

AMERICAN NATIONAL BANK OF LANSING

3115 Ridge Road
Lansing, Illinois 60438

92040550

HOME EQUITY CREDIT LINE MORTGAGE

THIS MORTGAGE (the "Mortgage") is made as of JUNE 12 1992
between DANNY F. TOTI & LYNNE M. TOTI, HUSBAND AND WIFE ("Mortgagor")
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 Mortgagor 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 Mortgagor repays Mortgagee along with monthly finance charges due, if any.
 - (b) **Credit Limit:** The Credit Limit, as specified in the Agreement is \$ 12,700.00
 - (c) **First Mortgage:** The Mortgage against the Land dated MAY 15, 1987 as recorded in the office of LAKE as Document Number: 918316
 - (d) **First Mortgagee:** The holder of the First Mortgage: MARGARETTA L. COMPANY, INC. ASSIGNED TO BANPLUS MORTGAGE CORPORATION AND
RECORDED AS DOCUMENT #935381

- (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 Indiana, and excluding any trade fixtures of any tenants under the Leases
- (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, foreseen and unforeseen, 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 Mortgagor to Mortgagee under and/or secured by 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 7518 NORTON STREET and described as follows on Document is

LOT 108 INCRESCENT LAKE UNIT 2, AN ADDITION TO THE TOWN OF HERRILLVILLE, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 51 PAGE 77, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.



Common Address: 7518 NORTON STREET HERRILLVILLE, IN 46410
Real Estate Tax Key #: 15-497-47

- (j) **Leases:** Any and all leases, licenses, concessions or grants or other possessory interests granted by Mortgagor as 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, appendages, appurtenances, riparian or littoral rights now or hereafter belonging or in any way appertaining to the Land or the Improvements;
 - (2) all of Mortgagor'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 Mortgagor'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 Mortgagor's right to use such award pursuant to Article VIII; and
 - (4) all the estate, right, title, claim or demand whatsoever of Mortgagor, either at law or in equity, in and to the Land and/or 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 Mortgagor 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 Mortgagor and located on the Land;
 - (n) **Proceeds:** All monies and proceeds derived from the Personal Property 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, Mortgagor 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 Mortgagor in and to the Mortgaged Property, whether now owned or held or hereafter acquired by Mortgagor 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 Mortgagor 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.** Mortgagor hereby represents to Mortgagee that:
 - 3.1 **Validity of Security Documents:**
 - (a) The execution, delivery, and performance by Mortgagor of the Security Documents, and the borrowing evidenced by the Agreement, will not, to the best of Mortgagor'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 Mortgagor 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 Mortgagor, constitute the legal, valid and binding obligations of Mortgagor 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 Mortgagor, the Mortgaged Property

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ty, or the loan evidenced by the Security Documents are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Mortgagee a true and accurate knowledge of the subject matter

3.3 Mortgaged Property and Other Property. Mortgagor has good and marketable title in fee simple to the Land free and clear of all encumbrances except for the First Mortgage and other encumbrances of record as of the date of this Mortgage. Mortgagor will preserve its title to the Mortgaged Property and will forever covenant and defend the same to Mortgagee and will forever covenant and defend the validity and priority of the lien of this Mortgage.

3.4 First Mortgage. Mortgagor does hereby acknowledge that the only mortgage that is prior or, in any way, superior to this Mortgage is the First Mortgage.

3.5 Taxes. To the best of its knowledge, Mortgagor has filed all federal, state, county and municipal income tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns, pursuant to any assessments received by it or pursuant to law, and the Mortgagor does not know of any basis for additional assessment in respect of such taxes or additional taxes.

3.6 Litigation. There is not now pending against or affecting the Mortgaged Property, nor to the knowledge of the Mortgagor, either threatened or contemplated, any action, suit or proceeding at law or in equity or by or before any administrative agency which, if adversely determined, would materially impair or affect the value or operation of the Mortgaged Property.

3.7 Environmental Indemnity. Mortgagor shall indemnify and hold Mortgagee harmless against and from any and all loss, cost, damage, claim or expense (including, without limitation, any and all attorney's fees or expenses of litigation) incurred or suffered by Mortgagee on account of (i) the location on the Land or Improvements of any chemical, material, substance, or contaminant (including without limitation, oil, petroleum products, asbestos, urea, formaldehyde foam insulation, hazardous waste and/or toxic waste), the presence or storage of which or the exposure to which is prohibited, limited or regulated by federal, state, county, regional, or local governmental unit, agency or authority, or which presence, storage, or exposure may pose a hazard to health and safety or (ii) the failure by Mortgagor or any prior owner or occupant of the Land to comply with any applicable federal, state, county, regional or local environmental laws, regulations, and court or administrative orders.

