



RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:  
First Deposit National Bank  
c/o Mortgage Processing  
P.O. Box 9120  
Pleasanton, CA 94566

RECORDING FEE: \$15.00  
RECORDING TAX: \$11.00  
TOTAL: \$26.00  
K-92-867342

82007342

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY.

MORTGAGE

THIS MORTGAGE is made this 10th day of November, 1992, between the Mortgagor, Carl V. Batzkall and Sharon R. Batzkall, his wife, in joint tenancy, whose address is 3530 South 58th Court, Cicero, Illinois 60650 (herein "Borrower"), and the Mortgagee, FIRST DEPOSIT NATIONAL BANK, a national association organized and existing under the laws of the United States of America whose address is 119 Main Street, Tilton, New Hampshire 03276 (herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$21,000.00, which indebtedness is evidenced by Borrower's Select Equity Account Agreement dated November 10, 1992 and extensions and renewals thereof (herein the "Agreement"), providing for monthly installments of principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on November 10, 2007;

To secure to Lender the repayment of the indebtedness evidenced by the Agreement, with interest thereon (it being the intention of the Lender and Borrower that all advances pursuant to the Agreement made after the date hereof enjoy the same priority and security hereby created as if all such advances had been made on the date hereof); 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, with power of sale, the following described property located in the County of Cook, State of Illinois, which has the address of 3530 South 58th Court, Cicero, Illinois 60650 (herein "Property Address") and which is more particularly described in Exhibit "A" attached hereto and by reference incorporated herein;

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances and rents, all of which 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 (or the leasehold estate if this Mortgage is on a leasehold) are hereinafter referred to as the "Property";

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, and that the property is unencumbered except for encumbrances of record. Borrower covenants that Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to encumbrances of record.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

39.50

- PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Agreement and late charges as provided in the Agreement.
- FUNDS FOR TAXES AND INSURANCE.** Subject to applicable law or a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments of principal and interest are payable under the Agreement, until the Agreement is paid in full, a sum (herein "Funds") equal to one-twelfth of the yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over this Mortgage, and ground rents on the Property, if any, plus one-twelfth of yearly premium installments for hazard insurance, plus one-twelfth of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Borrower shall not be obligated to make such payments of Funds to Lender to the extent that Borrower makes such payments to the holder of a prior mortgage or deed of trust if such holder is an institutional Lender.

If Borrower pays Funds to Lender, the Funds shall be held in an institution the deposits or accounts of which are insured or guaranteed by a Federal or state agency (including Lender if Lender is such an institution). Lender shall apply the Funds to pay said taxes, assessments,

IN 40931 (158) 1110

928887777

# UNOFFICIAL COPY

insurance premiums and ground rents. Lender may not charge for so holding and applying the Funds, analyzing said account or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender may agree in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future monthly installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installment of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency in one or more payments as Lender may require.

Upon payment in full of all sums secured by this Mortgage and closing of the account by Borrower, Lender shall promptly refund to Borrower any Funds held by Lender. If under Paragraph 17 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

**3. APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender under the Agreement and Paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrower under Paragraph 2 hereof, then to interest payable under the Agreement, and then to the principal due under the Agreement.

**4. PRIOR MORTGAGES AND DEEDS OF TRUST; CHARGES; LIENS.** Borrower shall perform all of Borrower's obligations under any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage, including Borrower's covenants to make payments when due. Borrower shall pay or cause to be paid 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 ground rents, in any.

**5. 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.

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 insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in a form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

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.

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.

**6. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

**7. 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, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as is necessary to protect Lender's interest. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon, at the Agreement rate, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder.

**8. INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest in the Property.

**9. 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, are hereby assigned and shall be paid to Lender, subject to the terms of any mortgage, deed of trust or other security agreement with a lien which has priority over this Mortgage.

**10. BORROWER NOT RELEASED; FORBEARANCE BY LENDER NOT A WAIVER.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest. 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.

