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Doc#: 0531318033 Fee: \$44.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 11/09/2005 12:05 PM Pg: 1 of 11

20PA

008187673

**SECOND MORTGAGE**

**THIS SECOND MORTGAGE** ("Mortgage") made on September 20, 2005, by Daniel Eberhardt (the "Mortgagor") to Maria D. Eberhardt (the "Mortgagee"):

**RECITALS:**

Mortgagor has executed and delivered to Mortgagee that certain Secured Promissory Note, of even date herewith, in an aggregate original principal amount of Five Hundred Nineteen Thousand Two Hundred Sixty-Three and 05/100 Dollars (\$519,263.05) (the "Note") which was given to Mortgagee in connection with Judgment For Dissolution of Marriage, Case No. 03 D 2224, entered on October 26, 2004 in the Circuit Court of the Eighteenth Judicial Circuit in the County of DuPage in the State of Illinois;

As a condition to the extension of credit evidenced by the Note and the Judgment, Mortgagee has required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interests referred to herein to secure the payment of the principal amount evidenced by the Note together with interest thereon and other payment and performance obligations related to this Mortgage (the aforesaid \$519,263.05 of principal indebtedness, plus interest and other payment and performance obligations being hereinafter referred to collectively as the "Liabilities");

**THIS INSTRUMENT PREPARED BY AND UPON RECORDING SHOULD BE RETURNED TO:**

Frances White  
White & White  
5100 Main Street  
Suite 200  
Downers Grove, Illinois 60515

**PERMANENT TAX INDEX NUMBER:**

16-35-122-028-0000

**STREET ADDRESS:**

3307 S. Lawndale Avenue  
Chicago, Illinois

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**NOW, THEREFORE, TO SECURE PAYMENT** of the Liabilities and in consideration of One Dollar (\$1.00) in hand paid, receipt whereof is hereby acknowledged, Mortgagor does hereby grant, remise, release, alien, convey, mortgage and warrant to Mortgagee, its successors and assigns, the following described real estate in, Cook County, Illinois.

See Exhibit A attached hereto and by this reference made a part hereof which real estate, together with the property described in the next succeeding paragraph is herein called the "premises."

**TOGETHER WITH** all right, title and interest, including the right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to:

(a) any lands occupied by streets, alleys, or public places adjoining said premises or *in* such streets, alleys or public places; and

(b) all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances, and all other rights and privileges thereunto belonging or appertaining;

**TO HAVE AND TO HOLD** the premises, properties, rights and privileges hereby conveyed or assigned, or intended so to be, to Mortgagee, its successors and assigns, forever for the uses and purposes herein set forth, Mortgagor *hereby* releases and waives all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois, and Mortgagor hereby covenants that, at the time of the enrolling and delivery of these presents, Mortgagor is well seized of said real estate and premises in fee simple, and with full legal and equitable title to the mortgaged property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that it is free and clear of encumbrances, except for a first mortgage in favor of LaSalle Bank National Association ("LaSalle") dated January 5, 2004 (as now existing or as hereafter amended the "First Mortgage") securing a note to LaSalle in the amount of \$1,265,000 dated September 20, 2005, and that Mortgagor will forever defend the same against all lawful claims.

1. Mortgagor agrees: (a) not to abandon the premises; (b) to keep the premises in good, safe and insurable condition and repair and not to commit or suffer waste; (c) to refrain from impairing or diminishing the value of this Mortgage; and (d) neither to make nor to permit structural or other substantial alterations in the buildings or any substantial construction on the premises without the written consent of Mortgagee.

2. Mortgagor agrees to pay not later than the due date and before any penalty or interest attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed or imposed on or against the premises.

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3. Mortgagor agrees that, if the United States or the State of Illinois or any of their subdivisions having jurisdiction shall levy, assess, or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the interest of Mortgagee in the premises or upon Mortgagee by reason of or as holder of any of the foregoing then Mortgagor shall pay (or reimburse Mortgagee for) such taxes, assessments or impositions.

4. Mortgagor agrees to maintain in force at all times insurance coverage on the premises in commercially reasonable amounts.

5. Mortgagor agrees that he will comply with all laws, ordinances, acts, rules, regulations and orders of any commission or officer (whether federal, state or local) exercising any power of regulation or supervision over Mortgagor, or any part of the premises, whether the same be directed to the repair thereof, manner of use thereof, structural alternation of buildings located thereon, or otherwise.

