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Cook County Recorder 44.00



0030202614

PREPARED BY AND
~~AFTER RECORDING MAIL TO:~~
Lauane Addis of
Stahl Cowen Crowley LLC
55 West Monroe Street
Suite 500
Chicago, IL 60603

MORTGAGE

THIS MORTGAGE, made as of this 8th day of January, 2003, by and between Mt. Greenwood, LLC, an Illinois limited liability company with its principal place of business located at 9837 S. Millard, Evergreen Park, Illinois 60805 (the "Borrower") and W&D Investments, an Illinois partnership (the "Lender");

That whereas, Borrower has concurrently executed a Note bearing even date herewith, in the principal sum of One Hundred Thousand Dollars (\$100,000.00) with interest on the principal balance of the Note remaining unpaid from time-to-time at the rate of six percent (6%) per annum from date hereof to maturity, payable in equal quarterly installments of interest only of One Thousand Five Hundred (\$ 1,500.00) Dollars commencing April 3, 2003, and each quarterly anniversary thereafter until the Maturity Date of the Note whereupon the entire outstanding principal balance under the Note, together with all accrued but unpaid interest and all other sums evidenced under the Note shall be due and payable. The terms and provisions of said Note are incorporated herein by reference.

In order to secure the payment of the principal indebtedness and interest under the Note, and to secure the payment of all other sums which may be at any time due under the Note or this Mortgage (collectively sometimes referred to herein as "Indebtedness"); and to secure the performance and observance of all the provisions contained in this Mortgage or the Note, and to charge the properties, interests and rights hereinafter described with such payment, performance and observance, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower DOES HEREBY MORTGAGE AND CONVEY unto Lender, its successors and assigns forever, the following described property, rights and interests (which are referred to herein as the "Premises"), all of which property, rights and interests are hereby pledged secondarily:

1. The land located in the State of Illinois (the "Land") and legally described on Exhibit A attached hereto.
2. Together with all improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Borrower and located on or used or intended to be used in

BOX 333-CTB

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connection with the Land or the improvements, or in connection with any construction thereon, and owned by Borrower, and all of Borrower's rights or payments now or hereafter made on such personal property or fixtures by Borrower or on its behalf (the "Improvements");

3. Together with all easements, rights of way, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, in and to the same;
4. To have and to hold the Premises, unto the Lender, its successors and assigns, forever, for the purposes herein set forth together with all right to possession of the Premises after the occurrence of any Default as hereinafter defined.
5. Borrower covenants that it is lawfully seized of the Land, and that it has lawful authority to mortgage the same, and that it will warrant and defend the Land and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever; and
6. Provided nevertheless, that if Borrower shall pay in full when due the Indebtedness and shall timely perform and observe all of the provisions herein and in the Note provided to be performed and observed by the Borrower, then this Mortgage and the interest of Lender in the Premises shall cease and become void, but shall otherwise remain in full force.

Borrower Further Agrees as Follows:

1. Payment of Indebtedness and Performance of Covenants

Borrower shall (a) pay the Indebtedness when due and (b) punctually perform and observe all of the requirements of the Note and this Mortgage.

2. Maintenance, Repair, Compliance with Law, Use, etc.

Borrower shall (a) promptly repair or restore any portion of the Improvements which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Premises in good condition and free from waste; (c) complete, within a reasonable time, any building or other Improvements at any time in the process of erection upon the Premises; (d) comply with all requirements of law relating to the Premises and the use thereof; and (e)

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refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements.

3. Liens, Prohibition.

Subject to the provisions of Paragraph 4 hereof, Borrower shall not create or suffer or permit any encumbrance to attach to or be filed against the Premises, excepting only (i) the lien of real estate taxes and assessments not due and (ii) any liens and encumbrances of Lender.

4. Taxes.

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

5. Insurance Coverage.

Borrower will insure the Improvements against such perils and hazards, and in such amounts as necessary to replace the Improvements, and will maintain general business and premises liability insurance in an amount of Five Hundred Thousand Dollars (\$500,000) or more.

6. Insurance Policies.

All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Lender. All Insurance Policies shall (i) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Lender and (ii) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Lender. Borrower will deliver all Insurance Policies premium prepaid, to Lender and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy.

7. Proceeds of Insurance.

Borrower will give Lender prompt notice of any loss or damage to the Premises, and:

7.1. In case of loss covered by insurance policies, Lender (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) is hereby authorized to settle and adjust any claim under such policies without the consent of Borrower. The expenses incurred by Lender

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in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness and Borrower shall reimburse Lender for such expense upon demand.

- 7.2. In the event of any insured damage to the Premises (herein called an "Insured Casualty"), and if, in the reasonable judgment of Lender, the Premises can be restored to an economic unit not less valuable than the same was prior to the Insured Casualty, then, if Borrower shall not be in default or Default hereunder, the proceeds of insurance shall be applied to reimburse Borrower for the cost of restoring or repairing the Premises, and Borrower shall diligently restore or repair the Premises; provided that Borrower shall pay all costs of such restoring or repairing in excess of the net proceeds of insurance made available pursuant to the terms hereof.
- 7.3. Except as provided in Paragraph 7.2, Lender may apply the proceeds of insurance consequent upon any Insured Casualty upon the Indebtedness in the following order; unpaid costs and expenses, interest, and principal.
- 7.4. Whether or not proceeds of insurance are made available to Borrower for the restoring or repairing of the Premises, Borrower shall restore or repair the same to be of at least equal value and of substantially the same character as prior to such damage.

