

H98000234

UNOFFICIAL COPY

ADJUSTABLE RATE MORTGAGE

THE NOTE SECURED BY THIS MORTGAGE CONTAINS PROVISIONS PERMITTING THE INTEREST RATE TO CHANGE DAILY.

THIS MORTGAGE made this 29TH day of JANUARY, 19 98 between JEFFREY C. CIPOLLA AND DEBRA A. CIPOLLA, HUSBAND AND WIFE

("Mortgagor") and First National Bank of Evergreen Park ("Mortgagee"), a National Banking Association, whose address is 4900 West 95th Street, Oak Lawn, Illinois 60453

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of \$ 25,000.00 which indebtedness is evidenced by a note ("Note") of even date herewith, which Note provides for the payment of interest at an adjustable rate, in accordance with and as set forth in said Note. The indebtedness and any interest and charges thereon, if not sooner paid, shall be due and payable on JANUARY 28, 2003.

NOW, THEREFORE, to secure (i) the payment of the Note, with interest thereon, and all renewals, extensions and modifications thereof, (ii) the payment of all other sums, with interest thereon, advanced in accordance with this Mortgage and (iii) the performance of the covenants and agreements of the Mortgagor contained in the Note and Mortgage, the Mortgagor does hereby Mortgage, Grant and Convey to Mortgagee the following described real estate ("Premises") located in COOK County, Illinois:

See Exhibit "A", attached hereto and made a part hereof, for legal description.

The Premises shall include (i) all improvements, tenements, easements, fixtures and appurtenances thereto; (ii) all rents, issues and profits thereof for so long and during all such times as Mortgagor may be entitled thereto (which are pledged primarily and on a parity with the Premises and not secondarily); (iii) all fixtures, apparatus, equipment or articles now or hereafter thereon or thereon used to supply heat, gas, air conditioning, water, light, power, sprinkler protection, waste removal, refrigeration (whether single units or centrally controlled) and ventilation, including (without restricting the foregoing) all fixtures, apparatus, equipment and articles, other than such as constitute trade fixtures used in the operation of any business conducted upon the Premises, as distinguished from fixtures which relate to the use, occupancy and enjoyment of the Premises. It being understood that the enumeration of any specific articles of property shall in no way exclude or be held to exclude any items of property not specifically mentioned. All of the land, estate and property hereinabove described, real, personal and mixed, whether affixed or annexed or not (except where otherwise hereinabove specified), and all rights hereby conveyed and mortgaged are intended to be as a unit and are hereby understood, agreed and declared to form a part and parcel of the real estate and to be appropriated to the use of the real estate, and for the purposes of this Mortgage, shall be deemed to be real estate and conveyed and mortgaged hereby.

THIS INSTRUMENT WAS PREPARED BY:
FIRST NATIONAL BANK OF EVERGREEN PARK
4900 West 95th Street
Oak Lawn, Illinois 60453

AFTER RECORDATION, RETURN TO:
FIRST NATIONAL BANK OF EVERGREEN PARK
4900 West 95th Street
Oak Lawn, Illinois 60453

Adjustable rate commercial mortgage to be used with an adjustable rate commercial note (r. 1096)

BOX 333-CTI

Subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Mortgagor's interest in the Premises. Mortgagor covenants that (i) Mortgagor is lawfully seized of and has the right to mortgage, grant and convey the Premises, (ii) the Premises are unencumbered and (iii) Mortgagor will warrant and defend the title to the Premises against all claims and demands.

IT IS FURTHER UNDERSTOOD THAT:

