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Doc#: 0604834095 Fee: \$88.50  
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Cook County Recorder of Deeds  
Date: 02/17/2006 01:53 PM Pg: 1 of 33

Assignment of Mortgage, Note  
and Guaranty

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## ASSIGNMENT OF MORTGAGE, NOTE & GUARANTY

This Assignment of Mortgage, Note and Guaranty is made as of the 30<sup>th</sup> day of November, between Jorga Palmer (Assignor) and Darien Simon, Karen English and Jami English in their individual capacities assignees.

### WITNESSETH:

Whereas Assignor wishes to transfer all rights, title and interest she has to her three living children in the Mortgage, Note and Guaranty she owns (see group exhibit 'A' attached)

Now, Therefore, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged Assignor and Assignees acknowledge, understand and agree as follows:

Assignor hereby assigns, transfers, sets over and conveys to assignees all of assignor's rights title and interest of the following to wit:

- (1) The Mortgage Note and Guaranty (see ex. 'A') for the sale of real property commonly known as 3656 South King Drive and 332 East 37<sup>th</sup> Street, Chicago, Illinois. Said instrument bearing the execution date of October 29, 2004.
  - (ii) The interest being conveyed is a one-third interest in said instrument to each assignee.
  - (iii) Darien Simon is to act as the representative of the assignees and is charged with the proper monthly disbursement therein.

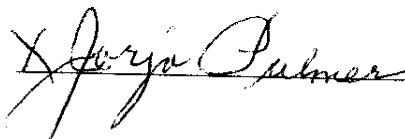
General Assignment

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2. The assignments and conveyance to Assignees herein are and shall be absolute assignment herein are and shall be absolute assignments and conveyance of Assignors' interest in and to all items assigned and conveyed hereby in fact as well as form. Upon delivery of this General Assignment, Assignor shall have no further interest (including rights of redemption) or claims in, to, under, or concerning the items conveyed hereby or the proceeds and profits that may be derived therefrom of any kind whatsoever.
3. Assignees hereby accept the foregoing General Assignment and, except as otherwise set forth herein, agrees to assume, fulfill, perform, and discharge all the various commitments, obligations, and liabilities of Assignor, if any, under and by virtue of the items hereby assigned that arise on or after the date hereof, and does hereby agree to defend, indemnify, and hold harmless Assignor by reason of the failure of Assignee from and after the effective date hereof to fulfill, perform, and discharge all of the various commitments, obligation, liabilities of Assignor under and by virtue of the items assigned hereunder that arise on or after the date hereof. Assignor shall remain liable for all obligations and liabilities relating to the items assigned hereunder that arose prior to the date hereof, and Assignor shall defend, indemnify, and hold Assignees harmless from any and all claims or losses relating to such retained liability.

IN WITNESS WHEREOF, Assignor and Assignees have executed this General Assignment this 30<sup>th</sup> day of November, 2005

ASSIGNOR:

  
\_\_\_\_\_

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ASSIGNEES:

Alexis Simon

Karen English

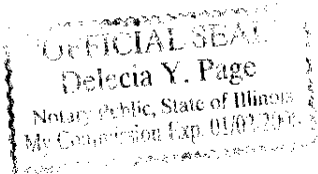
Tami English

EXHIBIT 'A'

Mortgage, Note, Guaranty

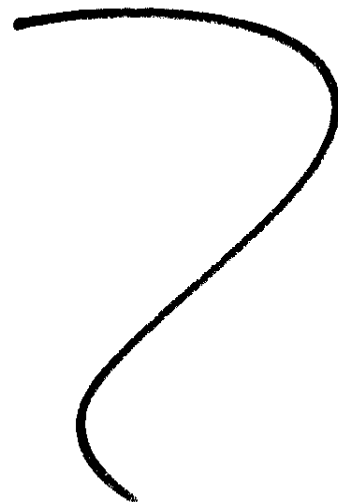
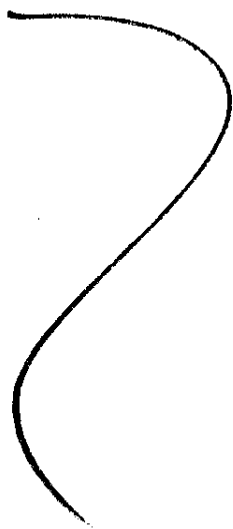
SUBSCRIBED and SWORN  
To before me this 30<sup>th</sup> day  
Of November, 2005

Delecta Y. Page  
NOTARY PUBLIC



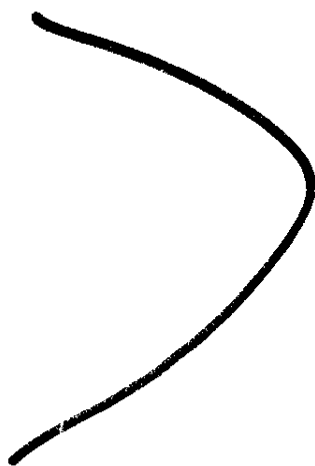
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## EXHIBIT 'A'



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210981

**MORTGAGE  
AND SECURITY AGREEMENT**

This Space for Recorder's use only

THIS MORTGAGE AND SECURITY AGREEMENT (the "**Instrument**") is dated as of the 29th day of October, 2004, between **WILCAR LLC**, an Illinois limited liability company, whose address is 2850 South Michigan, Chicago, Illinois 60607, as mortgagor ("**Borrower**"), and **JORJA PALMER**, whose address is 3656 S. King Drive, Apartment 200, Chicago, Illinois 60653, as mortgagee ("**Lender**").

