

UNOFFICIAL COPY

88049383

COOK COUNTY, ILLINOIS
FILED FOR RECORD

1988 FEB -2 PM 3: 26

88049383

This Instrument was prepared by and to be mailed to:
Thomas P. Riordan
208 S. LaSalle Street
Chicago, IL 60604

M O R T G A G E

1900

THIS MORTGAGE IS MADE THIS 2nd day of February, 1988, between the Mortgagor AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but as Trustee under the provisions of a Deed or Deeds in Trust recorded and delivered to said company pursuant to a Trust Agreement dated January 19, 1988 and known as Trust Number 104474-07 (herein "Borrower") and the Mortgagee MERCHANDISE NATIONAL BANK OF CHICAGO, a National Banking Association organized and existing under the laws of the U.S.A., whose address is Merchandise Mart Plaza, Chicago, Illinois 60654 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of One Million Nine Hundred Fifty Thousand and no/100 (\$1,950,000.00) Dollars, which indebtedness is evidenced by Borrower's Note dated February 2, 1988 (herein "Note"), providing for monthly instalments of interest from March 2, 1988 to February 2, 1990, with the balance of the indebtedness, if not sooner paid, due and payable on February 2, 1990.

To secure to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Cook, State of Illinois:

Lots 2 through 4 and the North 1/2 of Lot 5 in Block 23 in Arthur T. McIntosh and Company's Palatine Estates Unit Number 3, being a Subdivision of Parts of Sections 26 and 27, Township 42 North, Range 10 East of the Third Principal Meridian, ~~and all of Bryant Avenue lying North of and adjacent to said Lot 1~~ in Cook County, Illinois.

Permanent Index No. 02-27-207-009, 02-27-207-013, ~~02-27-207-015,~~
~~02-27-207-016,~~ 02-27-207-008, 02-27-207-010

Which is commonly known as Lots 2 through 4 and part of Lot 5 in the 1100 Block of South Plum Grove Road in Unincorporated Palatine Township, Illinois, 60067.

88049383

71-49-687
D-3

0305436
Camm

UNOFFICIAL COPY

7 7 2 1 9 3 3 3

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property are herein, referred to as the "Property".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

UNIFORM COVENANTS. BORROWER AND LENDER covenant and agree as follows:

1. Payment of Principal and Interest. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note and prepayment and late charges as provided in the Note, secured by this Mortgage.

2. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower of unpaid collection costs and late charges, then to interest payable on the Note, then to the principal of the Note.

3. Charges; Liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, by Borrower making payment, when due, directly to the payee thereof.

Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph and Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

UNOFFICIAL COPY

1 1 1 9 3 0 3

4. Hazard Insurance. Borrower 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 hazard as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sum secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard lender's loss payable clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within ten (10) days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly instalments referred to in paragraph 1 hereof or change the amount of such instalments. If under paragraph 1 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums

UNOFFICIAL COPY

0 2 0 1 9 5 3 3

secured by this Mortgage immediately prior to such sale or acquisition.

5. Preservation and Maintenance of Property: Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

6. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

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

8. Condemnation. The proceeds of any award of 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 Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is

UNOFFICIAL COPY

20190303

equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to borrower.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within ten (10) days after notice as set forth in paragraph 13 hereinafter, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly instalments referred to in paragraph 1 hereof or change the amount of such instalments.

9. Borrower Not Released. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender 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 Borrower and Borrower's successor in interest.

10. Forbearance by Lender Not a Waiver. Any forbearance by Lender 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 such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

11. Remedies Cumulative. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

12. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 1 hereof. All covenants and agreements of Borrower shall be joint and several. The

UNOFFICIAL COPY

1983

captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

13. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by certified mail, return receipt requested, addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein. Borrower shall be deemed to be in receipt of notice three days after mailing of such notice as set forth above.

14. Uniform Mortgage; Governing Law; Severability. This form of mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

15. Borrower's Copy. Borrower shall be furnished a photocopy of the Note and of this Mortgage at the time of execution or after recordation hereof.

16. Transfer of the Property; Assumption. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (c) the grant of any leasehold interest of less than the entire Property for five years or less and not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 13 hereof. Such notice shall provide a period of not less than ten (10) days from the date the notice is mailed within which Borrower may pay the sums declared due. If

UNOFFICIAL COPY

0 0 1 9 3 3 3

Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 17 hereof.

NON UNIFORM COVENANT. BORROWER and LENDER further covenant and agree as follows:

17. Acceleration; Remedies. Except as provided in paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, or in the Note or Construction Loan Agreement of even date herewith, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 13 hereof specifying; (1) the breach; (2) the action required to cure such breach; (3) a date, not less than then (10) days from the date the notice is mailed to Borrower, 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. If the breach is not cured on or before the date specified in the notice, Lender at Lender'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. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, and costs of documentary evidence, abstracts and title reports.

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

85049383

19. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 17 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 17 hereof or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver, shall be entitled 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 Lender or 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 attorney's fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

20. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

21. Waiver of Homestead. Borrower hereby waives all right of homestead exemption in the Property.

22. Waiver of Right of Redemption. Borrower hereby waives all right to redemption in the property.

THIS MORTGAGE is executed by the AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on the AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Trustee and by every person now or hereafter claiming any right or security hereunder, and that so far as AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally is concerned, the legal holder or holders of said Note shall look solely to the premises hereby conveyed for the payment thereof, by the enforcement of the lien hereby created, in the manner herein, and in said note provided or by action to enforce the personal liability of the guarantor, if any.

UNOFFICIAL COPY

IN WITNESS WHEREOF, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO not personally, but as Trustee as aforesaid, has cause these presents to be signed by one of its Vice-Presidents or Assistant Vice-Presidents and its corporate seal to be hereunto affixed and attested by its Cashier, the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO as aforesaid, and not personally

By: _____

Attest: _____

ACKNOWLEDGMENT

STATE OF ILLINOIS) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for the County of Cook and State of Illinois, DO HEREBY CERTIFY, that J. MICHAEL WIELAN personally known to me of Chicago the VICE PRESIDENT of American National Bank and Trust Company, a corporation, and Peter H. Johnson personally known to me to be the ASSISTANT SECRETARY of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such VICE PRESIDENT and ASSISTANT SECRETARY they signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN UNDER my hand and official notary seal, this _____ day of _____, 1988.

Terrence M. Scivinski
Notary Public

FFD 2 1988

My commission expires: _____

