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Cook County Recorder of Deeds
Date: 11/17/2006 12:04 PM Pg: 1 of 9

KENNETH A. LATIMER, ESQ.
DUANE, MORRIS LLP
227 WEST MONROE
SUITE 3400
CHICAGO, ILLINOIS 60606

FIRST AMERICAN TITLE

ORDER # 1258520/1523179

JUNIOR MORTGAGE

THIS MORTGAGE dated October 30, 2006 is made by **CHARLES E. RUSSELL** and **CHARLES N. RUSSELL**, as joint tenants, with an address of 339 E. Sheridan Road, Lake Bluff, Illinois 60044 (collectively, "**Mortgagor**") in favor of **LAKE FOREST BANK AND TRUST COMPANY** with an address of 727 North Bank Lane, Lake Forest, Illinois 60045, Attention: Chris Baker ("**Mortgagee**"). *a single man.

This is not homestead property for Charles E. Russell.

1. Obligations; Loan Documents. This Mortgage is executed, acknowledged and delivered by Mortgagor to secure and enforce the following obligations and liabilities (collectively, the "**Obligations**"): 9

(a) The repayment of (i) the principal sum of Six Million Nine Hundred Thirty Eight Thousand Two Hundred Twelve and No/100 Dollars (\$6,938,212.00) in the aggregate to be paid pursuant to the terms and conditions of a certain Mortgage Note dated this date, made by C.E. Russell & Associates, Ltd., an Illinois corporation, ("**Borrower**") in favor of Mortgagee (the "**Note**"); and (ii) all sums now or in the future advanced or coming due or required to be paid under any document now or hereafter given and intended to be secured by this Mortgage whether for principal, interest, fees, costs, charges, expenses, or other amounts owing under reimbursement or indemnification obligations under any of the foregoing; whether such advances are voluntary or obligatory; whether such obligations presently exist or come into existence at some future time; and whether such advances, costs and expenses were made or incurred at the request of Mortgagor or Mortgagee; and

(b) The performance of all of the terms, covenants, conditions, agreements, obligations and liabilities of Mortgagor under (i) the Note, this Mortgage, and any other document now or hereafter given to evidence, secure or facilitate the payment and performance of any of the Obligations; and (ii) all extensions, renewals, replacements or modifications of, or amendments or additions to any of the foregoing; (all of the foregoing being collectively referred to in this Mortgage as the "**Loan Documents**").

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2. Grant of Mortgage. Mortgagor mortgages, hypothecates, grants, conveys and assigns to Mortgagee, and grants to Mortgagee a security interest in, all of the land, buildings, improvements, fixtures, equipment, easements, rights, appurtenances, leases, rents, contract rights and general intangibles, whether now in existence or to come into existence at some future time, arising from, pertaining to or situated at or upon the land located in the Village of Lake Bluff, County of Lake, and State of Illinois as more fully described in Exhibit "A" attached hereto and incorporated herein (the "**Mortgaged Property**").

3. Title; Transfer of Title.

(a) Mortgagor warrants to Mortgagee that Mortgagor owns the Mortgaged Property in fee simple, has the right to mortgage, grant and convey the Mortgaged Property, and that the Mortgaged Property is, as of the date hereof, encumbered only by that mortgage dated August 1, 2005 and recorded as document number 0522433141 ("**Senior Mortgage**") to Mortgage Electronic Registration Systems, Inc., solely as nominee for US Bank NA to secure an indebtedness in the amount of Three Hundred Ninety Two Thousand, Eight Hundred and No/100 Dollars (\$392,800.00). Mortgagor will defend generally the title to the Mortgaged Property against all claims and demands, subject to any encumbrances of record.

(b) Mortgagor shall not sell, exchange, transfer, lease or further encumber all or any part of the Mortgaged Property, without Mortgagee's prior written consent which consent may be given or withheld in Mortgagee's sole discretion.

