

401 895 38 0000 050515

UNOFFICIAL COPY

98580829

1998-07-07 14:11:16

RECORDATION REQUESTED BY:

Bank One, Illinois, NA
East Old State Capitol Plaza
P.O. Box 19266
Springfield, IL 62794-9266

WHEN RECORDED MAIL TO:

Banc One Service Corp.
Midwest Loan Servicing-KY-1-4444
P.O. Box 37264
Louisville, KY 40232-7264



FOR RECORDER'S USE ONLY



#:R-1669

MORTGAGE

THIS MORTGAGE IS MADE THIS JUNE 4, 1997, by **FIRST NATIONAL BANK AND TRUST CO. OF EVANSTON ILLINOIS** DATED 11/27/93 AS TRUST #A-1889, NOT PERSONALLY, BUT AS TRUSTEE, whose address is . . . IL (referred to below as "Grantor") in favor of Bank One, Illinois, NA, whose address is East Old State Capitol Plaza, P.O. Box 19266, Springfield, IL 62714-9266 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to Grantor pursuant to a Trust Agreement dated November 27, 1973 and known as **FIRST NATIONAL BANK & TRUST CO. OF EVANSTON AS TRUST #A-1889**, mortgages and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all all tenant security deposits, utility deposits and all proceeds (including without limitation premium refunds) of each policy of insurance relating to any of the Improvements, the Personal Property or the Real Property; all rents, issues, profits, revenues, royalties or other benefits of the Improvements, the Personal Property or the Real Property; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in **COOK County, State of Illinois (the "Real Property")**:

SEE ATTACHED

The Real Property or its address is commonly known as **1700 SEQUOIA TRAIL, GLENVIEW, IL 60025**.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Borrower. The word "Borrower" means each and every person or entity signing the Credit Agreement, including without limitation **AGUSTIN VASQUEZ and MARINA D VASQUEZ**.

Credit Agreement. The words "Credit Agreement" mean the revolving line of credit agreement dated June 4, 1997, between Lender and Borrower with a maximum credit limit of \$100,000.00, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the Credit Agreement. The maturity date of the obligations secured by this Mortgage is June 4, 2017. The interest rate under the Credit Agreement is a variable interest rate based upon an index. The index currently is 8.500% per annum. The interest rate to be applied to the outstanding account balance shall be at a rate equal to the index, subject however to the following maximum rate. Under no circumstances shall the interest rate be more than the lesser of 19.800% per annum or the maximum rate allowed by applicable law.

Handwritten initials and marks: S, P, 7, 11, and a signature.

Grantor. The word "Grantor" means FIRST NATIONAL BANK AND TRUST CO. OF EVANSTON UTA DATED 11/27/93 AS TRUST #A-1669, Trustee under that certain Trust Agreement dated November 27, 1973 and known as FIRST NATIONAL BANK & TRUST CO. OF EVANSTON AS TRUST #A-1669. The Grantor is the mortgagor under this Mortgage. The term "Grantor" shall also, for the purposes of this Mortgage also mean and include the owner(s) of the beneficial interest of said Trust unless otherwise specifically referred to, jointly and severally, if applicable, as "Beneficiary".

Guarantor. The word "Guarantor" means and includes without limitation, each and all of the guarantors, sureties, and accommodation parties in connection with the Indebtedness.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Credit Agreement and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, this Mortgage secures a revolving line of credit and shall secure not only the amount which Lender has presently advanced to Borrower under the Credit Agreement, but also any future amounts which Lender may advance to Borrower under the Credit Agreement within twenty (20) years from the date of this Mortgage to the same extent as if such future advance were made as of the date of the execution of this Mortgage. The revolving line of credit obligates Lender to make advances to Borrower so long as Borrower complies with all the terms of the Credit Agreement and Related Documents. Such advances may be made, repaid, and remade from time to time, subject to the limitation that the total outstanding balance owing at any one time, not including finance charges on such balance at a fixed or variable rate or sum as provided in the Credit Agreement, any temporary overages, other charges, and any amounts expended or advanced as provided in this paragraph, shall not exceed the Credit Limit as provided in the Credit Agreement. It is the intention of Grantor and Lender that this Mortgage secures the balance outstanding under the Credit Agreement from time to time from zero up to the Credit Limit as provided above and any intermediate balance.