**11. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CO-SIGNERS.** 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. Any Borrower who co-signs this Mortgage, but does not execute the Agreement, (a) is co-signing this Mortgage only to mortgage, grant and convey that Borrower's interest in the Property to Lender under the terms of this Mortgage, (b) is not personally liable on the Agreement or under this Mortgage, and (c) agrees that Lender and any other Borrower hereunder may agree to extend, modify, forbear, or make any other accommodations with regard to the terms of this Mortgage or the Agreement, without that Borrower's consent and without releasing that Borrower or modifying this Mortgage as to that Borrower's interest in the Property.

**12. 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 delivering it or 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 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 the manner designated herein.

**13. GOVERNING LAW; SEVERABILITY.** The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of Federal law to this Mortgage. In the event that any provision or clause of this Mortgage or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Agreement which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Agreement are declared to be severable. As used herein, "costs", "expenses" and "attorneys' fees" include all sums to the extent not prohibited by applicable law or limited herein.

**14. BORROWER'S COPY.** Borrower shall be furnished a conformed copy of the Agreement and of this Mortgage at the time of execution or after recordation hereof.

# UNOFFICIAL COPY

**15. REHABILITATION LOAN AGREEMENT.** Borrower shall fulfill all of Borrower's obligations under any home rehabilitation, improvement, repair, or other loan agreement which Borrower enters into with Lender. Lender, at Lender's option, may require Borrower to execute and deliver to Lender, in a form acceptable to Lender, an assignment of any rights, claims or defenses which Borrower may have against parties who supply labor, materials or services in connection with improvements made to the Property.

**16. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER.** If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Mortgage. However, this option shall not be exercised by Lender if exercise is prohibited by Federal law as of the date of this Mortgage.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

**NON-UNIFORM COVENANTS.** Borrower and Lender further covenant and agree as follows:

**17. ACCELERATION; REMEDIES.** Except as provided in Paragraph 16 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 give notice to Borrower as provided in Paragraph 12 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 10 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 nonexistence 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 attorneys' fees and costs of documentary evidence, abstracts and title reports.

**18. BORROWER'S RIGHT TO REINSTATE.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage due to Borrower's breach, 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 and the Agreement 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 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action 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.

**19. ASSIGNMENTS OF RENTS; APPOINTMENT OF RECEIVER.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under Paragraph 17 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 17 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court 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 the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

# UNOFFICIAL COPY

20. **RELEASE.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrower. Borrower shall pay all costs of recordation, if any.

21. **WAIVER OF HOMESTEAD.** Borrower hereby waives all rights of homestead exemption in the Property.

22. **RIDERS TO THIS SECURITY INSTRUMENT.** If one or more riders are executed by Borrower and recorded together with this Mortgage, the covenants and agreements of each rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage. [Check applicable box(es).]

- |  |   |
|--|---|
| <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> 1-4 Family Rider                       |
| <input type="checkbox"/> Other _____       | <input checked="" type="checkbox"/> Select Equity Account Rider |
|  | <input type="checkbox"/> Planned Unit Development Rider         |

INITIAL  
CYB

INITIAL  
Sib

### REQUEST FOR NOTICE OF DEFAULT AND FORECLOSURE UNDER SUPERIOR MORTGAGES OR DEEDS OF TRUST

Borrower and Lender request the holder of any mortgage, deed of trust or other encumbrances with a lien which has priority over this Mortgage to give Notice to Lender, at Lender's address set forth on page one of this Mortgage of any default under the superior encumbrance and of any sale or other foreclosure action.

IN WITNESS WHEREOF, Borrower has executed this Mortgage.

Carl V. Batzkall  
Borrower Carl V. Batzkall

Sharon R. Batzkall  
Borrower Sharon R. Batzkall

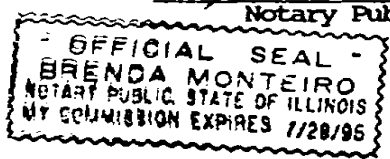
State of Illinois Cook County SS:

I, The Undersigned, a Notary Public in and for said county and state, do hereby certify that Carl V. Batzkall and Sharon R. Batzkall personally known to me to be the same person(s) whose name(s) they subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their free voluntary act, for the uses and purposes therein set forth.

