



Doc#: 0513141113  
Eugene "Gene" Moore Fee: \$52.00  
Cook County Recorder of Deeds  
Date: 05/11/2005 12:51 PM Pg: 1 of 15

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Recording requested by, and  
when recorded mail to:

Otten, Johnson, Robinson,  
Neff & Ragonetti, P.C.  
950 Seventeenth Street  
Suite 1600  
Denver, Colorado 80202  
Attention: David T. Brennan, Esq.

**SUBORDINATION OF MANAGEMENT AGREEMENT**

THIS SUBORDINATION OF MANAGEMENT AGREEMENT is made as of  
May 3, 2005, by BERKSON & SONS LTD., an Illinois corporation (the "Manager"), and  
HERITAGE CAPITAL VENTURES I, L.L.C., an Illinois limited liability company  
("Borrower"), to and for the benefit of FIRST SUNAMERICA LIFE INSURANCE  
COMPANY, a New York corporation (the "Lender").

**RECITALS**

A. Borrower owns legal title to certain real property described on Exhibit A  
attached hereto and certain personal property located thereon and used in connection therewith  
(said real and personal property being collectively referred to hereinafter as the "Property").

B. Borrower and the Manager have entered into a certain management  
agreement dated July 27, 1999, (the "Management Agreement"), a copy of which is attached  
hereto as Exhibit B, whereby the Manager has agreed to furnish services for the operation and  
management of the Property in exchange for certain payments to the Manager for its services.

C. Lender has agreed to make a loan (the "Loan") in the principal sum of  
Four Million Seventy Thousand Dollars (\$4,070,000.00) to Borrower. The Loan is evidenced by  
a certain Promissory Note (the "Note") of even date herewith made by Borrower to the order of  
Lender in the principal amount of the Loan. The Note is secured by, among other things, a  
Mortgage, Security Agreement, Fixture Filing, Financing Statement and Assignment of Leases

15Key Box 400-CTCC

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and Rents (the "Mortgage") of even date herewith made by the Borrower granting a lien on the Property and to be recorded in the office of the Cook County Recorder (the Note, Mortgage and all other documents evidencing and securing the Loan, whether now existing or hereafter executed, and all amendments, modifications, extensions, renewals or replacements thereto or thereof being referred to hereinafter collectively as the "Loan Documents").

D. Pursuant to 770 ILCS 60/1 *et seq.*, property managers have certain lien rights under the Illinois Mechanics' Lien Act for services rendered in the management of any structure.

E. Lender requires as a condition precedent to its making of the Loan, that (i) the indebtedness evidenced by the Note and the lien and security interests of the Mortgage and Loan Documents be paramount and prior to any and all obligations, expenses and indebtedness owing to the Manager which arise from the Management Agreement (collectively, the "Junior Liabilities"), and any and all existing liens or future rights to liens of the Manager or anybody claiming by, through or under the Manager which arise from any and all obligations, expenses and indebtedness owing to the Manager under or in connection with the Management Agreement (collectively, the "Junior Liens"), and (ii) Borrower and the Manager agree that the Management Agreement may be terminated by Lender if a default occurs under the Note, the Mortgage or any of the Loan Documents that is not cured within any applicable grace period.

F. The Manager will directly and materially benefit from the making of the Loan.

## AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce Lender to make and disburse the Loan, the parties hereto do hereby agree as follows:

1. The Junior Liabilities and the Junior Liens are hereby subordinated to each and every one of the Note, the Mortgage, and the other Loan Documents, the liens and security interests created thereby, and all indebtedness, liabilities and obligations of any kind whatsoever (whether now existing or hereafter arising and regardless of the aggregate amount thereof) owing by Borrower to Lender under the Loan Documents (collectively, the "Senior Liabilities").

2. The payment of all Junior Liabilities shall be subordinated to the payment in full of all Senior Liabilities. No payment in respect of any Junior Liabilities shall be made at any time by Borrower, and the Manager shall not accept any such payment, on or after the date Borrower and Manager, respectively, have been notified by Lender of any default in the payment or performance of any of the Senior Liabilities. In the event the Manager receives any such payment, the same shall be received in trust for Lender and immediately turned over by the Manager to Lender.

