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Cook County Recorder of Deeds
Date: 11/02/2006 01:55 PM Pg: 1 of 6

Howard D. Lerman, Esq.
Horwood, Marcus & Berk
Chartered
Suite 3700
180 North LaSalle Street
Chicago, Illinois 60601

MORTGAGE

THIS MORTGAGE is made on October 16, 2006, between Howard D. Lerman, not individually, but solely as trustee of the Ann M. Portes Revocable Trust dated August 26, 2005 (the "Mortgagor") and Richard Portes (the "Mortgagee").

The Mortgagor hereby GRANTS, ALIENS, REMISES, RELEASES, MORTGAGES, CONVEYS AND WARRANTS to the Mortgagee, together with MORTGAGE COVENANTS, the real property legally described as follows together with all the improvements thereon (the "Premises").

Unit 302 as delineated on survey of the following described parcel of real estate (hereinafter referred to as "Parcel"): Lots 8, 9, 10, 11, and 12 together with the North half of vacated 20 foot public alley lying South of Lots 8, 9, 10, 11, and 12 and the vacated West 20 feet of Midway Road, lying South of the South line of Dundee Road and lying North of the center line of vacated public alley extended East, and East of the East line of said Lot 12 in Block 1 in Hughes-Brown-Moore Corporation's Collinswood, being a Subdivision of part of the North East quarter of Section 11, Township 42 North, Range 12 East of the Third Principal Meridian in Cook County, Illinois, which survey is attached as Exhibit "A" to the Declaration of Condominium made by Louis I. Hadden recorded in the Office of the Recorder of Cook County, Illinois as document 21623660, together with an undivided 16 2/3 per cent interest in said Parcel (excepting from said Parcel all the property and space comprising all the units thereof as defined and set forth in said Declaration and survey.)

P.I.N.: 04-11-201-045-1002

Commonly known as: 800 Midway Road, #302, Northbrook, Illinois 60062

The Premises also includes all of the Mortgagor's title and interest in the following:

- (1) All easements, rights-of-way, licenses, privileges and hereditaments;
- (2) All machinery, apparatus, equipment, fittings, fixtures and articles of personal property of every kind and nature whatsoever located now or in the future in or upon the Premises and used or useable in connection with any present or future operation of the Premises (all of which is called "Equipment"). It is agreed that all Equipment is part of the Premises and appropriated to the use of the real estate and, whether

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- affixed or annexed or not, shall for the purposes of this Mortgage, unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged and warranted to the Mortgagee;
- (3) All awards or payments, including interest made as a result of: the exercise of the right of eminent domain; the alteration of the grade of any street, any loss of or damage to any building or other improvement on the Premises; any other injury to or decrease in the value of the Premises; any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the Premises; and the reasonable attorneys' and paralegals' fees, costs and disbursements incurred by the Mortgagee in connection with the collection of any such award or payment; and
- (4) All of the rents, issues and profits of the Premises under present or future leases, or otherwise.

The Premises are unencumbered except as follows: General real estate taxes for 2005, not yet due and payable, and subsequent years; covenants, conditions, and restrictions of record, existing unrecorded leases and all rights thereunder of the lessees and of any person claiming, by, through or under the lessees ("Permitted Encumbrances"). If the Premises are encumbered by Permitted Encumbrances, the Mortgagor shall perform all obligations and make all payments as required by the Permitted Encumbrances.

This Mortgage secures the following Note and all of the Indebtedness (as hereinafter defined):

The Line of Credit Promissory Note of even date herewith, in the principal amount of Two Hundred Seventy-Five Thousand and no/100 Dollars (\$275,000.00), executed and delivered by Mortgagor with interest at the per annum rate of six percent (6%) on the principal balance including any extensions, renewals, modifications or replacements thereof (the "Note").

The term "Indebtedness" means and includes the unpaid principal balance evidenced by the Note, together with all interest and late charges, costs and all other sums at any time as provided in the Note and secured by this Mortgage.

This Mortgage shall also secure the performance of the promises and agreements contained in this Mortgage.

The Mortgagor promises and agrees as follows:

1. **TAXES:** The Mortgagor shall pay, when due, and before any interest, collection fees or penalties shall accrue, all taxes, assessments, fines, impositions, and other charges which may become a lien prior to this Mortgage. Should the Mortgagor fail to make those payments, the Mortgagee may at its option and at the expense of the Mortgagor pay the amounts due for the account of the Mortgagor. Upon the request of the Mortgagee, the Mortgagor shall immediately furnish to the Mortgagee all notices of amounts due and receipts evidencing payment. The Mortgagor shall promptly notify the Mortgagee of any lien on all or any part of the Premises and shall promptly discharge any unpermitted lien or encumbrance.

