

# UNOFFICIAL COPY



Doc#: 0529456034 Fee: \$36.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/21/2005 08:52 AM Pg: 1 of 7

PREPARED BY AND RETURN TO:

THINK FEDERAL CREDIT UNION  
5200 MEMBERS PARKWAY NW  
PO BOX 5949  
ROCHESTER, MN 55903  
Phone: (800) 288-3425  
Fax: (507) 536-5766

SPACE ABOVE THIS LINE FOR RECORDER'S USE



5200 MEMBERS PARKWAY NW  
PO BOX 5949  
ROCHESTER, MN 55903  
Phone: (800) 288-3425  
Fax: (507) 536-5767



Revolving Line of Credit  Loan

THIS MORTGAGE is given on September 23, 2005 by JAMES K LUCY AND MADDALENA P LUCY, HUSBAND AND WIFE

(hereinafter referred to individually or collectively, as the context may require, as "Mortgagor" or "Borrower") to THINK FEDERAL CREDIT UNION, its successors and assigns, whose address is 5200 MEMBERS PARKWAY NW PO BOX 5949 ROCHESTER, MN 55903 ("Mortgagee" or "Lender").

Borrower does hereby mortgage, grant, convey and warrant to Lender, with the power of sale, the following described property located in the County of COOK, State of Illinois:

SITUATED IN THE COUNTY OF COOK AND STATE OF ILLINOIS: LOT 44 IN PEKARAS FOREST VIEW SUBDIVISION OF PART OF CYNTHIA ROBINSON'S TRACT IN PARTITION OF NORTH SECTION OF ROBINSON RESERVATION IN TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE 3RD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS. PIN: 12-15-108-009-0000

which has the street address of 4649 WESLEY TERRACE SCHILLER PARK, IL 60176; together with (i) all improvements, buildings or structures of any nature whatsoever, now or hereafter erected on the property, (ii) all fixtures, including all plumbing, heating, air conditioning and ventilating equipment, now or hereafter located under, on or above the property, (iii) all rights, privileges, rents, royalties, mineral, oil and gas rights and profits, tenements, hereditaments, rights-of-way, easements, appendages, appurtenances, or riparian rights now or hereafter belonging or in any way appertaining to the property, and (iv) all of Borrower's right, title and interest in and to any streets, rights-of-way, alleys or strips of land now or hereafter adjoining thereto, including any replacements and additions to any of the foregoing. All of the foregoing is collectively referred to in this Mortgage as the "Property."

Complete if Applicable:

The Property is part of a condominium or Planned Unit Development project known as

The Property includes Borrower's unit and all Borrower's rights in the common elements of the condominium project.

This Mortgage is given to secure to Lender the following:

1.  Line of Credit: The repayment of all indebtedness, including principal, finance charges at a rate which may vary from time to time, taxes, special assessments, insurance, late fees, and any other charges and collection costs due and to become due ("Debt") under the terms and conditions of the HomeEquity Open-end Credit Plan, Truth in Lending Disclosure Statement and Credit Agreement made by Borrower and dated the same day as this Mortgage, including any and all modifications, amendments, extensions and renewals thereof ("Agreement").

Loan: The repayment of all indebtedness, including a principal sum of U.S. TWELVE THOUSAND AND 00/100 dollars (\$ 12,000.00 ), finance charges at a rate set forth in Borrower's Closed-end Note, taxes, special assessments, insurance, late fees, and any other charges and collection costs due and to become due ("Debt") under the



46.50  
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**UNOFFICIAL COPY****MORTGAGE (continued)**

terms and conditions of the HomeEquity Closed-end Note, Truth in Lending Disclosure Statement and Loan Agreement made by Borrower and dated the same day as this Mortgage, including any and all modifications, amendments, extensions and renewals thereof ("Agreement").

2. The payment of all other sums advanced in accordance therewith to protect the Property, with finance charges thereon at a rate which may vary as described in the Plan;
3. The performance of Borrower's covenants and agreements under this Mortgage and under the Plan.

