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2002-08-13 11:38:09
Cook County Recorder 75.50

Recording Requested By and
When Recorded Mail To:

Michelle M. Kmiecik
Attorney at Law
325 Winchester Drive
Algonquin, IL 606102



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MORTGAGE

THIS MORTGAGE is made this 19TH day of July, 2002, ^{Wk.}
between ~~LOUIS MENENDES~~ and MIGUEL GAYTAN as Mortgagor(s), whose
address(s) is/are OSCAR
2520 West Pershing Rd. Chicago IL 60632;
and JOHN H. RESENDIS and MARY I. RESENDIS as Mortgagee, whose
address is 801 S. Chestnut, Mesa, Arizona 65204.

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C-65077

Mortgagee is making a loan (the "Loan") in the principal
amount of THREE THOUSAND ^{eight} FOUR HUNDRED AND NO/100 DOLLARS (\$3,800.00) ^{Wk.}
to be secured by that certain real property (the "Realty")
described in Exhibit A attached hereto. The Loan, if not sooner
paid, is due and payable in full on August 19, 2002.

The terms of the Loan provide for: one monthly payment of principal
and interest in the amount of \$3,800.00 on or before August 19 2002 ^{Wk.}

In consideration of the Loan and the sum of One and No/100
Dollars (\$1.00) in hand paid by the Mortgagee, the receipt of
which is hereby acknowledged, Mortgagor does hereby MORTGAGE,
GRANT, BARGAIN, SELL, AND CONVEY, unto Mortgagee, its successors
and assigns, forever, AND GRANT TO THE MORTGAGEE A SECURITY
INTEREST IN, all of Mortgagor's estate, rights, title, claim,
interest and demand, either in law or in equity, or, in and to
the following property, whether the same be now owned or
hereafter acquired (the "Property"):

(a) The Realty and all rights to the land lying in alleys,
streets and roads adjoining or abutting the Realty;

(b) All buildings, improvements and tenements now or
hereafter located on the Realty;

(c) All fixtures now or hereafter attached to the buildings
actually constituting a part of the buildings, improvements and
Realty which are necessary to the functional use of the building
itself, rather than the specific operation of Mortgagor's
business, which fixtures are generally limited to heating,
cooling, air-conditioning, ventilating, refrigerating, plumbing,
generating, power, lighting, fire prevention and extinguishing,
security and access control, boilers, water heaters and furnaces,
and all shrubbery and plants; all of which items shall be deemed
part of the real property and not severable wholly or in part
without material injury to the freehold;

(d) All present and future contracts and policies of

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insurance which insure Realty or any building, structures or improvements thereon, or any such fixtures against casualties and theft, and all monies and proceeds and rights thereto which may be or become payable by virtue of any such insurance contracts or policies;

(e) All of the rents, revenues, issues, profits and income of the Property, and all present and future leases and other agreements for the occupancy or use of all or any part of the Realty, including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature and all guaranties of tenants' or occupants' performances under such leases and agreements.

TO HAVE AND TO HOLD all of the aforescribed Property and all parts, rights, members and appurtenances thereof, unto the Mortgagee, its successors and assigns, forever.

TO SECURE THE FOLLOWING:

(1) Payment of the sum of THREE THOUSAND ^{eight} ~~FOUR~~ HUNDRED and ~~NO~~ ~~ONE~~ ~~HUNDRED~~ ~~AND~~ ~~TEN~~ ~~CENTS~~ DOLLARS (\$3,800.00) with interest thereon, according to the terms and provisions of a promissory note of even date herewith, payable to Mortgagee, or order, and made by Mortgagor;

(2) Payment of all sums advanced to protect the security of this Mortgage, together with interest thereon as herein provided;

(3) Payment of all other sums which are or which may become owing under the note, this Mortgage, and any other instrument or document evidencing or securing the Loan or otherwise executed in connection therewith, together with all modifications, extensions, renewals and replacements thereof.

MORTGAGOR HEREBY REPRESENTS, WARRANTS, COVENANTS AND AGREES AS FOLLOWS:

ARTICLE 1 TITLE AND USE

1.1 Warranty of Title. Mortgagor represents and warrants to Mortgagee that: (a) except as may otherwise be expressly stated in this Mortgage, Mortgagor has good and marketable title in fee simple to Realty and is the sole and absolute owner of all other Property; (b) the Property is free from liens, encumbrances, exceptions or other charges of any kind whatsoever other than non-delinquent installments of ad valorem property taxes and special assessments, the "Permitted Exceptions," if any, permitted under the policy of mortgagee's title insurance issued to Mortgagee in connection with this Mortgage and any other liens, encumbrances, exceptions or charges expressly permitted by the terms of this Mortgage, and no others, whether superior or inferior to this Mortgage, will be created or suffered to be created by Mortgagor during the life of this Mortgage without the prior written consent of Mortgagee; (c) no default on the part of Mortgagor, or to the best of Mortgagor's knowledge, any other

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person exists under any of the Permitted Exceptions and as applicable all are in full force and effect and without modification; (d) Mortgagor will comply with the terms of the Note and will not modify the same without the Mortgagee's written consent; and (e) Mortgagor has the right to grant, transfer, convey and assign the Property as herein provided and will forever warrant and defend the Property unto Mortgagee against all claims and demands of any other person whomsoever, subject only to said non-delinquent installments of taxes and assessments and Permitted Exceptions.

