

**Premises:**

956 Taft Road  
Hinsdale, Cook County, IL 60521  
PIN: 18-07-310-022



Doc#: 0419549010  
Eugene "Gene" Moore Fee: \$52.00  
Cook County Recorder of Deeds  
Date: 07/13/2004 07:51 AM Pg: 1 of 15

**Prepared By and, Upon**

**Recording, Mail To:**

Brian J. Mulhern  
907 N. Elm, Suite 305  
Hinsdale, IL 60521

This JUNIOR MORTGAGE ("Mortgage") is made this June 25, 2004, by **BRIAN P. DOLEHIDE** and **MARY CATHERINE DOLEHIDE**, husband and wife, now of 223 S. Quincy Street, Hinsdale, DuPage County, Illinois (together, "Mortgagor"), in favor of **VENCAP FINANCIAL, LLC**, an Illinois Limited Liability Company ("Mortgagee").

**WHEREAS**, Mortgagor has executed a Term Promissory Note dated June 25, 2004 ("Note"), in the Principal amount of \$ 1,200,000.00 in favor of Mortgagee, with a one-year Term (Maturity Date of June 25, 2005); and

**WHEREAS**, the use of the funds advanced under the Note is for purposes of carrying out certain demolition, rehabilitation of existing improvements and new construction at 956 Taft Road, Hinsdale, Cook County, IL ("the Property") for re-sale ("the Project"); and

**WHEREAS**, the execution and delivery of this Junior Mortgage is a condition precedent to Mortgagee's obligation to fund the Loan evidenced by the Note or make any Advances thereunder;

**NOW, THEREFORE**, in order to secure to Mortgagee: (a) The performance of the covenants and agreements of Mortgagor to Mortgagee under the Note; (b) The repayment of all amounts due from Mortgagor to Mortgagee under the Note (collectively, "Indebtedness"), including any and all renewals, extensions and modifications thereof; (c) The payment of any and all other sums, with Interest, advanced in accordance herewith to protect the security of this Junior Mortgage; and (d) The performance of the covenants and agreements of Mortgagor herein contained; **Mortgagor does hereby MORTGAGE, GRANT AND CONVEY to Mortgagee the above-referenced real estate located in Cook County, Illinois, which is described on Exhibit "A" attached hereto (the "Premises");**

**A. INCLUDED IMPROVEMENTS AND RIGHTS.**

**MORTGAGOR EXPRESSLY AGREES THAT THE PREMISES ARE CONVEYED AND MORTGAGED TO MORTGAGEE HEREUNDER:**

**1. TOGETHER WITH** all improvements now or hereafter constructed on or within said Premises or any part thereof and all fixtures and equipment located thereon or installed hereafter, said improvements, fixtures and equipment being deemed to be part of the Premises to the extent they are permanently affixed thereto;

PREMIER TITLE

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2. **TOGETHER WITH** all rents, issues, profits and leases thereof for so long and during all such times as Mortgagor and Mortgagor's successors and assigns may be entitled thereto, and all easements and appurtenances affecting the Premises; and

3. **SUBJECT TO** that certain Mortgage of the Premises by Mortgagors in favor of Hinsdale Federal Bank in the original Principal amount of \$ 608,000.00, which was recorded July 2, 1996 as document # 96509469 ("First Mortgage").

## B. COVENANTS.

### MORTGAGOR DOES HEREBY COVENANT AND AGREE AS FOLLOWS:

1. **Preservation and Maintenance of Premises.** Mortgagor will abstain from and will not permit the commission of waste on the Premises and, other than the planned demolition of a house and barn on the Premises, will keep the improvements, fixtures and equipment now or hereafter thereon in good repair and will make replacements thereto as and when the same become necessary. Mortgagor shall promptly notify Mortgagee in writing of the occurrence of any loss or damage to the Premises. Other than the planned demolition of a house and barn on the Premises, Mortgagor shall not materially alter the improvements, fixtures or equipment now or hereafter upon said Premises, or remove the same therefrom, or permit any tenants or other person to do so, without the prior written consent of the Mortgagee. Mortgagor will not permit any portion of the Premises to be used for any unlawful purposes. Mortgagor covenants and agrees that, in the ownership, operation and management of the Premises, Mortgagor will observe and comply with all applicable federal, state and local statutes, ordinances, regulations, codes, orders and restrictions including, without limitation, all zoning, building code, subdivision and environmental protection ordinances, regulations, orders and restrictions.

