

**THIS INSTRUMENT WAS
PREPARED BY AND AFTER
RECORDING RETURNED TO:**



David G. Spak, Attorney at Law
Two Northfield Plaza, Suite 340
Northfield, Illinois 60093
847-441-3234

Property Address:
Unit 3-A, 7400 N. Sheridan Road
Chicago, Illinois 60626

Property Identification Number:
11-29-311-027-1009

JUNIOR MORTGAGE

THIS JUNIOR MORTGAGE (this "Mortgage"), dated as of the 6th day of December, 2002, is made by **JOHN LINDSAY and JENNIFER LINDSAY** (together, "Mortgagor"), husband and wife, having an address at Unit 3-A, 7400 North Sheridan Road, Chicago, Illinois 60626, to and in favor of **DAVID R. CRAWFORD** ("Mortgagee"), having an address at 642 South Clark Street, Chicago, Illinois 60605.

WITNESSETH:

WHEREAS, Mortgagor is the fee owner of certain real property located at and known as Unit 3-A, 7400 North Sheridan Road, Chicago, Cook County, Illinois. Such real property is legally described in **Exhibit A** attached hereto and by this reference made a part hereof (the "Real Estate"); and

WHEREAS, Mortgagee has agreed to make a loan to Mortgagor in the amount of Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) (the "Loan");

WHEREAS, contemporaneously with the execution and delivery of this Mortgage, Mortgagor has executed and delivered to Mortgagee a certain Promissory Note (together with any renewals, modifications, extensions, amendments and replacements, the "Note") of even date herewith, as evidence of its indebtedness to Mortgagee in the principal sum of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$25,000.00), or so much of that sum as Mortgagee may hereafter advance upon the Loan to Mortgagor, with interest at the rates and payable at the times and in the manner as specified in the Note; and

WHEREAS, the Loan is evidenced, secured and governed by, the Note, this Mortgage, and certain other documents, all of which are sometimes collectively referred to as the "Loan Documents".

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NOW, THEREFORE, Mortgagor, to secure the (a) payment of the indebtedness evidenced by the Note (the "Mortgage Debt"), which includes, but is not limited to, (i) so much of the Loan as Mortgagee may hereafter advance to Mortgagor and (ii) any and all other costs and expenses of Mortgagee attributable to Mortgagor, as determined by Mortgagee, pursuant to the Note and this Mortgage (as to which the Note shall control and prevail), such payments all to be made at the rates, times, manner and place specified and set forth in the Note; and (b) performance and observance of all of the provisions of this Mortgage, does by these presents GRANT, BARGAIN, SELL, MORTGAGE, AND CONVEY the Development (as hereinafter defined) and all of its estate, title and interest unto Mortgagee, its successors and assigns (the Real Estate, together with the property described in the next succeeding paragraph, is referred to as the "Development").

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances now or hereafter belonging to it, and all rents, issues and profits of the Development for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with the Development and not secondarily), including, without limiting the foregoing: (a) if and to the extent owned by Mortgagor: all fixtures, fittings, furnishings, appliances, apparatus, equipment and machinery, including, without limitation, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, ovens, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other air-conditioning, plumbing and heating fixtures, mirrors, mantles, refrigerating plants, refrigerators, ice-boxes, dishwashers, carpeting, furniture, laundry equipment, cooking apparatus and appurtenances, and all building material, supplies and equipment now or hereafter delivered to the Development and intended to be installed in it; all other fixtures and personal property of whatever kind and nature at present contained in or hereafter placed in any building standing on the Development; such other goods, equipment, chattels and personal property as are usually furnished by landlords in letting other premises of the character of the Development and placed in or located upon the Development; and all renewals or replacements, or articles in substitution thereof; and all proceeds and profits of the Development and all of the estate, right, title and interest of Mortgagor in and to all property of any nature whatsoever, now or hereafter situated on the Development, or intended to be used in connection with the operation of it; (b) all of the right, title and interest of Mortgagor in and to any fixtures or personal property subject to a lease agreement, conditional sale agreement, chattel mortgage, or security agreement, and all deposits made thereon or therefor, together with the benefit of any payments now or hereafter made thereon; (c) all leases and use agreements of machinery, equipment and other personal property of Mortgagor in the categories hereinabove set forth, under which Mortgagor is the lessee of, or entitled to use, such items; (d) all rents, income, profits, revenues, royalties, security deposits, bonuses, rights, accounts, accounts receivable, contract rights, general intangibles and benefits and guarantees under any and all leases or tenancies now existing or hereafter created with respect to the Development, or any part of it, with the right to receive and apply the same to indebtedness due Mortgagee; Mortgagee may demand, sue for and recover such payments, but shall not be required to do so; (e) all documents, books, records, papers and accounts of Mortgagor relating to all or any part of the Development; (f) all judgments, awards of damages and settlements hereafter made as a result of, or in place of, any taking of the Development, or any part of it or interest in it, under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Development or the improvements to it or any part of it or interest in it, including any award for change of grade of streets; (g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims; (h) any monies on deposit for the payment of real estate taxes or special assessments against the Development or for the payment of premiums on policies of fire and

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other hazard insurance covering the Development, and all proceeds paid for damage done to the Development; (i) all the right, title and interest of Mortgagor in and to beds of the streets, roads, avenues, lanes, alleys, passages and ways, and any easements, rights, liberties, hereditaments and appurtenances whatsoever belonging to or running with, on, over, below or adjoining the Development; the enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically mentioned; and (j) those items set forth on Exhibit B, attached hereto and made a part hereof by this reference. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified), and all rights conveyed and mortgaged by this Mortgage are intended to be conveyed and mortgaged as a unit and are understood, agreed and declared to form a part and parcel of the Development and to be appropriated to the use of the Development, and shall be deemed to be the Development and conveyed and mortgaged by this Mortgage. As to the above personal property which the Illinois Uniform Commercial Code (the "Code") classifies as fixtures, this instrument shall constitute a fixture filing and financing statement under the Code.

