

MORTGAGE

THIS INDENTURE, made April 24, 1995, between J & A Investments, LLC (herein referred to as "Mortgagor") and BANK OF LINCOLNWOOD, 4433 West Touhy Avenue, Lincolnwood, Illinois (herein referred to as "Mortgagee").

DEPT-01 RECORDING \$35.50  
T#0014 TRAN 5828 05/25/95 14:16:00  
WITNESSETH: \$1989 JW \*-95-341686  
COOK COUNTY RECORDER

THAT WHEREAS, the Mortgagor has concurrently herewith executed a Business Loan Note (the "Note") bearing even date herewith in the principal sum of Three Hundred Thousand and no/000 (\$300,000.00) Dollars payable to Mortgagee which Note has been delivered by, in and by which said Note the Maker promises to pay said principal sum and interest from date of disbursement on the balance of principal remaining from time to time unpaid, together with interest at a rate equal to one percent (1%) in excess of the Prime Rate (hereinafter defined), but not to exceed the maximum extent permitted by law, payable in monthly installments of interest only, with the entire principal balance and accrued interest being due and payable on October 31, 1995.

\$32.00

4178041 MB 73 611 T

All such payments on account of the indebtedness evidenced by said Note shall be first applied to costs and expenses, next to interest and then to unpaid principal. Interest after maturity, whether by reason of acceleration or otherwise, shall be paid on the unpaid balance at a rate equal to four percent (4%) in excess of the Prime Rate (hereinafter defined). All interest shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

As used herein, the term "Prime Rate" shall mean the rate publicly announced by Bank of Lincolnwood from time to time as the Bank of Lincolnwood's Prime Rate. Any change in the Prime Rate will be applicable on and after the date of such change. The Prime Rate may not be the lowest or best rate offered by the Bank of Lincolnwood to commercial or other borrowers.

NOW THEREFORE, Mortgagor to secure the payment of the said principal sum of money, said interest, and assessed late charges in accordance with the terms, provisions and limitations of this Mortgage, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, does by these presents, grant, remise, release, and convey unto the Mortgagee, its successors and assigns, the following described Real Estate situate, lying and being in the County of Cook and the State of Illinois, to wit:

LOTS 2 AND 3 AND THE EAST 1/2 OF THE VACATED ALLEY LYING WEST OF AND ADJOINING SAID LOTS IN BLOCK 1 IN PITNER AND SONS ADDITION TO EVANSTON IN THE NORTHWEST 1/4 OF SECTION 19, TOWNSHIP 41 NORTH,

25.50 JW  
32.00 - AM

95341686

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RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY,  
ILLINOIS.

Commonly Known As: 1006 Ridge Avenue, Evanston, Illinois  
Tax ID #s: 11-19-113-013  
11-19-113-014

which with the property hereinafter described, is referred to  
herein as the "premises".

This Mortgage shall also secure any and all renewals or  
extension of the whole or any part of the indebtedness hereby  
secured however evidenced, with interest at such lawful rate  
as may be agreed upon, and any such renewals or extensions or any  
change in the terms or rate of interest shall not impair in any  
manner the validity or priority of this Mortgage, nor release the  
Mortgagor from personal liability for the indebtedness hereby  
secured.

This conveyance includes all improvements thereon situated  
and which may hereafter erected or placed thereon, and all and  
singular the tenements, hereditaments and appurtenances and  
easements thereunto belonging and the rents, issues and profits  
thereof, which are hereby expressly conveyed and assigned to the  
Mortgagee as additional security and as an equal and primary fund  
with the property herein conveyed for the repayment of the  
moneys secured by this Mortgage and any and all appurtenances,  
fixtures and equipment in or that may at any time be placed in  
any building now or hereafter standing on said premises.

It is mutually covenanted and agreed, by and between the  
parties hereto that, in addition to all other things which at law  
or by convention are regarded as fixtures, and specifically but  
not by way of limitation all shades and awnings, screens and  
carpets, shrubbery, gas and electric fixtures, radiators,  
heaters, engines and machinery, boilers, ranges, elevators and  
motors, bathtubs, sinks, water-closets, basins, pipes, faucets  
and other plumbing and heating fixtures, mirrors, mantels,  
refrigerating plants, iceboxes, electric refrigerators, air  
conditioning apparatus, cooking apparatus and appurtenances, and  
such other goods and chattels as may ever be furnished by a  
landlord in letting and operating an unfurnished building,  
similar to any building now or hereafter standing on said  
premises, whether or not the same are or shall be attached to  
said building by nails, screws, bolts, pipe connections, masonry,  
or in any other manner whatsoever, which are now or hereafter to  
be used upon said described premises shall be conclusively deemed  
to be the "fixtures" and an accession to the freehold and a part  
of the realty, whether affixed or annexed or not, and conveyed by  
this Mortgage; and all the estate, right title or interest on the  
said Mortgagor in and to said premises, property, improvements,  
furniture, apparatus, furnishings and fixtures are hereby

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expressly conveyed, assigned and pledged; and as to any of the property aforesaid, which does not so form a part and parcel of the Real Estate or does not constitute a "fixture" as such term is defined in the Uniform Commercial Code. This Mortgage is hereby deemed to be as well a Security Agreement under the Uniform Commercial Code for the purpose of creating hereby a security interest in such property, which Mortgagor hereby grants to the Mortgagee as Secured party (as such term is defined in the Uniform Commercial Code).