2. **Insurance.** While this Mortgage is in effect, Mortgagor shall keep the Premises and all improvements, fixtures and equipment now or hereafter located thereon sufficiently insured, with Mortgagee (as secured Mortgagee) covered as an additional insured. The policy (ies) of such insurance shall be in form, with insurers, and in such amounts as may be reasonably satisfactory to Mortgagee. Mortgagor shall deliver to Mortgagee the original (or certified) copy of each policy of insurance, or a certificate of insurance, and evidence of payment of all premiums for each such policy at or before Closing of initial funding of the Loan. Such policies of insurance shall contain a standard mortgagee clause naming Mortgagee as mortgagee thereunder as its interests may appear, and shall provide that the insurance companies will give Mortgagee at least thirty (30) days' written notice before any such policy or policies of insurance shall be altered or cancelled and that no act or default of Mortgagor or any other person or entity shall affect the right of Mortgagee to be covered under such policy or policies of insurance in case of loss or damage. Mortgagor hereby directs all Insurers under such policies of insurance to pay all proceeds payable thereunder to Mortgagee as its interests may appear. At the Closing of this Loan, Borrower shall provide hazard insurance coverage of at least \$ 750,000.00 and shall appropriately increase such coverage to at least cover the amount of the Loan as the Project progresses.

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3. **Taxes; Tax Bills.** Mortgagor shall pay when due all taxes and assessments that may be levied on said Premises. Mortgagor shall make all arrangements and sign all documents as may be necessary to have a copy of each real estate tax bill for the Premises sent directly to Mortgagor while this Mortgage is in effect. Upon request, Mortgagor shall promptly deliver to Mortgagee receipts showing payment of real estate tax bills. Mortgagor shall pay when due any and all taxes and assessments that may be levied upon or on account of this Mortgage or the Indebtedness secured hereby or upon the interest or estate in said Premises created or represented by this Mortgage, whether levied against Mortgagor or otherwise.

4. **Protection of Mortgagee's Security.** In order to protect Mortgagee's interest in the Premises:

a. **Default of Payments.** If default is made by Mortgagor in the payment of any of the aforesaid taxes or insurance premiums, Mortgagee may, at its option and without any obligation on its part so to do, pay said taxes and/or insurance premiums or obtain and pay for such insurance at Mortgagor's expense

b. **Other Covenants.** If default is made by Mortgagor in keeping the Premises in a proper state of maintenance and repair or in performing any other covenant of Mortgagor herein in the Note, or in the Business Loan Agreement, Mortgagee may, at its option and without any obligation on its part so to do, make repairs, perform maintenance, and/or perform any other covenant of Mortgagor herein.

c. **Security.** All reasonable amounts expended by Mortgagee hereunder shall be secured hereby and shall be due and payable by Mortgagor to Mortgagee forthwith on demand or may be added to the Principal balance of the Loan upon expenditure.

5. **Default.**

a. **Events.** The occurrence of any of the following events or conditions shall constitute a default hereunder ("Event of Default"):

(i) If an "Event of Default" occurs under: (aa) the Note; (bb) this Junior Mortgage; or (dd) the First Mortgage;

(ii) If a petition under the Federal Bankruptcy Reform Act of 1978, as amended, or any similar law, state or federal, whether now or hereafter existing, is filed by or against Mortgagor which is not dismissed within forty-five (45) calendar days thereafter;

(iii) If Mortgagor is unable to pay business debts as they become due or is insolvent;

(iv) If Mortgagor makes an assignment for the benefit of creditors;

