

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:

PATRICIA M. POTOCKI

WHEN RECORDED MAIL TO:
HOME SAVINGS OF AMERICA
P.O. BOX 7075
PASADENA, CALIFORNIA 91109-7075

90256431

ALL NOTICES TO LENDER SHALL BE
MAILED OR DELIVERED TO THE ABOVE
ADDRESS.

Mortgage and Assignment of Rents
ADJUSTABLE INTEREST RATE LOAN #1212787-4

This Mortgage, made this 31ST day of MAY, 1990
JOSEPH R. PORTIERA, A BACHELOR

DEPT-01 RECORDING \$15.00
TR2222 TRAN 7724 06/01/90 11:13:00
#0829 # B * -90-256431
COOK COUNTY RECORDER

herein called BORROWER, whose address is

22W126 VALLEYVIEW DRIVE
(number and street)

GLEN ELLYN
(city)

IL
(state)

60137
(zip code)

and

and HOME SAVINGS OF AMERICA, F.A., a corporation herein called LENDER, whose address is P.O. Box 7075, Pasadena, California 91109-7075.

WITNESSETH: Borrower hereby grants, conveys, mortgages and warrants to Lender the real property legally described as follows:

AS PER LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF:

Unit 302, in Doral South Condominium as delineated on a survey of the following described real estate: The Southerly 1/2 of lot 118 and the Northerly 1/2 of lot 120 in Division 1 of Westfall's Subdivision of 208 acres being the East 1/2 of the South West 1/4 and the South East fractional 1/4 of Section 30, Township 38 North, Range 15, East of the Third Principal Meridian, also lots 26 to 30 in the subdivision of lots 119 and 121 to 124 in Division 1 of Westfall's Subdivision aforesaid, in Cook County, Illinois which survey is attached as Exhibit "A" to the Declaration of Condominium recorded as Document 25852677 and as restated in Declaration recorded as document 26081625 together with its undivided percentage interest in the common elements in Cook County Illinois.

COMMONLY KNOWN AS: 7854 SOUTH SHORE DRIVE, UNIT #302, CHICAGO, IL 60649

PIN: 21-30-417-052-1020

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BOX 334

Together with all interest which Borrower now has or may hereafter acquire in or to said property, and in and to all easements and rights of way appurtenant thereto; and (b) all buildings, structures, improvements, fixtures and appurtenances now or hereafter placed thereon, including, but not limited to, all apparatus and equipment, whether or not physically affixed to the land or any building, used to provide or supply air-cooling, air-conditioning, heat, gas, water, light, power, refrigeration, ventilation, laundry, drying, dishwashing, garbage disposal or other services; and all waste vent systems, antennas, pool equipment, window coverings, drapes and drapery rods, carpeting and floor covering, awnings, ranges, ovens, water heaters and attached cabinets; it being intended and agreed that such items be conclusively deemed to be affixed to and to be part of the real property that is conveyed hereby; and (c) all water and water rights (whether or not appurtenant). Borrower agrees to execute and deliver, from time to time, such further instruments as may be requested by Lender to confirm the lien of this Mortgage on any such properties. The properties conveyed to Lender hereunder are hereinafter referred to as "such property."

The Borrower absolutely and irrevocably grants, transfers and assigns to Lender the rents, income, issues, and profits of all property covered by this Mortgage.

FOR THE PURPOSE OF SECURING:

