

UNOFFICIAL COPY

CHEMICAL BANK N. A.
C/O CHEMICAL FINANCIAL SERVICES CORPORATION
2970 WILDERNESS PLACE, #120
BOULDER CO 80301

13-17-94
SWS 242731

94788710

DEPT. OF RECORDING 939.00
15000 - 1040 2275 09/09/94 11:17:00
COOK COUNTY # 94 288710
COOK COUNTY RECORDER

MORTGAGE

THIS MORTGAGE is made this 2nd day of SEPTEMBER, 1994, between the Mortgagor,
KEITH P. FOLEY AND JOAN FOLEY, his wife as Joint Tenants,

(herein "Borrower"), and the Mortgagee,

CHEMICAL BANK N. A.,

a corporation organized and

existing under the laws of THE UNITED STATES OF AMERICA

, whose address is

C/O CHEMICAL FINANCIAL MANAGEMENT CORPORATION, P.O. BOX 93715, CLEVELAND OH 44101

(herein "Lender").

WHEREAS, Borrower is indebted to Lender in the principal sum of U.S. \$ 20,561.00, which indebtedness is evidenced by Borrower's note dated SEPTEMBER 2 1994 and extensions and renewals thereof (herein "Note"), providing for monthly installments of principal and interest, with the balance of indebtedness, if not sooner paid, due and payable on SEPTEMBER 2 2009;

TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; 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 the following described property located in the County of COOK, State of Illinois:

SEE EXHIBIT 'A' ATTACHED HERETO AND MADE A PART HEREOF.

which has the address of 906 SOUTH MITCHELL

[Street]

Illinois

60005

[Zip Code] (herein "Property Address");

ARLINGTON HEIGHTS,

[City]

ILLINOIS - SECOND MORTGAGE - 1/80 - FNMA/FHLMC UNIFORM INSTRUMENT

Form 3814
Amended 3/94
-78(IL) (8402)

VMP MORTGAGE FORMS - (800)881-7891

Page 1 of 8

Inktag: [Signature]



94788710

Box 14

P.B.

SEP 02 1994 10:47AM CHEMICAL SERVICES CLOSING

3104

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

COMMITMENT FOR TITLE INSURANCE NO.94002731

LEGAL DESCRIPTION

LOT 12 IN MILDRED M. TOLAR'S RE-SUBDIVISION OF LOTS 57, 58, 59, 60, 62, 63 AND 64 IN R.A. CEPEK'S ARLINGTON HIGHLAND, A SUBDIVISION OF PARTS OF SECTIONS 4 AND 9, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID MILDRED M. TOLAR'S RESUBDIVISION REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON MAY 29, 1969, AS DOCUMENT NO. 2453933, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 03-31-415-022

Commonly known as: 906 S. MITCHELL, ARLINGTON HEIGHTS, IL

END OF SCHEDULE A.

Property of Cook County Clerk's Office

94788710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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:

1. Payment of Principal and Interest. Borrower shall promptly pay when due the principal and interest indebtedness evidenced by the Note and late charges as provided in the Note.

2. 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 Note, until the Note 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, 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 installments 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, 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 Note 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 on the Note, and then to the principal of the Note.

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, if 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 for 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.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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.

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 Note 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 inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor 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 Note, (a) is co-signing this Mortgage only in 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 Note 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 Note 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 Note conflicts with applicable law, such conflict shall not affect other

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note 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 Note and of this Mortgage at the time of execution or after recordation hereof.

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 its 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 Note 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. Assignment 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.

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 right of homestead exemption in the Property.

93788710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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 encumbrance 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.

Keith P. Foley (Seal)
KEITH P. FOLEY Borrower

Joan Foley (Seal)
JOAN FOLEY Borrower

(Seal)
Borrower

(Seal)
Borrower

(Sign Original Only)

Property of Cook County Office

STATE OF ILLINOIS, *Cook*

County as:

Joan P. Foley and Joan P. Foley, his wife as joint tenants
a Notary Public in and for said county and state do hereby certify that

Joan P. Foley and Joan P. Foley
personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this