TO HAVE AND TO HOLD the Development unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Recitals.

All of the foregoing recitals are made a part hereof as fully and with the same force and effect as if repeated herein at length.

2. Incorporation of Other Documents.

The Note is incorporated by this reference and made a part of this Mortgage, as fully and with the same force and effect as if repeated herein at length.

2A. Future Advances.

To the extent that Mortgagee has bound itself to make advances of the Loan from time to time and Mortgagor acknowledges that all such advances, including future advances whenever hereafter made, shall be a lien from the time this Mortgage is recorded, as provided in Section 15-1302(b)(1) of the Illinois Foreclosure Act, 735 ILCS 5/15 et seq. (1992) (the "Foreclosure Act").

3. Maintenance, Repair and Restoration of Improvements, Payment of Senior Liens, etc.

Mortgagor shall, subject to the rights of Senior Lender (as defined in **Paragraph 9** hereof), (a) promptly repair, restore, rebuild any buildings or improvements now or hereafter situated on the Development that may be damaged or destroyed; (b) keep the Development in good condition and repair, without waste, and free from mechanics' liens or other liens or claims for lien not expressly subordinated to the lien of this Mortgage or contested

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in accordance with the terms of this Mortgage; the Mortgagor may contest the validity or amount of any such lien in good faith, so long as Mortgagor posts a bond or other security reasonably satisfactory to Mortgagee and otherwise complies with all applicable laws, rules and regulations governing such contest; (c) pay when due, including any applicable grace or cure periods, any indebtedness that may be secured by a lien or charge on the Development superior to the lien of this Mortgage, including the Senior Mortgage (as defined in **Paragraph 9** hereof) or any other senior lien approved by Mortgagee, and upon request, exhibit satisfactory evidence of the discharge of such senior lien to Mortgagee; (d) obtain all Federal, State and local governmental approvals required by law for the ownership and operation of the Development; (e) complete, within a reasonable time, any building or other improvements now or at any time in process of erection upon the Development; (f) cause the Development to comply with all requirements of law, municipal ordinances or restrictions of record with respect to the Development and its use; (g) make no alterations in the Development without Mortgagee's written approval; (h) suffer or permit no change in the general nature of the occupancy of the Development without Mortgagee's written consent; (i) not initiate or acquiesce in any zoning variation or reclassification of the Development without Mortgagee's written consent; and (j) pay each item of the Mortgage Debt when due according to the terms of this Mortgage or the Note.

4. Insurance.

Mortgagor shall keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Development continuously insured against loss or damage by fire or other hazards, and such other appropriate insurance as may be required by Mortgagee, all in form and substance reasonably satisfactory to Mortgagee, including, without limitation, rent loss insurance, business interruption insurance and flood insurance (if and when the Development lies within an area designated by an agency of the Federal government as a flood risk area). Mortgagor shall also provide liability insurance with such limits for personal injury and death and property damage as Mortgagee may require. All such policies of insurance shall be in forms, amounts and with companies satisfactory to Mortgagee, with mortgagee loss payable clauses or endorsements attached to all policies in favor of and in form satisfactory to Mortgagee, including a provision requiring that the coverage evidenced by such policies shall not be terminated or materially modified without thirty (30) days' prior written notice to Mortgagee; at Mortgagee's request, such insurance policies shall name the Mortgagee as loss payee, subject to the rights of Senior Lender as a senior mortgagee. Mortgagor shall deliver copies of all policies, including additional and renewal policies, to Mortgagee, and shall deliver copies of renewal policies or other evidence of renewal to Mortgagee not less than ten (10) days prior to the respective dates of expiration of such policies. Mortgagor shall immediately reimburse Mortgagee for any premiums paid for insurance procured by Mortgagee, or reasonably deemed necessary by Mortgagee due to Mortgagor's failure to provide insurance as required under this **Paragraph 4**, to secure its interest under this Mortgage. From and after the date of entry of any judgment of foreclosure, all rights and powers conferred on Mortgagee by this **Paragraph 4** shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale of the Development.

5. Adjustment of Losses With Insurer and Application of Proceeds of Insurance.

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In case of loss or damage by fire or other casualty, and subject to the terms of the documents securing the Senior Loan, Mortgagor is authorized to settle and adjust any claim under insurance policies that insure against such risks, subject to the approval of Mortgagee. If at the time of loss or damage there exists a Default (as that term is defined in **Paragraph 12** hereof) with respect to matters relating to things other than payment of the obligations under the Note or a default that, with the passage of any applicable cure or grace period, would become a Default, Mortgagee is authorized to settle and adjust any claim under insurance policies which insure against such risks, subject to the rights of Senior Lender. Mortgagee, in conjunction with Senior Lender, is authorized to collect and issue a receipt for any such insurance money. Such insurance proceeds shall be held by Mortgagee in conjunction with Senior Lender and shall be used to repay the Loan.

