

UNOFFICIAL COPY

09072097

10/21/01 11:28:00 Page 1 of 6
1999-11-15 15:53:40
Cook County Recorder 31.50



09072097

Property of Cook County Clerk's Office



JUNIOR MORTGAGE

THIS INSTRUMENT WAS PREPARED BY:
Hauselman & Rappin, Ltd.
39 South LaSalle Street, Suite 1105
Chicago, IL 60603

THIS MORTGAGE is made November 10th, 1999, by and between Jorge Cruz and Carmen Cruz, his wife, herein referred to as "Mortgagor", and Citibank, Federal Savings Bank, a corporation organized and existing under the laws of the United States, or its successors and assigns, herein referred to as "Mortgagee whose address is 500 W. Madison Street, 5th Floor, Chicago, IL 60661, ATTN: Clayton Smith.

THIS CONVEYANCE of certain real property is made to secure the obligation indicated below and evidenced by one or more of the following contracts:

- (X) Two promissory notes dated June 19, 1998, in the total principal sum of \$165,615.99, executed by Linda's Shoes, Inc. payable to the Order of Mortgagee;
- (X) A Continuing guaranty dated June 19, 1998, executed by Jorge Cruz for the indebtedness of Linda's Shoes, Inc. to Mortgagee;
- (X) A credit agreement dated June 19, 1998, executed by Linda's Shoes, Inc. and requiring repayment of one or more extensions of credit;
- (X) A Loan Modification Agreement of even date by and between Citibank, F.S.B., Linda's Shoes, Inc., Veronica Herlinda Urquizo, Jorge Cruz and Jorge F. Cruz

including performance of any and all renewals, modifications or extensions of any of the above contracts which Mortgagee elects to make, in its sole discretion, or of any contract taken in substitution or exchange for any of them. This Mortgage shall also secure: (a) payment of all other sums and interest required to be paid to Mortgagee by Mortgagor; (b) performance of all agreements of Mortgagor in this Mortgage; (c) performance of all agreements of Mortgagor to pay fees and charges to Mortgagee, whether or not set out in this Mortgage; and (d) payment of all other indebtedness or performance of all other obligations or any kind to Mortgagee by Mortgagor it being understood and agreed that this Mortgage shall stand for any and all such obligations whether or not similar or related to the contract indicated above; which property has the address of 2836 West 57th Street, Chicago, Illinois ("Property Address") and is legally described as follows:

Lot 48 in Murdock's Garfield Boulevard Subdivision of the West ½ of the East ½ of the Northeast ¼ of the Northwest ¼ of Section 13, Township 38 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois

PIN # 19-13-114-038

TOGETHER with all the improvements now or later erected on the property, and all easements, rights, appurtenances and rents all of which shall be deemed to be and remain a party of the Property covered by this Mortgage; and all of the foregoing, with said Property (or the leasehold estate if this Mortgage is on a leasehold) are referred to as the "Property."

Mortgagor covenants that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the Property is unencumbered, except for encumbrances of record constituting a lien which has priority over this Mortgage. Mortgagor covenants that Mortgagor warrants and will defend generally the title of the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Mortgagor and Mortgagee covenant and agree as follows:

1. **Funds for Taxes and Insurance.** If requested to do so by Mortgagee, Mortgagor shall pay to Mortgagee on the day monthly payments are due under the Note, until the note is paid in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Mortgagor to Mortgagee, in accordance with the provisions of paragraph 6 in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Mortgagee may, at any time, collect and hold Funds in an amount not to exceed the maximum amount a Mortgagee for a federally related mortgage loan may require for Mortgagor's escrow account under the federal Real Estate Settlement Procedures Act of 1974 as amended from time to time, 12 U.S.C. 2601 et seq. ("RESPA"), unless another law that applies to the Funds sets a lesser amount. If so, Mortgagee may, at any time, collect and hold Funds in an amount not to exceed the lesser amount. Mortgagee may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law. The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Mortgagee, if Mortgagee is such an institution) or in any Federal Home Loan Bank. Mortgagee shall apply the Funds to pay the Escrow Items. Mortgagee may not charge Mortgagor for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Mortgagee pays Mortgagor interest on the Funds and applicable law permits Mortgagee to make such a charge. However, Mortgagee may require Mortgagor to pay a one-time charge for an independent real estate tax reporting service used by Mortgagee in connection with this loan, unless applicable law provides otherwise. Unless an agreement is made or applicable law requires interest to be paid, Mortgagee shall not be required to pay Mortgagor any interest or earnings on the Funds. Mortgagor and Mortgagee may agree in writing, however, that interest shall be paid on the funds. Mortgagee shall give Mortgagor, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument. If the Funds held by Mortgagee exceed the amounts permitted to be held by applicable law, Mortgagee shall account to Mortgagor for the excess Funds in accordance with the requirements of applicable law. If the amount of the Funds held by Mortgagee at any time is not sufficient to pay the Escrow Items when due, Mortgagee may so notify Mortgagor in writing, and, in such case Mortgagor shall pay to Mortgagee the amount necessary to make up the deficiency. Mortgagor shall make up the deficiency in no more than twelve monthly payments, at Mortgagee's sole discretion. Upon payment in full of all sums secured by this Security Instrument, Mortgagee shall promptly refund to Mortgagor any Funds held by Mortgagee. If Mortgagee shall acquire or sell the Property, Mortgagee, prior to the acquisition or sale of the Property, shall apply any funds held by Mortgagee at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Mortgagee shall be applied by Mortgagee first to interest payable, advances, if any, and then to principal.