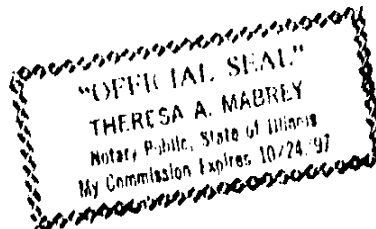
2nd day of *Sept* 19*97*

My Commission Expires:

Theresa A. Mabrey
Notary Public

This instrument was prepared by:

CHEMICAL BANK N. A.
2970 WILDERNESS PLACE, #120
BOULDER CO 80301



94788710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

CHEMICAL BANK N. A.
C/O CHEMICAL FINANCIAL SERVICES CORPORATION
2970 WILDERNESS PLACE, #120
BOULDER CO 80301

ILLINOIS - SECOND MORTGAGE

RIDER TO MORTGAGE

This is a Rider to the Mortgage dated SEPTEMBER 2, 19 94 between
KEITH P. FOLEY AND JOAN FOLEY, his wife as Joint Tenants.

and CHEMICAL BANK N. A.

Borrower and Lender further covenant and agree as follows:

22. **EFFECT OF THIS RIDER**
Borrower understands that this Rider is a part of this Mortgage, and that it may change or add to any promises or agreements contained in this Mortgage or any other Rider to this Mortgage. Whenever the terms, conditions and promises contained in the printed portion of, or any other Rider to, this Mortgage differ or are in conflict with this Rider, the provisions of this Rider will control.
23. **SUMS SECURED**
The "indebtedness" and "sums" referred to in the third unnumbered paragraph of this Mortgage and referred to elsewhere in this Mortgage shall be defined as "Sums Secured" and shall further include all sums payable under any of the provisions of this Mortgage.
24. **BORROWER'S RIGHT TO MORTGAGE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY**
The fifth unnumbered paragraph of this Mortgage is deleted and replaced with the following:

Borrower covenants that Borrower is the lawful owner of the Property and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record and that the Mortgage constitutes a valid lien on the Property, subject only to the prior mortgage identified in Covenant 42 hereof. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.
25. **FUNDS FOR TAXES AND INSURANCE**
The following subparagraph is added to Covenant 2 of this Mortgage.

Lender hereby waives the requirements of Covenant 2 of this Mortgage. Lender, however, specifically reserves to itself and to its successors and assigns the right to unilaterally cancel this waiver at any time and thereupon reinstate and enforce the said requirements of Covenant 2 of this Mortgage.

9
88710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

26. **APPLICATION OF PAYMENTS**

The text of Covenant 3 of this Mortgage is deleted and replaced with the following:

Unless the law requires otherwise, Lender will apply each of Borrower's payments under the Note and under this Mortgage in the following order and for the following purposes:

- First, to amounts payable under Covenant 2
- Next, to payments made by Lender to protect its lien under this Mortgage;
- Next, to pay interest due;
- Next, to pay principal due;
- Next, to pay late charge due under the Note; and
- Last, to pay any other amount due under the Note and this Mortgage.

However, Lender has the right to change the order in which Borrower's payments are applied, if it so elects.

27. **BORROWER'S OBLIGATIONS TO DELIVER RECEIPTS TO LENDER; LENDER'S RIGHT TO MAKE PAYMENTS**

The following subparagraph is added to Covenant 4 of this Mortgage:

Borrower will deliver to Lender any receipts Borrower receives for the payment of all taxes, assessments, water rate and sewer rents within ten (10) days after Lender requests these receipts. If Borrower does not deliver these receipts after Lender's request, Lender may make these necessary payments as provided in Covenant 7 of this Mortgage.

28. **HAZARD OR PROPERTY INSURANCE**

The third and fourth unnumbered subparagraphs of Covenant 5 of this Mortgage are deleted and replaced with the following:

If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with Covenant 7. 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.

