

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:
2121 CAROL JOHNSON
WHEN RECORDED MAIL TO:
HOME SAVINGS OF AMERICA
LOAN SERVICE CENTER
P.O. BOX 60015
CITY OF INDUSTRY, CALIFORNIA 91716-0015

92445745

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

Mortgage and Assignment of Rents ADJUSTABLE INTEREST RATE LOAN

LOAN NO. 1452259-3

This Mortgage, made this 29th day of MAY, 1992, between

WILLIAM P. O'BRIEN AND DONNA L. O'BRIEN, TRUSTEES OF THE O'BRIEN TRUST DATED
MAY 26, 1992

herein called BORROWER, whose address is

12120 SOUTH 87th AVENUE
(number and street)

PALOS PARK
(city)

IL
(state)

60464
(zip code)

and

and HOME SAVINGS OF AMERICA, FSB, a corporation herein called LENDER, whose address is 4900 Rivergrade Road, Irwindale, California 91708.

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

The East 201.38 Feet of the South 1/2 of Lot 3 (except the South 150 Feet thereof) in Winslow Mahaffey's Subdivision of the Southwest 1/4 of the Northwest 1/4 of Section 26, Township 37 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as 12120 South 87th Avenue, Palos Park, IL 60464

PTN: 23 26 106 030 0000

COOK COUNTY, ILLINOIS
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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, 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 (a) 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 \$ 162,000.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of June 10, 2022 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.

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BOX 333

11.11.2014 ... of the terms, conditions and provisions of the mortgage ...

(1) Construction or improvement of building or workmanlike manner any building or improvement or repair relating to such property ...

(2) Disposition of the proceeds of any insurance policy ...

(3) Taxes and Other Things Due ...

(4) Life, Health or Accidental Insurance ...

(5) Repair and Maintenance of Property ...

(6) Fire and Casualty Insurance ...

(7) Taxes and Other Things Due ...

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER AGREES

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(11) **Prepayment Charge.** Should any note or obligation secured hereby require Borrower to pay a fee in connection with the prepayment of any of the indebtedness secured hereby to pay such fee to the extent permitted by applicable law, notwithstanding the fact that Borrower shall have defaulted in 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 hereof; and (c) 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 or Borrower under any clause or provision of this Mortgage. Any such sum, until so repaid, shall be secured herein 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 such sum 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 upon 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 obligation 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 sells, enters into a contract of sale, conveys or alienates such property or any part thereof, or suffers his title or any interest therein to be divested, whether 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, the character or use of such property, or drills or extracts or enters into a lease for the drilling for or extracting oil, gas or other hydrocarbon substances or the mineral of any kind or character on such property, or (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 aforesaid non-presentations or failed to disclose any material fact in those certain financial and other statements, reports, returns 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 created by this Mortgage, this Mortgage or of any provision of this Mortgage as to any transaction or occurrence shall not be deemed a waiver of any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment or performing any act or thing of Borrower that Borrower was obligated hereunder, but failed to make or perform, or by adding any payment made by Lender to the sums 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 to Waiver.** This Mortgage cannot be changed or modified except as otherwise provided in this Mortgage or by agreement in writing signed by Borrower, or its successor in interest to Borrower, and Lender.

(19) **Right to Collect and Recover Costs and Profits.** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect, receive and retain the net proceeds and profits of each property as they become due and payable, but Lender reserves the right to recover such proceeds at any time with interest as aforesaid by notice in writing to Borrower, mailed to Borrower at his last known address, in any event, and to retain such proceeds until they shall be received upon default by Borrower in payment of any indebtedness declared hereby, to be the performance of any obligation hereunder. On any such default, Lender may at any time without notice, either in person, by agent, or by any other means approved 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, take or enforce or duly legalize, obtain and effect mortgages and mortgages, liens, assignments, or other claims, or affect the rents, income, issues and profits thereof, including those paid and unpaid and unpaid, the principal and interest, to position and collection, upon any indebtedness secured hereby and in such event, Lender may obtain possession of such property, and upon application, Lender shall not be liable to any person for the collection or non-collection of any rents, income, issues and profits, or the failure to obtain or enforce any of the foregoing rights. The aforesaid upon and may possess and collect such property, the rents, income, issues and profits, the doing of other acts herein authorized, and the application thereof to the payment of all debts and obligations secured hereby, in whole or in part, or to make any act done pursuant to such notice.

(20) **Remedies.** Lender shall have the right to exercise any other remedy existing by law, but shall be cumulative. Failure to exercise any such remedy shall not constitute a waiver 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 the most efficient remedies. If Lender needs any additional security for any obligation secured hereby it may enforce the sale thereof at its option, either before, contemporaneously with, or after any of its remedies herein provided, and on any default of Borrower, Lender may, at its option, offset against any moneys being paid to Borrower, the whole or any part of the indebtedness secured hereby. The Lender in hereby authorized and empowered to do any and all acts and things which it may deem necessary to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness secured hereby, and any sums of money, or credits of or belonging to Borrower and which the Lender may have at its possession or in its custody, including any other things, any moneys held by Lender under paragraph (d) hereof.

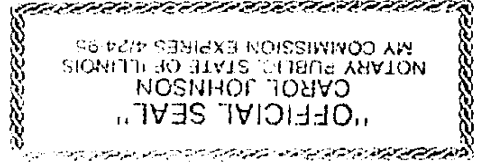
In order to ensure the simplicity and continuity of the rights and obligations herein provided, Borrower waives any and all rights of offset which he or she may have or hereafter may have against Lender, of claims and no offset made by Lender shall relieve Borrower from paying installments on the obligations secured hereby at the future time due.

