

UNOFFICIAL COPY

91013756

THIS INSTRUMENT PREPARED BY:

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

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

Mortgage and Assignment of Rents
ADJUSTABLE INTEREST RATE LOAN

LOAN NO. 1292475-9

This Mortgage made this 7th day of JANUARY, 1991 between

FILIBERTO SOTELO AND ALICIA D. SOTELO, HUSBAND AND WIFE AND LOURDES C. ARROYO, MARRIED TO JOSE A. SOTELO AND MARGARITA SOTELO, MARRIED TO JUAN ARMANDO ZUNO

herein called BORROWER, whose address is 4418 WEST MONTANA STREET (number and street)

CHICAGO (city)

IL (state)

60639 (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



KELVYN

LOTS 26, 27 AND 28 IN BLOCK 24 IN S.S. HAYES GROVE ADDITION TO CHICAGO A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS 4418 WEST MONTANA STREET, CHICAGO, IL 60639

PTN: 13-27-323-028-0000 AND 13-27-323-029-0000 AND 13-27-323-030-0000



DEPT-01 RECEIVED 11/15/91
140055 1644 2230 11/09/91 14:00:00
481344 E * - 9 1 - 01135756
COOK COUNTY RECORDER

Together with all interest which Borrower now has or may hereafter acquire in or to said property, and in and to: (a) 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, dish washing, 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; if 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 any tenant); 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

91013756

(1) Payment of the sum of \$ 131,400.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of JANUARY 10, 2021 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 paper 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 his hand 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, maintain and 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

15 25

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11. **Prepayment Charge.** Should any note or obligation secured hereby require Borrower to pay a fee in connection with the prepayment of any debt or obligation secured hereby, to pay such fee to the extent permitted by applicable law, notwithstanding the fact that Borrower shall have discharged any obligation secured hereby and Lender by reason thereof shall have declared all sums secured hereby immediately due and payable.

12. **Failure of Borrower to Comply with Mortgage.** Should Borrower fail to make any payment, or fail to do any act required in this Mortgage, or fail to perform any obligation secured by this Mortgage, or do any act Borrower agreed not to do, Borrower shall be in default under this Mortgage. Lender, but without obligation so to do and without notice to or demand upon Borrower and without releasing Borrower from any obligation hereof and without contesting the validity or amount of the same, may (a) pay or do the same in such manner and to such extent as it may deem necessary to protect the security hereof, Lender being authorized to enter upon such property for such purposes, (b) pay, purchase, contest or compromise any encumbrance, charge or lien, which in its judgment is or appears to be prior or superior hereto, and (c) incur, in exercising any such power pay necessary expenses. Borrower agrees to repay any amount so expended on demand of Lender.

13. **Sums Advanced to Bear Interest and To Be Added to Indebtedness.** To pay immediately upon demand any sums advanced or paid by Lender to Borrower under any charge or provision of this Mortgage. Any such sum, until so repaid, shall be secured hereon and bear interest from the date it was advanced or paid at the same interest rate, as may be adjusted from time to time, as such indebtedness, and shall bear same and interest thereon be secured by this Mortgage.

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, paid or allocated among the various items constituting Borrower's indebtedness or obligations secured hereby.

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 obligations of each such person.

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 evidencing the same, due and payable within 30 days after such declaration if: (a) Borrower or any successor in interest to Borrower of such property or interest, or any part thereof, conveys or alienates such property or any part thereof, or suffers his life or any interest therein to be conveyed, or voluntarily or involuntarily or leases such property or any part thereof for a term of more than 3 years, or changes or permits to be changed, or conveys, or drills or extracts or enters into a lease for the drilling for or extracting oil, gas, coal or hydrocarbon, or any mineral or any mineral of any kind or character on such property, (b) Borrower is a partnership and the interest of a general partner is assigned or transferred, or (c) Borrower is a corporation and more than 25% of the corporate stock thereof is sold, transferred or assigned during a 12 month period, or (d) Borrower is a trust and there is a change of beneficial interest with respect to more than 25% of such property, or (e) Borrower has made any material misrepresentation or failed to disclose any material fact in those certain financial and other written representations and disclosures made by Borrower in order to induce Lender to enter into the transaction evidenced by the promissory note or notes or agreements which this Mortgage secures.

17. **No Waivers by 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 under this Mortgage or of any provision of this Mortgage as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment for performing any act on behalf of Borrower that Borrower was obligated hereunder, but failed, to make or perform, or by adding an obligation so made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of all other sums so secured or to require prompt performance of all other acts required hereunder, or to declare a default for failure so to pay such other sums or to perform such other acts.