If this Mortgage secures an Open-end Credit Plan, as indicated above, the following provisions apply:

**This Mortgage contains a due-on-sale provision and secures indebtedness under a Credit Agreement which provides for a revolving line of credit and may contain a variable rate of interest.**

Lender has agreed to make advances to Borrower under the terms of the Plan, which advances will be of a revolving nature and may be made, repaid, and remade from time to time. Borrower and Lender contemplate a series of advances to be secured by this Mortgage. The total outstanding principal balance (excluding finance charges, fees, taxes, and other additional amounts) owing at any one time under the Plan shall not exceed \_\_\_\_\_

dollars (\$ \_\_\_\_\_) ("Maximum Principal Balance" or "Credit Limit"). This mortgage is intended to and shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting taxes and assessments levied on the Property not yet due and payable, to the extent of the maximum amount secured hereby. The unpaid balance of the revolving credit loan may at certain times be zero. A zero balance does not terminate the revolving credit loan or Lender's obligation to advance funds to Borrower. Therefore, the lien of this Mortgage will remain in full force and effect notwithstanding a zero balance. On the Maturity Date, or Final Payment Date, \_\_\_\_\_ years from the date of this Mortgage, the entire Debt under the Plan, if not paid earlier, is due and payable.

**A. REPRESENTATIONS**

Borrower hereby represents to Lender as follows:

1. **Validity of Security Documents.** (a) The execution, delivery and performance by Borrower of the Agreement, this Mortgage and all other documents and instruments now or hereafter, furnished to Lender to evidence or secure payment of the Debt (the "Security Documents"), and the borrowing evidenced by the Agreement, will not violate any provision of law, any order of any court or other agency of government, or any mortgage, indenture, trust agreement or other instrument to which Borrower is a party or by which Borrower or any of Borrower's property is bound, or be in conflict with, or will result in a material breach of or constitute (with due notice and/or lapse of time) a default under any such mortgage, indenture, trust agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of Borrower's property or assets, except as contemplated by the provisions of the Security Documents; and  
(b) The Security Documents, as and when executed and delivered by Borrower, constitute the legal, valid and binding obligations of Borrower in accordance with their respective terms subject to applicable bankruptcy and insolvency laws.
2. **Other Information.** All other information, reports, papers and data given to Lender, or to Lender's legal counsel, with respect to Borrower, the Property, or the loan evidenced by the Security Documents are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Lender a true and accurate knowledge of the subject matter.
3. **Title.** Borrower has good and marketable title in fee simple to the Property free and clear of all encumbrances except for encumbrances of record as of the date of this Mortgage. Borrower will preserve its title to the Property and will forever covenant and defend the same to Lender and will forever covenant and defend the validity and priority of the lien of this Mortgage.
4. **Litigation.** There is not now pending or threatened against or affecting the Property, nor, to the knowledge of Borrower, is there contemplated, any action, suit or proceeding at law or in equity or by or before any administrative agency which, if adversely determined, would impair or adversely affect the value or operation of the Property.
5. **Environmental Indemnity.** Borrower shall indemnify and hold Lender harmless against and from any and all loss, cost, damage, claim or expense (including, without limitation, any and all attorney's fees or expenses of litigation) incurred or suffered by Lender on account of (i) the location on the Property of any chemicals, material, substance, or contaminant (including, without limitation, oil, petroleum products, asbestos, urea, formaldehyde, foam insulation, hazardous waste and/or toxic waste), the presence or storage of which or the exposure to which is prohibited, limited, or regulated by any federal, state, county, regional, or local governmental unit, agency or authority, or which presence, storage, or exposure may pose a hazard to health and safety or (ii) the failure by Borrower or any prior owner or occupant of the Property to comply with any applicable federal, state, county, regional or local environmental laws, regulations, and court or administrative orders.

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## MORTGAGE (continued)

### B. ADDITIONAL COVENANTS

Until the entire Debt shall have been paid in full, Borrower covenants and agrees as follows:

6. **Payment of Indebtedness.** Borrower shall timely pay and discharge the Debt or any part thereof in accordance with terms and conditions of the Agreement, this Mortgage, and the Security Documents.

