

UNOFFICIAL COPY

89532043

This instrument was prepared by:
Donna Weis
Columbia National Bank
5250 N. (Name) Harlem Ave.
Chicago, IL 60656
(Address)

JUNIOR MORTGAGE

MORTGAGE made November 7, 1989, between Columbia National Bank of Chicago, not personally but as Trustee under Trust Agreement dated 9/14/84 and known as Trust No. 1965

(herein, whether one or more, called "Mortgagor") and COLUMBIA NATIONAL BANK OF CHICAGO, a national banking association, having its principal office at 5250 North Harlem Avenue, Chicago, Illinois 60656 (herein called "Mortgagee").

WHEREAS, Gabriel J. Caporale and Janice M. Caporale has executed and delivered to Mortgagee a note of even date herewith (the "Note") in the amount of Two Hundred Ninety Thousand and 00/100 DOLLARS (\$ 290,000.00), bearing interest at the rate specified in the Note, and payable as provided therein, with a final payment, or, if not payable in installments, then the only payment, due on November 15, 1994

NOW, THEREFORE, to secure (a) the payment of all sums due or owing under the Note and all extensions and renewals thereof; (b) the payment of all sums due or owing or required to be paid as herein provided; and (c) the performance of the covenants and agreements of Mortgagee herein contained, Mortgagor hereby conveys and warrants to Mortgagee, its successors and assigns, the following described real estate located in the County of COOK, State of Illinois:

LOT 1 IN BLOCK 19 IN SUBDIVISION OF FIRST ADDITION TO ELLSWORTH, IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.#: 12-25-332-005

Commonly known as 2440 N. 76th Avenue, Elmwood Park, IL 60635

89532043

which, together with the property hereinafter described, is called the "premises".

TOGETHER with all buildings, improvements, tenements, easements, fixtures and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled) and ventilation, including without restricting the foregoing, screens, window shades, storm doors and windows, floor coverings, awnings, stoves, water heaters, built-in ovens, washers, dryers and disposal units. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth, hereby releasing and waiving all rights of Mortgagor under and by virtue of the Homestead Exemption Laws of the State of Illinois in and to the premises hereby conveyed.

Mortgagor covenants and agrees:

1. Mortgagor shall (a) keep the premises in good condition and repair, without waste; (b) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or destroyed; (c) complete within a reasonable time any building or buildings now or at any time in the process of erection upon the premises; (d) make no material alterations in the premises except as required by law or municipal ordinance; (e) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (f) keep the premises free from liens of persons supplying labor or materials to the premises, and from all other liens, security interests, mortgages, charges or encumbrances, whether superior or subordinate to the lien hereof, except for the liens of this Mortgage, any prior mortgage of record in existence on the date hereof and current real estate taxes now yet due and payable; (g) pay promptly when due any indebtedness which may be secured by a lien, charge or encumbrance on the premises superior to or subordinate to the lien hereof, comply with all of the terms, covenants and conditions contained in any instrument evidencing or securing such indebtedness and upon request exhibit satisfactory evidence of the discharge of such prior or subordinate lien, charge or encumbrance to Mortgagee; and (h) suffer or permit no change in the general nature of the occupancy of the premises.

2. Mortgagor shall pay or cause to be paid before any penalty attaches all taxes, assessments, water charges, power service charges and other similar charges which are assessed or levied against the premises, and shall, upon request, furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagor shall pay in full under protest, in the manner provided by law, any tax or assessment which Mortgagor may desire to contest.

