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THIS INSTRUMENT WAS PREPARED BY
AND UPON RECORDATION RETURN TO:

Wolin & Rosen, Ltd.
55 W. Monroe Street, Suite 3600
Chicago, IL 60603
Attention: Charles J. Mack
W&R File No.: 3570/8134



0320634185
Eugene "Gene" Moore Fee: \$42.50
Cook County Recorder of Deeds
Date: 07/25/2003 03:46 PM Pg: 1 of 10

(Space Above For Recorder's Use)

JOHN T. CALLAHAN, married to Pamela C. Callahan, as Borrower

to

BALLINPRIOR, LLC, as Lender

REAL ESTATE MORTGAGE

Dated: As of July 23, 2002

Property Address: 1231 Country Lane
Northbrook, Illinois

County: Cook

PIN: 04-10-404-059

Loan No.: _____

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REAL ESTATE MORTGAGE

THIS MORTGAGE, is made as of the 23rd of July, 2003, by and between **JOHN T. CALLAHAN**, married to Pamela C. Callahan, having an address at 1231 Country Lane, Northbrook, Illinois 60062 (the "Borrower") and **BALLINPRIOR LLC**, a Delaware limited liability company, having an address at 216 West Jackson, Chicago, Illinois 60606 (the "Lender").

This Real Estate Mortgage (the "Mortgage") secures the full, faithful and complete payment of a certain Promissory Note of even date, executed by **JOHN T. CALLAHAN** in the principal amount of TWO HUNDRED THIRTY-FIVE THOUSAND AND 00/100 DOLLARS (\$235,000.00) (the "Loan"), and delivered to Lender, and to secure the performance and observance by Borrower, of all of the covenants, agreements, and conditions contained in said Promissory Note in this Mortgage, and in all other instruments pertaining to the debts and obligations of Borrower to Lender, and to secure the payment of any and all sums advanced by Lender to Borrower, the Borrower hereby mortgages, grants, warrants and conveys to the Lender, its successors and assigns (collectively the "Property");

The real property described on Exhibit "A" – attached and all buildings, improvements, tenements, hereditaments, easements, fixtures and appurtenances thereunto belonging or pertaining; all apparatus, equipment and appliances; all machinery and other equipment of every nature and kind used or useful in connection with the maintenance and operation of the Property and intended for the use of tenants or occupants; the rents, issues and profits of the Property; and all leases and agreements for the use and occupancy of the Property.

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

1. **Payment of Debt.** Borrower shall pay, when due, the principal of and interest on the debt evidenced by the Note and any late charges due under the Note.
2. **Maintenance of Property.** Borrower shall (a) not abandon the Property; (b) keep the Property in good condition and repair and not to commit or suffer waste; (c) pay for and complete within a reasonable time any building at any time in the process of erection upon the Property; (d) promptly repair, restore, or rebuild any building or improvement now or hereafter on the Property which may become damaged or destroyed; (e) refrain from impairing or diminishing the value of the security; and (f) make no material alterations of the Property without the prior consent of Lender.
3. **Compliance with Laws.** Borrower shall comply with all requirements of federal, state and municipal laws and regulations, including those relating to all environmental laws governing the Property and the use thereof; and shall permit Lender to inspect the Property at all reasonable times upon reasonable advance notice.
4. **Environmental.** (a) During the period of Borrower's ownership or use of the Property no substance has been, is or will be present, used, stored, deposited, treated, recycled or disposed of on, under, in or about the Property in a form, quantity or manner which if known to be present on, under or about the Property would require clean-up, removal or some other

