

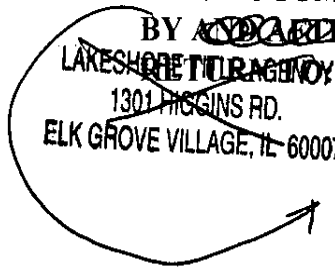


MAIL TO:
 LAKESHORE TITLE AGENCY
 301 HIGGINS RD
 ELK GROVE VILLAGE, IL 60007
 01074548

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 2001-11-15 13:37:51
 Cook County Recorder 55.50

THIS DOCUMENT PREPARED
 BY ~~ADAM R. RECORDING~~



~~LAKESHORE TITLE AGENCY~~
 1301 HIGGINS RD. Village of Schaumburg
 ELK GROVE VILLAGE, IL 60007 101 Schaumburg Court
 Schaumburg, IL 60193



For Recorder's Use Only

18 pgs

JUNIOR MORTGAGE

PROJECT NUMBER: 0037

THIS JUNIOR MORTGAGE (this "Mortgage") is made as of November 1, 2001, by Noreen A. Gallivan, having an address at 1057 Stonehedge Drive, Schaumburg, IL 60194 (the "Mortgagor") to **THE VILLAGE OF SCHAUMBURG**, having an address at 101 Schaumburg Court, Schaumburg, IL 60193 (the "Mortgagee").

Mortgagor has executed and delivered to Mortgagee a Junior Mortgage Note (the "Note") of even date herewith payable to the order of Mortgagee in the principal sum of Twelve Thousand Two Hundred Fifty Nine and 43/100 Dollars (\$12,259.43), payable as set forth in the Note, and due on the earlier to occur of (a) the date the Property is no longer Mortgagor's principal place of residence; (b) a Prohibited Transfer (as defined in Paragraph 11 herein); and (c) thirty (30) years from the date hereof.

In order to secure the payment of the principal indebtedness under the Note (and all replacements, renewals and extensions thereof, in whole or in part) according to its tenor, and to secure the payment of all Future Advances not to exceed the aggregate amount of Five Thousand and No/100 Dollars (\$5,000.00) other sums which at any time may be due under the Note or this Mortgage (collectively sometimes referred to herein as "Indebtedness"); and to secure the performance and observance of all the provisions contained in this Mortgage, the Note or the Agreement (as hereinafter defined), and to charge the property rights and interests hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagor DOES HEREBY MORTGAGE AND CONVEY unto Mortgagee, its successors and assigns forever, the following described property, rights and interests (which are referred to herein as the "Property"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Land (as hereinafter defined) and not secondarily:

THE LAND located in the State of Illinois (the "Land") and legally described on Exhibit "A" attached hereto.

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located on or used or intended to be used in connection with the Land or the improvements, or in connection with any construction thereon, and owned by

Mortgagor, and all of Mortgagor's rights or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (the "Improvements");

TOGETHER WITH all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, in and to the same;

TOGETHER WITH all income from the Property to be applied against the Indebtedness, provided, however, that Mortgagor may, so long as no Default has occurred hereunder, collect income and other benefits as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all proceeds of the foregoing, including without limitation all judgments, awards, of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Property or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Property or proceeds of any sale, option or contract to sell the Property or any portion thereof.

TO HAVE AND TO HOLD the Property, unto the Mortgagee, its successors and assigns, forever, for the purposes herein set forth together with all right to possession of the Property after the occurrence of any Default as hereinafter defined; the Mortgagor hereby RELEASING AND WAIVING all rights under and by virtue of the homestead exemption laws of the State of Illinois.

MORTGAGOR COVENANTS that it is lawfully seized of the Land, and that it has lawful authority to mortgage the same, and that it will warrant and defend the Land and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

PROVIDED, NEVERTHELESS, that if Mortgagor shall pay in full when due the Indebtedness and shall timely perform and observe all of the provisions herein, in the Note and the Agreement to be performed and observed by the Mortgagor, then this Mortgage and the interest of Mortgagee in the Property shall cease and become void, but shall otherwise remain in full force.

MORTGAGOR FURTHER AGREES AS FOLLOWS:

1. Payment of Indebtedness and Performance of Covenants. Mortgagor shall (a) pay the Indebtedness when due and (b) punctually perform and observe all of the requirements of Single-Family Rehabilitation Owners Participation Agreement dated June 29, 2001 (the "Agreement"), the Note and this Mortgage.