The amount paid by the insurance company is called "proceeds." Lender may, at its option and on Borrower's behalf (i) make proof of loss to the insurance company, (ii) adjust and compromise any claims under the insurance, (iii) give releases or acquittances to the insurance company in connection with a settlement of any claim for insurance proceeds, and (iv) collect and receive the insurance proceeds. Borrower appoints Lender as its attorney-in-fact to do the things described in the last sentence, which appointment Borrower understands cannot be revoked by Borrower until the Sums Secured by this Mortgage have been fully paid. Borrower further understands that Lender's appointment as Borrower's attorney-in-fact is irrevocable and coupled with an interest, with full power of substitution, and shall not be affected by Borrower's subsequent disability or incompetence. Lender, at its option may use the proceeds to reduce the Sums Secured by this Mortgage (whether or not repairs have been made by Borrower), or Lender may release the proceeds (or any part of the proceeds) to Borrower to pay for the repair or restoration of the damaged property. Each insurance company concerned is hereby authorized and directed to pay such proceeds directly to Lender instead of jointly to Borrower and Lender.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in Covenant 1 or change the amount of the payments. If under Covenant 17 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the Sums Secured by this Mortgage immediately prior to the acquisition.

Borrower will not allow any condition to exist on the Property which would, in any way, invalidate the insurance on the Property.

29. **PROTECTION OF LENDER'S RIGHTS IN THE PROPERTY**

The text of Covenant 7 of this Mortgage is deleted and replaced with the following:

If Borrower fails to perform the covenants and agreements contained in this Mortgage, or there is a legal proceeding that may significantly affect Lender's rights in the property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this Covenant 7, Lender does not have to do so.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Any amounts disbursed by Lender under this Covenant 7 shall become additional debt of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

30. **CONDEMNATION**

The following subparagraph is added to Covenant 9 of this Mortgage:

The right to such proceeds and the use of such proceeds shall be governed by, and applied in accordance with, the provisions of Covenant 28 of this Rider as if such proceeds were hazard or property insurance proceeds.

31. **NO CONFORMED COPY**

Covenant 14 of this Mortgage is deleted.

32. **DUE ON FURTHER ENCUMBRANCE**

The text of Covenant 16 of this Mortgage is deleted and replaced with the following:

If Borrower sells, transfers or further encumbers all or any part of the Property or an interest therein, or allows an interest therein to be obtained by a third party, without Lender's prior written consent, Lender may declare all of the sums secured by this Mortgage to be immediately due and payable.

33. **LENDER'S RIGHTS IF BORROWER FAILS TO KEEP PROMISES AND AGREEMENTS**

The text of Covenant 17 of this Mortgage is deleted and replaced with the following:

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, or any simultaneous or subsequent agreement between Borrower and Lender relating to this transaction, Lender, at Lender's option, may declare all of the Sums Secured by this Mortgage to be immediately due and payable without notice or demand ("Immediate Payment In Full").

If Lender requires Immediate Payment In Full, Lender may invoke the remedies permitted by applicable law, such as bringing a lawsuit to take away all of Borrower's remaining rights in the Property and to have the Property sold. At the sale, Lender or another person may acquire the Property. This is known as 'foreclosure and sale.' In pursuing the remedies provided in this Covenant 17, including a lawsuit for foreclosure and sale, Lender will have the right to collect all costs allowed by law, including, but not limited to, reasonable attorneys' fees, court costs, and cost of documentary evidence, abstracts and title reports.

If there is a foreclosure and sale, Borrower agrees that the property may be sold in one or more parcels.

34. **DISCONTINUANCE OF ENFORCEMENT**

The opening phrase of the text of Covenant 18 of this Mortgage (from "Notwithstanding" to "if:") is deleted and replaced with the following:

Notwithstanding Lender's acceleration of the Sums Secured by this Mortgage due to Borrower's breach, Lender, at its sole option, may discontinue any proceedings begun by Lender to enforce this Mortgage, at any time prior to entry of a judgment enforcing this Mortgage if:

35. **ASSIGNMENT OF RENTS**

The text of Covenant 19 of this Mortgage is deleted and replaced with the following:

As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to default hereunder have the right to collect and retain such rents as they become due and payable.

Upon default hereunder, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and/or 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. Borrower gives Lender the right to have a receiver appointed, whether or not the value of the Property is worth more than the amount Borrower owes on this Mortgage.

36. **RELEASE**

The text of Covenant 20 of this Mortgage is deleted and replaced with the following:

Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage. Borrower shall pay all costs of recordation, if any.

[Handwritten signature]

788740

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

37. **LEGISLATION AFFECTING LENDER'S RIGHTS**

If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, Lender, at its option, may require Immediate Payment In Full of all Sums Secured by this Mortgage and may invoke any remedies permitted by Covenant 17.