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remedial action ("Hazardous Substance") under any federal, state or local laws, regulations, ordinances, codes or rules ("Environmental Laws"); (b) that Borrower has no knowledge, after due inquiry, of any prior use or existence of any Hazardous Substance on the Property by any prior owner of or person using the Property; (c) that, without limiting the generality of the foregoing, Borrower has no knowledge, after due inquiry, that the Property contains asbestos, polychlorinated biphenyl components (PCBs) or underground storage tanks; (d) that there are no conditions existing currently or likely to exist during the term of this Mortgage which would subject Borrower to any damages, penalties, injunctive relief or clean-up costs in any governmental or regulatory action or third-party claims relating to any Hazardous Substance; (e) that Borrower is not subject to any court or administrative proceeding, judgment, decree, order or citation relating to any Hazardous Substance; and (f) that Borrower in the past has been, at the present is, and in the future will remain in compliance with all Environmental Laws. Borrower shall indemnify and hold harmless Lender, its directors, officers, employees and agents from all loss, cost, including reasonable attorney's fees and legal expenses, liability and damage whatsoever directly or indirectly resulting from, arising out of, or based upon (i) the presence, use, storage, deposit, treatment, recycling or disposal, at any time, of any Hazardous Substance on, under, in or about the Property, or the transportation of any Hazardous Substance to or from the Property, (ii) the violation or alleged violation of any Environmental Law, permit, judgment or license relating to the presence, use, storage, deposit, treatment, recycling or disposal of any Hazardous Substance on, under, in or about the Property, or the transportation of any Hazardous Substance to or from the Property, or (iii) the imposition of any governmental lien for the recovery of environmental or regulatory action or third-party claim instituted or threatened in connection with any Hazardous Substance on, in or about the Property.

5. **Mechanic's Liens.** Borrower shall keep the Property free from mechanics or other liens or claims for liens of any kind; to pay when due any indebtedness which may be secured by a lien or charge on the Property. Upon request, shall provide satisfactory evidence of the payment and discharge of such liens or claims to Lender.

6. **Taxes.** Borrower shall pay, when due, all general and special taxes, all special assessments, water charges, drainage charges, sewer service charges and other charges against the Property, of any kind whatsoever, which may be levied, assessed, charged or imposed on the Property, or any part thereof. Borrower shall furnish Lender evidence of payment of Taxes at least five (5) days prior to the date when due.

7. **Insurance.** Borrower shall keep the Property continuously insured, against loss or damage under such types of hazard and liability insurance and in such forms, amounts and companies as may be approved or reasonably required from time to time by Lender, including, but not limited to fire and hazards included within the term "extended coverage." All policies whether or not required by the terms of this Mortgage, shall contain loss payable clauses in favor of the Lender. In the event of loss, Borrower shall immediately notify Lender in writing and Borrower hereby authorizes and directs each and every insurance company concerned to make payments for such loss jointly to Borrower and Lender, and the insurance proceeds, or any part thereof, may be applied by Lender, at its option, either to the reduction of the indebtedness hereby secured or to the restoration or repair of the Property, and any application thereof to the indebtedness shall not relieve Borrower from making the payments herein required until the indebtedness is paid in full. Borrower shall deliver to Lender, all policies of insurance with

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evidence of premiums prepaid (renewal policies to be delivered not less than ten days prior to the respective dates of expiration), and in the event of foreclosure of this Mortgage or transfer of title to the Property in extinguishment of said indebtedness, shall become the absolute property of Lender.

8. **Escrow Fund.** If required by Lender, Borrower shall make monthly deposits with Lender, (which if required by law shall be held in an interest bearing account), in addition to the payments required by the Note, of a sum equal to one-twelfth (1/12) of the yearly Taxes, and one-twelfth (1/12) of the yearly premiums for insurance on the Property. The amount of such taxes, assessments and premiums, when unknown, shall be estimated by Lender. Such deposits shall be used by Lender to pay such taxes, assessments and premiums when due. Any insufficiency of such account to pay such taxes, assessments or premiums when due shall be paid by Borrower to Lender on demand. Upon any default under this mortgage, Lender may apply any funds in said account to any obligation then due under this mortgage. The enforceability of the covenants relating to taxes, assessments and insurance premiums herein otherwise provided, shall not be affected except insofar as the obligations thereunder have been actually met by compliance with this paragraph. Lender may from time to time at its option waive, and after any such waiver reinstate, any or all provisions hereof requiring deposits for taxes, assessments or insurance premiums, by notice to Borrower in writing. While any such waiver is in effect, Borrower shall pay taxes, assessments and insurance premiums and provide Lender with evidence of payment.

9. **Condemnation.** Borrower shall assign and pay over any awards of damage resulting from condemnation proceedings or the taking or injury of the Property for public use, less reasonable costs and associated attorneys' fees and expenses of Borrower, to Lender and the proceeds or any part thereof shall be applied by Lender, at its option, after the payment of all of its expenses, including costs and attorneys' fees, to the reduction of the indebtedness hereby secured.