6. If any building or other improvement now or hereafter erected on the premises shall be destroyed or damaged by fire or any other cause, whether insured or uninsured, Mortgagee shall have the right either to apply any insurance proceeds or other recovery related to said loss to a reduction of the Liabilities or to require Mortgagor to restore or rebuild such building or other improvement with materials and workmanship of as good quality as existed before such damage and destruction to substantially restore their former state, commencing the work of restoration or rebuilding as soon as possible and proceeding diligently with it until completion. Plans and specifications for the restoration as hereon required shall be submitted to Mortgagee prior to commencement of work and shall be subject to reasonable approval of Mortgagee.

7. Mortgagor agrees to indemnify Mortgagee from all loss, damage and expense, including reasonable attorney's and paralegals' fees and expenses and the costs of any settlement or judgment, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage and all such fees, expenses and costs shall be additional Liabilities secured hereby.

8. Mortgagor hereby assigns to Mortgagee, as additional security all awards of damage resulting from condemnation proceedings or the taking of or injury to the premises for public use, and Mortgagor agrees that the proceeds of all such awards shall be paid to Mortgagee and all of its expenses in connection with such proceedings, including reasonable attorney's fees and expenses to the reduction of the Liabilities hereby secured, and Mortgagee is hereby authorized, on behalf of and in the name of Mortgagor, to execute and deliver valid acquittance for and to appeal from any such award.

9. Mortgagor agrees that, from and after the occurrence of a default under this Mortgage, Mortgagee may, but need not, make any payment or perform any act herein before required of Mortgagor, in any form and manner deemed expedient after reasonable inquiry into

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the validity thereof. All money paid for any of the purposes herein authorized and all other moneys advanced by Mortgagee to protect the premises and the lien hereof shall, be additional Liabilities secured hereby and shall become immediately due and payable without notice and shall bear interest thereon at the interest rate described in the Note ("interest Rate") until paid to Mortgagee in full.

10. Mortgagee, or any person designated by Mortgagee in writing, shall have the right, from time to time hereafter, to call at the premises (or at any other place where information relating thereto is kept or located) during reasonable business hours and, without hindrance or delay, to make such inspection and verification of the premises.

11. A default shall be deemed to have occurred under this Mortgage ("default") upon the occurrence of a "Default" under the Note or upon Mortgagor's failure to observe or perform any covenant or agreement contained in this Mortgage. If any such default shall have occurred, then, to the extent permitted by applicable law, the following provisions shall apply:

(a) All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without presentment, demand or further notice.

(b) It shall be lawful for Mortgagee to immediately foreclose this Mortgage by action. The court in which any proceeding is pending for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter either before or after sale, without notice and without required bond, and without regard to the solvency or insolvency of any person liable for payment of the Liabilities secured hereby, and without regard to the then value of the premises or the occupancy thereof as a homestead, appoint a receiver (the provisions for the appointment of a receiver and assignment of rents being an express condition upon which the loan hereby secured is made) for the benefit of Mortgagee, with power to collect the rents, issues and profits of the premises, due and to become due, during such foreclosure suit and the full statutory period of redemption notwithstanding any redemption. The receiver, out of such rents, issues and profits when collected, may pay all or any part of the Liabilities or other sums secured hereby or any deficiency decree entered in such foreclosure proceedings.

(c) Mortgagee shall, at her option, have the right, acting through her agents or attorneys, to enter upon and take possession of the premises, to collect or receive all the rents, issues and profits thereof and to manage and control the same, and to lease the same or any part thereof, from time to time, and after deducting all reasonable expenses incurred in the protection, care, maintenance, management and operation of the premises, apply the remaining net income upon the Liabilities or other sums secured hereby or upon any deficiency decree entered in any foreclosure proceedings.

12. In any foreclosure of this Mortgage by action, or any sale of the premises by advertisement, there shall be allowed (and included in the decree for sale in the event of a

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foreclosure by action), to be paid out of the rents or the proceeds of such foreclosure proceeding or sale:

- (a) all of the Liabilities and other sums secured hereby which then remain unpaid;
- (b) all other items advanced or paid by Mortgagee pursuant to this Mortgage, with interest thereon at the interest rate from the date of advancement; and
- (c) all court costs, attorney's and paralegals' fees and expenses, appraisers' fees, advertising costs, notice expenses, expenditures for documentary an expert evidence, and costs of procuring an abstracts of title, title searches and examinations, title guarantees, title insurance policies and similar data with respect to title which Mortgagee may deem necessary. All such expenses shall become additional Liabilities secured hereby and immediately due and payable, with interest thereon at the interest Rate, when paid or incurred by Mortgagee in connection with any proceedings, to which Mortgagee shall be a party, by reason of this Mortgage or any indebtedness hereby secured or in connection with the preparations for the commencement of any snit for the foreclosure, whether or not actually commenced, or sale by advertisement.

13. In the event of a foreclosure of this Mortgage the Liabilities then due the Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more mortgages which also secure said Liabilities.

