

UNOFFICIAL COPY

#3013950

Return after recording to:

CONTINENTAL ILLINOIS NATIONAL BANK  
231 SOUTH LASALLE  
CHICAGO, ILLINOIS 60697

JUDY KNEIFLAND  
CINB 231 SOUTH LASALLE  
CHICAGO, ILLINOIS 60697

or Recordors, Box  
Attention LAURETTA DAVIES

MORTGAGE

THIS MORTGAGE is made this 3RD day of AUGUST 1994 between DANIEL J. KENNEDY JR. AND MARILYN MOATS KENNEDY, HIS WIFE, AS TENANTS

Mortgage and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, 231 South LaSalle Street, Chicago, Illinois 60697, as Mortgagee. As used in this document the words "you" and "your" refer to the persons signing this instrument and the word "Lender" refers to Continental Illinois National Bank and Trust Company of Chicago and its successors and assigns.

**Indebtedness Being Secured.** You are signing this Mortgage to secure to Lender (a) repayment of amounts outstanding under a certain variable rate Equity Line Agreement (the "Agreement") dated the same date as the Mortgage in the amount of \$65,000.00 (b) the performance of the Agreement plus accrued interest (Finance Charges), fees, charges and other amounts that may be owing under the Agreement providing for monthly payments of interest (Finance Charge) and providing for all sums owed to Lender hereunder and under the Agreement if not paid earlier either voluntarily or required to be paid on (c) Maturity Date and (d) all renewals, extensions or modifications of the Agreement, (e) any amounts advanced to protect the security of this Mortgage, (f) the performance of the parties signor of the Agreement, and (g) your performance of covenants and agreements contained in the Mortgage. The Agreement sets forth terms under which the rate (Annual Percentage Rate) at which the Finance Charge is computed may change over the term of the Agreement. The Annual Percentage Rate may increase or decrease each day depending upon the daily balance on the Account. The Annual Percentage Rate may also vary each month if the Prime Rate or reference rate used to determine the Annual Percentage Rate changes. The Prime Rate shall mean the highest (unless Lender's Prime Rate or reference rate is the highest rate quoted in which case the next highest Prime Rate shall be applicable) of the Prime Rates as reported in the Key Money Section of the Wall Street Journal on the last business day of the month before the Billing Period in which it is to be applied. The effect of an increase in the Annual Percentage Rate, whether daily or monthly will be an increase in the scheduled minimum monthly payment of the Finance Charge.

**Security.** You hereby mortgage and warrant to Lender the following described real estate located in the County of COOK State of Illinois subject only to prior encumbrances, restrictions of record and to the lien of this Mortgage (in all legal descriptions):

\* IN COMMON.

THE Southeastern 40 feet of Lot 15 in Block 6 in INVERNESS, A SUBDIVISION BY THE INVERNESS LAND ASSOCIATION of Blocks 1 to 8 and 11 to 13 in WESTERFIELD'S ADDITION TO WILMETTE VILLAGE, a Subdivision of the East 35.70 chains of Lot 1 of the North section of QUILMETTE RESERVATION in Section 35, Township 42 North, Range 13 East of the Third Principal Meridian, in Cook COUNTY, Illinois.

The property has an address of 714 SHEPHERD ROAD, WILMETTE, ILLINOIS 60091  
PI# 05-15-005-006

interests described below relating to the real estate (or the leasehold estate if the Mortgage is on a leasehold) is referred to in this Mortgage as the "Property". You also mortgage to Lender the following interest relating to the Property described above (a) all buildings and other structures and improvements of whatever kind located on the Property, (b) all rights that you have in any leases, contracts, deeds or other instruments relating to the Property, (c) all rights that you have in any minerals, oil and gas rights and profits, water, water rights and water stock which run or a part of the Property, (d) all rents, issues, royalties or profits from the Property including condemnation proceeds and proceeds of insurance relating to the Property, (e) all fixtures, existing or hereafter acquired on the Property, including, but not limited to, replacements and substitutions for such fixtures.

**Representations and Warranties.** You represent and warrant to Lender, its successors and assigns, that (a) it may hold the Property free from all claims except for those shown as "Exceptions" in the title insurance policy, (b) you own the Property free of any outstanding charges other than shown as "Exceptions" in the title insurance policy, (c) you have the right to mortgage Property to Lender.

You agree to defend your Property against the claims of persons that may have rights in the Property mortgaged to Lender, and that you will indemnify and hold Lender harmless from any loss or claims arising from a breach of the above representations and warranties. You agree not to take or permit any action to subdivide or partition the Property or to change the condition of title.