6. Payment of Taxes, Insurance Premiums and Utility Charges.

Mortgagor shall pay when due all real estate taxes, assessments, water rates, sewer, gas or electric charges, insurance premiums and any imposition or lien on the Development. If Mortgagor fails to make any such payment, Mortgagee may, at its option, after the expiration of any applicable cure period and upon reasonable prior notice to Mortgagor, pay them. The sum or sums so paid by Mortgagee shall be added to the Mortgage Debt and shall bear interest at the Default Rate, as stated in the Note. Mortgagee shall have the right to declare immediately due and payable the amount of any such payment, whether or not such payment has priority over this Mortgage. Mortgagor shall, upon written request of Mortgagee, furnish to Mortgagee duplicate receipts evidencing payment of taxes and assessments, insurance premiums and utility charges. Notwithstanding the foregoing, Mortgagor may contest the validity or amount of any real estate taxes in good faith; however, Mortgagor shall deposit with Mortgagee, subject to the rights of Senior Lender, an amount deemed reasonably necessary by Mortgagee to pay such taxes should the Mortgagor's challenge fail.

7. Limitations on Sale, Assignments, Transfers, Encumbrances and Control.

(a) Mortgagor recognizes that in determining whether or not to make the Loan, Mortgagee evaluated the background and experience of Mortgagor in owning and operating property such as the Development, found them acceptable and relied and continues to rely upon them as the means of maintaining the value of the Development, which is Mortgagee's primary security for the Note. Mortgagor is experienced in borrowing money and owning and operating property such as the Development, has been ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arms's length and without duress of any kind for all of the terms and conditions of the Loan, including the provisions of this **Paragraph 7**. Mortgagor recognizes that any further financing placed upon the Development, other than the Senior Loan (as hereinafter defined), (i) could divert funds that would otherwise be used to pay the Note, (ii) could result in acceleration and foreclosure of such further encumbrance, which would force Mortgagee to take measures and incur expenses to protect its security under this Mortgage, (iii) would detract from the value of the Development should Mortgagee come into possession of it with the intention of selling and (iv) would impair Mortgagee's right to accept a deed in lieu of foreclosure, because a foreclosure by Mortgagee would be necessary to clear the title to the Development.

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In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security for the repayment of the Loan, the value of the Development, the payment of the Mortgage Debt and performance of Mortgagor's obligations under the Loan Documents; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; and (iii) keeping the Development free of subordinate financing liens, Mortgagor agrees that if this **Paragraph 7** is deemed a restraint on alienation, it is a reasonable one. Mortgagor shall not, without the prior written consent of Mortgagee, create, effect, consent to, suffer or permit any "Prohibited Transfer" (as hereinafter defined). A "Prohibited Transfer" shall include any sale or other conveyance, transfer, lease or sublease, mortgage, refinancing, assignment, pledge, grant of a security interest, grant of any easement, license or right-of-way affecting the Development, any hypothecation or other encumbrance of the Development, any interest in, or any interest in Mortgagor's interest in the Development, or any interest in Mortgagor (including, without limitation, any stock of Mortgagor, where Mortgagor is a corporation, any membership or ownership interest however constituted, where Mortgagor is a limited liability company or partnership, or any partnership interest where Mortgagor is a general or limited partnership), in each case whether any such Prohibited Transfer is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise. Mortgagee's written approval as required in this **subparagraph 7(a)** shall be granted, conditioned or withheld as Mortgagee alone shall determine.

The provisions of this **Paragraph 7** shall not apply to (i) liens securing the Mortgage Debt and the Senior Loan, (ii) the lien of current taxes and assessments not yet due or payable, and (iii) liens or encumbrances specifically permitted by, or contested in accordance with, the terms of this Mortgage. Mortgagor acknowledges that any agreements, liens or encumbrances created in violation of the provisions of this **Paragraph 7** shall, at the option of Mortgagee, constitute a Default, and to the extent the provisions of this **Paragraph 7** conflict with or are inconsistent with similar provisions of the Note, the provisions of this **Paragraph 7** shall govern and control.

8. Acknowledgment of Mortgage Debt.

Mortgagor, within five (5) business days from the receipt of written notice from Mortgagee, shall furnish to Mortgagee a written statement, duly acknowledged, of the amount advanced to it which is secured by this Mortgage, and/or the amount due to Mortgagee in order to release this Mortgage, and whether any offsets or defenses exist against the Mortgage Debt.

9. Subordination.

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A. Senior Loans. This Mortgage shall be subject and subordinate in all respects to that certain mortgages dated January 15, 2002 and February 21, 2002 by Mortgagor in favor of Wells Fargo Home Mtg Inc. or its assignees ("Senior Lender") recorded with the Cook County, Illinois Recorder of Deeds on January 22, 2002 March 12, 2002 as document numbers 0020086765 and 0020279886 respectively (the "Senior Mortgages"). The Senior Mortgage secures indebtedness in the original principals amount of One Hundred thirty three thousand nine hundred fifty and 00/100 Dollars (\$133,950.00) and Ten Thousand and 00/100 Dollars (\$10,000.00) (the "Senior Loan") (the Senior Mortgages and all other documents evidencing, securing or governing the Senior Loans are collectively referred to herein as the "Senior Loan Documents"). Notwithstanding the foregoing, Mortgagor shall not modify, extend or amend the Senior Loan Documents, increase the amount of the indebtedness secured thereby, or incur additional indebtedness secured by a lien against any or all of the Development, without the prior written consent of Mortgagee. So long as the Senior Loan Documents are in full force and effect, in the event of any conflict between the provisions of the Loan Documents and those of the Senior Loan Documents, the provisions of the Senior Loan Documents shall control. Any waiver or forbearance by Senior Lender of any right or remedy under the Senior Loan Documents shall not impair the priority of its respective lien under the Senior Loan Documents.

