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Doc#: 0817855027 Fee: \$52.50
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/26/2008 11:13 AM Pg: 1 of 9

THIS DOCUMENT PREPARED BY:
WHEN RECORDED MAIL TO:

CU/AMERICA
450 E. 22ND ST., STE 240
LOMBARD, IL 60148

8000899
Fitzgerald

MORTGAGE

THIS MORTGAGE is made this 17th day of April 2008, between the Mortgagor, **Thomas Fitzgerald and Kathleen C. Fitzgerald**, husband and wife (herein "Borrower"), and the Mortgagee, **New Trier Federal Credit Union, 642 Green Bay Road, Kenilworth, Illinois 60043**

WHEREAS, Borrower has entered into an agreement (hereinafter "the Revolving Credit Loan Agreement") with the Lender of even date, under which Borrower may from time to time, one or more times, obtain loan advances not to exceed at any time an aggregate principal of **Sixty five thousand (\$65,000.00) Dollars** from Lender on a secured line of credit basis, and which Revolving Credit Loan Agreement provides for an adjustable rate of interest.

TO SECURE to Lender the repayment of any and all loan advances which Lender may make now or in the future under the Revolving Credit Loan Agreement, with interest and other charges thereon, together with the payment of all other sums advanced in accordance herewith to protect the security of this Mortgage, as well as all late charges, costs and attorney's fees; and the performance of all covenants and agreements of Borrower herein contained, Borrower does hereby grant and convey to Lender and Lender's successors and assigns, with power to sell, the following described property located in the County of Cook, State of Illinois:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION

which has the address of **3131 Lake Avenue, Wilmette, IL 60091** (herein "Property Address").

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents all of which shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are in hereinafter referred to as the "Property".

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has right to mortgage, grant and convey the Property, and that the Property

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is unencumbered, except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record filed prior to the date of filing of this Mortgage.

UNIFORM COVENANTS. Borrower and lender covenant and agree as follows:

1. **Payment and Aggregate Principal and Interest.** Borrower shall promptly pay when due the total indebtedness evidenced by the Revolving Credit Loan agreement, which includes principal, interest and other charges.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Revolving Credit Loan Agreement and paragraph 1 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower for interest and charges payable under the Revolving Credit Loan Agreement, and then to the principal under the Revolving Credit Loan Agreement.

3. **Prior Mortgages and Deeds of Trust; Charges; Liens.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including borrower's covenants to make payments when due. Borrower shall pay or cause to be paid all taxes, assessments, fines and other charges attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

4. **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 such other hazards Lender may require and in such amounts and for such periods as Lender may require

The insurance carrier providing insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender, Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this mortgage.

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

If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is subject to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the subject Property or to the sums secured by this Mortgage.

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5. **Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

6. **Protection of Lender's Security.** If the Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, the Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorney's fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premium required to maintain such insurance in effect until such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this paragraph 6, with interest thereon, at the Revolving Credit Loan Agreement rate, shall become additional indebtedness of Borrower secured by this Mortgage, Unless Borrower and Lender agree to other terms of payment, such amount shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take any action hereunder.

7. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that the Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to lender's interest in the property.

8. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

9. **Borrower not Released; Forbearance by Lender Not Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successor in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest Any forbearance by Lender in exercising any right

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or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

10. **Successors and Assigns Bound; Joint and Several Liability; Co-Signers.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 15 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Revolving Credit Loan Agreement, (a) is co-signing this Mortgage only mortgage, grant and convey that borrower's interest in the property to Lender under the terms of this Mortgage, (b) is not personally liable on the Revolving Credit Loan Agreement or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Revolving Credit Loan Agreement without the Borrower's consent and without releasing that the Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

11. **Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by delivering it to or by mailing such notice by certified mail addressed to Borrower at the Property Address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

12. **Governing Law; Severability.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal Law to this Mortgage. In the event that any provision or clause of this Mortgage or the Revolving Credit Loan Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or Revolving Credit Loan Agreement which can be given effect without the conflicting provision, and to this end the provisions of this severable. As used herein, "costs", "expense" and attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

13. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Revolving Credit Loan Agreement and of this Mortgage at the time of execution or after recordation hereof.

14. **Rehabilitation Loan Agreement.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement, which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment

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of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

15. **Transfer of the Property.** If Borrower sells or transfers all or any part of the Property or an interest therein, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) a transfer by devise descent, or by operation of Law upon the death of a joint tenant, or (c) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may declare all of the sums secured by this Mortgage to be immediately due and payable. If lender exercises such option to accelerate, lender shall mail Borrower notice of acceleration in accordance with paragraph 11 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed or delivered within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 16 hereof.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

16. **Acceleration; Remedies.** Except as provided in paragraph 15 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, or in the Revolving Credit Loan Agreement, including the covenants to pay when due any sums secured by this Mortgage, Lender, prior to acceleration, shall give notice to Borrower as provided in paragraph 11 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 days from the date the Notice is mailed to borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in proceeding, and sale of the Property. 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 a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date in the notice, Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs of documentary evidence, abstracts and title reports.