1. Mortgagor shall promptly pay when due (i) the principal and interest due under the Note, (ii) prepayment and late charges as provided in the Note and (iii) the principal and interest on any future advances secured by this Mortgage.
2. In addition, the Mortgagor shall:
 - (i) Promptly repair, restore or rebuild any improvement now or hereafter on the Premises which may become damaged or destroyed.
 - (ii) Pay immediately, when due and payable, all general taxes, special taxes, special assessments, water charges, sewer charges and other taxes and charges against the Premises, including those heretofore due and the monthly payments provided in the Note in anticipation of such taxes and charges; and upon request by the Mortgagee, furnish the Mortgagee with the original or duplicate receipts therefor. All such items extended against the Premises shall be conclusively deemed valid for the purpose of this requirement.
 - (iii) Keep the improvements now existing or hereafter constructed on the Premises insured against loss or damage by fire, lightning, wind storm or such other hazards as the Mortgagee may reasonably require to be insured against under policies providing for payment by the insurance companies of monies sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby. Said insurance, including additional and renewal policies, (1) shall be from/through companies and agents or brokers acceptable to the Mortgagee; (2) shall be in a form approved by the Mortgagee; (3) shall continue in full force and effect until the Note is fully paid or in the case of foreclosure, until the expiration of the redemption period; (4) shall be delivered to and retained by the Mortgagee and (5) shall contain a clause, satisfactory to the Mortgagee, making the insurance payable to the Mortgagee. In case of loss under such policies, the Mortgagee is authorized to adjust, collect and compromise, in its discretion, all claims thereunder and the Mortgagor agrees to sign, upon demand, all receipts, vouchers and releases required of said Mortgagor by the insurance companies. Application by the Mortgagee of any of the proceeds of such insurance to the indebtedness hereby secured shall not excuse the Mortgagor from making all monthly payments until said indebtedness is paid in full. In the event of a loss, Mortgagor shall give prompt notice to the insurance carrier and Mortgagee; and Mortgagee may file/submit proof of said loss if such proof is not promptly filed/submitted by Mortgagor. All renewal policies shall be delivered at least 10 days before such insurance shall expire. Further, all policies shall provide that Mortgagee shall receive 10 days notice prior to cancellation.
 - (iv) Keep the improvements now existing or hereafter constructed on the Premises insured in an amount necessary to satisfy the terms and conditions of "The National Flood Insurance Act of 1968", or any act amendatory thereof thereto and all applicable federal regulations in Part 22 of Title 12 of the Code of Federal Regulations.
 - (v) Complete within a reasonable time any buildings or improvements, now or at any time hereafter, in the process of being constructed upon the Premises.
 - (vi) Keep the Premises (1) in good condition and repair, (2) without waste and (3) free from any and all mechanics' lien(s) and/or other lien(s) or claim(s) of lien, which is/are not expressly subordinated to the lien hereof.
 - (vii) Not suffer or permit any unlawful use of or nuisance to exist on the Premises nor diminish or impair its value by any act or omission.
 - (viii) Comply with all requirements of federal, state and local laws, rules, regulations, ordinances and orders with respect to the Premises and the use thereof.
 - (ix) If this Mortgage is on a leasehold, comply with the provisions of the underlying lease(s).

3. In the case of a failure to perform any of the covenants herein, or if any action or proceeding is commenced which materially affects Mortgagee's interest in the Premises, including, but not limited to, eminent domain, insolvency, code enforcement or arrangements or proceedings involving a bankrupt or decedent, the Mortgagee may do on the Mortgagor's behalf everything so covenanted; the Mortgagee may also do any act it may deem necessary to protect the lien hereof. And upon demand by the Mortgagee, the Mortgagor will repay any monies paid or disbursed, including reasonable attorneys' fees and expenses, by the Mortgagee for any of the above purposes. Such monies, together with interest thereon at the Note rate, shall become an additional indebtedness secured by this Mortgage and may be included in any order or decree foreclosing this Mortgage and be paid out of the rents or proceeds of the sale of the Premises, if not otherwise paid. It shall not be obligatory upon the Mortgagee to inquire into the validity of any lien, encumbrance or claim in advancing monies as authorized above, but nothing herein contained shall be construed as requiring the Mortgagee to advance any monies for any purpose nor to do any act hereunder, and the Mortgagee shall not incur any personal liability because of anything it may do or omit to do hereunder, nor shall any act(s) or omission(s) of Mortgagee constitute a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Mortgage or to proceed to foreclose this Mortgage.

4. It is the intent hereof to secure payment of the Note and any and all other note(s) executed hereafter by Mortgagor and therein stated to be secured by this Mortgage, whether the entire principal amount (i) shall have been advanced to the Mortgagor on the date hereof or at a later date or (ii) having been advanced, shall have been repaid in part and further advances made at a later date.

5. It is of the essence hereof, therefore, in the event of default (as set forth in Paragraph 6 or 7), the Mortgagee may, without notice or demand, and without affecting the lien of this Mortgage, the priority of the Mortgage or any right of the Mortgagee hereunder, (i) declare all sums secured hereby immediately due and payable, whether or not such default be remedied by Mortgagor, (ii) apply toward the payment of the Mortgage indebtedness any monies of the Mortgagor held by the Mortgagee and (iii) immediately proceed to foreclose this Mortgage. In any foreclosure, a sale may be made of all or any part of the Premises.