4. Payment Obligations.

(a) Mortgagor shall, or shall cause Borrower to, pay promptly when due the principal (which may include advances and charges made by Mortgagee under this Mortgage), interest, fees, charges, and other indebtedness and reimbursement obligations contained in the Loan Documents or this Mortgage. Mortgagor shall perform all other covenants contained in the Loan Documents.

(b) Mortgagor shall pay and perform all of Mortgagor's obligations under any encumbrances of record including (i) any obligations under a declaration of covenants creating or governing a condominium or planned unit development and constituent documents; and (ii) any mortgage (except the Senior Mortgage), deed of trust, lease, security agreement, or other lien or encumbrance affecting the Mortgaged Property.

(c) Mortgagor shall pay or cause to be paid all taxes, assessments, charges, fines and impositions attributable to the Mortgaged Property which may attain a priority over this Mortgage not later than the last day such taxes are payable without penalty or interest. Mortgagor shall deliver receipts evidencing payment of all taxes to Mortgagee within ten (10) days after demand.

(d) Mortgagor shall promptly discharge any claim or lien which may have priority over this Mortgage, except the Senior Mortgage, and unless and only to the extent Mortgagee

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consents in writing to allow Mortgagor to: (i) pay the obligation secured by the lien in a manner satisfactory to Mortgagee; (ii) contest in good faith the lien by, or defend against enforcement of the lien in, legal proceedings which, in Mortgagee's sole opinion, operate to prevent the enforcement of the lien or forfeiture of any part of the Mortgaged Property; or (iii) secure from the holder of the lien an agreement satisfactory to Mortgagee subordinating the lien to this Mortgage.

5. Hazard Insurance. Mortgagor shall keep the improvements now existing or hereafter erected on the Mortgaged Property insured against loss by fire, hazards included within the term "extended coverage", and against such other hazards, in such amounts (but not less than full replacement value) and for such periods as Mortgagee may require. At the execution of this Mortgage, Mortgagor will deliver to Mortgagee a certificate of insurance acceptable to Mortgagee and naming Mortgagee as an additional insured. Mortgagor hereby assigns all insurance policies and the proceeds thereof to Mortgagee as additional security, subject to the terms of the Senior Mortgage. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee. Mortgagee may submit proof of loss if not made promptly by Mortgagor. At Mortgagee's option, the proceeds of insurance may be applied to the Obligations under the Loan Documents or released for the restoration or rebuilding of the Mortgaged Property under terms and conditions satisfactory to Mortgagee. Unless Mortgagee and Mortgagor otherwise agree in writing, any application of proceeds to the amount owed under the Obligations shall not extend or postpone the due date of any monthly payment or change the amount of such payments.

6. Obligations Regarding Mortgaged Property

- (a) Mortgagor shall keep the Mortgaged Property in good repair and shall not commit waste or permit impairment or deterioration of the Mortgaged Property.
- (b) Mortgagor shall comply with and cause the Mortgaged Property to be kept at all times in compliance with all laws, ordinances, rules and regulations of any governmental authority or entity pertaining to the Mortgaged Property.
- (c) Mortgagor shall permit Mortgagee and its agents and representatives, at reasonable times upon reasonable notice, to inspect the Mortgaged Property (including subsurface investigations to determine compliance with Applicable Environmental Laws (hereafter defined)).
- (d) Mortgagor shall not abandon the Mortgaged Property or allow it to become vacant.
- (e) Mortgagor shall not remove, demolish or materially alter any of the Mortgaged Property.
- (f) Mortgagor shall notify Mortgagee promptly upon the occurrence of (i) a fire or other casualty causing damage to the Mortgaged Property; (ii) a pending or threatened condemnation of the Mortgaged Property; (iii) a notice of violation of any laws applicable to the Mortgaged

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Property; or (iv) a notice of default, non-payment, non-performance or acceleration under the Senior Mortgage or any other lien or encumbrance affecting the Mortgaged Property.