B. Covenants in Connection with Senior Loan Documents.

1. Mortgagor agrees to comply with all of the terms of the Senior Loan Documents. If Mortgagor defaults in the performance of any term or provision contained in the Senior Loan Documents beyond any applicable cure periods, the owner or holder of the Note may, but shall not be obligated to, pay any principal or interest due under the Senior Loan Documents. 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 Loan Documents, such owner and holder shall become, to the extent provided by the Senior Loan Documents and applicable law, entitled to a lien on the Development equal in rank and priority to the Senior Loan Documents, and in addition, to the extent necessary to make effective such rank and priority, (i) Mortgagee shall become subrogated to receive and enjoy all of the rights, liens, powers and privileges granted to Senior Lender and (ii) the Senior Loan Documents shall remain in existence for the benefit of and to further secure the debt and other sums secured, or hereafter to become secured hereunder.

2. Mortgagor shall give Mortgagee a copy of all notices of default received by Mortgagor with respect to any of the Senior Loan Documents within five (5) days after receiving such notices.

3. Mortgagor shall not modify, extend or amend the Senior Loan Documents, increase the amount of the indebtedness secured thereby or incur additional indebtedness secured by a lien against any or all of the Development without the prior written consent of Mortgagee. So long as the Senior Loan Documents are in full force and effect, in the event of any conflict between the provisions of the Loan Documents and those of the Senior Loan Documents, the provisions of the Senior Loan Documents shall control. Any waiver or forbearance by Senior Lender of any right or remedy under the Senior Loan Documents shall not impair the priority of its respective lien under the Senior Loan Documents.

C. Default under Senior Loan Documents; Mortgagee's Right to Cure. If Mortgagor is declared by the holder of the Senior Loan Documents to be in default beyond any applicable cure periods with respect to any

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requirement of any of the Senior Loan Documents, Mortgagor agrees that such default shall constitute a Default. Upon the occurrence of such Default, in addition to any other rights or remedies available to Mortgagee pursuant to the Loan Documents, and subject to the terms of the Senior Loan Documents, Mortgagee may, but need not, make any payment or perform any act required to cure or attempt to cure any such default that may occur and continue beyond any applicable cure period under any of the Senior Loan Documents 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 Senior Lender under the Senior Loan Documents and the payment of any sum by Mortgagee in curing or attempting to cure any such alleged default or omission shall be presumed conclusively to have been reasonable, justified and authorized. Mortgagor grants to Mortgagee an irrevocable power of attorney, which power of attorney is coupled with an interest, for the term of the Mortgage to cure any default or forfeiture that may occur and be continuing beyond the expiry of any applicable cure or grace period under the Senior Loan Documents. Mortgagor further agrees to execute a formal and recordable power of attorney, which power of attorney shall be released by Mortgagee upon full payment of the Mortgage Debt, 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 Loan Documents, including reasonable attorneys' fees and costs in connection therewith, shall bear interest from the date or dates of such payment at the Default Rate as described in the Note, shall be paid by Mortgagor to Mortgagee on demand, and shall be deemed a part of the Mortgage Debt and recoverable as such in all respects. Any inaction on the part of Mortgagee shall not be construed as a waiver of any right accruing to Mortgagee on account of any default under the Senior Loan Documents.

D. Mortgagee's Right to Prepay Senior Loan Subject to the terms and conditions of the Senior Loan Documents, in the event of a Default hereunder or a default under the Senior Loan Documents, Mortgagee may prepay the entire balance due under the Senior Loan Documents, 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, as described in the Note, shall be paid by Mortgagor to Mortgagee upon demand, and shall be deemed a part of the Mortgage Debt and recoverable in all respects.

10. **Intentionally Omitted.**

11. **Security Agreement.**

Mortgagor and Mortgagee agree that this Mortgage shall constitute a security agreement with the meaning of the Code with respect to any property included in the definition of the word "Development" that may not be deemed to form a part of the Real Estate or may not constitute a "fixture" (within the meaning of Section 9-313 of the Code), and all replacements of such property, substitutions for such property, additions to such property, and the proceeds thereof (such property and the replacements, substitutions and additions thereto and the proceeds thereof are sometimes hereinafter collectively referred to as the "Collateral"). Mortgagor grants a security interest in and to the Collateral, subject to the rights of Senior Lender, to Mortgagee to secure payment of the Mortgage Debt and to secure performance by Mortgagor of the terms, covenants and provisions of this Mortgage.

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All of the terms, provisions, conditions and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Development, and the following provisions of this **Paragraph 11** shall not limit the applicability of any other provision of this Mortgage, but shall be in addition to them:

1. Mortgagor (the "Debtor", as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Mortgagee and the holder of the Senior Mortgage and any other liens permitted hereunder.

2. Upon a Default, subject to the rights of Senior Lender, Mortgagee shall have the remedies of a Secured Party, including, without limitation, the right to take immediate and (as that term is used in the Code) exclusive possession of all or any part of the Collateral and for that purpose may, so far as Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any place in which all or any part of the Collateral may be situated and remove it (provided that if the Collateral is affixed to the Real Estate, such removal shall be subject to the rights of Senior Lender and to the conditions stated in the Code). Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral, subject to Mortgagor's right of redemption, in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may, subject to the rights of Senior Lender, (i) render the Collateral unusable without removal, (ii) dispose of the Collateral on the Development or (iii) require Mortgagor to make the Collateral available to Mortgagee for its possession at a place to be designated by Mortgagee that is reasonably convenient to both parties. Mortgagee shall give Mortgagor at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition of it is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor set forth in **Paragraph 24** hereof at least ten (10) days before the time of such sale or disposition. Mortgagee may buy the Collateral at any public sale and, if the Collateral is of a type customarily sold in a recognized market or is of a type that is the subject of widely distributed standard price quotations, Mortgagee may buy the Collateral at any private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the Development; the Development, including the Collateral, may be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and reasonable legal expenses incurred by Mortgagee, shall be applied against the Mortgage Debt in such order or manner as Mortgagee shall select, subject to the rights of Senior Lender. Mortgagee shall pay to Mortgagor any surplus realized on such disposition, subject to the rights of Senior Lender.

