

PREPARED BY AND
RETURN TO:

98162250

Fidelity Federal Bank FSB
PO Box 19780
W. Me. CA 92523 9780
Loan Number 104066

FS (1910) 317

SPACE ABOVE THIS LINE RESERVED
FOR RECORDER'S USE ONLY

MORTGAGE

This Mortgage (Security Instrument) is made on on Tuesday, January 27, 1998
between ROBERT LEE BERRY AND MILLERY BERRY
("BORROWER(S)", whose address is 11429 S Stewart Ave, Chicago, IL 60628-4745
and FIDELITY FEDERAL BANK, FSB, a federal savings bank ("LENDER"). In this Security Instrument the
words "I," "me" and "my" (which also mean "we," "us" and "our" if there is more than one Borrower) mean
the Borrower or Borrowers who are authorized to use the **First AllianceCard**™ **MasterCard**™ card issued to me
by Lender, and the words "you," "your" and "yours" mean Lender. This Security Instrument is security for a
secured credit card obligation.

I hereby agree with you as follows:

- Grant.** In order to secure my obligation to repay (a) amounts I owe under a **First AllianceCard**™ **MasterCard**™ Cardholder Agreement and Disclosure Statement of even date herewith ("Agreement"), as it may be from time to time amended, and any extension or renewal of that Agreement, which principal sum is subject to a maximum of \$25,000.00 (Twenty-Five Thousand Dollars), including such future advances as are described in Paragraph 2 hereof (b) all other sums, with interest, advanced hereunder to protect the security of this Security Instrument, and (c) the performance of my agreements under this Security Instrument and the Agreement, I hereby irrevocably mortgage, grant, convey, transfer and assign the Lender the following described property located in the County of COOK, State of Illinois:

Property Address: 11429 S Stewart Ave, Chicago, IL 60628 4745

LEGAL DESCRIPTION:
SEE EXHIBIT 'A'

Tax Identification Number: 92 21 924 210

TOGETHER WITH (A) all improvements, now or hereafter erected on the property; and (B) all replacements and additions or improvements on the property. All of the foregoing is referred to in this Security Instrument as the "Property." Capitalized terms not defined herein shall have the meanings given them in the Agreement.

UNOFFICIAL COPY

2 [Reserved]

3 [Reserved]

4 [Reserved]

5 [Reserved]

98162250

6 **Arbitration** Any controversy or claim arising out of or relating to this Security Instrument, the Agreement or any other document relating to the Agreement, the breach of any of them or the default under any of them, will be settled by binding arbitration under the jurisdiction of the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration will be conducted in the county in which the Property is located, unless you and I agree on a different location. Judgment upon any award rendered by the arbitrator may be entered in any appropriate court. Notwithstanding anything that may be contained herein to the contrary, this Section does not limit your right to foreclose against the Property (whether judicially or nonjudicially by exercising your right of sale or otherwise) to exercise self-help remedies such as set-off, or to obtain injunctive relief for the appointment of a receiver from any appropriate court, whether before, during or after any arbitration. Your pursuit of such remedies will not constitute a waiver by you of your rights to submit any controversy or claim to arbitration. No arbitration conducted hereunder shall be consolidated or combined with any other arbitration absent your express written consent.

7. **Charges; Liens** I will pay prior to delinquency all taxes, assessments, charges, fines and impositions attributable to the Property, and I will pay these obligations directly to the person or entity owed payment. I will, upon your request, promptly furnish to you all notices of amounts to be paid under this Section and all receipts evidencing those payments. I will perform all of my obligations under any mortgage, deed of trust or other security instrument which creates a lien having priority over the lien of this Security Instrument. I will pay all taxes, assessments and charges resulting from any lien having priority over this Security Instrument.