7. Environmental Matters.

(a) Mortgagor shall not use the Mortgaged Property, nor allow it to be used, to generate, manufacture, refine, transport, treat, store, handle, dispose, transfer, produce or process Hazardous Materials except in full compliance with Applicable Environmental Laws. Mortgagor shall not cause or permit, as a result of any intentional or unintentional act or omission on the part of Mortgagor or any other person, a release of Hazardous Materials onto, from or affecting the Mortgaged Property or any other use, installation, or disposition of Hazardous Materials in violation of Applicable Environmental Laws. Mortgagor shall comply, and enforce compliance by all tenants and subtenants, with all Applicable Environmental Laws and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to any Applicable Environmental Laws.

(b) If Mortgagor receives any notice from any governmental authority with regard to Hazardous Materials on, from or affecting the Mortgaged Property, or any notice of violation of Applicable Environmental Laws, Mortgagor shall promptly notify Mortgagee. Mortgagor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials on, from or affecting the Mortgaged Property in accordance with all Applicable Environmental Laws and to the satisfaction of Mortgagee.

(c) The term "**Applicable Environmental Laws**" shall mean, without limitation, all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, restrictions and requirements of the United States of America, the state in which the Mortgaged Property is located and any political subdivision thereof or any town, city, county or municipality in which the Mortgaged Property is located or any agency, department, bureau, board, commission or instrumentality of any of the foregoing now existing or hereafter created pertaining to the preservation or enhancement of the quality of the environment or regulating or restricting the use, transfer, storage or remediation of Hazardous Materials including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), and the rules, regulations adopted and publications promulgated pursuant thereto at any time. The term "**Hazardous Materials**" shall mean, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials, asbestos or any material containing asbestos, or any other substance or material regulated under any Applicable Environmental Laws.

8. Protection of Mortgagee's Security. If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, or if there is a legal proceeding that may significantly affect Mortgagee's rights in the Mortgaged Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Mortgagee, at Mortgagee's option, may make such appearances, pay such costs, including reasonable attorneys' fees, and all other costs and

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expenses incurred by Mortgagee including reasonable fees of appraisers, accountants, consultants and other professionals, and take any action that is advisable, in Mortgagee's opinion, to protect the value of the Mortgaged Property and Mortgagee's rights in the Mortgaged Property. Any amounts disbursed by Mortgagee pursuant to this provision shall bear interest at the annual interest rate applied from time to time under the Note as applicable after maturity or default (the "**Default Interest Rate**") and shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, those amounts shall be payable upon notice from Mortgagee to Mortgagors requesting payment thereof. Nothing contained in this provision shall require Mortgagee to incur any expense or take any action under this Mortgage.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Mortgaged Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Mortgagee, subject to the Senior Mortgage and to the terms of any other lien permitted by Mortgagee to have priority over this Mortgage. Provided that no Event of Default (as herein defined) has occurred, the proceeds of such award shall be released to Mortgagor for the restoration or rebuilding of the Mortgaged Property under terms and conditions satisfactory to Mortgagee.

10. No Release; No Waiver. Any extension of the time for payment, or any modification of the amortization, of the sums secured by this Mortgage granted by Mortgagee to Mortgagor shall not operate to release the liability of any other obligor under the terms of the Loan Documents or this Mortgage. Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law shall not be a waiver of, or preclude the exercise of, any right or remedy.

11. Successors and Assigns. The covenants and agreements contained in this Mortgage shall bind and benefit the successors and assigns of Mortgagee and Mortgagor.

