

**Prepared By: Jay P. Tarshis  
Michael Best & Friedrich LLC  
401 North Michigan Avenue, Suite 1900  
Chicago, Illinois 60611**



**Doc#: 0407050250**  
Eugene "Gene" Moore Fee: \$36.00  
Cook County Recorder of Deeds  
Date: 03/10/2004 12:29 PM Pg: 1 of 7

**Mail To: Jay P. Tarshis  
Michael Best & Friedrich LLC  
401 North Michigan Avenue, Suite 1900  
Chicago, Illinois 60611**

**MORTGAGE**

THIS MORTGAGE, made this 24th day of September, 2003, between GENEVE E. KUHNS as Trustee of the Geneve E. Kuhns Living Trust dated February 26, 1997, of 1245 Raleigh Road, Glenview, Illinois 60025, herein referred to as "Mortgagor," and DENO MELCHIORRE, of Deerfield, Illinois, hereinafter referred to as "Lender."

WHEREAS, GENEVE E. KUHNS, Individually and as Trustee of the Geneve E. Kuhns Living Trust dated February 26, 1997 ("Borrower") is indebted to Lender in the principal sum of Three Hundred Thousand and <sup>00</sup>/<sub>100</sub> (\$300,000.00) Dollars as evidenced by Borrower's Secured Promissory Note of even date herewith, providing payment of principal and interest as expressed in the said Note, hereafter referred to as "Note"; and

WHEREAS, Geneve E. Kuhns is the Grantor of the Geneve E. Kuhns Living Trust dated February 26, 1997, is the sole beneficiary thereof and has retained the right to withdraw income and principal therefrom; and

WHEREAS, Mortgagor will directly benefit from Lender lending the aforesaid indebtedness to Borrower, and

WHEREAS, Mortgagor makes this Mortgage to secure Borrower's obligations under the Note

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note and the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower and Mortgagor therein and herein contained, Mortgagor does hereby mortgage, grant and convey to Lender the following legally described property located in the County of Cook, State of Illinois, which has the address of 1245 Raleigh Road, Glenview, Illinois:

**LEGAL DESCRIPTION [See Exhibit A Attached Hereto]**

**PIN: 04-35-201-025-0000**

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TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights and water stock and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

Mortgagor covenants that Mortgagor is lawfully seised of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered with the exception of general real estate taxes for the year 2002 and thereafter; covenants, conditions and restrictions of record; and building lines and easements of record, and that the Mortgagor will warrant and defend generally the title to the Property against all claims and demands.

Mortgagor and Lender covenant and agree as follows:

1. Payment of Principal and Interest: Borrower shall promptly pay when due without set-off, recoupment, or deduction, the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note. Payment shall be made at Lender's address, 392 Milford Road, Deerfield, Illinois 60015.

2. Application of Payments: All payments received by Lender from Borrower or Mortgagor shall be applied by Lender to such obligations under this Mortgage and the Note in such order and in such manner as Lender may in its sole discretion determine.

3. Charges - Liens: Mortgagor shall promptly pay all obligations secured by a mortgage or trust deed affecting the Property, taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, when due. Mortgagor shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Mortgagor shall make payment directly, Mortgagor shall promptly furnish to Lender receipts evidencing such payments. Mortgagor shall promptly discharge any lien which has priority over this Mortgage with respect to any sum, including but not limited to, Future Advances.

4. Hazard Insurance: Mortgagor shall keep the improvements now existing or hereafter erected on the Property Insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the insurance shall be chosen by Mortgagor subject to approval by Lender. Provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Mortgagor when due.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Mortgagor shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier

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and Lender. Lender may make proof of loss if not made by Mortgagor.

Unless Lender and Mortgagor otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor. If the Property is abandoned by Mortgagor, or if Mortgagor fails to respond to Lender within 30 days from the date notice is mailed by Lender to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Mortgagor otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraph 1 hereof or change the amount of such installments. If under paragraph 16 hereof the Property is acquired by Lender, all right, title and interest of Mortgagor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. Preservation and Maintenance of Property: Mortgagor shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

6. Protection of Lender's Security: If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, or any mortgage or trust deed affecting the Property, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Mortgagor, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this paragraph 6 with interest thereon, shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Lender agree to other terms of payment, such amounts shall be considered as so much additional principal due under the Note payable upon notice from Lender to Mortgagor requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

7. Inspection: Lender may make or cause to be made reasonable entries upon and inspections of the Property, providing that Lender shall give Mortgagor notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

8. Condemnation: The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with excess, if any, paid to Mortgagor. In the event of a partial taking of the Property, unless Mortgagor and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Mortgagor.

If the Property is abandoned by Mortgagor, or if, after notice by Lender to Mortgagor that the condemnor offers to make an award or settle a claim for damages, Mortgagor fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Mortgagor otherwise agree in writing, any such application of proceed to principal shall not extend or postpone the due date or amount of any amount due under the Note or Guaranty.

9. Mortgagor Not Released: Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successors in interest of Borrower or Mortgagor shall not operate to release, in any manner, the liability of the Borrower, Mortgagor or their successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the Borrower or Mortgagor or their successors in interest.

