

WITHIN RECORDED MAIL TO: First National Bank of Lincolnshire
One Marlton Drive
Lincolnshire, Illinois 60069-3703
Acct. No. _____

UNOFFICIAL COPY 90625571

SPACE ABOVE THIS LINE FOR RECORDER'S USE

90625571

**SUCCESS PLUS
MORTGAGE TO SECURE A REVOLVING CREDIT LOAN**

NOTICE: THIS MORTGAGE MAY SECURE BORROWINGS MADE SUBSEQUENT TO A TRANSFER OF THE PROPERTY
THIS MORTGAGE DATED DECEMBER 18 1990 TO SECURE A REVOLVING CREDIT LOAN (herein "Mortgage") is made by

and among VINCENT L. GIORNO AND MARY ANNE GIORNO, HUSBAND AND WIFE

(herein "Borrower"), and First National Bank of Lincolnshire, a national banking association, whose address is One Marlton Drive, Lincolnshire, Illinois 60069-3703 (herein "Lender").

Borrower, in consideration of the indebtedness herein recited, grants, bargains, sells and conveys, warrants and mortgages (unless Borrower is a Trust, in which event Borrower conveys, mortgages and warrants) unto Lender and Lender's successors and assigns, the following described property located in the
MUNICIPALITY of CHICAGO County of COOK State of Illinois

which has the address of 4328 NORTH KEELER AVENUE, CHICAGO
Illinois 60641 (herein "Property Address"); Permanent Index No. 132 75 705 023

LEGAL DESCRIPTION:

LOT 14 IN BLOCK 4 IN IRVING PARK, A SUBDIVISION OF THE SOUTH EAST QUARTER OF SECTION 15 AND THE NORTH HALF OF THE NORTH EAST QUARTER OF SECTION 22, TOWNSHIP 40 NORTH, RANGE 13 IN COOK COUNTY, ILLINOIS. **\$15.00**
T#2222 TRAN 1748 12/27/90 12:20:00
90625571 2072 # B * -90-625571
COOK COUNTY RECORDER

Pin # 03-15-402-022

TO HAVE AND TO HOLD such property unto Lender and Lender's successors and assigns, forever, together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, after-acquired title or reversion in and to the beds of ways, streets, avenues and alleys adjoining the Property, and rents (subject however to the rights and authorities given herein to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, insurance and condemnation proceeds, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all the foregoing, together with said property for the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property"; and any property which does not constitute a fixture (as such term is defined in the Uniform Commercial Code), this Mortgage is hereby deemed to be, as well, a Security Agreement under the UCC for the purpose of creating a security interest in such property, which Borrower hereby grants to lender as Secured party (as such term is defined in the UCC).

To Secure to Lender on condition of the repayment of the REVOLVING LINE OF CREDIT indebtedness evidenced by a First National Bank of Lincolnshire Success Plus Agreement and Disclosure Statement ("Agreement") (see date herewith and by Borrower's Variable Interest Rate Promissory Note ("Note") of even date herewith, in the principal sum of U.S. ---SIXTY THOUSAND AND NO/100---

(\$ ---60,000.00---), or so much thereof as may be advanced and outstanding, with interest thereon, providing for monthly installments of interest of .83% of outstanding balance whichever is greater, with the principal balance of the indebtedness, if not sooner paid or required to be paid, due and payable ten (10) years from the date thereof; the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage or advanced by honoring overdrafts under paragraph 6(c) of the Agreement, and the performance of all covenants and agreements of borrower contained herein and in the Agreement and the Note. The Agreement, the Note and this Mortgage are collectively referred to as the "Credit Documents". The Credit Documents contemplate, and this Mortgage permits and secures, at Mortgagee's discretion future advances in a total amount up to 1 1/2 times the principal sum of the Note as set forth above.

Notwithstanding anything to the contrary herein, the Property shall include all of Borrower's right, title, and interest in and to the real property described above, whether such right, title, and interest is acquired before or after execution of this Mortgage. Specifically, and without limitation of the foregoing, if this Mortgage is given with respect to a leasehold estate held by Borrower, and Borrower subsequently acquires a fee interest in the real property, the lien of this Mortgage shall attach to and include the fee interest acquired by Borrower.

Borrower covenants that Borrower is the lawful owner of the estate in land hereby conveyed and has the right to grant, convey and mortgage the Property, and that the Property is unencumbered except for encumbrances of record. Borrower (unless Borrower is a Trust) covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record. Borrower covenants that Borrower will neither take nor permit any action to partition or subdivide the Property or otherwise change the legal description of the Property or any part thereof, or change in any way the condition of title of the Property or any part thereof.

Borrower acknowledges that the Note calls for a variable interest rate, and that the Lender may, prior to the expiration of the term of the Note, cancel future advances thereunder and/or require repayment of the outstanding balance under the Note. In this regard, the Note provisions set forth verbatim below relate to the variable interest rate and the Lender's option to require repayment prior to expiration of the term of the Note or to cancel future advances for reasons other than default by the Borrower:

The first four paragraphs of paragraph 3 of the Note, entitled "INTEREST (VARIABLE RATE)", provide as follows:
The annual interest rate applied to the outstanding principal balance on this note is calculated daily and equal to the Prime Rate plus 0.50%. The annual interest rate applied to the outstanding principal balance on this note is calculated daily and equal to the Prime Rate plus 0.50% percentage point. The Prime Rate for any given date is the lowest "prime rate" as then defined and published in the Wall Street Journal "Money Rates" column (or any column successive thereto) on the last business day of the preceding month. On days on which the Wall Street Journal does not regularly publish, the "Prime Rate" shall be the "prime rate" as then defined and published in the Wall Street Journal "Money Rates" column, (or any column successor thereto) on the most recent date prior to the last business day of the preceding month. The Wall Street Journal currently defines the "Prime Rate" as the base rate on corporate loans at large United States money center commercial banks.

The maximum annual percentage rate that can apply is 18%. Apart from this rate cap there is no limit on the amount by which the rate can change during any one year period.

Any change in the interest rate will be implemented between the 22nd and the 25th day of the month. I understand that I will not be provided with any advance notice of changes in interest rates or the Prime Rate, except for changes in the method of calculating the annual interest rate as provided by paragraph 12 of the First National Bank of Lincolnshire Success Plus Agreement and Disclosure Statement I have signed (the "Agreement").

Interest charges will be calculated by applying the monthly periodic rate to the "average daily balance" of the account. I understand that Note Holder will pay, on a daily basis and on my behalf, for advances obtained by me under this Note as a result of charges and checks on each day in amounts not to exceed my credit line. Interest for any such payments by Note Holder on my behalf will be charged beginning on the date Note Holder makes the payment or, in the case of checks, on the date they are presented for payment or posting and on the date any cash is advanced, and will continue until such payment has been repaid in full, except that:

- (a) Interest will not be charged on the amount of new Credit Card purchases posted to my account during a billing cycle if the total amount owed Note Holder at the beginning of that billing cycle is paid in full within 25 days after that beginning date.
- (b) Interest will not be charged on the outstanding balance of Credit Card purchases at the beginning of the billing cycle if that balance is paid in full within 25 days after that beginning date.

Paragraph 6 of the Note, entitled "FREEZING, TERMINATING, REDUCING THE LINE", provides in its entirety as follows:

Upon the occurrence of an Event of Default hereunder, Note Holder can either (a) cancel my right to any future advances under my line of credit, without requiring accelerated repayment of my outstanding principal balance (that is, "freeze" the line), or (b) cancel my right to any future advances and also require accelerated repayment of my outstanding principal balance plus accrued interest and other charges imposed on my credit line (that is, "terminate" the line). Additionally, Note Holder can (i) freeze the line, and (b) reduce the maximum amount to be advanced hereunder during any period in which (i) the value of my principal dwelling which secures the indebtedness evidenced hereby is significantly less than the original appraised value of the dwelling which was submitted to Note Holder (ii) Note Holder has reason to believe that I will be unable to comply with the repayment requirements hereunder due to a material change in my financial circumstances, which may include but is not limited to a reinstatement of payment schedules hereunder after the prior termination of the line due to the occurrence of an Event of Default (which was thereafter cured); (iii) Note Holder is precluded by government action from imposing the annual percentage rate provided for herein; (iv) any government action is in effect which adversely affects the priority of the mortgage given to Note Holder, to the extent that the value of Note Holder's interest in the property is less than 120% of the amount of the applicable credit limit hereunder; (v) Note Holder is notified by our regulatory agency that continued advances constitute an unsafe and unsound practice; or (vi) the maximum annual percentage rate is reached. The notice must be sent registered or certified mail, addressed to me at the real estate (or such other address as I have given Note Holder). The notice will be deemed to have been given on the date it is deposited in the mail regardless of when I actually receive it.

If Note Holder elects to freeze the line or reduce the credit limit, the freezing of my right to any future advances or the reduction in the amount of the line of credit will be effective when Note Holder elects, provided that Note Holder shall mail or deliver written notice of that action to me not later than three (3) business days after the action is taken and shall contain the specific reasons for the action. If the notice specifies that Note Holder is terminating my line, rather than merely freezing it, I will be obligated to repay my outstanding principal balance, and all accrued finance charges and other charges imposed upon my credit line, upon receipt of the notice, provided, however, that Note Holder will still have the right, in accordance with and at the times specified in this Agreement to give me a subsequent notice terminating my line entirely, thus accelerating the Due Date and thereby advancing the date full repayment is due. In addition, Note Holder will still have the right to terminate the line, accelerate the Due Date and institute foreclosure proceedings under the Mortgage if an event or breach permitting such remedies occurs.

File

9011337

WHEN RECORDED, RETURN TO:
Community Title Guaranty Co.
377 E. Butterfield Rd., Suite 100
Lombard, Illinois 60148

90625571

15. EVENTS OF DEFAULT.

a. **Notice and Grace Period.** An Event of Default will occur hereunder upon the expiration of the applicable grace period, if any, after Lender gives written notice to Borrower of Borrower's breach or violation of Borrower's covenants under any of the Credit Documents and upon Borrower's failure to cure such breach or violation, and to provide Lender, during that grace period, if any, with evidence reasonably satisfactory to it of such cure. In each case, the grace period begins to run on the day after the notice is given, and expires at 11:59 p.m., Central time, on the last day of the period. If there is no grace period applicable to a particular breach or violation, the Event of Default will occur hereunder upon the giving of the above notice. Such notice shall be given to Borrower in accordance with paragraph 11 hereof and shall contain the following information: (1) the nature of Borrower's breach or violation; (2) the action, if any, required or permitted to cure such breach or violation; (3) the applicable grace period, if any, during which such breach or violation must be cured; and (4) whether failure to cure such breach or violation within the specified grace period, if any, will result in acceleration of this Mortgage and the potential foreclosure of this Mortgage. The notice shall further inform Borrower of the right, if any, under applicable law, to rehear his revolving line of credit under this Mortgage after acceleration.

b. **Events of default.** Set forth below is a list of events which, upon the lapse of the applicable grace period, if any, will constitute Events of Default. (Applicable grace periods are set forth parenthetically after each event.) The events are: (1) Borrower fails to pay when due any amounts due under the Credit Documents (thirty (30) day grace period); (2) Borrower fails to keep the covenants and other promises made in paragraphs 2 and 5 of the Agreement (no grace period); (3) Lender receives actual knowledge that Borrower omitted material information on Borrower's credit application (no grace period) or Borrower committed fraud or material misrepresentation in connection with this lending relationship; (4) Borrower dies or changes his or her marital status and transfers Borrower's interest in the Property to someone who either (i) is not also a signatory of all the Credit Documents (no grace period) or (ii) is a signatory of all the Credit Documents if such transfer, in Lender's reasonable judgment, materially impairs the security for the line of credit described in the Credit Documents (no grace period); (5) Borrower files for bankruptcy, or bankruptcy proceedings are instituted against Borrower and not dismissed within sixty (60) calendar days, under any provision of any state or federal bankruptcy law in effect at the time of filing (no grace period); (6) Borrower makes an assignment for the benefit of Borrower's creditors, becomes insolvent or become unable to meet Borrower's obligations generally as they become due (no grace period); (7) Borrower father encumbers the Property, or suffers a lien, claim of lien or encumbrance or an increase in the amount of any such lien, claim of lien or encumbrance (30 day grace period in which to remove lien, claim of lien or encumbrance); (8) Borrower defaults or an action is filed alleging in default under any credit instrument or mortgage evidencing or securing an obligation of Borrower with priority in right of payment over the line of credit described in the Credit Documents or whose lien has or appears to have any priority over the lien hereof (no grace period); (9) Borrower attempts to (or actually does) seize or obtain a writ of attachment against the Property (no grace period); (10) Borrower fails to keep any other covenant contained in any of the Credit Documents and otherwise specified in this paragraph 15 (ten (10) day grace period, unless the failure is by its nature not curable, in which case no grace period); or, if another grace period is specified in the Credit Documents, that grace period shall prevail); or (11) Borrower sells or transfers all or any part of the Property securing the line of credit without Lender's prior written consent or Borrower moves out of the Property and it is no longer Borrower's principal place of residence (no grace period); (11) Borrower fails to submit updated financial information to Lender upon its request (30 days grace period beginning on date of Lender's request).

When, after expiration of applicable grace periods, Lender terminates the Account, Borrower must immediately (1) return all unused Checks and Cards to Lender and (2) pay the entire outstanding balance of Borrower's Account plus accrued FINANCE CHARGES, late charges and other charges imposed on said Account.

16. **TRANSFER OF THE PROPERTY.** If Borrower, or beneficiary of the Trust, if any, sells, conveys, assigns or transfers, or promises or contracts to sell, convey, assign or transfer, all or any part of the Property or any interest therein, including all or any part of the beneficial interest in the Trust, if any, or amends or terminates any ground leases affecting the Property, or any direct or indirect interest therein, is otherwise sold or transferred, voluntarily or involuntarily, including without limitation sale or transfer in any proceeding for foreclosure or judicial sale of the Property or beneficial interest in the Trust, if any, in each case without Lender's prior written consent, Lender shall be entitled to immediately accelerate the amounts due under the Note and declare all indebtedness secured by this Mortgage to be immediately due and payable. Any such action by Borrower or beneficiary of the Trust shall constitute an immediate Event of Default. Any use or attempted use by Borrower of the revolving line of credit evidenced by the Agreement and the Note after Borrower's sale, transfer, or promise to sell or transfer the Property or any direct or indirect interest therein, or amendment or termination of any ground leases affecting the Property, shall constitute a separate Event of Default.

As an alternative to declaring all sums secured by this Mortgage to be immediately due and payable, Lender may waive its right to accelerate and agree in writing, prior to close of the sale or transfer of the promise to sell or transfer, to the transferee's assumption of the outstanding obligation under the Note, on terms satisfactory to Lender, subject to Lender's rights, described in paragraph 6 of the Note, to cancel further advances or accelerate the outstanding balance of the line of credit. Lender's acceptance of the transferee's assumption of the obligation under the Note shall not release Borrower from any of its obligations under the Note and Mortgage, and Borrower shall assume the status of the guarantor of the Note until paid in full. Borrower understands that Lender will not permit the (a) opinion of the outstanding balance under the Note in any event and will declare the entire outstanding principal balance plus accrued interest and other charges due to be immediately due and payable (see paragraph 17 hereof), unless (i) Borrower has submitted to Lender a written acknowledgment from the transferee, has received in a copy of each of the Credit Documents and (b) notice of the amount of Borrower's outstanding principal balance on the line of credit; (ii) Borrower has submitted to Lender a written acknowledgment from transferee that transferee has received such material and understands that Lender's security interest reflected by this Mortgage will remain on the Property until the entire outstanding principal balance of Borrower's line of credit as of the date of such sale or transfer or promise, plus any subsequent borrowings made under Borrower's line of credit before Lender has actual knowledge of the sale or transfer, together with accrued interest and other charges, is paid in full; (iii) Borrower causes to be submitted to the transferee a loan application as required by Lender so that Lender may evaluate the creditworthiness of the transferee as if a new loan were being made to the transferee; and (iv) Lender does not, in its sole opinion, believe that (A) its security will be impaired or (B) a breach of any promise or agreement in this Mortgage will occur or (C) such transfer will permit the acceleration of any loan which has priority in right of payment over the indebtedness evidenced by the Note. Further advances on the line of credit will cease as of the date of the written assumption agreement signed by transferee and Lender. The transferee and Borrower shall retain the right to repay the Note before the Due Date, in whole or in part, at any time without premium or penalty.

17. **ACCELERATION; REMEDIES (INCLUDING FREEZING THE LINE).** Upon the existence of an Event of Default, Lender may, at its sole option, terminate the line, declare all of the sums secured by this Mortgage to be immediately due and payable without further demand, and invoke any remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 17, including, but not limited to, reasonable attorneys' fees.

As additional specific protection, notwithstanding any other term of this Mortgage, Lender, without declaring or asserting an Event of Default or invoking any of its remedies pertaining to Events of Default, may, immediately and without notice, freeze the line upon the occurrence of any event enumerated in paragraphs 15 and 16 of this Mortgage, including without limitation Lender's receipt of notice from any source of a lien, claim of lien or encumbrance, or an increase in the amount of any such lien, claim of lien or encumbrance, either superior or inferior to the lien of this Mortgage. Notice of any such freeze shall be given in accordance with the provisions of paragraph 11 of this Mortgage. Freezing the line will not preclude Lender from subsequently exercising any right or remedy set forth herein or in any of the Credit Documents.

18. **ASSIGNMENT OF RIGHTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the property, provided that prior to acceleration under paragraph 17 hereof or the occurrence of an Event of Default hereunder or abandonment of the Property, Borrower shall have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 17 hereof or abandonment, Lender, at any time without notice, in person, by agent or by judicially appointed receiver, and without regard to the adequacy of any security for the indebtedness secured by this Mortgage, shall be entitled to enter upon, take possession of, and manage the Property, and in its own name sue for or collect the rents of the Property, including those past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of operation and 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. The entering upon and taking possession of the Property and the collection and application of the rents shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice.

19. **RELEASE.** Upon payment and discharge of all sums secured by this Mortgage and termination of the Account, this Mortgage shall become null and void and Lender shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release if allowed by law.

20. **REQUEST FOR NOTICE.** Borrower requests that copies of any notice of default be addressed to Borrower and sent to the Property Address. Lender requests that copies of notices of default, sale and foreclosure from the holder of any lien which has priority over this Mortgage be sent to Lender's address, as set forth on page one of this Mortgage.

21. **INCORPORATION OF TERMS.** All of the terms, conditions and provisions of the Agreement and Note are by this reference incorporated herein as if set forth in full. Any Event of Default under the Note or the Agreement shall constitute an Event of Default hereunder, without further notice to Borrower.

22. **TIME OF ESSENCE.** Time is of the essence in this Mortgage, and the Note and Agreement.

23. **ACTUAL KNOWLEDGE.** For purposes of this Mortgage and each of the other Credit Documents, Lender will not be deemed to have received actual knowledge of information required to be conveyed to Lender in writing by Borrower until the date of actual receipt of such information at First National Bank of Lincolnshire, One Merritt Drive, Lincolnshire, IL 60069-3703 (or such other address specified by Lender to Borrower). Such date shall be conclusively determined by reference to the return receipt in possession of Borrower. If such return receipt is not available, such date shall be conclusively determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent. With regard to other events or information not provided by Borrower under the Credit Documents, Lender will be deemed to have actual knowledge of such event or information as of the date Lender receives a written notice of such event or information from a source Lender reasonably believes to be reliable, including but not limited to, a court or other governmental agency, institutional lender, or title company. The actual date of receipt shall be determined by reference to the "Received" date stamped on such written notice by Lender or Lender's agent.

24. **TAXES.** In the event of the passage after the date of this Mortgage of any law changing in any way the laws now in force for the taxation of mortgages, or debts secured thereby, or the manner of operation of such taxes, so as to affect the interest of Lender, then and in such event Borrower shall pay the full amount of such taxes.

25. **WAIVER OF STATUTORY RIGHTS.** Borrower shall not and will not apply for or avail itself of any homestead, appraisal, valuation, redemption, redemption, extension, or exemption laws, or any so-called "moratorium laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrower, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Borrower hereby waives any and all rights of redemption from sale under any order or decree of foreclosure, pursuant to rights herein granted, on behalf of the Mortgagor, the trust estate, and all persons beneficially interested therein, and each and every person acquiring any interest in or title to the Property described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by Illinois law.