Borrower is indebted to Lender in the principal amount of \$ 350,000.00, as evidenced by Borrower's Note payable to Lender, dated as of the date of this Instrument, and maturing on October 29, 2019.

TO SECURE TO LENDER the repayment of the Indebtedness, and all renewals, extensions and modifications of the Indebtedness, and the performance of the covenants and agreements of Borrower contained in the Loan Documents, Borrower mortgages, warrants, grants, conveys and assigns to Lender the Mortgaged Property, including the Land located in Cook County, State of Illinois and described in Exhibit A attached to this Instrument.

Borrower represents and warrants that Borrower is lawfully seized of the Mortgaged Property and has the right, power and authority to mortgage, grant, convey and assign the Mortgaged Property, and that the Mortgaged Property is unencumbered. Borrower covenants that Borrower will warrant and defend generally the title to the Mortgaged Property against all claims and demands, subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy issued to Lender contemporaneously with the execution and recordation of this Instrument and insuring Lender's interest in the Mortgaged Property.

**Covenants.** Borrower and Lender covenant and agree as follows:

**1. DEFINITIONS.**

The following terms, when used in this Instrument (including when used in the above recitals), shall have the following meanings:

(a) "**Borrower**" means all persons or entities identified as "Borrower" in the first paragraph of this Instrument, together with their successors and assigns.

(b) "**Environmental Permit**" means any permit, license, or other authorization issued

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(j) "**Improvements**" means the buildings, structures, improvements, and alterations now constructed or at any time in the future constructed or placed upon the Land, including any future replacements and additions.

(k) "**Indebtedness**" means the principal of, interest on, and all other amounts due at any time under, the Note, this Instrument or any other Loan Document, including prepayment premiums, late charges, default interest, and advances as provided in Section 12 to protect the security of this Instrument.

(l) [Intentionally omitted]

(n) "**Land**" means the land described in Exhibit A.

(o) "**Leases**" means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

(p) "**Lender**" means the entity identified as "Lender" in the first paragraph of this Instrument and its successors and assigns, or any subsequent holder of the Note.

(q) "**Loan Documents**" means the Note, this Instrument, all guaranties, all indemnity agreements, all Collateral Agreements, and any other documents now or in the future executed by Borrower in connection with the loan evidenced by the Note, as such documents may be amended from time to time.

(s) "**Mortgaged Property**" means all of Borrower's present and future right, title and interest in and to all of the following:

- (1) the Land;
- (2) the Improvements;
- (3) the Fixtures;
- (4) the Personalty;
- (5) all current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights-of-way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses, and appurtenances related to or benefiting the Land or the Improvements, or both, and all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated;

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- (6) all proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained the insurance pursuant to Lender's requirement;
- (7) all awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof;
- (8) all contracts, options and other agreements for the sale of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations;
- (9) all proceeds from the conversion, voluntary or involuntary, of any of the above into cash or liquidated claims, and the right to collect such proceeds;
- (10) all Rents and Leases;
- (11) all earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the loan secured by this Instrument and, if Borrower is a cooperative housing corporation, maintenance charges or assessments payable by shareholders or residents;
- (12) all Imposition Deposits;
- (13) all refunds or rebates of Impositions by any municipal, state or federal authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Instrument is dated);
- (14) all tenant security deposits which have not been forfeited by any tenant under any Lease; and
- (15) all names under or by which any of the above Mortgaged Property may be operated or known, and all trademarks, trade names, and goodwill relating to any of the Mortgaged Property.



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(t) **"Note"** means the Note described on page 1 of this Instrument, as such Note may be amended from time to time.

(v) **"Personalty"** means all equipment, inventory, general intangibles which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, including furniture, furnishings, machinery, building materials, appliances, goods, supplies, tools, books, records (whether in written or electronic form), computer equipment (hardware and software) and other tangible personal property (other than Fixtures) which are used now or in the future in connection with the ownership, management or operation of the Land or the Improvements or are located on the Land or in the Improvements, and any operating agreements relating to the Land or the Improvements, and any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements and all other intangible property and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land.

(w) **"Property Jurisdiction"** is Illinois.

(x) **"Rents"** means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, including subsidy payments received from any sources (including, but not limited to payments under any Housing Assistance Payments Contract), parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property, whether now due, past due, or to become due, and deposits forfeited by tenants.

(y) **"Taxes"** means all taxes, assessments, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Land or the Improvements.

(z) **"Transfer"** means (A) a sale, assignment, transfer or other disposition (whether voluntary, involuntary or by operation of law); (B) the granting, creating or attachment of a lien, encumbrance or security interest (whether voluntary, involuntary or by operation of law); (C) the issuance or other creation of an ownership interest in a legal entity, including a partnership interest, interest in a limited liability company or corporate stock; (D) the withdrawal, retirement, removal or involuntary resignation of a partner in a partnership or a member or manager in a limited liability company; or (E) the merger, dissolution, liquidation, or consolidation of a legal entity. "Transfer" does not include (i) a conveyance of the Mortgaged Property at a judicial or non-judicial foreclosure sale under this Instrument or (ii) the Mortgaged Property becoming part of a bankruptcy estate by operation of law under the United States Bankruptcy Code. For purposes of defining the term "Transfer," the term "partnership" shall mean a general partnership, a limited partnership, a joint venture and a limited liability partnership, and the term "partner" shall mean a general partner, a limited partner and a joint venturer.

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## 2. PAYMENT OF INDEBTEDNESS; PERFORMANCE UNDER LOAN DOCUMENTS; PREPAYMENT PREMIUM.

