

# UNOFFICIAL COPY

mail to

**THIS INSTRUMENT PREPARED BY:**

Philip L. Mandell  
Pitler and Mandell  
39 South LaSalle Street  
Suite 1220  
Chicago, Illinois 60603



Doc#: 0717602112 Fee: \$36.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/25/2007 09:47 AM Pg: 1 of 7

**COMMON ADDRESS:**

5701 West 81<sup>st</sup> Street  
Burbank, Illinois 60459

P.I.N. 19-32-231-024

**Real Property Title, LLC**  
**10258 S. Western Ave.**  
**Suite 202**  
**Chicago, IL 60643**

**REAL ESTATE MORTGAGE AND ASSIGNMENT OF RENTS**

THIS INSTRUMENT is a Real Estate Mortgage and Assignment of Rents made and delivered by **JOHN MICHAEL PANEK** and **KIMBERLY ANN PANEK**, husband and wife (collectively "Mortgagor") to **HARRY RANDOLPH FERRIS** and **KATHLEEN ANN FERRIS**, husband and wife, or their assignee (collectively "Mortgagee").

**WHEREAS**, Mortgagor has previously executed and delivered to Mortgagee a Promissory Note dated May 24, 2007 in the principal sum of \$185,000.00 (the "Note"), which Note is payable, if not sooner paid, on November 24, 2007.

**WHEREAS**, the indebtedness evidenced by the Note and the undertakings by Mortgagor in this instrument and any and all other sums which may at any time be due, owing or required to be paid as herein or in the Note provided herein called "Indebtedness Hereby Secured."

**NOW, THEREFORE:**

TO SECURE the payment and performance of Indebtedness Hereby Secured and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagor does hereby MORTGAGE and CONVEY to Mortgagee the Real Estate described in Exhibit "A" together with the property mentioned in the next succeeding paragraphs (hereinafter collectively referred to as the "Premises").

TOGETHER with and including within the term "Premises" as used herein any and all equipment, personal property, improvements, buildings, structures, easements, fixtures, privileges, reservations, appurtenances, rights and estates in reversion or remainder, rights in or to adjacent sidewalks, alleys, streets and vaults, and any an all rights and interests of every name and nature now or hereafter owned by Mortgagor, forming a part of and/or

796  
C.F.

# UNOFFICIAL COPY

used in connection with the Real Estate and/or the operation and convenience of the buildings and improvements now or hereafter located thereon, including (by way of enumeration but without limitation) all furniture, furnishings and equipment used or useful in the operation of the Real Estate or furnished by Mortgagor to tenants thereof; all building materials located at the Real Estate and intended to be incorporated in improvements now or hereafter to be constructed thereon, whether or not incorporated therein; machines, machinery, fixtures, apparatus, equipment and articles used to supply heating, gas, electricity, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration and ventilation, and all floor coverings, screens, storm windows, blinds, awnings; in each case now or hereafter placed in, on or at the Premises. The enumeration of any specific articles of property shall in no wise exclude or be held to exclude any items of property not specifically enumerated.

AND TOGETHER WITH all of the rents, income, receipts, revenues, issues and profits thereof and therefrom; and all of the land, estate, property and rights hereinabove described and hereby conveyed and intended so to be, whether real, personal or mixed, and whether or not affixed or annexed to the Real Estate are intended to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the Real Estate and to be appropriated to the use of the Real Estate and for the purposes hereof shall be deemed to be real estate mortgaged and warranted hereby.

TO HAVE AND TO HOLD all and sundry of the Premises hereby mortgaged and warranted or intended so to be, together with the rents, issues and profits thereof, unto Mortgagee forever, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois (which rights and benefits are hereby expressly released and waived), for the uses and purposes herein set forth, together with all right to retain possession of the Premises after any default in the payment of all or any part of the Indebtedness Hereby Secured, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default as hereinafter defined.

PROVIDED that if all Indebtedness Hereby Secured shall be duly and punctually paid and all terms, provisions, conditions and agreements herein contained on the part of Mortgagor to be performed or observed shall be strictly performed and observed, then this Mortgage and the estate, right and interest of Mortgagee in the Premises shall cease and be of no effect.

## AND IT IS FURTHER AGREED THAT:

1. **Payment of Indebtedness.** Mortgagor will promptly pay the principal and interest on the Note, and all other Indebtedness Hereby Secured, as the same become due, and will duly perform and observe all of the covenants, agreements and provisions herein and in the Note required.
2. **Maintenance, Repair, Restoration, Prior Liens, Parking, Etc.** Mortgagor will (a) promptly construct, repair, restore and rebuild any buildings or improvements now

# UNOFFICIAL COPY

or hereafter on the Premises which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for the purpose; (b) keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay, when due, any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (d) complete, within a reasonable time, any building or buildings now or at any time in the process of erection upon the Premises; (e) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof; (f) make no material alterations in the Premises except as required by law or municipal ordinance without Mortgagee's prior written consent; (g) not make or permit any change in the general nature of the occupancy of the Premises without Mortgagee's prior written consent; (h) pay all operating costs of the Premises; (i) not initiate or acquiesce in any zoning reclassification with respect to the Premises without Mortgagee's prior written consent; and (j) provide, improve, grade, surface and thereafter maintain, clean and repair any sidewalks, aisles, streets, driveways and sidewalk cuts and paved areas from parking and for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof; and reserve and use all such areas solely and exclusively for the purpose of providing parking, ingress and egress for tenants or invitees of tenants of the Premises; and Mortgagor will not reduce, build upon, construct, redesignate or relocate any such areas or right-of-way or lease or grant any rights to use the same to any person except tenants and invitees of tenants of the Premises without prior written consent of Mortgagee.

