

UNOFFICIAL COPY

AMERICAN NATIONAL BANK OF LANSING

3115 Ridge Road
Lansing, Illinois 60438

3845426

HOME EQUITY CREDIT LINE MORTGAGE

THIS MORTGAGE (the "Mortgage") is made as of November 19, 1989
between D.A. Ed. C. Wagner and Marjorie Wagner, his wife as joint tenants
and AMERICAN NATIONAL BANK OF LANSING, 3115 Ridge Road, Lansing, Illinois ("Mortgagee")

ARTICLE I DEFINITIONS

1. **Definitions.** As used herein, the following terms shall have the following meanings, applicable equally to the singular and plural forms of each term:
- (a) **Agreement.** The Agreement and Disclosure for Home Equity Credit Line by and between Mortgagee and Mortgagee, dated as of the same date as this Mortgage. The agreement provides for a floating rate, open end credit line pursuant to which Mortgagee makes Loans, as defined in the Agreement, up to the Credit Limit and Mortgagee repays Mortgagee along with monthly finance charges due, if any.
 - (b) **Credit Limit.** The Credit Limit, as specified in the Agreement is 40,000.00
 - (c) **First Mortgage.** The Mortgage against the Land dated n/a and recorded in the office of the Recorder of Deeds for Cook County, Illinois as Document Number n/a.
 - (d) **First Mortgagee.** The holder of the First Mortgage n/a.
 - (e) **Fixtures.** All fixtures including replacements and additions hereto, now or hereafter located under, on or above the Land that constitute or will constitute fixtures under the laws of the State of Illinois, and excluding any trade fixtures of any tenants under the Lease.
 - (f) **Impositions.** All real estate and personal property taxes and other taxes and assessments, public or private, water and sewer rates and charges, all other governmental or nongovernmental charges applicable to the Mortgaged Property, any interest or costs or penalties with respect to any of the foregoing, and charges for any easement or agreement maintained for the benefit of the Mortgaged Property, general and special, ordinary and extraordinary, furson and unfurson, of any kind and nature whatsoever which may at any time prior to or after the execution of this Mortgage, be assessed, levied, or imposed upon the Mortgaged Property or the rent or income received therefrom, or any use or occupancy thereof.
 - (g) **Improvements.** Any and all buildings or structures of any nature whatsoever, including replacements or additions thereto, now or hereafter situated on the Land.
 - (h) **Indebtedness.** The principal of, interest on and/or all other amounts, finance charges, payments and premiums due under the agreement and all other indebtedness of Mortgagee to Mortgagee under and/or pursuant to the Mortgage. Because this Mortgage is given to secure an open end credit line, the term indebtedness shall include not only presently existing indebtedness under the Agreement, whether such Loans are obligatory or to be made at the option of Mortgagee, to the same extent as if such future Loans were made on the date of execution of this Mortgage, although there may be no Loan made at the time of execution of this Mortgage.
 - (i) **Land.** The real property located at 18170 Maple Street
Lansing, IL 60438 and described as follows on the attached Exhibit A.

LOT 1 (EXCEPT THE NORTH 163.55 FEET THEREOF) IN THE SUBDIVISION OF LOT 8 IN BLOCK 5 IN MEETER'S FIRST SUBDIVISION, BEING A SUBDIVISION OF CERTAIN LANDS IN THE FRACTIONAL SOUTHEAST 1/4 OF FRACTIONAL SECTION 29 AND THE FRACTIONAL EAST 1/2 OF FRACTIONAL SECTION 32 ALL IN TOWNSHIP 36 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 30-32-401-022