ARTICLE IV AFFIRMATIVE COVENANTS

4. Affirmative Covenants. Until the entire indebtedness shall have been paid in full, Mortgagor hereby covenants and agrees as follows:

4.1 Compliance With Law. Mortgagor shall promptly and lawfully comply with, conform to and obey or contend by appropriate proceedings in good faith all present, and use its best efforts as to future, laws, ordinances, rules, regulations and requirements of every duly constituted governmental authority or agency and of any board of fire underwriters having jurisdiction, or similar body exercising functions, which may be applicable to it or to the Mortgaged Property or to the use and manner of use, occupancy, possession, operation, maintenance or reconstruction of the Mortgaged Property, whether or not such law, ordinance, rule, order, regulation or requirement shall necessitate structural changes or improvements or interfere with the use or enjoyment of the Mortgaged Property.

4.2 Payment of Impositions. Mortgagor shall duly pay and discharge, or cause to be paid and discharged, the impositions, Mortgagor may exercise the option to pay the same such installments.

4.3 Repair. Mortgagor shall keep the Mortgaged Property in good order and condition and make all necessary or appropriate repairs, replacements and renewals thereof.

4.4 Insurance.

(a) At all times during the term of this Mortgage, Mortgagor shall carry or cause to be carried policies insuring the Mortgaged Property against loss of rents or business interruption and against loss or damage by fire, theft, vandalism, malicious mischief, hazards, and such other risks as Mortgagee may from time to time require, including, without limitation, those risks included in the term "extended coverage." The amount of the coverage afforded by each of the Insurance Policies (the "Insurance Policies") shall be in amounts reasonably satisfactory to the Mortgagee and shall be sufficient to prevent any insured from becoming a co-insurer of a partial loss hereunder, but in any case no such amount shall be less than either (1) full replacement cost of all improvements, or (2) the outstanding indebtedness, whichever amount is greater at the time of loss or damage.

(b) All Insurance Policies shall, at all times, be in form, substance and with companies acceptable to Mortgagee; bear a non-contributory first mortgage endorsement and such other endorsements in form and content acceptable to Mortgagee in favor of Mortgagee or as Mortgagee may request; and shall remain in force, with renewals and replacements thereof, which renewals and replacements shall be deposited with Mortgagee with evidence of payment of all premiums no later than fifteen (15) days prior to the expiration of any then existing Insurance Policy, until the indebtedness is paid in full. Every Insurance Policy shall contain an agreement that no party thereto may terminate or modify the Insurance Policy without at least 15 days prior written notice to Mortgagee.

(c) Premiums on all Insurance Policies shall be paid by the Mortgagor in any payment made by the Mortgagor to the insurance carrier. Mortgagor may, but shall not be obligated to, make premium payments to prevent lapse or cancellation by reason of nonpayment of premium, and any amounts so paid by Mortgagee shall be treated as "Advances" in accordance with Paragraph 4.15.

4.5 Application of Insurance Policy Proceeds. In case of loss, damage or casualty to the Mortgaged Property, the proceeds of claims under the Insurance Policies covering casualty losses or damages shall be paid to Mortgagee for application, at the option of Mortgagee, either (i) to the indebtedness, (in the inverse order of maturity) with the balance of such proceeds, if any, paid to Mortgagor, or (ii) to the restoration of the Mortgaged Property on such conditions and subject to such controls as Mortgagee may impose in its absolute discretion, with the balance of such proceeds, if any, applied (in the inverse order of maturity) against such indebtedness. Notwithstanding any other provision of this Mortgage or the Agreement, no application of Insurance Policy proceeds to the indebtedness shall have the effect of curing any Event of Default or extending the time for making any payment hereunder or under the Agreement. Mortgagor shall not be held responsible for failure to collect any insurance proceeds due under the terms of any policy provided for herein regardless of the cause of such failure.