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 in interest to Borrower, and Lender.

19. **Right to Collect and Receive Rents and Profits.** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the rents, income, issues and profits of such property as they become due and payable, but Lender reserves the right to revoke such permission at any time with or without cause by notice in writing to Borrower, mailed to Borrower at his last known address. Lender hereby grants permission to Borrower automatically shall be revoked upon default by Borrower in payment of any indebtedness secured hereby, or in the performance of any agreement hereunder. On any such default, Lender may at any time without notice, either in person, by agent, or by receiver to be appointed by the court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of such property, or any part thereof; make, cancel, enforce or modify leases, obtain and report tenants' set or modify rents, in its own name sue for or otherwise so collect the rents, income, issues and profits thereof, including those just due and unpaid, and carry the same less costs and expenses of operation and collection, upon any indebtedness secured hereby and on such order as Lender may determine, and except for such application, Lender shall not be liable to any person for the collection or non-collection of any rents, income or issues or profits, nor the failure to assert or enforce any of the foregoing rights. The entering upon and taking possession of such property, the collection of such rents, income, issues or profits, the doing of other acts herein authorized, and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

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 Borrower or to Lender, or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue inconsistent remedies. If Lender holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after any Mortgagee's sale is made hereunder, and on any default of Borrower, Lender may, at its option, offset against any indebtedness owing by it to Borrower, the whole or any part of the indebtedness secured hereby. The Lender is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness secured hereby, any and all sums or money, or credits of or belonging to Borrower and which the Lender may have in its possession or under its control, including, among other things, any moneys held by Lender under paragraph (6) hereof.

21. In order to assure the definiteness and certainty of the rights and obligations herein provided, Borrower waives any and all rights of offset which Borrower now or hereafter may have against Lender, or claims and no offset made by Lender shall relieve Borrower from paying and discharging the obligations secured hereby as they become due.

22. **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 hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as charges of the suit the cost of the recording of all expenditures and expenses which may be paid or incurred by or on behalf of Lender for all and any papers, reports, affidavits, appraisals, valuations for documentary and expert evidence, stenographer's charges, publication cost and costs of printing and postage, and the cost of commitments for title insurance. Such fees, charges and costs may be estimated as to times to be expended after payment of the debt hereunder may be deemed reasonably necessary either to prosecute such suit or to evidence the bids at any sale which may be had thereon. The court may determine the true condition of the title to or the value of the Property. All expenditures and expenses of the suit to enforce the payment hereof shall become so much additional indebtedness secured hereby and shall be immediately due and payable when the debt hereof is due at the rate specified in the Note. Such expenditures and expenses shall include expenditures made in connection with the preparation of the complaint which Lender shall be a party, either as plaintiff, defendant or defendant, by reason of this Mortgage or a party to the suit to be used in the preparation for the commencement of any suit for foreclosure hereof after accrual of such right to foreclose, whether or not actually commenced, and preparations for the defense of any threatened suit or proceeding which might affect the Property or the security hereof, whether or not actually commenced, (d) any efforts for collection of any past due indebtedness secured hereby, (e) the proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in this paragraph hereof, second, to the lender, and third, under the terms hereof constitute indebtedness secured by this Mortgage. Third, any surplus to be returned to legal representatives or assigns, as their rights may appear.

23. **Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage (the court in which such complaint is filed) or upon or at any time after the property or may appear) Lender as Mortgagee in possession. Such appointment may be made without notice to either party with or without notice, without regard to the solvency or insolvency at the time of application for such receiver, of the borrower, or to the sufficiency of any security for the payment of the indebtedness secured hereby and without regard to the then value of the property whether the same shall be then occupied as a homestead or not. Such receiver or Mortgagee in possession shall have power to collect the rents, income and profits of the premises during the pendency of such foreclosure suit, as well as during any further times when Borrower, his heirs, assigns or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other proceeds which may be necessary or usual in such cases for the protection, possession, control, management and operation of the property during the whole period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net proceeds of any sale of the property in whole or in part of the indebtedness and other sums secured hereby or in payment of any tax, special assessment or other lien which may be or become superior to the lien hereof or superior to a decree foreclosing this Mortgage, proceeds of a foreclosure made prior to foreclosure sale. In case of a judicial sale, the property, or so much thereof as may then be affected by this Mortgage, may be sold in one parcel.

24. **Waiver of Statute of Limitations.** Time is 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 action or proceeding for the purpose of enforcing this Mortgage or any rights or remedies hereunder.

92013756

