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Cook County Recorder 37.50

This Mortgage has been prepared by and after recording return to:



John W. Morse, Esq.
Sachnoff & Weaver, Ltd.
30 South Wacker Drive
Suite 2900
Chicago, IL 60606

FOR RECORDER'S USE ONLY

MORTGAGE

LaSalle Bank National Association, f/k/a LaSalle National Bank, not personally but solely as Trustee under Trust Agreement, dated March 8, 1982, and known as Trust No. 10-039718-09 (the "Trust") and 6840 Partnership, an Illinois general partnership (collectively, the "Mortgagor"), does hereby mortgage, grant, and convey to Barry Ray, on behalf of (i) Barry M. Ray; (ii) the Barbara Katz Uzan Trust, by Barry M. Ray, not individually but solely as Trustee; (iii) the Lily Katz Trust by Barry M. Ray, not individually but solely as Trustee; (iv) the Stuart Katz Trust, by Barry M. Ray, not individually but solely as Trustee; (v) the Jordan Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (vi) the Joshua Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (vii) the Amy Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (viii) the Sharon Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (ix) the Elemelach Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (x) the Chaim Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (xi) the Devorah Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; (xii) the Malka Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee; and (xiii) the Nechama M. Ray Minority Trust, by Barry M. Ray, not individually but solely as Trustee (the individuals and trusts referred to in (i) through (xiii) shall collectively be referred to as the "Mortgagee"), to secure that certain Mortgage Note (the "Note"), dated of even date herewith, in the amount of \$6,006,727.00, with a maturity date of December 31, 2016, executed by 6840 Partnership, the sole beneficiary of the Mortgagor, payable to the order of the Mortgagee, the real estate legally described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), hereby releasing and waiving all rights under and by virtue of Homestead Exemption Laws of the this State.

1. Mortgagor shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or be destroyed; (2) keep the Property in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to

the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the Property superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon the Property; (5) comply with all requirements of law or municipal ordinances with respect to the Property and the use thereof; (6) make no material alterations in the Property except as required by law or municipal ordinance. Notwithstanding subparagraph (3) above, Mortgagor may, upon obtaining Mortgagee's prior written consent, which consent shall not be unreasonably withheld, grant a lien on the Property in favor of a third party, which lien shall be senior to the lien granted pursuant to the terms of this Mortgage; provided that, such senior lien shall not be for an amount in excess of \$2,000,000 in the aggregate (the "Permitted Lien"). Provided Mortgagor has satisfied the foregoing conditions, Mortgagee agrees to execute any and all documents or instruments reasonably necessary to subordinate the lien of this Mortgage to the Permitted Lien.

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the Property when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may desire to contest.
3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this Mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagor, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.
4. If, by the laws of the United States of America or of any state having jurisdiction in the Property, any tax is due or becomes due in respect of the issuance of the Note hereby secured, the Mortgagor covenants and agrees to pay such tax in the manner required by any such law. The Mortgagor further covenants to hold harmless and

agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note secured hereby.

5. Mortgagor shall maintain or obtain insurance against loss customarily included under standard "All Risk" policies including flood, earthquake, vandalism, and malicious mischief, boiler and machinery, and such other insurable hazards as, under good insurance practices, from time to time are insured against for other property and buildings similar to the property in nature, use, location, height, and type of construction. In addition Mortgagor shall maintain insurance against third party claims and general liability insurance in amounts equal to those carried by operators of similar businesses. Such policies shall provide for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all with companies satisfactory to the Mortgagee, under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver copies of all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to the respective dates of expiration.
6. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Property or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the Property and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the rate of six percent (6%) per annum. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagor.
7. The Mortgagee making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.
8. Mortgagor shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagor, all unpaid indebtedness secured by this Mortgage

shall, notwithstanding anything in the Note or in this Mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment under the Note, giving effect to all applicable cure periods thereunder, or (b) when default shall occur and continue for ten (10) days in the performance of any other agreement of the Mortgagor herein contained.

9. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgagor is sold or transferred and Mortgagor is not a natural person) without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Mortgagee if such exercise is prohibited by applicable law as of the date of this Mortgage. If Mortgagor fails to immediately pay the funds, Mortgagee may invoke any remedies permitted by this Mortgage.
10. Upon an event of default under the Note or under this Mortgage, after giving effect to any applicable cure period, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title insurance policies, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the rate of six percent (6%) per annum, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the Property or the security hereof.
11. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding Paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all sums remaining unpaid on the Note; fourth, any overplus to Mortgagor.

12. Upon or any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint receiver of the Property. Such appointment may be made either before or after the sale, without notice, without regard to the 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 the Mortgagee may be appointed as such receiver. Such receiver shall have 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 a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. The court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) the indebtedness secured hereby, or by any decree foreclosing this 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 foreclosure sale; (2) the deficiency in case of a sale and deficiency.
13. No action for the enforcement of this lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured.
14. The Mortgagee shall have the right to inspect the Property at all reasonable times and access thereto shall be permitted for that purpose.
15. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter 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, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.
16. Mortgagee shall release this Mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.
17. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the Note or this Mortgage. The word "Mortgagee"

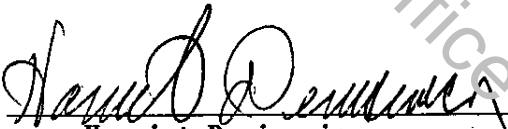
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when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the Note secured hereby.