1.2 Hazardous Substances. Mortgagor shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Mortgagor shall not do, or allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law.

ARTICLE 2 MORTGAGOR'S COVENANTS

2.1 Payment and Performance of Secured Obligations. Mortgagor will pay when due all sums which are now or which may become owing on the Note, and will pay and perform all Other Secured Obligations, in accordance with their terms.

2.2 Payment of Taxes, Utilities, Liens and Charges.

(a) Taxes and Assessments. Except as the same may otherwise be paid under Article 3 relating to reserves, Mortgagor will pay when due directly to the payee thereof all taxes levied, assessed or charged against or with respect to the Property or this Mortgage. Upon request, Mortgagor shall promptly furnish to Mortgagee all notices of amounts due under this subparagraph and all receipts evidencing such payments.

(b) Utilities. Mortgagor will pay when due all utility charges and assessments for services furnished the Property.

(c) Liens and Charges. Mortgagor will pay when due the claims of all persons supplying labor or materials to or in connection with the Property. Mortgagor will promptly discharge any lien or other charge, whether superior or inferior to this Mortgage, which may be claimed against the Property.

2.3 Insurance.

(a) Coverages Required. Mortgagor will keep the following insurance coverages in effect with respect to the Property:

(i) Insurance against loss by fire and the hazards now or hereafter embraced by the standard "extended coverage" form of insurance, in an amount equal at all times to the full insurable value of the

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improvements then located on the Property. All such insurance coverage shall contain a "replacement cost endorsement" satisfactory to Mortgagee.

2.4 Protection of Mortgagee's Security. Mortgagor will give notice to Mortgagee of and will, at its expense, appear in and defend any action or proceeding that might affect the Property or title thereto or the interests of Mortgagee therein or the rights or remedies of Mortgagee. If any such action or proceeding is commenced or if Mortgagee is made a party to any such action or proceeding by reason of this Mortgage, or if Mortgagor fails to perform any obligation on its part to be performed hereunder, then Mortgagee, in its own discretion, may make any appearances, disburse any sums, make any entries upon the Property and take any actions as may be necessary or desirable to protect or enforce the security of this Mortgage, to remedy Mortgagor's failure to perform its obligations (without, however, waiving any default by Mortgagor) or otherwise to protect Mortgagee's interests. Mortgagor agrees to pay all loss, damage, costs and expenses, including reasonable attorneys' fees, of Mortgagee thus incurred. This paragraph shall not be construed to require Mortgagee to incur any expenses, make any appearances or take any actions.

2.5 Reimbursement of Mortgagee's Expenses. All amounts disbursed by Mortgagee pursuant to paragraph 2.9 or any other provision of this Mortgage, with interest thereon, shall be additional indebtedness of Mortgagor secured by this Mortgage. All such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the interest rate in effect on the Note from time to time, or at the maximum rate which may be collected from Mortgagor on such amounts by the payee thereof under applicable law if that is less.

ARTICLE 3 RESTRICTIONS ON TRANSFER OR ENCUMBRANCE

3.1 Restrictions on Transfer or Encumbrance of the Property. If the Property or any part thereof or interest therein shall be encumbered, sold (by contract or otherwise), conveyed, or otherwise transferred by Mortgagor, or if without Mortgagee's prior written consent there shall be any change in the ownership of the property, then the same shall be deemed to be a "Transfer" for purposes of this paragraph. In the event of such a Transfer, Mortgagee may, at its sole option, declare such Transfer to constitute an event of default under this Mortgage and invoke any remedy provided for in paragraph 6.1 hereof or may, at its sole option, consent to such Transfer and increase the interest rate on the indebtedness secured hereby.

ARTICLE 4 WAIVER OF HOMESTEAD

4.1 Mortgagor(s) hereby waive all rights of homestead exemption in the Property.

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ARTICLE 5 EVENTS OF DEFAULT

5.1 Events of Default. Any one or more of the following is an event of default hereunder:

(a) Failure to make any payment when due under the Note, this Mortgage or any of the other Loan Documents, followed by the failure to make such payment within ten (10) days after written notice thereof given to Mortgagor by Mortgagee.

(b) Failure to perform any other covenant, agreement or obligation under the Note, this Mortgage or any of the other Loan Documents, followed by the failure to cure such default within thirty (30) days after written notice thereof given to Mortgagor by Mortgagee.