Given my hand and official seal, this 10th day of November, 1992

My Commission expires:

Brenda Monteiro  
Notary Public



UNOFFICIAL COPY

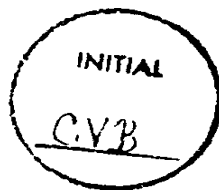
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

"EXHIBIT A"

Lot 49 in Austin Boulevard Addition to Boulevard Manor, a subdivision of the North 18 acres of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois *CVB*

P.I.N. 16-32-402-029



Property of Cook County Clerk's Office



# UNOFFICIAL COPY

FIRST DEPOSIT NATIONAL BANK  
RIDER TO MORTGAGE  
SELECT EQUITY ACCOUNT

Loan Number \_\_\_\_\_

Date November 10, 1992

FOR VALUE RECEIVED, the undersigned ("Borrower(s)") agree that the following provisions shall be incorporated into the Mortgage of even date to which this Rider is attached, including any other riders which might amend said Mortgage (hereinafter collectively the "Mortgage").

So long as this Rider shall remain in effect, to the extent that its provisions are inconsistent with the provisions of the Mortgage or the Select Equity Account Agreement (the "Agreement"), the provisions of this Rider shall prevail and shall supercede such inconsistent provisions. While the Agreement or any part of the indebtedness evidenced by the Agreement is held by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, or their successors, the provisions of this Rider shall be of no force or effect during the period of time that the Agreement, or any part of the indebtedness evidenced by the Agreement, is so held.

1. **EFFECTIVENESS OF PROVISIONS.** Except as otherwise provided in this Rider, all of the provisions of the Agreement and the Mortgage shall remain in force and effect.

2. **OPEN-END CREDIT.** The Agreement, dated of even date herewith and executed by Borrower in favor of Lender, provides that for the first 10 years after the date of the Agreement, the credit secured by the Property, as defined in the Mortgage, is an open-end revolving line of credit. At any particular time, the outstanding obligation of Borrower to Lender under the Agreement may not exceed Twenty-One Thousand Dollars and No/100 dollars (\$21,000.00) (the "Credit Limit"). Borrower's obligations under the Agreement, Mortgage and Rider shall be released and a satisfaction of mortgage shall be furnished to Borrower upon the occurrence of the following events: (i) receipt by Lender of a written request to close the Select Equity Account; (ii) the return of all Select Equity checks in the possession of Borrower; (iii) the Select Equity Account being paid in full by Borrower; (iv) the blocking of the account by Lender; and (v) proper accounting for all checks in transit.

It is understood that Lender will not be liable for the dishonor of any checks in transit after receipt of a demand for payoff on the account. In the event Lender does honor any check processed after receipt of a demand for payoff, or even subsequent to delivery to Borrower of a certificate of satisfaction of mortgage, Borrower shall be liable for the payment of such check.

3. **CONVERSION OF ACCOUNT.** At the end of 10 years from the date of the Mortgage, any amounts owed and outstanding under the Agreement will convert to an adjustable rate, adjustable payment non-revolving five year term loan, as provided in the Agreement, with a maturity date of November 10, 2007. All outstanding interest is due and payable no later than the conversion date. The Property will continue to secure payment of all sums owed under the terms of the Agreement.

4. **IMPOUND ACCOUNTS.** So long as Borrower pays prior to delinquency all yearly taxes and assessments (including condominium and planned unit development assessments, if any) which may attain priority over the Mortgage and ground rents on the Property, if any, plus all premiums for hazard insurance and mortgage insurance, if any, Lender waives the requirements of Covenant 2 of the Mortgage. Said waiver is revoked if such payments are not timely made.