(v) If Mortgagor fails to perform or observe any term, covenant or condition in this Mortgage;

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(vi) If a Trustee or a Receiver is appointed for Mortgagor or for all or any portion of the Premises and such Trustee or Receiver is not discharged within forty-five (45) calendar days thereafter;

(vii) If any statement or certificate of any type, including all financial statements of Mortgagor, previously submitted to Mortgagee is materially false, incorrect or incomplete;

(viii) If Mortgagor suffers final judgment(s) for payment of money aggregating in excess of five percent (5%) of the total balance then due Mortgagee under the Note;

(ix) If a judgment creditor of Mortgagor obtains a lien on or possession of the Premises by any means, which is not discharged or released within forty-five (45) calendar days thereafter;

(x) If a notice of lien, levy or assessment is delivered to Mortgagor or is filed of record with respect to the Premises by the United States (or any department, instrumentality or agency thereof), by the State of Illinois (or any department, instrumentality or agency thereof) or by any county, municipal or other governmental body (or any department, instrumentality or agency thereof);

(xi) If there occurs any material uninsured damage or destruction to the Premises or any improvements located thereon (other than any planned demolition in the Project);

(xii) If Mortgagor fails to pay any indebtedness due to any third party and such failure shall continue beyond any applicable grace period, or if Mortgagor suffers to exist any other "Event of Default" (by acceleration or otherwise) under any note, loan agreement, lease, mortgage or trust deed, contract for deed, security agreement or other contractual obligation binding upon Mortgagor;

(xiii) If a mechanic's lien is filed against the Premises as a result of work on the Premises under the Project which is not released or bonded over within fourteen (14) days after Borrower receives notice of such lien (Mortgagor agrees to relay immediate notice of the filing of any such lien to Mortgagee);

(xiv) If Mortgagor mortgages/pledges or conveys the Premises as security to any person or entity other than Mortgagee without Mortgagee's advance written consent; and.

(xv) If all or any part of the Premises is sold, transferred, conveyed, assigned or alienated (which shall include the execution of any form of installment agreement for deed) by Mortgagor while this Mortgage is in effect without the Mortgagee's prior written consent.

(This Junior Mortgage, the Note, and any other documents evidencing or securing the Loan are collectively referred to herein as the "Loan Documents").

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*MP*

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(i) **Acceleration.** Should an Event of Default occur as specified in (a) above, Mortgagee may, at any time after such default, declare the entire Principal balance of the Loan together with Interest thereon and all other elements of the Indebtedness secured hereby, to be due and payable immediately. The commencement of proceedings to foreclose this Mortgage shall, in any event, be deemed such declaration.

(ii) **Foreclosure.** In addition to any other right or remedy which Mortgagee may have hereunder or by law, upon default Mortgagee shall have the right and power: (aa) to foreclose this Mortgage by legal action as provided by Illinois law and the rules of practice relating thereto; and (bb) to enter upon and take possession of the Premises with the irrevocable consent of Mortgagor as given and evidenced by its execution of this instrument, and as "Mortgagee in possession," let the Premises and receive all the rents, issues and profits thereof and apply the same on account of the Indebtedness secured hereby, after the payment of all reasonable charges and expenses deemed by Mortgagee to be necessary.

(iii) **Action on Note.** Mortgagee shall additionally have the right to file an action at law on the Note or on any Guaranty or any other Loan Documents and to avail itself of any other remedy provided for by the Note, Guaranty or any of the other Loan Documents or by applicable law, which remedies shall be concurrent and may be pursued simultaneously.