Borrower shall pay the Indebtedness when due in accordance with the terms of the Note and the other Loan Documents and shall perform, observe and comply with all other provisions of the Note and the other Loan Documents.

## 3. EXCULPATION.

Borrower's personal liability for payment of the Indebtedness and for performance of the other obligations to be performed by it under this Instrument is limited in the manner, and to the extent, provided in the Note.

## 4. NOTICE OF PAYMENT OF TAXES.

Borrower shall provide written notice to Jorga Palmer stating that real estate property taxes due on the property have been paid together with evidence of a paid receipt from the Cook County, Illinois Clerk within ten days of payment of said taxes. If Borrower breaches this provision, Jorga Palmer shall have all rights set forth in the Guaranty between Jorga Palmer and Elzie L. Higginbottom of even date herewith.

## 5. APPLICATION OF PAYMENTS.

If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's discretion. Neither Lender's acceptance of an amount which is less than all amounts then due and payable nor Lender's application of such payment in the manner authorized shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Instrument and the Note shall remain unchanged.

## 6. COMPLIANCE WITH LAWS.

Borrower shall comply with all laws, ordinances, regulations and requirements of any Governmental Authority and all recorded lawful covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Mortgaged Property, fair housing, zoning and land use, and Leases. Borrower also shall comply with all applicable laws that pertain to the maintenance and disposition of tenant security deposits. Borrower shall at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 10. Borrower shall take appropriate measures to prevent, and shall not engage in or knowingly permit, any illegal activities at the Mortgaged Property that could

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endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise materially impair the lien created by this Instrument or Lender's interest in the Mortgaged Property. Borrower represents and warrants to Lender that no portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

## 7. PROTECTION OF LENDER'S SECURITY.

(a) If Borrower fails to perform any of its obligations under this Instrument or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender's security or Lender's rights under this Instrument, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Borrower and to protect Lender's interest, including (1) payment of fees and out-of-pocket expenses of attorneys, accountants, inspectors and consultants, (2) entry upon the Mortgaged Property to make repairs or secure the Mortgaged Property, (3) procurement of the insurance required by Section 19, and (4) payment of amounts which Borrower has failed to pay under Sections 15 and 17.

(b) Any amounts disbursed by Lender under this Section 12, or under any other provision of this Instrument that treats such disbursement as being made under this Section 12, shall be added to, and become part of, the principal component of the Indebtedness, shall be immediately due and payable and shall bear interest from the date of disbursement until paid at the "**Default Rate**", as defined in the Note.

(c) Nothing in this Section 7 shall require Lender to incur any expense or take any action.

## 8. INSPECTION.

Lender, its agents, representatives, and designees may make or cause to be made entries upon and inspections of the Mortgaged Property (including environmental inspections and tests) during normal business hours, or at any other reasonable time.

## 9. TAXES; OPERATING EXPENSES.

(a) Borrower shall pay, or cause to be paid, all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment.

(b) Borrower shall pay the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including insurance premiums, utilities, repairs and replacements) before the last date upon which each such payment may be made without any

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penalty or interest charge being added.

(c) Borrower, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than insurance premiums, if (1) Borrower notifies Lender of the commencement or expected commencement of such proceedings, (2) the Mortgaged Property is not in danger of being sold or forfeited, (3) Borrower deposits with Lender reserves sufficient to pay the contested Imposition, if requested by Lender, and (4) Borrower furnishes whatever additional security is required in the proceedings or is reasonably requested by Lender, which may include the delivery to Lender of the reserves established by Borrower to pay the contested Imposition.

(e) Borrower shall promptly deliver to Lender a copy of all notices of, and invoices for, Impositions, and if Borrower pays any Imposition directly, Borrower shall promptly furnish to Lender receipts evidencing such payments.

## 10. LIENS; ENCUMBRANCES.

Borrower acknowledges that the grant, creation or existence of any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance (a "Lien") on the Mortgaged Property (other than the lien of this Instrument) or on certain ownership interests in Borrower, whether voluntary, involuntary or by operation of law, and whether or not such Lien has priority over the lien of this Instrument, is a "Transfer" which constitutes an Event of Default.

## 11. PRESERVATION, MANAGEMENT AND MAINTENANCE OF MORTGAGED PROPERTY.

Borrower (1) shall not commit waste or permit impairment or deterioration of the Mortgaged Property, (2) shall not abandon the Mortgaged Property, (3) shall restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, whether or not insurance proceeds or condemnation awards are available to cover any costs of such restoration or repair, (4) shall keep the Mortgaged Property in good repair, including the replacement of Personalty and Fixtures with items of equal or better function and quality, and (5) shall give notice to Lender of and, unless otherwise directed in writing by Lender, shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Instrument. Borrower shall not (and shall not permit any tenant or other person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property except in connection with the replacement of tangible Personalty.

## 12. PROPERTY AND LIABILITY INSURANCE.

(a) Borrower shall keep the Improvements insured at all times against such hazards as Lender may from time to time require, which insurance shall include but not be limited to

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coverage against loss by fire and allied perils, general boiler and machinery coverage, and business income coverage.

(b) All policies of property damage insurance shall include a non-contributing, non-reporting mortgage clause in favor of, and in a form approved by, Lender. Lender shall have the right to hold the original policies or duplicate original policies of all insurance required by this section. Borrower shall promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums. At least 30 days prior to the expiration date of a policy, Borrower shall deliver to Lender the original (or a duplicate original) of a renewal policy in form satisfactory to Lender.