6. The following shall constitute events of default under this Mortgage:

- (i) The Mortgagor fails/ceases to perform any covenant of the Note or Mortgage, including, but not limited to, the failure to make the payments required under the Note, including all renewals, modifications and extensions thereof.
- (ii) Proceedings are instituted to enforce any other lien or charge upon any of the Premises.
- (iii) The Mortgagor makes an assignment of the Premises for the benefit of its creditors.
- (iv) The Premises are placed under the control or in custody of any court or government officer.
- (v) The Mortgagor abandons the Premises.
- (vi) The Mortgagor fails to pay when due any charge or assessment (whether for insurance premiums, maintenance, taxes, capital improvements, purchase of another unit or otherwise) imposed by any condominium, townhouse, cooperative or similar owners' group.
- (vii) The Mortgagor makes any misrepresentation(s) to the Mortgagee, including but not limited to any misrepresentation(s) made in this Mortgage.

7. Without the prior written approval of the Mortgagee, any sale, conveyance or transfer of any right, title or interest in the Premises (or any portion thereof) or any sale, transfer or assignment of all or any part of the beneficial interest of any trust holding title to the Premises shall constitute a default hereunder; and upon any such default, the Mortgagee or the holder of the Note may declare the entire indebtedness evidenced by said Note to be immediately due and payable and may foreclose this Mortgage immediately or at any time during which such default continues.

8. Upon the commencement of any foreclosure proceeding hereunder, the court in which such action is filed may at any time before or after sale, without notice to the Mortgagor or any party claiming under the Mortgagor, and without regard to the solvency of the Mortgagor or the then value of the Premises, and regardless of whether the Premises are then occupied by the owner of the equity of redemption as a homestead, appoint a receiver with power to manage, rent and collect the rents, issues and profits of said Premises during the pendency of the foreclosure, including the statutory period of redemption. Said rents, issues and profits, when collected, may be applied, before as well as after the foreclosure sale, towards (1) the payment of the indebtedness evidenced by the Note, costs, taxes, insurance or other items necessary for the protection and preservation of the Premises, including the expenses of the receivership or (2) any deficiency judgment, whether in personam or not. If a receiver shall be appointed, said receiver shall remain in possession of the Premises until the expiration of the full period allowed by statute for redemption and in case of sale, until the issuance of a deed, but if no

deed is issued, until the expiration of the statutory period during which it may be issued. No lease of said Premises shall be nullified by the appointment or entry in possession of a receiver, but said receiver may elect to terminate any lease junior to the Mortgage lien.

Upon foreclosure of the Premises, there shall be allowed and included as an additional indebtedness in the decree of sale all expenditures and expenses, together with interest thereon at the rate of 2% per annum above the Note rate then in effect, incurred by or on behalf of the Mortgagee for attorneys' fees, Mortgagee's fees, appraiser's fees, court costs and the estimated costs to be expended after the entry of the order or decree of foreclosure, including costs of procuring all such data with respect to title as Mortgagee may reasonably deem necessary to prosecute such suit or to evidence to bidders at any sale held pursuant to such order or decree the true title to or value of the Premises. In the event of a foreclosure sale of the Premises, there shall first be paid out of the proceeds thereof all of the aforesaid items; then the entire indebtedness, whether or not due and payable by the terms hereof, with interest thereon up to the time of such sale, shall be paid to the Mortgagee and the remainder, if any, shall be paid to the Mortgagor. The purchaser shall not be obligated to see to the application of the purchase money.

9. The Mortgagee may grant and may refuse to grant any modification(s), extension(s), release(s), and/or re-amortization(s), as set forth below, without the consent of the Mortgagor or the Mortgagor's successor(s) in interest. If the payment of the indebtedness hereby secured, or any part thereof, be extended or varied, or if any part of the security or guaranties therefor be released, all persons now or at any time hereafter liable therefor or interested in the Premises, shall be held to assent to such extension, variation or release, and their liability hereunder, and the lien and all provisions hereof, shall continue in full force and effect: the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Neither the Mortgagor or any successor to the Mortgagor will be released in any manner from the liabilities of this Mortgage or the Note as a result of the Mortgagee's (i) modification of, (ii) reamortization of and/or (iii) extension of the time for payment of the indebtedness secured hereby. Any person, firm or corporation taking a junior mortgage or other lien upon the Premises or any part thereof or any interest therein, shall take said lien subject to the rights of Mortgagee to amend (including, without limitation, changing the rate of interest or manner of computation thereof), modify, extend or release the Note, this Mortgage or any other document or instrument, evidencing, securing or guaranteeing the indebtedness hereby secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien except as otherwise expressly provided in a separate Subordination Agreement by and between Mortgagee and the holder of such junior lien.

10. Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law or in equity, shall not be a waiver of or preclude the exercise of any such right or remedy. Further, (i) the procurement of insurance or (ii) the payment of taxes, other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate the indebtedness secured by this Mortgage.

11. All remedies provided in this Mortgage (i) are distinct, (ii) are cumulative to/with any other right or remedy set forth in this Mortgage or afforded by law or in equity and (iii) may be exercised concurrently, independently or successively.

12. Subject to the provisions of Paragraph 7 hereof, the Note and Mortgage shall be binding upon and inure to the benefit of the respective successors and assigns of Mortgagee and Mortgagor. Further, all covenants and agreements of Mortgagor shall be joint and several.

13. Except to the extent any notice shall be required under applicable law to be given in another manner, any notice to Mortgagor shall be given by mailing such notice by certified mail addressed to Mortgagor at the property address or at such other address as Mortgagor may designate by notice to Mortgagee, as provided herein; and any notice to Mortgagee shall be given in writing and be mailed by certified mail, return receipt requested, to Mortgagee's address stated herein or to such other address as Mortgagee may designate by notice to Mortgagor, as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given when mailed in the manner designated above.

14. Upon payment of all sums secured by this Mortgage, Mortgagee shall release this Mortgage without charge to Mortgagor. Mortgagor shall pay all costs of recordation of any documentation necessary to release this Mortgage.

15. Mortgagor assigns to Mortgagee and authorizes the Mortgagee to negotiate for and collect any award for condemnation of all or any part of the Premises. The Mortgagee may, in its discretion, apply any such award to amounts due hereunder or for restoration of the Premises.

16. Mortgagor shall not and will not apply for or avail itself of any appraisalment, valuation, stay, extension or exemption laws or any so-called "Moratorium Laws", now existing or hereafter enacted, and hereby waives the benefit of such laws. Mortgagor does hereby expressly waive any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage.

17. Mortgagor represents that it is currently in compliance with all federal, state and local laws, rules, regulations, ordinances and orders which in any way, in whole or in part, regulate the environmental matters pertaining to, arising out of or in any way associated with the Premises (all of the foregoing being referred to collectively as the "Environmental Requirements"), including, but not limited to, those which address air, soil and/or water pollution, the use, generation, storage, handling and/or disposal of hazardous and/or toxic substances materials (including, but not limited to, raw materials, products, supplies and/or wastes); and Mortgagor covenants and agrees that it will remain in compliance with said Environmental Requirements. Further, Mortgagor covenants and agrees that within 5 calendar days of its receipt of a citation, notice of violation or other notice of potential liability from any governmental or quasi-governmental authority empowered to regulate or oversee any and/or all of the Environmental Requirements, Mortgagor shall deliver a copy thereof to Mortgagee.

18. This Mortgage shall be governed by the law of the jurisdiction in which the Premises are located. In the event one or more of the provisions contained in this Mortgage shall be prohibited or invalid under applicable law, such provision(s) shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision(s) or the remaining provisions of this Mortgage. Further, in all cases where there is more than one Mortgagor, the word "Mortgagor" whenever used herein shall be construed to mean Mortgagors and the necessary grammatical changes shall be assumed in each case as though fully expressed.

IN WITNESS WHEREOF, the Mortgagor has signed this Mortgage on the date first above written at
OAK LAWN, Illinois.

Jeffrey C. Cipolla
JEFFREY C. CIPOLLA

Debra A. Cipolla
DEBRA A. CIPOLLA

No. 123125-45647

EXHIBIT "A"

THIS RIDER ATTACHED TO AN ADJUSTABLE RATE MORTGAGE
DATED JANUARY 29, 1998 BETWEEN _____
JEFFREY C. CIPOLLA AND DEBRA A. CIPOLLA, HUSBAND AND WIFE
_____ AND
FIRST NATIONAL BANK OF EVERGREEN PARK.

LOT 10 IN BLOCK 7 IN LAWN HEIGHTS SUBDIVISION NUMBER 1, BEING A
SUBDIVISION OF THE WEST 4/10 OF LOT 1 IN THE SUBDIVISION OF THE
WEST 1/2 OF THE NORTHEAST 1/4 AND THE NORTHWEST 1/4 OF SECTION 4,
TOWNSHIP 27 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN,
IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 24-04-217-024-0000

PROPERTY ADDRESS: 9036 SOUTH 51ST AVENUE

OAK LAWN, ILLINOIS 60453

Property of Cook County Clerk's Office