**Promises and Agreements.** You agree with Lender as follows:

1 **Payment of Principal and Interest.** You shall promptly pay or cause to be paid, as and when required by the Agreement, the principal and interest due under the Agreement together with all other charges imposed under the Agreement.

2 **Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Agreement and this Mortgage shall be applied by Lender first to payments required from you to Lender under the Mortgage, then to any amounts advanced by Lender to protect the security of this Mortgage, then to interest payable on the Agreement, then to other charges payable under the Agreement and then to the principal payable under the Agreement.

3 **Prior Encumbrances; Liens.** You shall perform all of your obligations under any mortgage, deed of trust or other security agreement (collectively "Prior Encumbrances") with a lien which has priority over this Mortgage, including your covenant to make payments when due. Any act or omission of yours which, with the giving of notice of the passage of time, would constitute a default or event of default under any Prior Encumbrance, or under any ground lease to which this Mortgage is subordinate, shall be a default under this Mortgage. You shall promptly deliver to Lender all notices you receive of any defaults or events of default under any Prior Encumbrance or ground lease.

You shall keep the Property free from mechanics' or other liens not expressly subordinated to the lien hereof.

4 **Taxes and Assessments; Rents.** You shall pay or cause to be paid when due all general and special taxes and assessments and water, sewer and other charges, fines and impositions attributable to the Property which may attach prior to or after the date of this Mortgage, and before all payments or ground rents, if any, and all other sums due under any said ground lease. You shall provide evidence satisfactory to Lender of said payments promptly after the respective due dates thereof. You shall pay in full, under protest in the manner provided by Statute, any tax or assessment you desire to contest.

5 **Hazard Insurance.** You shall keep all buildings and improvements now existing or hereafter situated on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require (including but not limited to insurance against flood damage) in amounts sufficient to pay either the cost of replacing the Property in full or to pay in full the indebtedness secured hereby, together with the amount of indebtedness secured by any Prior Encumbrances.

The insurance carriers providing said insurance shall be selected by you, subject to Lender's approval, which approval shall be unreasonably withheld. All policies and renewals thereof shall be in form acceptable to Lender, shall include a standard mortgage clause with loss payable to and in form otherwise acceptable to Lender, and further shall provide for thirty (30) days written notice to Lender prior to cancellation or material change in coverage. Subject to the terms of any Prior Encumbrance, Lender shall have the right to hold the policies and renewals thereof, which policies and renewals (stamped "Paid") shall be delivered to Lender no later than ten (10) banking days before expiration of any of said policies. You shall give prompt notice of any loss or damage to the insurance carrier(s) and to Lender. Lender may make proof of loss if not made promptly by you.

If the Property is abandoned by you, or if you fail to respond to Lender within 30 days from the date notice is mailed by Lender or Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds, at Lender's sole option, as a retention, either to restoration or repair of the Property or to the sums secured by this Mortgage. You hereby direct any insurance companies to pay directly to Lender. In its interest may appear, any proceeds in the event of any loss or damage.

6 **Use, Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** You shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property. You shall promptly restore or rebuild any building or improvements now or hereafter on the Property which may become damaged or destroyed. You shall comply with all requirements of law or municipal ordinances with respect to the use, operation, and maintenance of the Property, and shall make no material alterations in said Property except as required by law or municipal ordinance, or otherwise without the prior written consent of Lender. If the Property is a condominium or a planned unit development, you shall perform all of your obligations under the declaration of covenants, conditions and governing the condominium or planned unit development, the by-laws and regulations, of the condominium or planned unit development, and consistent documents. If this Mortgage is on a leasehold, you shall perform or cause to be performed all obligations of lessee under said lease.

7 **Protection of Lender's Security.** If you fail to perform any of the covenants and agreements contained in the Mortgage, or if any action or proceeding is threatened or commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to you, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest, including but not limited to making repairs, full or partial payment or discharge of Prior Encumbrances, payment, settling, or discharge of taxes, payment of ground rents (if any), and procurement of insurance. Lender, in making said authorized payments of taxes and assessments, may discharge a lien with any bill, statement, or receipt protected from the appropriate public office without inquiry into the accuracy of same or into the validity of any tax, assessment, sale, forfeiture, lien, or claim thereon.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon at the rate then applicable under the Agreement, shall become additional indebtedness secured by this Mortgage. Unless you and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to you requesting payment thereof. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder, and inaction by Lender shall never be considered a waiver of any right accruing to Lender on account of any provision in this Paragraph 7.