**c. Conditions.** Any forbearance or any deferral or failure to exercise any rights under (b) above shall not constitute a waiver of the right to exercise the same at any other time. In any case in which Mortgagee has a right to institute foreclosure proceedings (whether before or after the institution of legal proceedings to foreclose the lien hereof), upon demand of Mortgagee, Mortgagor shall surrender the Premises to Mortgagee and Mortgagee shall be entitled to take actual possession of the Premises, or any part thereof, personally or by its agents, and may exclude Mortgagor, any Guarantors of the Note, and their agents from the Premises and may, as attorney in fact or agent of the Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(i) hold, operate, manage and control the Premises;

(ii) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments to the Premises and/or improvements as Mortgagee may deem judicious;

(iii) insure the Premises against all risks incidental to Mortgagee's possession, operation and management thereof;

(iv) receive all rents, issues and profits therefrom;

(v) elect to perform or to cancel/terminate/disaffirm any lease or sublease for the Premises for any cause available to Mortgagor; and

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(vi) extend or modify any then existing leases and make new leases, which may provide for terms to extend beyond the Maturity Date of the Note and the date of issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Premises are subject to the lien hereof and to be binding also the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser.

d. **Proceeds.** Any avails, rents, issues and profits of the Premises received by Mortgagee after having taken possession of the Premises or pursuant to any assignment thereof to Mortgagee under the provisions of this Mortgage shall be applied in payment of or on account of the following, in such order as Mortgagee (or in case of a receivership, as the court) may determine in its reasonable business judgment:

(i) to the payment of the operating expenses of the Premises, including reasonable compensation to Mortgagee or the receiver and its agent or agents, if management of the Premises has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(ii) to the payment of taxes and any special assessments now due or which may hereafter become due on the Premises, or which may become a lien prior to the lien of this Mortgage;

(iii) to the payment of all reasonable repairs, renewals, replacements, alterations, additions, betterments to the Premises or its improvements of the Premises, to place the Premises in such condition as will, in the reasonable judgment of Mortgagee or receiver, make it readily saleable or rentable; and

(iv) to the payment of the Indebtedness secured hereby (first to fees/charges, then to Interest, and then to Principal) or any deficiency which may result from any foreclosure sale.

6. **Reimbursement for Mortgagee Legal Expenses.** Should Mortgagee incur any cost or expense, including attorneys' fees, in enforcing its rights hereunder or in protecting the Premises (whether or not any legal action is filed), or in the event that Mortgagee is made a party to any suit or proceeding by reason of the interest of Mortgagee in the Premises, or if Mortgagee institutes proceedings to foreclose the Mortgage granted hereunder, Mortgagor shall reimburse Mortgagee for all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in connection therewith. All amounts incurred by Mortgagee hereunder shall be secured hereby and shall be due and payable by Mortgagor to Mortgagee forthwith on demand or may be added to the Principal balance of the Loan upon expenditure.

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7. **Application of Proceeds of Foreclosure.** Upon a foreclosure sale of the Premises or any part thereof, the proceeds of such sale shall be applied in the following order:

- a. **Costs.** To the payment of all costs of the sale of foreclosure, including reasonable attorneys' fees and the costs of title searches and abstracts;
- b. **Expenditures.** To the payment of all other expenses of Mortgagee incurred in connection with the foreclosure, including all money expended by Mortgagee and all other amounts payable by Mortgagor to Mortgagee hereunder;
- c. **Indebtedness.** To the payment of the Indebtedness secured hereby (first to fees/charges, then to Interest, and then to Principal); and
- d. **Surplus.** The surplus, if any, to Mortgagor or to whomever else is lawfully entitled thereto.

8. **Waiver of Homestead; Waiver of Redemption.** MORTGAGOR EXPRESSLY WAIVES ANY RIGHTS AND BENEFITS UNDER AND BY VIRTUE OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS OR ANY OTHER EXEMPTION LAWS, MORATORIUM LAWS OR OTHER LAWS LIMITING THE ENFORCEMENT HEREOF. To the extent permitted under applicable law, MORTGAGOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION UNDER ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE, AND ANY REDEMPTION RIGHTS GRANTED BY ILLINOIS LAW, ON BEHALF OF MORTGAGOR, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE. Further, Mortgagor hereby waives the benefit of all appraisalment, valuation, stay or extension laws, and any reinstatement rights provided by Illinois law, now or hereafter in force, and all rights of marshalling in the event of any sale hereunder of the mortgaged Premises or any part thereof or any interest therein.

