

UNOFFICIAL COPY

4. **PRESERVATION AND MAINTENANCE OF PROPERTY.** LEASEHOLD, CO-OP UNITS, PLANNED UNIT DEVELOPMENTS. Borrower shall keep the Property in good repair and shall accept the use or permit use of the Property and shall comply with the applicable laws, ordinances, regulations, and covenants, conditions, and restrictions of the condominium or planned unit development and constituent documents.

5. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which adversely affects the interest in the Property, including, but not limited to, foreclosure of the Prior Mortgage, eminent domain, insolvency, code enforcement or proceedings involving any aspect of the Property, then Lender at Lender's option, upon notice to Borrower, may make such appearance, dispute such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, a statement of reasonable attorney's fees paid on the Property to take report.

Any amounts paid by Lender pursuant to this paragraph shall become a debt of Borrower and shall be paid by Borrower to Lender. Lender shall not be liable for any such amounts. Lender shall not be liable for any such amounts unless Lender agrees in writing to advance such amounts. Such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of advancement at the rate payable for time or time or outstanding principal under the Note. If payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law. Nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder.

6. **INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall attempt to give Borrower notice prior to any such inspection, except in the event of an emergency, cause therefore related to Lender's interest in the Property.

7. **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 its residue in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the Prior Mortgage.

In the event of a total taking of the Property, subject to the rights of the Prior Mortgage, the proceeds shall be applied to the sums secured by this Mortgage, with the interest thereon paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equivalent to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to the Borrower.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

8. **BORROWER NOT RELEASED.** Extension of the time for payment or modification or amortization of the sums secured by this Mortgage granted by Lender to any borrower or co-borrower or to any other person shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors 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.

9. **FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver or acceptance of the exercise of such right or remedy. The procurement of insurance or the payment of taxes or other fees or charges by Lender shall not be a waiver of Lender's right to accept the maturity of the indebtedness secured by this Mortgage.

10. **REMEDIES CUMULATIVE.** Remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law, in equity, and may be exercised concurrently, independently or successively.

11. **SUCCESSORS AND ASSIGNS FOUND, JOINT AND SEVERAL LIABILITY; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. The captions and heading of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

12. **NOTICE.** Except for any notice which, under applicable law, to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mail, postage prepaid, 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 by certified mail, postage prepaid, shall be given by certified mail, return receipt requested, 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 by this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

13. **GOVERNING LAW, SEVERABILITY.** This Mortgage shall be governed by the laws of the State of Illinois, including without limitation the provisions of Illinois Revised Statute Chapter 407 Sections 44-36, 44-38 and 44-37, and 310-2. In the event that any provision or clause of this Mortgage or the Note which can be given effect without the conflicting provision, and in this and the provisions of the Mortgage, the Note and Loan Agreement are declared to be severable.

14. **BORROWER'S COPY.** Borrower shall be furnished a confirmed copy of the Note and this Mortgage at the time of execution or after recording hereof.

15. **TRANSFER OF PROPERTY; ASSUMPTION.** If all or any part of the Property or an interest therein, including beneficial interest in the land, trust, if applicable, is sold, and proceeds transferred or other encumbered by Borrower or its beneficiary, including modification or amendment of the Prior Mortgage to increase the indebtedness thereby secured, without Lender's consent, then Lender or its beneficiary shall have the right to demand immediate payment of the sums secured by this Mortgage. Lender may, at Lender's option, declare all of the sums secured by this Mortgage to be immediately due and payable.

16. **ACCELERATION.** Lender reserves the right to accelerate. Lender shall mail Borrower notice of acceleration in accordance with paragraph 12 hereof. Such notice shall provide a period of at least 30 days from the date the notice is mailed within which Borrower may pay the sums secured 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 15 hereof.

17. **ACCELERATION, REMEDIES.** Upon Borrower's breach of any covenant or any covenant or agreement of Borrower in the Loan Agreement, Note or this Mortgage, including the covenants to pay when due any sums secured by this Mortgage or as set forth in Paragraph 15 hereof, Lender, at Lender's option, shall have the right to accelerate and retain such sums as they become due and payable, provided the acceleration is not cured, (1) the breach, (2) the action required to cure such breach, (3) the date, to which, from the date the notice is mailed to Borrower, by which such breach shall be cured, and (4) that failure to cure such breach on or before the date specified in the notice. Lender, at Lender's option may declare all of the sums 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 attorney's fees, and costs of documentary evidence, abstracts and title reports.

18. **ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property included in this Mortgage, 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, provided that such rents are applicable to the portion of the Property not occupied as the principal residence of Borrower or its beneficiary, if applicable.

Upon acceleration under paragraph 16 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, or person agent or its additionally appointed receiver, shall be entitled to enter upon, take possession of and manage the Property, and to collect the rents of the Property, including those payable to the receiver, by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

19. **RELEASE.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage and, if required by law, shall pay all applicable expenses including recording fees relative thereto. Borrower shall, however, pay a release fee to Lender of \$25.00 or current fee in effect at that time.

20. **WAIVER OF HOMESTEAD.** Borrower hereby waives all right of homestead exemption in the Property.

FOR INFORMATION PURPOSES:

Prior Mortgage in favor of _____
Recorded on _____ 19 _____ as Document No. _____
Original Debt \$ _____ Present Debt \$ _____

STATE OF ILLINOIS
COUNTY OF DUPAGE
Erma J. Sipko _____ Notary Public, Illinois for said County, in the State aforesaid.

DO HEREBY CERTIFY THAT DONALD J. KUHN AND MARILYN C. KUHN, his wife

person(s) known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day _____ month _____ and a like number of _____ they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 9th day of August, 1986.

IMPRESS SEAL HERE
Notary Public
January 2, 1987

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