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Permanent Index Number: 12-24-308-026
20f3

Prepared by:
Middleberg Riddle & Gianna
2323 Bryan Street
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Dallas, Texas 75201

: DEPT-01 RECORDING \$31.00
: T00014 TRAN 2591 08/29/94 15:06:00
: \$0009 # AR #--94-762753
: COOK COUNTY RECORDER

Return to:
ACCUBANC MORTGAGE CORP.
1 EAST 22ND STREET, #600
LOMBARD, ILLINOIS 60148

[Space Above This Line For Recording Data]

Loan No: 02411601
Borrower: MIROSLAW ZIAJA

Data ID: 288

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on the 11th day of August, 1994.
The mortgagor is MIROSLAW ZIAJA AND BARBARA ZIAJA , HIS WIFE, AND LEON POTEMPA , AN UNMARRIED MAN

("Borrower").

This Security Instrument is given to U.S. FINANCIAL LIMITED, A LIMITED PARTNERSHIP, which is organized and existing under the laws of the State of ILLINOIS, and whose address is 9400 W. FOSTER AVENUE, SUITE L-2, CHICAGO, ILLINOIS 60656

("Lender").

Borrower owes Lender the principal sum of ONE HUNDRED THIRTY THOUSAND and NO/100----Dollars (U.S. \$ 130,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on September 1, 2024. This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender the following described property located in COOK County, Illinois.

LOT 6 IN BLOCK 3 IN JOHN J. RUTHERFORD'S 4TH ADDITION TO MONT CLARE, A SUBDIVISION OF THE WEST 1/2 OF THE WEST 1/2 OF THE SOUTHWEST FRACTIONAL 1/4 OF FRACTIONAL SECTION 24, SOUTH OF THE INDIAN BOUNDARY LINE, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 12-24-308-026

3100
m

which has the address of 3444 NORTH OSAGE,

Illinois

60634
[Zip Code]

[Street]

CHICAGO,

(City)
("Property Address");

Borrower shall prominently display the name which has priority over the Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation incurred by the Lender in a manner acceptable to Lender; (b) contributes in good faith to the Lien by, or defends against enforcement of the Lien in, legal proceedings whereby Lender's opinion operates to prevent the enforcement of the Lien or (c) secures from the holder of the Lien an agreement to operate under a subordination of the Lien to Lender's instrument. Lender may give Borrower a notice identifying the Lien to a Lien which may affect his Security Interest, Lender may give Borrower a notice identifying the Lien to a Lien which may affect his Security Interest, Lender may give Borrower a notice identifying the Lien to a Lien which may affect his Security Interest, Lender may give Borrower a notice identifying the Lien to a Lien which may affect his Security Interest.

agreement, the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under paragraphs 1 and 2 shall be applied first, to any prejudicial charges due under this Note; second, to amounts payable under paragraphs 2, third, to interest, to principal due; and last, to any late charges due under this Note.

4. Charges; Lenses. Borrower shall pay all taxes, assessments, charges, fines and impositions, whether taxable to the property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any, or to the person owed payment. Borrower shall pay all premiums directly to the manager provided in paragraph 2, or if not paid in full manner, Borrower shall pay them on time specified in the instrument provided in paragraph 2, or to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender a copy of each payment made to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender a copy of each payment made to the person owed payment.

If the Funds held by Lender exceed the amounts permitted to be held by applicable law, Lender shall account to Borrower for the excess Funds in accordance with the requirements of applicable law, if the amount of the Funds held by Lender in any time is not sufficient to pay the Face amount when due, Lender may so notify Borrower in writing, and, in such case Borrower shall pay to Lender the amount necessary to make up the deficiency. Borrower shall make up the deficiency in no more than twelve months, at Lender's sole discretion.

1. Payment of Principal and Interest; Prepayment of Late Charges. Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are collectively called "Escrow Items". Lender may require that a Federally related mortgage loan may require a lender to hold Funds in an amount not to exceed the maximum amount allowed by the Servicing Procedures Act of 1974 as amended from time to time, if so, Lender may, at any time, collect the fees ("RESPA"), unless otherwise lawfully applies to the Funds set aside under the Note or otherwise in accordance with the Servicing Procedures Act of 1974 as amended from time to time, if so, Lender may, at any time, collect the fees ("RESPA"). Unless otherwise lawfully applies to the Funds set aside under the Note or otherwise in accordance with the Servicing Procedures Act of 1974 as amended from time to time, if so, Lender may, at any time, collect the fees ("RESPA").

3. Taxes and Insurance. Borrower shall pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

4. Payment of Late Charges. Borrower shall pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

5. Payment of Taxes and Insurance. Subject to applicable law or to a written waiver by Lender, Borrower shall pay to Lender on the day monthly payments are due under the Note, until the Note is paid in full, a sum ("Funds") for (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Borrower to Lender to hold Funds in an amount not to exceed the maximum amount allowed by the Servicing Procedures Act of 1974 as amended from time to time, if so, Lender may, at any time, collect the fees ("RESPA").

This SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

BORROWER COVENANTS that Borrower is lawfully seized of title estoppel hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record Borrower warrants and defend generally the title to the Property against all claims and demands, subject to any mortgages, grants and conveyances of record.

TOGETHER WITH all the improvements now or hereafter erected on the premises, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security instrument. All of the foregoing is referred to in this Security instrument as the "Property".