(21) **Foreclosure of Mortgage.** When the indebtedness hereby secured shall become due wholly or in part, or acceleration or otherwise, the Lender shall have the right to foreclose the lien interest in any and to foreclose the lien interest, there shall be allowed and included as additional indebtedness with the principal the all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorney's fees, expenses of title examination, recording, advertising, and other costs, and together with the principal and interest, the cost of prosecuting and obtaining of the same, including the title examination, and other charges and costs, may be estimated as follows to be expended after a copy of the declaration of foreclosure has been reasonably received by either to prosecute such suit or to evidence. It is further provided that the cost of such suit or to evidence the foreclosure of the lien or the value of the Property. All expenditures and expenses of the nature of this paragraph shall be deemed to be a part of the indebtedness secured hereby and shall be immediately due and payable with interest from the date of the declaration of foreclosure. Such expenditures and expenses shall include expenditures made, in connection with any proceedings, whether by or against the Lender or any party, either as plaintiff, defendant or third party, by reason of this Mortgage or any such foreclosure, hereby, or any other proceedings. The commencement of any suit for foreclosure hereof after accrual of such right to foreclose, whether a non-judicial sale, or a judicial proceeding for the defense of any threatened suit or proceeding which might affect the Property or the security interest, whether or not actually commenced, (a) any efforts for collection of any past due indebtedness secured hereby, 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 incurred in the foreclosure proceedings, including all such items as are mentioned in this paragraph hereof; second, all sums of money which shall be the terms of or constitute indebtedness secured by this Mortgage; third, any surplus to Borrower, his legal representative, or assigns, in their rights may appear.

(22) **Appointment of Receiver.** Upon or after the filing of a complaint to foreclose this Mortgage the court in which such complaint filed may at its discretion appoint a receiver of the property or any part of the indebtedness secured hereby. Such appointment may be made either before or after a decree has been rendered with respect to the solvency or insolvency at the time of application for such receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the property which at the time shall be in receipt of the same, or of the same. Such receiver or Mortgagee in possession shall have power to collect the rents, issues and profits of the premises, and the proceeds of any such foreclosure suit, as well as during any further time when Borrower, his successor or assignee, or any other person, or any other person, would be entitled to collect such rents, issues and profits; and all other powers which may be necessary or expedient in such cases for the protection, preservation, control, management and operation of the property during the whole said period. The court may at any time may authorize the receiver or Mortgagee in possession, to apply the net income held by either of them in payment of a whole or 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, provided such application is 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.

(23) **Waiver of Statute of Limitations.** None 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.

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My commission expires:

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 they signed and delivered the same instrument as their free and voluntary act for the uses and purposes therein set forth.

I, the undersigned, WILLIAM P. O'BRIEN AND DONNA L. O'BRIEN, TRUSTEES OF THE O'BRIEN TRUST DATED MAY 26, 1992, a notary public in and for said county and state, do hereby certify that

State of Illinois Cook County ss:

WILLIAM P. O'BRIEN, TRUSTEE FOR O'BRIEN TRUST DATED MAY 26, 1992 DONNA L. O'BRIEN, TRUSTEE FOR O'BRIEN TRUST DATED MAY 26, 1992

Signature of Borrower

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

including the indebtedness. Interest will be added to principal in no case shall the unpaid interest added to the principal exceed 150% of the original principal. From time to time the monthly installment payment due under said Note may not be sufficient to pay all interest due in which case unpaid interest may be adjusted from time to time in accordance with a monthly increase or decrease in an index, all as provided in said Note. (32) Adjustable Rate Mortgage Provisions. The Note which this Mortgage secures is an adjustable mortgage loan on which the convenience only, are not a part of this Mortgage and shall not be used in constructing it. the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for any note secured hereby, whether or not named as Lender herein. (c) Wherever the context so requires, the masculine gender includes devisees, administrators, executors, successors and assigns. (b) The term "Lender" shall mean the owner and holder (including a pledgee) (31) General Provisions. (a) This Mortgage applies to, inures to the benefit of, and binds, all parties hereto, their heirs, legatees, records pertaining to the loan evidenced by the note at the time notice is given. (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 Lenders (29) Waiver of Home State. Borrower hereby waives all right of homestead exemption in such property payable. declare the indebtedness secured by this Mortgage, irrespective of the maturity date specified in the note or notes, immediately due and misrepresentation or material fact or failed to disclose any material fact. Lender, at its option and without prior notice, shall have the right to Lender to make the loan evidenced by the note or notes which this Mortgage secures, and in the event that Borrower has made any (28) Misrepresentation or Non-disclosure. Borrower has made certain written representations and disclosures in order to induce time of filing his answer be barred by the applicable statute of limitations. demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that two money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an which Borrower now or hereafter may have or claim to have in respect to all or part of the indebtedness secured hereby, and further the indebtedness now or hereafter secured hereby, Borrower waives, to the fullest extent permitted by law, any and all rights of offset compensated by all 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 (27) Offsets. No indebtedness secured by this Mortgage shall be offset or compensated or shall be deemed to have been offset or or the note or other notes secured by this Mortgage. 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 (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 banks. 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 (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. (24) Future Advances. Upon request of Borrower, Lender at Lender's option prior to release 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 182,000.00

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