2. Repair and Maintenance of Mortgaged Property. Mortgagors shall: (a) promptly repair, restore or rebuild any Improvements now or hereafter on the Property which may become damaged or be destroyed; (b) keep said Property in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinate to a lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the Property superior to the lien hereof including the Senior Mortgage (as defined in Paragraph 24 herein), and upon request exhibit satisfactory evidence of the discharge of any such prior lien to the Mortgagee; (d) complete on or before the construction deadline contained in the Agreement for the Rehabilitation Project, any building or buildings now or at any time in process of erection, construction, alteration, repair or rehabilitation upon said Property; (e) comply with

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all requirements of law or municipal ordinances with respect to the Property and the use thereof; (f) make no material alterations in said Property, except as required by law or municipal ordinance, without the prior written consent of Mortgagee.

3. Liens, Prohibition. Subject to the provisions of Paragraph 4 hereof, Mortgagor shall not create or suffer or permit any encumbrance to attach to or be filed against the Property, excepting only (a) the lien of real estate taxes and assessments not due, (b) any liens and encumbrances of Mortgagee and (c) any liens and encumbrances of the Senior Mortgagee (as defined in Paragraph 24 herein).

4. Taxes.

4.1 Payment. Mortgagor shall pay when due all taxes, assessments, and charges of every kind levied or assessed against the Property or any interest therein or any obligation or instrument secured hereby, and all installments thereof (all herein generally called "Taxes"), whether or not assessed against Mortgagor, and Mortgagor shall furnish to Mortgagee receipts therefor on or before the date the same are due; and shall discharge any claim or lien relating to Taxes upon the Property.

4.2 Contest. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such Taxes, provided:

4.2.1 Such contest shall prevent the collection of the Taxes so contested and the sale or forfeiture of the Property or any part thereof or interest therein to satisfy the same;

4.2.2 Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same before any Tax has been increased by any interest, penalties, or costs; and

4.2.3 Mortgagor has deposited with Mortgagee, at such place as Mortgagee may from time to time in writing designate, a sum of money or other security acceptable to Mortgagee that is sufficient, in Mortgagee's judgment, to pay in full such contested Tax, including interest and penalties, and shall increase such deposit to cover additional interest and penalties whenever Mortgagee deems such an increase advisable.

If Mortgagor fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as hereinabove provided, Mortgagee may, at its option, apply the monies deposited with Mortgagee, in payment of, or on account of, such Taxes, or any portion thereof then unpaid, including all penalties and interest thereon. If the amount of the money and any such security so deposited is insufficient for the payment in full of such Taxes, together with all penalties and interest thereon, Mortgagor shall forthwith, upon demand, either deposit with Mortgagee a sum that, when added to such funds then on deposit, is sufficient to make such payment in full, or, if Mortgagee has applied funds on deposit on account of such Taxes, restore such deposit to an amount satisfactory to Mortgagee. Provided that Mortgagor is not then in default hereunder, Mortgagee shall, upon Mortgagor's written request, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such Taxes, apply the money so deposited in full payment of such Taxes or that part thereof then unpaid, together with penalties and interest thereon.

5. Insurance Coverage. Mortgagor will insure the Property against such perils and hazards, and in such amounts and with such limits, as Mortgagee may from time to time require, and in any event will continuously maintain the following described policies of insurance (the "Insurance Policies"):

5.1 Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm, flood, earthquake and other risks covered by the so-called extended coverage endorsement in amounts not less than the full insurable replacement value of all Improvements from time to time on the Property and bearing a replacement cost agreed amount endorsement;

5.2 Comprehensive public liability against death, bodily injury and property damage with such limits as Mortgagee may require; and

5.3 The types and amounts of coverage as are customarily maintained by owners of like properties.

6. Insurance Policies. All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Mortgagee. All Insurance Policies shall (a) include, when available, non-contributing mortgagee endorsements in favor of and with loss payable to Mortgagee, (b) include standard waiver of subrogation endorsements, (c) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Mortgagee and (d) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. Mortgagor will deliver all Insurance Policies premium prepaid, to Mortgagee and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy.

7. Change in Tax Law. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Junior Mortgage Note or recording of this Mortgage (other than Mortgagee's income or franchise taxes), Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Junior Mortgage Note or recording of this Mortgage.