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5. Hazard or Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest. Borrower may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's good faith determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Security Instrument or Lender's security interest. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

7. Protection of Lender's Rights in the Property. If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this paragraph 7, Lender does not have to do so.

Any amounts disbursed by Lender under this paragraph 7 shall become additional debt of Borrower secured by this Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

8. Mortgage Insurance. If Lender required mortgage insurance as a condition of making the loan secured by this Security Instrument, Borrower shall pay the premiums required to maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Lender lapses or ceases to be in effect, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Lender. If substantially equivalent mortgage insurance coverage is not available, Borrower shall pay to Lender each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Borrower when the insurance coverage lapsed or ceased to be in effect. Lender will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments

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(5). Governing Laws - **Severability**, This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision of this Security Instrument is declared invalid or unenforceable, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

of notice to Bonner, any notice provided for in this section shall be deemed to have been given to Bonner or Lender when given as provided in this paragraph.

by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

13. **Loan charges.** If the loan secured by this Security Instrument is subject to a law which sets a maximum borrower which exceeds the permitted limits will be refunded to Borrower. Lender may choose to make this refund by the amount necessary to reduce the charge to the permitted limit and (b) any sums already collected from the borrower in connection with the loan exceed the permitted limit, then: (a) any such loan charge shall be reduced to the amount necessary to reduce the charge to the permitted limit, then:

regard to the terms of this Security Instrument or the Note without Borrower's consent.

12. **Successors and Assigns Bound; Joint and Several Liability; Co-signers.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute this Note: (a) is co-signing this Security Instrument only to mortgagee, grant and convey that Borrower's interest in the Property under the terms of this instrument only to Lender and Security Instrument (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forfeit or take any accommodation with

11. Borrower Not Released; Forbearance by Lender Not a Waiver. Extension of the time for payment of amortization of the sums secured by this Security Instrument granted by Lender to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest for payment of any sum due under this Security Instrument.

² See also the discussion of the relationship between law and memory in my book *Memory and the Law* (Cambridge, 1995).

If the Property is abandoned by Borrower, or it, after notice by Borrower to Borrower that the condemned offers to make an award of settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums accrued by this Securit Instrument, whichever of note due, unless Lender and Borrower otherwise agree in writing, any application of proceeds; a principal shall not exceed of notespace the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount

shares should be added to 10 if this security instrument whether or not the sums are then due.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security instrument, whether or not there are any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property is less than the amount of the sums secured immediately before the taking, unless Borrower has otherwise agreed in writing or unless applicable law otherwise provides, the proceeds of the Property held in escrow before the taking shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property is less than the sum of the amounts of the sums secured immediately before the taking, the fair market value of the Property held in escrow before the taking, plus interest accrued on such amount from the date of the taking until the date of the partial taking, shall be paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property is less than the sum of the amounts of the sums secured immediately before the taking, the fair market value of the Property held in escrow before the taking, plus interest accrued on such amount from the date of the taking until the date of the partial taking, shall be paid to Borrower.

connection with any combination or mixture taking place in the tropic, or for conversion into one of condensation, are hereby assigned and shall be paid to Lender.

10. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in inspection with any condemnation of any part of the property of the company in the event of

9. **Lender's Agent.** Lender or his agent may make reasonable entries upon and inspections of the property.

may no longer be required, at the option of Lender, at insurer approved by Lender coverage (in the amount and for the period that Lender requires) provided by an insurer acceptable to Lender, if mortgage insurance ends in accordance with any written agreement between Borrower and until the requirement for mortgage insurance ends in accordance with any applicable law.

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16. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Security Instrument; or (b) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Security Instrument, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Security Instrument shall continue unchanged. Upon reinstatement by Borrower, this Security Instrument and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraph 17.

19. Sale of Note; Change of Loan Servicer. The Note or a partial interest in the Note (together with this Security Instrument) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects monthly payments due under the Note and this Security Instrument. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with paragraph 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. Hazardous Substances. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this paragraph 20, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

21. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

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My commission expires:

(Printed Name)

- The seal is circular with a double outer border. The inner circle contains the words "OFFICIAL SEAL" at the bottom and "ILLINOIS STATE AUDITOR" at the top. The outer ring features the Illinois state motto "SI QVI DEUS PROIBET QVI PATERE DARE VOLUIT" in Latin, with "ILLINOIS" written across the bottom.

VdWELD NORI

V

The foregoing instrument was acknowledged before me this day of July, 19_____, by

11

State of Illinois
County of Cook

[Space below this line for Acknowledgments]

Borrower
.....(Seal)

LEON POTEMPA-Borrower
1222 1/2/1978 (Seal)

BARBARA ZIAJA-Borrows
.....(Seal)

MIROSLAW ZIAJA-Borrows
.....(Scal)

BY SIGNED BELOW, Borrower accepts and agrees to the terms and conditions contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

- Adjustable Rate Rider Condominium Rider 1-4 Family Rider
 Grandparent Rider Grandchildren Rider Other(s) [Specify] _____

Graduate Family Rider Planned Unit Development Rider Biweekly Premium Rider
 Rate Improvement Rider Second Home Rider
 Balloon Rider Other _____

Instrument [Check applicable box(es)]

24. Holders of this Security Instrument, if one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

Instruments without charge to Borrower, Borrower shall pay any recordation costs. 23. Waiver of Homestead. Borrower waives all right of homestead exemption in the Property.

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