

UNOFFICIAL COPY

(The Note Contains Provisions for Periodic Adjustments in the Interest Rate)

THIS INDENTURE, made November 1989

1989 (between

Carter E. Smith, an unmarried, man and Catherin A. Casler, an unmarried woman

herein referred to as "Mortgagors," and CHICAGO TITLE AND TRUST COMPANY, an Illinois corporation doing business in Chicago, Illinois, herein referred to as TRUSTEE witnesseth:

THAT, WHEREAS the Mortgagors are justly indebted to the legal holders of the Adjustable Rate Installment Notes hereinafter described, said legal holder or holders being herein referred to as Holders of the Notes, in the principal sum of \$155,700.00 totaling one hundred fifty-five thousand seven hundred (\$155,700.00) notes, evidenced by certain Adjustable Rate Installment Notes of the Mortgagors of even date herewith, made payable to THE ORDER OF TORONTO DOMINION BANK and delivered, in and by which said Notes the Mortgagors promise to pay the said principal sum and interest from November, 1989

on the balance of principal remaining from time to time unpaid at the "Initial Rate of Interest" of % Said Note provides for changes in the Interest Rate and in the amount of the monthly installment payments due thereon in the following manner

- (1) Commencing in 1989 said Interest Rate may be adjusted by the Holders of the Note on the 1st day of December (month), and on the same day every 6th month (12th month) thereafter, each such date being hereinafter referred to as the "Change Date," as to Note 2, as to Note 1, the first adjustment occurring on 12-1-92
- (2) Changes in the Interest Rate shall be based upon changes in the "Index." The Index shall be (select only one Index)
 - (i) The national average mortgage contract rate for major lenders on the purchase of previously-occupied homes, as computed monthly by the Federal Home Loan Bank Board, published in the Board's Journal, and made available in news releases.
 - (ii) The average cost of funds to FSLIC-insured savings and loan associations, either for all Federal Home Loan Bank Districts or for a particular District or Districts, as computed semi-annually by the Federal Home Loan Bank Board, published in the Board's Journal, and made available in news releases.
 - (iii) The monthly average of weekly auction rates on United States Treasury bills with a maturity of three months or six months, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board in Statistical Release G 13(415) during the first week of each month.
 - (iv) The monthly average yield on United States Treasury securities adjusted to a constant maturity of one, two, three, or five years, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board in Statistical Release B 13(415) during the first week of each month.
 - (v) The rate of interest charged by Toronto - Dominion Bank, New York branch at prime rate plus one (1) percent as to Note 2; The rate for employee mortgages as to Note 1 (other)

If this Index is no longer available, the Holders of the Note shall select an alternative legally sufficient Index and shall mail notice thereof to Mortgagors. Said note has an "Original Index" figure of 11.5%. The most recently available Index figure as of the date one day prior to each Change Date shall be the "Current Index."

- (3) Prior to each Change Date, the Holders of the Note shall determine any change in the interest rate, and shall calculate the amount of the difference, if any, between the Current Index and the Original Index. In the event that the Current Index exceeds the Original Index, the Holders of the Note MAY add the difference to the Initial Rate of Interest, rounded off to the nearest one-eighth of 1% per annum. In the event that the current index is less than the Original Index, the Holders of the Note SHALL subtract the difference from the Original Rate of Interest, provided, if the difference in increase or in decrease is less than one-sixteenth of 1% per annum, the interest rate shall not change.

Upon any change in the interest rate, the Holders of the Note shall revise the monthly payment on the note to the extent sufficient to repay the outstanding principal balance in full on December 1, 2014 (the maturity date) at the new interest rate in substantially equal payments.

- (4) The new interest rate shall become effective on each Change Date and any resulting change in the monthly payment shall become effective on the date of the first monthly payment thereafter and shall remain in effect until said amount is again changed or the Note is fully repaid.
- (5) At least 30, but not more than 45 days prior to any change in the amount of monthly payments, the Holders of the Note shall send written notice to the Mortgagors, which notice shall include the information required by law and the title and telephone number of a Holder of the Note or an agent or employee of a Holder of the Note who can answer questions about the notice.

All payments on account of the indebtedness evidenced by said Adjustable Rate Mortgage Note shall be applied first to interest on the unpaid principal balance and the remainder to principal, and all of said principal and interest are made payable at such banking house or trust company in Chicago, Illinois as the Holders of the Note may, from time to time in writing, appoint, and in the absence of such appointment, then at the office of Toronto Dominion in said City.