8. Proceeds of Insurance. Mortgagor will give Mortgagee prompt notice of any loss or damage to the Property, and:

8.1 In case of loss covered by Insurance Policies, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized at its option either (i) to settle and adjust any claim under such Insurance Policies without the consent of Mortgagor, or (ii) to allow Mortgagor to settle or adjust such claims if such adjustment is carried out in a competent and timely manner. The expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness and Mortgagor shall reimburse Mortgagee for such expense upon demand.

8.2 In the event of any insured damage to the Property (herein called an "Insured Casualty"), and if, in the reasonable judgment of Mortgagee, the Property can be restored to an economic unit not less valuable than the same was prior to the Insured Casualty, then, if Mortgagor shall not be in default or Default hereunder, the proceeds of insurance shall be applied to reimburse Mortgagor for the cost of restoring or repairing the Property, as provided for in Paragraph 9 hereof; and Mortgagor shall diligently restore or repair the Property; provided that Mortgagor shall pay all costs of such restoring or repairing in excess of the net proceeds of insurance made available pursuant to the terms hereof.

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8.3 Except as provided in Paragraph 8.2, Mortgagee may apply the proceeds of insurance consequent upon any Insured Casualty upon the Indebtedness in such order as Mortgagee may elect.

8.4 Whether or not proceeds of insurance are made available to Mortgagor for the restoring or repairing of the Property, Mortgagor shall restore or repair the same to be of at least equal value and of substantially the same character as prior to such damage in accordance with plans and specifications to be approved in advance by Mortgagee.

9. Disbursement of Insurance Proceeds. Subject to the rights of the Senior Mortgagee, insurance proceeds held by Mortgagee for restoration or repairing of the Property shall be disbursed from time to time upon Mortgagor furnishing Mortgagee with (a) evidence satisfactory to it of the estimated cost of the restoration or repair, (b) funds sufficient in addition to the proceeds of insurance, to fully pay for the restoration or repair, and (c) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as Mortgagee may require and approve. No payment made prior to the final completion of the restoration or repair shall exceed ninety percent (90%) of the value of the work performed from time to time, as such value shall be determined by Mortgagee in its exclusive judgment; funds other than insurance proceeds shall be disbursed prior to disbursement of such proceeds; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited or irrevocably committed, to the satisfaction of Mortgagee, by or on behalf of Mortgagor to pay the cost of such repair or restoration shall be at least sufficient in the reasonable judgment of Mortgagee to pay the entire unpaid cost of the restoration or repair free and clear of all liens or claims for lien. Any surplus of insurance proceeds held by Mortgagee after payment of such costs of restoration or repair shall be paid to Mortgagor provided Mortgagor is not in default hereunder. No interest shall be allowed to Mortgagor on account of any proceeds of insurance or other funds held by Mortgagee.

10. Condemnation and Eminent Domain. Subject to the rights of the Senior Mortgagee, all awards (the "Awards") made to the owner of the Property, by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Property, are hereby assigned by Mortgagor to Mortgagee. Mortgagee is hereby authorized to give appropriate acquittances thereof. Mortgagor shall immediately notify Mortgagee of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting the Property and shall deliver to Mortgagee copies of any papers served in connection with any such proceedings. Mortgagor shall make and deliver to Mortgagee, at any time upon request, free of any encumbrance, all further assignments and other instruments deemed necessary by Mortgagee for the purpose of assigning all Awards to Mortgagee. If any portion of or interest in the Property is taken by condemnation or eminent domain, either temporarily or permanently, and the remaining portion of the Property is not, in the judgment of Mortgagee, a complete economic unit having equivalent value to the Property as it existed prior to the taking, then, at the option of Mortgagee, the entire Indebtedness shall immediately become due. After deducting from the Award for such taking all of its expenses incurred in the collection and administration of the Award, including attorney's fees, Mortgagee shall be entitled to apply the net proceeds toward repayment of such portion of the Indebtedness as it deems appropriate without affecting the lien of this Mortgage. In the event of any partial taking of the Property or any interest in the Property, which, in the judgment of Mortgagee leaves the Property as a

complete economic unit having equivalent value to the Property as it existed prior to the taking, and provided no Default has occurred and is then continuing, the Award shall be applied to reimburse Mortgagor for the cost of restoration and rebuilding the Property in accordance with plans, specifications and procedures approved by Mortgagee, and such Award shall be disbursed in the same manner as is hereinabove provided above for the application of insurance proceeds, provided that any surplus after payment of such costs shall be applied on account of the Indebtedness. If the Award is not applied for reimbursement of such restoration costs, the Award shall be applied against the Indebtedness, in such order or manner as Mortgagee shall elect.