8. Condemnation and Eminent Domain.

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

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for any unpaid portion of the Indebtedness. In the event of any partial taking of the Premises or any interest in the Premises, which, in the judgment of Lender leaves the Premises as a complete economic unit having equivalent value to the Premises as it existed prior to the taking, and provided no Default has occurred and is then continuing, the Award shall be applied to reimburse Borrower for the cost of restoration and rebuilding the Premises and such Award shall be disbursed in the same manner as is hereinabove provided above for the application of insurance proceeds, provided that any surplus after payment of such costs shall be applied on account of the Indebtedness. If the Award is not applied for reimbursement of such restoration costs, the Award shall be applied against the Indebtedness, in the same order as is hereinabove provided for the application of insurance proceeds.

9. Restrictions on Transfer.

Borrower shall not, without the prior written consent of Lender, effect, suffer or permit any "Prohibited Transfer" (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of Borrower's, rights or interests in the Premises shall constitute a "Prohibited Transfer".

In each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Paragraph 9 shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership, limited liability company or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives.

10. Defaults.

If one or more of the following events (herein called "Defaults") shall occur:

- 10.1. If Borrower shall, after the expiration of any applicable grace periods, fail to make payments of amounts owed under the Note or this Mortgage when due;
- 10.2. If any default shall, after the expiration of any applicable grace periods, exist under any other document or instrument regulating, evidencing, securing or guarantying any of the Indebtedness;
- 10.3. A Prohibited Transfer;

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- 10.4. If default shall continue for fifteen (15) days after notice thereof by Lender to Borrower in the punctual performance or observance of any other agreement or condition herein contained;
- 10.5. Borrower shall file a voluntary petition in bankruptcy or for relief under the Federal Bankruptcy Act or any similar state or federal law;
- 10.6. Borrower shall file a pleading in any proceeding admitting insolvency; then Lender may, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Lender hereunder, to declare, without further notice, all Indebtedness to be immediately due with interest thereon whether or not such Default be thereafter remedied by Borrower, and Lender may immediately proceed to foreclose this Mortgage and to exercise any right provided by this Mortgage, the Note or otherwise.
11. Foreclosure

When the Indebtedness shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act 735 ILCS 5/15-1101, *et seq.* (1987) (the "Act") and to exercise any other remedies of Lender provided in the Note, this Mortgage, or which Lender may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this Paragraph, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income herefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Lender in any litigation or proceedings affecting this Mortgage, the Note or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness and shall be immediately due and payable by Borrower, with interest thereon until paid.

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12. Foreclosure Sale.

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

13. Lender's Performance of Borrower's Obligations.

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

14. Rights Cumulative.

Each right herein conferred upon Lender is cumulative and in addition to every other right provided by law or in equity, and Lender may exercise each such right in any manner deemed expedient to Lender. Lender's exercise or failure to exercise any right

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shall not be deemed a waiver of that right or any other right or a waiver of any default. Except as otherwise specifically required herein, Lender is not required to give notice of its exercise of any of its right under this Mortgage.

15. Successors and Assigns.

15.1. Holder of the Note.

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

15.2. Covenants Run with Land; Successor Owners.

All of the covenants of this Mortgage shall run with the Land and be binding on any successor owners of the Land. If the ownership of Premises or any portion thereof becomes vested in a person other than Borrower, Lender may, without notice to Borrower, deal with such person with reference to this Mortgage and the Indebtedness in the same manner as with Borrower without in any way releasing Borrower from its obligations hereunder. Borrower will give immediate written notice to Lender of any conveyance, transfer or change of ownership of the Premises, but nothing in this Paragraph shall vary the provisions of Paragraph 9 hereof.

16. Environmental Matters.

Borrower represents that it is currently in compliance with, and covenants and agrees that Borrower shall comply with all federal, state and local laws, rules, regulations and ordinances regulating, without limitation, air pollution, soil and water pollution, and the use, generation, storage, handling or disposal of hazardous or toxic substances or other materials (including, without limitation, raw materials, products, supplies or wastes). Borrower further covenants and agrees that it shall not install or permit to be installed in the Premises asbestos or any substance containing asbestos and deemed hazardous by or in violation of federal, state or local laws, rules, regulations or orders respecting such material. Borrower shall send to Lender within five (5) days of receipt thereof, any citation, notice of violation or other notice of potential liability from any governmental or quasi-governmental authority empowered to regulate or oversee any of the foregoing activities. Borrower agrees to indemnify, defend with counsel reasonably acceptable to Lender (at Borrower's sole cost), and hold Lender harmless against any claim, response or other costs,

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damages, liability or demand (including, without limitation, reasonable attorneys' fees and costs incurred by Lender) arising out of any claimed violation by Borrower of any of the foregoing laws, regulations or ordinances or breach of any of the foregoing covenants or agreements. The foregoing indemnity shall survive repayment of the Indebtedness.

17. Governing Law.

This Mortgage shall be construed and enforced according to the laws of the State of Illinois.

18. Time of the Essence.

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

19. Captions and Pronouns.

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

20. Notices.

Any notice or other communication which any party hereto may desire or may be required to give to any other party hereto shall be in writing, and shall be deemed given when (i) personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth above, or (iii) on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth above, or to such other address as the party to receive such notice may have designated to the other party by notice in accordance herewith.

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

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EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

THE EAST 25 FEET OF LOT 1 IN BOYER AND HIGGINS SUBDIVISION OF BLOCKS 25 AND 32 (EXCEPT PARTS DEEDED FOR PUBLIC STREET) IN GEORGE HILL'S SUBDIVISION OF THE WEST ½ OF THE SOUTH EAST 1/4 OF SECTION 14, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

P.I.N. - 24-14-419-037-0000

Commonly Known As: 3400 w. 111TH Street, Chicago, Illinois.

30202614

Mail to:
Ronald Campbell
2940 W. 95TH ST
EVERGREEN PARK, IL 60805

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