5. **NOTICE TO BORROWER.** Any notice to Borrower provided for in the Agreement, Mortgage, or this Rider shall be deemed given when it is deposited in the United States mail, postage prepaid, addressed to Borrower at the address of Borrower as it appears in Lender's records pertaining to the loan evidenced by the Agreement at the time the notice is given.

6. **RELEASE.** The Mortgagee named in the Mortgage, or any successor Mortgagee thereunder, may charge a reasonable release fee for each full or partial release of the Mortgage Instrument if permitted under applicable law at the time of any release.

7. **FEE FOR SERVICES.** Lender or Mortgagee may charge Borrower a reasonable fee for any services rendered to Borrower or on Borrower's behalf pursuant to the Mortgage or the Agreement. Any such charge shall be secured by the Mortgage, and Borrower agrees to pay the same upon demand, together with interest thereon from the date of such charges at the rate payable from time to time on outstanding principal under the Agreement.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

8. **DEFAULT; ACCELERATION.** Covenant 17 of the Mortgage is deleted in its entirety and the following provision is substituted in lieu thereof. For the purposes of this section, "You" and "Your" shall refer to Borrower and "We" and "Us" shall refer to Lender:

**17. DEFAULT; SUSPENSION OF CREDIT PRIVILEGES; ACCELERATION.**

You understand and agree that if you take certain action(s), or fail to take certain action(s), in violation of this Mortgage, the Rider or the Agreement, you will be in default under this Mortgage and the Agreement. If you are in default, we may either (1) refuse to make additional extensions of credit, reduce your Credit Limit, or both, or (2) terminate your Select Equity Account, require you to pay us the entire outstanding balance in one payment, and charge you certain fees. Which of these course(s) of action we take will depend on the nature of your Default.

We may refuse to make additional extensions of credit, reduce your Credit Limit, or both, if:

- The value of the Property declines significantly below its appraised value.
- We reasonably believe you will not be able to meet the repayment requirements due to a material change in your financial circumstances.
- You are in default of a material obligation in this Mortgage or the Agreement.
- Government action prevents us from imposing the annual percentage rate provided for or impairs our security interest such that the value of the interest is less than 120% of your Credit Limit.
- A regulatory agency has notified us that continued advances would constitute an unsafe and unsound practice.
- The maximum annual percentage rate is reached.
- You breach any obligation of Section 20 of the Agreement.

We may terminate your Select Equity Account, require you to pay us the entire outstanding balance in one payment, and charge you certain fees if:

- You fail to make any payment when due.
- You make any false or misleading statements on any application or financial statement provided to us in connection with your Select Equity Account.
- You die.
- Any action or inaction on your part impairs our security interest in the Property.
- You fail to keep current under prior mortgages on the Property.
- Any change occurs in any laws, regulations or interpretations that would impair our security interest in the Property.
- You allow a public nuisance to exist on the Property.
- The Property becomes subject to any other lien that adversely affects our security interest in the Property.
- Any action occurs that permits us, under this Mortgage, to, at our option, declare immediately due and payable all sums secured by this Mortgage if all or any part of the Property is sold or transferred by you without our written consent (the "Due-on-Sale Clause").
- You fail to maintain at all times proper insurance on the Property against fire, flood (if required), and other casualties in an amount set by an insurance company acceptable to us and naming First Deposit National Bank as loss payee.

We may, after employing the appropriate legal procedures required by law, sell the Property in accordance with the laws of the jurisdiction in which the Property is located. We will apply sale proceeds: first, to all reasonable costs; then to sums secured by the Agreement; and then to the persons legally entitled to it. "Costs" include attorneys' fees (including fees for attorneys employed by us or our agents); Mortgagee's fees, expenses of attempted collection, protecting the Property, providing insurable title to a purchaser, and other expenses we incur to enforce the Mortgage, the Rider or the Agreement. If we have not acted under this section, we may be required to advance funds to cover your transactions even if you are in default.