10. **No Lender Obligations.** In the event of default in performance of any of Borrower's covenants or agreements herein contained, Lender may, but need not, make any payment or perform any act hereinbefore required of Borrower, in any form and manner deemed expedient and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, title or claim thereof, or redeem from any tax sale or forfeiture affecting the Property or contest any tax or assessment. All moneys paid for and all expenses paid or incurred in connection with preservation or protection of the Property, including attorneys' fees, and any other moneys advanced by Lender to protect the Property and the lien hereof shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon.

Lender in making any payment hereby authorized relating to taxes or assessments shall be the sole judge of the legality and validity thereof and of the amount necessary to be paid in satisfaction thereof.

11. **Borrower Not Released; Forbearance by Lender Not a Waiver.** Extension of the time for payment granted by Lender to Borrower shall not operate to release the liability of

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Borrower. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Default/Remedies.** If (a) default be made in payment, when due, of any sum secured hereby, or in any of the other covenants or agreements herein contained to be performed by Borrower; or, (b) any proceedings be instituted or process issued (i) to enforce any other lien, charge, or encumbrance against the Property, except for any such proceeding which Borrower is contesting in good faith or (ii) against Borrower under any bankruptcy or insolvency laws, or (iii) to place the Property or any part thereof in the custody or control of any court through its receiver or other officer, and such proceedings are not dismissed or stayed on appeal or such process withdrawn within ten days after written notice to Borrower; or (c) in the event the Borrower shall convey title to any person or persons other than the Borrower, or if a beneficial interest in Borrower be sold or transferred without Lender's prior written consent, or (d) Borrower makes any assignment for the benefit of creditors, or is declared a bankrupt, or, if by or with the consent or at the instance of Borrower, proceedings to extend the time of payment of the Note or to change the terms of this mortgage be instituted under any bankruptcy or insolvency law or; (e) Borrower breaches any term or covenant of this Mortgage or any other instrument executed by Borrower to evidence or secure the loan; then,

(i) All sums secured hereby shall, at the option of Lender, become immediately due and payable without notice;

(ii) Lender may immediately foreclose this mortgage. The Court in which any proceeding is pending for that purpose may, at one or at any time thereafter, either before or after sale, and without regard to the solvency or insolvency of any person liable for payment of the indebtedness secured hereby, and without regard to the then value of the Property, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made), for the benefit of Lender, with power to collect the rents, issues and profits of the Property, due and to become due during such foreclosure suit. The receiver, out of such rents, issues and profits when collected, may pay costs incurred in the management and operation of the Property, prior and subordinate liens, if any, and taxes, assessments, water and other utilities and insurance, then due or thereafter accruing, and may make and pay for any necessary repairs to the Property, and may pay all or any part of the indebtedness secured hereby or any deficiency decree, and Borrower hereby grants to Lender the right, acting through itself, its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Property, expel and remove any persons, goods or chattels, occupying or upon the same, and to collect or receive all the rents, issues and profits thereof, and to manage and control the same, and to lease the same or any part thereof from time to time, and after deducting all reasonable attorney's fees, and all expenses incurred in the protection, care, maintenance, management and operation of the Property, apply the remaining net income upon the indebtedness secured hereby, or upon any deficiency decree entered by virtue of any sale held pursuant to a decree of foreclosure; and

(iii) exercise any other remedy at law or in equity.

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In any foreclosure of this Mortgage there shall be allowed and included in the decree for sale, to be paid out of the rents or proceeds of such sale:

- a. All principal and interest remaining unpaid and secured hereby;
- b. All other items advanced or paid by Lender pursuant to this Mortgage with interest;
- c. All court costs, attorneys' fees, appraiser's fees, expenditures for documentary and expert evidence, court reporters, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, as Lender may deem necessary. All expenditures and expenses of the type mentioned in this subparagraph (c) shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon in connection with (i) any proceeding, including probate and bankruptcy proceedings, to which Borrower shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured; or (ii) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (iii) preparations for the defense of any threatened suit or proceeding which might affect the Property or the security hereof, whether or not actually commenced. The proceeds of any foreclosure sale shall be distributed and applied to the items described in subparagraphs (a), (b), and (c) in order of priority inversely to the manner in which said subparagraphs are above listed and any surplus of the proceeds of such sale shall be paid to Borrower.