3. Mortgagor shall keep all buildings and improvements now existing or hereafter erected on the premises insured against loss by fire, hazards included within the term "extended coverage", flood damage where Mortgagee is required by law to have its collateral so insured, and such other hazards as Mortgagee may require, in such amounts and in such companies as may be satisfactory to Mortgagee. All insurance policies and renewals thereof shall be in form acceptable to Mortgagee, shall include a standard mortgage clause in favor of and with loss payable to Mortgagee and shall be delivered to Mortgagee. Appropriate renewal policies shall be delivered to Mortgagee not less than ten days prior to the respective dates of expiration. In case of loss covered by any such policies, Mortgagor shall give prompt notice thereof to the insurer and Mortgagee, and Mortgagee is authorized to adjust, collect and compromise, in its discretion, all claims thereunder and, in such case, Mortgagor covenants to sign upon demand all receipts, vouchers and releases required to be signed by the insurance companies. Mortgagee, at its option, may apply all or any part of the insurance proceeds of any loss either to the reduction of the indebtedness secured hereby in such order or manner as Mortgagee may elect or to the restoration or repair of the premises. Any such application of proceeds to principal shall not extend or postpone the due date of the installments, if any, due under the Note or change the amount of such installments. If, as provided in this Mortgage, the premises are acquired by Mortgagee, all right, title and interest of Mortgagor in and to any insurance policies and in and to the proceeds thereof resulting from loss or damage to the premises prior to the sale or acquisition shall pass to Mortgagee to the extent of the sums secured by this Mortgagee immediately prior to such sale or acquisition.

4. If the premises or any part thereof shall be taken by condemnation, eminent domain or other taking, or by agreement between Mortgagor, Mortgagee and those authorized to exercise such right, Mortgagee is hereby empowered to collect and receive all compensation which may be paid for any property so taken or for damages to any property not taken and all condemnation compensation so received shall be applied by Mortgagee as it may elect to the reduction of the indebtedness secured hereby or to the repair and restoration of any property so damaged, provided that any excess over the amount of the indebtedness secured hereby shall be delivered to Mortgagor. Such application of condemnation compensation shall not extend or postpone the due dates of the installments, if any, due under the Note or change the amounts of such installments.

PT 9-10-113

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MORTGAGE

LOAN No.

Box 285

TO
COLUMBIA NATIONAL BANK
5250 N. HARLEM AVE.
CHICAGO, ILLINOIS 50656

ADDRESS OF PROPERTY:

310265-68-

DO HEREBY CERTIFY THAT I, a Notary Public in and for said County in the State aforesaid, personally known to me to be of the partner partnership, and personally known to me to be the same person subscribed to the foregoing instrument appeared before me this day in person and acknowledged that the said instrument as free and voluntary act and as the free and voluntary act of said partnership, for the uses and purposes therein set forth. GIVEN under my hand and Notarial Seal this day of 19 My Commission Expires:

STATE OF ILLINOIS }
COUNTY OF }
SS.

ACKNOWLEDGEMENT (Partnership)

DO HEREBY CERTIFY THAT I, a Notary Public in and for said County in the State aforesaid, personally known to me to be the President of corporation, and 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 President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, 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 of said corporation, for the uses and purposes therein set forth. GIVEN under my hand and Notarial Seal this day of 19 My Commission Expires:

STATE OF ILLINOIS }
COUNTY OF }
SS.

ACKNOWLEDGEMENT (Corporation)

DO HEREBY CERTIFY THAT I, a Notary Public in and for said County in the State aforesaid, hereby certify that Vice President of COLUMBIA NATIONAL BANK OF CHICAGO and ASST. TRUST OFFICER an Helen M. Hylc and ASST. TRUST OFFICER Secretary of said COLUMBIA NATIONAL BANK OF CHICAGO same persons whose names are subscribed to the foregoing instrument, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth, and the said Assistant Secretary did also then and there acknowledge that he, as custodian for the corporate seal of said COLUMBIA NATIONAL BANK OF CHICAGO, did affix the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth. GIVEN under my hand and Notarial Seal this day of November, 19 89 My Commission Expires:

STATE OF ILLINOIS }
COUNTY OF Cook }
SS.