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2. **CHANGE IN TAXES:** In the event of the passage of any law or regulation, state, federal or municipal, subsequent to the date of this Mortgage, which changes or modifies the laws now in force governing the taxation of mortgages or debts secured by mortgages, or the manner of collecting those taxes, the Indebtedness shall become due and payable immediately at the option of the Mortgagee.

3. **INSURANCE:** Until the Indebtedness is fully paid, the Mortgagor shall keep the Premises and the present and future improvements on the Premises constantly insured for the benefit of the Mortgagee against fire and such other hazards and risks customarily covered by the standard form of extended coverage endorsement in Illinois, including risks of vandalism and malicious mischief, and shall further provide flood insurance (if the Premises are situated in an area designated as a flood risk area by the Director of the Federal Emergency Management Agency or as otherwise required by the Flood Disaster Protection Act of 1973 and regulations issued under it), and such other appropriate insurance as the Mortgagee may require from time to time. All insurance policies and renewals must be acceptable to the Mortgagee, must provide for payment to the Mortgagee in the event of loss, must require thirty (30) days notice to the Mortgagee in the event of nonrenewal or cancellation, and must be delivered to the Mortgagee within thirty (30) days prior to their respective effective dates. Should the Mortgagor fail to insure or fail to pay the premiums on any insurance or fail to deliver the policies or certificates or renewals to the Mortgagee, then the Mortgagee at its option may have the insurance written or renewed and pay the premiums for the account of the Mortgagor. In the event of loss or damage, the proceeds of the insurance shall be paid to the Mortgagee alone. No loss or damage shall itself reduce the Indebtedness. The Mortgagee is authorized to adjust and compromise a loss without the consent of the Mortgagor, to collect, receive and receipt for any proceeds in the name of the Mortgagee and the Mortgagor and to endorse the Mortgagor's name upon any check in payment of proceeds. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds and then toward payment of the Indebtedness or any portion of it, whether or not then due or payable, or the Mortgagee at its option may apply the proceeds, or any part to the repair or rebuilding of the Premises provided that the Mortgagor is not then or at any time during the course of restoration of the Premises in default under this Mortgage and has complied with all requirements for application of the proceeds to restoration of the Premises as Mortgagee, in its sole discretion may establish.

4. **WASTE:** The Mortgagor shall not commit or permit waste on the Premises nor do any other act causing the Premises to become less valuable. The Mortgagor will keep the Premises in good order and repair and in compliance with all material respects with any law, regulation, ordinance or contract affecting the Premises and, from time to time make all needful and proper replacements so that fixtures, improvements and Equipment will at all times be in good condition, fit and proper for its respective purposes. Should the Mortgagor fail to effect any necessary repairs, the Mortgagee may at their option and at the expense of the Mortgagor make the repairs for the account of the Mortgagor. The Mortgagor shall use the Premises in compliance with all applicable laws, ordinances and regulations. The Mortgagee or its authorized agent shall have the right to enter upon and inspect the Premises at all reasonable times. The Mortgagor unconditionally agrees to timely pay all fees with respect to inspections of the Premises.

5. **PAYMENT OF OTHER OBLIGATIONS:** The Mortgagor shall also pay all other obligations which may become liens or charges against the Premises for any present or future repairs

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or improvements made on the Premises, or for any other goods, services, or utilities furnished to the Premises and shall not permit any lien or charge of any kind securing the repayment of borrowed funds (including the deferred purchase price for any property) to accrue and remain outstanding against the Premises.

6. **REIMBURSEMENT OF ADVANCES:** If the Mortgagor fails to perform any of its obligations under this Mortgage, or if any action or proceeding is commenced which materially affects the Mortgagee's interest in the Premises (including but not limited to: a lien priority dispute; a taking by eminent domain; insolvency; bankruptcy; or probate proceedings), then the Mortgagee at its sole option may make appearances, disburse sums and take any action it deems necessary to protect its interest (including but not limited to disbursement of reasonable attorneys' and paralegals' fees and entry upon the Premises to make repairs). Any amounts disbursed shall become additional Indebtedness, shall be immediately due and payable upon notice from the Mortgagee to the Mortgagor, and shall bear interest at the highest rate permitted under any of the instruments evidencing any of the Indebtedness.

7. **DUE ON TRANSFER:** If all or any part of the Premises or any interest in the Premises is transferred without the Mortgagee's prior written consent, Mortgagee may, at its sole option, declare the Indebtedness to be immediately due and payable.