3. Manager acknowledges that Borrower has assigned its interest in the Management Agreement to Lender pursuant to the Mortgage. Manager hereby consents to the provisions of the Mortgage and agrees that Manager will, in the event Lender elects to exercise

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its rights under the Mortgage and notwithstanding any breach by Borrower of the Management Agreement or any foreclosure proceedings affecting the Property, continue to perform for Lender the obligations to be performed for Borrower under the Management Agreement in accordance with its terms and conditions and without additional cost to Lender other than in accordance with the Management Agreement as approved by Lender, so long as Lender pays all amounts as and when due Manager under the Management Agreement for services to be rendered and for services previously rendered in accordance with the Management Agreement as approved by Lender (excluding any amounts previously paid by Borrower to Manager and any amounts for services rendered under modifications, amendments, supplements or addenda to the Management Agreement that have not been approved in writing by Lender). Anything herein or in the Mortgage or the Management Agreement to the contrary notwithstanding, Manager hereby acknowledges that Lender shall have no personal obligations or liabilities under the Management Agreement, Manager's sole right and remedy against Lender being the enforcement of Manager's lien rights, if any, against the Property.

4. The Manager hereby certifies the following to Lender, as of the date hereof: (a) that attached hereto as Exhibit B is a full, complete and accurate copy of the Management Agreement; (b) that the Management Agreement is in force and effect and Manager is not in default thereunder and has no notice or knowledge of any default by Borrower thereunder; and (c) that Manager has no counterclaim, right of set-off, defense or like right against Borrower or Lender as of the date hereof. Manager agrees that if Lender exercises any or all of its rights under the Mortgage, Manager will perform the obligations specified to be performed by it under the Management Agreement for Lender notwithstanding any counterclaim, right of set-off, defense or like right of Manager against Borrower for Borrower's breach of the Management Agreement.

5. Notwithstanding anything contained in the Management Agreement to the contrary, Borrower and the Manager agree that upon the occurrence of a default or event of default under the Note, the Mortgage or any of the other Loan Documents, Lender may, at its option, upon not less than thirty (30) days' prior, written notice to the Manager, terminate the Management Agreement and Lender shall have no obligations or liability to the Manager on account thereof; provided however, that (subject to Paragraph 2 hereof) unless and until Lender so terminates the Management Agreement and for so long as Manager performs its services in accordance with the provisions of the Management Agreement, Manager shall be entitled to be paid the management fee provided for in the Management Agreement.

6. Any notices which may be given hereunder shall be deemed given (a) when personally delivered, (b) on the first business day after receipt and delivery to a courier service which guarantees next-business-day delivery, or (c) three (3) business days after deposit when mailed by United States certified or registered mail, postage prepaid, return receipt requested, in any case properly addressed as follows:

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To the Manager:

Berkson & Sons Ltd.  
333 Skokie Boulevard, Suite 111  
Northbrook, Illinois 60062  
Attn: David Berkson

To Borrower:

Heritage Capital Ventures I, L.L.C.  
9121 Kedvale  
Skokie, Illinois 60076  
Attention: Stan Weissbrot

To Lender:

First SunAmerica Life Insurance Company  
c/o AIG Global Investment Corp.  
1 SunAmerica Center, 38<sup>th</sup> Floor  
Century City  
Los Angeles, California 90067-6022  
Attention: Director, Mortgage Lending  
and Real Estate

with a copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.  
950 Seventeenth Street, Suite 1600  
Denver, Colorado 80202  
Attention: David T. Brennan, Esq.

or to such other address the party to receive such notice may have therefore furnished to all other parties by notice in accordance herewith.

7. This Agreement shall be binding upon the Manager and Borrower and upon their successors and assigns.

8. The Manager and Borrower agree to execute such further documents or instruments and take such further actions as Lender may reasonably request from time to time to carry out the intent of this Agreement.

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9. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

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Property of Cook County Clerk's Office

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MANAGER:

BERKSON & SONS LTD., a

---

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

BORROWER:

HERITAGE CAPITAL VENTURES I, L.L.C., an  
Illinois limited liability company

By: Stanley Weissbrot  
Stanley Weissbrot  
Manager

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STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_ certify that \_\_\_\_\_ as  
\_\_\_\_\_ of Berkson & Sons Ltd., 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 he signed and delivered the instrument as his free and voluntary act, for  
the uses and purposes therein set forth.

Dated: \_\_\_\_\_.

My commission expires \_\_\_\_\_

Witness my hand and official seal.

