

# UNOFFICIAL COPY

95465796

Nations Title Agency of Illinois, Inc.  
248 E. Janata Blvd. Ste. 300  
Lombard, IL 60148

DEPT-01 RECORDING \$35.50  
T00014 TRAN 6653 07/18/95 12:10:00  
#7339 # CJ #--95-465796  
COOK COUNTY RECORDER

95-465796

## ILLINOIS HOME EQUITY LINE OF CREDIT MORTGAGE (Securing Future Advances)

THIS MORTGAGE is made on July 14, 19 95. The mortgagor is John A. Holthaus and Ellen L. Holthaus Husband and Wife. This Mortgage is given to Chase Manhattan Mortgage Corporation, a Delaware corporation whose address is One Chase Square, MC-4, Rochester, New York 14643. In this Mortgage, the terms "you," "your" and "yours" refer to the mortgagor(s). The terms "we," "us" and "our" refer to Chase Manhattan Mortgage Corporation.

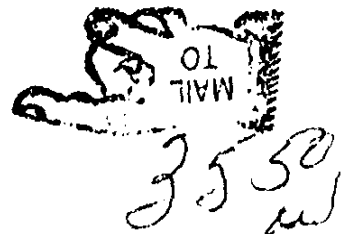
Pursuant to a Home Equity Line of Credit Agreement dated the same date as this Mortgage ("Agreement"), you may incur maximum unpaid loan indebtedness (exclusive of interest thereon) in amounts fluctuating from time to time up to the maximum principal sum outstanding at any time of Seventy-Five Thousand and No/100 Dollars (U.S. \$ 75,000.00). The Agreement establishes the rate(s) of interest to be charged thereunder and provides for a final scheduled installment due and payable on July 31, 2005. You agree that this Mortgage shall continue to secure all sums now or hereafter advanced under the terms of the Agreement including, without limitation, such sums that are advanced by us whether or not at the time the sums are advanced there is any principal sum outstanding under the Agreement. The parties hereto intend that this mortgage shall secure unpaid balances, and all other amounts due to us hereunder and under the Agreement.

This Mortgage secures to us: (a) the repayment of the debt evidenced by the Agreement, with interest, and all refinancings, renewals, extensions and modifications of the Agreement; (b) the payment of all other sums, with interest, advanced under this Mortgage to protect the security of this Mortgage; and (c) the performance of your covenants and agreements under this Mortgage and the Agreement. For this purpose and in consideration of the debt, you do hereby mortgage, grant, convey and warrant (unless you are an Illinois land trust, in which case you mortgage, grant, convey and quitclaim) to us and our successors and assigns the property located in COOK County, Illinois and more fully described in Exhibit A, which is attached hereto and made a part hereof, which property is more commonly known as 1325 GLENVIEW Ave., GLENVIEW, IL 60025.

("Property Address"), hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of Illinois;

P.I.N.: 0426-406-017

This document was prepared by and, after recording, should be returned to: Chase Manhattan Home Equity Services, P.O. 92974, Rochester, NY 14692



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**TOGETHER WITH** all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Mortgage. All of the foregoing is referred to in this Mortgage as the "Property."

**YOU COVENANT** that you are lawfully seized of the estate hereby conveyed and have the right to mortgage, grant, convey and, if you are not an Illinois land trust, then also warrant the Property and that the Property is unencumbered, except for encumbrances of record as of the date hereof. Unless you are an Illinois land trust, you warrant and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record as of the date hereof.

**YOU AND WE** covenant and agree as follows:

**1. Payment of Principal, Interest and Other Charges.** You shall pay when due the principal of and interest owing under the Agreement and all other charges due under the Agreement.

**2. Payments of Taxes and Insurance.** You will pay, when due, all taxes, assessments, leasehold payments or ground rents (if any), and hazard insurance on the Property and mortgage insurance (if any).

**3. Application of Payments.** Unless applicable law provides otherwise, all payments received by us under the Agreement and paragraph 1 may be applied by us first to interest and other charges payable under the Agreement and then to the remaining principal balance under the Agreement.

**4. Prior Mortgages; Charges; Liens.** You shall perform all of your obligations under any mortgage, deed of trust or other security instruments with a lien which has priority over this Mortgage, including your covenants to make payments when due. You shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Mortgage or any advance under this Mortgage, and leasehold payments or ground rents, if any. Upon our request, you shall promptly furnish to us all notices of amounts to be paid under this paragraph and receipts evidencing any such payments you make directly.