8 **Hazard Insurance** I will keep the improvements now existing or erected in the future on the Property insured against loss by fire hazards included within the terms "extended coverage" and "all risk" and, if the Property is in a flood plain, with flood and flooding insurance, and any other hazards for which you require insurance, through an insurance company and on terms satisfactory to you, and which provides you with at least ten (10) days prior written notice before any change or cancellation can be made. I understand that all insurance policies and renewals must be acceptable to you and include a standard mortgagee clause in your favor. You have the right to hold the policies and renewals. In the event of loss, I will give prompt notice to the insurance carrier and to you. You may submit proof of loss if I do not do so promptly. I hereby authorize you to contact the insurance carrier to verify the coverage and to ensure that you are named as loss payee under a standard mortgagee clause. In the event that you are not so named, I authorize you to instruct the insurance carrier to so name you.

If I do not provide you with evidence of insurance satisfactory to you upon your request, you may, but are not obligated to obtain such insurance on your own behalf or on my behalf, at your option, naming you as the insured or otherwise, at your sole option. I acknowledge that insurance you obtain in this way may provide less protection to me and may be more expensive than insurance I could obtain.

You may, at your option, use the insurance proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not they are then due, with any excess paid to me. If I abandon the Property or do not answer within 30 days a notice from you that the insurance carrier has offered to settle a claim, you may collect the insurance proceeds and use them to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not they are then due. The thirty day period will begin when the notice is given. If under this Security Instrument you acquire the Property, my right to any insurance policies and proceeds resulting from damage to the Property before you acquire it will pass to you to the extent of the amounts secured by this Security Instrument immediately prior to the acquisition.

UNOFFICIAL COPY

98162250

9. **Preservation and Maintenance of Property.** I will at my expense keep the Property in at least the same condition as it exists on the date of this Security Instrument. I will not remove or demolish any building on the Property, and I will repair and restore promptly and in good and workmanlike manner any building which may be damaged or destroyed thereon and will pay when due all claims for labor performed and materials furnished therefor. I will comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon. I will not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property, nor will I commit, suffer or permit any act upon the Property in violation of law or any required insurance policy relating to the Property.

I will be in default under this Security Instrument if any forfeiture action or proceeding, whether civil or criminal, is begun that could result in forfeiture of the Property, or otherwise materially impair the lien created by this Security Instrument or your security interest. You may immediately cease making any further Cash Advances upon the commencement of any such forfeiture action or proceeding, and give me a notice identifying the proceeding. I may cure this default and restate by causing the action or proceeding to be dismissed with a ruling that, in your good faith determination, precludes forfeiture of my interest in the Property or other material impairment of the lien created by this Security Instrument or your security interest. I understand that I will also be in default if I gave materially false or inaccurate information or statements to you or failed to provide you with any material information in connection with the Agreement, including, but not limited to, representations concerning my occupancy of the Property as a principal residence.

10. **Hazardous Substances.** I will not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on, in, or from the Property. The preceding sentence does 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, as distinct from commercial uses, and to maintenance of the Property. I will not do, nor allow anyone else to do, nor am I aware of, anything affecting the Property that is in violation of any Environmental Law.

As used in this Section and in the Agreement, "Hazardous Substances" means hazardous wastes, hazardous substances, toxic substances, hazardous air pollutants, pesticides, contaminants or other pollutants as those terms are used in any Environmental Law, and the following substances: gasoline, diesel fuel, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, lead paint, and radioactive materials.

As used in this Section and in the Agreement, "Environmental Law" means federal laws and regulations and laws and regulations of each of the other jurisdictions in which the Property is located that relate to health, safety or environmental protection, including laws regulating the handling, use, storage, disposal or transportation of Hazardous Substances.

11. **Protection of Lender's Rights in Property.** If I fail to perform any of my material obligations contained in the Agreement or any of my obligations set forth in this Security Instrument, or if legal proceedings are commenced that may significantly affect your rights in the Property (such as proceedings in bankruptcy, probate, for condemnation or to enforce laws or regulations), then you may, but are not obligated to, do or pay for whatever is necessary to protect the value of the Property and your rights in the Property. This may include, for example, paying the cost of maintaining the Property during my absence, paying all taxes, assessments, charges, fines and impositions attributable to the Property, discharging liens, appearing in court and paying reasonable attorneys' fees, paying insurance premiums or paying the cost of repair or to prevent deterioration or waste to the Property, all as provided in the Agreement or in this Security Instrument. Any payments you make will not create an obligation on your part to make any further payment.