TO HAVE AND TO HOLD the above described premises with the appurtenances and fixtures thereto appertaining or belonging unto the Mortgagee, its successors and assigns, forever, for the purposes herein set forth and for the security of the said principal note hereinbefore described, and interest thereon and free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois which said rights and benefits the said Mortgagor does hereby expressly release and waive.

In addition, the Mortgagor covenants with the Mortgagee as follows:

1. Mortgagor shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien hereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagor shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request furnish to Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagor shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagor may desire to contest.

3. Mortgagor shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and such other risks and hazards as are insurable under the present and future forms of all-risk

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insurance policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the Mortgagee, under insurance policies payable, in case of loss or damage to the Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

4. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, plus reasonable compensation to Mortgagee for each matter concerning which action herein authorized may be taken, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the rate stated above. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to them on account of any default hereunder on the part of Mortgagor.

5. The Mortgagee making any payment hereby 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.

6. The Maker shall pay each item of indebtedness herein mentioned, both principal, interest, and assessed late charges when due according to the terms hereof. At the option of Mortgagee, without notice to or demand upon the Mortgagor, all unpaid indebtedness secured by this Mortgage shall, notwithstanding anything in the Note or in this Mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the Note; (b) immediately in the event Mortgagor shall, without the prior consent of Mortgagee, sell, transfer, convey, encumber, or assign the title to all or any portion of the premises, or the rents, issue, or profits therefrom, whether by operation of law, voluntarily or otherwise,

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or shall contract to do any of the foregoing, or in the event the owner, or if there be more than one, any of the owners, of the beneficial interest in the trust of which Mortgagor is title holder (any such owner being herein referred to as a "Beneficial Owner") shall, without the prior written consent of Mortgagee, transfer or assign all or any portion of such beneficial interest, or the rents, issues, or profits from the premises (including, without being limited to, a collateral assignment), whether by operation of law, voluntarily or otherwise, or shall contract to do any of the foregoing, Mortgagee, at its option, shall then have the unqualified right to accelerate the maturity of the Note, causing the full principal balance, accrued interest, and prepayment premium, if any, to be immediately due and payable without notice to Mortgagor, or (c) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagor herein contained.

7. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Mortgagee for attorneys' fees, special process server fees, Mortgagee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, guarantee policies, Torrens certificates, 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 the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the rate stated above, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced. The undersigned waive(s) trial by jury.

8. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of

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priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof, constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest, remaining unpaid on the Note; fourth, any overplus to Mortgagor, its successors or assigns, as their rights may appear.

9. Upon, 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 said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be rents, issues, 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 from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) The deficiency in case of a sale and deficiency.

10. In the event of a judicial proceeding to foreclose this Mortgage, Mortgagor does hereby expressly waive any and all rights of redemption from sale under any decree or judgment of foreclosure of this mortgage on its own behalf, and on behalf of its successors and assigns and each and every person acquiring any interest in or title to the premises subordinate or subsequent hereto, and on behalf of all other persons to the extent permitted by the applicable provisions of the statutes and laws of the State of Illinois, except decree or judgment of creditors acquiring an interest in the premises subsequent to the date hereof, and agrees that when sale is had under any decree or judgment of foreclosure of this mortgage, upon confirmation of such sale, the Sheriff or other officer making such sale, shall be and is authorized immediately to execute and deliver to the purchaser at such sale a deed conveying the premises.

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

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

13. Mortgagee has no duty to examine the title, location, existence, or condition of the premises, nor shall Mortgagee be obligated to record this Mortgage or to exercise any power herein given unless expressly obligated by the terms hereof, nor be liable for any acts or omissions hereunder, except in case of its own gross negligence or misconduct or that of the agents or employees of Mortgagee, and it may require indemnities satisfactory to it before exercising any power herein given.

14. Mortgagor agree(s) to deposit with the holder of said mortgage 1.12th of the annual general taxes, annual special taxes, and special assessments, said deposit to be made simultaneously with the payments of principal and interest above described. Should said taxes or assessments, when due, exceed such deposits then the Mortgagor agrees to immediately pay such differences. Failure to make such additional deposits shall be considered a default under the terms of this agreement.

15. If the Mortgagor shall sell, convey or alienate said property or any part thereof or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby, irrespective of the maturity dates expressed in any note evidencing the same, at the option of the holder hereof, and without demand or notice shall immediately become due and payable.

16. Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this Mortgage has been satisfied. Mortgagor shall pay all costs of recordation, if any.

IN WITNESS WHEREOF, the undersigned has affixed its signatures to this Mortgage on the day and year first above written.

J & A INVESTMENTS, LLC.

By: *Andrew A. Fitzgerald*

Its: *Manager*

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STATE OF ILLINOIS            )  
  ) ss  
COUNTY OF COOK            )

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Amelia S. Fitzgerald, known to me to be a manager of J & A Investments, LLC, an Illinois limited liability company, and known to me to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that she signed and delivered the instrument on behalf of the aforesaid company pursuant to due power and authority properly conferred as her free and voluntary act and as the free and voluntary act of said company.

Given under my hand and Notarial Seal this 24<sup>th</sup> day of April, 1995.

*Sheila Klepper*  
Notary Public



prepared by BANK of Lincolnwood  
Mail TO 4433 W Touhy Avenue  
Lincolnwood, IL 60466-1818



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