7. **Payment of Taxes and Assessments.** Borrower shall duly pay and discharge, or cause to be paid and discharged all real estate and personal property taxes and other taxes and assessments, public or private; water and sewer rates and charges; all other governmental or nongovernmental charges applicable to the Property; any interest or costs or penalties with respect to any of the foregoing; and charges for any easement or agreement maintained for the benefit of the Property, general and special, ordinary or extraordinary, foreseen or unforeseen, of any kind and nature whatsoever which may at any time prior to or after the execution of this Mortgage, be assessed, levied, or imposed upon the Property or the rent or income received therefrom, or any use or occupancy thereof. All of the foregoing are hereinafter collectively referred to as "Taxes and Assessments." Borrower shall provide Lender with satisfactory proof of payment of any Taxes and Assessments within ten (10) days of the date any such Taxes or Assessments are due. In the event Borrower fails to timely pay any such Taxes or Assessments, Lender may, but shall not be obligated to, make such payments and any amounts so paid by Lender shall be treated as "Advances" in accordance herein.

8. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. If the Property is located in an area designated by the Director of the Federal Emergency Agency as a special flood hazard area, Borrower agrees to obtain Federal Flood Insurance to the extent such insurance is required for the term of the loan and for the full indebtedness of the loan. Insurance policies shall be maintained in the amounts and for the periods that Lender requires. The insurance carriers providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall name Lender as "loss-payee" and shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened or impaired. If the restoration or repair is not economically feasible or Lender's security would be lessened or impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to herein or change the amount of the payments. If under this Mortgage the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

9. **Repair.** Borrower shall keep the Property in good order and condition and make all necessary or appropriate repairs, replacements and renewals thereof. Borrower agrees not to permit or allow any waste of the Property or make or permit to be made any material alterations or additions to the Property that would have the effect of diminishing the value thereof or that will in any way increase the risk of any fire or hazard arising out of the construction or operation thereof. Borrower agrees not to alter or remove any structure or fixture in the Property without Lender's prior written consent. Borrower shall prevent any act or thing which might adversely effect or impair the value or usefulness of the Property.

10. **Restoration Following Uninsured Casualty.** In the event of the happening of any casualty, of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, not covered by any Insurance Policy resulting in damage to or destruction of the Property, Borrower shall give notice thereof to Lender and Borrower shall promptly at Borrower's sole cost and expense, commence and diligently continue to restore, repair, replace, rebuild or alter the damaged or destroyed Property as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

11. **Compliance with Laws.** Borrower shall promptly and faithfully comply with, conform to and obey or contest by appropriate proceedings in good faith all present, and use its best efforts as to future laws, ordinances, rules, regulations and requirements of every duly constituted governmental authority or agency and of every board of fire underwriters having jurisdiction, or similar body exercising functions, which may be applicable to it or to the Property or to the use and manner of use, occupancy, possession, operation, maintenance or reconstruction of the Property, whether or not such law, ordinance, rule, order, regulation or requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Property.

**UNOFFICIAL COPY****MORTGAGE (continued)**

**12. Performance of Other Agreements.** Borrower shall duly and punctually perform all covenants and agreements expressed as binding upon it under any agreement of any nature whatsoever that involves the Property including, without limitation, all rules and regulations of a homeowners or condominium association if the Property is part of a condominium, cooperative, phased development or other homeowners association.

**13. Inspection.** Borrower shall permit Lender, and parties designated by Lender, at all reasonable times, to inspect the Property.

**14. Hold Harmless.** Borrower shall, at Borrower's sole cost and expense, save, indemnify and hold the Lender, its officers, directors, employees and agents, harmless from any injury, claim, demand, suit, judgment, execution, liability, debt, damage or penalty (hereinafter collectively referred to as "Claims") affecting the Property, or the value of any of the Security Documents, arising out of, resulting from, or alleged to arise out of or result from, any action or inaction by Borrower, except as may be the direct result of Lender's negligence. Borrower shall pay all expenses incurred by the Lender in defending itself with regard to any and all Claims. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employee of Lender.

**15. Expenses.** Borrower shall pay or reimburse Lender for all reasonable costs and expenses paid or incurred by Lender in any action, proceeding or dispute of any kind in which Lender is made a party or appears as party plaintiff or defendant, involving any of the Security Documents, Borrower, or the Property, including, without limitation, to the foreclosure or other enforcement of this Mortgage, any condemnation involving the Property, any action to protect the security hereof, or any proceeding in probate or bankruptcy, and any such amounts paid or incurred by Borrower shall be treated as Advances in accordance with this Mortgage.

