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RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Laurence Birch
437 W. Roslyn Place
Chicago, IL 60614



Doc#: 0410634034
Eugene "Gene" Moore Fee: \$40.50
Cook County Recorder of Deeds
Date: 04/15/2004 11:30 AM Pg: 1 of 9

MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MORTGAGE is made as of February 11, 200 between M&L LLC (the "Mortgagor"), having an address of c/o Laurence P. Birch, 437 West Roslyn Place, Chicago, Illinois and Lee Munder Revocable Trust Dated October 6, 1999 (the "Mortgagee"), c/o Lee Munder, 3406 Adams, Oakbrook, Illinois 60523.

1. MORTGAGE AND SECURED OBLIGATIONS.

- 1.1 Mortgage. For purposed of securing payment and performance of the Secured Obligations defined and described in Section 1.2, Mortgagor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages, warrants, assigns and pledges to Mortgagee, with right of entry and possession, and with power of sale, all estate, right, title and interest witch Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "Property"):
- (a) the real property located in the County of Cook, State of Illinois and commonly known as 2434 N. Ashland Avenue, Chicago, Illinois and legally described in Exhibit A attached hereto, together with all existing and future easements and rights affording access to it (the "Land"); and the real property located in the County of Cook, State of Illinois and commonly known as 7628 N. Rogers, Chicago, Illinois and legally described in Exhibit A attached hereto, together with all existing and future easements and rights affording access to it (the "Land");
 - (b) all buildings, structures and improvements now located or later to be constructed on the Land (the "Improvements");
 - (c) all existing and future appurtenances, privileges, easements, franchises and tenements of the Land, including, all development rights and credits, air rights, water rights and any land lying in the street, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements;
 - (d) all existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases;

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(e) all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including, without limitation, all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage;

(f) all building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements;

(g) all rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties or deposited by Mortgagor with third parties (including, without limitation, all utility deposits), contract rights, development and use rights, which arise from or are related to the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally;

(h) all proceeds, including, without limitation, all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other property described above into cash or liquidated claims, including, without limitation, proceeds of all present and future fire, hazards or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including, without limitation, causes of action arising in tort, contract, fraud or concealment of a material fact;

(i) all books and records pertaining to any and all of the property described above, including, without limitation, computer-readable memory and any computer hardware or software necessary to access and process such memory ("Books and Records");

(j) all proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

1.2. Secured Obligations. This Mortgage is made for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Mortgagee may choose:

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(a) Payment of all obligations at any time owing under a Note (the "Note") of even date herewith, payable jointly and severally by Mortgagor and certain other parties as a maker in the stated principal amount of THREE HUNDRED FIFTY THOUSAND (\$350,000) Dollars to the order of Mortgagee, which Note is payable in thirty (30) monthly level installments of principal and interest commencing September 11, 2000, with a final installment of accrued and unpaid interest and the remaining unpaid principal balance due and payable on February 11, 2003 or earlier upon a default in the payment when due of any such installment.

(b) Payment and performance of all obligations of Mortgagor under this Mortgage; and

(c) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage;

(d) Performance of all obligations under the other Security Agreements and Mortgages which secure the Note; and

(e) Payment and performance of all modifications, amendments, extensions and renewals, however evidenced, of any of the Secured Obligations.

All persons or entities that may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Note which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

2. GRANT OF SECURITY INTEREST.

2.1. Security Agreement. The parties acknowledge that some of the Property and some or all of the rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or rents may be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and rents, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the Uniform Commercial Code as in effect in the State of Illinois (the "Code"), covering all such Property and Rents.

2.2. Financing Statements. Mortgagor shall execute one or more financing statements and such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Property or rents. Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may

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reasonably require. In case Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf.

2.3. Fixture Filing. This Mortgage constitutes a financing statement filed as a fixture filing under Section 9-313 and 9-402 of the Code, as amended or recodified from time to time, covering any of the Property which now is or later may become fixtures attached to the Land or the Improvements. The following addresses are the mailing address of Mortgagor, as debtor under the Code, and Mortgagee, as secured party under the Code, respectively:

Mortgagor: c/o Laurence P. Birch, 437 West Roslyn Place, Chicago, Illinois

Federal Tax Identification No. 36-4327412

Mortgagee: c/o Lee Munder, 3406 Adams, Oakbrook, Illinois 60521

3. **REPRESENTATIONS, COVENANTS AND AGREEMENTS.**

3.1. Good Title. Mortgagor covenants that it is lawfully seized of the Property, and that it has good right, full power and lawful authority to convey and mortgage the same, and that it will warrant and forever defend the Property and the quiet and peaceful possession of the same against the lawful claims of all persons and entities.

3.2. Insurance.

(a) Borrower shall maintain, at its expense, such public liability and third party property damage in such amounts and with such deductibles as is reasonably acceptable to Mortgagee.