17. **Borrower's Right to Reinstate.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Revolving Credit Loan Agreement had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower continued in this Mortgage, and in enforcing Lender's remedies

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as provided in paragraph 16 hereof, including, but not limited to reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

18. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 16 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 16 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of all rents, including, but not limited to, receiver fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this mortgage. The receiver shall be liable account only for those rents actually received.

19. **Release.** Upon payment of all sums secured by this Mortgage, and upon receipt of its reasonable release charges, Lender, upon Borrower's written request, shall release this Mortgage.

20. **Waiver of Homestead.** Borrower hereby waives all rights homestead exemption in the Property.

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NOTICE TO THIRD PARTIES AND SUBSEQUENT JUNIOR LIEN HOLDERS:

21. **Revolving Line.** This Mortgage is a revolving line of credit, calling for advances up to the amount set forth in the Mortgage. The formula for computing interest is as follows:

An Annual Percentage Rate which is variable and equal to the prime lending rate as published in The Wall Street Journal, less **one-half** point (**.50%**). The rate may adjust semi-annually. The maximum interest rate under this Mortgage is **18.00%** per annum.

22. **Future Advances.** This Mortgage shall secure all future advances made within twenty (20) years from the date of this Mortgage as set forth in Illinois Compiled Statutes, 205 ILCS 305/46 and as amended. However, no advances will be made beyond the 5th year of the term of this Mortgage.

23. **Priority of Future Advances.** All future advances shall have the same priority as if advanced at the date of this Mortgage.

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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 priority over this Mortgage to Give Notice to Lender, at Lender's address set forth on page one of this Mortgage, of any default under the superior encumbrance of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

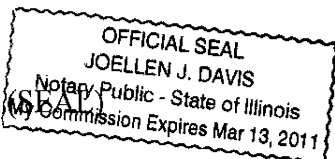
Thomas J. Fitzgerald
Thomas Fitzgerald

Kathleen C. Fitzgerald
Kathleen C. Fitzgerald

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Joellen J. Davis, A Notary Public in and for said county and state do hereby certify that **Thomas Fitzgerald and Kathleen C. Fitzgerald**, personally known to me to be the same person (s) whose name(s) is subscribed to the forgoing instrument, appeared before me this day in person and acknowledged that she/he/they signed and delivered the said instrument as his/her/their free and voluntary act, for those uses and purpose therein set forth.

Given under my hand and official seal on 4/17, 2008



Joellen J. Davis
Notary Public

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EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1: THE NORTH 27.75 FEET, OF THE SOUTH 113.95 FEET, OF LOT 1 AS MEASURED ALONG THE MOST WESTERLY LINE THEREOF, IN CHALET GARDENS, UNIT NO. 1, BEING A RESUBDIVISION IN THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 13 EAST, OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2: EASEMENTS AS SET FORTH IN THE DECLARATION OF EASEMENTS AND EXHIBIT 1 THERETO ATTACHED, DATED 11/14/62 AND RECORDED 12/19/62 AS DOCUMENT NO. 18678412 MADE BY THE HARRIS TRUST AND SAVINGS BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED 7/19/62 AND KNOWN AS TRUST NO. 30333 AND AS CREATED BY THE DEED, FROM SIMON PORTER AND REVE PORTER TO JACK ZABAN AND ADRIENNE ZABAN, HIS WIFE, DATED 10/24/69, AND RECORDED 10/27/69 AS DOCUMENT NO. 20996738:

- (A) FOR THE BENEFIT OF PARCEL 1, AFORESAID FOR INGRESS AND EGRESS OVER AND ACROSS THE WEST 10 FEET OF LOT 1 (EXCEPT THAT PART THEREOF FALLING IN PARCEL 1 AFORESAID) IN CHALET GARDENS, UNIT NO. 1 AFORESAID; ALSO THE EAST 10 FEET OF THE WEST 73 FEET, OF LOT 1 (EXCEPT THAT PART THEREOF FALLING IN PARCEL 1 AFORESAID) IN CHALET GARDENS UNIT NO. 1 AFORESAID; ALSO THE NORTH 15 FEET, OF THE WEST 73 FEET, OF LOT 1 IN CHALET GARDENS UNIT NO. 1 AFORESAID; ALSO THE SOUTH 82 FEET (EXCEPT THE WEST 93 FEET THEREOF AND EXCEPT THE NORTH 60 FEET, OF THE EAST 20 FEET THEREOF OF LOT 1 IN CHALET GARDENS UNIT NO. 1 AFORESAID)**
- (B) FOR THE BENEFIT OF PARCEL 1, AURORA SANITARY DISTRICT, FOR THE PARKING OVER AND ACROSS: THE EAST 20 FEET, OF THE WEST 93 FEET, OF THE SOUTH 82 FEET, OF LOT 1 IN CHALET GARDENS, UNIT NO. 1 AFORESAID; ALSO THE EAST 20 FEET OF THE NORTH 60 FEET, OF THE SOUTH 82 FEET, OF LOT 1 IN CHALET GARDENS UNIT NO. 1 AFORESAID IN COOK COUNTY, ILLINOIS**

PIN # 05-31-205-061-0000