**16. Advances.** In the event Borrower fails to perform any act required of Borrower by any of the Security Documents or to pay when due any amount required to be paid by any of the Security Documents, Lender may, but shall not be obligated to, make such payment or perform such act. Such payment or performance by Lender shall not have the effect of curing any Event of Default or of extending the time for making any payment due hereunder or under the Agreement. All amounts so paid by Lender, together with all expenses incurred in connection therewith, shall be deemed advances ("Advances") under this Mortgage and the Agreement, shall be immediately due and payable and shall be added to the Debt. Advances shall bear interest from the date expended at the rate specified in the Agreement and shall be secured by this Mortgage as though originally a part of the principal amount of the Debt.

**17. Use Violations.** Borrower shall not use the Property or allow the same to be used or occupied for any unlawful purpose or in violation of any permit or certificate, or any law, ordinance, regulation or restrictive covenant, covering or affecting the use or occupancy thereof, or suffer any act to be done or any condition to exist on the Property or any article to be brought thereon, that may be dangerous, unless safeguarded as required by law, or that may, in law, constitute a nuisance, public or private.

**18. Other Liens.** Borrower shall not, without the prior written consent of Lender, create or permit to be created or to remain, any mortgage, pledge, lien, encumbrance or charge on, security interest in, or conditional sale of or other title retention agreement on (whether prior or subordinate to the liens of the Security Documents) the Property or income therefrom other than the Security Documents ("Liens"). In the event Borrower fails to promptly discharge any such Liens, Lender may, but shall not be obligated to, do so and any amounts paid or incurred by Lender (including reasonable attorney's fees in connection therewith), shall be treated as Advances in accordance with this Mortgage.

**19. Transfer of the Property.** Borrower shall not sell, convey, transfer or assign the Property or any beneficial interest therein or any part thereof, whether by operation of law or otherwise, without the prior written consent of Lender. In the event of such a sale, conveyance, transfer or assignment, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by applicable law as of the date of this Mortgage. "Sale, conveyance or transfer" means the conveyance of the 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 the real property interest.

If Lender exercises Lender's option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

**20. Events of Default.** The term Event of Default, as used in the Security Documents, shall mean the occurrence or happening, from time to time, of any one or more of the following: (a) Borrower fails to make any payment required by this Mortgage or the Agreement when it is due; (b) Borrower has engaged in or engages in fraud or material misrepresentation, either by act or omission, in connection with this Mortgage or the Agreement at any time during the application process or during the term of this Mortgage or the Agreement; or (c) Borrower acts or fails to act in a way that adversely affects the security under this Mortgage, including, without limitation, the following: (i) Borrower transfers title to the Property or sells the Property without the consent of Lender; (ii) Borrower fails to maintain the insurance required to be carried by Borrower

**UNOFFICIAL COPY****MORTGAGE (continued)**

according to the terms of this Mortgage; (iii) Borrower fails to pay any Taxes on the Property; (iv) Borrower permits the filing of a lien against the Property senior to that held by Lender; (v) the death of Borrower (in the event of more than one Borrower, the death of the last remaining Borrower who executed the Agreement); (vi) the Property is taken by condemnation or power of eminent domain; or (vii) the holder of any prior mortgage commences foreclosure of the prior mortgage.

**21. Acceleration; Remedies.** If an event of default occurs, then prior to exercising any right or remedy provided for in this Mortgage and prior to acceleration, Lender shall give notice as provided herein and as required by applicable law. The notice shall specify: (a) the event of default; (b) the action required to cure the event of default; (c) a date, not less than thirty days (or any longer period required by applicable law) from the date the notice is given to Borrower by which the event of default must be cured; (d) that failure to cure the event of default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding, and sale of the Property; and (e) any other information required by applicable law. The notice shall further inform Borrower of the right to reinstate after acceleration, and the right to assert in the foreclosure proceeding the nonexistence of an event of default or any other defense of Borrower to acceleration and foreclosure. If the event of default is not cured on or before the date specified in the notice, Lender, at Lender's option, without further notice or demand, may declare default, may declare all sums secured by this Mortgage to be immediately due and payable, and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, costs of title evidence, and reasonable attorneys fees, to the extent not prohibited by applicable law.