- (1) Payment of the sum of \$ 24,500.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of JUNE 10, 2030 made by Borrower, payable to Lender or order, and all modifications, extensions or renewals thereof. (2) Payment of such sums as may be incurred, paid out, or advanced by Lender, or may otherwise be due to Lender, under any provision of this Mortgage and all modifications, extensions or renewals thereof. (3) Performance of each agreement of Borrower contained herein or incorporated herein by reference or contained in any papers executed by Borrower relating to the loan secured hereby. (4) Performance, if the loan secured hereby or any part thereof is for the purpose of constructing improvements on such property, of each provision or agreement of Borrower contained in any building loan agreement or other agreement between Borrower and Lender relating to such property. (5) The performance and keeping by Borrower of each of the covenants and agreements required to be kept and performed by Borrower pursuant to the terms of any lease and any and all other instruments creating Borrower's interest in or defining Borrower's right in respect to such property. (6) Compliance by Borrower, with each and every monetary provision to be performed by Borrower under any declaration of covenants, conditions and restrictions pertaining to such property or any declaration of condominium ownership and upon written request of Lender, the enforcement by Borrower of any covenant to pay maintenance or other charges, if the same have not been paid or valid legal steps taken to enforce such payment within 90 days after such written request is made. (7) At Lender's option, payment, with interest thereon, of any other present or future indebtedness or obligation of Borrower (or of any successor in interest of Borrower to such property) due to Lender, whether created directly or acquired by absolute or contingent assignment, whether due or not, whether otherwise secured or not, or whether existing at the time of the execution of this Mortgage or arising thereafter, the exercise of such option to be evidenced by a notice in writing to Borrower or any successor in interest of Borrower. (8) Performance of all agreements of Borrower to pay fees and charges to the Lender whether or not herein set forth. (9) Payment of charges, as allowed by law when such charges are made, for any statement regarding the obligation secured hereby.

BOX 334

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TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER AGREES:

(1) **Construction or Improvements.** To complete in good and workmanlike manner any building or improvement or repair relating thereto which may be begun on such property or against such property, not to permit any mechanic's lien against any building or repair relating thereto, and to complete the same in accordance with plans and specifications as approved by Lender, (c) to allow Lender to inspect such property at all times during construction, (d) to replace any work or materials unsatisfactory to Lender within fifteen (15) days after written notice from Lender of such fact, which notice may be given to Borrower by certified mail, sent to his last known address, or by personal service of the same, and (e) to perform all other obligations of Borrower under any building loan agreement relating to such property.

(2) **Repair and Maintenance of Property.** To keep such property in good condition and repair, not to substantially alter, remove or demolish any buildings thereon, to restore promptly and in good workmanlike manner any buildings which may be damaged or destroyed, including, but not limited to, damage from termites and earth movement, to pay when due all claims for labor performed and materials furnished in connection with such property and not to permit any mechanic's lien against such property, to comply with all law affecting such property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereon, not to commit, suffer or permit any act upon such property in violation of law, to cultivate, irrigate, fertilize, fumigate and prune, and to do all other acts that from the character or use of such property may be reasonably necessary to keep such property in the same condition (reasonable wear and tear excepted) as at the date of this Mortgage.

(3) **Fire and Casualty Insurance.** To provide and maintain in force at all times fire and other types of insurance with respect to such property as may be required by Lender. Each policy of such insurance shall be in an amount, for a term and in form and content and by such companies, as may be satisfactory to Lender, and shall be delivered to, and remain in possession of, Lender as further security for the faithful performance of these covenants. Borrower shall also furnish Lender with written evidence showing payment of all premiums thereon. At least thirty (30) days prior to the expiration of any insurance policy, a policy renewing or extending such expiring insurance shall be delivered to Lender with written evidence showing payment of the premium thereon, and in the event any such insurance policy and evidence of payment of the premium are not so delivered to Lender, Borrower by a executing this Mortgage specifically requests Lender to obtain such insurance. Lender, but without obligation so to do, without notice to or demand upon Borrower and without releasing Borrower from any obligation hereof, may obtain such insurance through or from any insurance agency or company acceptable to, and pay the premium therefor. Lender shall not be chargeable with obtaining or maintaining such insurance or for the collection of any insurance monies or for any insolvency of any insurer or insurance underwriter. Lender, from time to time, may furnish to any insurance agency or company, or any other person, any information concerning the loan secured hereby. Borrower hereby assigns to Lender all unearned premiums on any such policy, and agrees that any and all unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the property conveyed at any sale and hereunder pursuant to the foreclosure of this Mortgage.

(4) **Life, Health or Accident Insurance.** If Borrower shall maintain life, accident or health insurance and Lender shall be the owner or holder of any policy of such insurance, as further security hereunder, Lender may elect to pay any premiums thereon as to which Borrower shall be in default, and any amount so paid may be secured hereby.

