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GEORGE E. COLE®  
LEGAL FORMS

No. 103  
November 1994

## MORTGAGE (ILLINOIS) For Use With Note Form No. 1447

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Doc#: 0334303075  
Eugene "Gene" Moore Fee: \$34.50  
Cook County Recorder of Deeds  
Date: 12/09/2003 11:08 AM Pg: 1 of 6

THIS AGREEMENT, made November 20, ~~2003~~ 2003 between  
34th & Racine, LLC, an Illinois limited liability  
3611 S. Normal, Chicago, IL 60609 company

\_\_\_\_\_ (No. and Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)  
herein referred to as "Mortgagors," and All-Power, Inc., an  
Illinois corporation

3913 E. Mueller, Decatur, IL 62526  
\_\_\_\_\_ (No. and Street) \_\_\_\_\_ (City) \_\_\_\_\_ (State)  
herein referred to as "Mortgagee," witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the  
Mortgagee ~~upon the installment note of even date herewith, in the principal~~  
~~sum of~~ as set forth in Exhibit A attached DOLLARS  
hereto and thereby made a part hereof  
(\$ \_\_\_\_\_), payable to the order of and delivered  
~~to the Mortgagee, in and by which note the Mortgagors promise 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~~

Above Space for Recorder's Use Only

~~day of \_\_\_\_\_, 19\_\_\_\_, 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 3913 E. Mueller, Decatur, IL 62526

NOW, THEREFORE, the Mortgagors 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 Mortgagors 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 CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and  
assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the  
City of Chicago, COUNTY OF COOK IN STATE OF ILLINOIS, to wit:

See Legal Description attached.

which, with the property hereinafter described, is referred to herein as the "premises,"  
Permanent Real Estate Index Number(s): 17-32-224-001, 002, 003, and 004

Address(es) of Real Estate: 3435-3439 S. Racine, Chicago, IL 60608

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 Mortgagors 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, power, refrigeration (whether single units or centrally controlled), and ventilation,  
including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds,  
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 Mortgagors or their  
successors or assigns shall be considered as constituting part of the real estate.

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TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's 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 Mortgagors do hereby expressly release and waive.

The name of a record owner is: 34th & Racine, LLC

This mortgage consists of four pages. The covenants, conditions and provisions appearing on pages 3 and 4 are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.

Witness the hand . . . and seal . . . of Mortgagors the day and year first above written.

By: 34th & Racine, LLC (SEAL) \_\_\_\_\_ (SEAL)

Its: Anthony DeGrazia, Managing Member of 34th & Racine, LLC \_\_\_\_\_ (SEAL)

\_\_\_\_\_ (SEAL) \_\_\_\_\_ (SEAL)

PLEASE PRINT OR TYPE NAME(S) BELOW SIGNATURE(S)

State of Illinois, County of Cook ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_

ANTHONY DEGRAZIA, MANAGING MEMBER OF 34TH & RACINE, LLC

personally known to me to be the same person whose name AS subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that \_\_\_\_\_ h AS signed, sealed and delivered the said instrument as 1725 free and voluntary a t, or the uses and purposes therein set forth, including the release and waiver of the right of homestead.

IMPRESS SEAL HERE

Given under my hand and official seal, this 20th day of November 19 2003

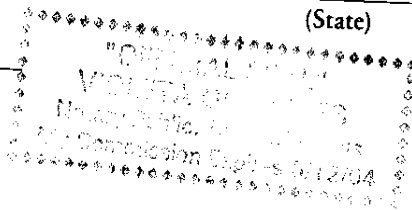
Commission expires \_\_\_\_\_ 19 \_\_\_\_\_  
Anthony DeGrazia  
NOTARY PUBLIC

This instrument was prepared by Jerry I. Rudman, 225 W. Washington, #1700, Chicago, IL 60606  
(Name and Address)

Mail this instrument to Jerry I. Rudman, 225 W. Washington, #1700  
(Name and Address)

Chicago IL 60606  
(City) (State) (Zip Code)

OR RECORDER'S OFFICE BOX NO. \_\_\_\_\_



**UNOFFICIAL COPY****THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 2**

1. Mortgagors shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) 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 thereof; (3) 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 the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.

