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Eugene "Gene" Moore Fee: \$36.50
Cook County Recorder of Deeds
Date: 05/07/2003 03:23 PM Pg: 1 of 7

MORTGAGE

This document prepared by:

When recorded mail to:

Michael R. Friedberg
Sugar, Friedberg & Felsenthal
30 North LaSalle Street; Suite 3000
Chicago, Illinois 60602

Michael R. Friedberg
Sugar, Friedberg & Felsenthal
30 North LaSalle Street; Suite 3000
Chicago, Illinois 60602

Permanent Real Estate Tax Index No.: See Attached **Exhibit A**

Common Address: 1304 Sutton Place, Chicago, Illinois 60610

This Mortgage ("Mortgage") is made as of April 30, 2003, by and between Fred Tokowitz ("Mortgagor") and Randall E. Green and Muriel Hoffmar, as Co-Trustees of the Mildred-Fred Family Residuary Trust ("Mortgagee").

RECITALS

A. Loan. Mortgagor is the owner of the land (the "Land") described on Exhibit A attached hereto, together with all improvements thereon. Mortgagor as of the date hereof has executed a certain Secured Promissory Note in the principal sum of \$307,500.00 (the "Note") payable to Mortgagee, the terms of which Note are incorporated herein by this reference.

B. The Secured Obligations. As used in this Mortgage the term "Secured Obligations" means and includes Mortgagor's obligations under the Note and this Mortgage, and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined), perform any obligation of the Mortgagor hereunder or collect any amount owing to the Mortgagee which is secured hereby; any and all other liabilities,

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obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, now or hereafter existing or due or to become due, owing by the Mortgagor to the Mortgagee; and all reasonable costs of enforcement and collection of this Mortgage and the Guaranty, and the Secured Obligations.

To secure the Secured Obligations and in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Mortgagor hereby, Mortgagor agrees as follows:

1. **Mortgage of Property.** Mortgagor hereby mortgages and conveys unto Mortgagee Mortgagor's interest in the Property.
2. **Waiver of Rights of Reinstatement and Redemption.** Mortgagor hereby waives all rights of reinstatement and redemption as provided in the Article XII or XV of Code of Civil Procedure of Illinois or otherwise available by statute or common law.
3. **Preservation of Property.** Mortgagor shall preserve and maintain the Property in good condition and repair and shall not permit, commit, or suffer any waste, impairment or deterioration thereof or of any part thereof and will not take any action which will increase the risk of fire or other hazard to the Property or to any part thereof.
4. **Damage and Condemnation.** Mortgagor shall give Mortgagee prompt notice of damage of or destruction to the Property and of receipt of notices or information relating to condemnation of part or all of the Property. Mortgagor hereby assigns all awards and payments received in respect thereof to Mortgagee, and shall hold all awards and payments received in respect thereof in trust for the benefit of Mortgagee and shall apply the same in reduction of the balance then due under the Note or in restoration of the Property, as Mortgagee shall direct.
5. **Insurance.** From and after the date hereof and until the release of this Mortgage, Mortgagor shall carry insurance, with companies reasonably satisfactory to Mortgagee, subject to the following terms:
 - a) The Property shall be insured for fire and casualty in an amount not less than the principal amount of the Note;
 - b) Mortgagor shall carry personal liability insurance against death or injury suffered by tenants or other persons on, or other events occurring on, the Property, in commercially reasonable amounts not less than the principal amount of the Note; and
 - c) All such policies of insurance shall not be cancelled without fifteen (15) days prior written notice by the insurer to Mortgagee.

If Mortgagor fails to pay the premium for any such policy of insurance, Mortgagee may, but shall not be required to, pay the same.

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6. **Payments by Mortgagee.** Within ten (10) business days after Mortgagee gives Mortgagor notice that Mortgagee has paid any money or incurred any obligation which payment or obligation was required to be paid or undertaken by Mortgagee under the terms hereof, including, but not limited to, payment of premiums on policies of insurance required to be carried by Mortgagor pursuant to the terms hereof, Mortgagor shall reimburse Mortgagee for such payment and shall undertake such obligation and shall cause Mortgagee to be released from liability for such obligation.