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this trust deed, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY and WARRANT unto the Trustee, its successors and assigns, the following described Real Estate and all of their estate, title and interest therein, lying and being in the city of Chicago, COUNTY OF Cook AND STATE OF ILLINOIS, to wit:

SEE EXHIBIT A ATTACHED HERETO

89608708
COOK COUNTY RECORDER

which, with the property hereinafter described, is referred to herein as the "premises."

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and, if secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by the mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the said Trustee, its successors and assigns, forever, for the purposes, and upon the uses and trusts herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits of the Mortgagors do hereby expressly release and waive.

This trust deed consists of 3 pages. The covenants, conditions and provisions appearing on page 3 are incorporated herein by reference and are a part hereof and shall be binding on the mortgagors, their heirs, successors and assigns.

WITNESS the hand and seal of Mortgagors the day and year first above written

Carter E. Smith (SEAL) Catherin A. Casler (SEAL)

STATE OF ILLINOIS

Jonathan E. Shimberg, Notary Public in and for Cook County, Illinois, do hereby certify that Carter E. Smith and Catherin A. Casler who are personally known to me to be the same person B whose name are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

County of Cook

Given under my hand and Notarial Seal this 20th day of November 1989

Notarial Seal

Prepared by Jonathan E. Shimberg

Jonathan E. Shimberg Notary Public

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THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 1 (THE REVERSE SIDE OF THIS TRUST DEED)

1. Mortgagors shall (a) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed, (b) keep said premises in good condition and repair, without waste, and free from mechanics or other liens or claims for lien not expressly subordinated to the lien hereof, (c) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien or Trustee or to holders of the note; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (e) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (f) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to Trustee or to holders of the note duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.

3. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning or windstorm (and flood damage, where the lender is required by law to have its loan so insured) under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the holders of the note, under insurance policies payable, in case of loss or damage, to Trustee for the benefit of the holders of the note, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to holders of the note, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

4. In case of default therein, Trustee or the holders of the note may, but need not, make any payment or perform any act hereinbefore required of Mortgagors in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereon, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorney's fees, and any other moneys advanced by Trustee or the holders of the note to protect the mortgaged premises and the lien hereof, plus reasonable compensation to Trustee for each matter concerning which action herein authorized may be taken, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at a rate equivalent to the post maturity rate set forth in the note securing this trust deed, if any, otherwise the prematurity rate set forth therein. Inaction of Trustee or holders of the note shall never be considered as a waiver of any right accruing to them on account of any default hereunder on the part of Mortgagors.

5. The Trustee or the holders of the note hereby secured making any payment hereby authorized relating to taxes or 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, forfeiture, tax lien or title or claim thereon.

6. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the holder of the note, and without notice to Mortgagors, all unpaid indebtedness secured by this Trust Deed shall, notwithstanding anything in the note or in this Trust Deed to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.

7. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, holders of the note or Trustee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Trustee or holders of the note for attorney's fees, Trustee's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs which may be estimated as to items to be expended (after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Trustee or holders of the note may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title or of the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at a rate equivalent to the post maturity rate set forth in the note securing this trust deed, if any, otherwise the prematurity rate set forth therein, when paid or incurred by Trustee or holders of the note in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which either of them shall be a party, either as plaintiff, claimant or defendant, by reason of this trust deed or any indebtedness hereby secured, or (b) preparations for the commencement of any suit for the foreclosure hereof or a trial of such right to foreclose whether or not actually commenced, or (c) preparations for the defense of any threatened suit or proceeding which might affect the premises or the security hereof, whether or not actually commenced.

8. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, payment of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any surplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.

9. Upon, or at any time after the filing of a bill to foreclose this trust deed, the court in which such bill is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Trustee hereunder may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except by the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of the indebtedness secured hereby, or by any decree foreclosing this trust deed, or any tax, special assessment or other lien which may be superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (b) the deficiency in case of a sale and deficiency.

10. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be available and available to the party interposing same in an action at law upon the note hereby secured.

11. Trustee or the holders of the note shall have the right to inspect the premises at all reasonable times and access thereon shall be permitted for that purpose.