8. **EMINENT DOMAIN:** Notwithstanding any taking under the power of eminent domain, in the event of the alteration of the grade of any road, alley, or the like, or other injury or damage to or decrease in the value of the Premises by any public or quasi-public authority or corporation, the Mortgagor shall continue to pay the indebtedness in accordance with the terms of the underlying loan documents until any award or payment shall have been actually received by the Mortgagee. By executing this Mortgage, Mortgagor assigns the entire proceeds of any award or payment and any interest to the Mortgagee. The proceeds shall be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds, including reasonable attorneys' and paralegals' fees, and then toward payment of the Indebtedness whether or not then due or payable. Alternatively, the Mortgagee may, at its option, apply all or part of the proceeds to the alteration, restoration or rebuilding of the Premises.

9. **EVENTS OF DEFAULT/ACCELERATION:** Upon the occurrence of any of the following, the Mortgagee shall be entitled to exercise its remedies under this Mortgage or as otherwise provided by law: (1) An Event of Default under the Note; (2) the Mortgagor (a) fails to observe or perform any other term of this Mortgage or (b) makes any materially incorrect or misleading representation in any financial statement or other information delivered to the Mortgagee; (3) there is a default under the terms of this Mortgage or any other document executed as part of the Indebtedness transaction; or (4) the Mortgagor sells or transfers any part of the Premises except as provided in this Mortgage without the prior written consent of the Mortgagee.

10. **REMEDIES ON DEFAULT:** Upon the occurrence of any event of default, the Mortgagee may exercise all of the rights, powers and remedies expressly or impliedly conferred on or reserved to it under this Mortgage or any other related document, now or later existing at law or in equity, including without limitation the following; (i) declare the Indebtedness to be immediately due, (ii) proceed at law or in equity to collect the Indebtedness and (iii) proceed to foreclose this

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Mortgage, or otherwise pursue any of its rights or remedies.

11. REPRESENTATIONS BY MORTGAGOR: Mortgagor represents that: (a) the execution and delivery of this Mortgage and the performance of the obligations it imposes do not violate any law, conflict with any agreement by which it is bound, or require the consent or approval of any governmental authority or other third party; and (b) this Mortgage is a valid and binding agreement enforceable according to its terms.

12. NOTICES: Notice from one party to another relating to this Mortgage shall be deemed effective if made in writing (including telecommunications) and delivered to the recipient's address as set forth above, by any of the following means: (a) hand delivery, (b) registered or certified mail, postage prepaid, with return receipt requested, (c) first class or express mail, postage prepaid, or (d) overnight mail by a nationally recognized courier service. Notice made in accordance with this paragraph shall be deemed delivered upon receipt if delivered by hand, three (3) business days after mailing if mailed by first class registered or certified mail or one (1) business day after mailing or deposit with an overnight courier service if delivered by express mail or overnight courier. This notice provision shall be inapplicable to any judicial or non-judicial proceeding where state law governs the manner and timing of notices in foreclosure or receivership proceedings.

13. MISCELLANEOUS: If any provision of this Mortgage is in conflict with any statute or rule of law or is otherwise unenforceable for any reason whatsoever, then that provision is void to the extent of the conflict or unenforceability, and severed from but does not invalidate any other provision of this Mortgage. No waiver by the Mortgagee of any right or remedy granted or failure to insist on strict performance by the Mortgagor waives any right or remedy of the Mortgagee, nor does the subsequent exercise of the same right or remedy of the Mortgagee for any subsequent default by the Mortgagor. All rights and remedies of the Mortgagee are cumulative. The promises and agreements herein bind and these rights benefit the parties and their respective heirs, successors, and assigns. This Mortgage is governed by Illinois law except to the extent it is preempted by Federal law or regulations.

14. EXCULPATION OF LIABILITY: Anything herein to the contrary notwithstanding, it is expressly understood and agreed that Howard D. Lerman is executing this document not individually or personally, but solely as Trustee of the Ann M. Portes Revocable Trust dated August 26, 2005. Nothing herein contained shall permit any party to this document or their successors and assigns to assert any personal liability of any kind, nature or description against Howard D. Lerman personally, but any such claims shall be limited to and against the assets constituting the trust estate of said Trust from time to time hereafter. The parties to this document

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for themselves and their successors and assigns, hereby waive and release any and all claims of every kind, nature and description which they may hereafter assert against Howard D. Lerman individually or personally by reason of any matters or things contained in or pertaining to this document.

MORTGAGOR:

Ann M. Portes Revocable Trust Dated August 26, 2005

By: *Howard D. Lerman*
Howard D. Lerman, not individually but solely as
Trustee

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, *The undersigned*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Howard D. Lerman, not individually but solely as trustee, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the 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 16th day of October, 2006.

[Signature]
Notary Public

Commission expires: *10/22/07*

[SEAL]

Notary Public Seal
My Commission Expires