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UNOFFICIAL COPY

HARRIS BANK WINNETKA, N.A. HOME LINE CREDIT MORTGAGE

This Home Line Credit Mortgage is made this 15th day of June, 1992, between the Mortgagor, J. Cushing Fitzgerald and Audrey H. Fitzgerald, his wife (j)

(herein "Borrower"), and the Mortgagee, Harris Bank Winnetka, National Association whose address is 520 Green Bay Road, Winnetka, Illinois 60093 (herein "Lender").

WHEREAS, Borrower and Lender have entered into a Harris Bank Winnetka, N.A. Home Line Credit Agreement and Disclosure Statement (the "Agreement") dated June 15, 1992, pursuant to which Borrower may from time to time until June 15, 1999 borrow from Lender sums which shall not in the aggregate outstanding principal

balance exceed \$ 400,000.00 (the "Maximum Credit") plus interest. Interest on the sums borrowed pursuant to the Agreement is payable at the rate and at the times provided for in the Agreement. After June 15, 1999

(the "Expiration Date") (i) all sums outstanding under this Agreement may be declared due and payable or (ii) all sums outstanding under the Agreement and all sums borrowed after such date, together with interest thereon, may be due and payable on demand. In any event, all amounts borrowed under the Agreement plus interest thereon must be repaid by June 15, 1999 (the "Final Maturity Date").

TO SECURE to Lender the repayment of the indebtedness incurred pursuant to the Agreement, with interest thereon, the payment of all other 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 contained herein and in the Agreement, Borrower does hereby mortgage, grant and convey to Lender the following described property located in County of Cook, State of Illinois:

Parcel 1: Lot 10 in Streyckmans-Williams Resubdivision of Lots 76 thru 78 in Alles' Sunset Subdivision of the NE 1/4 of the SW 1/4 of Section 20, Township 42 North, Range 13, East of the Third Principal Meridian.

Parcel 2: That part of Sunset Road lying N of the S line of the NE 1/4 of the SW 1/4 of Section 20, Township 42 North, Range 13, East of the Third Principal Meridian, and between the E and W line of Lot 10 extended S, shown as private road on the plat of Streyckmans-Williams Resubdivision aforesaid in Cook County, Illinois.

DEPT-01 RECORDINGS \$27.00
7#9999 TRAN 7857 07/13/92 09:34:00
#8844 # *92-508331
COOK COUNTY RECORDER

Permanent Index Number 05-20-312-107

which has the address of 1005 Sunset Road, Winnetka, Illinois 60093 (herein "Property Address");

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, 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 of the foregoing, together with said property, (or leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property."

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UNOFFICIAL COPY

65-464 Rev. 11/89

520 Green Bay Road
Winnetka, Illinois 60093

Jeffrey N. Perrin

This Instrument Prepared By:

After recording, please mail to:
HARRIS BANK WINNETKA
520 Green Bay Road
Winnetka, Illinois 60093
Attn: Loan Department

(NOTARIAL
SEAL)

My Commission Expires: _____

Given under my hand and notarial seal, this _____ day of _____, 19____

did also and there acknowledged that he, as custodian, of the corporate seal of said national banking association to said instrument as his own free and voluntary act, and as the free and voluntary act of said national banking association, as Trustee, for the uses and purposes therein set forth.

they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said national banking association, as Trustee, for the uses and purposes therein set forth, and the said persons whose names are subscribed to the foregoing instrument as such _____, respectively, appeared before me this day in person and acknowledged that _____ and _____ of said national banking association, personally known to me to be the same and _____ certify that _____ of _____, a Notary Public in and for said county and state, do hereby

COUNTY OF _____

STATE OF ILLINOIS

SS _____

ATTEST: _____

Trust Officer

By: _____

(CORPORATE
SEAL)

Not personally, but as Trustee under Trust No _____

and its corporate seal to be hereto affixed and attested by its _____

Trustee as aforesaid, has caused these presents to be signed by its _____

IN WITNESS WHEREOF, _____ not personally but as _____

This document is made by _____ (herein after referred to as the Bank), as Trustee, and accepted upon the express understanding that the Bank enters into the same not personal-ly, but only as Trustee and that no personal liability is assumed by nor shall be asserted or enforced against the Bank because of, or on account of, the making or executing this document or of anything therein contained, all such liability, if any being expressly waived, nor shall the Bank be held personally liable upon or in consequence of any of the covenants of this document, either expressly or implied.

