

86019893

# UNOFFICIAL COPY

JUNIOR MORTGAGE

JAMES P. COLIAS AND

THIS MORTGAGE made this 7th day of JANUARY, 1986 between LYNN T. COLIAS, his wife, (hereinafter referred to as "Mortgagor") and FIRST BANK OF SCHAUMBURG, an Illinois banking corporation, whose address is 321 West Golf Road, Schaumburg, Illinois (hereinafter referred to as "Mortgagee"):

WHEREAS, Mortgagor is indebted to the Mortgagee in the principal sum of SEVEN THOUSAND FIVE HUNDRED AND no/100 Dollars (\$ 7,500.00), which indebtedness is evidenced by Mortgagor's Note dated January 7, 1986, 1986 (hereinafter referred to as the "Note"), which Note provides for payment of the indebtedness as set forth therein.

NOW, THEREFORE, Mortgagor, to secure the payment of the Note with interest thereon, any renewals, extensions, modifications thereof and 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 the Mortgagor herein contained the Mortgagor does hereby mortgage, grant and convey to the Mortgagee the following described real estate, located in the County of Cook, State of Illinois:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

13.00

Which real estate has the address of 709 South El Luei, Mount Prospect, Illinois 60056 and which, with the property herein described, is referred to herein as the "Premises."

TOGETHER with all the improvements now or hereafter erected on or attached to the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights, and all fixtures now or hereafter attached to the property, all of which including replacements and additions thereto, 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 herein referred to as the "Premises."

Mortgagor covenants that Mortgagor is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Premises, that the Premises is unencumbered and the Mortgagor will warrant and defend generally the title to the Premises against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Mortgagor's interest in the Premises.

### IT IS FURTHER UNDERSTOOD THAT:

1. Mortgagor shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note, and the principal of and interest on any future advances secured by this Mortgage.

2. In addition, the Mortgagor shall:

- (a) Promptly repair, restore or rebuild any improvement now or hereafter on the property which may become damaged or destroyed.
- (b) Pay immediately when due and payable all general taxes, special taxes, special assessments, water charges, sewer service charges and other taxes and charges against the property, including those heretofore due. (The monthly payments provided in the Note in anticipation of such taxes and charges to be applied thereto provided said payments are actually made under the terms of said Note), and to furnish the Mortgagee, upon request, with the original or duplicate receipts therefor, and all such items extended against said property shall be conclusively deemed valid for the purpose of this requirement.
- (c) Keep the improvements now existing or hereafter erected on the property insured against loss or damage by fire, lightning, wind storm or such other hazards, as the Mortgagee may reasonably require to be insured against under policies providing for payment by the insurance companies of monies sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, in such companies through such agents or brokers and in such form as shall be satisfactory to the Mortgagee, until said indebtedness is fully paid, or in the case of foreclosure, until expiration of the period of redemption; such insurance policies, including additional and renewal policies shall be delivered to and kept by the Mortgagee and shall contain a clause satisfactory to the Mortgagee making them payable to the Mortgagee, as its interest may appear, and in case of loss under such policies, the Mortgagee is authorized to adjust, collect and compromise, in its discretion, sign, upon demand, all receipts, vouchers and claims as required of him by the insurance companies; application by the Mortgagee of any of the proceeds of such insurance to the indebtedness hereby secured shall not excuse the Mortgagor from making all monthly payments until the indebtedness is paid in full. In the event of a loss, Mortgagor shall give prompt notice to the insurance carrier and the Mortgagee. The Mortgagee may make proof of loss if not made promptly by Mortgagor. All renewal policies shall be delivered at least 10 days before such insurance shall expire. All policies shall provide further that the Mortgagee shall receive 10 days notice prior to cancellation. Notwithstanding anything to the contrary, all insurance proceeds may, at Mortgagee's sole discretion, be applied to the reduction of any indebtedness secured by this Mortgage (whether or not then due and payable).