If Lender required private mortgage insurance as a condition of making the loan secured by this Mortgage, you shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with your and Lender's written agreement or applicable law.

8 **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give you notice prior to any such inspections.

9 **Condemnation.** Subject to the terms of any Prior Encumbrance, 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. Lender is authorized to collect the proceeds and, at Lender's sole option and discretion, to apply said proceeds either to restoration or repair of the Property or to the sums secured by this Mortgage.

10 **Continuation of our Obligation; Forbearance by Lender Not a Waiver; Remedies Cumulative.** Election of the time for payment or modification or amortization of the sums secured by this Mortgage granted by Lender to you or any of your successors or assigns shall not operate to release, in any manner, your liability. Lender shall not be required to reamortize or to apply a such election or forbearance to the sums secured by this Mortgage, and you shall remain obligated to pay the sums secured by this Mortgage by continuation of our obligation to you, or your successors or assigns, in interest. Any forbearance by Lender in exercising any right 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. Any acts performed by Lender to protect the security of this Mortgage, as authorized by Paragraph 7 hereof, including but not limited to the procurement of insurance, the payment of taxes or other liens, rents or charges, or the making of repairs, shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

11 **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** Subject to the provisions of Paragraph 16 hereof, the covenants and agreements herein contained shall bind and the rights hereunder shall inure to the benefit of you, your successors and assigns, and your co-signers and guarantors. The Mortgage shall be a mortgage and you and your co-signers and guarantors shall be jointly and severally liable on the Agreement and under this Mortgage, and (c) agree that if Lender and any other Mortgage hereunder may appear to be made jointly, but in fact is made as a continuation with regard to the terms of this Mortgage or the Agreement without your consent and without releasing to it Mortgage or modifying the Mortgage as to that Mortgage's interest in the Property.

12 **Notice.** Except for any notice required under applicable law to be given in another manner, any notice required or permitted under this Mortgage shall be served by hand delivery or by certified mail, return receipt requested. Notices shall be served upon you at the Property Address, and upon Lender at Lender's address stated herein. Notices shall be deemed to have been served and delivered on the date of delivery, if hand delivered, or 5 days after the date of mailing shown on the certified receipt if mailed. Any party hereto may change the address to which notices are to be served by notice to be given to the other party hereto.

13 **Governing Law; Severability.** The title and the 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 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 deemed to be separate and severable. Costs, expenses, and attorneys' fees include all sums to the extent not prohibited by applicable law or limited herein.

871516

87132653

# UNOFFICIAL COPY

14. **Your Copy.** You shall be furnished a conformed copy of the Agreement and of this Mortgage at the time of execution or after recordation hereof.  
 15. **Rehabilitation Loan Agreement.** You shall fulfill all of your obligations under any home rehabilitation, improvement, repair, or other loan agreement which you enter into with Lender. Lender, at Lender's option, may require you to execute and deliver to Lender, in form acceptable to Lender, an assignment of any rights, claims, or defenses which you may have against parties who supply labor, materials or services in connection with improvements made to the Property.  
 16. **Transfer of the Property or of a Beneficial Interest in Mortgage.** It shall be an immediate default hereunder if, without the prior written consent of Lender, which consent shall be granted at Lender's sole discretion, you shall create, effect or consent to or shall suffer or permit any conveyance, sale (including installment sale), assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation (collectively "Transfer") of the Property or any part thereof or interest therein (or if all or a portion of the beneficial interest of Mortgage is Transferred, where Mortgage is not a natural person). In the event of such default, Lender may declare the entire unpaid balance, including interest, immediately due and payable; provided, however, the foregoing provisions of this Paragraph 16 shall not apply to the lien of current taxes and assessments not yet due and payable. This option shall not be exercised by Lender if exercise is prohibited by Federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give you notice of acceleration. The notice shall provide a period of not less than 30 days from the date of service of the notice (as defined in Paragraph 17 hereof) within which you must pay or cause to be paid all sums secured by this Mortgage. If you fail to pay or cause to be paid said sums prior to the expiration of said 30-day period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on you.

17. **Remedies; Entire Agreement Due.** In the event of a default under the Agreement or your default under the Mortgage, Lender may, at its option upon expiration of any relevant cure period, declare the entire amount secured by this Mortgage immediately due and payable without further demand and may commence judicial proceedings to foreclose this Mortgage. Lender may also exercise all remedies available under the Agreement, including, without limitation, termination of future credit privileges. Lender shall be entitled to collect in the event of foreclosure, all expenses of foreclosure, including, without limitation, reasonable attorney's fees, costs of documentary evidence, abstracts and title reports all of which shall become additional indebtedness secured by this Mortgage.