**22. Borrower's Rights to Reinstate.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of (i) sale of the Property pursuant to any power of sale contained in this Mortgage or (ii) entry of a judgment enforcing this Mortgage. Those conditions are that Borrower: (a) pays Lender all sums which would then be due under this Mortgage and the Plan had no acceleration occurred; (b) cures all other events of this Mortgage and the Plan; (c) pays all reasonable expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration due to unauthorized transfer of the Property by Borrower.

**23. Condemnation.** In the event of the taking by eminent domain proceedings or the like of any part or all of the Property by any federal, state, municipal or other governmental authority or agency thereof, all awards or other compensation for such taking shall be paid to Lender for application on the Debt, provided that no such application shall result in additional interest or have the effect of curing any Event of Default or extending the time for making any payment due hereunder or under the Agreement.

**24. Prior Mortgage.** If this Mortgage is subject to a prior mortgage, the lien of which is superior to the lien of this Mortgage, Borrower agrees to pay each installment of the debt secured by the prior mortgage when it is due, whether by acceleration or otherwise. Borrower also agrees to pay and perform all other obligations of the Borrower under the prior mortgage. Borrower agrees to provide Lender with proof of payment or performance under the prior mortgage whenever Lender requests it. If Borrower fails to pay any installment of principal or interest when it is due or if Borrower fails to pay or perform any other obligation under the prior mortgage; Lender has the right, but not the obligation, to pay the installment or to pay or perform such other obligation on Borrower's behalf. Any amounts Lender spends in performing Borrower's obligations will become part of the Debt, payable by Borrower on Lender's demand, and will bear interest at the same rate as the Debt bears from time to time. Lender may rely upon any written notice of default under the prior mortgage that Lender receives from the holder of the prior mortgage even though Borrower questions or denies the existence, extent, or nature of the default. Borrower shall not renew, extend or modify the prior mortgage, and shall not increase the debt secured by the prior mortgage, without Lender's prior written consent.

**25. Survival of Warranties and Covenants.** The warranties, representations, covenants and agreements set forth in the Security Documents shall survive the making of the loan and the execution and delivery of the Agreement, and shall continue in full force and effect until the Debt shall have been paid in full.

**26. Further Assurances.** Borrower shall, upon the reasonable request of Lender, execute, acknowledge and deliver such further instruments (including, without limitation, a declaration of no set-off) and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of the Security Documents and to subject to the liens thereof any property intended by the terms thereof, to be covered thereby and any renewals, additions, substitutions, replacements or betterments thereto.

**27. Recording and Filing.** Borrower shall, at Borrower's sole cost and expense, cause those Security Documents and all supplements thereto, for which constructive notice must be given to protect Lender, at all times to be recorded and filed, and re-recorded and re-filed, in such manner and in such places as Lender shall reasonably request, and shall pay all such recording, filing, re-recording, re-filing taxes, fees and other charges to the maximum extent not prohibited by applicable law.

**28. Loan Expenses.** Borrower shall pay all applicable costs, expenses and fees set forth in the Agreement.

**UNOFFICIAL COPY****MORTGAGE (continued)**

29. **No Representation by Lender.** By accepting or approving anything required to be observed, performed or fulfilled, or to be given to Lender, pursuant to this Mortgage, including (but not limited to) any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey or appraisal, Lender shall not be deemed to have arranged or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation with respect thereto by Lender.

30. **Incorporation of Agreement.** Each and every term, covenant and provision contained in the Agreement is, by this reference, incorporated into this Mortgage as if fully set forth herein.

31. **Waiver of Homestead.** In accordance with Illinois law, Borrower hereby releases and waives all rights under and by virtue of the Illinois homestead exemption laws.

32. **Waiver of Redemption.** Borrower waives all rights of redemption to the extent allowed by applicable law.