9. **Receiver; Mortgagee in Possession.** Upon or at any time after the filing of any complaint to foreclose this Mortgage, the court may, upon application of Mortgagee, place Mortgagee in possession or appoint a Receiver of the Premises. Such Receiver or "Mortgagee in possession," to the extent permitted by law, shall have the power to take possession, control and care of the Premises, and to collect the rent, issues and profits of the Premises during the pendency of such foreclosure, and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there is a redemption or not, as well as during any further times when Mortgagor, and its successors or assigns, except for the intervention of such "Mortgagee in possession" or 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 the Receiver's hands in payment in whole or in part of:

- a. **Costs.** The costs of management of the Premises and collection of any rents including, but not limited to, the fees of the Receiver or "Mortgagee in possession," premiums for Receiver's bonds and reasonable attorneys' fees;

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*MOA*

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b. **Indebtedness.** The indebtedness secured hereby or of any judgment foreclosing this Mortgage or any tax, special assessment or other lien which may be or become superior to the lien hereof, or of such judgment, provided such application is made prior to the foreclosure sale; and

c. **Deficiency.** Any deficiency, in case of sale with deficiency.

10. **Condemnation.** Any and all awards hereafter made or to be made to the present and/or all subsequent owner(s) of the Premises by any governmental or other lawful authority for taking, by condemnation or eminent domain, the whole or any part of the Premises or any improvement located thereon or any easement therein or appurtenant thereto, are hereby assigned by Mortgagor to Mortgagee, which award Mortgagee is hereby authorized to collect and receive from the condemnation authority (ies), to give appropriate receipts therefore, and to apply against the Indebtedness secured hereby. Mortgagor covenants and agrees that Mortgagor will give Mortgagee immediate notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the Premises or any easement therein or appurtenance thereto and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

11. **Representations and Warranties.**

a. **Business Purpose.** **MORTGAGOR WARRANTS THAT THE PROCEEDS RECEIVED UNDER THE BUSINESS LOAN AGREEMENT AND THE NOTE WILL BE USED SOLELY FOR BUSINESS PURPOSES.**

b. **Environmental Matters.** Mortgagor hereby represents and warrants to Mortgagee: (i) that neither Mortgagor nor, to best of Mortgagor's knowledge after reasonable investigation, any other person or entity, has ever caused or permitted any Hazardous Material (as hereafter defined) to be placed, held, located or disposed of on, under or at the Premises or any part thereof; (ii) that the Premises have never been used by Mortgagor or, to the best of Mortgagor's knowledge after reasonable investigation, by any other person or entity as a temporary or permanent dump or storage site for any hazardous, toxic or dangerous waste, substance or material; and (iii) that Mortgagor has received no summons, citation, directive, letter or other communication (written or oral) from any agency or department of any municipality, county or state or the U. S. Government concerning any intentional or unintentional action or omission on, under, or about the Property which has resulted in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances on the Premises, onto adjoining properties, or into any waters where damage may have resulted.

c. **Definitions.** Environmental terms used in this Section are as defined as such in (or for the purposes of) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, any so-called "Superfund" or "Superlien" law, which shall include, but shall not be limited to, any substances, materials or wastes that are regulated by any local governmental authority, the State of



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Illinois or the United States of America because of toxic, flammable, explosive, corrosive, reactive, radioactive or other properties that may be hazardous to human health or environment, including petroleum products, asbestos and including any material or substances that are listed in the United States Department of Transportation Hazardous Material Table, as amended, 49 C.F.R. 172. 10 1, or in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. subsections 9601 et seq., or the Resources Conservation and Recovery Act, as amended, 42 U.S.C. subsections 6901, et seq., or any other applicable governmental law or regulation imposing liability or standards of conduct concerning any hazardous, toxic or dangerous substances, waste or material, as now or at any time hereafter in effect (collectively, "Environmental Laws").