You shall promptly discharge any lien (other than a lien disclosed to us in your application or in any title report we obtained) which has priority over this mortgage or any advance to be made under the Agreement or this Mortgage.

**5. Hazard Insurance.** You shall keep the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which we require insurance. This insurance shall be maintained in the amounts and for the periods that we require. You may choose any insurer subject to our approval, which shall not be unreasonably withheld.

Insurance policies and renewals shall be acceptable to us and shall include a standard mortgagee clause. If we require, you shall promptly give us all receipts of paid premiums and renewal notices. You shall promptly notify the insurer and us of any loss. We may make proof of loss if you do not promptly do so.

Insurance proceeds shall be applied to restore or repair the Property damaged, if restoration or repair is economically feasible and our security would not be lessened. Otherwise, insurance proceeds shall be applied to sums secured by this Mortgage, whether or not then due, with any excess paid to you. If you abandon the Property, or do not answer within 30 days our notice to you that the insurer has offered to settle a claim, then we may collect and use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due. The 30-day period will begin when notice is given.

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Any application of proceeds to principal shall not require us to extend or postpone the due date of monthly payments. If we acquire the Property at a forced sale following your default, your right to any insurance proceeds resulting from damage to the Property prior to the acquisition shall pass to us to the extent of the sums secured by this Mortgage immediately prior to the acquisition.

**6. Preservation and Maintenance of Property; Leaseholds.** You shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. If this Mortgage is on a leasehold, you shall comply with the lease. If you acquire fee title to the Property, the leasehold and fee title shall not merge unless we agree to the merger in writing.

**7. Protection of Our Rights in the Property; Mortgage Insurance.** If you fail to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect our rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then we may do, and pay for, anything necessary to protect the Property's value and our rights in the Property. Our actions may include paying any sums secured by a lien which has priority over this Mortgage or any advance under the Agreement or this Mortgage appearing in court, paying reasonable attorneys' fees, paying any sums which you are required to pay under this Mortgage and entering on the Property to make repairs. We do not have to take any action we are permitted to take under this paragraph. Any amounts we pay under this paragraph shall become additional debts you owe us and shall be secured by this Mortgage. These amounts shall bear interest from the disbursement date at the rate established under the Agreement and shall be payable, with interest, upon our request.

If we required mortgage insurance as a condition of making the loan secured by this Mortgage, you shall pay the premiums for such insurance until such time as the requirement for the insurance terminates.

**8. Inspection.** We may inspect the Property at any reasonable time and upon reasonable notice.

**9. Condemnation.** The proceeds of any award for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to us.

**10. You Are Not Released; Forbearance by Us Not a Waiver.** Extension of time for payment or modification of amortization of the sums secured by this Mortgage granted by us to any of your successors in interest shall not operate to release your liability or the liability of your successors in interest. We shall not be required to commence proceedings against any successor in interest, refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by you or your successors in interest. Our forbearance in exercising any right or remedy shall not waive or preclude the exercise of any right or remedy.

**11. Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Mortgage shall bind and benefit your successors and permitted assigns. Your covenants and agreements shall be joint and several. Anyone who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage, grant and convey such person's interest in the Property; (b) is not personally obligated to pay the Agreement, but is obligated to pay all other sums secured by this Mortgage; and (c) agrees that we and anyone else who signs this Mortgage may agree to extend, modify, forbear or make any accommodations regarding the terms of this Mortgage or the Agreement without such person's consent.

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**12. 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 you which exceed permitted limits will be refunded to you. We may choose to make this refund by reducing the principal owed under the Agreement or by making a direct payment to you. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Agreement.

**13. Notices.** Unless otherwise required by law, any notice to you provided for in this Mortgage shall be delivered or mailed by first class mail to the Property Address or any other address you designate by notice to us. Unless otherwise required by law, any notice to us shall be given by first class mail to our address stated above or any other address we designate by notice to you.

**14. Governing Law; Severability.** This Mortgage shall be governed by federal law and, except as preempted by federal law, by the law of the jurisdiction in which the Property is located. 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. To this end the provisions of this Mortgage and the Agreement are declared to be severable.

**15. Transfer of the Property.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in you is sold or transferred and you are not a natural person) without our prior written consent, we may, at our option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by us if exercise is prohibited by federal law as of the date of this Mortgage.

**16. Sale of Agreement; Change of Loan Servicer.** The Agreement or a partial interest in the Agreement (together with this Mortgage) may be sold one or more times without prior notice to you. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Agreement and this Mortgage. There also may be one or more changes of the Loan Servicer unrelated to the sale of the Agreement. If there is a change of the Loan Servicer, you will be given written notice of the change as required by applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any information required by applicable law.