7. **Default.** Occurrence of any of the following events shall be an Event of Default hereunder:

- a) The occurrence of a default under the Note.
- b) The creation or existence of any lien or interest in the Property or an interest therein which is adverse to the interests of Mortgagee or to the lien of this Mortgage (excepting, however, any lien or interest to which this Mortgage is expressly subordinated) which is not removed or bonded over within thirty (30) days after written notice from Mortgagee to Mortgagor.
- c) The failure of Mortgagor promptly to pay when due any tax or charge which, if paid late, may become a lien on the Property, or promptly to pay, when due, any premium for insurance required hereunder.
- d) An act of bankruptcy by Mortgagor (or by any guarantor of Mortgagor's obligations hereunder) including, without limiting the generality of the foregoing, the filing of a petition in bankruptcy under any applicable federal bankruptcy law; the failure to cause an involuntary petition in bankruptcy to be dismissed within sixty (60) days from the date such petition is filed; an assignment for the benefit of creditors; or a declaration of insolvency.
- e) The failure of Mortgagor to observe or perform any covenant or obligation arising in this Mortgage within ten (10) days after written notice from Mortgagee to Mortgagor.
- f) The sale or transfer by Mortgagor of all or any part of the Property or an interest therein without the prior written consent of Mortgagee, including without limitation (A) any conveyance into trust (B) any conveyance, sale or assignment of the beneficial interest in any trust holding title to the Property, (C) any conveyance, sale or assignment of all or any part of any member's interest in a limited liability company holding title to the Property or a limited liability company beneficiary of a trust holding title to the Property, or (D) the sale, conveyance or assignment of the outstanding capital stock which has voting rights of a corporation holding title to the Property or a corporate beneficiary of a trust holding title to the Property, or permit or contract or agree to do any of the foregoing.

8. **Mortgagee's Rights on Default.** Occurrence of an Event of Default shall allow Mortgagee to re-enter the Property, and to all other rights and privileges provided by law, including without limitation, the right to foreclose this Mortgage. Exercise of any one right shall not preclude Mortgagee from exercising any other right. Waiver of any obligation of Mortgagor

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or of any right arising upon occurrence of an Event of Default shall not preclude Mortgagee from enforcing such obligation or exercising such right thereafter, and shall not be nor be deemed to be a waiver of any other obligation of Mortgagor or of any right arising from another Event of Default.

9. **Conveyance and Assumption.** Mortgagor shall not convey the Property to any entity or individual without Mortgagee's prior written consent.

10. **Notices.** All Notices, requests, demands, or other instruments required or contemplated to be given or delivered hereunder shall be in writing and delivered either personally, or by Federal Express or comparable delivery service, or by United States mail (postage prepaid, registered or certified, with return receipt requested). Notices to Mortgagor shall be addressed to:

Mr. Fred Tokowitz
2647 West Jerome Street
Chicago, Illinois 60645

Notice to Mortgagee shall be addressed to:

Mr. Randell E. Green
Co-Trustee of the Mildred-Fred Family Residuary Trust
Salomon Smith Barney
101 S. Hanley, Suite 550
St. Louis, MO 63105.

A notice sent by mail is given on the date deposited with the United States mail for delivery. Any party may change the address to which any such notice, request, demand or other instrument is to be delivered by furnishing written notice of such change to the other party, but no such notice of change shall be effective unless and until actually received.

11. **Release of Mortgage.** When the Note has been paid in full and all other obligations of Mortgagor and Borrower have been discharged, then Mortgagee shall execute and deliver to Mortgagor release deeds or other documents requested by Mortgagor for the purpose of releasing this Mortgage. All such documents shall be prepared by Mortgagor and shall be subject to Mortgagee's reasonable approval. All costs in connection with such documents, including, but not limiting the generality of the foregoing, the cost of recording a release deed, shall be paid by Mortgagor. Mortgagor shall provide not less than thirty (30) days written notice to Mortgagee requesting a release of Mortgage as provided herein.