**d. Survival.** The representations and warranties made in this Section shall survive:

- (ii) the sale, transfer or conveyance of all or any portion of the Premises;
- (ii) the foreclosure of any liens on the Premises by Mortgagee or a third party or the conveyance thereof by deed in lieu of foreclosure; and
- (iii) repayment of all Indebtedness due and payable under the Note; and

**e. Warrant and Defense of Title.** At the time of the execution and delivery of this instrument, Mortgagor is truly seized of the Premises in fee simple, free of all liens and encumbrances whatsoever, except the First Mortgage. Mortgagor will forever warrant and defend the same against any and all claims whatsoever, and the lien created hereby is and will be kept a lien upon the Premises and every part thereof.

**12. Environmental Covenants.**

Subject to any environmental disclosures made and accepted by Mortgagee in writing, Mortgagor covenants with Mortgagee as follows:

**a. Use of Premises.** Mortgagor will not use and does not intend to use the Premises to generate, manufacture, refine, transport, treat, store, handle or dispose of any Hazardous Substances.

**b. Compliance with Environmental Laws.** Mortgagor shall cause the Project, the Premises and the operations conducted on the Premises to comply with any and all Environmental Laws and orders of any governmental authorities having jurisdiction under any Environmental Laws, and shall obtain, keep in effect and comply with all governmental permits and authorizations required by Environmental Laws with respect to the Project and the Premises. Mortgagor shall furnish Mortgagee with copies of all such permits and authorizations and any amendments or renewals of them and shall notify Mortgagee of any expiration or revocation of such permits or authorizations.

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c. **Preventive, Investigatory and Remedial Action.** Mortgagor shall exercise extreme care in handling Hazardous Substances if Mortgagor uses or encounters any on the Premises. Mortgagor, at Mortgagor's expense, shall undertake any and all preventive, investigatory or remedial action (including emergency response, removal, containment and other remedial action): (i) required by any applicable Environmental Laws, or (ii) necessary to prevent or minimize property damage (including damage to the Premises), personal injury or damage to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Premises or the Project. In the event Mortgagor fails to perform any of Mortgagor's obligations under this Section, Mortgagee may (but shall not be required to) perform such obligations at Mortgagor's expense. All such costs and expenses incurred by Mortgagee under this Section shall be reimbursed by Mortgagor to Mortgagee upon demand with Interest at the default rate set forth in the Note, or in the absence of a default rate, at the Interest rate in the Note, and shall be deemed secured by this Mortgage.

d. **Notice.** Mortgagor shall immediately notify Mortgagee upon becoming aware of any of the following:

(i) Any spill, release or disposal of a Hazardous Substance on any of the Premises, or in connection with the Project, if such spill, release or disposal must be reported to any governmental authority under applicable Environmental Laws;

(ii) Any contamination, or imminent threat of contamination, of the Premises by Hazardous Substances, or any violation of Environmental Laws in connection with the Premises or the Project;

(iii) Any order, notice of violation, fine or penalty or other similar action by any governmental authority relating to Hazardous Substances or Environmental Laws and the Premises or the Project;

(iv) Any judicial or administrative investigation or proceedings relating to Hazardous Substances or Environmental Laws and to the Premises or the Project; and

(v) Any matters relating to Hazardous Substances or Environmental Laws that would give a reasonably prudent Mortgagee cause to be concerned that the value of Mortgagee's security interest in the Premises may be reduced or threatened or that may impair, or threaten to impair, Mortgagor's ability to perform any of its obligations under this Agreement when such performance is due.

e. **Access to Records.** Mortgagor shall deliver to Mortgagee, at Mortgagee's request, copies of any and all documents in Mortgagor's possession or to which it has access or which Mortgagor receives relating to Hazardous Substances or Environmental Laws and the Premises and the Project, including without limitation results of laboratory analyses, site assessments or studies, environmental audit reports and other consultants' studies and reports.