11. Restrictions on Transfer. Mortgagor shall not, without the prior written consent of Mortgagee, effect, suffer or permit any "Prohibited Transfer" (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties, rights or interests shall constitute a "Prohibited Transfer":

11.1 The Property or any part thereof or interest therein; or

11.2 All or any portion of the beneficial interest or power of direction in or to the trust under which Mortgagor is acting, if Mortgagor is a Trustee; in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Paragraph 11 shall not apply (a) to liens securing the Indebtedness, (b) to the lien of current taxes and assessments not in default, (c) to the lien of the Senior Mortgage, (d) to the creation of a lien or encumbrance subordinate to this Mortgage, or (e) to any transfers of the Property, or part thereof, or interest therein, or any beneficial interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives.

12. Default/Remedies. The occurrence of any one or more of the following events, which continues after any applicable notice and beyond any applicable grace period, shall constitute a "Default" hereunder:

12.1 Mortgagor fails to timely commence the Rehabilitation Project pursuant to Paragraph 7 of the Agreement.

12.2 Non-payment when due of any Indebtedness which continues uncured beyond any applicable notice and grace period set forth in the Note.

12.3 Any representation or warranty made by Owner under the Agreement was or becomes materially false or misleading.

12.4 The occurrence of a default by Mortgagor under any of the Note, the Agreement or Senior Instruments (as defined in Paragraph 25 herein), if any, that is not remedied after any applicable notice and within any applicable cure period provided therein.

12.5 The insolvency of Mortgagor.

12.6 The Rehabilitation Project is abandoned for more than thirty (30) consecutive days, or is not Substantially Completed (as determined by Village or its inspecting architect) by the date set forth in Paragraph 7 of the Agreement.

12.7 Owner shall (a) cause an order to be entered for relief with respect to it under the Federal Bankruptcy Act, (b) not pay, or admit in writing its inability to pay, its debts generally as they become due, (c) make an assignment for the benefit of creditors, (d) apply for, seek, consent to or acquiesce in, the appointment of a receiver, custodian, trustee, examiner,

liquidator or similar official for its or any substantial part of its property, (e) institute any proceeding seeking the entry of any order for relief under the Federal Bankruptcy Act to adjudicate Owner as bankrupt or insolvent, or seeking dissolution winding up, liquidation, reorganization, arrangement, adjustment or composition of its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors.

12.8 Without the application, approval or consent of Owner, a receiver, trustee, examiner, liquidator or similar official shall be appointed for the Owner or any substantial part of the property of Owner or a proceeding described in Paragraph 12.7 shall be instituted against the Owner and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of ninety (90) consecutive days after the date appointed or initiated. Notwithstanding the preceding sentence, if after any such appointment or the institution of any such proceeding the Village reasonably determines that its security interest under the Note or Mortgage is impaired or at risk of impairment, the Village shall have the right to immediately declare a Default.

12.9 A Prohibited Transfer occurs.

12.10 [Owner shall dissolve or be terminated, by operation of law or otherwise.]

12.11 [Any of the ownership interests in Owner are assigned, conveyed, hypothecated or transferred in any manner whatsoever, without the prior written consent of the Village.]

12.12 A lawsuit or suits are filed against Owner which adversely affects the Rehabilitation Project and which are not dismissed within thirty (30) days after filing, or a judgment or judgments are entered against Owner, which are not satisfied, dismissed or appealed within sixty (60) days after entry, or any government authority takes actions materially adversely affecting the Rehabilitation Project or Owner's ability to repay the Indebtedness.

12.13 Owner fails to timely pay any Taxes affecting the Property or suffers or permits any levy or attachment against the Property or any material suppliers' liens or mechanics' liens or any other liens or encumbrances not permitted by this Agreement.

12.14 Owner shall fail to maintain in full force and effect all of the insurance coverages required to be maintained by Paragraph 5 hereof.