12. Trustee has no duty to examine the title, location, existence or condition of the premises, or inquire into the validity of the signatures or the identity, capacity, or authority of the signatories on the note or trust deed, nor shall Trustee be obligated to execute this trust deed or to exercise any power herein given unless expressly obligated by the terms hereof, nor be liable for an act or omission in this regard, except in case of its own gross negligence or misconduct or that of the agents or employees of Trustee, if it may require indemnities satisfactory to it before exercising any power herein given.

13. Trustee shall release this trust deed and the lien thereof by proper instrument upon presentation of satisfactory evidence that all indebtedness secured by this trust deed has been fully paid, and Trustee may execute and deliver a release therefor and the release of any person who shall, either before or after maturity thereof, produce and exhibit to Trustee the note, representing that all indebtedness hereby secured has been paid, which representation Trustee may accept as true without inquiry. Where a release is requested, a successor trustee, such successor trustee may accept as the genuine note herein described any note which bears an identification number placed thereon by a prior trustee hereunder or which conforms in substance with the description herein contained of the note and which purpose is to be executed by the persons herein designated as the makers thereof, and where the release is requested of the original trustee and it has never placed its identification number on the note described herein, it may accept as the genuine note herein described any note which may be presented and which conforms in substance with the description herein contained of the note and which purpose is to be executed by the persons herein designated as makers thereof.

14. Trustee may resign by instrument in writing filed in the office of the Recorder or Registrar of Titles in which this instrument shall have been recorded or filed. In case of the resignation, inability or refusal to act of Trustee, the then Recorder of Deeds of the County in which the premises are situated shall be Successor in Trust. Any Successor in Trust hereunder shall have the identical title, powers and authorities as are herein given Trustee.

15. This Trust Deed and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under them and Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this Trust Deed. The word "note" when used in this instrument shall be construed to mean "notes" when more than one note is used.

16. Before releasing this trust deed, Trustee or successor shall receive for its services a fee as determined by its rate schedule in effect when the release deed is issued. Trustee or successor shall be entitled to reasonable compensation for any other act or service performed under any provisions of this trust deed. The provisions of the "Trust And Trustees Act" of the State of Illinois shall be applicable to this trust deed.

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IMPORTANT! FOR THE PROTECTION OF BOTH THE BORROWER AND LENDER THE INSTALMENT NOTE SECURED BY THIS TRUST DEED SHOULD BE IDENTIFIED BY CHICAGO TITLE AND TRUST COMPANY, TRUSTEE, BEFORE THE TRUST DEED IS FILED FOR RECORD.

Identification No. 62-2072
CHICAGO TITLE AND TRUST COMPANY
By *James M. Bolin*
Assistant Secretary

MAIL TO: *Jonathan Shumberg*
54 E Van Buren St. 2501
Chicago, Ill 60605

FOR RECORDER'S INDEX PURPOSES
INSERT SERIAL ADDRESS OF ABOVE
DESCRIBED PROPERTY HERE

PLACE IN RECORDER'S OFFICE BOX NUMBER

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PARCEL 1: THE EAST 22.50 FEET OF THE WEST 76.50 FEET OF LOT 98 IN HAMBLETON'S SUBDIVISION OF BLOCK 43 IN CANAL TRUSTEES' SUBDIVISION IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THE NORTH 8.00 FEET OF THE SOUTH 16.00 FEET OF THE EAST 19.00 FEET OF LOT 98 IN HAMBLETON'S SUBDIVISION OF BLOCK 43 OF THE CANAL TRUSTEES' SUBDIVISION IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3: EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCELS 1 AND 2 AS SET FORTH IN THE DECLARATION OF EASEMENTS DATED NOVEMBER 4, 1971 AND RECORDED NOVEMBER 5, 1971 AS DOCUMENT NUMBER 21701356 AND AS CREATED BY DEED FROM NATIONAL BOULEVARD BANK OF CHICAGO, A NATIONAL BANKING ASSOCIATION, AS TRUSTEE UNDER TRUST AGREEMENT DATED OCTOBER 5, 1971 AND KNOWN AS TRUST NUMBER 4096 TO VINCENT JOSEPH CAROLI DATED NOVEMBER 17, 1971 AND RECORDED DECEMBER 22, 1971 AS DOCUMENT NUMBER 21756338 FOR INGRESS AND EGRESS IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 1853 NORTH CLEVELAND, CHICAGO, IL 60614

PERMANENT INDEX NO. 14-33-310-052

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