(c) Borrower shall maintain at all times commercial general liability insurance, workers' compensation insurance and such other liability, errors and omissions and fidelity insurance coverage as Lender may from time to time require.

(d) All insurance policies and renewals of insurance policies required by this section shall be in such amounts and for such periods as Lender may from time to time require, and shall be issued by insurance companies satisfactory to Lender.

(e) Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Mortgaged Property that would invalidate any part of any insurance coverage that this Instrument requires Borrower to maintain.

(f) In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and appoints Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Lender's expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this section shall require Lender to incur any expense or take any action. Lender may, at Lender's option, (1) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Lender (the "**Restoration**"), or (2) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Lender determines to apply insurance proceeds to Restoration, Lender shall do so in accordance with Lender's then-current policies relating to the restoration of casualty damage on similar multifamily properties.

(g) Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (1) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing; (2) Lender determines, in its discretion, that there will be sufficient funds to complete the Restoration; (3) Lender determines, in its discretion, that the rental income from the Mortgaged Property after completion of the Restoration will be sufficient

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to meet all operating costs and other expenses, Imposition Deposits, deposits to reserves and loan repayment obligations relating to the Mortgaged Property; (4) Lender determines, in its discretion, that the Restoration will be completed before the earlier of (A) one year before the maturity date of the Note or (B) one year after the date of the loss or casualty; and (5) upon Lender's request, Borrower provides Lender evidence of the availability during and after the Restoration of the insurance required to be maintained by Borrower pursuant to this Section 19.

(h) If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

## 13. CONDEMNATION.

(a) Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect (a "**Condemnation**"). Borrower shall appear in and prosecute or defend any action or proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower authorizes and appoints Lender as attorney-in-fact for Borrower to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this section shall require Lender to incur any expense or take any action. Borrower hereby transfers and assigns to Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.

(b) Lender may apply such awards or proceeds, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to the restoration or repair of the Mortgaged Property or to the payment of the Indebtedness, with the balance, if any, to Borrower. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness shall not extend or postpone the due date of any monthly installments referred to in the Note, Section 7 of this Instrument or any Collateral Agreement, or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards or proceeds as Lender may require.

## 14. EVENTS OF DEFAULT.

The occurrence of any one or more of the following shall constitute an Event of Default under this Instrument:

(a) any failure by Borrower to pay or deposit when due any amount required by the Note, this Instrument or any other Loan Document;

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- (b) any failure by Borrower to maintain the insurance coverage required;
- (c) fraud or material misrepresentation or material omission by Borrower, or any of its officers, directors, trustees, general partners or managers, or any guarantor in connection with (A) the application for or creation of the Indebtedness, (B) any financial statement, rent roll, or other report or information provided to Lender during the term of the Indebtedness, or (C) any request for Lender's consent to any proposed action, including a request for disbursement of funds under any Collateral Agreement;
- (d) the commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender's reasonable judgment, could result in a forfeiture of the Mortgaged Property or otherwise materially impair the lien created by this Instrument or Lender's interest in the Mortgaged Property;
- (e) any failure by Borrower to perform any of its obligations under this Instrument (other than those specified in Sections 22(a) through (f)), as and when required, which continues for a period of 30 days after notice of such failure by Lender to Borrower, but no such notice or grace period shall apply in the case of any such failure which could, in Lender's judgment, absent immediate exercise by Lender of a right or remedy under this Instrument, result in harm to Lender, impairment of the Note or this Instrument or any other security given under any other Loan Document;
- (f) any failure by Borrower to perform any of its obligations as and when required under any Loan Document other than this Instrument which continues beyond the applicable cure period, if any, specified in that Loan Document; and
- (g) any exercise by the holder of any other debt instrument secured by a mortgage, deed of trust or deed to secure debt on the Mortgaged Property or a right to declare all amounts due under that debt instrument immediately due and payable.

## 15. REMEDIES CUMULATIVE.

Each right and remedy provided in this Instrument is distinct from all other rights or remedies under this Instrument or any other Loan Document or afforded by applicable law, and each shall be cumulative and may be exercised concurrently, independently, or successively, in any order.

## 16. FORBEARANCE.

(a) Lender may (but shall not be obligated to) agree with Borrower, from time to time, and without giving notice to, or obtaining the consent of, or having any effect upon the obligations of, any guarantor or other third party obligor, to take any of the following actions: extend the time for payment of all or any part of the Indebtedness; reduce the payments due under this Instrument, the Note, or any other Loan Document; release anyone liable for the payment of any amounts under this Instrument, the Note, or any other Loan Document; accept a

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renewal of the Note; modify the terms and time of payment of the Indebtedness; join in any extension or subordination agreement; release any Mortgaged Property; take or release other or additional security; modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note; and otherwise modify this Instrument, the Note, or any other Loan Document.

(b) Any forbearance by Lender in exercising any right or remedy under the Note, this Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any other right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make prompt payment. Enforcement by Lender of any security for the Indebtedness shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right available to Lender.

## 17. LOAN CHARGES.

If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the principal of the Indebtedness. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness which constitutes interest, as well as all other charges levied in connection with the Indebtedness which constitute interest, shall be deemed to be allocated and spread over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

## 18. WAIVER OF STATUTE OF LIMITATIONS.

Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce any Loan Document.

## 19. WAIVER OF MARSHALLING.

Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Mortgaged Property shall be subjected to the remedies provided in this Instrument, the Note, any other Loan Document or applicable law. Lender shall have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the



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proceeds realized upon the exercise of such remedies. Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of this Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Instrument.