3. 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 assessments or charges or liens herein required to be paid by Mortgagors, 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 collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagors, 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 Mortgagors 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 given to Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree 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.

5. At such time as the Mortgagors are not in default either under the terms of the note secured hereby or under the terms of this mortgage, the Mortgagors 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.

6. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and 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 rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

7. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors 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 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 purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises 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 at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.

8. 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.

9. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagors, 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) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.

10. When the indebtedness hereby 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, title insurance policies, Torrens certificates, 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 highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee 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 foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

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11. 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 Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.
12. Upon or any time after the filing of a complaint to foreclose this mortgage the court in which such complaint is filed may appoint receiver of said premises. Such appointment may be made either before or after the sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver 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 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, 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 Mortgagors, 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.
13. 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.
14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.
15. The Mortgagors shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.
16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.
17. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.
18. This mortgage and all provisions hereof shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" 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.

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## Exhibit A

The amount of the principal indebtedness due hereunder and the date of the payment thereof is as follows: (i) if Mortgagee shall prevail in the lawsuit entitled "All-Power, Inc. vs. T-Mobile USA, Inc.", Case Number: 03-CH 3270, filed in the Circuit Court of Cook County to the effect that the Circuit Court determines that the Rooftop Lease is of no further force or effect or said Court otherwise requires the removal of the antennae and related equipment relating to the Rooftop Lease from the subject Real Estate without requiring any payment by the Mortgagee to or for the benefit of the Defendant therein, Mortgagor will pay to Mortgagee the sum of One Hundred Twenty Five Thousand Dollars (\$125,000) as and for additional purchase price for the Premises; or (ii) if Mortgagee shall prevail in the said lawsuit, to the effect that the Circuit Court determines that the Rooftop Lease is of no further force or effect or said Court otherwise requires the removal of the antennae and related equipment relating to the Rooftop Lease for the Premises, but requires payment by Mortgagee to or for the benefit of the Defendant in said lawsuit, Mortgagor will pay to Mortgagee the sum of One Hundred Twenty Five Thousand Dollars (\$125,000), plus such additional sum as Mortgagee is required to pay to or for the benefit of the Defendant up to a maximum additional amount of Eighty Thousand Dollars (\$80,000) as and for additional purchase price for the Premises; or (iii) if said lawsuit shall be settled or otherwise resolved prior to or during the trial of the lawsuit to the effect that the Rooftop Lease is terminated with the antennae and related equipment relating to the Rooftop Lease to be removed, or if Mortgagor shall consent to the Rooftop Lease remaining in force and effect, Mortgagor will pay to Mortgagee the sum of One Hundred Twenty Five Thousand Dollars (\$125,000) plus an additional amount equal to the amount, if any, which Mortgagee agrees to pay to the Defendant therein as part of any such settlement up to a maximum additional amount of Eighty Thousand Dollars (\$80,000) as and for additional purchase price of the Premises. Said sum of One Hundred Twenty Five Thousand Dollars (\$125,000) plus any additional amount required pursuant hereto, shall be paid within fourteen (14) days after the effective date of any such settlement or other resolution of the lawsuit or final judicial determination thereof, including the expiration of all rights of appeal.

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LOTS 1, 2, 3, 4 AND 5 (EXCEPT THAT PART OF SAID LOTS TAKEN FOR STREETS)  
AND ALL OF LOTS 6, 7, 8, 9, 10, 11, 12 AND 13 TOGETHER WITH THE VACATED  
ALLEY BETWEEN SAID 1 TO 5 AND LOT 6 ALL IN BLOCK 7 IN TRACY'S PARTITION  
AND SUBDIVISION OF BLOCK 14 OR ASSESSOR'S DIVISION OF THE NORTHEAST 1/4  
OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL  
MERIDIAN, IN COOK COUNTY, ILLINOIS.

Pin Numbers: 17-32-224-001-0000, 17-32-224-002-0000, 17-32-224-003-0000 & 17-32-224-004-0000  
Property Address: 3435 3439 S. Racine Avenue, Chicago, IL 60608

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