

# UNOFFICIAL COPY

**RECORDATION REQUESTED BY:**

Bank One, Illinois, NA  
1900 Central Ave.  
Evanston, IL 60201

99811142

7286/0143 45 001 Page 1 of 6  
1999-08-25 12:48:30  
Cook County Recorder 31.50



99811142

**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**



1713137+1

401898380000825971

BERGER, DANIEL  
DEED OF TRUST / MORTGAGE

This Mortgage prepared by: MICHELLE EVANGELISTA



## MORTGAGE

THIS MORTGAGE IS MADE THIS AUGUST 5, 1999, between DANIEL BERGER and RUTH K BERGER, JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, whose address is 9244 GROSS POINTE RD, SKOKIE, IL 60077 (referred to below as "Grantor"); and Bank One, Illinois, NA, whose address is 1900 Central Ave., Evanston, IL 60201 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages, warrants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, 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"):

**PLEASE SEE ATTACHED EXHIBIT A**

The Real Property or its address is commonly known as 9244 GROSS POINTE RD, SKOKIE, IL 60077. The Real Property tax identification number is 10 16 204 027 1003.

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.

**Credit Agreement.** The words "Credit Agreement" mean the revolving line of credit agreement dated August 5, 1999, between Lender and Grantor 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 August 5, 2019. The interest rate under the Credit Agreement is a variable interest rate based upon an index. The index currently

055

SV  
P6  
7/24  
JH

Loan No 4511023769

is 8.000% 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.

**Grantor.** The word "Grantor" means DANIEL BERGER and RUTH K BERGER. The Grantor is the mortgagor under this Mortgage.

**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 Grantor under the Credit Agreement, but also any future amounts which Lender may advance to Grantor 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 Grantor so long as Grantor 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. At no time shall the principal amount of Indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed the Credit Limit of \$100,000.00.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to, or located on, the Real Property; 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:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees 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 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.

99811142

Loan No 4511023769

**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. If any Grantor is a corporation, partnership or limited liability company, "sale or transfer" also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

**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, payroll 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 ten (10) 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. Should the Real Property at any time become 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 warrants 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 warrants and 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

99811142



Loan No 4511023769

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 Grantor 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 Grantor, 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 Grantor'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 Grantor), 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, shall have the statutory power of sale, and on foreclosure may retain statutory costs and attorney's fees, 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 Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor 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 attorneys' fees and actual disbursements necessarily incurred by Lender in pursuing such foreclosure.

**ASSOCIATION OF UNIT OWNERS.** The following provisions apply if the Real Property has been submitted to unit ownership law or similar law for the establishment of condominiums or cooperative ownership of the Real Property:

**Power of Attorney.** Grantor grants an irrevocable power of attorney to Lender to vote in its discretion on any matter that may come before the association of unit owners. Lender shall have the right to exercise this power of attorney only after default by Grantor; however, Lender may decline to exercise this power as it sees fit.

**Insurance.** The insurance as required above may be carried by the association of unit owners on Grantor's behalf, and the proceeds of such insurance may be paid to the association of unit owners for the purpose of repairing or reconstructing the Property. If not so used by the association, such proceeds shall be paid to Lender.

**Compliance with Regulations of Association.** Grantor shall perform all of the obligations imposed on Grantor by the declaration submitting the Real Property to unit ownership, by the bylaws of the association of unit owners, or by any rules or regulations thereunder. If Grantor's interest in the Real Property is a leasehold interest and such property has been submitted to unit ownership, Grantor shall perform all of the obligations imposed on Grantor by the lease of the Real Property from its owner.

99811142

Loan No 4511023769

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. Grantor 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.

EXHIBIT A. An exhibit, titled "EXHIBIT A," is attached to this Mortgage and by this reference is made a part of this Mortgage just as if all the provisions, terms and conditions of the Exhibit had been fully set forth in this Mortgage.