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## 20. FURTHER ASSURANCES.

Borrower shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Lender may require from time to time in order to better assure, grant, and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Instrument and the Loan Documents.

## 21. ESTOPPEL CERTIFICATE.

Within 10 days after a request from Lender, Borrower shall deliver to Lender a written statement, signed and acknowledged by Borrower, certifying to Lender or any person designated by Lender, as of the date of such statement, (i) that the Loan Documents are unmodified and in full force and effect (or if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications); (ii) the unpaid principal balance of the Note; (iii) the date to which interest under the Note has been paid; (iv) that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Instrument or any of the other Loan Documents (or, if the Borrower is in default, describing such default in reasonable detail); (v) whether or not there are then existing any setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents; and (vi) any additional facts requested by Lender.

## 22. GOVERNING LAW; CONSENT TO JURISDICTION AND VENUE.

(a) This Instrument, and any Loan Document which does not itself expressly identify the law that is to apply to it, shall be governed by the laws of Illinois.

(b) Borrower agrees that any controversy arising under or in relation to the Note, this Instrument, or any other Loan Document shall be litigated exclusively in Illinois. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Note, any security for the Indebtedness, or any other Loan Document.

## 23. NOTICE.

(a) All notices, demands and other communications ("**notice**") under or concerning this Instrument shall be in writing. Each notice shall be addressed to the intended recipient at its address set forth in this Instrument, and shall be deemed given on the earliest to occur of (1) the date when the notice is received by the addressee; (2) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (3) the third Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section 31, the term "Business Day" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business.

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(b) Any party to this Instrument may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 14. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 14, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 14 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

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## 29. CONSTRUCTION.

The captions and headings of the sections of this Instrument are for convenience only and shall be disregarded in construing this Instrument. Any reference in this Instrument to an "Exhibit" or a "Section" shall, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Instrument or to a Section of this Instrument. All Exhibits attached to or referred to in this Instrument are incorporated by reference into this Instrument. Any reference in this Instrument to a statute or regulation shall be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this Agreement includes the plural and use of the plural includes the singular. As used in this Instrument, the term "including" means "including, but not limited to."

## 30. LOAN SERVICING.

All actions regarding the servicing of the loan evidenced by the Note, including the collection of payments, the giving and receipt of notice, inspections of the Property, inspections of books and records, and the granting of consents and approvals, may be taken by the Loan Servicer unless Borrower receives notice to the contrary. If Borrower receives conflicting notices regarding the identity of the Loan Servicer or any other subject, any such notice from Lender shall govern.

## 31. DISCLOSURE OF INFORMATION.

Lender may furnish information regarding Borrower or the Mortgaged Property to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including any right of privacy.

## 32. SUBROGATION.

If, and to the extent that, the proceeds of the loan evidenced by the Note are used to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a pre-existing mortgage, deed of trust or other lien encumbering the Mortgaged Property (a "Prior Lien"), such loan proceeds shall be deemed to have been advanced by Lender at Borrower's request, and Lender shall automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

## 33. ACCELERATION; REMEDIES.

At any time during the existence of an Event of Default, Lender, at Lender's option, may declare all of the Indebtedness to be immediately due and payable without further demand, and may foreclose this Instrument by judicial proceeding and may invoke any other remedies permitted by Illinois law or provided in this Instrument or in any other Loan Document. The

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Indebtedness shall include, Lender shall be entitled to collect, and any decree which adjudicates the amount secured by this Instrument shall include, all costs and expenses incurred in pursuing such remedies, including attorneys' fees, costs of documentary evidence, abstracts and title reports, any of which may be estimated to reflect the costs and expenses to be incurred after the entry of such a decree.

## **34. RELEASE.**

Upon payment of the Indebtedness, Lender shall release this Instrument. Borrower shall pay Lender's reasonable costs incurred in releasing this Instrument.

## **35. WAIVER OF HOMESTEAD AND REDEMPTION.**

Borrower releases and waives all rights under the homestead and exemption laws of the State of Illinois. Borrower acknowledges that the Mortgaged Property does not include "agricultural real estate" or "residential real estate" as those terms are defined in 735 ILCS 5/15-1201 and 5/15-1219. Pursuant to 735 ILCS 5/15-1601(b), Borrower waives any and all rights of redemption from sale under any order of foreclosure of this Instrument, or other rights of redemption, which may run to Borrower or any other Owner of Redemption, as that term is defined in 735 ILCS 5/15-1212. Borrower waives all rights of reinstatement under 735 ILCS 5/15-1602 to the fullest extent permitted by Illinois law.

## **36. MAXIMUM AMOUNT OF INDEBTEDNESS.**

Notwithstanding any provision to the contrary in this Instrument, the Note or any other Loan Document which permits any additional sums to be advanced on or after the date of this Instrument, whether as additional loans or for any payments authorized by this Instrument, the total amount of the principal component of the Indebtedness shall not at any time exceed three hundred percent (300%) of the original principal amount of the Note set forth on the first page of this Instrument.

## **37. WAIVER OF TRIAL BY JURY.**

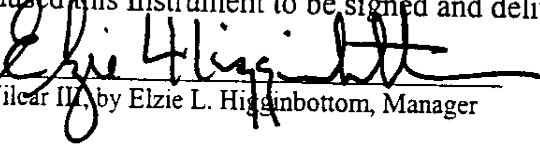
BORROWER AND LENDER EACH (A) COVENANTS AND AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS INSTRUMENT OR THE RELATIONSHIP BETWEEN THE PARTIES AS BORROWER AND LENDER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.