12. Notices. All notices required or desired to be given under this Mortgage shall be in writing and shall be delivered to the respective addresses of Mortgagee or Mortgagor set forth at the beginning of this Mortgage and shall be given by: (a) hand-delivery; (b) first class mail (postage prepaid); (c) reliable overnight commercial courier (charges prepaid) or (d) telecopy or other means of electronic transmission, if confirmed promptly by any of the methods specified in clauses (a), (b) and (c). Notice given by telecopy or other means of electronic transmission shall be deemed to have been given and received when sent. Notice by overnight courier service shall be deemed to have been given and received on the date scheduled for delivery. Notice by mail shall be deemed to have been given and received three (3) calendar days after the date first deposited in the United States Mail. Notice by hand delivery shall be deemed to have been given and received upon delivery. A party may change its address by giving written notice to the other party as provided in this paragraph.

13. Events of Default. The occurrence of any one or more of the following events shall, at the election of Mortgagee, constitute an Event of Default under this Mortgage:

- (a) Any default or event of default under any of the other Loan Documents;

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- (b) Failure to pay any sum required to be paid under this Mortgage as and when due;
- (c) Any violation of the prohibition on sale or other events of transfer contained in this Mortgage;
- (d) Nonperformance of, or noncompliance with, any of the agreements, terms and conditions contained in this Mortgage (if and only to the extent not included in any of the occurrences listed above), which nonperformance or noncompliance is not cured and remedied within ten (10) days after notice thereof is given to Mortgagor; or
- (e) Any default or event of default under the Senior Mortgage or any other mortgage, deed of trust or other lien or encumbrance affecting the Mortgaged Property.

14. Remedies for Default. Upon the occurrence of an Event of Default, Mortgagee may exercise any rights and remedies available to Mortgagee under this Mortgage, the Loan Documents or otherwise available under applicable law.

15. Waivers. Mortgagor hereby waives and releases all errors, defects and imperfections in any proceeding instituted by Mortgagee under the terms of this Mortgage or any Loan Document, as well as all benefit that might accrue to Mortgagor by virtue of any present or future laws exempting the Mortgaged Property, or any other property, real or personal, or any part of the proceeds arising from any sale of such property, from attachment, levy, or sale under execution, or providing for any stay of execution, exemption from civil process or extension of time for payment.

16. Confession of Judgment. **FOR THE PURPOSE OF OBTAINING POSSESSION OF THE MORTGAGED PROPERTY UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT, MORTGAGOR HEREBY AUTHORIZES AND EMPOWERS ANY ATTORNEY OF ANY COURT OF RECORD IN THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED OR ELSEWHERE AS ATTORNEY FOR MORTGAGOR AND ALL PERSONS CLAIMING UNDER OR THROUGH MORTGAGOR, TO SIGN AN AGREEMENT FOR ENTERING IN ANY COMPETENT COURT AN ACTION IN EJECTMENT FOR POSSESSION OF THE MORTGAGED PROPERTY AND TO APPEAR FOR AND CONFESS JUDGMENT AGAINST MORTGAGOR, AND ALL PERSONS CLAIMING UNDER OR THROUGH MORTGAGOR IN FAVOR OF MORTGAGEE FOR RECOVERY BY MORTGAGEE OF POSSESSION THEREOF, FOR WHICH THIS MORTGAGE, OR A COPY THEREOF VERIFIED BY AFFIDAVIT, SHALL BE SUFFICIENT WARRANT; AND THEREUPON A WRIT OF POSSESSION MAY IMMEDIATELY ISSUE FOR POSSESSION OF THE MORTGAGED PROPERTY, WITHOUT ANY PRIOR WRIT OR PROCEEDING WHATSOEVER AND WITHOUT ANY STAY OF EXECUTION. IF FOR ANY REASON AFTER SUCH ACTION HAS BEEN COMMENCED IT SHALL BE DISCONTINUED, OR POSSESSION OF THE MORTGAGED PROPERTY SHALL REMAIN IN OR BE RESTORED TO MORTGAGOR, MORTGAGEE SHALL HAVE THE RIGHT FOR THE SAME DEFAULT OR ANY**