note identified S1216304 16WA

Cook County Clerk's Office

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- (j) **Leases.** Any and all leases, licenses, concessions or grants or other possessory interests granted by Mortgagee or lessor now or hereafter in force, oral or written, covering or affecting all or any part of the Mortgaged Property.
 - (k) **Mortgaged Property.** The Land, the improvements, the Fixtures and the Leases together with:
 - (1) all rights, privileges, rents, royalties, profits, mineral, oil and gas rights and profits, tenements, hereditaments, rights-of-way, easements, appurtenances, riparian or lateral rights now or hereafter belonging or in any way appertaining to the Land/or the improvements;
 - (2) all of Mortgagee's right, title and interest in and to any streets, rights-of-way, alleys, strips or gores of land now or hereafter adjoining the Land;
 - (3) all of Mortgagee's right, title and interest in and to any award or awards heretofore made or hereafter to be made by any municipal, county, state or federal authority or board to the present and all subsequent owners of the Land and/or the improvements and/or the Fixtures and/or the Personal Property, including any award or awards for any change or changes of grade of any street or streets affecting the Land and/or the improvements and/or the Fixtures and/or the Personal Property, subject to Mortgagee's right to use such award pursuant to Article VIII; and
 - (4) all the estate, right, title, claim or demand whatsoever of Mortgagee, either at law or in equity, in and to the Land and/or the improvements and/or the Fixtures.
- The term "Mortgaged Property" includes any part of the foregoing property described as Mortgaged Property.
- (l) **Obligations.** Any and/or all of the covenants, promises and other obligations (other than for the payment of the indebtedness) including, without limitation, the payment of impositions as provided herein made or owing by Mortgagee or others to or due to Mortgagee under and/or set forth in the Agreement and/or the Security Documents.
 - (m) **Personal Property.** All personal property owned by Mortgagee and located on the Land.
 - (n) **Proceeds.** All monies and proceeds derived from the Personal Property and/or from said Mortgaged Property including without limitation insurance proceeds and condemnation awards.
 - (o) **Rents.** All the rents, revenues, income, profits and other benefits now or hereafter arising from the use and enjoyment of the Mortgaged Property.
 - (p) **Security Documents.** The Agreement and all other documents and instruments now or hereafter furnished to the Mortgagee, including, but not limited to, this Mortgage, to evidence or secure payment of the indebtedness.

ARTICLE II GRANT

2. Grant of Security Interest.

2.1 **Grant.** To secure the payment of the indebtedness and the performance and discharge of the Obligations, Mortgagee does by these presents give, transfer, bargain, sell, alien, remise, release, assign, mortgage, hypothecate, deposit, pledge, set over, confirm, convey, warrant and grant a security interest unto Mortgagee in and to all estate, right, title and interest of Mortgagee in and to the Mortgaged Property, whether now owned or held or hereafter acquired by Mortgagee to have and to hold the Mortgaged Property unto Mortgagee, its successors and assigns, forever.

2.2 **Condition of Grant.** The condition of the grant in Paragraph 2.1 above is such that if Mortgagee shall pay or cause to be paid the indebtedness as and when the same shall become due and payable and shall observe, perform and discharge the Obligations, then the Security Documents and the estates and rights granted by them shall be null and void, otherwise to remain in full force and effect.

ARTICLE III REPRESENTATIONS

3. Representations.

Mortgagee hereby represents to Mortgagee that:

- 3.1 **Validity of Security Documents:**
 - (a) The execution, delivery, and performance by Mortgagee of the Security Documents, and the borrowing evidenced by the Agreement, will not, to the best of Mortgagee's knowledge, violate any provision of law, any order of any court or other agency of government, or any Mortgage, indenture, trust agreement or other instrument to which Mortgagee is a party in any material respect or by which it or any of its property is bound, or be in conflict with, or will result in a material breach of or constitute (with due notice and/or lapse of time) a default under any such Mortgage, indenture, trust agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets, except as contemplated by the provisions of the Security Documents; and
 - (b) The Security Documents, as and when executed and delivered by Mortgagee, constitute the legal, valid and binding obligations of Mortgagee in accordance with their respective terms subject to applicable bankruptcy and insolvency laws.
- 3.2 **Other Information.** All other information, reports, papers and data given to Mortgagee, or to Mortgagee's legal counsel, with respect to Mortgagee, the Mortgaged Property

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ARTICLE VI EVENTS OF DEFAULT

- 6 Events of Default. The term "Event of Default" as used in the Security Documents shall mean the occurrence of any one or more of the following:
- 6.1 False Representations. If Mortgagee engages in fraud or material misrepresentation in connection with the Credit Line.
 - 6.2 Performance of Obligations. If Mortgagee defaults in the payment of the indebtedness in accordance with the Agreement.
 - 6.3 Adverse Action. If Mortgagee's actions or omissions adversely affect the Mortgagee's Property or Mortgagee's rights therein and interest thereon.