(5) **Taxes and Other Sums Due.** To pay, satisfy and discharge: (a) at least ten (10) days before delinquency, all general and special taxes affecting such property, (b) when due, all special assessments for public improvements, (c) on demand of Lender but in no event later than the date such amounts become due, (1) all encumbrances, charges and liens, with interest on such property, or any part thereof, which are, or appear to Lender to be prior to, or superior hereof, (2) all costs, fees and expenses of this Mortgage whether or not described herein; (3) fees or charges for any statement regarding the obligation secured hereby in any amount demanded by Lender not to exceed the maximum amount allowed by law therefor at the time when such request is made; (4) such other charges as the Lender may deem reasonable for services rendered by Lender and furnished to the request of Borrower or his successor in interest under the terms of the instrument or a leasehold estate, all payments and obligations required of the Borrower or his successor in interest under the terms of the instrument or declaration of covenants or restrictions or conditions or conditions of such property or any modification thereof. Should Borrower fail to make any such payments, Lender without consulting the validity of amount, may elect to make or advance such payment, together with any costs, expenses, fees or charges relating thereto. Borrower agrees to notify Lender immediately upon receipt by Borrower of notice of any increase in the assessed value of such property. Borrower agrees to notify Lender and appropriate taxing authorities immediately upon the happening of any event which does or may affect the value of such property, the amount or basis of such property, or the availability of any exemption to which Borrower is or may be entitled.

In the event of any law deducting from the value of real property for the purposes of taxation any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgages for state or local purposes, or the manner of the collection of any such taxes including, but not limited to, the postponement of all or any part of any real or personal property taxes, so as to affect this Mortgage, the holder of this Mortgage and of the obligations which it secures shall have the right to declare the principal sum and the interest due on a date to be specified by not less than 30 days' written notice to be given to Borrower by Lender; provided, however, that such election shall be ineffective if Borrower is permitted by law to pay the whole of such tax in addition to all other payments required hereunder and if, prior to such specified date, does pay such tax and agrees to pay any such tax when hereafter levied or assessed against such property, and such agreement shall constitute a modification of this Mortgage.

(6) **Impounds.** To pay to Lender, if Lender shall so request in addition to any other payments required hereunder, monthly advance installments, as estimated by Lender, for taxes, assessments, insurance premiums, ground rents or other obligations secured by this Mortgage (hereinafter in this paragraph referred to as "such obligations") for the purpose of establishing a fund to insure payment when due, or before delinquency, of any or all of such obligations required to be paid as to such property. If the amounts paid to Lender under the provisions of this paragraph are insufficient to discharge the obligations of Borrower or to pay such obligations as the same become due or delinquent, Borrower shall pay to Lender, upon its demand, such additional sum as necessary, or discharge Borrower's obligation to pay such obligations. All monies paid to Lender under this paragraph may be intermingled with other monies of Lender and shall not bear interest except as required by law. Lender may pay such obligations whether before or after they become due and payable, in the event of a default in the payment of any monies due on the indebtedness secured hereby, default of any obligation secured hereby, or default in the performance of any of the covenants and obligations of this Mortgage, then any balance remaining from monies paid Lender under the provisions of this paragraph may, at the option of Lender, be applied to the payment of principal, interest or other obligations secured hereby in lieu of being applied to any impounds as are required by law.

(7) **Condemnation and Injury to Property.** All sums due, paid or payable to Borrower or any successor in interest to Borrower of such property, whether by way of judgment, settlement or otherwise: (a) for injury or damage to such property; (b) in connection with any condemnation for public use or injury to such property, or a part thereof, are hereby assigned and shall be paid to Lender. All causes of action or being to Borrower, whether accrued before or after the date of this Mortgage, for damage or injury to such property, or any part thereof, or in connection with the transaction financed in whole or in part by the funds loaned to Borrower by Lender, or in connection with affecting said property or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of material fact, are hereby assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by this Mortgage or any deficiency under this Mortgage or may release any monies so received by it or any part thereof, as Lender may elect. Lender may at its option appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Borrower agrees to execute any further assignments and other instruments as and from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

