

UNOFFICIAL COPY

Loan # 01-30100954

95164858

THIS IS A JUNIOR MORTGAGE LABE CREDIT LINE MORTGAGE

THIS MORTGAGE is made this 23RD day of FEBRUARY, 1995, between DONALD F. KIRBY AND MARY ANN KIRBY, HUSBAND AND WIFE

herein "Borrower") and the Mortgagee LABE Federal Bank for Savings herein "Lender".

WHEREAS Borrower is indebted to Lender in the principal sum of ONE HUNDRED TWENTY FIVE THOUSAND AND 00/100 Dollars which indebtedness is evidenced by Borrower's Equity Agreement and Promissory Note (herein "Note") providing for periodic payments as called therein, with the balance of the indebtedness, if not sooner paid, due and payable on MARCH 30, 2000

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, 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 herein contained, Borrower does hereby Mortgage, grant and convey to Lender the following described property located in the County of COOK State of Illinois:

LOT 17 IN BLOCK 4 IN GEORGE F. KOESTER AND COMPANY'S 5TH ADDITION TO SNAUGHASH, A SUBDIVISION IN THE NORTHWEST FRAGMENTAL 1/4 OF SECTION 3, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 11, 1929 AS DOCUMENT NUMBER 10425400, IN COOK COUNTY, ILLINOIS.

DEPT-01 RECORDING \$25.50
T40014 TRAN: 03/10/95 14:22:00
#5209 J.W. # 95-164858
COOK COUNTY RECORDER

13-03-107-008

which has the address of: 6213 NORTH KIRBY DR, CHICAGO, ILLINOIS 60646
herein "PROPERTY ADDRESS"

Together with all 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 encumbrances and additions thereof, 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 for 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 fee estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, UNENCUMBERED

and that Borrower will warrant and defend generally the title to the property against all other claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

BORROWER AND LENDER COVENANT AND AGREE AS FOLLOWS:

- 1. PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and late and other applicable charges as provided in the Note, and in this Mortgage, plus any additional advances made by the Lender to the Borrower.
- 2. APPLICATION OF PAYMENTS.** Unless applicable law on the Note provide otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender first to interest payable on amounts disbursed by Lender under Paragraph 6, then to principal of the amounts disbursed by Lender under Paragraph 6, then to interest payable on the Note, and then to the Principal of the Note.
- 3. CHARGES; LIENS.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or group rents if any, by Borrower making payment, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this Paragraph and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this 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 Lender, or shall in good faith contest such lien by, or defend enforcement of the lien of 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 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.

The insurance Carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid by Borrower making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of said premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender 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 or if 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 Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the property or to the sums secured by this Mortgage.

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18. BORROWER'S COPY. Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recording hereof.

14. UNIFORM MORTGAGE; GOVERNING LAWS; SEVERABILITY. This form of Mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

13. 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 this manner designated.

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 Lender and Borrower, subject to the provisions of Paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of Paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

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.

10. FORFEITURE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The right to accelerate the maturity of the indebtedness secured by this Mortgage.

9. BORROWER NOT RELEASED. Extension of the time for payment or modification of payment of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate, in any manner, to release the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or to extend time for payment or otherwise modify payment of sums secured by 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, shall be assigned and shall be paid to Lender. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor 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 the 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 Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property. Any amounts disbursed by Lender pursuant to this Paragraph 6, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amount shall bear interest at the highest rate permissible under applicable law. Nothing contained in this Paragraph 6 shall require Lender to incur any expense or take any action hereunder.

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 eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender's option, upon notice to Borrower, may make such appearance, 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; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS. Borrower shall faithfully and fully comply with and abide by every term, covenant and condition of any superior mortgage or mortgages presently encumbering the Property. A default or delinquency under any superior mortgage or mortgages shall automatically and immediately constitute a default under this Mortgage. Lender is expressly authorized at its option to advance all sums necessary to keep any superior mortgage or mortgages in good standing, and all sums so advanced, together with interest shall be subject to the provisions of this Paragraph 6 of this Mortgage. Borrower agrees not to make any agreement with the holder of any superior mortgage that in any way shall modify, change, alter or extend any of the terms or conditions of that superior mortgage nor shall Borrower request or accept any future advances under that superior mortgage, without the express written consent of Lender.

4. UNIFORM MORTGAGE; GOVERNING LAWS; SEVERABILITY. This form of Mortgage combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located. In the event that any provision of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

3. 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 this manner designated.

2. 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 Lender and Borrower, subject to the provisions of Paragraph 16 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of Paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

1. 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.

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16. TRANSFER OF THE PROPERTY; ASSUMPTION. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise or descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and Borrower or such other person pays all expenses incurred by Lender to assume that the lien of this Mortgage and Lender's interest in the Property shall continue unimpaired. If Lender has waived the option to accelerate provided in this Paragraph 16, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Mortgage and Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with Paragraph 13 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by Paragraph 18 hereof.

17. OBLIGATORY ADVANCES. This Mortgage secures the repayment of certain sums advanced to the Borrower under the Equity Agreement and Promissory Note. Provided Borrower is not in default with respect to any covenant or agreement under the terms of this Mortgage, and the Equity Agreement and Promissory Note, including the covenants to pay when due any sums secured by this Mortgage, Lender is obligated from time to time and upon demand of Borrower to advance such additional sums requested by Borrower up to the total face amount of this Mortgage.

18. ACCELERATION; REMEDIES. Except as provided in Paragraph 18 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender, prior to acceleration, shall mail notice to Borrower as provided in Paragraph 13 hereof specifying (1) the Breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, and costs of documentary evidence, abstracts and title reports.

19. BORROWER'S RIGHT TO REINSTATE. Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrower pays Lender all sums which would be then due under this Mortgage, had no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage and in enforcing Lender's remedies as provided in Paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as pays all expenses as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. 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 18 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 18 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 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 sum secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

21. NOTICE: Presentment, notice of dishonor and protest are hereby waived by you and each of you. This Agreement shall be the joint and several obligation of all of you and shall be binding upon you and your successors and assigns.

Any notice to you provided for in this Agreement shall be given by mailing such notice by certified mail, addressed to you at the address stated below, or to such other address as you may designate by notice to L.A.B.E. Any notice to L.A.B.E. shall be given by mailing such notice by certified mail, return receipt requested to L.A.B.E. at the address stated above or at such other address as may have been designated by notice to you.

22. RELEASE. Upon payment of all sums secured by this Mortgage on the expiration Date of the Note, or upon the written request of Borrower (if prior to the final due date with all sums having been paid) Lender shall release this Mortgage with charge of \$50.00 to Borrower. Borrower shall pay all costs of recordation, if any.

23. WAIVER OF HOMESTEAD. Borrower hereby waives all right of homestead exemption in the Property.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Donald E Klein
DONALD E. KLEIN

Mary Jane Klein
MARY JANE KLEIN

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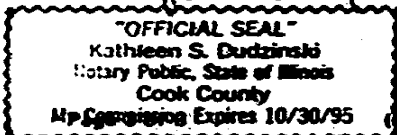
State of Illinois Cook
County of Cook ss

I, the undersigned, a Notary Public in and for said County and State do hereby certify that Donald E Klein
and Mary Jane Klein his wife
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 he 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

23rd day of February 1995

My commission expires 10/30/95
Kathleen S Dudzinski
Notary Public



This Instrument Was Prepared
L.A.B.E. Federal Bank for Savings
4343 N. Elston
Chicago, IL 60641
RETURN TO:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

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COOK COUNTY CLERK'S OFFICE
100 N. LAUREL ST.
CHICAGO, ILL. 60602