12.15 The breach by the Owner of any of the terms or provisions of this Mortgage, other than as set forth in the preceding subparagraphs of this Paragraph 12, which breach is not remedied within thirty (30) days after written notice thereof. Notwithstanding the foregoing, if the default is such that it is not reasonably capable of being cured within thirty (30) days, and if Owner (a) initiates corrective action within said period, and (b) diligently, continually and in good faith works to effect a cure as soon as possible, then Owner shall have such additional time, not to exceed ninety (90) days, as is reasonably necessary to cure the default prior to exercise of any remedies by the Village. In no event shall the Village be precluded from exercising remedies prior to the expiration of any grace period herein set forth if its security becomes or is about to become materially impaired or jeopardized by any failure to cure a default.

Upon the occurrence of a Default, Mortgagee may, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Mortgagee hereunder, declare, without further notice, all Indebtedness to be immediately due with interest thereon at the Default Rate (as defined in the Note), whether or not such Default be thereafter remedied by Mortgagor,

and Mortgagee may immediately proceed to foreclose this Mortgage and to exercise any right provided by this Mortgage, the Note or otherwise.

13. Foreclosure. Subject to the rights of the Senior Mortgagee, when the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1101 et seq. (the "Act") and to exercise any other remedies of Mortgagee provided in the Note, this Mortgage, the Loan Agreement, or which Mortgagee may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, 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, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Property, and any other expenses and expenditures which may be paid or incurred by or on behalf of Mortgagee and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Property and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Property, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid.

14. Right of Possession. Subject to the rights of the Senior Mortgagee, when the Indebtedness shall become due, whether by acceleration or otherwise, or if Mortgagee has a right to institute foreclosure proceedings, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to be placed in possession of the Property as provided in the Act and Mortgagee, in its discretion and pursuant to court order, may reasonably, by its agent or attorneys, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records and accounts of Mortgagor or the then owner of the Property relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

14.1 Hold, manage, and control all or any part of the Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Property;

14.2 Cancel or terminate any lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Mortgagor to cancel the same;

14.3 Extend or modify any then existing leases and make new leases of all or any part of the Property, which extensions, modifications, and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the loan evidenced by the Note and the issuance of a deed to a purchaser at a foreclosure

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sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Property are subject to the lien hereof, and the purchaser at any foreclosure sale, notwithstanding any redemption from sale, reinstatement, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

14.4 Make all necessary or proper repairs, decoration renewals, replacements, alterations, additions, betterments, and improvements in connection with the Property as may seem judicious to Mortgagee, to insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

14.5 Apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Property, to the payment of Taxes, Premiums and other charges applicable to the Property, or in reduction of the Indebtedness hereby secured in such order and manner as Mortgagee shall select.

Without limiting the generality of the foregoing, Mortgagee shall have all power, authority and duties as provided in the Act. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Property.

15. Receiver. Subject to the rights of the Senior Mortgagee, upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Property pursuant to the Act. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Property or whether the same shall be then occupied as a homestead or not; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the Act, including the power to make leases to be binding upon all parties, including the mortgagor, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Property after entry of a judgment of foreclosure, all as provided in the Act. In addition, such receiver shall also have the power to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Note and beyond the date the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other provisions to be contained therein, shall be binding upon Mortgagor and all the persons whose interest in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser. In addition, such receiver shall have the power to collect the rents, issues and profits of the Property during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. The court may, from time to time,

authorize the receiver to apply the net income from the Property in payment in whole or in part of: (a) the Indebtedness or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency.

16. Foreclosure Sale. Subject to the rights of the Senior Mortgagee, except to the extent otherwise required by the Act, the proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: First, all items which under the terms hereof constitute Indebtedness additional to the principal and interest evidenced by the Note in such order as Mortgagee shall elect with interest thereon as herein provided; and Second, all principal and interest remaining unpaid on the Note in such order as Mortgagee shall elect; and lastly any surplus to Mortgagor and its successors and assigns, as their rights may appear.

17. Insurance During Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any Insurance Policy, if not applied in rebuilding or restoring the Improvements, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance shall be paid as the court may direct. The foreclosure decree may provide that the mortgagee's clause attached to each of the casualty Insurance Policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty Insurance Policies making the loss thereunder payable to said decree creditors. The foreclosure decree may further provide that in the case of one or more redemptions under said decree, each successive redeemer may cause the preceding loss clause attached to each casualty Insurance Policy to be canceled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee may, without the consent of Mortgagor, assign any Insurance Policies to the purchaser at the sale, or take such other steps to protect the interest of such purchaser.

