

UNOFFICIAL COPY

RECORDING REQUESTED BY AND WHEN RECORDED, MAIL TO:

PREPARED BY: *Carol A. Dinger*
CAROL A. DINGER

Sears Consumer Financial Corporation of Delaware
2500 Lake Cook Road
Suite CL-A
Riverwoods, IL 60015



92216896

Loan No. 390 367917

92216896

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MORTGAGE

THIS MORTGAGE, is made this 25 day of March 1972
between the Borrower, MARY G. GIBSON
HUSBAND AND WIFE

(herein "Borrower"), whose address is
138 N. MADISON AVE.
LAGUNA, IL 60125

and the Mortgagee,

DEPT-01 RECORDING
1972 MAR 25 14 39 25

Sears Consumer Financial Corporation of Delaware

a Delaware Corporation, whose address is 2500 Lake Cook Road, Suite CL-A, Riverwoods, IL 60015 (herein "Lender")

92216896

WITNESAS, Lender and Borrower have entered into an Account Agreement and Disclosure Statement (the "Agreement") pursuant to which Lender is bound from time to time to make loans to Borrower under an agreement whereby Borrower may borrow, repay and borrow again during the term of the Agreement.

Borrower, in consideration of the indebtedness herein created and the mortgage herein created, irrevocably mortgages, grants and conveys to Lender the following described property located in the County of Cook

State of Illinois, with their usual COVENANTS, CONDITIONS AND WARRANTIES, to wit: 138 N. MADISON AVE. LAGUNA, ILL. 60125

which has the address of 138 N. MADISON AVE. (Number and Street)
LAGUNA, ILL. (City, State and Zip Code) (herein "Property Address")

AMOUNT OF LOAN (to be filled in by Lender)
(to be filled in by Lender)

The amount of the loan shall be secured by the mortgage herein made on the property and all accretions thereto.

Subject however to the rights and advantages given herein to Borrower to collect and apply such rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including royalties and profits thereon, shall be deemed to be and remain a part of the property secured by this mortgage, together with all property (for the benefit of the Mortgagee or a bona fide purchaser thereof) to be the "property".

Property of Cook County Clerk's Office

3100
E

UNOFFICIAL COPY

Loan No. 390 367917

TO SECURE to Lender (a) the repayment of all indebtedness due and to become due under the terms and conditions of the Agreement and Disclosure Statement (the "Agreement") executed by Borrower and dated the same day as this Mortgage, and all modifications, extensions and renewals thereof, which Agreement provides that Lender shall make advances to Borrower of a revolving nature and that such advances may be made, repaid and remade from time to time, subject to the limitation that the total outstanding principal balance owing at any one time under the Agreement (not including finance charges thereon at a rate which will vary from time to time, and other fees and other charges which may from time to time be owing under the Agreement) shall not exceed the Amount Secured designated on the first page of this Mortgage, (b) the payment of all other sums advanced in accordance herewith to protect the security of this Mortgage, with finance charges thereon at the variable rate described in the Agreement; (c) the performance of the covenants and agreements contained herein and in the Agreement; and (d) any future advances made by Lender to Borrower pursuant to paragraph 6 of this Mortgage (herein "Future Advances").

All references in this Mortgage to the "Note" shall be deemed to refer to the Agreement, and any references in this Mortgage to notes and promissory notes shall include loan agreements, as applicable. All references to interest shall be deemed to include finance charges.

Borrower warrants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage said and convey the Property, that the Property is unencumbered, except for the encumbrances of record appraised by the appraiser, except as provided in paragraph 3 hereof, and that Borrower will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, conditions or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the Loan as provided by the Agreement, and the principal of and interest on any Future Advances covered by this Mortgage.

2. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Lender under the Agreement and paragraph 1 hereof shall be applied by Lender first (in the order listed below) to any finance charges, other costs and other charges owing under the Agreement or this Mortgage, second, to the principal of the Loan under the Agreement.