3. The terms and provisions contained in this **Paragraph 11** shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

12. Events of Default.

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Upon the occurrence of any one or more of the following events (each, a "Default"), the whole of the Mortgage Debt and any other amounts payable to Mortgagee pursuant to this Mortgage shall immediately become due and payable at the option of Mortgagee, its successors and assigns, and Mortgagee shall have the right to an order of court directing Mortgagor to specifically perform its obligations under this Mortgage, the irreparable injury to Mortgagee and inadequacy of any remedy at law being expressly recognized by Mortgagee:

- (a) A default in the payment of any installment, fee or charge under the Note as and when the same is due;
- (b) A default by Mortgagor in the observance or performance of any covenants, agreements or conditions contained, required to be kept or observed under any of the Loan Documents or any other instrument evidencing, securing or relating to the Loan not cured within fifteen (15) days of the default.
- (c) A default by Mortgagor, declared by Senior Lender, continuing beyond all applicable cure periods, under the Senior Loan Documents and permitting foreclosure under them;
- (d) Failure to exhibit to Mortgagee, within ten (10) days after Mortgagee has made demand for them, receipted bills showing the payment of all real estate taxes, assessments, water rates, sewer, gas or electric charges, insurance premiums, or any charge or imposition, subject to Mortgagee's right to contest pursuant to **Paragraph 6** hereof;
- (e) Failure to pay, on or before the due date any real estate tax, assessment, water rate, sewer, gas or electric charge, insurance premium, any reserve required by Mortgagee, or any charge or imposition that is or may become a lien on the Development, subject to Mortgagee's right to contest pursuant to **Paragraph 6** hereof;
- (f) Failure to comply with the terms contained in **Paragraph 20** below. If any demand concerns the payment of any tax or assessment, and such payment is due prior to the Maturity Date (as defined in the Note), then Mortgagor shall pay the tax or assessment prior to the Maturity Date;
- (g) Failure on the part of Mortgagor (i) to maintain the Development in a rentable and tenable state of repair; (ii) to maintain the Development in a status required by any Federal, State and local governmental entity after notice of a violation of law is given by such governmental entity claiming jurisdiction of the Development; and (iii) to comply with all or any of the statutes, requirements, orders or decrees of any Federal, State or local entity relating to the use of the Development, or of any part thereof. If the condition is not reasonably curable despite Mortgagor's diligent efforts to cure such condition within such thirty (30) days, Mortgagor shall have such additional time as is reasonably necessary to cure such condition so long as Mortgagor continues to make every diligent effort to cure it; in no event, however, shall Mortgagor have more than the lesser of one hundred twenty (120) days or the time allotted by the Federal, state or local entity claiming jurisdiction over the Development to cure such condition;

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(h) Failure to permit Mortgagee, its agents or representatives, at any and all reasonable times and upon prior written notice, to inspect the Development, or to examine and make copies of the books and records of Mortgagor;

(i) If petition (whether voluntary or involuntary) in bankruptcy is filed by or against Mortgagor, or a receiver or trustee of the property of Mortgagor is appointed, or if Mortgagor makes an assignment for the benefit of creditors or is adjudicated insolvent by any State or Federal court;

(j) the occurrence of a Prohibited Transfer;

(k) the occurrence of a Prohibited Transfer with respect to the items set forth in Exhibit B; or

(l) A default in the performance or a breach of any of the other covenants or conditions contained, required to be kept or observed in any of the provisions of this Mortgage.

If, while any insurance proceeds or Awards (as defined in **Paragraph 22** hereof) are being held by Mortgagee to reimburse Mortgagor for the cost of rebuilding or restoring of buildings or improvements on the Development, Mortgagee is or becomes entitled to accelerate the Mortgage Debt and exercises that right, then, subject to the rights of Senior Lender, Mortgagee shall be entitled to apply all such insurance proceeds and Awards in reduction of the Mortgage Debt, and any excess held by it over Mortgage Debt then due shall be returned to Mortgagor, or any party entitled to it, without interest.

13. Mortgagee's Remedies.

To the extent provided in this Mortgage, and subject to the rights of Senior Lender, the rents, issues and profits of the Development are specifically mortgaged, granted, pledged and assigned to Mortgagee as further security for the payment of the Mortgage Debt. Upon a Default, the holder of the Note and this Mortgage, as attorney-in-fact of Mortgagor or the then owner of the Development, shall have all the powers, rights, remedies and authority of Mortgagor, as the landlord of the Development, with power to institute mortgage foreclosure proceedings, to eject or dispossess tenants and to rent or lease any portion or portions of the Development. In such event, Mortgagor shall, subject to the rights of Senior Lender, on demand, surrender possession of the Development to the holder of this Mortgage, and such holder may enter upon the Development and rent or lease the Development on any terms approved by it, and may collect all the rents from it that are due or become due, and may apply them, after payment of all charges and expenses, including the making of repairs that, in its judgment, may be necessary, on account of the Mortgage Debt, subject to the rights of Senior Lender. The rents and all leases existing at the time of such Default are assigned to the holder of this Mortgage as further security for the payment of the Mortgage Debt. In the case of a Default, the holder of this Mortgage, by virtue of such right to possession or as the agent of Mortgagor, may dispossess by legal proceedings, or other legally available means, any tenant defaulting in the payment to the holder of this Mortgage of any rent, and Mortgagor irrevocably appoints the holder of this Mortgage as its agent for such purposes. If the then owner of the Development is an occupant of any part of the Development, such occupant agrees to surrender possession of the Development to the holder of this Mortgage immediately upon