18. Waiver of Rights. To the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights it may have to require that the Property be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. Mortgagor acknowledges that the Property do not constitute agricultural real estate as defined in Section 15-1201 of the Act.

19. Mortgagee's Performance of Mortgagor's Obligations. In case of Default, either before or after acceleration of the Indebtedness or the foreclosure of the lien hereof and during the period of redemption, if any, Mortgagee may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee. Mortgagee may, but shall not be required to, complete construction, furnishing and equipping of the Improvements and rent, operate and manage the Property and the Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Property shall be operational and useable for their intended purposes. All monies paid, and all expenses incurred in connection therewith, including attorneys' fees, shall be so much additional Indebtedness, whether or not the Indebtedness, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due and payable on demand, and with interest thereon at the Default Rate specified in the Note. Inaction of Mortgagee shall not be a waiver of any right accruing to it on account of any Default nor shall the provisions of this Paragraph or any exercise by Mortgagee of its rights hereunder prevent any default from constituting a Default. Mortgagee, in making any payment hereby authorized (a) relating to Taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction, furnishing or equipping of the Property or the rental, operation or management of the Property or the payment of operating costs and expenses thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate. Nothing contained herein shall be construed to require Mortgagee to advance or expend monies for any purpose.

20. Assignment of Rents, Leases and Profits. Subject to the rights of the Senior Mortgagee, to further secure the Indebtedness, Mortgagor hereby assigns unto Mortgagee all of the rents, leases and income now or hereafter due under any leases agreed to by Mortgagor or the agents of Mortgagor or which may be made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such leases, rents and income thereunder, to Mortgagee. Mortgagor hereby irrevocably appoints Mortgagee its attorney-in-fact (this power of attorney and any other powers of attorney granted herein are powers coupled with an interest and cannot be revoked, modified or altered without the written consent of Mortgagee) with or without taking possession of the Property as provided in Paragraph 14 hereof, to lease any portion of the Property to any party upon such terms as Mortgagee shall determine, and to collect all rents due under each of the leases, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of Paragraph 14 hereof. Mortgagor represents that no rent has been or will be paid by any person in possession of any portion of the Property for more than one installment in advance and that the payment of none of the rents for any portion of the Property has been or will be waived, reduced or otherwise discharged or compromised by Mortgagor. Mortgagor waives any rights of set-off against any person in possession of any portion of the Property. Mortgagor agrees that it will not assign any of the rents or profits of the Property, except to a purchaser or grantee of the Property. Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the taking of actual possession of the Property by

Mortgagee pursuant to Paragraph 14 hereof. Mortgagor expressly waives all liability of Mortgagee in the exercise of the powers herein granted Mortgagee. Mortgagor shall assign to Mortgagee all future leases upon any part of the Property and shall execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Property as Mortgagee shall from time to time require. Although the assignment contained in this paragraph is a present assignment, Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a Default shall exist under this Mortgage. Within thirty (30) days of Mortgagee's written demand, Mortgagor will furnish Mortgagee with executed copies of each of the leases and with estoppel letters from each tenant in a form satisfactory to Mortgagee. If Mortgagee requires that Mortgagor execute and record a separate collateral assignment of rents or separate assignments of any of the leases to Mortgagee, the terms of those assignments shall control in the event of a conflict with the terms of this Mortgage.

21. Rights Cumulative. Each right herein conferred upon Mortgagee is cumulative and in addition to every other right provided by law or in equity, and Mortgagee may exercise each such right in any manner deemed expedient to Mortgagee. Mortgagee's exercise or failure to exercise any right shall not be deemed a waiver of that right or any other right or a waiver of any default. Except as otherwise specifically required herein, Mortgagee is not required to give notice of its exercise of any of its right under this Mortgage.

22. Successors and Assigns.

22.1 Holder of the Note. This Mortgage and each provision hereof shall be binding upon Mortgagor and its successors and assigns (including, without limitation, each and every record owner from time to time of the Property or any other person having an interest therein), and shall inure to the benefit of Mortgagee and its successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note; and each such holder of the Note shall have all of the rights afforded hereby and may enforce the provisions hereof, as fully as if Mortgagee had designated such holder of the Note herein by name.

22.2 Covenants Run with Land; Successor Owners. All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. If the ownership of Property or any portion thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such person with reference to this mortgage and the Indebtedness in the same manner as with Mortgagor without in any way releasing Mortgagor from its obligations hereunder. Mortgagor will give immediate written notice to Mortgagee of any conveyance, transfer or change of ownership of the Property, but nothing in this Paragraph shall vary the provisions of Paragraph 11 hereof.