9. **BORROWER'S RIGHT TO REINSTATE.** Covenant 18 of the Mortgage is deleted in its entirety and the following provision is substituted in lieu thereof:

**18. 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 within ninety (90) days following the service of a summons on Borrower if: (a) Borrower pays Lender all sums which would be then due under this Mortgage, and the Agreement which it secures including all advances, had no acceleration occurred; (b)

0206070112

# UNOFFICIAL COPY

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 17 hereof, including, but not limited to, reasonable attorneys' fees; and (d) Borrower takes such action 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. However, this right to reinstate may only be exercised by Borrower once every five years and shall not apply in the case of acceleration under Paragraph 16.

10. **INJURY TO PROPERTY.** All causes of action of Borrower, whether accrued before or after the date of the Mortgage, for damage or injury to the Property described in the Mortgage or any part hereof, or in connection with the transaction financed in whole or in part by the funds loaned to Borrower by Lender, or in connection with or affecting the Property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of material fact are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by the Mortgage or to any deficiency under the Mortgage or may release any moneys so received by it or any part thereof, as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute such further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

11. **GOVERNING LAW; SEVERABILITY.** Covenant 13 of the Mortgage is deleted in its entirety and the following is substituted in lieu thereof:

13. **GOVERNING LAW, SEVERABILITY.**

Subject to the principles governing choice of law, the Agreement is made pursuant to and shall be construed and governed by the laws of the United States and the laws of the State of New Hampshire and the Mortgage is made pursuant to, and shall be construed and governed by, the laws of the United States and the in rem rights, remedies and procedures of the State of Illinois and by the rules and regulations promulgated thereunder. If any paragraph, clause or provision of this Mortgage or the Agreement or any other obligations secured by this Mortgage is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so construed or interpreted and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage or the Agreement or other obligations secured by this Mortgage.

12. **SUBSTITUTION OF MORTGAGEE.** Lender may, from time to time, by instrument in writing, substitute a successor or successors to any Mortgagee named in the Mortgage or acting thereunder, which instrument executed and acknowledged by Lender and recorded in the office of the recorder of the county or counties where the Property secured by the Mortgage is situated shall be conclusive proof of the proper substitution of such successor Mortgagee or Mortgagees, who shall, without conveyance from the predecessor Mortgagee, succeed to all its title, estate, rights, powers and duties. The procedure herein provided for substitution of Mortgagees shall not be exclusive of other provisions for substitutions permitted by law.

13. **OFFSETS.** No indebtedness secured by the Mortgage shall be deemed to have been offset or to be offset or compensated by all or part of any claim, cause of action, or counterclaim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender.

14. **ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** Covenant 19 of the Mortgage is deleted in its entirety and the following provision is substituted in lieu thereof:

19. **GRANT OF LIEN ON RENTS IN POSSESSION.** As additional security hereunder, Borrower hereby grants a lien on the rents of the Property, provided that Borrower shall, prior to acceleration under Paragraph 17 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 17 hereof or abandonment of the Property, 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

# UNOFFICIAL COPY

applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, any premium on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

IN WITNESS WHEREOF, Borrower has executed this Rider on this 10<sup>th</sup>  
day of November, 19 92.

Carl V. Batzkall  
Borrower Carl V. Batzkall

Sharon R. Batzkall  
Borrower Sharon R. Batzkall

[Space Below This Line For Acknowledgment]

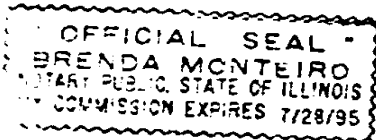
State of Illinois Cook County SS:

I, Carl V. Batzkall, a Notary Public in and for said county and state, do hereby certify that Carl V. Batzkall and Sharon R. Batzkall personally known to me to be the same person(s) whose name(s) is 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 voluntary act, for the uses and purposes therein set forth. C. Batzkall

Given under my hand and official seal, this 10<sup>th</sup> day of November, 19 92.

My commission expires:

Brenda R. Monteiro  
Notary Public



Property of Cook County Clerk's Office

926877012