(c) Mortgagor or any trustee of Mortgagor files a petition in bankruptcy; or such a petition is filed against Mortgagor and the petition is not dismissed within forty-five (45) days after filing.

(d) Mortgagor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due.

(e) There is an attachment, execution or other judicial seizure of any portion of Mortgagor's assets and such seizure is not discharged within ten (10) days.

(f) Any representation or disclosure made to Mortgagee by Mortgagor or any guarantor of the Loan proves to be materially false or misleading when made, whether or not that representation or disclosure is contained herein.

ARTICLE 6 REMEDIES

6.1 Acceleration Upon Default; Additional Remedies. Upon the occurrence and continuance of an event of default hereunder, Mortgagee may, at its option and without notice to or demand upon Mortgagor, take any one or more of the following actions:

(a) Declare any or all indebtedness secured by this Mortgage to be due and payable immediately.

(b) Bring a court action to enforce the provisions of this Mortgage or any of the indebtedness or obligations secured by this Mortgage.

(c) Bring a court action to foreclose this Mortgage.

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(d) Foreclose this Mortgage under the power of sale granted by this Mortgage in any manner permitted by applicable law.

(e) Exercise any or all of the rights and remedies provided for herein in the event of default hereunder.

(f) Exercise any other right or remedy available under law or in equity.

6.2 Right to Foreclose. If an event of default shall occur, the Mortgagee may, either with or without entry or taking possession, proceed by suit or suits at law or in equity or by any other appropriate proceedings or remedy to enforce payment of the Secured Obligations or the performance of any other term hereof or any other right and the Mortgagor hereby authorizes and fully empowers the Mortgagee to foreclose this Mortgage and grants to the Mortgagee full authority to sell the Property at public auction and convey title to the Property to the purchaser, either in one parcel or separate lots and parcels, all in accordance with and in the manner prescribed by law, and out of the proceeds arising from sale and foreclosure to retain the principal and interest due on the Note and the Secured Obligations together with all such sums of money as Mortgagee shall have expended or advanced pursuant to this Mortgage or pursuant to statute together with interest thereon at the rate of interest provided for in the Note and all costs and expenses of such foreclosure, including lawful attorney's fees, with the balance, if any, to be paid to the persons entitled thereto by law. In any such proceeding the Mortgagee may apply all or any portion of the Secured Obligations to the amount of the purchase price.

6.3 Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority unless otherwise provided by law: (a) to all costs and expenses incident to the foreclosure proceedings and in all prior efforts to effect collection of the Secured Obligations, including all such allowable items as are mentioned in the preceding paragraph hereof; (b) all other items which under the terms hereof constitute Secured Obligations additional to that evidenced by the Note, with interest thereon as provided herein or in the Note; (c) all interest remaining unpaid on the Note; (d) all principal remaining unpaid on the Note, to be applied first to principal which is not the subject of any guaranty by any third party and thereafter, after all such non-guaranteed principal has been repaid, to principal that is the subject of any such guaranty; and (e) the balance, if any, shall be paid over to the Mortgagor or its successors and assigns. In any event, the purchaser under any foreclosure sale shall be under no obligation to see to the proper application of the purchase money.

6.4 Waiver of Order of Sale and Marshaling. Mortgagor waives all rights to direct the order in which any of the Property will

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be sold in the event of any sale under this Mortgage, and also any right to have any of the Property marshaled upon any sale.

6.5 Non-Waiver of Defaults. The entering upon and taking possession of the Property, the collection of Rents or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof as herein provided, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6.6 Foreclosure Subject to Tenancies. Mortgagee shall have the right at its option to foreclose this Mortgage subject to the rights of any tenant or tenants of the Property.

6.7 Evasion of Prepayment Terms. If an event of default hereunder has occurred and is continuing, a tender of payment of the amount necessary to satisfy the entire indebtedness secured hereby made at any time prior to foreclosure sale (including sale under power of sale) by Mortgagor, its successors or assigns or by anyone in behalf of Mortgagor, its successors or assigns, shall constitute an evasion of the prepayment terms of the Note and be deemed to be a voluntary prepayment thereunder and any such payment to the extent permitted by law, will, therefore, include the additional payment required under the prepayment privilege, if any, contained in the Note.

6.8 Remedies Cumulative. To the extent permitted by law, every right and remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity or any other agreement between Mortgagee and Mortgagor, and may be exercised concurrently, independently or successively, in any order whatsoever. Mortgagee may exercise any of its rights and remedies at its option without regard to the adequacy of its security.