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f. **Inspections.** Mortgagee reserves the right to inspect and investigate the Premises and the Project at any time and from time to time while any amount remains outstanding under the Note, and Mortgagor shall cooperate fully with Mortgagee in such inspection and investigations. If Mortgagee at any time has reason to believe that Mortgagor or any tenants or occupants of the Property are not complying with all applicable Environmental Laws or with the requirements of this Section or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Premises, Mortgagee may require Mortgagor to furnish Mortgagee at Mortgagor's expense an environmental audit or a site assessment with respect to the matters of concern to Mortgagee. Such audit or assessment shall be performed by a qualified consultant approved by Mortgagee. Any inspections or tests made by Mortgagee shall be for Mortgagee's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagor to any Mortgagor or to any other person.

g. **Indemnification.** Mortgagor hereby indemnifies and holds harmless Mortgagee and Mortgagee's officers, directors, employees and agents, and Mortgagee's successors and assigns and their officers, directors, employees and agents, against any and all claims, demands, losses, liabilities, costs and expenses (including without limitation attorneys' fees at trial and on any appeal or petition for review) incurred by such person: (i) arising out of or relating to any investigatory or remedial action involving the Premises or the Project by Environmental Laws or by orders of any governmental authority having jurisdiction under any Environmental Laws, or (ii) on account of injury to any person whatsoever or damage to any property arising out of, in connection with, or in any way relating to: (aa) the breach of any covenant contained in this Agreement; (bb) the violation of any Environmental Laws; (cc) the use, treatment, storage, generation, manufacture, transport, release, spill disposal or other handling of Hazardous Substances on the Premises; (iv) the contamination of any of the Premises by Hazardous Substances by any means whatsoever (including without limitation any presently existing contamination of the Premises); or (v) any costs incurred by Mortgagee pursuant to this Section. In addition to this indemnity, Mortgagor hereby releases and waives all present and future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any Environmental Laws.

13. **Partial Releases.** Mortgagee may release any part of the Premises or any party liable for any part of the Indebtedness secured hereby without in any way affecting the liability of any party to the Note, this Junior Mortgage, or any other collateral/security given for the Indebtedness secured hereby and without in any way affecting the priority of the lien of this Junior Mortgage.

14. **Miscellaneous.** The following miscellaneous provisions are a part of this Junior Mortgage:

a. **Applicable Law.** This Mortgage has been executed by Mortgagor (Illinois residents) and has been delivered to and accepted by Mortgagee (an Illinois Limited Liability Company) in the State of Illinois and the Premises serving as Collateral for the Loan is located in the State of Illinois. Therefore, this Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

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b. **Captions, Headings.** Captions or headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

c. **Costs and Expenses.** Mortgagor agrees that Mortgagee's costs/expenses (including without limitation attorneys' fees) to be paid by Borrower under the Note may be paid by including adding such costs/expenses in the Principal amount of the Indebtedness secured hereby.

d. **Notices.** All notices required to be given under this Agreement shall be given in writing, may be sent by facsimile (unless otherwise required by law), and shall be effective when actually delivered or when deposited with a nationally recognized overnight courier or deposited in the United States mail, first class, postage prepaid, addressed to the party to whom the notice is to be given at the address shown above. Any party may change its address for notices under this Agreement by giving formal written notice to the other parties under the terms of this Subsection, specifying that the purpose of the notice is to change the party's address. For notice purposes, Borrower will keep Mortgagee informed at all times of Borrower's current address(es).

e. **Severability.** If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances and, if feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; provided, however, if the offending provision cannot be so modified, it shall be deemed stricken and other provisions of this Mortgage in all other respect shall remain valid and enforceable.

h. **Time is of the Essence.** Time is of the essence in the performance of obligations under this Mortgage.

i. **Successors and Assigns.** All covenants and agreements to be performed by or on behalf of Mortgagor shall bind its successors and any permitted assigns and shall inure to the benefit of Mortgagee and its successors and assigns.