14. Mortgagor agrees that, upon request of Mortgagee from time to time, execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage.

15. All notices and other communications required or hereunder shall be in writing and shall be band delivered, sent certified or registered mail, postage prepaid, addressed as follows:

Mortgagor: Daniel Eberhardt  
3307 South Lawndale  
Chicago, Illinois 60632

Mortgagee: Maria D. Eberhardt  
c/o Frances White  
White & White  
5100 Main Street, Suite 200  
Downers Grove, Illinois 60515

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Any notice by certified or registered mail shall be deemed to have been received three (3) business days after mailing. Any hand delivered notice or notice delivered by overnight express shall be deemed received on the day of delivery if delivered before 4:00 P.M. on a business day, otherwise such notice shall be deemed delivered on the next business day. Any notice sent by facsimile shall be deemed received on the date of transmission if confirmation is received before 5:00 P.M. on a business day, otherwise such notice shall be deemed received on the next business day. Each party may change its respective notice address by written notice in accordance herewith.

16. Mortgagor agrees that this Mortgage is to be construed and governed by the laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable 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 Mortgage.

17. Upon full payment of all sums secured hereby or upon application on the liabilities of the proceeds of any sale of the premises in accordance with the provisions of this Mortgage, at the time and in the manner provided, this conveyance shall be null and void and, upon demand therefore following such payment, a satisfaction of mortgage shall, in due course, be provided by Mortgagee to Mortgagor.

18. This Mortgage shall be binding upon the Mortgagor and upon the successors, assigns and vendees of the Mortgagor and shall inure to the benefit of the Mortgagee's successors and assigns.

19. Mortgagor represents that he has been authorized to, and Mortgagor does hereby, waive (to the full extent permitted under Illinois law) any and all statutory or equitable rights of redemption from sale by advertisement or sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor and each and every person, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the premises subsequent to the date hereof.

20. Mortgagor shall not permit any liens or security interests (including any mechanics' or materialstnens' liens), other than the First Mortgage and those in favor of Mortgagee or an affiliate of Mortgagee, to remain filed or attached to the premises for a period in excess of thirty (30) days without the written consent of Mortgagee, and Mortgagor shall not sell, convey, refinance or otherwise dispose of all or any, part of the premises without the prior written consent of Mortgagee. If Mortgagor violates the terms of this Section, Mortgagee may elect, by notice in writing to Mortgagor, to declare all of the Liabilities, or any part thereof, and all other sums secured hereby to be and to become due and payable immediately upon the giving of such notice.

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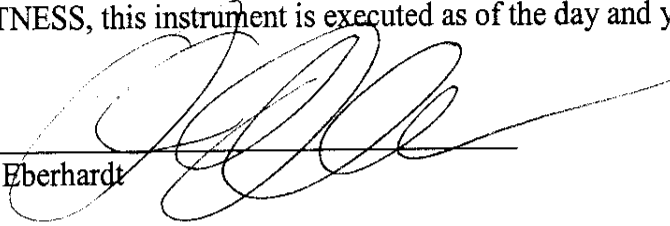
21. It is hereby expressly provided that the lien granted by this Mortgage on the premises is and shall remain subject and subordinate to the lien of the First Mortgage until the full final and indefeasible payment of all amounts due LaSalle now or at any time hereafter secured by the First Mortgage.

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IN WITNESS, this instrument is executed as of the day and year first above written.

Daniel Eberhardt



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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, COLLEEN FARRELL, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Daniel Eberhardt 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 as such manager he signed and delivered the said instrument, as his free and voluntary acts and as the free and voluntary act of said President, for the uses and purposes therein set forth.

GIVEN under my hand and official notarial seal this 20 day of SEPTEMBER, 2005.



Colleen M. Farrell  
Notary Public

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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

THAT PART OF THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 33 FEET EAST OF THE WEST LINE AND 150 FEET SOUTH OF THE NORTH LINE OF THE SAID WEST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE EAST ON A LINE PARALLEL TO THE NORTH LINE OF THE SAID SOUTHEAST 1/4, (SAID LINE BEING ALSO THE SOUTHERLY LINE OF RIGHT OF WAY OF THE CHICAGO AND ILLINOIS WESTERN RAILROAD COMPANY), A DISTANCE OF 39.3 FEET TO A POINT OF CURVE IN SAID RIGHT OF WAY; THENCE SOUTHEASTERLY ON A CURVE TANGENT TO THE LAST DESCRIBED LINE AND CONVEX TO THE NORTHEAST WITH A RADIUS OF 573.7 FEET TO ITS INTERSECTION WITH THE EAST LINE OF THE SAID WEST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35; THENCE SOUTH ON THE LAST DESCRIBED LINE 477.71 FEET TO A LINE PARALLEL TO AND 690.31 FEET SOUTH OF THE NORTH LINE OF THE SAID SOUTHEAST 1/4; THENCE WEST ON THE LAST DESCRIBED LINE 300.32 FEET TO A LINE PARALLEL TO AND 33 FEET EAST OF THE WEST LINE OF THE EAST 1/2 OF THE SAID SOUTHEAST 1/4, THE SAID LINE BEING ALSO THE EAST LINE OF LAWNDALE AVENUE; THENCE NORTH 340.31 FEET TO THE POINT OF BEGINNING IN COOK COUNTY, ILLINOIS