IF BORROWER IS A TRUST:

Notary Public

My Commission Expires _____

My Commission Expires 8-24-93
Notary Public, State of Illinois
Jeffrey N. Perrin

OFFICIAL SEAL

June _____ 19____

Given under my hand and notarial seal, this _____ day of _____, 19____

free and voluntary act, for the uses and purposes therein set forth.

day in person and acknowledged that _____ the _____ signed and delivered the said instrument, appeared before me this

personally known to me to be the same person(s) whose name(s) _____ are _____ subscribed to the foregoing instrument, appeared before me this

said county and state, do certify that _____ J. Quating Fitzgerald

the undersigned

a Notary Public in and for

COUNTY OF Cook

SS _____

STATE OF ILLINOIS

Type or Print Name

Audrey H. Fitzgerald

Borrower

Type or Print Name

J. Quating Fitzgerald

Borrower

IF BORROWER IS AN INDIVIDUAL(S):

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

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11. Remedies Cumulative. 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.

12. Successors and Assigns Bound; Joint and Several Liability; Captions. The covenants and agreements hereby contained shall bind, and the rights hereunder shall inure to the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. Any Borrower who co-signs this Mortgage, but does not execute the Agreement; a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property under the terms of this Mortgage; b) is not personally obligated to pay the sums secured by this Mortgage; and c) agrees that Lender and any other Borrower may agree to extend, modify, forbear or make any accommodations with regard to the terms of this Mortgage or the Agreement without that Borrower's consent. 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. Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, 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 limits, 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 Agreement or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Agreement.

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 Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested to Lender's address stated herein or to such other address as Lender may designate by Notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

15. Governing Law; Severability. This Mortgage shall be governed by federal law and the law of the State of Illinois. 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 the Mortgage and the Agreement are declared to be severable.

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. Termination and Acceleration. Lender at its option may terminate the availability of loans under the Agreement, declare all amounts owed by Borrower to Lender under the Agreement to be immediately due and payable, and enforce its rights under this Mortgage if; a) Borrower fails to make any payment due under the Agreement secured by this Mortgage; b) Borrower acts or fails to act in a way that adversely affects any of the Lender's security for the indebtedness secured by this Mortgage, or any right of the Lender in the Property or other security for the indebtedness secured by this Mortgage; or c) any application or statement furnished by Borrower to the Lender is found to be materially false. The Lender's security shall be presumed to be adversely affected if; a) all or any part of the Property or an interest therein is sold, transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person), encumbered, or conveyed by Borrower without Lender's prior written consent, excluding the creation of a lien or encumbrance subordinate to this Mortgage; b) Borrower fails to comply with any covenant or agreement in this Mortgage or the Agreement. If it becomes necessary to 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 attorneys' fees, and costs of documentary evidence abstracts and title reports.

18. Revolving Credit Loan. This Mortgage is given to secure a revolving credit loan, unless and until pursuant to the Agreement such loan is converted to an installment loan, 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 Lender, 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 balance of indebtedness secured hereby (including disbursements which the Lender may make under this Mortgage, the Agreement, or any other document with respect thereto) at any one time outstanding shall not exceed one hundred fifty percent of the Maximum Credit, plus interest thereon and any disbursements which the Lender is authorized to make under this Mortgage or the Agreement (e.g. 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 over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property, to the extent of the maximum amount secured hereby.

19. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional 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.

Upon acceleration under paragraph 17 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, 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 Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorneys' 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.

20. Release. Upon payment of all sums secured by this Mortgage and termination of the Agreement, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

21. Waiver of Homestead. Borrower hereby waives all right to homestead exemption in the Property.

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

9. Borrower Not Released. Extension of the time for payment or modification of any other term of the Agreement or 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 any term of the Agreement or this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

8. 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, in the event of a total or partial taking of the Property, the 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, after notice by Lender to Borrower that the condemnation offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to sums secured by this Mortgage.

7. Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give notice in writing to Borrower of the time and date of such inspection. Borrower shall be required to make any repairs or take any action hereunder, unless the Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payment due under the Agreement or change the amount of such payment.

6. 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, including, but not limited to, any proceeding brought by or on behalf of a prior mortgagee, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

5. Preservation and Maintenance of Property; Leasehold; Condominium; 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, 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.

4. Hazard Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, as Lender may require, provided that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay 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, provided that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage and any other mortgage on the Property.

3. Charges; Taxes. Borrower shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property which may attach to this Mortgage, and leasehold payments or ground rents, if any, including all payments due under any mortgage disclosed by the title insurance policy insuring Lender's interest in the Property. Borrower shall, upon request of Lender, promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage, except for the lien of any mortgage disclosed by the title insurance policy insuring Lender's interest in the Property, 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 Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

2. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Agreement and paragraph 1 hereof shall be applied by Lender first in payment of any advance made by Lender pursuant to this Mortgage, then to interest, fees and charges payable pursuant to the Agreement, then to the principal amount outstanding under the Agreement.

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 as provided in the Agreement.

COVENANTS. Borrower and Lender covenant and agree as follows:

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, assessments or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

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