23. Effect of Extensions and Amendments. If the payment of the Indebtedness be extended or varied, or if any part of the security or guaranties therefor be released, all persons at any time liable therefor, or interested in the Property, shall be held to assent to such extension, variation or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Property or any part thereof or any interest therein, shall take the said lien subject to the rights of Mortgagee to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guarantying the Indebtedness, in each case without obtaining the consent

of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

24. Senior Mortgagee. Mortgagor has executed and delivered to Mortgagee copies of: (a) that certain note in the original principal amount of \$64,000 ("Senior Note"); (b) that certain first mortgage executed by Mortgagor in favor of the Senior Mortgagee in the original principal amount of One Hundred Fifteen Thousand Nine Hundred and 00/100 Dollars (\$115,900.00), recorded on September 30, 1997, as Document Number 97722596 with the Recorder of Deeds of Cook County, Illinois ("Senior Mortgage"). Mortgagee acknowledges that this Mortgage is junior and subordinate to the lien of the Senior Mortgage.

25. Mortgagor's Covenants with Respect to Senior Instruments.

25.1 Mortgagor covenants and agrees to comply with all of the terms and provisions of the Senior Note, Senior Mortgage and Senior Loan Documents (collectively, "Senior Instruments"). If Mortgagor shall default in the performance of any term or provision contained in this Mortgage or in the Note, the owner or holder of the Note may, but shall not be obligated to, pay any principal or interest due under the Senior Note or any of the Senior Instruments. To the extent the owner and holder of the Note pays any installment of principal or interest or any other sums due under the Senior Note or the Senior Instruments, the said owner and holder shall become entitled to a lien on the Property covered by this Mortgage and by the Senior Instruments, equal in rank and priority to the Senior Instruments, and in addition to the extent necessary to make effective such rank and priority (a) the owner and holder of the Note shall become subrogated to receive and enjoy all of the rights, liens, powers and privileges granted to the lender under the Senior Instruments and (b) the Senior Instruments shall remain in existence for the benefit of and to further secure the debt and other sums secured, or hereafter to become secured hereunder.

25.2 Mortgagor shall give Mortgagee a copy of all notices given Mortgagor with respect to any of the Senior Instruments within five (5) days after receiving such notice.

25.3 Mortgagor shall not, without the prior written consent of Mortgagee enter into any modification, extension, amendment, agreement or arrangement in connection with any of the Senior Note, Senior Mortgage or other Senior Loan Documents.

26. Default under Senior Instruments; Mortgagee's Right to Cure. In the event Mortgagor is declared by the holder of the Senior Instruments to be in default with respect to any requirement of any of the Senior Instruments, Mortgagor agrees that said default shall constitute a Default hereunder. Upon the occurrence of such Default, in addition to any other rights or remedies available to Mortgagee, Mortgagee may, but need not, make any payment or perform any act required to cure or attempt to cure any said default under any of the Senior Instruments in any manner and form deemed expedient by Mortgagee. Mortgagee shall not be responsible for determining the validity or accuracy of any claim of default made by the Mortgagee under the Senior Instruments and the payment of any sum by Mortgagee in curing or attempting to cure any alleged default or omission shall be presume conclusively to have been reasonable, justified and authorized. Mortgagor hereby grants to Mortgagee an irrevocable power of attorney, which power of attorney is coupled with an interest, for the term of this Mortgage to cure any default or forfeiture which may occur under the Senior Mortgage. Mortgagor further agrees to execute a formal and recordable power of attorney granting such right at any time during the existence of this Mortgage if requested by Mortgagee. All monies

paid by Mortgagee in curing any default under the Senior Instruments, including attorneys' fees and costs in connection therewith, shall bear interest from the date or dates of such payment at the Default Rate, shall be paid by Mortgagor to Mortgagee on demand, and shall be deemed a part of the Indebtedness and recoverable as such in all respects. Any inaction on the part of the Mortgagee shall not be construed as a waiver of any right accruing to Mortgagee on account of any Default hereunder.

27. Mortgagee's Right to Prepay Senior Note. In the event of a Default hereunder, Mortgagee may prepay the entire balance due under the Senior Note, and any prepayment fees or penalty incurred by Mortgagee in connection with such prepayment shall bear interest from the date of such payment at the Default Rate, shall be paid by Mortgagor to Mortgagee upon demand, and shall be deemed a part of the Indebtedness and recoverable in all respects.