ACKNOWLEDGEMENT (Trustee)

310265-68-

Property of Cook County, Ill. Notary Public Office

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5. If Mortgagor shall fail to make any payment or perform any act required to be performed by Mortgagor hereunder, Mortgagee, without waiving or releasing any obligation or default, shall have the right, but shall be under no obligation, to make such payment or perform such act for the account and at the expense of Mortgagor, and may enter upon the premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses so incurred, including without limitation reasonable attorneys' fees and legal expenses, shall be so much additional indebtedness secured hereby and shall become immediately due and payable by Mortgagor without notice and with interest from the date of disbursement at the rate specified in paragraph 19 hereof. Mortgagee in making any payment herein authorized relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof. Mortgagee, in performing any act hereunder, shall be the sole judge of whether Mortgagor is required to perform the same under the terms of this Mortgage.

6. If after the date of this Mortgage any statute or ordinance is passed deducting from the value of real property for purposes of taxation any lien thereon, or changing in any way the laws in force for the taxation of mortgages or debts secured thereby, or the manner of the collection of any such taxes, so as to affect this Mortgage or the indebtedness secured hereby or the interest of Mortgagee hereunder, then in any such event the whole of the indebtedness secured hereby shall, at the option of Mortgagee, become immediately due and payable, unless Mortgagor, as permitted by law, pays such tax.

7. The occurrence of any one or more of the following shall constitute a default hereunder: (a) any failure to pay any sum due or owing under the Note on the date or dates specified therein; (b) any failure to pay any sum due or owing under this Mortgage; (c) if a proceeding be instituted to enforce any lien, claim, charge or encumbrance upon the premises; (d) if a proceeding of bankruptcy, receivership, reorganization or insolvency is filed by or against Mortgagor or if Mortgagor shall make any assignment for the benefit of creditors; (e) if the premises be placed under the control or custody of any court; (f) if Mortgagor abandons the premises; (g) if any statement, representation, covenant or warranty of Mortgagor herein or in any other writing at any time furnished by Mortgagor is untrue in any material respect as of the date made; (h) if a default pursuant to paragraph 12 hereof shall occur; (i) any failure to perform or observe any other covenant or agreement of Mortgagor contained in the Note or in this Mortgage, which failure shall continue for a period of three days. Upon the occurrence of a default, Mortgagee, at its option and without notice or demand to Mortgagor or any party claiming under Mortgagor and without impairing the lien created hereby or the priority of said lien or any right of Mortgagee, may declare all indebtedness secured hereby to be immediately due and payable, whether or not such default be thereafter remedied by Mortgagor, and Mortgagee may immediately proceed to foreclose this Mortgage or exercise any other right, power or remedy as herein or in the Note provided or by law or in equity conferred. For the purposes of subclause (d) of this paragraph 7, the term "Mortgagor" shall mean and include not only Mortgagor, but also any beneficiary of a trustee mortgagor and each person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon any part of the indebtedness secured hereby.

8. When the indebtedness secured hereby shall become due whether by acceleration or otherwise, Mortgagee shall have the right to enter onto and upon the premises and take possession thereof and manage, operate, insure, repair and improve the same and take any action which in Mortgagee's judgment is necessary or proper to conserve the value of the premises. Mortgagee shall be entitled to collect and receive all earnings, revenues, rents, issues and profits of the premises or any part thereof and to apply the same to the reduction of the indebtedness secured hereby. The expenses, including without limitation any receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the powers herein contained shall constitute so much additional indebtedness secured hereby and shall become immediately due and payable by Mortgagor without notice and with interest from the date of disbursement at the rate specified in paragraph 19 hereof.

9. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed may appoint a receiver of the premises. Such appointment may be made either before or after sale, without regard to the solvency or insolvency of Mortgagor and without regard to the then value of the premises. Mortgagee may be appointed as such receiver. Such receiver shall have the power to collect the rents, sales proceeds, issues, profits and proceeds of the premises during the pendency of such foreclosure suit, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collect such rents, sales proceeds, issues, proceeds and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The court may from time to time authorize the receiver to apply the net income from the premises in his hands in payment in whole or in part of (a) the indebtedness secured hereby or by any decree foreclosing this Mortgage, or any tax, special assessment or other liens which may be or become superior to the lien hereof or such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency.