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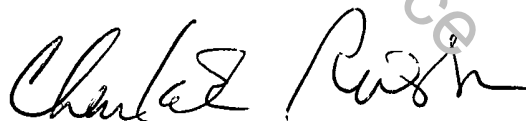
SUBSEQUENT DEFAULT TO BRING ONE OR MORE FURTHER ACTIONS AS ABOVE PROVIDED TO RECOVER POSSESSION OF THE MORTGAGED PROPERTY. MORTGAGEE MAY BRING AN ACTION IN EJECTMENT BEFORE OR AFTER THE INSTITUTION OF PROCEEDINGS TO FORECLOSE THIS MORTGAGE OR TO ENFORCE ANY LOAN DOCUMENT, OR AFTER ENTRY OF JUDGMENT THEREON OR ON ANY LOAN DOCUMENT, OR AFTER A SHERIFF'S SALE OF THE MORTGAGED PROPERTY IN WHICH MORTGAGEE IS THE SUCCESSFUL BIDDER, IT BEING THE UNDERSTANDING OF THE PARTIES THAT THE AUTHORIZATION TO PURSUE SUCH PROCEEDINGS FOR OBTAINING POSSESSION IS AN ESSENTIAL PART OF THE REMEDIES FOR ENFORCEMENT OF THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS, AND SHALL SURVIVE ANY EXECUTION SALE TO MORTGAGEE.

BY AGREEING THAT MORTGAGEE MAY CONFESS JUDGMENT HEREUNDER MORTGAGOR, FOR ITSELF AND ANY OTHER PERSONS OR ENTITIES NOW OR HEREAFTER IN POSSESSION OF ALL OR ANY PART OF THE MORTGAGED PROPERTY, WAIVES THE RIGHT TO NOTICE IN A PRIOR JUDICIAL PROCEEDING TO DETERMINE THEIR RIGHTS AND LIABILITIES AND THE OPPORTUNITY TO RAISE ANY DEFENSE, SET OFF, COUNTERCLAIM OR OTHER CLAIM AGAINST SUCH ACTION BY MORTGAGEE.

17. Interest Rate after Judgment. Mortgagor agrees that the interest rate payable after a judgment is entered on the Obligations, or in an action of mortgage foreclosure, shall be the Default Interest Rate.

18. Governing Law; Severability. This Mortgage shall be governed and construed in accordance with the substantive laws of the State of Illinois. In the event any provision or clause of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision. To this end, the provisions of this Mortgage are declared to be severable.

IN WITNESS WHEREOF, and intending to be legally bound, Mortgagor has executed this Mortgage as of the day and year first above written.



CHARLES E. RUSSELL



CHARLES N. RUSSELL

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EXHIBIT A

LEGAL DESCRIPTION

Legal Description: That part of Lots 57 to 60, both inclusive and taken as a tract, in Block 3, in Isham's Resubdivision of parts of Blocks 3, 4, and 5 of Isham's Subdivision of the North half of the South half of the Southwest of Section 31, Township 40 North, Range 14 East of the Third Principal Meridian, and lying Southwest of Milwaukee Avenue, according to the plat of said resubdivision recorded April 23, 1907 as Document 4023344, in Cook County, Illinois, described as follows:

Commencing at the Northwest corner of said Lot 60; thence North 90 degrees 00 minutes 00 seconds, East along the North line of said Lot 60. A distance of 21.90 feet to the point of beginning of the parcel herein described; thence continuing East along the last described course extended, a distance of 22.20 feet; thence South 00 degrees 00 minutes 00 seconds East, a distance of 51.56 feet; thence South 90 degrees 00 minutes 00 seconds West, a distance of 12.20 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 11.05 feet; thence South 90 degrees 00 minutes 00 seconds West, a distance of 3.00 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 2.50 feet; thence North 90 degrees 00 minutes 00 seconds West, a distance of 7.00 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 38.00 feet to the point of beginning.

Permanent Index #'s: 14-31-319-072-0000 Vol. 0533

Property Address: 2340-EL West Wabansia, Chicago, Illinois 60647

Property of Cook County Clerk's Office