28. Future Advances. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness the payment of all loan commissions, service charges, liquidated damages, attorney's fees, expenses and advances due to or incurred by Mortgagee in connection with the Indebtedness, all in accordance with the Note and this Mortgage; provided, however, that in no event shall the total amount of the Indebtedness, including loan proceeds disbursed plus any additional charges, exceed _____ . All such advances are intended by the parties hereto to be a lien on the premises from the time this Mortgage is recorded, as provided in the Act.

29. Subrogation. If any part of the Indebtedness is used directly or indirectly to satisfy, in whole or in part, any prior encumbrance upon the Property or any part thereof, then Mortgagee shall be subrogated to the rights of the holder thereof in and to such other encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

30. Governing Law. The place of negotiation, execution, and delivery of this Mortgage and the location of the Property being the State of Illinois, this Mortgage shall be construed and enforced according to the laws of that State, without reference to the conflicts of law principles of that State.

31. Inspection of Property. Mortgagee and its agents shall have the right to inspect the Property at all reasonable times.

32. Time of the Essence. Time is of the essence of the Note, this Mortgage, and any other document or instrument evidencing or securing the Indebtedness.

33. Captions and Pronouns. The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

34. Notices. Any notice required or permitted to be given under this Mortgage shall be deemed given (a) when personally delivered or (b) two (2) business days after the date deposited in the United States mail, by certified or registered mail, postage prepaid, or (c) the next business day following the date deposited, with all delivery charges prepaid, with a national delivery service for overnight delivery. Notices shall be addressed as follows:

UNOFFICIAL COPY

To Mortgagor:

0011077458

Noreen A. Gallivan
1057 Stonehedge Drive
Schaumburg, IL 60194

To Mortgagee:

Village of Schaumburg - Planning Department
101 Schaumburg Court
Schaumburg, IL 60193

35. Trustee's Exculpatory Clause. This Mortgage is executed by the undersigned, 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 Trustee hereby warrants in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, representation, agreement or condition, either express or implied herein contained or with regard to any warranty contained in this Mortgage except the warranty made in this Paragraph, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder; provided that nothing herein contained shall be construed in any way so as to affect or impair the lien of this Mortgage or Mortgagee's right to the foreclosure thereof, or construed in any way so as to limit or restrict any of the rights and remedies of Mortgagee in any such foreclosure proceedings or other enforcement of the payment of the Indebtedness out of and from the security given therefor in the manner provided herein, or construed in any way so as to limit or restrict any of the rights and remedies of Mortgagor under any other document or instrument evidencing, securing or guarantying the Indebtedness.

UNOFFICIAL COPY

0011077458

IN WITNESS WHEREOF, this Mortgage has been executed and delivered by the undersigned to Mortgagee on the date first set forth above.

Noreen A. Gallivan

Noreen A. Gallivan

Property of Cook County Clerk's Office

UNOFFICIAL COPY

)STATE OF
)
)COUNTY OF

0011077458

SS

I, ISMET ISMAILI
a Notary Public, in and for said County, in
the State aforesaid, DO HEREBY CERTIFY
THAT NORGEN A. GALLIVAN
personally known to me to be the same
person whose name is subscribed to the
foregoing instrument, appeared before me this
day in person and acknowledged that (s)he
signed and delivered said instrument as
his/her own free and voluntary act for the uses
and purposes therein set forth

GIVEN under my hand and
notarial seal, this 1ST day of NOVEMBER
, 2001.



A handwritten signature in black ink, appearing to read "Ismet Ismaili", written over a horizontal line.

Notary Public
My Commission Expires:

UNOFFICIAL COPY

EXHIBIT A

0011077458

LEGAL DESCRIPTION OF THE LAND

PARCEL 1: THE NORTHERLY 37.58 FEET OF THE SOUTHERLY 89.45 FEET AS MEASURED ALONG AND PERPENDICULAR TO THE WESTERLY LINE OF LOT 26 IN COLONY LAKE CLUB UNIT 2, BEING A SUBDIVISION OF PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 6, 1977, AS DOCUMENT 23954950, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 1057 STONEHEDGE DRIVE, SCHAUMBURG, ILLINOIS
60194

PIN: 07-16-104-052

Property of Cook County Clerk's Office