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Doc#: 0426039054
Eugene "Gene" Moore Fee: \$40.50
Cook County Recorder of Deeds
Date: 09/16/2004 11:02 AM Pg: 1 of 9

THIS INSTRUMENT
PREPARED BY
AND AFTER RECORDING
RETURN TO:

Martin W. Salzman, Esq.
Schwartz, Cooper, Greenberger
& Krauss, Chtd.
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601

Above Space for Recorder's Use Only

JUNIOR MORTGAGE

THIS JUNIOR MORTGAGE (this "Mortgage") is dated as of May 31, 2004, by and between **BRUCE STOPKA** ("Bruce") and **MARGARET STOPKA**, as *[joint tenants]* (the "Mortgagor") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns (the "Mortgagee").

WITNESSETH.

WHEREAS, Stopka and Associates, Inc., an Illinois corporation (the "Corporation") and Mortgagee entered into that certain Business Loan Agreement (Asset Based) dated as of April 1, 2002, as thereafter amended from time to time (the "Loan Agreement"); and

WHEREAS, the loan (the "Loan") made pursuant to the Loan Agreement matured on May 31, 2004 and Mortgagee notified Corporation that it was unwilling to further extend the Expiration Date; and

WHEREAS, Corporation has been unable to refinance the Loan at another financial institution and has requested that the Mortgagee forbear from taking any action until September 30, 2004 in order to allow Corporation additional time to refinance the Loan, and Mortgagor has agreed to do so on the terms and conditions pursuant to that certain Forbearance Agreement, dated June 30, 2004 by and among Corporation and Mortgagee (as the same may be amended, restated, modified or supplemented and in effect from time to time, the "Agreement"); and

WHEREAS, Bruce is the president of the Company and a guarantor of obligations under the Loan Agreement and pursuant to the terms and conditions of the Agreement, Bruce is causing the execution and delivery of this Mortgage.

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NOW, THEREFORE, to secure the payment of the Loan, Corporation's obligations under the Agreement and the payment of all amounts due under and the performance and observance of all covenants and conditions contained in this Mortgage, Mortgagor hereby convey, mortgage, warrant, assign, transfer, pledge and deliver to Mortgagee and Mortgagee's successors and assigns, the following described real estate and all of Mortgagor's estate, right, title and interest therein, situate, lying and being in the CITY OF BARRINGTON HILLS, COUNTY OF COOK, IN THE STATE OF ILLINOIS, to wit:

See Exhibit "A" attached hereto

which, with the property hereinafter described is referred to herein as the "premises,"

Permanent Real Estate Index Number(s): 01-04-101-010-0000

Address(es) of Real Estate: Lot 9 in Barrington Donlea Subdivision, Barrington Hills, Illinois.

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 Mortgagor 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, 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 Mortgagor or their successors or assigns shall be considered as constituting part of the real estate.

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

The name of a record owner is: Bruce Stopka and Margaret Stopka, his wife, as joint tenants.

Notwithstanding anything to the contrary contained herein, the liens, rights and remedies granted or created by this Mortgage are junior, subject and subordinate to those granted or created by: 1) Mortgage dated May 14, 2004 and recorded on June 15, 2004 as Document No. 0416704067 to Barrington Bank and Trust Company to secure a note for \$90,000.00 (as amended, the "First Mortgage"). If there is any indisputable conflict or inconsistency between any requirements or obligations set forth in this Mortgage and any requirements or obligations set forth in the First Mortgage (the "Prior Mortgage Documents"), the requirements and obligations of the Prior Mortgage Documents shall govern, and compliance by Mortgagor with such requirements and obligations shall not be deemed a default hereunder.

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COVENANTS, CONDITIONS AND PROVISIONS

1. Mortgagor 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 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; and (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagor 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 Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor 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 Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or 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, Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee (a) it might be unlawful to require Mortgagor 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, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the indebtedness secured hereby to be and become due and payable thirty (30) 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 security instruments hereby secured, the Mortgagor covenant and agree to pay such tax in the manner required by any such law. Mortgagor further covenant to hold harmless and agree to indemnify Mortgagee, and Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the security instruments secured hereby.

5. Mortgagor 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 monies 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 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,

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to Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to the respective dates of expiration.

6. In case of default, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor 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 Mortgagee on account of any default hereunder on the part of Mortgagor.

7. 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.

8. Mortgagor shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of Mortgagee and without notice to Mortgagor, all unpaid indebtedness secured by this Mortgage shall, notwithstanding anything in the Loan Agreement, the Agreement, this Mortgage, and any other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit, and any other documents and instruments now or hereafter executed and delivered in connection with the Loan, and any and all amendments, renewals, extensions and replacements hereof and thereof (collectively, the "Loan Documents") 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 any note secured hereby, or (b) when a default shall occur and continue for three (3) days in the performance of any other agreement of Mortgagor herein contained.

9. 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, and similar data and assurances with respect to title as Mortgagee may deem to be 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

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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.

10. 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; third, all principal and interest remaining unpaid under the Loan Agreement; fourth, any surplus to Mortgagor, their heirs, legal representatives or assigns, as their rights may appear.

11. 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 Mortgagor 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 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 Mortgagor, 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.

12. 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 security instruments hereby secured.

13. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

14. Mortgagor shall periodically deposit with Mortgagee such sums as Mortgagee may reasonably require for payment of taxes, insurance and assessments on the premises. No such deposit shall bear any interest. Notwithstanding anything to the contrary contained herein, compliance with a similar situation in a superior mortgage shall be deemed compliance herein.

15. 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

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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 Mortgagee, notwithstanding such extension, variation or release.

16. This Mortgage and all provisions hereof, shall extend to and be binding upon Mortgagor and all persons claiming under or through Mortgagor, and the word "Mortgagor" when used herein shall include all such persons. The word "Mortgagee" when used herein shall include the successors and assigns of Mortgagee named herein and the holder or holders, from time to time, of the security instruments secured hereby.

17. Each Mortgagor and Mortgagee hereby irrevocably waive the right to trial by jury with respect to any action in which such Mortgagor and Mortgagee are parties.

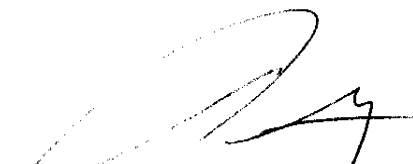
18. Each Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, to the extent not prohibited by law, under any order or decree of foreclosure of this Mortgage, on his or her own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of such Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes.

19. If any one or more of the provisions of this Mortgage shall be held to be invalid, unlawful or unenforceable in any respect, then the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

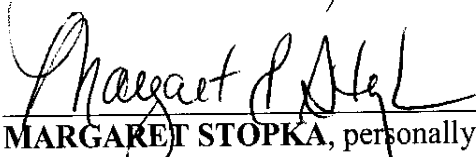
[Remainder of page intentionally left blank; signature page follows]

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IN WITNESS WHEREOF, Mortgagor have caused this Junior Mortgage to be executed as of the day and year first above written.



BRUCE STOPKA, personally



MARGARET STOPKA, personally

Property of Cook County Clerk's Office

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **BRUCE STOPKA**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as **BRUCE STOPKA**, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 24th day of August, 2004.



Susan Ann Galle

Notary Public

My Commission Expires: June 19, 2006

STATE OF ILLINOIS)
) SS.
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **MARGARET STOPKA**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as **MARGARET STOPKA**, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 24th day of August, 2004.

Susan Ann Galle

Notary Public

My Commission Expires: June 19, 2006



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EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

LOT 9, IN BARRINGTON DONLEA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 4, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 01-04-101-010-0000

COMMON ADDRESS: