

UNOFFICIAL COPY 91578640

EQUITY LINE MORTGAGE

THIS EQUITY LINE MORTGAGE is made this 17TH day of OCTOBER, 1991, between the Mortgagor JOSEPH G. BERNER AND CAROL A. BERNER, HIS WIFE, AS JOINT TENANTS ("Borrower"), and the Mortgagee, Palos Bank and Trust Company an Illinois banking corporation, with its main banking office at 12600 South Harlem Avenue, Palos Heights, Illinois 60463 (herein, "Bank").

WHEREAS, Borrower has entered into the Palos Bank and Trust Company Equity Line Agreement and Disclosure Statement (the "Agreement") dated OCTOBER 17, 1991, pursuant to which Borrower may from time to time borrow from Bank amounts not to exceed the aggregate outstanding principal balance of \$ 30,000.00 (the "Maximum Credit Amount"), plus interest thereon, which interest is payable at the rate and at the times provided for in the Agreement. All amounts borrowed under the Agreement plus interest thereon are due and payable on OCTOBER 1, 1996, or such later date as the Bank shall agree, but in no event more than 20 years after the date of the Mortgage;

NOW, THEREFORE, to secure to Bank the repayment of the Maximum Credit Amount, with interest thereon, pursuant to the Agreement, the payment of all sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, warrant, and convey to Bank the property located in the County of COOK, State of Illinois, which has the street address of 425 KEPTATAW DRIVE
LEMONT, IL 60439

herein "Property Address"), legally described as:

LOT 61 OF HILLVIEW ESTATES UNIT #3, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE EAST 1/2 OF SECTION 29, TOWNSHIP 37 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

15.00

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TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to 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 herein 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 Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any mortgages, declarations, easements, or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Bank's interest in the Property.

COVENANTS. Borrower covenants and agrees as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay when due the principal of and interest on the indebtedness incurred pursuant to the Agreement, together with any fees and charges provided in the Agreement.

2. **Application of Payments:** Unless applicable law provides otherwise, all payments received by Bank under the Agreement and paragraph 1 hereof shall be applied by Bank first in payment of amounts, fees and charges, payable to Bank by Borrower under this Mortgage, then to interest payable to Bank by Borrower under the Mortgage, then to interest payable pursuant to the Agreement, then to the principal amounts outstanding under the Agreement.

3. **Charges; Liens.** Borrower shall pay or cause to be paid all taxes, assessments, and other charges, fines, and impositions attributable to the Property that may attain a priority over this Mortgage, leasehold payments or ground rents, if any, and all payments due under any mortgage disclosed by the title insurance policy insuring the Bank's interest in the Property (the "First Mortgage"), if any. Upon Bank's request, Borrower shall promptly furnish to Bank receipts evidencing payments of amounts due under this paragraph. Borrower shall promptly discharge any lien that has priority over this Mortgage, except the lien of the First Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Bank, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings that operate to

prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

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 as Bank may require and in such amounts and for such periods as Bank may require; provided, that Bank shall not require that the amount of such coverage exceed that amount of coverage required to pay the total amount secured by this Mortgage, taking prior liens and co-insurance into account.

The insurance carrier providing the insurance shall be chosen by Borrower and approved by the Bank (which approval shall not be unreasonably withheld). All premiums on insurance policies shall be paid in a timely manner. All insurance policies and renewals thereof shall be in form acceptable to Bank and shall include a standard mortgage clause in favor of and in form acceptable to Bank. Borrower shall promptly furnish to Bank all renewal notices and all receipts for paid premiums. In the event

mail
This document prepared by:

PALOS BANK AND TRUST COMPANY
12600 South Harlem Avenue
Palos Heights, Illinois 60463

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S. 8946556

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Default are incorporated herein by this reference as though set forth in full herein, Bank, at Bank's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand, may terminate the availability of loans under the Agreement, and may foreclose this Mortgage by judicial proceeding. Bank 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.

All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, the Agreement, or afforded by law or equity, and may be exercised concurrently, independently, or successively.

22. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security hereunder, Borrower hereby assigns to Bank the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 21 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 21 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Bank, in person, by agent, or by judicially 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 past due. All rents collected by Bank or the receiver shall be applied first to the 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. Bank and the receiver shall be liable to account only for those rents actually received.

23. Release. Upon payment in full of all amounts secured by this Mortgage and termination of the Agreement, Bank shall release this Mortgage without charge to Borrower. Bank shall pay all costs of recordation of the release, if any.

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

25. Notwithstanding anything to the contrary in Section 21 of the Equity Line Mortgage or in the Agreement, the Bank shall notify the Borrower at least 30 days prior to instituting any action leading to repossession or foreclosure (except in the case of the Borrower's abandonment of the Property or other extreme circumstances).

26. If the Borrower has paid any precomputed finance charge, upon the Borrower's payment of the entire outstanding principal balance and termination of the Equity Line, the Borrower shall be entitled to a refund of the unearned portion of such prepaid finance charge in an amount not less than the amount that would be calculated by the actuarial method, provided that the Borrower shall not be entitled to any refund of less than \$1.00. For the purposes of this Section 26, the term "actuarial method" shall mean the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to the outstanding balance of the obligation.

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IN WITNESS WHEREOF, Borrower has executed this Mortgage.

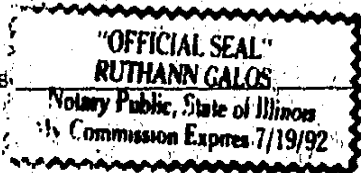
Joseph G. Berner
Borrower JOSEPH G. BERNER
X Carol A. Berner
Borrower CAROL A. BERNER

State of Illinois }
County of COOK } SS

I, RUTHANN GALOS, a Notary Public in and for said county and state, do hereby certify that JOSEPH & CAROL BERNER personally known to me to be the same person(s) whose name(s) is/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 17 day of October, 1991.

My commission expires:



Ruthann Galos
NOTARY PUBLIC

of loss, Borrower shall give prompt notice to the insurance carrier and Bank. Bank may make proof of loss if not made promptly by Borrower.

Unless Bank and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Bank within 30 days from the date notice is mailed by Bank to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Bank is authorized to collect and apply the insurance proceeds at Bank's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Bank and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the payments due under the Agreement or change the amount of such payments. If under paragraph 21 hereof, the Property is acquired by Bank, all right, title, and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Bank to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender or failed to provide Lender with any material information in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

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 bylaws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development

is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

7. Protection of Bank's Security. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced that materially affects Bank's interest in the Property, including, but not limited to, any proceeding by or on behalf of a prior mortgagee, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Bank, at Bank's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Bank's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Bank pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Bank agree to other terms of payment, such amounts shall be payable upon Bank's demand and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Agreement. Nothing contained in this paragraph 7 shall require Bank to incur any expense or take any action hereunder.

8. Inspection. Bank may make or cause to be made reasonable entries upon and inspections of the Property, provided that Bank shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Bank'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 Bank. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, that fraction of the proceeds of the award with a numerator equal to the total of Loans and other amounts secured immediately before the taking, and a denominator equal to the value of the Property immediately before the taking, shall be applied to the sums secured by this Mortgage, and the excess paid to the Borrower.

If the Property is abandoned by Borrower, or if, after notice by Bank to Borrower that the condemnor has offered to make an award or settle a claim for damages, Borrower fails to respond to Bank within 30 days after the date such notice is mailed, Bank is authorized to collect and apply the proceeds, at Bank's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Bank and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the amount due under the Agreement or change the amount of such payments.

10. Borrower Not Released. No extension of the time for payment or modification of any other term of the Agreement or this Mortgage granted by Bank to any successor in interest of the Borrower shall operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Bank shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify by reason of any demand made by the original Borrower and Borrower's successors in interest.

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11. Forebearance by Bank Not a Waiver. Any forbearance by Bank in exercising any right or remedy under the Agreement hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Bank shall not be a waiver of Bank's right to accelerate the maturity of the indebtedness secured by this Mortgage.

12. Successors and Assigns Bound; 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 Bank and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

13. Legislation Affecting Bank's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Agreement or this Mortgage unenforceable according to its terms, Bank, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted by paragraph 21.

14. 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 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 Bank as provided herein, and (b) any notice to Bank shall be given by certified mail, return receipt requested, to Bank's address stated herein or to such other address as Bank 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 Bank when given in the manner designated herein.

15. Governing Law; Severability. This Mortgage shall be governed by the laws of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable laws, 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 the Mortgage and the Note are declared to be severable; provided that the Bank may exercise its termination option provided in paragraph 13 in the event of changes in law after the date of this Mortgage.

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

17. Transfer of the Property; Assumption. To the extent permitted by law, if all or any part of the Property or an interest therein, including without limitation any part of any beneficial interest in the Property in any trust holding title to the Property, is sold or transferred by Borrower without Bank's prior written consent, Bank may, at Bank's option, declare all the sums secured by this Mortgage to be immediately due and payable.

18. Revolving Credit Loan. This Mortgage is given to secure a revolving credit loan unless and until such loan is converted to an installment loan (as provided in the Agreement), and shall secure not only presently existing indebtedness under the Agreement but also future advances, whether such advances are obligatory or to be made at the option of the Bank, or otherwise, as are made within 20 years from the date hereof, to the same extent

as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all indebtedness secured hereby, including future advances, from the time of its filing for record in the recorder's or registrar's office of the county in which the Property is located. The total amount of indebtedness secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements which the Bank may make under this Mortgage, the Agreement, or any other document with respect thereto) at any one time outstanding shall not exceed the Maximum Credit Amount, plus interest thereon, and any disbursements made for payment of taxes, special assessments, or insurance on the Property and interest on such disbursements (all such indebtedness being hereinafter referred to as the maximum amount secured hereby). This Mortgage shall be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

19. Conversion to Installment Loan. Pursuant to the Agreement, the Bank may terminate the Agreement and convert the outstanding indebtedness incurred thereunder to an installment loan bearing interest at the rate set forth in the Agreement and payable in monthly installments of principal and interest over a period of not less than one year and which shall, in any event be due and payable on or before 20 years after the date of this Mortgage. This Mortgage is given to and shall secure such installment loan.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

21. Acceleration; Remedies. 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, or the occurrence of an Event of Default under the Agreement, which Events of

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