

UNOFFICIAL COPY

Return after recording to:

Continental Bank N.A.
231 S. LaSalle St. 10th Fl.
Chicago, Ill. 60697

Name: Jean M. Lamberth
Address: 231 S. LaSalle St. 10th Fl.
Chicago, Ill. 60697
89531771

1200

of Recorders Box: 202
Attention: Jean M. Lamberth

MORTGAGE

THIS MORTGAGE is made this 26th day of October 1989 between John F. McCaffrey and Carroll McCaffrey, His Wife

Mortgagee: CONTINENTAL BANK N.A., 231 South LaSalle Street, Chicago, Illinois 60697, as Mortgagee. As used in this document the words "you" and "your" refer to the borrowers named herein and the word "lender" refers to Continental Bank N.A. and its successors and assigns.

Indebtedness Being Secured: You are giving this Mortgage to secure to Lender the repayment of amounts outstanding under a certain variable rate Executive Equity

Loan Agreement. The Agreement is dated the same date as this Mortgage in the amount of \$ 100,000.00. You Credit Lender with all sums due and outstanding from time to time under the Agreement plus accrued interest, Finance Charges, fees, charges and other amounts that may be levied under the Agreement plus and for all payments of interest, Finance Charges, and providing for all sums owing to Lender hereunder and under the

Agreement and paid earlier whether voluntarily or required to be paid on October 26, 1989. You hereby agree to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement and to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement. The Annual Percentage Rate, as defined in the Agreement, shall be the sum of the Prime Rate plus the margin set forth in the Agreement. The Prime Rate shall mean the highest of the Prime Rate or reference rate which is the highest of the Prime Rate or reference rate as reported in the Wall Street Journal on the last business day of the month before the Billing Period in which it is to be applied. The effect of an increase in the Annual Percentage Rate will be an increase in the scheduled minimum monthly payment of the Finance Charge. The Agreement states that the interest rate component of the Annual Percentage Rate will never exceed 18%.

Security: You hereby Mortgage and warrant to Lender the following described real estate located in the County of Cook State of Illinois subject only to prior encumbrances, restrictions of record and to the lien of this Mortgage (insert legal description):

Lot 1 in William C. O'Donnell's resubdivision of Lot 4 and the South 73.58 feet of Lot 1 in White Oak subdivision, a subdivision in the North West 1/4 of the South East 1/4 of section 20, Township 42 North, Range 13 East of the third Principal Meridian, in Cook County, Illinois.

PROPERTY OF COOK COUNTY ILLINOIS
89531771

PTN: 05-20-400-084-0000

The Property has an address of 339 White Oak Lane; Winnetka, Ill. 60093

and together with all interests described below relating to this real estate for the leased estate of this Mortgage is or a leasehold referred to in this Mortgage as the "Property". You agree to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement and to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement. You shall be deemed to have agreed to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement.

Representations and Warranties: You represent and warrant to Lender, its successors and assigns, that: (1) you own the Property free from all claims except for those shown as "Exceptions" in the title insurance policy relating to the Property; (2) you own the Property free of any outstanding charges other than shown as "Exceptions" in the title insurance policy; (3) you have the right to Mortgage the Property to Lender. You agree to defend Lender against the claims of persons that they have rights in the Property mortgaged to Lender. You shall be deemed to have agreed to give Lender a first priority mortgage on the security of this Mortgage with the performance of the parties to the Agreement.

1. Payment of Principal and Interest: You shall promptly pay or cause to be paid, as and when required by the Agreement, the principal and interest due under the Agreement together with all other charges imposed under the Agreement.

2. Application of Payments: Unless applicable law provides otherwise, all payments received by Lender under the Agreement and this Mortgage shall be applied by Lender first to payments required from you to Lender under the Mortgage, then to any sums advanced by Lender to protect the security of this Mortgage, then to interest payable on the Agreement, then to other charges payable under the Agreement and then to the principal payable under the Agreement.

