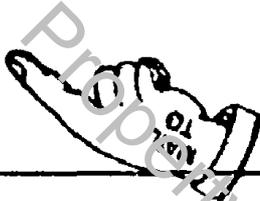


**RECORDATION REQUESTED BY:**

**GUARANTY HOME EQUITY  
DOCUMENTATION CONTROL  
DEPARTMENT  
P.O. BOX 23929  
MILWAUKEE, WI 53223-0929**

**WHEN RECORDED MAIL TO:**

**GUARANTY HOME EQUITY  
DOCUMENTATION CONTROL  
DEPARTMENT  
P.O. BOX 23929  
MILWAUKEE, WI 53223-0929**



**FOR RECORDER'S USE ONLY**

**This Mortgage prepared by: DAN KINL FOR GUARANTY BANK  
4000 W. Brown Deer Road  
Milwaukee, WI 53209**

**MORTGAGE**

**THIS MORTGAGE IS DATED NOVEMBER 26, 1997, between CAROLYN NICHOLS and KIM NICHOLS, WIFE AND HUSBAND, AS TENANTS IN COMMON, whose address is 1221 LAKE AVE., WILMETTE, IL 60091 (referred to below as "Grantor"); and GUARANTY HOME EQUITY, whose address is 1100 Jorie Blvd Suite 355, Oakbrook, IL 60521 (referred to below as "Lender").**

**GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, warrants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in COOK County, State of Illinois (the "Real Property"):**

**SEE ATTACHED**

**The Real Property or its address is commonly known as 1221 LAKE AVE., WILMETTE, IL 60091. The Real Property tax identification number is 05-34-102-005.**

**Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.**

**DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.**

**Existing Indebtedness. The words "Existing Indebtedness" mean the indebtedness described below in the Existing Indebtedness section of this Mortgage.**

**Grantor. The word "Grantor" means CAROLYN NICHOLS and KIM NICHOLS. The Grantor is the mortgagor under this Mortgage.**

Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges (except as otherwise provided in the following paragraph) and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this Mortgage, except for the lien of taxes and assessments not due, except for the existing indebtedness referred to below, and except as otherwise provided in the following paragraph.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are a part of this Mortgage. Lender if such exercise is prohibited by federal law or by Illinois law.

**ONE ON SALE - CONSENT BY LENDER.** Lender may, at its option, declare that it is due and payable all sums secured by this Mortgage upon the sale or transfer, without the Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest therein, whether legal, beneficial or equitable, whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.

**Duty to Maintain.** Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Real Property and collect the Rents.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

**PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS.**

**AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE. THIS MORTGAGE IS GIVEN**

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2)**

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or added to the Real Property, together with all accessories, parts, and additions (including all improvements and all substitutions for, any refunds of proceeds from any sale or other disposition of the Property).

**Note.** The word "Note" means the promissory note or credit agreement dated November 28, 1997, in the original principal amount of \$53,000.00 from Grantor to Lender, together with all renewals, extensions or modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Indebtedness.** The word "indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. At no time shall the principal amount of indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed the note amount of \$53,000.00.

**Guardian.** The word "Guardian" means and includes without limitation each and all of the guarantors, sureties, and accommodation parties in connection with the indebtedness.

The interest rate on the Note is 9.000%.

The word "Personal Property" means all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or added to the Real Property, together with all accessories, parts, and additions (including all improvements and all substitutions for, any refunds of proceeds from any sale or other disposition of the Property).

**Real Property.** The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS.**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until in default, Grantor may remain in possession and control of and operate and manage the Real Property and collect the Rents.

11-26-1997

Loan No 16-62012012

**MORTGAGE**  
(Continued)

Page 3

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on an actual cash value basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property at any time become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance for the full unpaid principal balance of the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$1,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, including any obligation to maintain Existing Indebtedness in good standing as required below, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons.

**EXISTING INDEBTEDNESS.** The following provisions concerning existing indebtedness (the "Existing Indebtedness") are a part of this Mortgage.

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to an existing lien. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**Default.** If the payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the note evidencing such indebtedness, or should a default occur under the instrument securing such indebtedness and not be cured during any applicable grace period therein, then, at the option of Lender, the Indebtedness secured by this Mortgage shall become immediately due and payable, and this Mortgage shall be in default.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time. If, however, payment is made by Grantor, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (a) to Grantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor), the Indebtedness shall be considered unpaid for the purpose of enforcement of this Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Mortgage.

