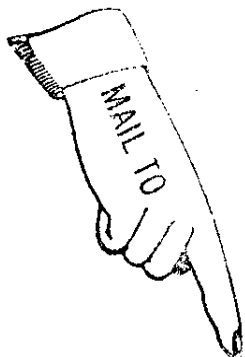
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## EXHIBIT "A"

(legal description)

The East 1/2 of Lot 21 and Lot 22 in Frank H. Ireland's Subdivision of the West 1/2 of the east 1/2 of Lot 2 in George Seller's Subdivision of the Southeast 1/4 of the Northwest 1/4 of Section 19, Township 40 North, Range 14, east of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 14-19-122-041



JOHN E. PARTLOW

820 W. JACKSON BLVD.

SUITE 300

CHICAGO ILLINOIS 60607

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