

BOX 333

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY  
DAY AUGUSTINE  
WHEN RECORDED MAIL TO  
HOME SAVINGS OF AMERICA  
LOAN SERVICE CENTER  
P.O. BOX 60015  
CITY OF INDUSTRY CALIFORNIA 91716-0015

92906437

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

**Mortgage and Assignment of Rents  
ADJUSTABLE INTEREST RATE LOAN**

LOAN NO. 15005637

This Mortgage, made this 11th day of NOVEMBER, 1992, between  
HERBERT C. JOHNSON AND JOHANNE A. JOHNSON, HUSBAND AND WIFE

herein called BORROWER, whose address is 4900 WEST 144th PLACE  
(number and street)

MIDLOTHIAN IL 60445  
(city) (state) (zip code)

and HOME SAVINGS OF AMERICA, FSB a corporation herein called LENDER whose address is 4900 Rivergrade Road, Irwindale, California 91706

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

LOT 8 IN THE WOODLANDS RESUBDIVISION OF LOT 8 (EXCEPT THE NORTH 30 FEET THEREOF AND EXCEPT THE WEST 150 FEET THEREOF) IN CROSS SUBDIVISION OF THE NORTH 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 06 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS 4900 WEST 144th PLACE, MIDLOTHIAN, IL. 60445

FTN: 28 09 201 024

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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 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 \$ 40,000.00 with interest thereon, according to the terms of a promissory note of even date herewith and having a final maturity date of DECEMBER 10, 2006 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 hereon or incorporated hereby by reference or contained in any papers executed by Borrower in connection with the loan secured hereby; (4) Performance of the loan secured hereby, or any part thereof, for the purpose of constructing improvements on such property, if any, provided in an agreement of Borrower contained in any existing 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, state and city and all other instruments bearing Borrower's interest in or affecting such property; (6) Compliance by Borrower with each and every monetary provision of the performance by Borrower under any declaration of covenants, conditions and restrictions or pertaining to such property, or any declaration of covenants, conditions and restrictions, and any written request of Lender for enforcement by Borrower of any covenant to pay or to perform any such monetary obligation, if the same have not been paid, and all legal steps taken therefor, this 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, if due to Lender, whether created directly or acquired by absolute or contingent assignment, whether due or not, whether or not so 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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11. **Prepayment Charge.** The Borrower shall pay a prepayment charge on any prepayment of principal or interest on this Mortgage. The prepayment charge shall be determined by the Lender and shall be set forth in the schedule of prepayment charges attached to this Mortgage. The Borrower shall be deemed to have agreed to pay the prepayment charge on any prepayment of principal or interest on this Mortgage.

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, at any time, in any 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, (a) pay, purchase, contest or compromise any encumbrance, charge or lien which, in its judgment or it appears to be prior or superior hereto, and (b) 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, in whole or in part, or in part of such property, or drills or extracts or enters into a lease for or extracting oil, gas or other hydrocarbon substances or any mineral of any kind or character on such property, or if Borrower is a partner or partner in interest of a general partner in a partnership or transferred, or if Borrower is a corporation and more than 25% of the corporate stock thereof is sold, transferred or assigned, or if a 12-month period, or if Borrower is a trust and there is a change of beneficial interest with respect to more than 25% of such property, or if Borrower has made any material misrepresentation or failed to disclose any material fact in these 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.** The 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 or performing any act under this Mortgage, Borrower waives the right to demand that Lender make or perform or by doing any payment 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 to pay such other sums or to perform such other acts.

18. **Modification in Writing.** This Mortgage shall not be changed or modified except as otherwise provided in this Mortgage or in an agreement in writing signed by Borrower or a 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 receive such payments at any time without notice, and such payments shall be made to Lender at his last known address in any event, such 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 eject tenants, set or modify rents, in its own name sue for or otherwise collect the rents, income, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of collection and collection, upon any indebtedness secured hereby and in 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, 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 non-default hereunder or invalidate any act done pursuant to such notice.

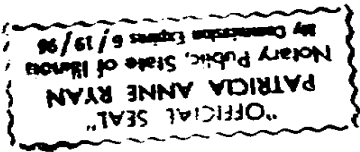
20. **Remedies.** No remedy here provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Borrower or to Lender or to which either of them may be otherwise entitled, may be exercised from time to time and 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 of money, or credits of or being due to Borrower and which the Lender may have in its possession or under its control, including among other things, any mounds held by Lender under paragraph (b) hereof.

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, of claims and no offset made by Lender shall relieve Borrower from paying installments on the obligations secured hereby as they become due.

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 hereof in any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree of sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographer's charges, publication cost and costs of procuring all abstracts of title or commitments for title insurance. Such fees, charges and costs may be estimated and items to be expended after entry of the decree as Lender may deem 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 to or the value of the Property. All expenditures and expenses of the nature of this paragraph mentioned shall become so much additional indebtedness secured hereby and shall be immediately due and payable with interest thereon at the rate specified in the Note. Such expenditures and expenses shall include expenditures made in connection with (a) any proceedings to which Lender shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured, (b) preparation for the commencement of any suit for foreclosure hereof after accrual of such right to foreclose whether or not actually commenced, (c) 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. 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, all other items which under the terms hereof constitute indebtedness secured by this Mortgage, third, any surplus to Borrower, his legal representatives or assigns, as their rights may appear.

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 filed may appoint a receiver of the property or may appoint Lender as Mortgagee in possession. Such appointment may be made either before or after sale, without notice, without regard 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 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, issues and profits of the premises during the pendency of such foreclosure suit, as well as during any further times when Borrower, his successors or assigns, except for 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 property during the whole said period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net income held by either of them in payment 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, 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.** 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.



State of Illinois, County ss. HERBERT C. JOHNSON AND JOHANNE A. JOHNSON, HUSBAND AND WIFE, do hereby certify that 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. Given under my hand and official seal this 19th day of [blank] 19[blank]. Notary Public [Signature]

Signature of Borrower: HERBERT C. JOHNSON, JOHANNE A. JOHNSON

212,000.00 plus
(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 this Mortgage, exceed the original amount of the Note including sums advanced in accordance herewith to protect the security of this Mortgage.
(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 of 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 paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage.
(27) Offset. No indebtedness secured by this Mortgage shall be offset or compensated by 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 crossclaim, 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 Non-disclosure. 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 recorded pertaining to the lot 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 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 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 any notice of sale hereunder be mailed to borrower at the address hereinafter set forth.

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