3. Prior Encumbrances, Liens: You shall perform all of your obligations under any mortgage, deed of trust or other security agreement (collectively "Prior Encumbrances") which are in effect and have priority over this Mortgage, including your obligation to make payments when due. Any act or omission of yours which, with the giving of notice of the passage of time, would constitute a default or event of default under any Prior Encumbrance, or under any ground lease for this Mortgage is a default or event of default under this Mortgage. You shall promptly deliver to Lender all notices you receive of any defaults or events of default under any Prior Encumbrance or ground lease.

4. Taxes and Assessments, Rents: You shall pay or cause to be paid, as and when required by the Agreement, all taxes and assessments and water, sewer and other charges, fines and impositions all payable to the Property which may attach to this Mortgage and leasehold payments or ground rents (if any) and all other sums due under any ground lease. You shall provide evidence satisfactory to Lender of said payments promptly after the respective due dates thereof. You shall pay in full, under protest in the manner provided by Statute, any tax or assessment you desire to contest.

5. Hazard Insurance: You shall keep all buildings and improvements now existing or hereafter situated on the Property insured against loss by fire, hazards included within the term "fire" hereinafter defined, and such other hazards as Lender may require, including but not limited to insurance against flood damage in amounts sufficient to pay either the cost of replacing the Property in full or to pay in full the indebtedness secured hereby, together with the amount of indebtedness secured by any Prior Encumbrances.

The insurance contract providing said insurance shall be selected by you, subject to Lender's approval, which shall not be unreasonably withheld. All policies and renewals thereof shall be in form acceptable to Lender, shall include a standard mortgage clause with loss payable to and in form otherwise acceptable to Lender and further shall provide for the 30 days written notice to Lender prior to cancellation or material change in coverage. Subject to the terms of any Prior Encumbrance, Lender shall have the right to bid the policies and renewals thereof, which policies and renewals (stamped "Paid") shall be delivered to Lender no later than ten (10) banking days before expiration of any of said policies. You shall give prompt notice of any loss or damage to the insurance carrier(s) and to Lender. Lender may make proof of loss if not made promptly by you.

The insurance carrier selected by you or your agent, to respond to Lender within 30 days from the date notice is made by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, shall be authorized to collect and apply the insurance proceeds, either in full or in part, and to accept, either in full or in part, any proceeds of the Property or of this Mortgage. You hereby direct any insurance companies to pay directly to Lender, as its interest may appear, any proceeds in the event of any loss or damage.

6. Use, Preservation and Maintenance of Property, Leaseholds, Condominiums, Planned Unit Developments: You shall keep the Property in good repair and shall not commit waste or permit temporary deterioration of the Property. You shall promptly restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or destroyed. You shall comply with all requirements of law or municipal ordinances with respect to the use, operation and maintenance of the Property, and shall make all material alterations in said Property except as required by law or municipal ordinance or otherwise without the prior written consent of Lender. This Mortgage shall constitute a condominium or a planned unit development. You shall perform all of your obligations under the declaration or covenants creating or governing the condominium or planned unit development, including the payment of common charges and assessments, and shall comply with all rules and regulations of the condominium or planned unit development, and consistent documents. If this Mortgage is a leasehold, you shall perform all obligations and covenants of a leasehold under said lease.

7. Protection of Lender's Security: You shall perform all of the covenants and agreements contained in this Mortgage, or if any action or proceeding is threatened or commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to you may make such appearances, disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest, including but not limited to making repairs, full or partial payment or discharge of Prior Encumbrances, payment or discharge of taxes, payment of ground rents (if any), and procurement of insurance. Lender in making said authorized payments of taxes and assessments, may do so in accordance with any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of same or into the validity of any tax assessment, sale, forfeiture, tax lien or claim thereof.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon at the rate then applicable under the Agreement, shall become additional indebtedness secured by this Mortgage, unless you and Lender agree to other terms of payment. Such amounts shall be payable upon notice from Lender to you requesting payment thereof. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder, and inaction by Lender shall never be considered a waiver of any right accruing to Lender or under any provision in this Paragraph 7.

If Lender required private mortgage insurance as a condition of making the loan secured by this Mortgage, you shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with you and Lender's written agreement or applicable law.

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8. Inspection. Lender may make or cause to be made a visual inspection of the Property at any time and from time to time prior to any such inspections.