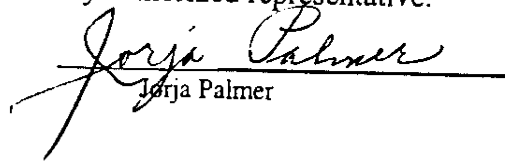
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**ATTACHED EXHIBITS.** The following Exhibits are attached to this Instrument:

Exhibit A Description of the Land (required).

**IN WITNESS WHEREOF**, Borrower has signed and delivered this Instrument or has caused this Instrument to be signed and delivered by its duly authorized representative.

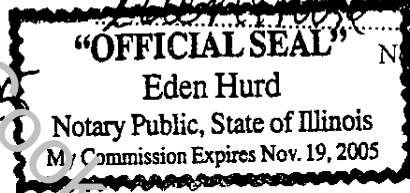
  
Wilecar III, by Elzie L. Higginbottom, Manager

  
Torja Palmer

State of Illinois)  
) SS  
County of Cook)

The undersigned, a notary public in and for the above county and state, certifies that Elzie L. Higginbottom known to me to be the same person whose name is signed on the foregoing Grant of Life Estate, appeared before me signed.

Dated: October 29, 2004 (SEAL)



My commission expires Nov 19, 2005

State of Illinois)  
) SS  
County of Cook)

The undersigned, a notary public in and for the above county and state, certifies that Torja Palmer known to me to be the same person whose name is signed on the foregoing Grant of Life Estate, appeared before me signed.

Dated: October 29, 2004 (SEAL)



My commission expires.....

Prepared by, and after recording return to:

Leslie Ann Jones, Johnson, Jones, Snelling Gilbert and Davis 36 South Wabash, Suite 1310, Chicago Illinois 60603

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## EXHIBIT A

PIN # 17-34-312-082-0000

LOT 1 IN D. HARRY HAMMER=S SUBDIVISION OF THE WEST 165 FEET OF THE EAST 330 FEET OF THE SOUTH 205 FEET (EXCEPT THE SOUTH 33 FEET THEREOF) OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 39, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Prepared by, and after recording return to:  
 Leslie Ann Jones, Johnson, Jones, Snelling  
 Gilbert and Davis 36 South Wabash, Suite  
 1310, Chicago, Illinois 60603

This Space for Recorder's use only

**NOTE**

**FOR VALUE RECEIVED**, the undersigned **WILCAR LLC** ("**Borrower**") promises to pay to the order of **JORJA PALMER** ("**Lender**") the principal sum of Three Hundred Fifty Thousand Dollars (US \$350,000.00), with interest accruing on the unpaid principal balance from the date of disbursement until fully paid at the annual rate of four percent (4%).

1. **Defined Terms.** As used in this Note, (i) the term "**Lender**" means the holder of this Note, (ii) the term "**Indebtedness**" means the principal of, interest on, or any other amounts due at any time under, this Note, the Security Instrument or any other Loan Document, including prepayment premiums, late charges, default interest, and advances to protect the security of the Security Instrument under Section 12 of the Security Instrument and (iii) a "**Business Day**" means any day other than a Saturday, Sunday or any other day on which Lender is not open for business. Event of Default and other capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Security Instrument (as defined in Paragraph 5).

2. **Address for Payment.** All payments due under this Note shall be payable at 3656 South King Drive, Apartment 200, Chicago, Illinois 60653, or such other place as may be designated by written notice to Borrower from or on behalf of Lender.

3. **Payment of Principal and Interest.** Principal and interest shall be paid pursuant to the Amortization Schedule attached as Exhibit A.

Any accrued interest remaining past due for 30 days or more shall be added to and become part of the unpaid principal balance and shall bear interest at the rate or rates specified in this Note, and any reference below to "accrued interest" shall refer to accrued interest which has not become part of the unpaid principal balance. Any remaining principal and interest shall be due and payable on October 29, 2019 or on any earlier date on which the unpaid principal balance of this Note becomes due and payable, by acceleration or otherwise (the "**Maturity Date**"). The unpaid principal balance shall continue to bear interest after the Maturity Date at the Default Rate set forth in this Note until and including the date on which it is paid in full.

(d) Any regularly scheduled monthly installment of principal and interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.



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4. **Application of Payments.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured, among other things, by a mortgage dated as of the date of this Note (the "**Security Instrument**"), and reference is made to the Security Instrument for other rights of Lender concerning the collateral for the Indebtedness.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, and all other amounts payable under this Note and any other Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower. Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge.** If any monthly installment due hereunder is not received by Lender on or before the 10<sup>th</sup> day of each month or if any other amount payable under this Note or under the Security Instrument or any other Loan Document is not received by Lender within 10 days after the date such amount is due, counting from and including the date such amount is due, Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to five (5) percent of such monthly installment or other amount due. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the loan evidenced by this Note (the "**Loan**"), and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Paragraph represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate.

8. **Default Rate.** So long as any monthly installment or any other payment due under this Note remains past due for 30 days or more, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or other payment due, as applicable, at a rate (the "**Default Rate**") equal to the lesser of two (2) percentage points above the rate stated in the first paragraph of this Note. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, that, during the time that any monthly installment or payment under this Note is delinquent for more than 30 days, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment or other payment due under this Note is delinquent for more than 30 days, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of the Borrower's delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

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## 9. Limits on Personal Liability.

(a) Except as otherwise provided in this Paragraph 9, Borrower shall have no personal liability under this Note, the Security Instrument or any other Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and Lender's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be Lender's exercise of its rights and remedies with respect to the Mortgaged Property and any other collateral held by Lender as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's enforcement of its rights against any guarantor of the Indebtedness or any guarantor of any obligations of Borrower.

