

# UNOFFICIAL COPY

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2591/0175 20 001 Page 1 of 8  
2000-04-10 15:17:06  
Cook County Recorder 35.00

MORTGAGE



THIS AGREEMENT, made April 6, 2000, between Kenneth Parks Davis (hereinafter referred to as "Mortgagor"), and Walter Middleton & Company Retirement Plan (hereinafter referred to as "Mortgagee").

WITNESSETH

WHEREAS, Mortgagor is justly indebted to the Mortgagee upon the Installment Note bearing even date herewith in the Principal Sum of Four Hundred Thousand Dollars (\$400,000.00), (hereinafter referred to as "principal sum"), payable to the order of and delivered to the Mortgagee, in and by which said Note the Mortgagor promises to pay the said principal sum and interest at the rate and in installments as provided in said Note, with a final payment of the balance due on the 6<sup>th</sup> day of April, 2005, and all of said principal and interest are made payable at such place as the holders of the Note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at 5105-A North Ocean Blvd. Suite A, Ocean Ridge, Florida 33435.

NOW, THEREFORE, the Mortgagor to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this Mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagor to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEYS AND WARRANTS unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of its estate, right, title and interest therein lying and being in the City of Evanston, County of Cook, State of Illinois, to wit:

Lots 26, 27 and the North 6.88 Feet of Lot 28  
(As Measured Along The Easterly Line Thereof)  
In Ridgemoor Addition To Evanston In The  
Southwest 1/4 Section 19, Township 41 North,  
Range 14, East Of The Third Principal  
Meridian, In Cook County, Illinois.

BOX 333-CTI

*Handwritten initials/signature*

9901834

7851532

*Handwritten initials/signature*

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Permanent Real Estate Index Numbers:

11-19-321-023  
11-19-321-042

Address of the Real Estate:

1010 Seward  
Evanston, Illinois 60202

which, with the property hereinafter described, is referred to herein as the "premises,"

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagor or his successors or assigns shall be considered as constituting part of the real estate.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Mortgagor shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or destroyed; (b) keep said premises 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 hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (e) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (f) refrain from making material alterations in said premises except as required by law or municipal ordinance; (g) pay before any penalty attaches all general taxes, and pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due and upon written

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request, to furnish to Mortgagee duplicate receipt thereof; (h) pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagee may desire to contest; (i) keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning or windstorm under policies providing 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 in companies satisfactory to the Mortgagee under insurance policies payable, in case of loss or damage, to Mortgagee such additional and renewal policies, to Mortgagee, and in case of insurance about to expire to deliver renewal policies not less than ten days prior to the respective date of expiration.

2. 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 assessment 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 collecting 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 giving 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.

3. If, by the laws of the United States of America or any of state having jurisdiction in the premises, 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 agrees 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.

4. In the 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 payment 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 said premises or contest any tax or assessment. All moneys paid for any of the

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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 mortgaged premises and the lien secured hereby shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest lawful rate per annum. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default hereunder on the part of the Mortgagor.

5. 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.

6. At the option of the Mortgagee and without notice to Mortgagor, his successors or assigns, 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 of principal or interest on the Note; or (b) in the event of the failure of Mortgagor, his successors or assigns to do any of the things specifically set forth in paragraph one hereof and such default shall continue for three days, said option to be exercised at any time after the expiration of said three day period.

7. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, 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, guarantee 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 premises. 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 Eighteen Percent (18%), when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which either of them 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 foreclosure whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

8. The proceeds of any foreclosure sale of the premises 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 principal and interest remaining unpaid on the Note; fourth, any overplus to Mortgagor, his legal representatives or assigns, as their rights may appear.

9. Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall appoint a receiver of said premises chosen by the Mortgagee. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby, and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Mortgagee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagor, his successors or assigns, 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 premises 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.

10. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

11. No action for the enforcement of the 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.

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12. As such time as the Mortgagor is not in default either under the terms of the Note secured hereby or under the terms of this Mortgage, the Mortgagor shall have such privilege of making prepayments on the principal of said Note (in addition to the required payments) as may be provided in said Note.

13. In addition to payments to principal and interest hereinabove provided, the Mortgagor shall pay each month to the Mortgagee, an estimated equal amount sufficient to pay the annual general real estate taxes assessed or to be assessed against said premises. No such deposit shall bear any interest. The escrow account may hold amounts up to the limits allowed by the Real Estate Settlement Procedures Act.

14. The Mortgagor is prohibited from selling, conveying, assigning the beneficial interest in and to, entering into Articles of Agreement for the sale of, leasing, renting, or in any manner transferring title to the premises which are subject to the Mortgage securing the Note without the prior written consent of the Mortgagee. Failure to obtain prior written consent shall constitute a default hereunder entitling the Mortgagee to declare the whole of the debt immediately due and payable.

15. The Mortgagee, at its sole option, reserves the right to extend, modify or renew the Note secured hereby at any time and from time to time. This Mortgage shall secure any and all renewals or extensions of the whole or any part of the indebtedness hereby secured however evidenced, with interest at such lawful rate as may be agreed upon and any such renewals or extensions of any change in the terms or rate of interest shall not impair in any manner the validity of or priority of this Mortgage nor release the Mortgagor from personal liability for the indebtedness hereby secured. In the event of any extensions, modifications or renewals, extension agreements shall not be necessary and need not be filed.

16. Mortgagor agrees that until said Note and any extension of renewal thereof and also any and all other indebtedness of Mortgagor to the Mortgagee, heretofore or hereafter incurred, and without regard to the nature thereof, shall have been paid in full, Mortgagor will not, without the prior written consent of the Mortgagee create or merit any lien or other encumbrance (other than presently existing liens and liens securing the payment of loans and advances made to him by the Mortgagee) to exist on said real estate.

17. Unless Mortgagor provides Mortgagee with evidence of the insurance coverage, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in the collateral. This insurance may, but need not, protect Mortgagor's interests. The coverage that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the collateral. Mortgagor may later cancel any

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insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance. If Mortgagee purchases insurance for the collateral, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Mortgagor's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

18. Mortgagee shall release this Mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby.

19. 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" 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.

TO HAVE AND TO HOLD the premises unto the Mortgagee, its successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagor does hereby expressly release and waive.

IN WITNESS WHEREOF, Mortgagor has signed this Mortgage on the date and year first above written.

  
Kenneth Parks Davis

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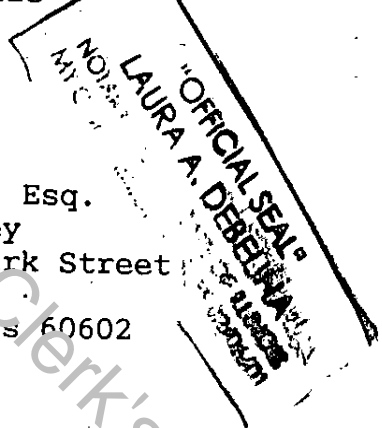
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STATE OF ILLINOIS )
) SS.
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County and State aforesaid; DO HEREBY CERTIFY that the above-named Kenneth Parks Davis who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 6th day of April, 2000.

Notary Public



This instrument was prepared by:

James M. Bailey, Esq.
Shippers & Bailey
Twenty North Clark Street
36th Floor
Chicago, Illinois 60602

After recording, mail this instrument to:

James M. Bailey, Esq.
Shippers & Bailey
Twenty North Clark Street
36th Floor
Chicago, Illinois 60602