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Personal Property and Rents.

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor or Beneficiary, and now or hereafter attached or affixed to, or located on, the Real Property applicable to the integrity and operation of the improvements; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE. THIS MORTGAGE IS INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL SUBSEQUENT LIENS AND ENCUMBRANCES, INCLUDING STATUTORY LIENS, EXCEPTING SOLELY TAXES AND ASSESSMENTS LEVIED ON THE REAL PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SECURED HEREBY. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS: Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Borrower shall pay to Lender all indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall strictly perform all their respective obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor and Borrower agree that Grantor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until in default, Grantor may remain in possession and control of and operate and

MORTGAGE
(Continued)

Loan No 4510102838

manage the Real Property and collect the Rents.

Duty to Maintain. Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

DUE ON SALE - CONSENT BY LENDER. Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this mortgage, except for the lien of taxes and assessments not due.

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage.

Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. The Real Property is located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area. Grantor agrees to obtain and maintain Federal Flood Insurance for the full unpaid principal balance of the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property.

EXPENDITURES BY LENDER. If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Credit Agreement from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the credit line and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy, or (ii) the remaining term of the Credit Agreement, or (c) be treated as a balloon payment which will be due and payable at the Credit Agreement's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

WARRANTY; DEFENSE OF TITLE.

Title. Grantor represents that: (a) Grantor holds good and marketable title of record to the Real Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender, in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor will forever defend the title to the Property against the lawful claims of all persons.

No Other Liens. Grantor will not, without the prior written consent of Lender, create, place, or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual (except for a lien for

Loan No 4510102838

(Continued)

ad valorem taxes on the Real Property which are not delinquent), security interest, encumbrance or charge, against or covering the Property, or any part thereof, other than as permitted herein, regardless if same are expressly or otherwise subordinate to the lien or security interest created in this Mortgage, and should any of the foregoing become attached hereafter in any manner to any part of the Property without the prior written consent of Lender, Grantor will cause the same to be promptly discharged and released.

FULL PERFORMANCE. If Borrower pays all the Indebtedness when due, terminates the Credit Agreement, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time. If, however, payment is made by Borrower, whether voluntarily or otherwise, or by guarantor or by any third party, on the indebtedness and thereafter Lender is forced to remit the amount of that payment (a) to Beneficiary's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Borrower), the indebtedness shall be considered unpaid for the purpose of enforcement of this Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing the indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the indebtedness or to this Mortgage.

DEFAULT. Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Mortgage: (a) Grantor commits fraud or makes a material misrepresentation at any time in connection with the Credit Agreement. This can include, for example, a false statement about Grantor's income, assets, liabilities, or any other aspects of Grantor's financial condition. (b) Grantor does not meet the repayment terms of the Credit Agreement. (c) Grantor's action or inaction adversely affects the collateral for the Credit Agreement or Lender's rights in the collateral. This can include, for example, failure to maintain required insurance, waste or destructive use of the dwelling, failure to pay taxes, death of any or all persons liable on the Credit Agreement, transfer of title or sale of the dwelling, creation of a lien on the dwelling without Lender's permission, foreclosure by the holder of another lien, or the use of funds or the dwelling for prohibited purposes.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Borrower to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

Other Remedies. Lender shall have all other rights and remedies provided in this Mortgage or the Credit Agreement or available at law or in equity.

Attorneys' Fees; Expenses. In the event of foreclosure of this Mortgage, Lender shall be entitled to recover from Grantor and Borrower attorneys' fees and actual disbursements necessarily incurred by Lender in pursuing such foreclosure.

MISCELLANEOUS PROVISIONS.

Applicable Law. This Mortgage has been delivered to Lender and accepted by Lender in the State of Illinois. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

Time Is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Beneficiary hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all Indebtedness secured by this Mortgage.