j. **Waiver; Consent.** Mortgagee shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Mortgagee. No delay/forbearance or omission on the part of Mortgagee in exercising any right hereunder shall operate as waiver of such right or any other right. A waiver by Mortgagee of a provision of this Mortgage shall not prejudice or constitute a waiver of Mortgagee's right otherwise to demand strict compliance with that provision and shall not prejudice or constitute a waiver of Mortgagee's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Mortgagee, nor any course of dealing between Mortgagor and Mortgagee, or between Mortgagor and any Guarantor, shall constitute a waiver of any of Mortgagee's rights or of any obligations of Mortgagor or of any Guarantor. Whenever the consent of Mortgagee is required under this Mortgage, the granting of such consent in any instance shall not constitute continuing consent in subsequent instances where such consent is required, and, in all cases, such consent may be granted or withheld in the sole discretion of Mortgagee.

# UNOFFICIAL COPY

k. Notices. All notices, demands and requests required or permitted to be given to Mortgagor or Mortgagee hereunder or by law must be in writing and signed by the party giving same and shall be deemed given when delivered in person, or two (2) business days after deposit in the United States mail with full postage prepaid by certified mail (return receipt requested), or one (1) business day after deposit with a nationally-recognized overnight courier, addressed as follows:

**To Mortgagor:**

c/o Brian P. Dolehide  
223 S. Quincy Street  
Hinsdale, IL 60521

**To Mortgagee:**

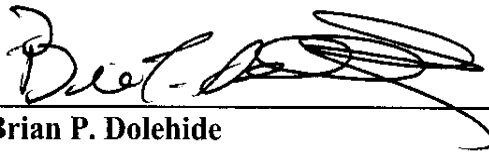
Vencap Financial, LLC  
c/o Norman J. Beles, Mgr.  
120 East Ogden, Suite 124  
Hinsdale, IL 60521

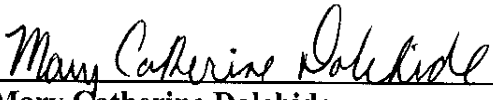
Property of Cook County Clerk's Office



# UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor has executed this Junior Mortgage this 25th day of June, 2004.

  
\_\_\_\_\_  
Brian P. Dolehide

  
\_\_\_\_\_  
Mary Catherine Dolehide

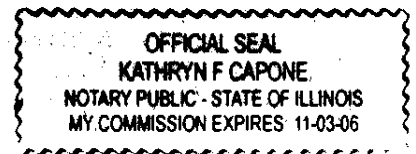
STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that **Brian P. Dolehide**, now of Hinsdale, IL, personally known to me to be the same person whose name is subscribed to the foregoing instrument (or having produced sufficient identification), appeared before me this day in person and acknowledged under oath signing and delivering the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 25th day of June, 2004.

  
\_\_\_\_\_  
Notary Public

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )

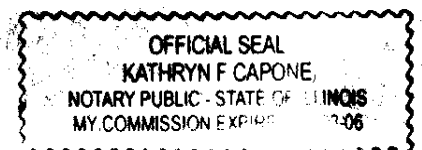


I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that **Mary Catherine Dolehide**, now of Hinsdale, IL, personally known to me to be the same person whose name is subscribed to the foregoing instrument (or having produced sufficient identification), appeared before me this day in person and acknowledged under oath signing and delivering the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this 25th day of June, 2004.

  
\_\_\_\_\_  
Notary Public

Dolehide.Mortgage



**UNOFFICIAL COPY**  
**EXHIBIT "A"**

**LEGAL DESCRIPTION**  
**956 Taft Road, Hinsdale, IL 60521**  
**PIN: 18-07-310-022**

**LOT 15 IN BLOCK 10 OF THE WOODLANDS OF HINSDALE, ILLINOIS,  
BEING A SUBDIVISION OF (EXCEPT THE WEST 1312.4 FEET OF THE  
NORTH 718.2 FEET) THE SOUTHWEST QUARTER OF SECTION 7,  
TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL  
MERIDIAN, IN COOK COUNTY, ILLINOIS.**

Property of Cook County Clerk's Office