ARTICLE VII REMEDIES

7.1 Remedies. If an Event of Default shall occur and if a continuing Mortgagee may, at its option, after providing Mortgagee with at least 30 days advance notice of, and opportunity period to cure, the Event of Default, exercise any or all of the following remedies:

7.1.1 Acceleration. Mortgagee may declare the unpaid portion of the indebtedness to be immediately due and payable, without further notice or demand (each of which is expressly waived by Mortgagee) whenever the indebtedness shall become immediately due and payable, anything in the Agreement or in the Security Documents to the contrary notwithstanding, provided further that the unpaid portion of the indebtedness shall be immediately due and payable and substantially due and payable without notice of any kind on part of the Mortgagee.

7.1.2 Enforcement of Mortgage. Mortgagee with or without notice, personally or by its agents or attorneys, may at its application, may:

(a) sell the Mortgaged Property and all estate, right, title, and interest, claim and demand thereon, and right of redemption thereon, to the extent permitted by and pursuant to the procedures provided by law, at any or more places, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law;

(b) institute proceedings for the complete foreclosure of the Mortgage;

(c) take steps to protect and enforce its rights whether by action, suit or proceeding or apply or at law for the specific performance of any covenant, condition or agreement in the Agreement or in the Mortgage, or in aid of the execution of any present or future judgment, or for any foreclosure hereinafter, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect; and/or

(d) enforce the Mortgage in any manner permitted under the laws of the State of Illinois.

7.1.3 Receiver. Mortgagee may apply to the court in which a proceeding is pending for the enforcement of this Mortgage to have a receiver appointed to order upon and take possession of the Mortgaged Property, collect the rents and profits thereon and apply the same as the court may direct, such receiver to have all of the rights and powers permitted under the laws of the State in which the Mortgaged Property is situated. The right to the appointment of such receiver shall be a matter of strict right without regard to the value of the property of the Mortgaged Property of the security of the Mortgage. The reasonable expenses, including receiver's fee, receiver's fees, costs and agent's commission, incurred pursuant to the powers herein conferred shall be secured and priority.

7.2 Other. If Mortgagee defaults in the due observance or performance of any of the Obligations in accordance with the Mortgage, Mortgagee may exercise any remedy available to Mortgagee under applicable law.

7.3 Remedies Cumulative and Concurrent. The rights and remedies of Mortgagee as provided in the Security Documents shall be cumulative and concurrent and may be pursued separately, successively or together against Mortgagee, Guarantor or the Mortgaged Property, or any one of them, at the sole discretion of Mortgagee, and may be assigned or otherwise as necessary for the benefit of Mortgagee, or in the discretion of applicable law, rules and regulations. If Mortgagee elects to proceed under one right or remedy under the Mortgage or the Agreement, Mortgagee may at any time cause proceedings under such right or remedy and proceed under any other right or remedy under the Mortgage or the Agreement. The exercise of any such right or remedy shall not be construed as a waiver or release thereof. Nothing in the Agreement or the Mortgage shall affect Mortgagee's obligation to pay the indebtedness and perform the Obligations in accordance with the laws thereof.

7.4 Power of Mortgagee. Upon any sale made in aid of or by virtue of this Article VII, whether made under the power of sale herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Mortgaged Property and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness the amount of Mortgagee's bid.