- (d) Complete within a reasonable time any buildings or improvements now or at any time in process of erection upon said property.
- (e) Subject to the provisions hereof, restore and rebuild any building or improvements now or at any time upon said property and destroyed by fire or other casualty so as to be of at least equal value and substantially the same character as prior to such damage or destruction. In any case, where the insurance proceeds are made available for rebuilding and restoration, such proceeds shall be disbursed upon the disbursing party being furnished with satisfactory evidence of the estimated cost of completion thereof and with architect's certificates, affidavits, waivers of lien, contractors and subcontractors sworn statements and other evidence of cost and payment so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in place work and that said work is free and clear of mechanics' liens. No payment prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed from time to time and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. If the cost of rebuilding, repairing or restoring the buildings and improvements can reasonably exceed the sum of \$50,000.00, then the Mortgagee shall approve plans and specifications of such work before such work shall be commenced. Any surplus which remains out of said insurance proceeds after payment of such costs of building or restoring shall at the option of the mortgagee be applied on accounts of the indebtedness secured hereby or be paid to any party entitled thereto without interest.

(f) Keep said Premises in good condition and repair without waste and free from any mechanics or other lien or claim of lien not expressly subordinated to the lien hereof.

(g) Not suffer or permit any unlawful use of or any nuisance to exist on said Premises nor to diminish nor impair the value by any act or omission to act.

(h) Comply with all requirements of law or municipal ordinances with respect to the Premises and the use thereof.

(i) Comply with all terms and conditions of that certain Mortgage dated July 28, 1978 between JAMES P. COLIAS AND LYNN T. COLIAS his as Mortgagor in favor of ADVANCE MORTGAGE CORPORATION, as Mortgagee, which Mortgage was recorded in the office of the wife Recorder of Cook County, Illinois on August 3, 1978 as document no. 24566469.

3. Any sale, conveyance or transfer of any right, title or interest in the Premises or any portion thereof or any sale, transfer or assignment of all or any part of the beneficial interest in any trust holding title to the Premises without the prior written approval of the Mortgagee shall constitute a default hereunder on account of which the holder constitute a default hereunder on account of which the holder of the Note secured hereby may declare the entire indebtedness evidenced by said Note to be immediately due and payable and foreclose this Mortgage immediately or at any time such default occurs.

4. In the case of a failure to perform any of the covenants herein, or if any action or proceeding which materially affects the Mortgagee's interest in the property, including, but not limited to eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, the Mortgagee may do on the Mortgagor's behalf everything so covenanted; the Mortgagee may also do any act it may deem necessary to protect the lien hereof; and the Mortgagor will repay upon demand any monies paid or disbursed, including reasonable attorneys' fees and expenses, by the Mortgagee for any of the above purposes and such monies together with interest thereon at the highest rate for which it is then lawful to contract shall become so much additional indebtedness hereby secured and may be included in any decree foreclosing this mortgage and be paid out of the rents or proceeds of sale of said Premises if not otherwise paid. It shall not be obligatory upon the Mortgagee to inquire into the validity of any lien, encumbrance, or claim in advancing monies as above authorized, but nothing herein contained shall be construed as requiring the Mortgagee to advance any monies for any purpose nor to do any act hereunder; and the Mortgagee shall not incur any personal liability because of anything she may do or omit to do hereunder nor shall any acts of the Mortgagee act as a waiver of the Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage or to proceed to foreclose this Mortgage.

5. It is the intent hereof to secure payment of the Note whether the entire amount shall have been advanced to the Mortgagor at the date hereof or at a later date, or having been advanced, shall have been repaid in part and further advances made at a later date, which advances shall in no event operate to make the principal sum of the indebtedness greater than the original principal amount plus any amount or amounts that may be added to the mortgage indebtedness under the terms of this Mortgage for the purpose of protecting the security.

6. Time is of the essence hereof, and if default be made in performance of any covenant herein contained or contained in the Note or in making any payment under said Note or obligation or any extension or renewal thereof, or proceedings be instituted to enforce any other lien or charge upon any of the Premises, or upon the filing of a proceeding in bankruptcy by or against the Mortgagor shall make an assignment for the benefit of his creditors or if his property be placed under control of or in custody of any court or officer of the government, or if the Mortgagor abandons the Premises, or fails to pay when due any charge or assessment (whether for insurance premiums, maintenance, taxes, capital improvements, purchase of another unit, or otherwise) imposed by any condominium, townhouse, cooperative or similar owner's group, then and in any of said events, the Mortgagee is hereby authorized and empowered, at its option, and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare, without notice all sums secured hereby immediately due and payable, whether or not such default by Mortgagor, and apply toward the payment of said mortgage indebtedness any monies of the Mortgagor held by the Mortgagee, and said Mortgagee may also immediately proceed to foreclose this Mortgage, and in any foreclosure a sale may be made of the Premises en masse without the offering of the several parts separately.