9. Condemnation. Subject to the terms of any third party encumbrance, the Lender shall have the right to take any action that is necessary or convenient in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance and any other action that may be necessary and shall be paid to Lender, Lender's authorized agent or other person, at Lender's sole option and discretion, to apply said proceeds either for restoration or repair of the Property or to the sums secured by this Mortgage.

10. Continuation of our Obligations; Forbearance by Lender Not a Waiver; Remedies Cumulative. Extension of the time for payment or liquidation of the sums secured by this Mortgage granted by Lender to you or any of your successors in interest shall not operate to release in any manner your liability. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify or amortization of the sums secured by this Mortgage by reason of any demand made by you or your successors in interest. 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. Any acts performed by Lender to protect the security of this Mortgage, as authorized by Paragraph 7 hereof, including but not limited to the procurement of insurance, the payment of taxes or other items, rents or charges, or the making of repairs shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage. 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.

11. Successors and Assigns Bound; Joint and Several Liability; Co-signers. Subject to the provisions of Paragraph 16 hereof, the covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and you. All covenants and agreements of yours shall be joint and several. Each of you who co-signs this Mortgage, but does not execute the Agreement, is co-signing this Mortgage only to mortgage and warrant your interest in the Property to Lender under the terms of this Mortgage and to release homestead rights, (but is not personally liable on the Agreement for under this Mortgage, and you agree that Lender and any other Mortgagee hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Agreement without your consent and without releasing that Mortgagee or modifying this Mortgage as to that Mortgagee's interest in the Property.

12. Notice. Except for any notice required under applicable law to be given in another manner, any notices required under this Mortgage may be served by hand delivery or by certified mail, return receipt requested. Notices shall be served upon you at the Property Address and upon each of Lender's addresses stated hereon. Notices shall be deemed to have been served and effective on the date of delivery, if hand-delivered, or 3 days after the date of mailing shown on the certified receipt, if mailed. Any party hereto may change the address to which notices are sent by notice as provided herein.

13. 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 of applicable law conflicts with the Agreement, to the extent applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Agreement are declared to be severable. As used herein, "costs" includes attorneys' fees, including out-of-pocket expenses and attorneys' fees, and other costs not prohibited by applicable law or limited herein.

14. Your Copy. You shall be furnished a confirmed copy of the Agreement and of this Mortgage at the time of execution of either instrument hereon.

15. Rehabilitation Loan Agreement. You shall fulfill all of your obligations under any rehabilitation loan agreement entered into between you and Lender, and you shall enter into with Lender. Lender, at Lender's option, may require you to execute and deliver to Lender a form acceptable to Lender as a condition of the payment of any sums or benefits which you may have against parties who supply labor, materials or services in connection with the rehabilitation of the Property.

16. Transfer of the Property or of a Beneficial Interest in Mortgage. If you or any other party to this Mortgage, or any party to any other instrument which is a part of any relevant cure period, declares the entire amount secured by this Mortgage immediately payable, or if you or any other party to this Mortgage, or any party to any other instrument, transfers, assigns, transfers, pledges, mortgage, security interest, or other encumbrance or alienation, collected, or otherwise transfers, in any manner, or if all or a portion of the beneficial interest of Mortgagee is transferred, where Mortgagee is not a natural person, in the event of such transfer, Lender may declare the entire unpaid balance, including interest, immediately due and payable, provided however, the foregoing provisions of this Paragraph shall not apply to the lien of current taxes and assessments not yet due and payable. This option shall not be exercised by Lender if exercised as prohibited by Federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give you notice of acceleration. The notice shall provide a period of not less than 30 days from the date of service of the notice as defined in Paragraph 12 hereof, within which you must pay or cause to be paid all sums secured by this Mortgage. If you fail to pay or cause to be paid said sums prior to the expiration of said 30-day period, Lender may invoke any remedies permitted by this Mortgage, and you shall be deemed to have waived any right to demand or demand any relevant cure period.