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any such Default; if such occupant remains in possession, the possession shall be as tenant of the holder of this Mortgage, and such occupant agrees to pay in advance to the holder of this Mortgage a monthly rental determined by the holder of this Mortgage (in its sole discretion) for the portion of the Development so occupied, and in default of so doing, such occupant may also be dispossessed by the usual summary proceedings. Mortgagor makes these covenants for itself and, to the extent possible, for any subsequent owner of the Development. The covenants of this **Paragraph 13** shall become effective, immediately after the happening of any Default solely on the determination of the then holder of this Mortgage, who shall give notice of such determination to the Mortgagor or the then owner of the Development. In the case of foreclosure or the appointment of a receiver of rents, the covenants in this **Paragraph 13** shall inure to the benefit of the holder of this Mortgage or any such receiver. In addition to the provisions of this **Paragraph 13**, if and when Mortgagee is placed in possession, Mortgagee shall have all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the Foreclosure Act.

14. Foreclosure, Expense of Litigation.

Subject to the rights of Senior Lender, when the Mortgage Debt, or any part of it, becomes due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien of this Mortgage for all or any part of the Mortgage Debt. In any civil action to foreclose the lien of this Mortgage, in the order or judgment for sale there shall be allowed and included as additional Mortgage Debt all expenditures and expenses that may be paid or incurred by or on behalf of Mortgagee, including, but not limited to, reasonable attorneys' fees, appraisers' 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 order or judgment) of procuring all such abstracts of title, title searches and examinations, title insurance policies, surveys, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary, either to prosecute such civil actions or to evidence to bidders at any sale that may occur pursuant to such order or judgment, the true condition of the title to or the value of the Development. All expenditures and expenses of the nature mentioned in this **Paragraph 14**, and such reasonable expenses and fees as may be incurred in the protection of the Development and maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note or the Development, including probate, bankruptcy and appellate proceedings, or in preparations for the commencement or defense of any proceeding or threatened civil actions or proceeding, shall be immediately due and payable by Mortgagor, with interest on them at the Default Rate, as specified in the Note, and shall be secured by this Mortgage. In case of a foreclosure sale, the Development may be sold in one or more parcels.

15. Application of Proceeds of Foreclosure Sale.

Subject to the rights of Senior Lender, the proceeds of any foreclosure sale of the Development 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 **Paragraph 14** hereof; second, all other items that may, under the terms of this Mortgage, constitute secured indebtedness additional to the Mortgage Debt, with any Default Interest (as defined in the Note) due on them, as provided in this Mortgage; third, any late fees; fourth,

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any accrued Default Interest remaining due and unpaid on the Note; fifth, all principal remaining unpaid on the Note; and sixth, any surplus to Mortgagor, its successors or assigns, as their rights may appear.

16. Appointment of Receiver.

Mortgagor agrees that, upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the Development. Such appointment may be made either before or after 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 Development, and the Mortgagee or any holder of the Note may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Development 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; 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 Development during the whole of such redemption period. The court, from time to time, may authorize the receiver to apply the net income from the Development that is in its possession in payment in whole or in part of: (a) the Mortgage Debt, or any judgment or order foreclosing this Mortgage, or any tax, special assessment or other lien that may be or become superior to the lien hereof or of such decree, provided such application is made prior to a foreclosure sale of the Development; and/or (b) any deficiency arising out of a sale of the Development. In addition to the powers granted by this Paragraph 16, such receiver shall have all rights, powers, immunities and duties as provided for in Sections 15-1701 and 15-1703 of the Foreclosure Act.

17. Protective Advances.

All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Foreclosure Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Foreclosure Act, including the following provisions:

(a) all advances by Mortgagee in accordance with the terms of the Mortgage to: (i) preserve, maintain, repair, restore or rebuild the Development; (ii) preserve the lien of the Mortgage or its priority; or (iii) enforce the Mortgage, all as referred to in subsection (b)(5) of Section 15-1302 of the Foreclosure Act;

(b) payments by Mortgagee of: (i) principal, interest or other obligations in accordance with the terms of the Senior Mortgage; (ii) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever that are assessed or imposed upon the Development or any part of it; (iii) other obligations authorized by the Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Foreclosure Act;

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(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under the Senior Mortgage or any other prior liens;

(d) reasonable attorneys' fees and other costs incurred (i) in connection with the foreclosure of the Mortgage as referred to in Section 1504(d)(2) and 15-1510 of the Foreclosure Act; (ii) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of the Mortgage or arising from the interest of Mortgagee under the Mortgage; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Development;

(e) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the Foreclosure Act;

(f) expenses deductible from proceeds of sale, as referred to in Sections 15-1512(a) and (b) of the Foreclosure Act;

(g) expenses incurred and expenditures made by Mortgagee in connection with any one or more of the following: (i) if the Development or any portion of it constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner; (ii) if Mortgagor's interest in the Development is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee, whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals of such insurance, without regard to the limitation of maintaining existing insurance in effect at the time any receiver or Mortgagee takes possession of the Development imposed by Section 15-1704(c)(1) of the Foreclosure Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or Awards; (v) payments Mortgagee deems necessary for the benefit of the Development or that the owner of the Development is required to make under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Development; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Development is a member that affect the Development; (vii) if the Loan is a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (viii) payments that Mortgagee or Mortgagor must make pursuant to any lease or other agreement for occupancy of the Development; and (ix) if the Mortgage is insured, payments of FHA or private mortgage insurance that are required to keep such insurance in force.

