

# UNOFFICIAL COPY

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INSTRUMENT PREPARED BY:  
ALLEN C. WESOLOWSKI  
MARTIN & KARCAZES, LTD.  
161 N. Clark Street - Suite 550  
Chicago, Illinois 60601



Doc#: 0517935258  
Eugene "Gene" Moore Fee: \$36.00  
Cook County Recorder of Deeds  
Date: 06/28/2005 09:28 AM Pg: 1 of 7

PLEASE RETURN TO:  
ARCHER BANK  
4970 S. Archer Avenue  
Chicago, Illinois 60632

## JUNIOR MORTGAGE

This mortgage made and entered into this 20th day of June, 2005 by and between MIRNA N. MARTINEZ, (hereinafter collectively referred to as mortgagor) and ARCHER BANK (hereinafter referred to as mortgagee), which maintains an office and place of business at 4970 S. Archer Avenue, Chicago, Illinois 60632.

WITNESSETH, that for the consideration hereinafter stated, receipt of which is hereby acknowledged, the mortgagor does hereby mortgage, sell, grant, assign and convey unto the mortgagee, his successors and assigns, all of the following described property situated at 1639 N. Bell, Chicago, IL 60622 and being in the County of Cook, State of Illinois:

LOT 16 IN BLOCK 2 IN WINSLOW AND JACOBSEN AND TALMAN'S SUBDIVISION OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 16-01-206-014-0000

THIS IS HOMESTEAD PROPERTY

Together with and including all buildings, all fixtures including but not limited to all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning apparatus, and elevators (the mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon; the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, all rights of redemption, and the rents, issues and profits of the above described property (provided, however, that the mortgagor shall be entitled to the possession of said property and to collect and retain the rents, issues, and profits until default hereunder). To have and to hold the same unto the mortgagee and the successors in interest of the mortgagee forever in fee simple or such other estate, if any, as is stated herein.

The mortgagor hereby releases and waives all rights under and by virtue of the homestead exemption laws of the State of Illinois.

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The mortgagor covenants that he is lawfully seized and possessed of and has the right to sell and convey said property, that the same is free from all encumbrances except as hereinabove recited; and that he hereby binds himself and his successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

This instrument is given to secure the payment of a promissory note dated June 20, 2005 in the principal sum of \$800,000.00, signed by Mirna Martinez (hereinafter, the "Note"), together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions of the Note, (hereinafter called the "Indebtedness Hereby Secured"). At no time shall the principal amount of the Indebtedness Hereby Secured, not including the sums advanced in accordance herewith to protect the security of this mortgage, exceed the original amount of the notes, plus One Million (\$1,000,000.00) Dollars.

1. The mortgagor covenants and agrees as follows:
  - a. It will promptly pay the Indebtedness Hereby Secured.
  - b. It will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made hereinbefore, and will promptly deliver the official receipts therefor to the mortgagee.
  - c. It will pay such expenses and fees as may be incurred in the protection and maintenance of said property, including the fees of any attorney employed by the mortgagee for the collection of any or all of the indebtedness hereby secured, or foreclosure by mortgagee's sale, or court proceedings, or in any other litigation or proceeding affecting said property. Attorneys' fees reasonably incurred in any other way shall also be paid by the mortgagor.
  - d. For better security of the Indebtedness Hereby Secured, upon the request of the mortgagee, its successors or assigns, it shall execute and deliver a supplemental mortgage or mortgages covering any additions, improvements, or betterments made to the property hereinabove described (all in form satisfactory to mortgagee). Furthermore, should mortgagor fail to cure any default in the payment of a prior or inferior encumbrance on the property described by this instrument, mortgagor hereby agrees to permit mortgagee to cure such default, but mortgagee is not obligated to do so; and such advances shall become part of the indebtedness secured by this instrument, subject to the same terms and conditions.
  - e. The rights created by this conveyance shall remain in full force and effect during any postponement or extension of the time of the payment of the Indebtedness Hereby Secured.
  - f. It will continuously maintain hazard insurance, of such type or types and in such amounts as the mortgagee may from time to time reasonably require on the improvements now or hereafter on said property, and will pay promptly when due any premiums thereof. All insurance shall be carried in companies reasonably acceptable to mortgagee and the policies and renewals thereof shall be held by mortgagee and have attached thereto loss payable clauses in favor of and in