(b) Borrower shall be personally liable to Lender for the repayment of a portion of the Indebtedness equal to any loss or damage suffered by Lender as a result of (1) failure of Borrower to pay to Lender upon demand after an Event of Default, all Rents to which Lender is entitled and the amount of all security deposits collected by Borrower from tenants then in residence; (2) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Security Instrument; (3) failure of Borrower to comply with Section 14(d) or (e) of the Security Instrument relating to the delivery of books and records, statements, schedules and reports; (4) fraud or written material misrepresentation by Borrower, Key Principal or any officer, director, partner, member or employee of Borrower in connection with the application for or creation of the Indebtedness or any request for any action or consent by Lender; or (5) failure to apply Rents, first, to the payment of reasonable operating expenses (other than Property management fees that are not currently payable pursuant to the terms of an Assignment of Management Agreement or any other agreement with Lender executed in connection with the Loan) and then to amounts ("**Debt Service Amounts**") payable under this Note, the Security Instrument or any other Loan Document (except that Borrower will not be personally liable (i) to the extent that Borrower lacks the legal right to direct the disbursement of such sums because of a bankruptcy, receivership or similar judicial proceeding, or (ii) with respect to Rents that are distributed in any calendar year if Borrower has paid all operating expenses and Debt Service Amounts for that calendar year).

(c) Borrower shall become personally liable to Lender for the repayment of all of the Indebtedness upon the occurrence of any of the following Events of Default: (1) Borrower's acquisition of any property or operation of any business not permitted by Section 33 of the Security Instrument; or (2) a Transfer that is an Event of Default under Section 21 of the Security Instrument.

(d) To the extent that Borrower has personal liability under this Paragraph 9, Lender may exercise its rights against Borrower personally without regard to whether Lender has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any guarantor, or pursued any other rights available to Lender under this Note, the Security Instrument, any other Loan Document or applicable law. For purposes of this Paragraph 9, the term "**Mortgaged Property**" shall not include any funds that (1) have been applied by Borrower as required or permitted by the Security Instrument prior to the occurrence of an Event of Default, or (2) Borrower was unable to apply as required or permitted by the Security Instrument because of a bankruptcy, receivership, or similar judicial proceeding.

## 10. Voluntary and Involuntary Prepayments.

(a) A prepayment shall be payable in connection with this Note may be made as provided below:

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(1) Borrower may voluntarily prepay all (but not less than all) of the unpaid principal balance of this Note only on the last calendar day of a calendar month and only if Borrower has complied with all of the following:

- (i) Borrower must give Lender at least 30 days, but not more than 60 days, prior written notice of its intention to make such prepayment (the "Prepayment Notice").
- (ii) The Prepayment Notice shall be addressed to Lender and shall include, at a minimum, the date upon which Borrower intends to make the prepayment (the "Intended Prepayment Date"). Borrower acknowledges that the Lender is not required to accept any voluntary prepayment of this Note on any day other than the last calendar day of a calendar month. If the last calendar day of a calendar month is not a Business Day, then the Borrower must make the payment on the Business Day immediately before the last calendar day of a calendar month. For all purposes, including the accrual of interest, any prepayment received by Lender on any day other than the last calendar day of a calendar month shall be deemed to have been received on the last calendar day of the month in which such prepayment occurs.
- (iii) Any prepayment shall be made by paying (A) the amount of principal being prepaid, (B) all accrued interest, and (C) all other sums due Lender at the time of such prepayment.

(2) Upon Lender's exercise of any right of acceleration under this Note, Borrower shall pay to Lender, in addition to the entire unpaid principal balance of this Note outstanding at the time of the acceleration all accrued interest and all other sums due Lender under this Note and the other Loan Documents.

(3) Any application by Lender of any collateral or other security to the repayment of any portion of the unpaid principal balance of this Note prior to the Maturity Date and in the absence of acceleration shall be deemed to be a partial prepayment by Borrower.

(b) Schedule A is hereby incorporated by reference into this Note.

(c) Any required prepayment of less than the entire unpaid principal balance of this Note shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless Lender agrees otherwise in writing.

**11. Costs and Expenses.** Borrower shall pay on demand all expenses and costs, including fees and out-of-pocket expenses of attorneys and expert witnesses and costs of investigation, incurred by Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding.

**12. Forbearance.** Any forbearance by Lender in exercising any right or remedy under this Note, the Security Instrument, or any other Loan Document or otherwise afforded by applicable law,

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shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

13. **Commercial Purpose.** Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes.

14. **Counting of Days.** Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not Business Days.

15. **Governing Law.** This Note shall be governed by the law of Illinois.

16. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

17. **Notices.** All notices, demands and other communications required or permitted to be given by Lender to Borrower pursuant to this Note shall be given in accordance with Section \*\* of the Security Instrument.

18. **Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in Illinois (the "Property Jurisdiction"). The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note.

19. **WAIVER OF TRIAL BY JURY. BORROWER AND LENDER EACH (A) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.**

**ATTACHED SCHEDULE.** The following Schedule is attached to this Note:

X      Schedule A    AMORTIZATION SCHEDULE

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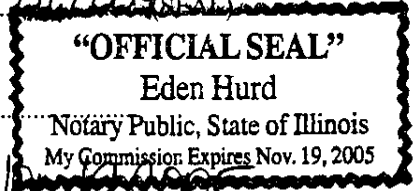
IN WITNESS WHEREOF, Borrower has signed and delivered this Note or has caused this Note to be signed and delivered by its duly authorized representative.