3. LIENS. Borrower shall pay all taxes, assessments, and other charges, fees and impositions attributable to the Property which may attach priority over this Mortgage (excluding the lien of any mortgage or deed of trust encumbering the Property that is prior in right or in time ("Prior Mortgage") to this Mortgage and that has been approved by Lender), and his said payments or payments, if any, by Borrower, shall be made, when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of arrears due and when Borrower makes payment directly, Borrower shall promptly furnish to Lender receipts reflecting such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage (excluding the lien of any Prior Mortgage), provided that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or (a) a good faith contest such lien by, or defend a judgment of such lien by, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof, or (b) release from the burden of such prior lien an equivalent in form and value to Lender's secured obligation by this Mortgage. Any default by Borrower under the terms of any Prior Mortgage shall constitute a default under this Mortgage.

Borrower shall not enter into any payment arrangement with the holder of any Prior Mortgage by which the Prior Mortgage or the indebtedness secured by the Prior Mortgage is modified, extended, extended or renewed, without the prior written consent of Lender. Borrower shall neither request nor accept any future advance under any Prior Mortgage without the prior written consent of Lender.

92216498

UNOFFICIAL COPY

Loan No. 89-367617

4. HAZARD INSURANCE. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and such other hazards as Lender may require and in such amounts and for such periods as Lender may require. Unless Lender in writing requires otherwise, the policy shall provide insurance on a replacement cost basis in an amount not less than that necessary to comply with any coinsurance percentage stipulated in the hazard insurance policy. The amount of coverage shall be no less than Borrower's credit limit under the Agreement plus the full amount of any superior lien on the Property.

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

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

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within thirty (30) days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to make 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.

Unless Lender and Borrower otherwise agree in writing, such application of proceeds to principal shall not extend or postpone the due date of the payments referred to in paragraph 1 hereof or change the amount of such payments. If under paragraph 17 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. 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 or its value, in violation of any lease if this Mortgage is on a leasehold. If this Mortgage is on a leasehold, a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants, conditions and governing the condominium or planned unit development, or the laws or regulations of the jurisdiction of the planned unit development, and compliance with such laws or regulations shall be a condition precedent to the execution by Borrower and recorded together with this Mortgage, the amendments and riders to such laws or regulations shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider were a part hereof.

6. PROTECTION OF LENDER'S SECURITY. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, a foreclosure, insolvency, code enforcement, or arrangements or proceedings involving a bankruptcy or liquidation, then Lender, at Lender's option, upon notice to Borrower, may make such appearances, filings or such suits and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. If Lender repairs or replaces the same as a condition to making the loan secured by this Mortgage, Borrower shall pay the expenses required to maintain such insurance in effect until such time as the requirement for such insurance is terminated in accordance with Borrower's and Lender's written agreement or applicable law.

Any amounts advanced by Lender pursuant to this paragraph 6, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon demand from Lender to Borrower requesting payment hereof, and shall bear interest from the date of advance at the rate payable from time to time on any indebtedness under the Agreement until payment of interest at such rate would be contrary to applicable law, or which would result in a rate in excess of the highest rate permissible under applicable law. Nothing contained in this paragraph 6 shall require Lender to incur any expense or take action hereunder. Any action taken by Lender pursuant to this paragraph 6 shall constitute a defense to any claim by Borrower that Lender may have committed of any covenant or agreement of this Mortgage.

92216896

7. WAIVER OF DEFENSES. Borrower hereby waives all defenses, claims, counterclaims and objections of the Property, provided that the same shall not be asserted against Lender in any proceeding or action, cause therefor related to the loan secured by this Mortgage.

8. COSTS AND FEES. The proceeds of any award or judgment or settlement or compromise shall in connection with any suit, litigation or proceeding of the Property or part thereof, or for any reason in lieu of condemnation, are hereby assigned and shall be paid to Lender.

UNOFFICIAL COPY

Loan No. 03216898

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within thirty (30) days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraph 1 hereof or change the amount of such payments.

9. BORROWER NOT RELEASED. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage or release of any liability for the obligations secured hereby, or any other amendment to the Agreement or this Mortgage granted by Lender to Borrower or to any successor in interest of Borrower, shall not operate to release, in any manner, the liability of Borrower or Borrower's successors, as the case may be. Lender shall not be required to commence proceedings against any successor in interest of Borrower 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 or Borrower's successor in interest.

10. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or any grace afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The payment of insurance or the payment of taxes or other fees or charges by Lender shall not be a waiver of Lender's right to enforce the actuality of the indebtedness secured by this Mortgage.

11. RIGHTS CUMULATIVE. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, in part, jointly or successively.

12. SUCCESSORS AND ASSIGNS BOUND, JOINT AND SEVERAL LIABILITY, CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, in fact to the provisions of paragraph 18 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for identification only and are not to be used to interpret or define the provisions hereof.

13. NOTICE. Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided in this Mortgage shall be given by personally delivering such notice to Borrower or by mail, postage paid, by first class 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 first class 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.

14. UNIFORM MORTGAGE; GOVERNING LAW, SEVERABILITY. The form of Mortgage combines uniform covenants for real estate and various forms covenants with the law of the jurisdiction by jurisdiction to constitute a uniform mortgage covering real property. This Mortgage shall be governed by the law of the jurisdiction in which the Property is located, except to the extent prohibited by federal law. In the event that any provision or clause of this Mortgage conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage are declared to be severable.

This Mortgage and the Agreement thereunder shall be filed with a duly issued copy of the Agreement and this Mortgage at the time of recording of a deed that includes:

03216898

15. MORTGAGE TO SECURE. If Borrower transfers any or all of the Property or any interest in it, or if Borrower is involved in a transfer or assigns Borrower's rights in the Property, Lender may, at her/her option, enforce the obligations secured by this Mortgage to be immediately due and payable.

16. ASSIGNMENT OF RIGHTS. In the event of any assignment of agreement of Borrower to a third party, the assignee shall be bound by the terms and conditions of this Mortgage and the Agreement thereunder. If the assignee is not a party to this Mortgage, the assignee shall be deemed to have accepted the terms and conditions of this Mortgage by accepting the assignment of the rights and obligations of Borrower, by which such assignment is made, and that the assignee shall be deemed to have accepted the date specified in the mortgage and the Agreement thereunder by the Mortgage and the Agreement thereunder. The notice of the assignment of the right to be due and payable shall be deemed to have been given to the assignee at the time of the assignment of the rights and obligations of Borrower to a third party.

UNOFFICIAL COPY

Loan No. 871 367717

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 invoke any remedies permitted by applicable law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph 8, including, but not limited to, reasonable attorney's fees to the extent permitted by law. Lender shall publish the notice of sale and the Property shall be sold in the manner prescribed by applicable law. Lender or Lender's designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all reasonable costs and expenses of the sale, including reasonable attorney's fees to the extent permitted by law and costs of title evidence; (b) to all sums secured by this Mortgage, and (c) the excess, if any, to the person or persons legally entitled thereto.

18. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER, LENDER IN POSSESSION As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 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 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. Lender and the receiver shall be liable to account only for those rents actually received.

19. RELEASE Upon payment of all sums secured by this Mortgage, Lender shall discharge this Mortgage without cost to Borrower. Borrower shall pay all costs of recordation if any.

20. REQUEST FOR NOTICE Borrower requests that copies of the notice of default and notice of sale be sent to Borrower's address which is the Property Address.

21. WAIVER OF HOMESTEAD Borrower waives all right of Homestead exemption in the property.

22. NO MERGER There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the prior written consent of Lender.

92216895

92216895

UNOFFICIAL COPY

Loan No. 390 367917

IN WITNESS WHEREOF, BORROWER has executed this Mortgage under Seal.

[Signature]
Borrower

[Signature]
Borrower

[Signature]
Witness

[Signature]
Witness

STATE OF ILLINOIS, _____ County ss:

On this _____ day of _____, 19____, before me, personally appeared _____ and _____, acknowledged the foregoing instrument to be their free act and deed.

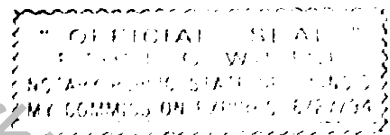
Witness my hand and official seal.

Signature *[Signature]*

Notary Public
State of Illinois

(Received for official seal)

My commission expires _____



(By you follow this line around for Lender and Endorser)

Notary Public, State of Illinois
My Commission Expires _____
Notary Public, State of Illinois
My Commission Expires _____
Notary Public, State of Illinois
My Commission Expires _____

02210898