7.5 No Lien or Priority. This Mortgagee and any other person now or hereafter obligated for payment of all or any part of the indebtedness shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of mortgagee or any other person so obligated to take action to foreclose on the Mortgage or otherwise under any provision of this Mortgage or the Agreement, or by reason of the release, relinquishment or satisfaction of all or any part of the security held for the indebtedness, or by reason of any agreement or arrangement between any subsequent owner of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of the Mortgage or Agreement without the consent of Mortgagee or such other person, and in the latter event Mortgagee and all such other persons shall continue to be liable to make payment according to the terms of any such instrument or modification agreement, unless expressly released and discharged in writing by Mortgagee.

7.6 Waiver of Mortgages, Notes and Marshaling. Mortgagee hereby waives and releases, to the maximum extent permitted by the laws of the State of Illinois:

(a) all benefits that might accrue to Mortgagee by virtue of any prior or future law exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any preferential valuation, stay of execution, exemption from civil process, redemption or extension of time for payment;

(b) unless specifically requested herein or in any of the other Security Documents, all claims of Mortgagee's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise or any option to remedy under the Agreement or the Security Documents; and

(c) any right to have the Mortgaged Property marshaled; provided that if any of the rights waived by Mortgagee in this paragraph affect or extend to the sale of the Mortgaged Property, affect Mortgagee's rights to enforce this Mortgage or affect the Mortgagee's right to redeem, Mortgagee shall have the right to object to or accept or reject the waiver of such right by Mortgagee, and such objection may be made by Mortgagee at the time of or at any time prior to the entry of a decree or judgment of foreclosure in the court in which this Mortgage is being foreclosed.

7.7 Discontinuance of Proceedings. In case Mortgagee shall have proceeded to enforce any right under any of the Security Documents and such proceedings shall have been discontinued or discontinued for any reason, then in every such case, Mortgagee and Mortgagee shall be restored to their former positions and the rights, remedies and powers of Mortgagee shall continue as if no such proceedings had been taken.

ARTICLE VIII COMBINATION

8.1 Compensation. In the event of the taking by official stamp proceedings of the lien of any part or all of the Mortgaged Property by any federal, state, municipal or other governmental authority or agency thereof, all awards or other compensation for such taking shall be paid to Mortgagee for application in the inverse order of maturity on the indebtedness, provided that no such application shall result in additional interest or have the effect of curing any Event of Default or extending the time for making any payment due hereunder or under the Agreement.

ARTICLE IX MISCELLANEOUS

9.1 Survival of Warranties and Covenants. The warranties, representations, covenants and agreements set forth in the Security Documents shall survive the making of the loan and the execution next delivery of the Agreement, and shall continue in full force and effect until the indebtedness shall have been paid in full.

9.2 Further Assurances. Mortgagee shall, upon the reasonable request of Mortgagee, execute, acknowledge and deliver such further instruments (including, without limitation, a certification of no set off) and do such further acts as may be necessary, desirable or proper to carry out them effectively the purpose of the Security Documents and to subject to the laws thereof any property intended by the terms thereof, to be covered thereby and any renewals, additions, substitutions, replacements or betterments thereto.

9.3 Recording and Filing. Mortgagee shall, at Mortgagee's sole cost and expense, cause these Security Documents and all supplements thereto, for which constructive notice must be given to protect Mortgagee, at all times to be recorded and filed, and to be recorded and to be filed, in such manner and in such places as Mortgagee shall reasonably request, and shall pay all such recording, filing, re-recording, re-filing taxes, fees and other charges to the maximum extent permitted by the laws of the State of Illinois.

9.4 Loan Expenses. Mortgagee shall pay all applicable costs, expenses and fees set forth in the Agreement.

9.5 No Representation by Mortgagee. By accepting or approving anything required to be observed, performed or fulfilled, or to be given to Mortgagee, pursuant to this Mortgage or the commitment, including (but not limited to) any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey or appraisal, Mortgagee shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation with respect thereto by Mortgagee.

9.6 Incorporation of Agreement. Each and every term, covenant and provision contained in the Agreement is, by this reference, incorporated into this Mortgage as if fully set forth herein.

9.7 Waiver of Homestead. Mortgagee covenants that the Mortgaged Property is not occupied as a homestead and waives all rights and benefit which Mortgagee has or may have under the homestead exemption law of the State of Illinois.