(b) Borrower shall maintain, at its expense, insurance the Property against the risk of loss of, damage to or destruction of, in such amounts and with such insurers as is reasonably acceptable to Mortgagee.

3.3. Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) their location of residence, (b) Mortgagor's name or business structure. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Land and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

3.4. Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any one or more of the following acts without incurring any liability or giving notice to any person or entity: (i) release any person or entity liable for payment of the Note; (ii) extend the time for payment, or otherwise alter the terms of payment, of the Note; (iii) accept additional real or personal property of any kind as security for the Note, whether evidenced by deeds of trust, mortgages, security

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agreements or any other instruments of security; (iv) alter, substitute or release any property securing the Note; (v) join in granting any easement or creating any restriction affecting the Property; or (vi) join in any subordination or other agreement affecting this Mortgage or the lien of it.

4. DEFAULTS AND REMEDIES.

4.1. Events of Default. An "Event of Default," shall mean a payment default under the Note or the sale of all or substantially all of the Property without the consent of Mortgagee.

4.2. Remedies. At any time after an Event of Default, Mortgagee shall be entitled to exercise any and all of the rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

4.3. Application of Foreclosure Sale Proceeds. The proceeds of any Foreclosure Sale shall be applied in the following manner:

(a) First, to pay the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee hereunder;

(b) Second, to pay all sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all amounts owing under the Note in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it.

5. RELEASE OF LIEN. If the Note shall be paid in full, then Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment, performance and discharge of all amounts owing under the Note and under the other Security Agreements securing the Note and the amounts owing under Section 6.8 of this Mortgage, and payment by Mortgagor of any filing fee in connection with such release.

6. MISCELLANEOUS PROVISIONS.

6.1. Additional Provisions. This Mortgage, the Security Agreements of even date herewith which also secure the Note and the Note fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage.

6.2. Giving of Notice. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be given in accordance with the terms of the Note a copy of which is attached hereto.

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6.3. Remedies Not Exclusive. No action for the enforcement of the lien or 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. Mortgagee shall be entitled to enforce payment and performance of the Note and to exercise all rights and powers under this Mortgage and/or the other Security Agreements or any laws now or hereafter in force, notwithstanding that the Note may now or hereafter be secured by additional collateral and security agreements, mortgages, pledges or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now hereafter existing at law or in equity or by statute. No waiver of any default of the Mortgagor hereunder shall be implied from any omission by Mortgagee to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. No acceptance of any payment of any one or more delinquent installments which does not include interest at the Default Rate from the date of delinquency, together with any required late charge, shall constitute a waiver of the right of Mortgagee at any time thereafter to demand and collect payment of interest at such Default Rate.

6.4. Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

6.5. Binding on Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon Mortgagor and all persons and entities claiming under or through Mortgagor, and shall inure to the benefit of Mortgagee and its successors and assigns.

6.6. Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

6.7. Severability. If all or any portion of any provision of this Mortgage shall be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision hereof or thereof, and such provisions shall be limited and construed as if such invalid, illegal or unenforceable provision or portion thereof was not contained herein.

6.8. Mortgagee's Lien for Service Charge and Expenses. At all times, the payment of any and all commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with this Mortgage shall be secured by this Mortgage..

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6.9. Applicable Law. This Mortgage shall be governed by and construed under the internal laws of the State of Illinois.

6.10. Due on Sale Clause. The transfer or encumbrance of the Property, or any interest therein, or the transfer of an interest in Mortgage, if applicable, without prior written consent of Mortgagee, shall constitute an Event of Default.

6.11. Time is of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Mortgagor under this Mortgage and the Note.

6.12. Modifications. This Mortgage may not be changed or modified except in writing signed by both parties.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first written above.

MORTGAGOR

M&L, LLC

By 
Its: Managing Member

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EXHIBIT A

LEGAL DESCRIPTION
Of
2434 North Ashland Avenue
Chicago, Illinois

Lot 38 in Block 5 (except that part conveyed to the City of Chicago by Deed recorded July 28, 1930 as Document 10713770) in Fullerton's Second Addition to Chicago being part of the South ½ of the South East ¼ of Section 30, Township 40 North, Range 14 East of the Third Principal Meridian, lying East of Chicago and Northwestern Railroad, in Cook County, Illinois.

LEGAL DESCRIPTION
OF
7328 North Rogers
Chicago, Illinois

LOT 86 IN GERMANIA ADDITION TO EVANSTON, A SUBDIVISION OF PART OF THE SOUTH 1/2 OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 25 NORTH OF THE INDIAN BOUNDARY LINE, IN TOWNSHIP 41, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Notary State of Illinois
County of Cook

The undersigned Notary Public affirms that Laurence P. Birch identified himself to the undersigned and stated that he executed the foregoing Mortgage as the Managing Member of M&L, LLC and as his voluntary act pursuant to authority granted to the Managing Member by the Operating Agreement of M&L, LLC..

Notary Public My Commission expires _____.

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