3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Mortgagor shall perform all of Mortgagor's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Mortgagor's covenants to make payments when due. Mortgagor shall pay or cause to be paid

all taxes, assessments and other charges, fines and impositions attributable to the Property, which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

4. **Hazard Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Mortgagee may require and in such amounts and for such periods as Mortgagee may require. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to approval by Mortgagee; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Mortgagee and shall include a standard mortgage clause in favor of and in a form acceptable to Mortgagee, Mortgagee shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage. In the event of loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee, Mortgagee may make proof of loss if not made promptly by Mortgagor. If the Property is abandoned by Mortgagor, or if Mortgagor fails to respond to Mortgagee within 30 days from the date notice is mailed by Mortgagee to Mortgagor that the insurance carrier offers to settle a claim for insurance benefits, Mortgagee is authorized to collect and apply the insurance proceeds at Mortgagee's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

5. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Mortgagor shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Mortgagor shall perform all of Mortgagor's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

6. **Protection of Mortgagee's Security.** If Mortgagor fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Property, then Mortgagee, at Mortgagee's option, upon notice to Mortgagor, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Mortgagee's interest. If Mortgagee required mortgage insurance as a condition of making the loan secured by this Mortgage, Mortgagor shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Mortgagor's and Mortgagee's written agreement or applicable law.

Any amounts disbursed by Mortgagee pursuant to this paragraph 6, with interest thereon, at the rate in the Note, shall become additional indebtedness of Mortgagor secured by this Mortgage. Unless Mortgagor and Mortgagee agree to other terms of payment, such amounts shall be payable upon notice from Mortgagee to Mortgagor requesting payment thereof. Nothing contained in this paragraph 6 shall require Mortgagee to incur any expense or take any action.

7. **Inspection.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property, provided that Mortgagee shall give Mortgagor notice prior to any such inspection specifying reasonable cause therefor related to Mortgagee's interest in the Property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Mortgagee, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

9. **Mortgagor Not Released; Forbearance By Mortgagee Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Mortgagee to any successor in interest of Mortgagor shall not operate to release, in any manner, the liability of the original Mortgagor and Mortgagor's successors in interest. Mortgagee shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successors in interest. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be waiver of or preclude the exercise of any such right or remedy.

UNOFFICIAL COPY

10. **Successors and Assigns Bound; Joint and Several Liability; Cosigners.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Mortgagee and Mortgagor, subject to the provisions of paragraph 15. All covenants and agreements of Mortgagee shall be joint and several. Any Mortgagor who signs this Mortgage, but does not execute the Note or any contract secured, (a) is signing this Mortgage only to mortgage, grant and convey that Mortgagor's interest in the Property to Mortgagee under the terms of this Mortgage, (b) is not personally liable under this Mortgage, and (c) agrees that Mortgagee and any other Mortgagor may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage, any secured contract, the Guaranty, or the Note without that Mortgagor's consent and without releasing that Mortgagor or modifying this Mortgage as to that Mortgagor's interest in the Property.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Mortgagor provided for in this Mortgage shall be given by delivering it or by mailing such notice by certified mail addressed to Mortgagor at the Property Address or at such other address as Mortgagor may designate by notice to Mortgagee as provided hereinabove, and (b) any notice to Mortgagee shall be given by certified mail to Mortgagee's address stated herein or to such other address as Mortgagee may designate by notice to Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated herein.

12. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage, any secured contract, or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage, any secured contract, or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage any secured contract and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

13. **Mortgagor's Copy.** Mortgagor shall be furnished a conformed copy of the contract indicated above and of this Mortgage at the time of execution or after recordation hereof.