18. **Revolving Loan.** This Mortgage secures all Loans made and indebtedness outstanding under the Agreement from time to time (whether such Loans or indebtedness represent obligatory or discretionary advances) within 20 years from the date of this Mortgage. The Loans outstanding shall be secured to the same extent as if each was made on the date of this Mortgage, and the fact that there is no outstanding indebtedness under the Agreement shall not affect the priority of the lien of this Mortgage as it exists on the date of the Mortgage. This Mortgage shall be prior to all subsequent liens and encumbrances (except for the liens and assignments levied on the Property) even if there is no indebtedness owing under the Agreement, to the extent of the Credit Limit shown in the Agreement and on the reverse side hereof, plus all other amounts owing under the Agreement and/or secured by or which may be secured by this Mortgage.

19. **Conversion to Installment Loan.** Lender has the right under the Agreement regardless of whether there is an event of default, to cancel the right to future advances and to require accelerated repayment of all amounts outstanding under the Agreement plus entire accrued Finance Charges and other charges (entire amount outstanding) if (i) Lender determines that you do not meet the then existing credit standards of Equity Line customers, or (ii) if a law, regulation or interpretation becomes effective subsequent to this Agreement that in Lender's opinion unfavorably affects its ability to administer the Agreement in the manner originally contemplated. In this event Lender may convert the entire amount outstanding (including accrued and unpaid Finance Charges and other charges) to an installment loan in such amount as the variable interest rate set forth in the Agreement and payable in approximately equal monthly installments, the amount and number of which will be determined as necessary to pay the entire amount outstanding in full in equal payments of principal and interest on or before the scheduled Expiration Date as set forth in the Agreement.

20. **Assignment of Rents; Appointment of Receiver.** As additional security hereunder, you hereby assign to Lender the rents of the Property, provided that you shall, prior to acceleration under Paragraphs 16 and 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable. Upon acceleration under Paragraphs 16 and 17 hereof or abandonment of the Property, and without further notice to you, Lender shall be entitled to have a receiver appointed by a court of competent jurisdiction to take possession of and manage the Property and to collect the rents of the Property including those past due. Said receiver shall have the power to collect said rents from the time of acceleration through the pendency of any foreclosure proceeding and during the full statutory period of redemption, if any. All rents collected by 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 attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

21. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage upon your payment of all costs and fees to release same, if any. You shall also pay all costs of recordation of any.

22. **Homesite Waiver.** By signing hereon you waive all rights of Homestead exemption in the Property.

23. **Authority to Sign, if Corporation.** The execution of this Mortgage has been duly authorized by our Board of Directors.

24. **Riders.** The Condominium Rider, attached hereto, if any, is incorporated herein and made a part hereof.

**REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER PRIOR ENCUMBRANCES**

You and Lender request the holder of any Prior Encumbrance 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 and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage.

*Daniel J. Kennedy Jr.*  
*Marilyn Moats Kennedy*  
 Mortgagor  
 Mortgagor

STATE OF ILLINOIS )  
 COUNTY OF Cook ) ss

I, Janet J. Paida, a Notary Public in and for said county and state, do hereby certify that Daniel J. Kennedy Jr. and Marilyn Moats Kennedy, his wife personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth Given under my hand and official seal, this 3rd day of August, 1987.

My Commission expires: My Commission Expires June 14, 1992

Notary Public

STATE OF ILLINOIS )  
 COUNTY OF ) ss

I, \_\_\_\_\_, a Notary Public in and for said county and state, do hereby certify that \_\_\_\_\_ personally known to me to be the same person(s) whose name(s) \_\_\_\_\_ subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that \_\_\_\_\_ signed and delivered the said instrument as \_\_\_\_\_ free and voluntary act, for the uses and purposes therein set forth. Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Notary Public

DEPT. OF RECORDS 112 00  
 141111 1440 4050 0815 ST 13 14-00  
 84201 # 23 \* 1987-4 32653  
 COOK COUNTY RECORDER

57432653

6-00-807 145/86  
 MADE TO FIRST NATIONAL TITLE CO.  
 ONE HICKORY PLACE  
 SUITE 295E  
 HAMILTON TAPES  
 HAZARD, IL 60144

Box 254