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

GRANTOR:

x Daniel Berger  
DANIEL BERGER

x Ruth K. Berger  
RUTH K BERGER

INDIVIDUAL ACKNOWLEDGMENT

STATE OF ILLINOIS )

COUNTY OF COOK ) ss

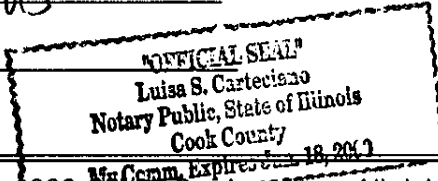
On this day before me, the undersigned Notary Public, personally appeared DANIEL BERGER and RUTH K BERGER, to me known to be the individuals described in and who executed the mortgage, and acknowledged that they signed the Mortgage as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 5th day of Aug, 19 99

By [Signature] Residing at Waukegan, IL

Notary Public in and for the State of ILLINOIS

My commission expires \_\_\_\_\_



# UNOFFICIAL COPY

## EXHIBIT A

---

<b>Borrower:</b>	<b>DANIEL BERGER</b> (SSN: 350-18-7319)	<b>Lender:</b>	Bank One, Illinois, NA
	<b>RUTH K BERGER</b> (SSN: 359-24-5643)		North Evanston Office
	9244 GROSS POINTE RD		1900 Central Ave.
	SKOKIE, IL 60077		Evanston, IL 60201

---

This EXHIBIT A is attached to and by this reference is made a part of the Deed of Trust or Mortgage dated August 5, 1999, and executed in connection with a loan or other financial accommodations between Bank One, Illinois, NA and DANIEL BERGER and RUTH K BERGER.

UNIT NO. \*B-102, AS DECEASED ON THE SURVEY OF THE FOLLOWING DESCRIBED PARCEL OF REAL ESTATE, (HEREINAFTER REFERRED TO AS \* PARCEL): THAT PART OF THE FOLLOWING DESCRIBED PROPERTY IN THE NORTH EAST 1/4 OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTHWESTERLY OF A LINE DRAWN FROM THE NORTHEASTERLY LINE OF SAID PROPERTY AT A POINT 554.20 FEET NORTHWESTERLY FROM THE MOST EASTERLY CORNER THEREOF, SAID LINE FORMING AN INTERIOR ANGLE OF 82 DEGREES 16 MINUTES 40 SECONDS WITH SAID NORTHEASTERLY LINE COMMENCING AT THE SOUTH EAST CORNER OF SAID NORTH EAST 1/4; THENCE NORTH ON EAST LINE OF SAID SECTION 9.91 CHAINS TO CENTER OF GROSS POINT ROAD; THENCE SOUTH 43.5 DEGREES WEST ON CENTER OF SAID ROAD 3.74 CHAINS TO A POINT BEING A PLACE OF BEGINNING; THENCE NORTH 26 DEGREES WEST 25.77 CHAINS TO A POINT IN THE SOUTH LINE OF LAND OWNED BY PHILIPP WELLE, SAID POINT BEING 17.40 CHAINS WEST OF THE EAST LINE OF SAID SECTION 16 THENCE WEST ALONG THE SOUTH LINE OF SAID PHILIPP WELLE'S LAND TO THE EAST LINE OF THE WEST 7 ACRES OF THE EAST 1/2 OF THE NORTH EAST 1/4 OF SECTION 16 ACRES SAID; THENCE SOUTH ALONG SAID LINE MENTIONED LAND 6.26 CHAINS; THENCE SOUTH 36 DEGREES EAST, 20.41 CHAINS TO CENTER OF SAID ROAD; THENCE NORTHEASTERLY ALONG CENTER OF SAID ROAD TO A POINT 4.06 CHAINS SOUTH WEST OF THE INTERSECTION OF THE CENTER LINE OF GROSS POINT ROAD AND EAST LINE OF SECTION 16 AND MEASURED ALONG THE CENTER LINE OF SAID GROSS POINT ROAD; THENCE NORTH EAST 21.12 FEET TO THE POINT (EXCEPT THAT PART THEREOF LYING WEST OF THE EAST LINE OF LAMON AVENUE EXTENDED NORTH) ALL IN COOK COUNTY, ILLINOIS, WHICH SAID SURVEY IS ATTACHED AS EXHIBIT \* A TO A CERTAIN DECLARATION OF CONDOMINIUM OWNERSHIP MADE BY THE AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 20, 1972 AND KNOWN AS TRUST NUMBER 77875, AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS, AS DOCUMENT 22965915 TOGETHER WITH AN UNDIVIDED 2.352 PER CENT INTEREST IN SAID PARCEL (EXCEPTING FROM SAID PARCEL ALL PROPERTY AND SPACE COMPRISING ALL THE UNITS THEREON AS DEFINED AND SET FORTH IN SAID DECLARATION OF CONDOMINIUM OWNERSHIP AND SURVEY)

99811142