All Protective Advances shall, except to the extent clearly contrary to or inconsistent with the provisions of the Foreclosure Act, apply to and be included in:

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- (h) any determination of the amount of the Mortgage Debt at any time;
- (i) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment; Mortgagor agrees that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (j) computation of amounts required to redeem, pursuant to subsections 15-1603(d)(2) and (e) of the Foreclosure Act;
- (k) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Foreclosure Act;
- (l) application of income in the hands of any receiver or Mortgagee in possession; and
- (m) computation of any deficiency judgment pursuant to Sections 15-1508(b)(2), 15-1508(e) and 15-1511 of the Foreclosure Act.

18. Waiver of Redemption.

Mortgagor acknowledges that the Development does not constitute Agricultural Real Estate, as defined in Section 15-1201 of the Foreclosure Act, or Residential Real Estate as defined in Section 15-1219 of the Foreclosure Act. Pursuant to Section 15-1601(b) of the Foreclosure Act, Mortgagor waives any and all right of redemption under any order or decree of this Mortgage on behalf of Mortgagor, the trust estate and any person beneficially interested in it, and each and every person, except decree or judgment creditors of Mortgagor, in its representative capacity, and the trust estate, acquiring any interest in or title to the Development subsequent to the date of this Mortgage to the extent permitted by law.

19. Rights Cumulative.

Each right, power and remedy conferred by this Mortgage upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as Mortgagee may deem expedient. The exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of or acquiescence in any Default.

20. Effect of Extensions of Time.

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If the payment of the Mortgage Debt or any part of it is extended or varied, or if any part of any security for the payment of the Mortgage Debt is released or additional security is taken, all persons now or at any time hereafter liable for the Mortgage Debt, or interested in the Development, shall be held to assent to such extension, variation, or taking of additional security or release, and their liability and the lien and all provisions of this Mortgage shall continue in full force.

21. Mortgagee's Right of Inspection.

Mortgagee shall have the right to inspect the Development at all reasonable times, upon advance notice to Mortgagor. Mortgagor shall permit Mortgagee to have access to the Development for that purpose.

22. Condemnation

Subject to the rights of Senior Lender, any award (the "Award") made to the present, or any subsequent, owner of the Development by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Development, is assigned by Mortgagor to Mortgagee. Mortgagee may collect any such Award from the condemnation authorities, and may give appropriate acquittance for it. Mortgagor shall immediately notify Mortgagee of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting any part of the Development and shall deliver to Mortgagee copies of all papers served in connection with any such proceedings. Mortgagor shall make, execute and deliver to Mortgagee, at any time upon request, free of any encumbrance, any further assignments and other instruments Mortgagee deems necessary for the purpose of assigning the Award to Mortgagee. Mortgagor shall not approve or accept the amount of any Award or sale price without Mortgagee's approval, confirmed in writing by an authorized officer of Mortgagee. If Mortgagor does not diligently pursue any such actual or threatened eminent domain proceedings and competently attempt to obtain a proper settlement or Award, Mortgagee, at Mortgagee's option, may take such steps, in the name of and on behalf of Mortgagor, as Mortgagee deems necessary to obtain such settlement or Award, and Mortgagor shall execute such instruments as may be necessary to enable Mortgagee to represent Mortgagor in such proceedings. If any portion of or interest in the Development is taken by condemnation or eminent domain, the entire Mortgage Debt shall immediately become due.

23. Release upon Payment and Discharge of Mortgagor's Obligations.

Mortgagee shall release this Mortgage and the lien thereof by proper instrument(s) upon payment and discharge of the Mortgage Debt.

24. Giving of Notice.

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Any notice, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing, at the addresses set forth below, by any of the following means: (a) personal service; (b) electronic communication, whether by telegram or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

Mortgagor: John and Jennifer Lindsay
Unit 3-A
7400 North Sheridan Road
Chicago, Illinois 60626
Fax: 773-___-___

Mortgagee: David R. Crawford
642 South Clark Street
Chicago, Illinois 60605
Fax: 312-663-9985

Such addresses may be changed by notice to the other party given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by electronic means. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Mortgagor by this Mortgage is not required to be given.

25. **Waiver of Defense.**

No action for the enforcement of the lien or any provision of this Mortgage shall be subject to any defense that would not be good and available to the party interposing such defense in an action at law upon the Note.

26. **Illinois Mortgage Foreclosure Act.**

All covenants and conditions of this Mortgage, other than those required by Illinois law, shall be construed as affording to Mortgagee rights in addition to, and not exclusive of, the rights conferred under the provisions of the Foreclosure Act. Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Foreclosure Act, including all amendments to it that may become effective from time to time after the date of this Mortgage. To the extent provided by law, if any provision of the Foreclosure Act that is specifically referred to in this Mortgage is

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repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the provision were incorporated in this Mortgage by express reference.

27. **Waiver of Statutory Rights.**

To the extent permitted by law, Mortgagor shall not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, and waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Development marshaled upon any foreclosure of the lien hereof, and agrees that any court having jurisdiction to foreclose such lien may order the Development sold as an entirety.

28. **Furnishing of Financial Statements to Mortgagee.**

Mortgagor shall keep and maintain books and records of account in which full, true and correct entries shall be made of all dealings and transactions relative to the Development. Such books of record and account shall be kept and maintained in accordance with accounting practice consistently applied and shall, at reasonable times, and on reasonable notice, be open to the inspection of Mortgagee and its accountants and other duly authorized representatives.