(8) **Disposition of the Proceeds of any Insurance Policy, Condemnation or Other Recovery.** The amount received by Lender pursuant to this Mortgage under any life or other insurance policy, in connection with any condemnation for public use or injury to such property, for injury or damage to such property or in connection with the transaction financed hereby and in such order as Lender may determine or without reducing the indebtedness secured hereby, may be used to replace, restore, or reconstruct such property to a condition satisfactory to Lender or may be released to Borrower, or any such amount may be apportioned and allocated in any manner to any one or more of such uses. No such application, use or release shall cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. (9) **Litigation.** Borrower shall defend this trust in any action or proceeding purporting to affect such property, whether or not it affects the lien hereof, purporting to affect the lien hereof and shall file and prosecute all necessary claims and actions to prevent or recover for any destruction or destruction of such property, and Lender's hereby authorized, without obligation so to do, to prosecute or defend any such action, whether brought by or against Borrower or Lender, or with or without suit, to execute or enforce any other right, remedy, or power available or conferred hereunder, whether or not judgment be entered in any action or proceeding, and Lender may appear or intervene in any action or proceeding, and retain counsel therein, and take such action thereon, as either may be deemed necessary or advisable, and may settle, compromise or pay the same or any other claims and, in so doing, may expend and advance such sums of money as either may deem necessary. Whether or not Borrower so appears or defends, Borrower on demand shall pay all costs and expenses of Lender, including costs of evidence of title, in any such action or proceeding in which Lender may appear by virtue of being made a party defendant or otherwise, and respecting or whether the interest of Lender in such property or their respective rights or powers hereunder may be affected by such action, including, but not limited to, any action for the condemnation or partition of such property and any suit brought by Lender to foreclose this Mortgage. If such property includes a leasehold estate, Borrower agrees to comply with all law affecting such property and not to permit any mechanic's lien against any building or repair relating thereto which may be begun on such property or against such property, not to permit any mechanic's lien against any loan proceeds, Borrower agrees, anything in this Mortgage to the contrary notwithstanding: (a) to promptly commence work and to complete the proposed improvements promptly; (b) to complete same in accordance with plans and specifications as approved by Lender; (c) to allow Lender to inspect such property at all times during construction; (d) to replace any work or materials unsatisfactory to Lender within fifteen (15) days after written notice from Lender of such fact, which notice may be given to Borrower by certified mail, sent to his last known address, or by personal service of the same; and (e) to perform all other obligations of Borrower under any building loan agreement relating to such property.

(10) **Loan on Leasehold Estate.** If such property includes a leasehold estate, Borrower agrees to comply with all of the terms, conditions and provisions of the instrument or instrument creating such leasehold. Borrower also agrees not to amend, change, or modify this leasehold interest, or the terms on which he is a lessee hereof, or to do any act which would in any way prejudice the interests of Lender being first obtained.

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action or proceeding for the purpose of enforcing this Mortgage or any rights or remedies hereunder.

(23) Waiver of State of Limitations. Time of the essence as to all of Borrower's obligations hereunder, and to the extent permitted by law, Borrower waives all present or future statutes of limitation with respect to any debt, demand or obligation secured hereby in any

(22) Appointment of Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage the court in which such complaint may be appointed a receiver of the property or may appoint Lender as Mortgagee in possession. Such appointment may be made

(21) Foreclosure of Mortgage. When the indebtedness hereby secured shall become due, whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereon, in any suit to foreclose the lien hereon, there shall be allowed and included as

(20) Remedies. No remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Lender or to which either of them may be otherwise entitled, may be exercised

(19) Right to Collect and Receive Rent and Profits. Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the rent, income, issues and profits of such property as they become due and payable, but Lender reserves

(18) Modification in Writing. This Mortgage cannot be changed or modified except as otherwise provided in this Mortgage or by agreement in writing signed by Borrower or any successor or interest in interest to Borrower, and Lender.

(17) No Waiver of Lender. No waiver by Lender of any right under this Mortgage shall be effective unless in writing. Waiver by Lender of any right granted to Lender and under this Mortgage or of any provision of this Mortgage as to any transaction or occurrence shall not be

(16) Acceleration Clause; Right of Lender to Declare All Sums Due on any Transfer, Etc. Lender shall have the right at its option, to declare any indebtedness and obligations secured hereby, irrespective of the maturity date specified in any note or agreement evidenc-

(15) Obligation of Borrower Joint and Several. If more than one person is named as Borrower, each obligation of Borrower shall be the joint and several obligation of each such person.