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7. Upon the commencement of any foreclosure proceeding hereunder, the court in which such suit is filed may, at any time, either before or after sale, and without notice to the Mortgagor, or any party claiming under him, and without regard to the solvency of the Mortgagor, or the then value of said Premises, or whether the same shall then be occupied by the owner or the equity of redemption as a homestead, appoint a receiver, with power to manage and rent and to collect the rents, issues and profits of said Premises during the pendency of such foreclosure suit and the statutory period of redemption, and such rents, issues and profits, when collected, may be applied before as well as after the foreclosure sale, towards the payment of the indebtedness, costs, taxes, insurance or other items necessary for the protection and preservation of the Premises, including the expenses of such receivership, or on any deficiency decree whether there be a decree therefor in personam or not, and if a receiver shall be appointed he shall remain in possession until the expiration of the full period allowed by statute for redemption, whether there be redemption or not, and until the issuance of a deed in case of sale, but if no deed be issued, until the expiration of the statutory period during which it may be issued and no lease of said Premises shall be nullified by the appointment or entry in possession of a receiver but he may elect to terminate any lease junior to the lien hereof; and upon foreclosure of said Premises, there shall be allowed and included as an additional indebtedness in the decree of sale all expenditures and expenses together with interest thereon at the rate of three percent (3%) above the interest rate as defined in the note, which may be paid or incurred by or in behalf of the Mortgagor for attorneys' fees, appraiser's fees, court costs and costs (which may be estimated as to include items to be expended after the entry of the decree) and of procuring all such data with respect to title as the Mortgagor may reasonably deem necessary either to prosecute such suit or to evidence to bidders at any sale held pursuant to such decree the true title to or value of said Premises; all of which aforesaid amounts together with interest as herein provided shall be immediately due and payable by the Mortgagor in connection with (a) any proceeding, including a probate or bankruptcy proceeding to which either party hereto shall be a party by reason of this Mortgage or the Note hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after the accrual of the right to foreclosure, whether or not actually commenced; or (c) preparations for the defense of or intervention in any suit or proceeding or any threatened or contemplated suit or proceeding which might affect the Premises or the security hereof. In the event of a foreclosure sale of said Premises there shall first be paid out of the proceeds thereof all of the aforesaid items, then the entire indebtedness whether due and payable by the terms hereof or not and the interest due thereon up to the time of such sale, and the overplus, if any, shall be paid to the Mortgagor, and the purchaser shall not be obliged to see to the application of the purchase money.

8. Extension of the time for payment or modification or amortization of the sums secured by this Mortgage granted by the Mortgagor to any successor in interest of Mortgagor shall not operate to release in any manner the liability of the original Mortgagor and Mortgagor's successor in interest. Mortgagor shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sum secured by this Mortgage by reason of any demand made by the original Mortgagor and Mortgagor's successor in interest.

9. Any forbearance by the Mortgagor 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. The procurement of insurance or the payment of taxes or other liens or charges by the Mortgagor shall not be a waiver of the Mortgagor's right to accelerate the indebtedness secured by this Mortgage.

10. 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, independently or successively.

11. The covenants contained herein shall bind and the rights hereunder shall inure to, the respective successors and assigns of the Mortgagor and Mortgagor subject to the provisions of paragraph 3 hereof. All covenants and agreements of Mortgagor shall be joint and several.

12. Except to the extent any notice shall be required under applicable law to be given in another manner, any notice to Mortgagor shall be given by mailing such notice by certified mail addressed to Mortgagor at 709 South Hi Lusi, Mount Prospect, Illinois 60056 or at such other address

as Mortgagor may designate by notice to the Mortgagor as provided herein and any notice to the Mortgagor shall be given by certified mail, return receipt requested to the Mortgagor's address as stated herein or to such other address as the Mortgagor may designate by notice to Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or the Mortgagor when given in the manner designated herein.

13. Upon payment of all sums secured by this Mortgage, the Mortgagor shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordings of any documentation necessary to release this Mortgage.