GRANTOR'S LIABILITY. This Mortgage is executed by Grantor, not personally but as Trustee as provided above in the exercise of the power and the authority conferred upon and vested in it as such Trustee (and Grantor thereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that with the exception of the foregoing warranty, notwithstanding anything to the contrary contained herein, that each and all of the warranties, indemnities, representations, covenants, undertakings, and agreements made in this Mortgage on the part of Grantor, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of Grantor, are nevertheless each and every one of them made and intended not as personal warranties, indemnities, representations, covenants, undertakings, and agreements by Grantor or for the purpose or with the intention of binding Grantor personally, and nothing in this Mortgage or in the Credit Agreement shall be construed as creating any liability on the part of Grantor personally to pay the Credit Agreement or any interest that may accrue thereon, or any

UNOFFICIAL COPY

MORTGAGE (Continued)

Loan No 4510102838

other indebtedness under this Mortgage, or to perform any covenant, undertaking, or agreement, either express or implied, contained in this Mortgage, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under this Mortgage, and that so far as Grantor and its successors personally are concerned, the legal holder or holders of the Credit Agreement and the owner or owners of any indebtedness shall look solely to the Property for the payment of the Credit Agreement and indebtedness, by the enforcement of the lien created by this Mortgage in the manner provided in the Credit Agreement and herein or by action to enforce the personal liability of any Guarantor or obligor, other than Grantor, on the Credit Agreement.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

FIRST NATIONAL BANK AND TRUST CO. OF EVANSTON UTA DATED 11/27/93 AS TRUST #A-1669-1669

By: see Trustees Rider attached
.. AUTHORIZED SIGNER

CORPORATE ACKNOWLEDGMENT

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

On this 4th day of _____, 19____, before me, the undersigned Notary Public, personally appeared **.. AUTHORIZED SIGNER of FIRST NATIONAL BANK AND TRUST CO. OF EVANSTON UTA DATED 11/27/93 AS TRUST #A-1669**, and known to me to be an authorized agent of **FIRST NATIONAL BANK AND TRUST CO. OF EVANSTON UTA DATED 11/27/93 AS TRUST #A-1669** that executed the Mortgage and acknowledged the Mortgage to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Mortgage and in fact executed the Mortgage on behalf of the corporation.

By _____ Residing at _____

Notary Public in and for the State of _____

My commission expires _____

UNOFFICIAL COPY

98580829

This mortgage is executed by Bank One, Illinois NA, 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 said Bank One, Illinois, NA as Trustee hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on the said Trustee or on said Bank One, Illinois, NA 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, or on account of any warranty or indemnification made hereunder, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as the Trustee and its successors and said Bank One, Illinois, NA personally are concerned, the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder 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 personally liability of the guarantor, if any,

Bank One, Illinois NA

f/k/a First National Bank and Trust
Company of Evanston

not personally, but as Trustee under Trust No. R-1669

By [Signature]
AVF & Land Trust Officer

Attest: [Signature]
Client Services Officer

State of Illinois

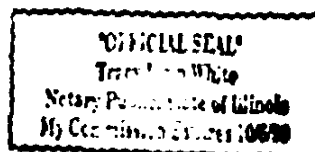
County of Cook

I, the undersigned, a Notary in and for said County in the State aforesaid, DO HEREBY CERTIFY that the persons whose names are subscribed to this document are personally known to me to be duly authorized officers of Bank One, Illinois NA and that they appeared before me this day in person and severally acknowledged that they signed and delivered this document in writing as duly authorized officers of said Corporation and caused the Corporate Seal 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 official seal this 5th day of June, 1997.

[Signature]
Notary Public

My commission expires 10-6-99



UNOFFICIAL COPY

LEGAL DESCRIPTION

98580829

Lot 1, Block 3 in Tall Trees Unit No. 1, being a subdivision in the Southwest quarter of Section 26, Township 42 North, Range 12, East of the Third Principal Meridian in Cook County, Illinois.

Parcel I.D. No.: 04-26-302-001

Property of Cook County Clerk's Office