#### PARCEL 2:

THAT PART OF THE EAST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE WEST LINE OF THE SAID EAST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 WITH A LINE PARALLEL TO AND 690.31 FEET SOUTH OF THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35 AFORESAID; THENCE EAST ON THE LAST DESCRIBED LINE 292.36 FEET; THENCE SOUTHEAST ON A STRAIGHT LINE 77.55 FEET TO A POINT IN A LINE PARALLEL TO AND 20 FEET WEST OF THE EAST LINE OF THE NORTHWEST 1/4 OF SECTION 35 AFORESAID, SAID POINT BEING 505.11 FEET NORTH OF THE SOUTH LINE OF THE SAID NORTHWEST 1/4; THENCE NORTH 41.61 FEET TO A POINT OF CURVE IN THE SOUTHERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND ILLINOIS WESTERN RAILROAD COMPANY; THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF THE RIGHT OF WAY OF SAID CHICAGO AND ILLINOIS WESTERN RAILROAD COMPANY ON A CURVE TANGENT TO THE WEST LINE OF THE RIGHT OF WAY OF THE ILLINOIS NORTHERN RAILWAY AND CONVEX TO THE NORTHEAST WITH A RADIUS OF 573.7 FEET TO A POINT IN THE WEST LINE OF THE EAST 1/2 OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35 AFORESAID; THENCE SOUTH ON THE LAST DESCRIBED LINE 477.71 FEET TO THE POINT OF BEGINNING, (EXCEPT THAT PART LYING EASTERLY OF A LINE 75 FEET WESTERLY OF MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH THE EAST LINE OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 35) AND

EXCEPT FROM AFORESAID PARCELS 1 AND 2 TAKEN AS A TRACT:

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THAT PART OF THE NORTH 690.31 FEET OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 33 FEET OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 WITH THE SOUTH LINE OF THE NORTH 690.31 FEET AFORESAID; THENCE NORTH ALONG SAID EAST LINE 151.70 FEET; THENCE NORTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 45 DEGREES TO THE RIGHT WITH THE LAST DESCRIBED COURSE EXTENDED FOR A DISTANCE OF 4.95 FEET; THENCE EAST ALONG A LINE AT RIGHT ANGLES TO THE WEST LINE OF THE EAST 1/2 OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4 FOR A DISTANCE OF 282.76 FEET; THENCE NORTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 9 DEGREES 24 MINUTES 02 SECONDS TO THE LEFT WITH THE LAST DESCRIBED COURSE EXTENDED FOR A DISTANCE OF 108.66 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 65 DEGREES 16 MINUTES 03 SECONDS TO THE RIGHT WITH THE LAST DESCRIBED COURSE EXTENDED FOR A DISTANCE OF 91.53 FEET TO A POINT IN THE SOUTH LINE OF THE NORTH 595 FEET OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4; THENCE EAST ON SAID SOUTH LINE OF THE NORTH 595 FEET FOR A DISTANCE OF 20.48 FEET; THENCE SOUTHEASTERLY FOR A DISTANCE OF 94.63 FEET TO A POINT IN THE WEST LINE OF THE EAST 75 FEET OF SAID SOUTHEAST 1/4 OF THE NORTHWEST 1/4, SAID POINT BEING 80 FEET NORTH OF THE SOUTH LINE OF THE NORTH 690.31 FEET AFORESAID (AS MEASURED IN SAID WEST LINE OF THE EAST 75 FEET); THENCE SOUTH IN SAID WEST LINE OF THE EAST 75 FEET FOR A DISTANCE OF 80 FEET TO THE SOUTH LINE OF THE NORTH 690.31 FEET AFORESAID; THENCE WEST ON SAID SOUTH LINE OF THE NORTH 690.31 FEET FOR A DISTANCE OF 558.82 FEET TO THE PLACE OF BEGINNING), IN COOK COUNTY, ILLINOIS

Property Address: 3307 South Lawndale, Chicago, IL 60632

P.I.N. 16-35-122-028-0000