Time is of the Essence. Time is of the essence in the performance of this Mortgage. Lender and Grantor agree that all disputes, claims and controversies between them, whether individual, joint, or class in nature, arising from this mortgage or otherwise, including without limitation contract and tort disputes, shall be entered pursuant to the Rules of the American Arbitration Association, upon request of either party. No act to take or dispose of any Property shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This includes, without limitation, containing injunctive relief or a temporary restraining order; including a power of sale under any deed of trust or mortgage; obtaining a writ of attachment or imposition of a receiver; or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code. Any disputes, claims, or controversies concerning the mortgage, including any claim to or reasonableness of any act, or exercise of any right, concerning the Property, including any claim to rescind, refile, or otherwise modify any agreement relating to the Property, shall also be entered, provided however that no arbitrator shall have the right or the power to enter or restrain any act of any party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this Mortgage shall preclude any party from seeking equitable relief from a court of competent jurisdiction. The state of limitations, estoppel, waiver, laches, and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of an action for these purposes. The Federal Arbitration Act shall apply to the construction, interpretation, and enforcement of this arbitration provision.

Subject to the provisions on arbitration, this mortgage shall be governed by and construed in accordance with the laws of the State of Illinois. This mortgage has been delivered to Lender and accepted by Lender in the State of Illinois. Applicable Law. This mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Attorneys' Fees, Expenses.** In the event of foreclosure of this Mortgage, Lender shall be entitled to recover from Grantor attorneys' fees and actual disbursements necessarily incurred by Lender in pursuing such foreclosure.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Deficiency Judgment.** It is permitted by applicable law for Lender to obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Judicial Foreclosure.** Lender may obtain a judicial foreclosure of the Property.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform (or mercantile) Code.

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Property existing hereon or the Property.

**Existing Indebtedness.** A default shall occur under any existing indebtedness or under any instrument on the Property securing any existing indebtedness, or commencement of any suit or other action to foreclose any property security or any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Death or Insolvency.** The death of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Compliance Default.** Failure of Grantor to comply with any other term, obligation, covenant, or condition contained in this Mortgage, the Note, or in any other agreement between Grantor and Lender.

**Default on Indebtedness.** Failure of Grantor to make any payment when due on the indebtedness.

**Default in Favor of Third Parties.** Should Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Grantor's property or Grantor's ability to repay the note or Grantor's ability to perform Grantor's obligations under this Mortgage or any related document.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

**Conscience Default.** Failure of Grantor to comply with any other term, obligation, covenant, or condition contained in this Mortgage, the Note, or in any other agreement between Grantor and Lender.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Property existing hereon or the Property.

**Existing Indebtedness.** A default shall occur under any existing indebtedness or under any instrument on the Property securing any existing indebtedness, or commencement of any suit or other action to foreclose any property security or any proceeding under any bankruptcy or insolvency laws by or against Grantor.

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**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

**Conscience Default.** Failure of Grantor to comply with any other term, obligation, covenant, or condition contained in this Mortgage, the Note, or in any other agreement between Grantor and Lender.

**DEFAULT.** Each of the following, at the option of Lender, shall constitute an event of default (Event of Default) under this Mortgage:

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all indebtedness secured by this Mortgage.

NOTICE OF JUNIOR MORTGAGE. An exhibit, titled "NOTICE OF JUNIOR MORTGAGE," is attached to this Mortgage and by this reference is made a part of this Mortgage just as if all the provisions, terms and conditions of the Exhibit had been fully set forth in this Mortgage.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

X Carolyn Nichols  
CAROLYN NICHOLS  
X Kim Nichols  
KIM NICHOLS

INDIVIDUAL ACKNOWLEDGMENT

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF DuPage )



On this day before me, the undersigned Notary Public, personally appeared **CAROLYN NICHOLS** and **KIM NICHOLS**, to me known to be the individuals described in and who executed the Mortgage, and acknowledged that they signed the Mortgage as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 26 day of November, 1997.  
By [Signature] Residing at Country Home Equity  
Notary Public in and for the State of ILLINOIS  
My commission expires 2/24/00

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

SCHEDULE A  
ALTA Commitment  
File No.: 23831

## LEGAL DESCRIPTION

Lot 6 in Westerfield's Resubdivision of Block 27 in Wilmette Village, in Section 34, Township 42 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Property of Cook County Clerk's Office

97944236 Page 6 of 6

STEWART TITLE COMPANY

UNOFFICIAL COPY

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