38. **DEFENSE OF LENDER'S RIGHTS**

If Lender has to defend its rights under the Note and this Mortgage (including foreclosure and sale), then any money Lender has to pay to defend its rights shall be added to the amount Borrower owes Lender. Borrower understands that Lender may ask an attorney to foreclose this Mortgage, to collect money Borrower owes under the Note and this Mortgage, or to enforce any of the promises Borrower has made, and that his fees and costs are included in the money plus interest Borrower will have to pay under the terms of this Covenant. Borrower shall pay this money promptly, at Lender's request.

39. **ADDITIONAL CHARGES**

Borrower agrees to pay all reasonable charges in connection with the servicing of this loan including, but not limited to, obtaining tax searches and bills in processing insurance loss payments, ownership transfers, releases, easements, consents, extensions, modifications, special agreements, assignments, reduction certificates and satisfaction of mortgage.

40. **SALE OF NOTE; CHANGE OF LOAN SERVICER**

The Note or a partial interest in the Note (together with this Mortgage) may be sold one or more times without notice to Borrower. If there is a change of the Loan Servicer, Borrower will be given written notice of the change. If this Mortgage is assigned by the Lender, all or any portion of this Rider may, at the option of the Lender or the assignee, be deemed null and void.

41. **HAZARDOUS SUBSTANCES**

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property. As used in this Covenant "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that related to health, safety or environmental protection.

42. **DESCRIPTION OF PRIOR MORTGAGE; NO FUTURE ADVANCES**

The mortgaged property is subject to an existing Mortgage, dated JANUARY 26 1994, from the Borrower as mortgagor, to WESTAMERICA MORTGAGE COMPANY as mortgagee (the "Existing Mortgagee"), recorded in Plat Book 94, at Page 228595 of the Public Records of COOK County, Illinois (the "First Mortgage"), which First Mortgage secures a promissory note in the original principal amount of \$ 195,000.00. This mortgage is subject to the First Mortgage to the extent that the First Mortgage constitutes a valid and prior lien on the mortgaged property as of the date hereof. The Borrower agrees that it will not request or accept any future advances or loans from the Existing Mortgagee, its successors or assigns which would be secured by the lien of the First Mortgage and the request for or acceptance of any such future advances or loans shall constitute an event of default under this mortgage.

43. **NO WAIVER; CONFORMITY TO LAW**

No waiver by Lender of any covenant in this Mortgage or in the Note secured hereby shall at any time hereafter be held to be a waiver of any of the other terms hereof or of the Note secured hereby, or future waiver of the same covenant.

It is agreed that nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to pay interest at a rate greater than it is now lawful in such case to contract for, or to make any payment or to do any act contrary to law; that should any provision of this deed be found to violate the laws or court decisions of the State of Illinois or the United States, such provision shall be deemed to be amended to comply with and conform to such laws and court decisions.

9288710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

44. CHANGING THIS MORTGAGE

Except as provided in Covenant 40 above, this Mortgage may be changed only if Lender and Borrower both give their written consent.

This Rider is a part of the attached Mortgage and, by signing below, Borrower agrees to all of the above.

WITNESSES:

_____ (Seal)
 KEITH P. POLEY - Borrower

_____ (Seal)
 JUAN FOLEY - Borrower

_____ (Seal)
 _____ - Borrower

_____ (Seal)
 _____ - Borrower (Sign Original Only)

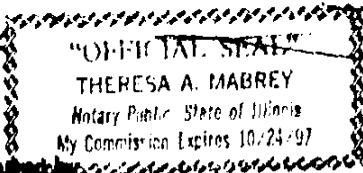
STATE OF ILLINOIS, Cook

County is:

I, Keith P. Foley, a Notary Public in and for said county and state, do hereby certify that Keith P. Foley and Juan Foley personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this 2nd day of Sept 1994, and acknowledged that they signed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 2nd day of Sept 1994

My Commission expires



Keith P. Foley
 Notary Public

This instrument was prepared by

CHEMICAL BANK N. A.

(Name)
 2970 WILDERNESS PLACE, #120
 BOULDER CO 80302

(Address)

(Space Below This Line Reserved For Lender and Recorder)

02789710

UNOFFICIAL COPY

Property of Cook County Clerk's Office

01188276
94788710