If you do make such payments, you may at your option add any amounts paid to the balance of my Account under the Agreement and reduce my Credit Limit by an equal amount. Any amounts so paid and added to the balance of my Account will be secured by this Security Instrument and have priority as if made on the date of this Security Instrument. These amounts will bear interest from the date of

disbursement at the interest rate provided under the Agreement and will be payable at the same time as other debt is payable under the Agreement or this Security Instrument.

12. **Rents, Issues and Profits.** As additional security, I hereby give to and confer upon you the right, power and authority to collect the rents, issues and profits of the Property, reserving to myself the right, prior to any default hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any default, you may without notice enter upon and take possession of said Property or any part of it, sue for or otherwise collect such rents, issues and profits, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, to any indebtedness secured hereby. The entering upon and taking possession of the Property, the collection of rents, issues and profits and the application thereof as aforesaid, will not cure or waive any default or notice of default or invalidate any act done pursuant thereto.
13. **Condemnation of the Property; Abandonment.** I hereby assign to you the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, and the same are to be paid to you. If I abandon the Property or if, after you notify me that a condemnor has offered to make an award or settle a claim for damages, I fail to respond to you within thirty (30) days after the date the notice is given, you are authorized to collect and apply the proceeds to amounts secured by this Security Instrument, whether or not they are then due.
14. **Borrower Not Released; Forbearance by Lender Not a Waiver.** I understand that any extension of the time for payment of the amounts secured by this Security Instrument which you grant to me will not operate to release my liability. You will not be required to start proceedings against me or refuse to extend time for payment of the amounts secured by this Security Instrument by reason of any demand made by me. Any forbearance by you in exercising any of your rights or remedies will not constitute a waiver, or preclude the exercise of any of your other rights or remedies.
15. **Successors and Assigns Bound; Joint and Several Liability.** The warranties and agreements of this Security Instrument and the Agreement shall bind and benefit you and your successors and assigns, and me and my successors and assigns. Borrower's warranties and agreements are and will be joint and several. Anyone who co-signs this Security Instrument as a Borrower but does not execute the Agreement (i) is co-signing this Security Instrument only to mortgage, grant, warrant and convey that Borrower's interest in the Property under the terms of this Security Instrument. He is not personally obligated to pay the amounts secured by this Security Instrument, and I agree that Lender and any other Borrower may agree, subject to applicable law, to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Agreement without that Borrower's consent.
16. **Notices.** Any notice to me described in the Agreement or in this Security Instrument will be given by private delivery service or by mailing it by first class mail, postage prepaid, unless applicable law or the terms of this Security Instrument or the Agreement require using another method. The notice will be directed to the Property Address or any other address all Borrowers designate to you in writing. I understand that any notice to you must be given by private delivery service or by first class mail, postage prepaid, to your address stated in this Security Instrument or any other address you designate to me in writing, unless applicable law or the terms of this Security Instrument or the Agreement require using another method. Any notice given by private delivery service in this way will be considered to have been given when delivered, and any notice given by mail in this way will be considered to have been given three (3) business days after being deposited in the mail.
17. **Termination and Acceleration.** Lender at its option may terminate the availability of loans under the Account and the Agreement, declare all amounts owed by Borrower to Lender under the Agreement to be immediately due and payable, and enforce its rights under this Mortgage if (a) Borrower fails to make any payment due under the Account or the Agreement secured by the Mortgage; (b) Borrower acts or fails to act in a way that adversely affects any of Lender's security for the indebtedness secured by this Mortgage, or any right of the Lender in the Property or other security for the