4.6 Restoration Following Uninsured Casualty. In the event of the happening of any casualty, of any kind of nature, ordinary or extraordinary, foreseen or unforeseen, not covered by any Insurance Policy resulting in damage to or destruction of the Mortgaged Property, Mortgagor shall give notice thereof to Mortgagee and Mortgagor shall promptly, at Mortgagor's sole cost and expense, commence and diligently continue to restore, repair, replace, rebuild or alter the damaged or destroyed property, as nearly as possible to its value, condition and character immediately prior to such damage or destruction.

4.7 Value. Mortgagor shall use its best efforts to prevent any act or thing which might materially and adversely impair the value or usefulness of the Mortgaged Property.

4.8 Performance of Other Agreements. Mortgagor shall duly and punctually perform all covenants and agreements expressed as binding upon it under any agreement of any nature whatsoever binding upon it that involves the Mortgaged Property including, without limitation, all rules and regulations of a homeowners or condominium association if the Mortgaged Property is part of a condominium cooperative, phased development or other homeowners association.

4.9 Inspection. Mortgagor shall permit Mortgagee, and parties designated by Mortgagee, at all reasonable times, to inspect the Mortgaged Property upon three (3) days' prior written notice.

4.10 Hold Harmless. Mortgagor shall, at Mortgagor's sole cost and expense, severally and hold the Mortgagee, its officers, officials, employees and agents harmless from any injury, claim, demand, suit, judgement, execution, liability, debt, damage or penalty (including attorney's fees) resulting from the Mortgaged Property, or the value of any of the Security Documents, arising out of, or alleged to arise out of or result from, any action or action of Mortgagor, except as may be the direct result of Mortgagee's negligence. Mortgagor shall pay all expenses incurred by the Mortgagee in defending itself with regard to any and all Claims. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees and shall also include the reasonable value of any services rendered by any employee of the Mortgagee.

4.11 Expenses. Mortgagor shall pay or reimburse Mortgagee for all reasonable attorneys' fees, reasonable costs and expenses paid or incurred by Mortgagee in any action, proceeding or dispute of any kind in which Mortgagee is made a party or appears as a party plaintiff or defendant, involving any of the Security Documents, Mortgagor, or the Mortgaged property, including, without limitation, to the foreclosure or other enforcement of this Mortgage, any condemnation involving the Mortgaged Property, any action to protect the security hereof, or any proceeding in probate or bankruptcy, and any such amounts paid or incurred by Mortgagee shall be treated as "Advances" in accordance with Paragraph 4.15.

4.12 Payment of Indebtedness. Mortgagor shall timely pay and discharge the indebtedness of any part thereof in accordance with the terms and conditions of the Agreement, this Mortgage, and the Security Documents.

4.13 Flood Disaster Protection Act. Mortgagee shall take all steps necessary to comply with the provisions of the Flood Disaster Protection Act of 1973, as amended, and if required by Mortgagee, Mortgagor shall cause the Mortgaged Property to be insured pursuant to the provisions of such Act.

4.14 First Mortgage. Mortgagor shall comply with all terms, provisions, and conditions of the First Mortgage.

4.15 Advances. In the event Mortgagor fails to perform any act required of Mortgagor by any of the Security Documents or to pay when due any amount required to be paid by any of the Security Documents, Mortgagee may, but shall not be obligated to, make such payment or perform such act. Such payment or performance by Mortgagee shall not have the effect of curing any Event of Default or of extending the time for making any payment due hereunder or under the Agreement. All amounts so paid by Mortgagee, together with all expenses incurred in connection therewith, shall be deemed advances ("Advances") under this Mortgage, shall be immediately due and payable and shall be added to the indebtedness. Advances shall bear interest from the date expended at the rate specified in the Agreement and shall be secured by this Mortgage as though originally a part of the principal amount of the indebtedness.

ARTICLE V NEGATIVE COVENANTS

5. Negative Covenants.

Until the entire indebtedness shall have been paid in full, Mortgagor covenants and agrees as follows:

5.1 Use Violations. Mortgagor shall not use the Mortgaged Property or allow the same to be used or occupied for any unlawful purpose or in violation of any permit or certificate, or any law, ordinance, regulation or restrictive covenant, covering or affecting the use or occupancy thereof, or suffer any act to be done or any condition to exist on the Mortgaged Property or any article to be brought thereon, that may be dangerous, unless safeguarded as required by law, or that may, in law, constitute a nuisance, public or private.

5.2 Alterations. Mortgagor shall not commit or knowingly permit any waste of the Mortgaged Property or make or permit to be made any material alterations or additions to the Mortgaged Property that would have the effect of materially diminishing the value thereof or that will in any way materially increase the risk of any ordinary fire or other hazard arising out of construction or operation thereof.