6.9 Mortgagee's Expenses. Mortgagor will pay all of Mortgagee's expenses incurred in any efforts to enforce any terms of this Mortgage, whether or not any suit is filed, including without limitation legal fees and disbursements, foreclosure costs and title charges. All such sums, with interest thereon, shall be additional indebtedness of Mortgagor secured by this Mortgage. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the default rate of interest stated in the Note, or the maximum rate which may be collected from Mortgagor under applicable law if that is less.

ARTICLE 7 GENERAL

7.1 Application of Payments. Except as applicable law or this Mortgage may otherwise provide, all payments received by Mortgagee under the Note or this Mortgage shall be applied by Mortgagee in the following order of priority: (a) Mortgagee's

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expenses incurred in any efforts to enforce any terms of this Mortgage; (b) amounts payable to Mortgagee by Mortgagor under Article 3 for reserves; (c) interest and late charges payable on the Note; (d) principal of the Note; (e) interest payable on advances made to protect the security of this Mortgage; (f) principal of such advances; and (g) any other sums secured by this Mortgage in such order as Mortgagee, at its option, may determine; provided, however, that Mortgagee may, at its option, apply any such payments received to interest on and principal of advances made to protect the security of this Mortgage prior to applying such payments to interest on or principal of the Note.

7.2 Release of Mortgage. Upon payment of all sums secured by this Mortgage, this Mortgage and all assignments contained herein shall be void, and this Mortgage shall be released by the Mortgagee at the cost and expense of the Mortgagor, otherwise to remain in full force and effect.

7.3 Mortgagee's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations, Mortgagee, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of the indebtedness, release the lien of this Mortgage on any part of the Property, take or release other or additional security, release or cause to be released all or any part of the Property, or consent to the making of any map or plat of the Property, or consent to the granting of any easement or creating of any restriction on the Property, or join in any subordination or other agreement affecting this Mortgage or the lien or charge hereof. Mortgagor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Mortgagee's option, for any such action if taken at Mortgagor's request.

7.4 Forbearance by Mortgagee Not a Waiver. Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy, and no waiver by Mortgagee of any particular default by Mortgagor shall constitute a waiver of any other default or of any similar default in the future.

7.5 Modifications and Waivers. This Mortgage cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

7.6 Notice. Except as applicable law may otherwise require, all notices and other communications shall be in writing and shall be deemed given when delivered by personal service or when mailed, by certified or registered mail, postage prepaid, addressed to the address set forth at the beginning of this

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Mortgage. Any party may at any time change its address for such purposes by delivering or mailing to the other parties hereto as aforesaid a notice of such change.

7.7 Governing Law; Severability; Captions. This Mortgage shall be governed by the laws of the State of Illinois. If any provision or clause of this Mortgage conflicts with applicable law, such conflicts shall not affect other provisions or clauses hereof which can be given effect without the conflicting provision, and to this end the provisions hereof are declared to be severable. The captions and headings of the paragraphs and articles of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

7.8 Definitions. As used herein: the term "Mortgagor" means the Mortgagor herein named, together with any subsequent owner of the Property or any part thereof or interest therein, and the term "Mortgagee" means the Mortgagee herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees and participants.

7.9 Successors and Assigns Bound; Joint and Several Liability; Agents. This Mortgage shall bind and inure to the benefit of the parties hereto and their respective heirs, devisees, legatees, administrators, executors, successors and assigns. All obligations of Mortgagor hereunder are joint and several. In exercising any rights hereunder or taking actions provided for herein, Mortgagee may act through its employees, agents or independent contractors as authorized by Mortgagee.

IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Mortgage as of the day and year first above written.

MORTGAGEE(S):

John H. Resendiz by Michelle M. Kmiecik of P.O.A.

JOHN H. RESENDIZ

Mary I. Resendiz by Michelle M. Kmiecik of P.O.A.

MARY I. RESENDIZ

MORTGAGORS:

Tomás Martínez

Miguel Gaytan Oscar

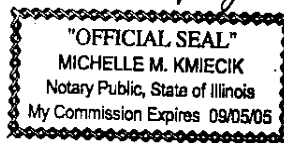
MIGUEL GAYTAN OSCAR

State of Illinois)
) SS
County of Cook)

Subscribed and Sworn to before me this 19th day of July, 2002.

Michelle M. Kmiecik

NOTARY PUBLIC



THIS DOCUMENT WAS DRAFTED BY:
Michelle M. Kmiecik
Attorney at Law
325 Winchester Drive
Algonquin, IL 60102
847-658-2085

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EXHIBIT "A"
TO MORTGAGE

Subdivision of

LEGAL DESCRIPTION OF PROPERTY

Lot 35 in block 1 in Edgar F. Brown's Subdivision of block 7 in H. L. Stewart's Subdivision of the Southwest quarter of Section 1, Township 38 North, range 13 East of the third principal meridian, in Cook County, Illinois.

Commonly known as 4433 South Richmond, Chicago, Illinois 60632

PIN: 19-01-314-013-0000

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