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form reasonably acceptable to the mortgagee. In event of loss, mortgagor will give immediate notice in writing to mortgagee, and mortgagee may make proof of loss if not made promptly by mortgagor. Mortgagor may itself adjust losses aggregating not in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars, without the consent of mortgagee. Losses in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars may also be adjusted by mortgagor with the consent of the mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned. Each insurance company concerned is hereby authorized and directed to make payment for such loss to mortgagor and mortgagee jointly. Provided that mortgagor is not in default beyond any applicable grace or cure period and that mortgagor has sufficient funds to restore or repair the property damaged or destroyed (taking into consideration the insurance proceeds to be made available), the insurance proceeds, or any part thereof, may be applied by mortgagor to the restoration or repair of the property damaged or destroyed. In all other cases, the mortgagee has the option whether to apply the insurance proceeds to reduce the Indebtedness Hereby Secured or to restore or repair the property damaged or destroyed. In event of foreclosure of this mortgage, or other transfer of title to said property in extinguishment of the Indebtedness Hereby Secured, all right, title, and interest of the mortgagor in and to any insurance policies then in force shall pass to the purchaser or mortgagee or, at the option of the mortgagee, may be surrendered for a refund. **Unless mortgagor provides mortgagee with evidence of the insurance coverage required herein, mortgagee may purchase insurance at mortgagor's expense to protect mortgagor's interest in the property. This insurance may, but need not, protect mortgagor's interests. The coverage that mortgagee purchases may not pay any claim that mortgagor makes or any claim that is made against mortgagor in connection with the property. Mortgagor may later cancel any insurance purchased by mortgagee, but only after providing mortgagee with written evidence that mortgagor has obtained insurance as required herein. If mortgagee purchases insurance for the property, mortgagor will be responsible for the costs of that insurance, including interest and any other charges mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness Hereby Secured. The costs of the insurance may be more than the cost of insurance mortgagor may be able to obtain on mortgagor's own.**

g. It will keep all buildings and other improvements on said property in good repair and condition; will permit, commit, or suffer no waste, impairment, deterioration of said property or any part thereof; in the event of failure of the mortgagor to keep the buildings on said premises and those erected on said premises, or improvements thereon, in good repair, the mortgagee may make such repairs as in its reasonable discretion it may deem necessary for the proper preservation thereof; and the full amount of each and every such payment shall be immediately due and payable; and shall be secured by the lien of this mortgage.

h. Except as otherwise provided herein, it will not voluntarily create or permit to be created against the property subject to this mortgage any lien or liens inferior or superior to the lien of this mortgage without the written consent of the mortgagee; and further, that it will keep and maintain the same free from the claim of all persons supplying labor or materials for construction of any and all buildings or improvements now being erected or to be erected on said premises. This mortgage is subject and subordinate to an existing mortgage recorded as Document No. 0507750122

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with the Cook County Recorder of Deeds.

i. It will not rent or assign any part of the rent of said mortgaged property or demolish, or remove, or substantially alter any building without the written consent of the mortgagee, which consent shall not be unreasonably withheld.

j. All awards of damages in connection with any condemnation for public use of or injury to any of the property subject to this mortgage are hereby assigned and shall be jointly payable to mortgagor and mortgagee. Mortgagor may itself settle any award aggregating not in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars, without the consent of mortgagee. Any award for damages in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars may also be settled by mortgagor with the consent of the mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned. Provided that mortgagor is not in default beyond any applicable grace or cure period, and that mortgagor has sufficient funds to restore or repair any improvement damaged by the taking of a portion the property subject to this mortgage (taking into consideration the award to be made available), the award of damages, or any part thereof, may be applied by mortgagor to the restoration or repair of the improvement so injured or taken. In all other cases, the mortgagee has the option whether to apply the award of damages to reduce the Indebtedness Hereby Secured or to restore or repair the improvements injured or taken. In event of foreclosure of this mortgage, or other transfer of title to said property in extinguishment of the Indebtedness Hereby Secured, all right, title, and interest of the mortgagor in and to any awards of damages in connection with any condemnation for public use of or injury to any of the property subject to this mortgage shall pass to the purchaser or mortgagee.

k. The mortgagee shall have the right to inspect the mortgaged premises at any reasonable time, upon reasonable advance notice.

l. It has not used Hazardous Materials, including, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in any federal, state or local governmental law, ordinance, rule or regulation, on, from or affecting the premises in any manner which violates federal, state or local laws, ordinances, rules, regulations, or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials, and that, to the best of his knowledge, no prior owner of the premises or any tenant, subtenant, occupant, prior tenant, prior subtenant or prior occupant has used Hazardous Materials on, from or affecting the premises in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials.

m. It has never received any notice of any violations of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of its knowledge, there have been no actions commenced or threatened by any party for noncompliance;

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n. It shall keep or cause the premises to be kept free of Hazardous Materials, and, without limiting the foregoing, he shall not cause or permit the premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall it cause or permit, as a result of any intentional or unintentional act or omission on its part, or on the part of any tenant, subtenant or occupant, a release of Hazardous Materials onto the premises or onto any other property.

o. It shall:

(i) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials, on, under, from or affecting the premises in accordance with all applicable federal, state, and local laws, ordinances, rules, regulations and policies, to the reasonable satisfaction of mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities; and