5.3 Replacement of Fixtures, Improvements and Personal Property. Mortgagor shall not permit any of the Fixtures or Improvements to be removed at any time from the Land, without prior written consent of the Mortgagee, unless actually replaced by an article of equal or greater suitability and value and owned by Mortgagor.

5.4 Other Liens. Mortgagor shall not, without the prior written consent of Mortgagee, create or permit to be created or to remain; any mortgage, pledge, lien, encumbrance or charge on, security interest in, or conditional sale of or other title retention agreement on (whether prior or subordinate to the liens of the Security Documents) the Mortgaged Property or income therefrom other than the Security Documents and the First Mortgage.

5.5 Transfer of Title. As a material inducement to Mortgagee to make the loan evidenced by the Agreement and secured by this Mortgage, Mortgagor has made representations to Mortgagee concerning the abilities of the undersigned in constructing, managing and operating the Mortgaged Property, which representations have been and will be relied upon by Mortgagee in funding this loan. Therefore, Mortgagor covenants and agrees that it will not sell, convey, transfer, alienate, pledge, encumber or permit to be sold, conveyed, transferred, alienated, pledged or encumbered the Mortgaged Property and will not convey or assign any beneficial interest in the Mortgaged Property, without written consent of the Mortgagee, which consent may be granted or withheld in Mortgagee's sole discretion, and if granted may be conditioned upon any successor of Mortgagor agreeing to an increase in the interest rate in the Agreement.

5.6 Sale or Lease of the Mortgaged Property. If Mortgagor contracts to sell or lease all or any portion of the Mortgaged Property or amends, modifies or terminates any now existing or future sales contract, lease, or other agreement concerning the Mortgaged Property, Mortgagor will furnish Mortgagee with a copy of the executed contract, lease or agreement within 15 days after the date of execution thereof.

If 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 inure to the benefit of, the successors and assigns of Mortgagor 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 Mortgagors.* Mortgagor's covenants and agreements hereunder shall be joint, several and primary. Any Mortgagor who co-signs this Mortgage but does not execute the Agreement: (a) is co-signing this Mortgage only to mortgage, grant and convey the Mortgaged Property; (b) is a not personally obligated to pay the Indebtedness; and (c) agrees that Mortgagee and any other Mortgagor may agree to extend, modify, forebear or make any accommodations with regard to the terms of this Mortgage or the Agreement without that Mortgagor's consent.

9.12 *Severability.* In case any one of the Obligations or the provisions of this Mortgage or of the Agreement shall be determined to be invalid, illegal or unenforceable in any respect, the validity of the remaining Obligations or provisions of this Mortgage shall be in no way affected, prejudiced or disturbed thereby.

9.13 *Modification.* This Mortgage may not be changed, waived, 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 Indiana.

9.15 *Strict Performance.* Any failure by Mortgagee to insist upon strict performance by Mortgagor 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 Mortgagor of any and all of them.

9.16 *Headings.* The Article headings and the section and subsection entitlements hereof 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 *Riders.* If one or more riders are attached to and made a part of this Mortgage, the covenants and agreements for each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage.

9.18 *Miscellaneous Provisions.* No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured, and all indebtedness shall be payable without any relief whatever from valuation or appraisal. The drawers or endorers severally waive presentment for payment, protest, or notice of protest and non-payment of this note.

IN WITNESS WHEREOF, the Mortgagor, has executed this instrument the day and year first above written:

DANNY F. TOTM

Danny F. Totm

LYNNE E. TOTM

Lynne E. Totm

Witness:

M. O. Phipps

Document is NOT OFFICIAL!

This Document is the property of the Lake County Recorder!

Witness of _____

This document was prepared by and upon recording please mail to:

CHRISTOPHER G. RAYMOND

STATE OF ILLINOIS:

COUNTY OF COOK:

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I, a Notary Public in and said County in the State aforesaid, DO HEREBY CERTIFY THAT: DANNY F. TOTM and LYNNE E. TOTM

HUSBAND AND WIFE

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 27th day of June A.D. 1992



Margeau A. Phipps
Notary Public

My Commission Expires:

10-2-95



DANNY F. TOTM
LYNNE E. TOTM
2518 WORTON STREET
LANSING, ILLINOIS 60438