

Mortgage

UNOFFICIAL COPY

#4317251000015049

89170228



BOX 138

This instrument was prepared by:

Beth A. Kaphing GOLDOME 2 Westbrook Corporate Center #440 Westchester, Illinois 60153

(Name)

Angel E. Rodriguez and Carmen A. Rodriguez, Husband and Wife

This Mortgage ("Mortgage") is given on April 14th, 19 89. The mortgagor is New York State Chartered savings bank whose address is One Fountain Plaza, Buffalo, New York 14203-1499 ("Lender"). Borrower and Lender have entered into credit arrangements pursuant to that certain Variable Rate Amortizing Home Equity Line of Credit Account Agreement/Variable Rate Non-amortizing Home Equity Line of Credit Account Agree-

ment (the "Note") dated April 14th, 19 89, providing for the extension of certain credit and other financial accommodations by Lender to Borrower. This Mortgage secures to Lender: (a) payment of the principal amount, together with interest thereon, of all present and future advances of money made by Lender to Borrower, as well as all other liabilities and obligations of Lender to Borrower under the Note, (b) the payment of all other sums, with interest, advanced under Paragraph 7 to protect the security of this Mortgage, and (c) the performance of Borrower's covenants and agreements under this Mortgage and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender the following described property located in Cook County, Illinois:

RC 88 70 75 2nd

Lot 30 in Block 1 in the Subdivision of Block 49 in Ogden and Ochara Subdivision of part of Section 19, Township 40 North, Range 14, East of the Third Principal Meridian in Cook County, Illinois.

DEPT. OF RECORDING 114.00
143228 TRAN 1730 04/18/89 11:22:00
46509-6-B M-89-170228
COOK COUNTY RECORDER

89170228
Cook County Clerk's Office

which has the address of 1932 West Melrose Chicago
(Street) (City)
Illinois 60657 (herein "Property Address") with a Permanent Index Number of 14-19-427-027
(Zip Code)

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 hereinafter referred to as the "Property."

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

Uniform Covenants. Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.

2. Funds for Taxes and Insurance. If required in writing by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attach priorly over this Mortgage and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground

rents, Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under Paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. Application of Payments: Unless applicable law provides otherwise, all payments received by Lender under the Agreement and Paragraph 1 of this Mortgage shall be applied by Lender first to interest billed; then to charges for insurance billed and late charges billed; then to outstanding principal billed; then to outstanding principal not yet billed; then to interest earned but not yet billed; and finally to charges for insurance earned but not yet billed and late charges imposed but not yet billed.

4. 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 and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any.

5. 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 as Lender may require and in such amounts and for such periods as Lender may require.

The insurance carrier providing the 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 proceeds, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

6. 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.

7. 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 materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' 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 premiums required to maintain such insurance in effect until such time as the requirement for 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 7, with interest thereon, at the Note rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this Paragraph 7 shall require Lender to incur any expense to take any action hereunder.

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

9. 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.

10. Borrower Not Released; Forbearance By Lender Not a 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 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. 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.

11. 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 16 hereof. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Note, (a) is co-signing this Mortgage only to 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 Note 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 Note without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

12. 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 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.

13. 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 Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

8227169

UNOFFICIAL COPY

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Box 156

2 Westbrook Corporate Center #440
Westchester, IL 60153

RETURN TO: GOLDOME

89170228

85805123

Property of Cook County Clerk's Office

I, Angela E. Carmen A. Rodriguez, a notary public in and for said County in the State of Illinois, do hereby certify that the foregoing mortgage, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said mortgage as his free and voluntary act, for the use and purposes therein set forth.

Given under my hand and official seal, this 17th day of April, 1989.

Notary Public

My Commission Expires: 8/27/91

State of Illinois, County of Cook

My Commission Expires: _____

State of Illinois, County of _____

My Commission Expires: _____

Secretary, respectively of _____

President and _____

all whose name, as Trustee, the _____ and foregoing instrument is executed, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act of said _____ and the said _____ Secretary then and there acknowledged that he, as custodian of the corporate seal of said _____ did affix the said corporate seal to said instrument as his free and voluntary act and as the free and voluntary act of said _____ as Trustee as aforesaid for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____ 19 _____

Notary Public

My Commission Expires: _____

UNOFFICIAL COPY

BY APPOINTMENT & PRODUCE
WITH POWER OF ATTORNEY
Carman A. Rodriguez

Carman A. Rodriguez
Borrower (Seal)
Angel B. Rodriguez
Borrower (Seal)

By Signing Below, Borrower accepts and agrees to the terms and covenants contained in this Mortgage and in any riders and in any other documents executed by Borrower and recorded with it.
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 and of any sale or other foreclosure action.

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

Indebtedness secured hereby shall, in no event, exceed \$ 47,800.00.
to the Recorder of Deeds, Cook County, Illinois, Such loan advances may or may not be evidenced by drafts or vouchers pursuant to the Note. All

In addition to any other debt or obligations secured hereby, this Mortgage shall secure unpaid balances of loan advances made after the Mortgage is delivered and without regard to whether or not there is any indebtedness outstanding at the time any advance is made. The Lender and Borrower intend, therefore, that were made on the date of the execution of this Mortgage, without regard to whether or not there is any advance made at the time this Mortgage is executed. Mortgage secures payment of any existing indebtedness and any future advances made pursuant to the Note to the same extent as if such future advances were made on the date of the execution of this Mortgage. The Note evidences a "revolving credit" as defined in Illinois Revised Statutes, Chapter 17, paragraph 6-05. The lien of the Property subsistent to the date of this Mortgage.

21. **Waiver of Homestead.** Borrower hereby waives all right of homestead exemption in the Property.
22. **Loan Charges.** If the loan secured by this Mortgage is subject to a law which sets a maximum loan charge, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limit, then (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any payment charge under the Note.
23. **Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted by Paragraph 17. If Lender exercises this option, Lender shall take the steps specified in the second paragraph of Paragraph 17.
24. **Waiver of Right of Redemption.** Borrower hereby waives any and all rights of redemption from sale under an order or decree of foreclosure of this instrument, on its own behalf and in behalf of each and every person except decedent or judgment creditors of Borrower, including any interest in or title to the Property.

20. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.
Upon acceleration under Paragraph 17 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 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. The receiver shall be liable to account only for those rents actually received.
20. **Release.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

19. **Assignment of Rents; Appointment of Receiver.** In addition to security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under Paragraph 17 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.
18. **Borrower's Right to Redeem.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, Borrower shall have the right to have any pre-foreclosure 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 Note 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 contained in this Mortgage; and in enforcing Lender's remedies as provided in Paragraph 17 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.

17. **Acceleration; Remedies.** Except as provided in Paragraph 16 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, 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 13 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 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 acceleration of the sums secured by this Mortgage, foreclosure by judicial 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 specified 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 attorney's fees and costs of documentary evidence, abstracts and title reports.

16. **Transfer of the Property or a Beneficial Interest in Borrower.** Borrower shall not sell, convey, transfer or assign (a) the Property or any interest therein or any part thereof, or (b) the beneficial interest in Borrower if Borrower is not a natural person whether by operation of law or otherwise, without the prior written consent of Lender. In the event of such a sale, conveyance, transfer by assignment, transfer by operation of law or otherwise, without the prior written consent of Lender, 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 to Borrower 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.

15. **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 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.
14. **Borrower's Copy.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

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