(ii) defend, indemnify and hold harmless mortgagee, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, contingent or otherwise (excluding consequential and punitive damages except to the extent mortgagee may be subject to the same by reason of any third party claim), arising out of, or in any way related to: (A) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from, or affecting the Premises or the soil, water, vegetation, buildings, personal property, persons or animals thereon; (B) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (C) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials; and/or (D) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of mortgagee, which are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses; provided that this indemnity shall not apply where the claim is attributable to acts of mortgagee or its agents. Mortgagee shall tender defense of any claim to mortgagor for handling with counsel of mortgagor's selection, and mortgagor shall control any remediation, provided mortgagor has not defaulted and failed to cure during any applicable cure period under the Note, Mortgage or any other agreement. This indemnity and this covenant shall survive the release of the lien of the Mortgage, foreclosure or deed in lieu thereof or by an other action, for a period one year, provided that its shall survive indefinitely with respect to any claims asserted against mortgagor hereunder during that one year period. This indemnity shall not apply to any fact, event or circumstance occurring after the Property has been transferred by mortgagor, by foreclosure, deed in lieu of foreclosure or otherwise.

2. Default, after expiration of applicable notice and cure periods, in any of the covenants or conditions of this instrument or of the notes or loan agreements secured hereby shall terminate the mortgagor's right to possession, use, and enjoyment of the property, at the option of the mortgagee or

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its assigns (it being agreed that the mortgagor shall have such right until default). Upon any such default, the mortgagee shall become the owner of all of the rents and profits accruing after default as security for the indebtedness secured hereby, with the right to enter upon said property for the purpose of collecting such rents and profits. This instrument shall operate as an assignment of any rentals on said property to that extent.

3. The mortgagor covenants and agrees that if it shall fail to pay the Indebtedness Hereby Secured or any part thereof when due, subject to applicable notice and cure periods, or shall fail to perform any covenant or agreement of this instrument or any note or guaranty secured hereby, subject to applicable notice and cure periods, the entire Indebtedness Hereby Secured shall immediately become due, payable and collectible without additional notice, at the option of the mortgagee or assigns, regardless of the maturity, and the mortgagee or its assigns may before or after entry sell said property without appraisal (the mortgagor having waived and assigned to the mortgagee all rights of appraisal) pursuant to the Illinois Mortgage Foreclosure Act, following the entry of the appropriate Judgment of Foreclosure and Sale.

4. The proceeds of any sale of said property in accordance with the preceding paragraph shall be applied first to pay the costs and expenses of said sale, the expenses incurred by the mortgagee for the purpose of protecting and maintaining said property, and reasonable attorneys' fees; secondly, to pay the Indebtedness Hereby Secured, and thirdly, to pay any surplus or excess to the person or persons legally entitled thereto.

5. In the event said property is sold at a judicial foreclosure sale, and the proceeds are not sufficient to pay the Indebtedness Hereby Secured, the mortgagee will be entitled to a deficiency judgment for the amount of the deficiency without regard to appraisal.

6. In the event the mortgagor fails to pay any Federal, state, or local tax assessment, income tax or other tax lien, charge, fee, or other expense charged against the property the mortgagee is hereby authorized at its option to pay the same. Any sums so paid by the mortgagee shall be added to and become a part of the principal amount of the Indebtedness Hereby Secured, subject to the same terms and conditions applicable under this mortgage and any note or guaranty secured hereby. If the mortgagor shall pay and discharge the Indebtedness Hereby Secured, and shall pay such sums and shall discharge all taxes and liens and the costs, fees, and expenses of making, enforcing and executing this mortgage, then this mortgage shall be canceled and surrendered.

7. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

8. No waiver of any covenant herein or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the note secured hereby.

9. A judicial decree, order or judgment holding any provision of this instrument invalid or unenforceable shall not in any way impair or preclude the enforcement of the remaining provisions

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or portions of this instrument.

10. Any written notice to be issued to the mortgagor pursuant to the provisions of this instrument shall be addressed to the mortgagor at 1639 N. Bell, Chicago, IL 60647, and any written notice to be issued to the mortgagee shall be addressed to the mortgagee at 4970 S. Archer Avenue, Chicago, Illinois 60632.

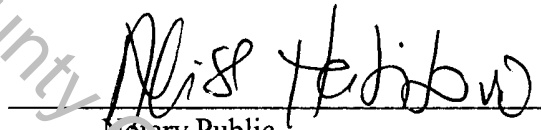
IN WITNESS WHEREOF, the mortgagor has executed this instrument and the mortgagee has accepted delivery of this instrument as of the day and year aforesaid.

  
MIRNA N. MARTINEZ

State of Illinois )  
  ) ss.  
County of Cook     )

The undersigned, a Notary Public in and for said county, in the aforesaid State, does hereby certify that MIRNA N. MARTINEZ, known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

Dated: June 20, 2005

  
Notary Public