(14) Application of Funds. Lender shall have the right at its sole discretion to direct the manner in which payments or proceeds shall be applied upon or allocated among the various items constituting indebtedness or obligations secured hereby.

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(24) **Future Advances.** Upon request of Borrower, Lender at Lender's option prior to the date of this Mortgage, may make future Advances to Borrower. Such future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, not including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus 31,500.00

(25) **Inspection and Business Records.** Lender at any time during the continuation of this Mortgage may enter and inspect such property at any reasonable time. Borrower agrees that in the event that such property is now or hereafter used for commercial or residential income purposes, that when requested by Lender, Borrower will promptly deliver to Lender such certified financial statements and profit and loss statements of such types and at such intervals as may be required by Lender which will be in form and content prepared according to the generally accepted accounting principles and practices, which statements shall cover the financial operations relating to such property, and Borrower further agrees, when requested by Lender, to promptly deliver, in writing such further additional information as required by Lender relating to any of such financial statements.

(26) **Governing Law; Severability.** The loan secured by this Mortgage is made pursuant to, and shall be construed and governed by, the laws of the United States and the rules and regulations promulgated thereunder, including the federal laws, rules and regulations for federal savings and loan associations. If any paragraph, clause or provision of this Mortgage or the note or any other notes or obligations secured by this Mortgage is determined by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage or the note or other notes secured by this Mortgage.

(27) **Offsets.** No indebtedness secured by this Mortgage shall be offset or compensated or shall be deemed to have been offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counterclaim or cross claim, whether liquidated or unliquidated, which Borrower now or hereafter may have or may claim to have against Lender, and, in respect to the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, any and all rights of offset which Borrower now or hereafter may have or claim to have in respect to all or part of the indebtedness secured hereby, and further waives the benefits of any applicable law, regulation or procedure which provides or substantially provides that, where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the time of filing his answer be barred by the applicable statute of limitations.

(28) **Misrepresentation or Nondisclosure.** Borrower has made certain written representations and disclosures in order to induce Lender to make the loan evidenced by the note or notes which this Mortgage secures, and in the event that Borrower has made any misrepresentation of material fact or failed to disclose any material fact, Lender, at its option and without prior notice, shall have the right to declare the indebtedness secured by this Mortgage, irrespective of the maturity date specified in the note or notes, immediately due and payable.

(29) **Waiver of Homestead.** Borrower hereby waives all right of homestead exemption in such property.

(30) **Notice to Borrower.** Any notice to the Borrower provided for in the note or this Mortgage shall be deemed given when it is deposited in the United States mail, postage prepaid, addressed to the Borrower at the address of the Borrower as it appears in Lender's records pertaining to the loan evidenced by the note at the time notice is given.

(31) **General Provisions.** (a) This Mortgage applies to, inures to the benefit of, and binds, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. (b) The term "Lender" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Lender herein. (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this Mortgage and shall not be used in construing it.

(32) **Adjustable Rate Mortgage Provisions.** The Note which this Mortgage secures is an adjustable mortgage loan on which the interest rate may be adjusted from time to time in accordance with a monthly increase or decrease in an index, all as provided in said Note. From time to time the monthly installment payments due under said Note may not be sufficient to pay all interest due in which case unpaid interest will be added to principal. In no case shall the unpaid interest added to the principal exceed 150% of the original principal indebtedness.

BORROWER REQUESTS THAT A COPY OF ANY NOTICE OF DEFAULT AND OF ANY NOTICE OF SALE HEREUNDER BE MAILED TO BORROWER AT THE ADDRESS HEREIN ABOVE SET FORTH.

Signature of Borrower

Joseph R. Portiera

JOSEPH R. PORTIERA

State of Illinois *Cook* County ss:

I, *Sheila DeBenedictis* a notary public in and for said county and state, do hereby certify that JOSEPH R. PORTIERA, A BACHELOR

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

Given under my hand and official seal, this *31* day of *May*, 19 *90*

My commission expires:

Sheila DeBenedictis

Notary Public