3. **Taxes.** Mortgagor will pay when due before any penalty attaches all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes") assessed against or applicable to the Premises or any interest therein, or the Indebtedness Hereby Secured and Mortgagor will, furnish to Mortgagee duplicate receipts therefor. Mortgagor will pay in full, under protest in the manner provided by statute, any Taxes which Mortgagor may desire to contest. However, if deferment of payment is required to conduct any contest or review, Mortgagor shall deposit the full amount thereof, together with an amount equal to the interest and penalties during the period of contest (as estimated by Mortgagee) with Mortgagee. In any event, Mortgagor shall (and if Mortgagor shall fail to do so, Mortgagee may, but shall not be required to, use the monies deposited as aforesaid) pay all Taxes, notwithstanding such contest, if in the opinion of Mortgagee, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed. In the event any law or court decree has the effect of deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the Taxes or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of Mortgagee in the Premises or the Indebtedness Hereby Secured or the holder thereof, then, and in any such event, Mortgagor upon demand by Mortgagee will pay such Taxes or reimburse Mortgagee therefor. Nothing herein contained shall require Mortgagee to pay any income, franchise or excise tax imposed upon Mortgagee, excepting only such which

# UNOFFICIAL COPY

may be levied against such income expressly as and for a specific substitute for Taxes on the Premises and then only in an amount computed as if Mortgagee derived no income from any source other than its interest hereunder.

4. **Prepayment Privilege.** Mortgagor may prepay the principal of the Note at the times and in the manner set forth in the Note.

5. **Due On Sale.** Mortgagor agrees that any attempt to transfer or convey any interest in the Premises which is the subject matter of this Mortgage shall cause an immediate acceleration of the principal balance due, together with all accrued interest.

6. **Waiver of Redemption Rights.** Mortgagor covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, or claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction, or after such sale or sales claim exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. Mortgagor expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on its own behalf and on behalf of each and every person, excepting only decree or judgment creditors of Mortgagor acquiring any interest or title to the Premises subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by law. Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power and remedy as though no such law or laws have been made or enacted.

7. **Assignment of Rents, Issues and Profits.** Subject to the rights of the prior mortgage and assignment of rents holder, Mortgagor hereby assigns and transfers to Mortgagee all the rents, issues and profits of the Premises, and hereby gives to and confers upon Mortgagee the right, power and authority to collect such rents, issues and profits. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue in the name of Mortgagor or Mortgagee for all such rents, issues and profits and apply the same to the indebtedness secured hereby. Provided, however, that Mortgagor shall have the right to collect such rents, issues and profits (but not more than two months in advance) prior to or at any time there is not an Event of Default under this Mortgage or the Note. The assignment of the rents, issues and profits of the Premises in this Section is intended to be an absolute assignment from Mortgagor to Mortgagee and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by Mortgagor to Mortgagee



# UNOFFICIAL COPY

contingent only upon the occurrence of an Event of Default under this Mortgage or the Note.

8. **Assignment of Leases.** Mortgagor hereby assigns and transfers to Mortgagee as additional security for the payment of the Indebtedness Hereby Secured all present and future leases upon all or any part of the Premises and shall execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Premises as Mortgages shall from time to time require.

9. **Title in Mortgagor's Successors.** If ownership of the Premises becomes vested in a person or persons other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest of Mortgagor with reference to this Mortgage and the Indebtedness Hereby Secured in the same manner as with Mortgagor. Mortgagor shall give immediate written notice to Mortgagee of any conveyance, transfer or change of ownership of the Premises.

10. **Rights Cumulative.** Each right, power and remedy conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter, existing, at law or in equity, and each and every right, power and remedy so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. No delay or omission of Mortgagee in the exercise of any right, power or remedy shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

11. **Successors and Assigns.** This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and its successors and assigns, including each and every from time to time record owner of the Premises or any other person having an interest therein, and shall inure to the benefit of Mortgagee and their successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder of the Note, whether so expressed or not; and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce all and every of the terms and provisions hereof, as fully and to the same extent and with the same effect as if such from time to time holder were herein by name designated the Mortgagee.

12. **Provisions Severable.** The unenforceability or invalidity of any provisions hereof shall not render any other provisions herein contained unenforceable or invalid.

13. **Waiver of Defense.** Actions for the enforcement of the lien or any provision hereof shall not be subject to any defense which would not be good and available to the party interposing the same in an action at law upon the Note, and all such defenses are hereby waived by Mortgagor.

# UNOFFICIAL COPY

14. **Captions and Pronouns.** The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

15. **Addresses and Notices.** Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof by certified mail to the addresses hereafter set forth or to such other place as any party hereto may by notice in writing designate, shall constitute service of notice hereunder:

IF TO MORTGAGOR: John Michael Panek and  
Kimberly Ann Panek  
5701 West 81<sup>st</sup> Street  
Burbank, Illinois 60459

IF TO MORTGAGEE: Harry Randolph Ferris and  
Kathleen Ann Ferris  
20805 Anthony Road  
Marengo, Illinois 60152

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed and delivered as their free and voluntary deed for the uses and purposes herein set forth, on May 24, 2007.

John Michael Panek  
JOHN MICHAEL PANEK

Kimberly Ann Panek  
KIMBERLY ANN PANEK

STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF COOK     )

It the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JOHN MICHAEL PANEK and KIMBERLY ANN PANEK, husband and wife, personally known to me to be the same persons whose name are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 31 day of May,  
2007.

[Signature]  
NOTARY PUBLIC

# UNOFFICIAL COPY

## EXHIBIT "A"

Lot 12 in Margaret's Fifth Addition of the North 1/8 of Lot 7 (except the West 266 feet) (West of the Center Line of State Road) in Assessor's Subdivision of Section 34 and the North 1/2 of Section 32, Township 38 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Property of Cook County Clerk's Office