33. **Notice.** Except for any notice required under applicable law to be given in another manner, any notice provided for in this Mortgage shall be in writing and shall be deemed properly delivered three days after deposit thereof in any main or branch United States Post Office, certified or first class United States Mail, postage prepaid, addressed as follows or at such other address as may be designated by notice as provided herein:

If to the Borrower:

JAMES K LUCY

4649 WESLEY TER

SCHILLER PARK, IL 601761635

If to the Lender:

THINK FEDERAL CREDIT UNION

5200 MEMBERS PARKWAY NW PO BOX 5949

ROCHESTER, MN 55903

34. **Covenants Running With the Land.** All covenants contained in this Mortgage shall run with the Land.

35. **Successors and Assigns.** All of the terms of this Mortgage shall apply to and be binding upon, and inure to the benefit of, the successors and assigns of Borrower and Lender, respectively, and all persons claiming under or through them provided that nothing in this Paragraph shall be construed to permit a transfer, conveyance or assignment other than as expressly permitted by this Mortgage.

36. **Multiple Borrowers.** Borrower's covenants and agreements hereunder shall be joint, several and primary. Any Borrower who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage, grant and convey the Property; (b) is not personally obligated to pay the Debt; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forebear or make any accommodations with regard to the terms of this Mortgage or the Agreement without that Borrower's consent.

37. **Severability.** In case any one or more of the obligations or the provisions of this Mortgage or of the Agreement shall be determined to be invalid, illegal or unenforceable in any respect, the validity of the remaining obligations or provisions of this Mortgage shall be in no way affected, prejudiced or disturbed thereby.

38. **Modification.** This Mortgage may not be changed, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted.

39. **Governing Law; Severability.** This Mortgage shall be governed by and construed according to the laws of the jurisdiction in which the Property is located. However, venue for the resolution of disputes other than those arising from foreclosure proceedings, shall be the county in which the Lender is headquartered. Nothing in this provision shall limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Agreement are declared to be severable.

40. **Headings.** The headings and the section and paragraph entitlements hereof are inserted for convenience of reference only, and shall in no way alter or modify the text of such paragraphs, sections and subsections.

41. **Riders.** If one or more riders are attached to and made a part of this Mortgage, the covenants and agreements for each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage.

42. **Release.** If this Mortgage secures a Closed-end Note, upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. If this Mortgage secures a revolving line of credit, advances may be made, repaid, and remade from time to time, under the terms of the Agreement. When according to the terms of the Agreement, no more advances will be made, and Borrower has paid all sums secured by this Mortgage (or earlier if required by applicable law), Lender shall discharge this Mortgage. To the extent permitted by law, Lender may charge Borrower a fee for such discharge and require Borrower to pay costs of recordation, if any.

# UNOFFICIAL COPY

## MORTGAGE (continued)

43. **Placement of Collateral Protection Insurance.** Unless Borrower provides Lender with evidence of the insurance coverage required by Borrower's agreement with Lender, Lender may purchase insurance at Borrower's expense to protect Lender's interests in Borrower's collateral. This insurance may, but need not, protect Borrower's interests. The coverage that Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the collateral. Borrower may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Borrower has obtained insurance as required by Borrower's and Lender's agreement. If Lender purchases insurance for the collateral, Borrower will be responsible for the costs of that insurance, including interest and any other charges Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Borrower's total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance Borrower may be able to obtain on its own.

### REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

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

### ACKNOWLEDGEMENT AND SIGNATURE

IN WITNESS WHEREOF, Borrower accepts and agrees to the terms and covenants contained in this Mortgage and in any rider(s) executed by Borrower and recorded with it.

X	<u>James K. Lucy</u>	(Seal)	X	<u>Maddalena P Lucy</u>	(Seal)
	JAMES K LUCY			MADDALENA P LUCY	
	Borrower			Borrower	

X	_____	(Seal)	X	_____	(Seal)
	Borrower			Borrower	



STATE OF ILLINOIS  
COUNTY OF COOK

This instrument was executed before me on October 3rd, 2005 by  
JAMES K LUCY AND MADDALENA P LUCY, HUSBAND AND WIFE

Ger Gateley  
Notary Public  
Print Name: Ger Gateley

My Commission Expires: 11/6/2007