29. **Filing and Recording Fees.**

Mortgagor shall pay all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Mortgage and the other Loan Documents and all Federal, State, county, and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage and the Note.

30. **Effect of Changes in Laws Regarding Taxation.**

If, after the date of this Mortgage, any law of the State of Illinois is enacted deducting from the value of the Development for the purpose of taxation any lien on it, or requiring the Mortgagor to pay all or any part of the taxes or assessments or charges or liens that this Mortgage requires Mortgagor to pay, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Development, or the manner of collection of taxes, so as to affect this Mortgage or the Mortgage Debt or the holders of them, then Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee for such payments. If, in the opinion of counsel for 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 Mortgagee may elect, by notice given to Mortgagor, to declare all of the Mortgage Debt immediately due and payable.

31. **Business Purpose.**

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Mortgagor recognizes and agrees that the proceeds of the Loan will be used for the purposes specified in 815 ILCS 205/4 of the Illinois Compiled Statutes, and that the Loan constitutes a "business loan" within the purview of that Paragraph.

32. Miscellaneous.

- a. This Mortgage, and all provisions hereof, shall extend to and be binding upon Mortgagor and its successors, grantees and assigns, any subsequent owner or owners of the Development 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 all or any part of the Mortgage Debt, whether or not such persons have executed the Note or this Mortgage. The word "Mortgagee," when used herein, shall include the successors and assigns of Mortgagee, and the holder or holders, from time to time, of the Note.
- b. If one or more of the provisions contained in this Mortgage or the Note, or in any of the other Loan Documents, is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained in the Mortgage or the Note, as the case may be. This Mortgage and the Note are to be construed and governed by the laws of the State of Illinois, exclusive of its conflict of laws provisions.
- c. Mortgagor shall not, by act or omission, permit any building or other improvement comprising the Development, not subject to the lien of this Mortgage, to rely on the Development or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor assigns to Mortgagee any and all rights to give such consent for all or any portion of the Development or any interest therein to be so used. Similarly, Mortgagor shall not permit the Development to rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement.
- d. Subject to the provisions of Paragraph 14, Mortgagee shall have the right, at its option, to foreclose this Mortgage, subject to the rights of any tenant or tenants of the Development, and the failure to make any such tenant or tenants a party defendant to any such civil action or to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect all or any part of the Mortgage Debt, any statute or rule of law at any time existing to the contrary notwithstanding.
- e. The failure or delay of Mortgagee, or any subsequent holder of the Note and this Mortgage, to assert in any one or more instances any of its rights under this Mortgage shall not be deemed or construed to be a waiver of such rights.
- f. Mortgagor hereby represents and warrants to Mortgagee that (1) Mortgagor is duly organized and validly existing in good standing as an Illinois limited liability company and will remain so throughout the duration of the existence of this Mortgage and the Note, (2) Mortgagor has and will maintain at all times the lawful right to

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undertake and own the Development and (3) the entry into the Loan Documents by Mortgagor has duly authorized and approved by the members and managers of Mortgagor.

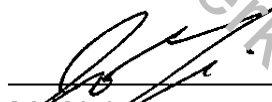
g. As an inducement to Mortgagee making the Loan to Mortgagor, without which Mortgagee would not have made the Loan, Mortgagor hereby grants access to Mortgagee to Mortgagor's wood working studio (currently located at 4229 North Honore, Chicago, Illinois). Mortgagee's access to such studio shall be primarily during non-business hours, shall not materially impede or interrupt the operation of Mortgagor's business at such studio and Mortgagee shall return said studio and such items to the condition existing prior to each use (ordinary wear and tear excepted) upon completion of each such use. Mortgagee shall be allowed to store materials at said studio, however said storage shall be in an area and amount agreed to between the parties.

33. Maximum Indebtedness.

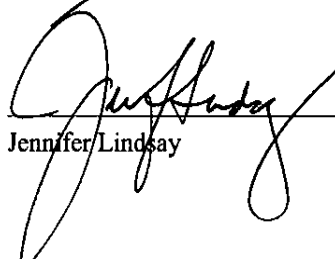
At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures as part of the Mortgage Debt the payment of all loan commissions, service charges, liquidated damages, attorneys' fees, expenses and advances due to or incurred by Mortgagee in connection with the Mortgage Debt, all in accordance with the Note and this Mortgage. In no event shall the total amount of the Mortgage Debt, including Loan proceeds disbursed plus any additional charges, exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00). All such advances are intended by the mortgagor to be a lien on the Development pursuant to this Mortgage from the time this Mortgage is recorded, as provided in the Foreclosure Act.

IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed by its authorized representative.

MORTGAGOR:



John Lindsay



Jennifer Lindsay

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that John Lindsay and Jennifer Lindsay, personally known to me to be the same persons whose names are subscribed to the

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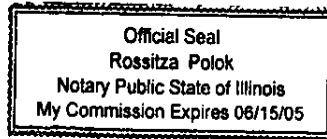
foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and official seal this 17th day of December, 2002.

Rossitza Polok

Notary Public

My Commission expires: June 15, 2005



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EXHIBIT A

LEGAL DESCRIPTION

ITEM 1: UNIT 7400-3 IN THE 7400 SHERIDAN CONDOMINIUM, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: THE SOUTH ½ OF LOT 3 IN BLOCK 10 IN BIRCHWOOD BEACH, A SUBDIVISION OF PART OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE INDIAN BOUNDARY LINE, WHICH SURVEY IS ATTACHED AS EXHIBIT A TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 24262308 AND FILED AS DOCUMENT LR3024444 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

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