10. In any suit to foreclose the lien of this Mortgage, there shall be allowed and included as additional indebtedness secured hereby in the decree of sale, all costs and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, receiver's costs and expenses, insurance, taxes, outlays for documentary and expert evidence, costs for preservation of the premises, stenographer's charges, publication costs and costs of procuring all abstracts of title, title searches and examinations, guarantee policies and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree, the true condition of the title to or value of the premises or for any other reasonable purpose. All expenditures and expenses of the nature in this paragraph mentioned shall be so much additional indebtedness secured hereby and shall become immediately due and payable by Mortgagor without notice and with interest from the date of disbursement at the rate specified in paragraph 19 hereof.

11. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings; second, to all other items which, under the terms hereof, constitute indebtedness secured hereby additional to that evidenced by the Note, with interest thereon as herein provided; third, to all sums remaining unpaid under the Note; fourth, any overplus to Mortgagor, or Mortgagor's heirs, legal representatives or assigns, as their rights may appear.

12. It shall be an immediate default hereunder if, without the prior written consent of Mortgagee, any of the following shall occur: (a) if Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, etc., pledge, mortgage, security interest or other encumbrance or alienation of all or any part of the title to the premises; (b) if Mortgagor is a trustee, then if any beneficiary of Mortgagor shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of such beneficiary's beneficial interest in Mortgagor; (c) if Mortgagor is a corporation, or if a corporation is a beneficiary of a trustee mortgagor, then if any shareholder of such corporation shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's shares in such corporation, and such sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation results in a change in the voting control of such corporation; or (d) if Mortgagor is a partnership or joint venture, or if any beneficiary of a trustee mortgagor is a partnership or joint venture, then if any partner or joint venturer in such partnership or joint venture shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any part of the partnership interest or joint venture interest, as the case may be, of such partner or joint venturer. Notwithstanding the foregoing, the provisions of this paragraph 12 shall not apply to the liens of this Mortgage and current real estate taxes not yet due and payable.

13. No action for the enforcement of the lien hereof or of any provision hereof shall be subject to any defense which would not be good and valid to the party interposing the same in an action at law upon the Note.

14. Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for such purpose.

15. Subject to and without limitation of the provisions of paragraph 12 hereof, if the ownership of the premises becomes vested in a person other than Mortgagor, Mortgagee, without notice to Mortgagor, may deal with such successor in interest with reference to this Mortgage and the indebtedness secured hereby in the same manner as with Mortgagor, and may forebear to sue or may extend time for payment of the indebtedness secured hereby, without discharging or in any way affecting the liability of Mortgagor hereunder or upon the indebtedness secured hereby.

16. If the payment of the indebtedness secured hereby or any part thereof be extended or varied, or if any part of the security therefor or any guarantor thereof be released, all persons now or at any time hereafter liable therefor, or interested in the premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions of this Mortgage shall continue in full force

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Notary Public

My Commission Expires:

GIVEN under my hand and Notarial Seal this _____ day of _____, 19____, _____ who personally known to me to be the same person _____ 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, including the release and waiver of their right of homestead.

State aforesaid, DO HEREBY CERTIFY THAT _____ whose name _____ subscribed to the foregoing instrument, _____ a Notary Public in and for and residing in said County, in the _____

STATE OF ILLINOIS }
COUNTY OF _____ }
SS _____

ACKNOWLEDGEMENT (Individual)

TRUST OFFICER

By: _____
9/14/84 and known as Trust No. 1965

Attest: _____
C. M. Myers

89532043

Columbia National Bank of Chicago, not personally but as Trustee under Trust Agreement dated 9/14/84 and known as Trust No. 1965

IN WITNESS WHEREOF, Mortgagee has executed and delivered this Mortgage on the day and year first above written. _____

26. If Mortgagee is a trustee, then this Mortgage is executed by Mortgagee, not personally but solely as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee and Mortgagee hereby warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on Mortgagee as trustee as aforesaid, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder.