No remedy or right of Lender shall be exclusive of but shall be in addition to every other remedy of right now, or hereafter, existing at law or in equity. No delay in exercising, or omission to exercise, any remedy or right, accruing on any default shall impair any such remedy or right, or shall be construed to be a waiver of any such default, or acquiescence therein, nor shall it affect any subsequent default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Lender.

13. **Lender's Rights.** Without affecting the liability of Borrower or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Lender with respect to any security not expressly released in writing, Lender may, at any time and from time to time, either before or after the maturity of said note, and without notice or consent: (a) release any person liable for payment of all any part of the indebtedness or for performance of any obligation, (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof, (c) exercise or refrain from exercising or waive any right Lender may have, (d) accept additional security of any kind, (e) release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the Property mortgaged hereby.

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14. **Release.** Upon full payment of all sums secured hereby at the time and in the manner provided, then this conveyance shall be null and void and a reconveyance or release of the Property shall be made by Lender to Borrower.

15. **Waivers.** Borrower hereby releases and waives all rights under and by virtue of the homestead exemption laws. Borrower waives to the fullest extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force.

16. **Joint and Several Liability; Co-Signers, Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Mortgage but does not execute the Note (a "Co-Signer") (a) is co-signing this Mortgage only to mortgage, grant and convey the Co-Signer's interest in the Property under the terms of this Mortgage; (b) is not personally obligated to pay sums secured by this Mortgage; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to this Mortgage or the Note without Co-Signers consent. Any successor in interest of Borrower who assumes Borrower's obligations under this Mortgage in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Mortgage. Borrower shall not be released from Borrower's obligations and liability under this Mortgage unless Lender agrees to such release in writing. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of Lender.

17. **Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Mortgage, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Mortgage to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Mortgage or by applicable law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted to that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limited, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limited; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

18. **Notices.** All notices given by Borrower or Lender in connection with this Mortgage must be in writing. Any notice to Borrower in connection with this Mortgage shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall

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constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Mortgage at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Mortgage is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Mortgage.

19. **Governing Law; Severability; Rules of Construction.** This Mortgage shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Mortgage or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Mortgage: (a) words of the masculine gender shall mean and include corresponding neuter word or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

20. **Representations and Warranties.** Borrower covenants that it is lawfully seized and possessed of and has the right to sell and convey said Property; that the same is free from all encumbrances; and that it hereby binds itself and its successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

IN WITNESS WHEREOF, the Borrower has executed this instrument and the Lender has accepted delivery of this instrument as of the date aforesaid.

BORROWER:



 JOHN T. CALLAHAN

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ACKNOWLEDGMENT

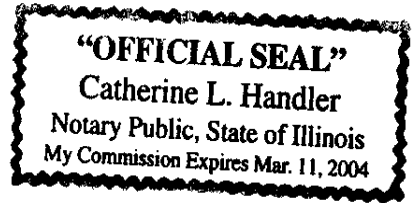
STATE OF ILLINOIS)
)SS
 COUNTY OF COOK)

I, the undersigned, a notary public, in and for the county and state aforesaid, DO HEREBY CERTIFY, that **JOHN T. CALLAHAN**, personally known to me to be the same person whose name is subscribed to within the Document, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and deed of said individual, for the uses and purposes therein set forth.

Given under my hand and official seal this 23rd day of July, 2003.

Catherine L. Handler
 Notary Public

[SEAL]



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EXHIBIT "A" LEGAL DESCRIPTION

LOT 18 IN COLONIAL VILLAGE, BEING A SUBDIVISION OF THE EAST 998.03 FEET (EXCEPT THE WEST 200 FEET OF THE EAST 383 FEET OF THE NORTH 300 FEET AND EXCEPT THE WEST 615.03 FEET OF THE NORTH 297.33 FEET THEREOF) OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 1231 Country Lane, Northbrook, Illinois

PIN: 04-10-404-059

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