9.8 Notice. Except for any notice required under applicable law to be given in another manner, any notice to Mortgagee provided for in the Mortgage shall be in writing and shall be deemed properly delivered three days after deposit thereof in any main or branch United States Post Office, certified or first class United States Mail, postage prepaid, addressed as follows or at such other address as may be designated by notice as provided herein:

If to the Mortgagee:

David C. Wagner
Marjorie Wagner
resides at: 18162 Maple Street
Lansing, IL 60438

3895426

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to the Mortgagee

American National Bank of Lansing
3115 Ridge Road
Lansing, Illinois 60438
Attention: Home Equity Loan Division

9.9 **Covenants Running With the Land.** All covenants contained in this Mortgage shall run with the land.
9.10 **Successors and Assigns.** All terms of this Mortgage shall apply to and be binding upon and enforceable for the benefit of the successors and assigns of Mortgagee and Mortgagee, respectively, and all persons claiming under or through them, provided that nothing in this paragraph shall be construed to permit a transfer, conveyance or assignment other than as expressly permitted by this Mortgage.

9.11 **Multiple Mortgages.** Mortgagee covenants and agrees herein to consider that he justly should be a primary. Any Mortgagee who assigns this Mortgage but does not execute the Assignment, (a) is assigning this Mortgage only to Mortgagee and not to any other Mortgagee; (b) is not personally obligated to pay the debt secured and (c) agrees that Mortgagee and any other Mortgagee may agree to extend, modify, discharge or terminate or alter the debt with regard to the terms of this Mortgage or the Agreement without that Mortgagee's consent.

9.12 **Sovereignty.** In case any one of the obligations of the provisions of this Mortgage or of the Agreement shall be deemed to be invalid, single or unenforceable in any respect, the validity of the remaining obligations or provisions of this Mortgage shall in no way be affected, reduced or impaired thereby.

9.13 **Modification.** This Mortgage may not be changed, waived or discharged or terminated orally, but only by an instrument or instruments in writing, signed by the party against which enforcement of the change, waiver, discharge or termination is asserted.

9.14 **Applicable Law.** This Mortgage shall be governed by and construed according to the laws of the State of Illinois.

9.15 **Strict Performance.** Any failure by Mortgagee to meet upon strict performance by Mortgagee of any of the terms and provisions of this Mortgage or any of the Security Documents shall not be deemed to be a waiver of any of the terms or provisions of this Mortgage or any of the Security Documents, and Mortgagee shall have the right thereafter to insist upon strict performance by Mortgagee of any and all of them.

9.16 **Headings.** The Article headings and the section and subsection headings herein are inserted for convenience of reference only, and shall in no way alter or modify the text of such articles, sections and subsections.

9.17 **Notes.** If one or more notes are attached to and made a part of this Mortgage, the covenants and agreements herein shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage.

IN WITNESS WHEREOF, the Mortgagee has caused this instrument to be signed this 18th day and year of the above stated year.

David C. Wegner
David C. Wegner
Mortgage Clerk

Marjorie Wegner

Witness:

Charles J. Mianowski-V

This document was prepared by, and upon recording pending to:

Branda Nikolajovak C/O
American National Bank Of Lansing
3115 Ridge Road
Lansing, Il. 60438

STATE OF ILLINOIS)
COUNTY OF COOK) 55

I, a Notary Public in and said County in the State aforesaid, DO HEREBY CERTIFY that David C. Wegner and Marjorie Wegner, his wife, as joint tenants

personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18th day of November A.D. 1989

Margaret A. Phappi
Notary Public

My Commission Expires 10-2-91



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3/16/91

3845426

1989 DEC -6 PM 2:58
CAROL POLK
REGISTRAR OF DEEDS

Subscribed to _____
Address _____
Promised _____
Delivered to _____
Address 3845426
Delivered to _____
Deed to _____
Address _____
Notary _____

PROPERTY TAX CO. OF ILLINOIS
120 WEST MADISON
CHICAGO, ILLINOIS 60601
NOV 97

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