12. **Interpretation; Partial Invalidity; Binding on Successors and Assigns.** This Mortgage shall be construed and enforced in accordance with the laws of the State of Illinois. Use of paragraph headings and of singular and plural, masculine, feminine and neuter nouns and pronouns are made for convenience only and shall be liberally construed. The invalidity or unenforceability of any provision hereof shall not modify or impair the validity and

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enforceability of all other provisions hereof. This Mortgage shall be binding upon and inure to the benefit of the representatives, heirs, executors, successors, and assigns of the parties hereto.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage in Chicago, Illinois on or as of the date first above written.

MORTGAGOR:

Fred Tokowitz

Fred Tokowitz

Property of Cook County Clerk's Office

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STATE of Illinois)
) SS
 COUNTY of Cook)

On this 30th day of April, 2003, before me personally appeared FRED TOKOWITZ, to me known to be the same person whose name is ascribed to the foregoing instrument and acknowledged that said instrument is her free and voluntary act and deed for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first written above.

[Handwritten Signature]
 Notary Public
OFFICIAL SEAL
ROBERT K BROOKMAN
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES: 12/18/03

My Commission Expires:

UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION**

PARCEL 1:

THAT PART OF A TRACT OF LAND DESCRIBED AS FOLLOWS: (SAID TRACT TO BE DESCRIBED HEREINAFTER), COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT, 63.92 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT, 20.33 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 52.0 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 20.33 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 52.0 FEET TO THE PLACE OF BEGINNING, THE ABOVE DESCRIBED PARCEL BEING A PART OF A TRACT OF LAND COMPRISING ALL OF LOT 14 IN CHICAGO LAND CLEARANCE COMMISSION NUMBER 3, BEING A CONSOLIDATION OF LOTS AND PARTS OF LOTS AND VACATED ALLEYS IN BRONSON'S ADDITION TO CHICAGO, AND CERTAIN RESUBDIVISIONS, ALSO ALL OF LOTS 20, 21, 22 AND PARTS OF LOTS 23 AND 24 IN ASSESSOR'S DIVISION OF LOTS 16 TO 23, INCLUSIVE, IN BRONSON'S ADDITION TO CHICAGO, IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 14 AND RUNNING THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ON THE WEST LINE OF SAID LOT 14, AND THE WEST LINE OF SAID LOTS 20, 21, 22, 23 AND 24, THE SAME BEING THE EAST LINE OF NORTH CLARK STREET, FOR A DISTANCE OF 264.58 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 81.66 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 23.47 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 67.90 FEET TO THE WEST LINE OF A 20 FOOT PUBLIC ALLEY, THE SAME BEING THE EAST LINE OF SAID LOT 14 AND THE EAST LINE OF SAID LOTS 20, 21, 22 AND 23; THENCE SOUTH 00 DEGREES 01 MIN 49 SECONDS WEST ALONG SAID ALLEY LINE, 241.73 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14; THENCE NORTH 89 DEGREES 45 MINUTES 39 SECONDS WEST ON THE SOUTH LINE OF SAID LOT 14, THE SAME BEING THE NORTH LINE OF WEST GOETHE STREET, FOR A DISTANCE OF 149.43 FEET TO THE PLACE OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AFORESAID, AS SET FORTH IN THE DECLARATION MADE BY SUTTON PROPERTIES, INC. A CORPORATION OF ILLINOIS, DATED JANUARY 1, 1978 AND RECORDED MARCH 6, 1978 AS DOCUMENT NUMBER 24351547 AND FILED MARCH 6, 1978 AS DOCUMENT LR 30-02-764 AND AS CREATED BY DEED FROM SUTTON PROPERTIES, INC. A CORPORATION OF ILLINOIS, TO BLANCHE KIRIAN DATED DECEMBER 28, 1977 AND RECORDED JUNE 9, 1978 AS DOCUMENT NUMBER 24483902 AND FILED JULY 9, 1978 AS DOCUMENT LR 30-23-174, FOR INGRESS AND EGRESS, ALL IN COOK COUNTY, ILLINOIS.

P.I.N.: 17-04-217-092-0000