25. This Mortgage has been delivered at Chicago, Illinois, and the rights and obligations of the parties hereunder, including matters of validity, performance, construction, and enforcement shall be governed and construed in accordance with the laws of the State of Illinois.

24. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

23. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision or clause of this Mortgage be deemed to be prohibited by or invalid under applicable law, such provision or clause shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or Mortgage, then all such persons shall be jointly and severally liable hereon.

22. This Mortgage and all provisions thereof shall extend to and be binding upon Mortgagee and all persons claiming under or through Mortgagee, the word "Mortgagee" when used herein shall include all such persons and all persons liable for the payment of the indebtedness secured hereby or any part thereof, whether or not such persons shall have executed the Note or this Mortgage. The word "Note" when used herein shall be construed to mean "Notes" when more than one note is used. If more than one person shall have executed this Mortgage, then all such persons shall be jointly and severally liable hereon.

21. Time is of the essence of this Mortgage and of the performance by Mortgagee of its obligations hereunder.

20. If, by the laws of the United States of America or of any state or municipality having jurisdiction over the premises, any tax is due or becomes due in respect of the issuance of the Note, Mortgagee shall pay such tax in the manner required by law.

19. All amounts advanced by Mortgagee in accordance herewith to protect the premises or the security of this Mortgage shall become additional indebtedness secured by this Mortgage and shall bear interest from the date of disbursement at the post-maturity rate specified in the Note or, if no post-maturity rate is specified in the Note, then at the rate of 18% per annum 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.

18. If Mortgagee is a corporation, Mortgagee hereby releases and waives, to the fullest extent permitted by applicable law, any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage. If Mortgagee is a corporation, Mortgagee hereby releases and waives, to the fullest extent permitted by applicable law, any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage and represents that it is duly authorized and empowered by the trust instruments and by all necessary persons to make such waiver and release.

17. Subject to applicable law or a written waiver by Mortgagee, Mortgagee shall pay to Mortgagee on the day installments are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to the amount of the taxes, assessments, property insurance premiums and mortgage insurance premiums, if any, payable with respect to the premises, all as estimated by Mortgagee, divided by the number of installments to be made on the Note in each year. Notwithstanding the foregoing, Mortgagee shall not be obligated to make such payments of Funds to Lender to the extent that Mortgagee makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

16. Mortgagee pays Funds to Mortgagee, the Funds shall be held by Mortgagee and may be commingled with such other funds or its funds. Unless applicable law requires interest to be paid, Mortgagee shall not be required to pay Mortgagee any interest or earnings on the Funds. Upon presentation to Mortgagee of bills therefor, Mortgagee shall apply the Funds to pay said taxes, assessments and insurance premiums. If the amount of the Funds held by Mortgagee shall not be sufficient to pay all of the taxes, assessments and insurance premiums when the same shall become due, then Mortgagee shall pay to Mortgagee on demand any amount necessary to make up the deficiency. Deposits for taxes and assessments required hereunder shall be made on the tax assessment year basis so that the amount accumulated during any calendar year is sufficient to pay the taxes and assessments for such calendar year, payable during the following calendar year, and if such deposits prove insufficient for that purpose, Mortgagee shall upon receipt of the bills covering such taxes and assessments forthwith deposit with Mortgagee the amount of the deficiency for the prior calendar year to which such bills relate. If the amount of Funds held by Mortgagee, together with the future installments of Funds payable prior to the due dates of taxes, assessments and insurance premiums, shall exceed the amount required to pay such taxes, assessments and insurance premiums as they become due, such excess shall be, at Mortgagee's option, either promptly repaid to Mortgagee or credited on subsequent payments to be made for such items.

15. The Funds are pledged as additional security for the indebtedness secured hereby and, in the event of a default hereunder or under the Note, at the option of Mortgagee, Mortgagee may, without being required to do so, apply any Funds at the time on deposit to payment, in whole or in part, of any of Mortgagee's obligations herein or in the Note contained in such order and manner as Mortgagee may elect.