17. Remedies; Entire Agreement. In the event of a default under the Agreement, you shall be deemed to have agreed to execute and deliver to Lender, or any party to any relevant cure period, a declaration of the entire amount secured by this Mortgage immediately payable, and you shall be deemed to have agreed to execute and deliver to Lender, or any party to any relevant cure period, a declaration of the entire amount secured by this Mortgage immediately payable, and you shall be deemed to have agreed to execute and deliver to Lender, or any party to any relevant cure period, a declaration of the entire amount secured by this Mortgage immediately payable, and you shall be deemed to have agreed to execute and deliver to Lender, or any party to any relevant cure period, a declaration of the entire amount secured by this Mortgage immediately payable.

18. Revolving Loan. This Mortgage secures all loans made and indebtedness outstanding under the Agreement from time to time, whether such loans or indebtedness represent obligatory or discretionary advances within 20 years from the date of this Mortgage. The Loans outstanding shall be secured to the same extent as if each was made on the date of this Mortgage, and the fact that there is no outstanding indebtedness under the Agreement shall not affect the priority of the lien of this Mortgage as it exists on the date of the Mortgage. This Mortgage shall be prior to all subsequent liens and encumbrances (except for tax liens and assignments levied on the Property) even if there is no indebtedness owing under the Agreement, to the extent of the Credit Limit shown in the Agreement and on the reverse side hereof, plus all other amounts owing under the Agreement and secured by or which may be secured by this Mortgage.

19. Conversion to Installment Loans. Lender has the right under the Agreement regardless of whether there is an event of default, to cancel the right to future advances and to require accelerated repayment of all amounts outstanding under the Agreement plus entire accrued Finance Charges and other charges (entire amount outstanding, if (1) Lender determines that you do not meet the then existing credit standards for Executive Equity Line Customers, or if a law, regulation or interpretation becomes effective subsequent to this Agreement that in Lender's opinion, unfavorably affects its ability to administer the Agreement in the manner originally contemplated. In this event, Lender may convert the entire amount outstanding (including accrued and unpaid Finance Charges and other charges) to an installment loan in such amount at the variable interest rate set forth in the Agreement and payable in (approximately) equal monthly installments, the amount and number of which will be determined as necessary to pay the entire amount outstanding in full in equal payments of principal and interest on or before the scheduled Expiration Date as set forth in the Agreement.

20. Assignment of Rents; Appointment of Receiver. As additional security hereunder, you hereby assign to Lender the rents of the Property, provided that you shall prior to acceleration under Paragraphs 16 and 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 Paragraphs 16 and 17 hereof or abandonment of the Property, and without further notice to you, Lender 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. Said receiver shall have the power to collect said rents from the time of acceleration through the pendency of any foreclosure proceeding and during the full statutory period of redemption, if any. 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.

21. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage upon your payment of all costs and fees to release same, if any. You shall also pay all costs of reconversion, if any.

22. Homestead Waiver. By signing below, you waive all rights of Homestead exemption in the Property.

23. Authority to Sign, if Corporation. The execution of this Mortgage has been duly authorized by our Board of Directors.

24. Riders. The Condominium Rider, attached hereto, if any, is incorporated herein, made a part hereof.
REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER PRIOR ENCUMBRANCES

You and Lender request the holder of any Prior Encumbrance or other encumbrance with a lien which has priority over this Mortgage to, give Notice to Lender at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Mortgagee has executed this Mortgage

(Seal) Mortgagee
John F. McCaffrey
(Seal) Mortgagee
Carroll McCaffrey
(Seal) Mortgagee
(Seal) Mortgagee

SPACE BELOW THIS LINE FOR ACKNOWLEDGEMENT

STATE OF ILLINOIS
COUNTY OF Cook
I, Cheryl A. Stelmazsek, a Notary Public in and for said county and state of hereby certify that John F. McCaffrey and Carroll McCaffrey, his wife, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.
Given under my hand and official seal this 10th day of October 1989.
My Commission expires 1-28-91
"OFFICIAL SEAL"
Cheryl A. Stelmazsek
Notary Public, State of Illinois
My Commission Expires Jan. 28, 1993

STATE OF ILLINOIS
COUNTY OF
I, _____ a Notary Public in and for said county and state of hereby certify that _____ personally known to me to be the same person(s) whose name(s) _____ subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that _____ signed and delivered the said instrument as _____ free and voluntary act for the uses and purposes therein set forth.
Given under my hand and official seal this _____ day of _____ 19____.
My Commission expires _____
Notary Public

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