indebtedness secured by this Mortgage or for any application, signature, information or statement furnished by Borrower to the Lender or to others in connection with the transaction contemplated by the Agreement is found to be materially false. The Lender's security shall be presumed to be adversely affected if (a) all or any part of the Property or an interest therein is sold, transferred, encumbered or conveyed by Borrower without Lender's prior written consent, excluding the creation of a lien or encumbrance subordinate to this Mortgage; (b) Borrower fails to comply with any covenant or agreement in this Mortgage or the Agreement; Lender shall give notice to Borrower prior to acceleration following Borrower's breach specifying (a) the default; (b) the action required to cure the default; (c) a date (not less than 30 days from the date notice is given to the Borrower) by which the default must be cured; and (d) that failure to cure the default 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. If the default is not cured by the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. If it becomes necessary to enforce or foreclose this Mortgage including by judicial proceeding, Lender shall be entitled to collect all expenses of collection, enforcement and foreclosure, including but not limited to reasonable attorneys' fees, court costs and costs of documentary evidence, abstracts and title reports.

18. **Remedies Cumulative.** All of your remedies under this Security Instrument are cumulative to any other right or remedy under this Security Instrument or the Agreement, or which is afforded by law or equity, and may be exercised concurrently, independently or successively.
19. **Loan Advances.** This Security Instrument secures future advances. All advances and indebtedness arising and accruing from time to time under the Agreement or under this Security Instrument shall be secured by this Security Instrument. Advances shall be made and indebtedness shall be incurred from time to time on and after the date of this Security Instrument under the Agreement, but each such advance or indebtedness shall be secured by this Security Instrument and have priority as if made on the date of this Security Instrument.
20. **Due on Sale.** If I sell or transfer all or part of the Property or any interest in the Property without your prior written consent, you may, at your option, declare all sums secured by this Security Instrument to be immediately due and payable.
21. **Revolving Credit Loan.** This Mortgage is given to secure a revolving credit loan, and shall secure not only presently existing indebtedness under the Agreement but also future advances, whether such advances are obligatory or made at the option of the Lender, or otherwise, and any such amounts (including by extension) shall apply to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made. The lien of this Mortgage shall be valid as to all indebtedness secured hereby, including future advances, from the time of its filing for record in the recorder's or registrar's office of the county in which the Property is located.

UNOFFICIAL COPY

98162250

22 **Riders.** If I execute one or more riders and they are recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into, and shall amend and supplement the covenants and agreements of this Security Instrument as if the riders were part of this Security Instrument (check applicable boxes):

- Condominium Rider Planned Unit Development Rider 1-4 Family Rider
 Other _____

I authorize you to record this document in the County recorder's office of the county where the property is located. You are under no obligation to record it. By signing below, Borrower accepts and agrees to the terms and conditions contained in the Agreement, this Security Instrument, and any riders executed by Borrower and recorded with it.

Robert L Berry 1-27-98
Borrower Date

Robert Lee Berry
Borrower (Type or Print Name)

Milery Berry 1-27-98
Co-Borrower Date

Milery Berry
Co-Borrower (Type or Print Name)

(Space Below This Line Reserved For Acknowledgment)

State of Illinois Cook County

I, 1-27-98, a Notary Public in and for said county and state, do hereby certify that

Robert Lee Berry
Milery Berry

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 signed and delivered the said instrument as THEIR free and voluntary act, for the uses and purposes therein set forth.

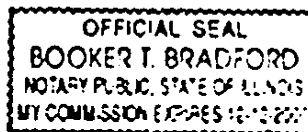
Given under my hand and official seal, this 27 day of JAN, 1998

My Commission Expires: 12-12-2000

Booker T. Bradford
Notary Public

This instrument was prepared by

First AllianceCard
17305 Von Karman Avenue
Irvine, CA 92614



UNOFFICIAL COPY

98162250

EXHIBIT 'A'

LOT THIRTY FOUR (EXCEPT THE SOUTH 10 FEET THEREOF); LOT THIRTY FIVE (EXCEPT THE NORTH 2 1/2 FEET THEREOF); IN BLOCK FIVE (5) IN SHERMAN AND KRUTZ ROSELAND PARK ADDITION TO PULLMAN, A SUBDIVISION OF THE SOUTHWEST QUARTER (1/4) OF THE NORTHEAST QUARTER (1/4) (EXCEPT RAILROAD) OF SECTION 21, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN.

Property of Cook County Clerk's Office