10. Forbearance by Lender Not a Waiver: Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

11. Remedies Cumulative: All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

12. Successors and Assigns Bound, and Joint and Several Liability: The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Mortgagor. All covenants and agreements of Mortgagor shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

13. Notice: Except for any notice required under applicable law to be given in another manner, (a) any notice to Mortgagor provided for in this Mortgage shall be given by mailing such notice addressed to Mortgagor at the Property Address or at such other address as Mortgagor may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor

or Lender when given in the manner designated herein.

14. **Governing Law - Severability:** This Mortgage shall be governed by the laws of Illinois. 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 Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable. Time is of the essence of this Agreement.

15. **Transfer of the Property - Assumption:** If all or any part of the Property or an interest therein is sold or transferred by Mortgagor without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage which does not relate to a transfer or rights of occupancy in the property, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or tenant by the entirety, (d) the grant of any leasehold interest of one year or less not containing an option to purchase, (e) a transfer, in which the transferee is a person who occupies or will occupy the Property, which is (1) A transfer to a relative resulting from the death of the Mortgagor, (2) A transfer where the spouse or child(ren) of the Mortgagor becomes an owner of the Property, or (3) A transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement by which the spouse of the Mortgagor becomes an owner of the Property, or (f) a transfer to an inter vivos trust in which the Mortgagor is and remains the beneficiary and occupant of the Property, unless, as a condition precedent to such transfer, the Mortgagor refuses to provide the Lender with reasonable means acceptable to the Lender by which the Lender will be assured of timely notice of any subsequent transfer of the beneficial interest or change in occupant. Lender may, at Lender's option, and without notice to Mortgagor, declare all sums secured by this Mortgage to be immediately due and payable. Lender is hereby subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the proceeds of the loan hereby secured.

16. **Acceleration - Remedies:** Upon Mortgagor's default in the performance of any covenant or agreement in this Mortgage, including the covenants to pay when due and sums secured by this Mortgage, Lender may at its option, and without notice to Mortgagor, declare due and payable all sums secured by this Mortgage and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect after default, all estimated and actual expenses incurred by reason of said default, including, but not limited to, reasonable attorneys' fees, and costs of documentary evidence, abstracts, and title reports.

17. **Assignment of Rents - Appointment of Receiver - Lender in Possession:** As additional security hereunder, Mortgagor hereby assigns to Lender the rents of the Property; Provided, that Mortgagor shall, prior to acceleration under paragraph 16 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 16 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those

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rents actually received.

18 Release: Upon payment of all sums secured by this Mortgage and termination of Borrower's obligations under the Note, Lender shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation, if any.

19. Waiver of Homestead: Mortgagor hereby waives all right of homestead exemption in the Property.

THE UNDERSIGNED Grantor-Mortgagor has signed and sealed this Mortgage document this 24<sup>th</sup> day of September, 2003.

MORTGAGOR

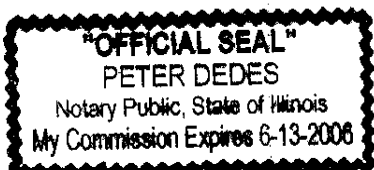
Geneve E. Kuhns  
Geneve E. Kuhns, as Trustee of the  
Geneve E. Kuhns Living Trust dated  
February 26, 1997

ACKNOWLEDGMENT

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

I, PETER DEDES, a Notary Public in the State of Illinois, DO HEREBY CERTIFY that Geneve E. Kuhns, as Trustee of the Geneve E. Kuhns Living Trust dated February 26, 1997, 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 she signed, sealed and delivered the said instrument as her free and voluntary act as Trustee of the Geneve E. Kuhns Living Trust dated February 26, 1997, for the uses and purposes therein set forth pursuant to authority of the Trust Agreement creating such Trust, including the release and waiver of the right of homestead.

GIVEN under my hand and Notary Seal this 24<sup>th</sup> day of September, 2003.



My Commission expires:

Peter DeDes  
Notary Public

EXHIBIT A

## LEGAL DESCRIPTION

LOT 38 IN CLUB VIEW HIGHLANDS UNIT 3, BEING A SUBDIVISION OF PART OF LOT 4 AND 5 OF THE SUBDIVISION OF THE SOUTH 8.63 CHAINS OF THE NORTHWEST  $\frac{1}{4}$  NORTHEAST  $\frac{1}{4}$  OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF LOT 5 209.6 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE WEST 194.71 FEET; THENCE NORTH 5.0 FEET; THENCE WEST 157.89 FEET; THENCE NORTHEASTERLY PARALLEL WITH WAUKEGAN ROAD 354.97 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 4, WHICH IS 170 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE EAST 339.46 FEET TO THE NORTHEAST CORNER OF LOT 4; THENCE SOUTH ON THE EAST LINE OF LOT 4 AND 5 TO THE PLACE OF BEGINNING, ACCORDING TO PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, ON DECEMBER 11, 1953, AS DOCUMENT NUMBER 1498537.