*Elzie Higginbottom*  
\_\_\_\_\_  
WILCAR III, by Elzie L. Higginbottom, Manager  
State of Illinois)

*Jorga Palmer*  
\_\_\_\_\_  
Jorga Palmer

) SS  
County of Cook) The undersigned, a notary public in and for the above county and state, certifies that Elzie L. Higginbottom known to me to be the same person whose name is signed on the foregoing Note, appeared before me signed. Dated: *October 29, 2004* (SEAL)

*Eden Hurd*  
\_\_\_\_\_  
Notary Public



My commission expires: *Nov. 19, 2005*

State of Illinois)  
) SS  
County of Cook) The undersigned, a notary public in and for the above county and state, certifies that Jorga Palmer known to me to be the same person whose name is signed on the foregoing Note, appeared before me signed.

Dated: *October 29, 2004* (SEAL)

*W M Snow*  
\_\_\_\_\_  
Notary Public



My commission expires.....

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## GUARANTY

THIS GUARANTY dated effective as of October 29, 2004, is given by Elzie L. Higginbottom ("Guarantor") to Jorga Palmer.

1. WILCAR LLC, an Illinois limited liability company is purchasing from Jorga Palmer the property commonly known as 3656 South King Drive and 332 East 37th Street, Chicago, Illinois 60653, a legal description of which is attached hereto as Exhibit A. Jorga Palmer is the holder of a mortgage and promissory note with WILCAR LLC, related to this purchase. Together these acts are hereinafter called the "transaction."
2. As part of the transaction, WILCAR LLC has promised to pay all property taxes due on the property after October 29, 2004.
3. As inducement to Jorga Palmer to enter into the transaction, Elzie L. Higginbottom guarantees to Jorga Palmer the payment of all real estate property taxes due on the property should WILCAR LLC fail to make such payments.
4. It is expressly understood that Jorga Palmer is unwilling to enter into the above described transaction unless the Guarantor guarantees the payment of all property tax bill.
5. Guarantor acknowledges and agrees that he will receive financial benefits from the transaction. Guarantor is a Member and the Manager of WILCAR LLC.
6. Guarantor acknowledges that it is aware of and understands all the obligations of this guaranty.
7. Guarantor hereby absolutely and unconditionally guarantees the payment of all real estate taxes on the property in the event of a default in such obligation by WILCAR LLC.
8. Guarantor hereby agrees to indemnify Jorga Palmer against any losses she may sustain by virtue of any failure by WILCAR LLC to pay the property taxes on the property when due.
9. Guarantor hereby agrees that if as a result of the enforcement or the attempted enforcement by Jorga Palmer of any of its rights against Guarantor hereunder, Guarantor will reimburse Jorga Palmer for all reasonable expenses incurred including reasonable attorney's fees, including post-judgment collection and appellate proceedings, whether or not suit is initiated.
10. Guarantor agrees to prompt repayment to Jorga Palmer, if, in the event of default in the payment or real estate taxes by WILCAR LLC, Jorga Palmer makes said payments.
11. This Guaranty shall be governed by, and construed in accordance with the law of the State of Illinois.
12. Guarantor intends and believes that each provision in the Guaranty comports with all applicable local, state and federal laws and court decisions. However, if any provision or provisions in this Guaranty is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Guaranty to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of Guarantor that such portion, provision or provisions shall be given full force and effect to the fullest possible extent that they are legal, valid and enforceable, that the


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remainder of this Guaranty shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of the Guarantor and Jorga Palmer under the remainder of this Guaranty shall continue in full force and effect.

- 13. No failure on the part of Jorga Palmer to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by Jorga Palmer of any right, remedy or power hereunder preclude any other or future exercise of any other right, remedy or power.
- 14. There is no condition precedent to the effectiveness of this Guaranty and all terms of this Guaranty Agreement between the undersigned and Jorga Palmer and contained within this Guaranty Agreement, which is complete and exclusive statement of those terms.
- 15. Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.
- 16. Guarantor is entitled to reasonable notice of any default in nonperformance by WILCAR LLC in the payment of property taxes.


IN WITNESS WHEREOF, the undersigned has executed the Guaranty on the day and year first above written.

GUARANTOR:

  
 Elzie L. Higginbottom

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, Eden Hurd, a Notary Public in and for said County in the State of Illinois, DO HEREBY CERTIFY that ELZIE L. HIGGINBOTTOM, who is personally known to me and the same person whose name is subscribed to the foregoing instrument as such person appeared before me this day in person and he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth. GIVEN under my hand and notarial seal this day of October 29, 2004.

  
 Notary Public "OFFICIAL SEAL"  
 My Commission Expires Nov. 19, 2005  
 Eden Hurd  
 Notary Public, State of Illinois  
 My Commission Expires Nov. 19, 2005

# UNOFFICIAL COPY

## EXHIBIT A

PIN # 17-34-312-082-0000

LOT 1 IN D. HARRY HAMMER'S SUBDIVISION OF THE WEST 165 FEET OF THE EAST 330 FEET OF THE SOUTH 205 FEET (EXCEPT THE SOUTH 33 FEET THEREOF) OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 39, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office



CHILDS, WILLIS & ASSOCIATES



ATTORNEYS AND COUNSELORS AT LAW

400 W. 76th Street, Suite 201

Chicago, Illinois 60620

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MAIL TO:  
JAMES M. CHILDS, JR  
400 W. 76th ST. Suite 201  
CHICAGO, ILLINOIS 60620