**17. Hazardous Substances.** You shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. You 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 Hazardous Substances in quantities that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

You shall promptly give us 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 you have actual knowledge. If you learn or are notified by any government or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, you shall promptly take all necessary remedial actions in accordance with Environmental Law.

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As used in this Mortgage, "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 Mortgage, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

**18. Acceleration; Remedies.** You will be in default if (1) any payment required by the Agreement is not made when it is due; (2) we discover that you have committed fraud or made a material misrepresentation; or (3) you take any action or fail to take any action that adversely affects our security for the Agreement or any right we have in the Property. If a default occurs, we will give you notice specifying: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to you, by which the default must be cured; and (d) that failure to cure the default 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 you of the right to reinstate or redeem after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, we at our option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. We shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 18, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

**19. Lender In Possession.** Upon acceleration under this Mortgage, abandonment or vacating of the Property and at any time prior to the expiration of any period of redemption following judicial sale, we (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. Any rents collected by us 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. Nothing herein contained shall be construed as constituting us a "mortgagee in possession," unless we shall have entered into and shall remain in actual possession of the Property.

**20. Release.** Upon payment of all sums secured by this Mortgage, we shall release this Mortgage without charge to you.

**21. Receipt of Sums Pending Foreclosure.** You agree that the acceptance of rents, hazard insurance proceeds, condemnation awards or any other sums of whatever nature or origin to be applied to the sums secured by this Mortgage after the commencement of foreclosure proceedings prior to the expiration of any right of redemption shall not constitute a waiver of such foreclosure.

**22. Waivers.** You waive all rights of homestead exemption in the Property.

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**23. Riders to this Mortgage.** If one or more riders are executed by you and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were part of this Mortgage.

Condominium Rider                       2-4 Family Rider  
 Planned Unit Development             Other(s) (specify)  
Rider

**24. Maximum Amount Secured.** This Mortgage shall secure an amount not in excess of the sum of the principal and interest evidenced by the Agreement and additional amounts, which additional amounts shall in no event exceed \$500,000.

**25. Security Agreement and Fixture Filing.** This Mortgage constitutes a security agreement with respect to all fixtures and other personal property in which we are granted a security interest hereunder, and we shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the state where the property is situated (the "Uniform Commercial Code"). The recording of this Mortgage in the real estate records of the county where the property is located shall also operate from the time of recording as a fixture filing in accordance with Section 9-313 and 9-402 of the Uniform Commercial Code.

**26. Trustee Exculpation.** If this Mortgage is executed by an Illinois land trust, trustee executes this Mortgage as trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee, and it is expressly understood and agreed by us and by every person now or hereafter claiming any right or security hereunder that nothing contained herein or in the Agreement secured by this Mortgage shall be construed as creating any liability on the trustee personally to pay said Agreement or any interest that may accrue thereon, or any indebtedness accruing hereunder or to perform any covenants either express or implied herein contained, all such liability, if any, being expressly waived, and that any recovery on this Mortgage and the Agreement secured hereby shall be solely against and out of the property hereby conveyed by enforcement of the provisions hereof and of said Agreement, but this waiver shall in no way affect the personal liability of any individual co-maker or guarantor of the Agreement.

BY SIGNING BELOW, you accept and agree to the terms and covenants contained in this Mortgage and any rider(s) executed by you and recorded with it.

  
\_\_\_\_\_  
Mortgagor John A. Holthaus (Seal)

  
\_\_\_\_\_  
Mortgagor Ellen L. Holthaus (Seal)

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STATE OF ILLINOIS

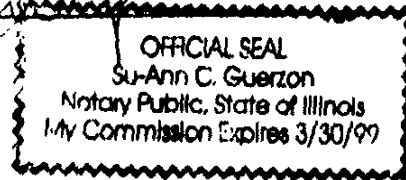
COUNTY OF Cook )  
 ) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John R. Holthaus and Ellen K. Holthaus, known as wife personally known to me to be the same persons 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, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 14 day of July, 19 95.

Commission Expires: 3/30/99

[Signature]  
Notary Public



IF MORTGAGOR IS A TRUST:

not personally but solely as trustee as aforesaid

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Title: \_\_\_\_\_

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THE NORTH 1/2 OF LOT 53 AND THE WEST 1/2 OF THE NORTH 1/2 OF LOT 54, IN  
GLENVIEW HIGHLANDS, A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 26,  
TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK  
COUNTY, ILLINOIS.

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