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

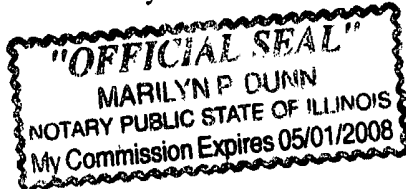
STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF Cook )

I, Marilyn Dunn certify that Stanley Weissbrot as Manager of  
Heritage Capital Ventures I, L.L.C., 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 he signed and delivered the instrument as his free and voluntary act, for the  
uses and purposes therein set forth.

Dated: May 3, 2005

My commission expires 5/1/08

Witness my hand and official seal.



Marilyn P. Dunn  
Notary Public

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MANAGER:

BERKSON & SONS LTD., a

\_\_\_\_\_

By: David B. Berkson

Name: DAVID B BERKSON

Title: PRESIDENT

BORROWER:

HERITAGE CAPITAL VENTURES I, L.L.C., an  
Illinois limited liability company

By: \_\_\_\_\_

Stanley Weissbrot  
Manager

Property of Cook County Clerk's Office



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STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF LAKE )

I, KAREN L FRITTS certify that DAVID B BERKSON as PRESIDENT of Berkson & Sons Ltd., 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 he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: APRIL 29, 2005.

My commission expires OCTOBER 17, 2006

Witness my hand and official seal.

Karen L Fritts  
Notary Public



STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_ certify that Stanley Weissbrot as Manager of Heritage Capital Ventures I, L.L.C., 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 he signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Dated: \_\_\_\_\_.

My commission expires \_\_\_\_\_

Witness my hand and official seal.

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

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## EXHIBIT A

### (Description of Property)

Lots 10, 11 and 12 in Krohn's Chestnut Avenue Subdivision of parts of the Northwest  $\frac{1}{4}$  of Section 26 and the Northeast  $\frac{1}{4}$  of Section 27, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

1941-2019 JOHNS DRIVE  
GLENVIEW, ILLINOIS

04-27-203-008-0000

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04-27-203-010-0000

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EXHIBIT B

[MANAGEMENT AGREEMENT]



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## MANAGEMENT AGREEMENT FOR: HERITAGE VENTURES I, II, III, L.L.C.

CAPITAL

This agreement is made this 27th day of July, 1999, by and between Berkson & Sons Ltd., hereinafter called "Agent" and Heritage Ventures, I, II, III, L.L.C. hereinafter called "Owner", and the parties hereto agree as follows:

1. The Owner hereby employs the Agent exclusively to manage the property known as 1844 Techny, Northbrook, Illinois, 100 Touhy, Des Plaines, Illinois and 1941 St. Johns, Glenview, Illinois (herein known as "Premises") upon the terms and conditions hereinafter set forth, commencing on the 1st of August, 1999 and ending on the 31st of July, 2000. This term shall thereafter automatically be renewed for additional succeeding one year periods, however this agreement may be terminated with thirty (30) days written notice by either party at any time during said term.
2. THE AGENT AGREES:
  - (A) To accept the management of the Premises, upon the terms and conditions herein provided, and to furnish the services of its management organization to conduct the exclusive management of the Premises as provided in this Agreement.
  - (B) To prepare and deliver monthly unaudited statements of rent and income received and disbursements made from Agent's records to the designated party.
  - (C) To cooperate with the Owner's lawyers and accountants with respect to the preparation of legal documents and financial information, which such lawyers and accountants shall be engaged by Owner, at Owner's sole cost and expense.

3. THE OWNER AGREES:

That the Agent is authorized to take or cause to be taken the following actions on behalf of and in the name of Owner, all at the Owner's expense:

- (A) To cause credit and references of prospective tenants to be investigated; to execute, as the agent of the Owner or, if the Owner is a land trust, as the

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agent for the beneficiaries of the land trust, leases; to amend, extend or cancel leases; to terminate tenancies and to sign and serve such notices as are deemed appropriate by the Agent; to institute and prosecute when deemed appropriate, actions to evict tenants, to recover possession of the Premises occupied by them or to recover rents and any other sums due, and, when expedient, to settle, compromise and release such disputes or actions or reinstate such tenancies. Agent acknowledges that it may only take, or cause to be taken, the foregoing actions on behalf of and in the name of the Owner, at Owner's expense, upon first having obtained the approval of the Owner with respect to any such act, unless same are in accordance with leasing guidelines established by the Owner.

(B) To hire, discharge and pay all engineers, janitors and other employees to service the Premises, which may be employees of Agent. To maintain the Premises and make or cause to be made all ordinary repairs and replacements needed to preserve the Premises in their present condition or needed for the operating efficiency of the Premises; to cause to be done all decorating and all alterations necessary to comply with lease requirements or to rent the Premises; to purchase supplies and pay all bills; to make contracts and arrangements for all utilities and any repairs or replacements deemed necessary by Agent.