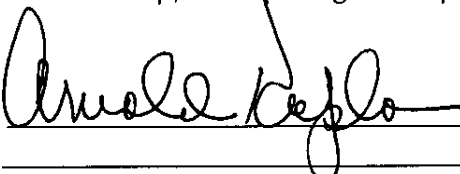
- 18. Notwithstanding anything to the contrary contained herein or pursuant to applicable law, the obligations hereunder shall be on a nonrecourse basis to the partners of 6840 Partnership and the individual members of the Kaplan Group (as such term is defined in that certain Partnership Agreement, dated as of July 1, 1992, as concurrently amended herewith, and as hereafter amended). Each member of the Kaplan Group shall have no liability for payment or performance of any liability or obligation under this Mortgage. Upon the occurrence of an event of default under the Note or this Mortgage, Mortgagee will look solely to the real estate for satisfaction of the secured obligations and will not seek to enforce any obligation or liability or deficiency judgment against any of the foregoing.
- 19. This Mortgage is executed by LaSalle Bank National Association, f/k/a LaSalle National Bank, not personally but solely as Trustee under Trust Agreement, dated March 8, 1982, and known as Trust No. 10- 39718-09, in the exercise of the power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in this document contained shall be construed as creating any personal monetary liability on said Trustee with respect to the performance of any warranty or covenant, either expressed or implied, in this Mortgage (all such personal liability, if any, being expressly waived by the parties hereto and by every person now or hereafter claiming any right thereunder). **(For further Exculpatory Provision of LaSalle Bank National Association see attached rider)**
Dated this 19th day of ~~February~~^{April}, 2002.

MORTGAGOR:

LaSalle Bank National Association, f/k/a LaSalle National Bank, not personally but solely as Trustee under Trust Agreement, dated March 8, 1982, and known as Trust No. 10- 39718-09

By: 
 Name: Harriet Denisewicz
 Its: Trust Officer

6840 Partnership, an Illinois general partnership

By: 
 Its: _____

RIDER ATTACHED TO AND MADE A PART OF THE TRUST DEED OR
MORTGAGE DATED April 19/2002 UNDER TRUST NUMBER 10-39718-09

This Mortgage or Trust Deed in the nature of a mortgage is executed by LaSalle Bank National Association, not personally, but as trustee under Trust Number 10-39718-09, in the exercise of the power and authority conferred upon and vested in it as such trustee (and said LaSalle Bank National Association hereby warrants that it possesses full power and authority to execute the instrument) and it is expressly understood and agreed that nothing contained herein or in the note, or in any other instrument given to evidence the indebtedness secured hereby shall be construed as creating any liability on the part of said mortgagor or grantor, or on said LaSalle Bank National Association, personally to pay said note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either expressed or implied, herein contained, all such liability, if any, being hereby expressly waived by the mortgage or trustee under said Trust Deed, the legal owners or holders of the note, and by every person now or hereafter claiming any right or security hereunder, and that so far as the mortgagor or grantor and said LaSalle Bank National Association personally are concerned, the legal holders of the note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby mortgaged or conveyed for the payment thereof by the enforcement of the lien created in the manner herein and in said note provided or by action to enforce the personal liability of the guarantor or guarantors, if any. Trustee does not warrant, indemnify, defend title nor is it responsible for any environmental damage.

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STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

On this day before me, the undersigned Notary Public, personally appeared Harriet Denisewicz, a Trust Officer, signing on behalf of LaSalle Bank National Association, not personally but solely as Trustee under Trust Agreement, dated March 8, 1982, and known as Trust No. 10-39718-09, to me known to be the same individual(s) described in and who executed the Mortgage, and acknowledged that he/she signed the Mortgage on behalf of LaSalle Bank National Association, in its capacity as trustee, as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 19 day of April, ~~2001~~ 2002

Tawana M. Foster
Notary Public

My Commission expires:



STATE OF ILLINOIS)
) SS
COUNTY OF _____)

On this day before me, the undersigned Notary Public, personally appeared Arnold Kaplan, a general partner of 6840 Partnership, to me known to be the same individual(s) described in and who executed the Mortgage, and acknowledged that he/she signed the Mortgage on behalf of 6840 Partnership, as the free and voluntary act of 6840 Partnership, for the uses and purposes therein mentioned.

Given under my hand and official seal this 19th day of April, 2002.



John W. Morse
Notary Public

My Commission expires: _____

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EXHIBIT A

PARCEL 1:

The part of Lot 8 lying Southwesterly of a line described as beginning 140 feet South of the Northwest corner of said Lot 5 and running Southwesterly to a point in the Southerly line of said lot, 350.15 feet Easterly of the intersection of the Southerly line produced West to the West line of said Lot 5, in the Circuit Court Partition of Lot 2 in the William West and others subdivision of part of Lot 1 and Lot 18 of the Assessor's Division of the Southwest ¼ of Section 30 and Lot 8 of the Assessor's Division of Jane Miranda's Reserve, also Lot 11 of the Assessor's Division of the Southwest ¼ of Section 30, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 2:

That part lying North of Touhy Avenue and lying Westerly of a line described as beginning at a point in the Northerly line of hereafter described Lot 14, 350.15 feet Easterly of the intersection of said Northerly line produced Westerly to the Westerly line of Lot 5, in Circuit Court Commissioner's Subdivision of Lot 2 in hereafter described William West and others subdivision; thence Southerly in a straight line forming an angle of 90 degrees 14 minutes with said Northerly line of said Lot 14 (turned East to Southerly) of the following described land taken as a tract, to wit: Lot 9 (except the Westerly 25 feet thereof), all of Lots 10 to 14 in William West and others subdivision of part of Lot 1 and Lot 18 of the Assessor's Division of the Southwest fractional ¼ of Section 30, Township 41 North, Range 13, East of the Third Principal Meridian, (except from said premises that part falling in Touhy Avenue), all in Cook County, Illinois.

Common Address: 6840 West Touhy Avenue
Niles, Illinois 60648

Permanent Index Number : 10-30-317-0301