14. Mortgagor assigns to the Mortgagor and authorizes the Mortgagor to negotiate for and collect any award for condemnation of all or any part of the Premises. The Mortgagor may, in its discretion, apply any such award to amounts due hereunder, or for restoration of the Premises.

15. Mortgagor shall not and will not apply or avail itself of any appraisalment, valuation, stay, extension or exemption laws, or any so-called "moratorium laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws.

16. Mortgagor shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

17. Mortgagor will at all times deliver to the Mortgagor duplicate originals or certified copies of all leases, agreements and documents relating to the Premises and shall permit access by the Mortgagor to its books and records, insurance policies and other papers for examination and making copies and extracts thereof. The Mortgagor, its agents and designees shall have the right to inspect the Premises at all reasonable times and access thereto shall be permitted for that purpose.

18. Mortgagor in making any payment hereby authorized: (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, foreclosure, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

19. No construction shall be commenced upon the land hereinbefore described or upon any adjoining land at any time owned or controlled by Mortgagor or by other business entities related to Mortgagor, unless the plans and specifications for such construction shall have been submitted to and approved in writing by Mortgagor and that such construction shall not, in the reasonable judgment of the Mortgagor, entail prejudice to the loan evidenced by the Note and this Mortgage.

20. The Mortgagor will pay all utility charges incurred in connection with the premises and all improvements thereof and maintain all utility services now or hereafter available for use at the premises.

21. If the Premises are now or hereafter located in an area which has been identified by the Secretary of Housing and Urban Development as a flood hazard area and in which flood insurance has been made available under the National Flood Insurance Act of 1968 ("the Act"), the Mortgagor will keep the Premises covered for the term of the Note by flood insurance up to the maximum limit of coverage available under the Act.

22. This mortgage is subject and subordinate to that certain Mortgage dated July 28 1978 from JAMES P. COLIAS AND LYNN T. COLIAS as Mortgagor, in favor of ADVANCE MORTGAGE CORPORATION as Mortgagor, which Mortgage was recorded in the Office of the Recorder of Cook County, Illinois on August 3 1978 as document no. 24566469. An event of default under the terms of the aforesaid Mortgage or under any mortgage subordinate thereto shall be an event of default hereunder.

23. This Mortgage shall be governed by the law of the State of Illinois. In the event one or more of the provisions contained in this Mortgage shall be prohibited or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

24. In the event of a deficiency upon a sale of the Premises pledged hereunder by Mortgagor, then the Mortgagor shall forthwith pay such deficiency including all expenses and fees which may be incurred by the holder of the Note secured by this Mortgage in enforcing any of the terms and provisions of this Mortgage.

25. All provisions hereof shall inure to and bind the respective heirs, executors, administrators, successors, vendees and assigns of the parties hereto, and the word "Mortgagor" shall include all persons claiming under or through Mortgagor and all persons liable for the payment of the indebtedness of any party thereto, whether or not such persons shall have executed the Note or this Mortgage. Wherever used, the singular number shall include the plural, the singular, and the use of any gender shall be applicable to all genders.

[Signature]  
JAMES P. COLIAS

[Signature]  
LYNN T. COLIAS

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STATE OF ILLINOIS )  
COUNTY OF Cook ) SS.  
I, Stacy Harris, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT James P. Colias and Lynn T. Colias, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument appeared before me this day, in person, and acknowledged that they signed and delivered the said instruments as their own free and voluntary act as aforesaid, for the uses and purposes therein set forth.  
GIVEN under my hand and notarial seal this 9th day of January 1986

[Signature]  
NOTARY PUBLIC

My commission expires: 8/1987

This instrument was prepared by: First Bank of Schaumburg, 321 W. Golf Rd. Schaumburg, IL 60196

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FIRST BANK

OF SCHAUMBURG

321 W. GOLF ROAD, SCHAUMBURG, IL 60196  
(312)882-4000 MEMBER FDIC

"ADDENDUM "A"

LOT 8 IN BLOCK 29 IN PROSPECT PARK COUNTRY CLUB SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH EAST 1/4 OF SECTION 11 AND THE SOUTH 15 ACRES OF THE EAST 1/2 OF THE NORTH EAST 1/4 OF SAID SECTION 11, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

X Commonly known as: 709 Hi Lusi, Mount Prospect, IL

X Permanent Index No. 08-11-430-0074 **FD**.

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