(C) To collect rents and/or assessments and other items due or to become due, and to deposit all funds collected hereunder in a separate Agent Account and to approve and pay all operating expenses (including Agent's fee and expenses) therefrom.

(D) To collect security deposits, if required, from applicants or tenants and deposit same in Agent's Account or a specific segregated funds account, and to refund such security deposits when appropriate.

#### 4. THE OWNER FURTHER AGREES:

(A) To give adequate advance written notice to the Agent if the Owner desires that the Agent make payment out of the proceeds from the Premises of mortgage indebtedness, general taxes, special assessments, or fire, steam boiler or any other insurance premiums. The Agent is authorized to pay, out of the proceeds from the Premises, any expenses incurred by it under this Agreement prior to paying any such indebtedness, taxes, assessments or premiums. In no event shall the Agent be required to advance its own money in payment of any such indebtedness, taxes, assessments or premiums.

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(B) To provide adequate insurance naming Berkson & Sons as an additional insured with respect to their interest in the property and general liability at 1844 Techny, Northbrook, IL, 100 Touhy, Des Plaines, IL, and 1941 St. Johns, Glenview, IL.

(C) The Agent shall not assume and is given no responsibility for compliance of any building on the Premises, or any property or equipment therein, with the requirements of any law, except promptly to notify the Owner of, or forward to the Owner, any complaints or summonses received by it relating to such matters. The Owner represents that, to the best of its knowledge, the Premises and the property and equipment thereon comply with all such requirements, and agrees to indemnify and hold harmless the Agent from and against all claims, losses, injuries, damages or liabilities whatsoever which may be imposed by reason of any present or future violation or alleged violation of such laws, including, but not limited to, reasonable attorneys' fees and the cost of the time taken by the Agent to testify or engage in any other work in connection with any proceeding or suit involving a violation or alleged violation. The Agent shall have the right to disclose the ownership of the Premises to any official of any governmental or public authority requesting such disclosure.

(D) Owner hereby indemnifies, holds harmless, and agrees to defend Agent from and against all claims, demands, judgments and expenses (including attorney's fees) incurred by Agent, as a consequence of any injury to persons and/or damage to property which directly or indirectly relates to, or arises as a consequence of the use and operation of, the Premises; provided, however, Owner's liability hereunder shall not exceed the stated limits of liability in policies of liability insurance (including the limits of all "umbrella" or "excess coverage") in effect with respect to the subject damage or injury.

(E) In the event it is alleged or charged that any building on the Premises or any property or equipment therein or any act or failure to act by Owner with respect to the Premises, or the sale, rental or other disposition thereof, fails to comply with, or is in violation of any of the requirements of any law, and the Agent, in its sole and absolute discretion, considers that the action or position of the Owner with respect thereto may result in damage or liability to the Agent, or in the event that Owner fails to promptly pay any amounts due hereunder to Agent, the Agent shall have the right to terminate this Agreement at any time by written notice to the Owner of its election so to do, which termination shall be effective upon the service of such notice or upon such later date as is stated therein.

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## 5. COMPENSATION.

(A) Owner shall pay to Agent, at the end of month, for that month's general Management services, a flat fee of \$3750.00 per month.

(B) Owner shall pay the Agent a 1% fee for tenant lease renewals. (See Exclusive Listing Agreement for all other commission terms.)

(C) Owner shall pay to Agent a fee ("Construction Fee") equal to 3% of the "cost" of the T.I. work (Tenant Improvements) and/or Capital Improvements. The fee shall be payable upon completion of each such contract. Repairs and maintenance to be performed in the normal course of building management are specifically excluded from this provision.

*Revised to 2%  
Per verbal  
agreement  
2002*

IN WITNESS WHEREOF, the parties hereto have executed duplicate copies of this Agreement this \_\_\_\_\_ day of \_\_\_\_\_.

AGENT:

OWNER(S) OR BENEFICIARY(IES)  
OF TRUST:

BERKSON & SONS LTD.

HERITAGE VENTURES I L.L.C.  
HERITAGE VENTURES II, L.L.C.  
HERITAGE VENTURES III L.L.C.  
CAPITAL *N*

BY: *David B. Berk*

BY: *Stanley Slone*

DATE: *7/30/99*

*Property of Cook County Clerk's Office*