14. **Rehabilitation Loan Agreement.** If Mortgagor is the Borrower, Mortgagor shall fulfill all Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Mortgagor, as Borrower, enters into with Mortgagee. Mortgagee, at Mortgagee's option, may require Mortgagor to execute and deliver to Mortgagee, in a form acceptable to Mortgagee, an assignment of any rights, claims or defenses which Mortgagor may have against parties who supply labor, materials or services in connection with improvements made to the property.

15. **Transfer of the Property or a Beneficial Interest in Mortgage.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Mortgage is sold or transferred and Mortgagor is not a natural person) without Mortgagee's prior written consent, Mortgagee may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Mortgagee if exercise is prohibited by federal laws as of the date of this Mortgage. If Mortgagee exercises this option, Mortgagee shall give Mortgagor notice of acceleration. The notice shall provide a period of not less than thirty (30) days from the date the notice is delivered or mailed within which Mortgagor must pay all sums secured by this Mortgage. If Mortgagor fails to pay these sums prior to the expiration of this period, Mortgagee may invoke any remedies permitted by this Mortgage without further notice or demand on Mortgagor.

16. **Acceleration; Remedies.** Except as provided in paragraph 15 hereof, upon Mortgagor's breach of any covenant or agreement of Mortgagor in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Mortgagee prior to acceleration shall give notice to Mortgagor as provided in paragraph 11 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than ten (10) days from the date the notice is mailed to Mortgagor, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property. The notice shall further inform Mortgagor of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the nonexistence of a default or any other defense of Mortgagor to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Mortgagee, at Mortgagee's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding.

Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports.

17. **Mortgagor's Right to Reinstate.** Notwithstanding Mortgagee's acceleration of the sums secured by this Mortgage due to Mortgagor's breach, Mortgagor shall have the right to have any proceedings begun by Mortgagee to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Mortgagor pays Mortgagee all sums which would be then due under this Mortgage and the Guaranty had no acceleration occurred; (b) Mortgagor cures all breaches of any other covenants or agreements of Mortgagor contained in this Mortgage; (c) Mortgagor pays all reasonable expenses incurred by Mortgagee in enforcing the covenants and agreements of Mortgagor contained in this Mortgage, and in enforcing Mortgagee's remedies as provided in paragraph 15 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Mortgagor takes such action as Mortgagee may reasonably require to assure that the lien of this Mortgage, Mortgagee's interest in the Property and Mortgagor's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Mortgagor, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

18. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Mortgagor hereby assigns to Mortgagee any and all rents of the Property, provided that Mortgagor shall, prior to acceleration under paragraph 16 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable. Upon acceleration under paragraph 15 hereof or abandonment of the Property, Mortgagee shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

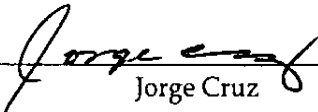
19. **Release.** Upon payment of all sums secured by this Mortgage, Mortgagee shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation, if any.

20. **Waiver of Valuation and Appraisalment.** Mortgagor waives all right of valuation and appraisalment.

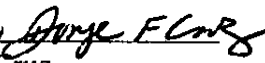
21. **Authority.** Mortgagor represents and warrants that it is the lawful owner in fee simple of the Property free and clear of all liens and encumbrances whatsoever and that it has full right, power and authority to convey and mortgage the Property and to execute this Mortgage.

22. **Purchase of Insurance by Mortgagee.** Unless you provide us with evidence of the insurance coverage required by your agreement with us, we may purchase insurance at your expense to protect our interests in the Property. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make or any claim that is made against you in connection with the Property. You may later cancel any insurance purchase by us, but only after providing us with evidence that you have obtained insurance as required by our agreement. If we purchase insurance for the Property, you will be responsible for the costs of that insurance, including interest and any other charges we may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance must be paid by you within 30 days of delivery of notice to you of placement of the insurance. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own.

IN WITNESS WHEREOF, signed this 10th day of November, 1999.



Jorge Cruz

CARMEN CRUZ by 
Carmen Cruz

AS ATTORNEY-IN-FACT.

PER-GENERAL POWER OF ATTORNEY.

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF COOK)

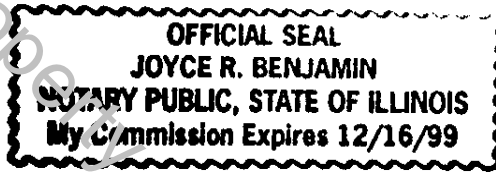
SS

JOYCE R. BENJAMIN a Notary Public of the County and State aforesaid, do hereby certify that Jorge Cruz and Carmen Cruz, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, personally appeared before me this day and acknowledged that they signed, sealed and delivered the said instrument as his free and voluntary act and deed, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 10TH day of November, 1999.

Joyce R. Benjamin
Notary Public

My Commission expires:



Property of Cook County Clerk's Office

RETURN TO BOX 201