

3180657

THIS INSTRUMENT PREPARED BY
 PABARA MORETTI
 SAVINGS OF AMERICA
 C/O HOME SAVINGS OF AMERICA
 P.O. BOX 7075
 PASADENA, CA. 91109
 ALL NOTICES TO LENDER SHALL BE
 MAILED OR DELIVERED TO THE ABOVE
 ADDRESS

LOAN NO. 6041-E-1

MORTGAGE AND ASSIGNMENT OF RENTS ADJUSTABLE INTEREST RATE LOAN

This Mortgage made this 25th day of NOVEMBER, 1985 between
DONALD A. HERTON AND SHEENA A. AHERTON, HUSBAND AND WIFE

known called **BORROWER** whose address is 330 SELWYN LANE (number and street)

RUFFALO, NEW YORK
 (city)

IL
 (state)

60089
 (zip code)

HOME SAVINGS OF AMERICA, FA

a corporation herein called **LENDER**

WITNESSETH Borrower hereby grants to Lender the real property legally described as follows:

LOT THREE HUNDRED SEVENTY (373) IN CAMBRIDGE COUNTRYSIDE UNIT SIX, BEING A SUBDIVISION IN THE NORTH HALF (1/2) OF SECTION 9, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRIN (3RD) MERIDIAN, ACCORDING TO PLAT THREE REGISTERED IN THE OFFICE OF THE REGISTRAR OF DEEDS OF THE COUNTY OF ILLINOIS, ON APRIL 7, 1981 AS DOCUMENT NUMBER 1199711.

COMMONLY KNOWN AS 330 SELWYN LANE, RUFFALO, NEW YORK, 60089

PTN: 03 09 217 000

Together with all interest which Borrower now has or hereafter acquires in such property and in and to such easements and rights of way appurtenant thereto, and (b) all buildings, structures, improvements, fixtures, and appliances now or hereafter placed thereon, including but not limited to all apparatus and equipment, whether or not physically attached to the real property, and all plumbing, heating, air conditioning, heat gas, water, light, power, refrigeration, ventilation, sanitary, drainage, and waste disposal, and other services, and all air conditioning systems, antennas, pool equipment, window coverings, drapes and shades, and other improvements, and all awnings, porches, decks, water, gas, and attached cabinets, it being intended and agreed that such items be considered as part of the real property that is conveyed hereby, and (c) all water and water rights (whether or not appurtenant) which Borrower now has or hereafter acquires, and (d) all other instruments as may be requested by Lender to confirm the validity of this Mortgage on any such equipment. The property conveyed to Lender hereunder is 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 \$

with interest thereon according to the terms of a promissory note of

even date herewith made by Borrower to Lender, and (2) the cost of such property and in and to such easements and rights of way appurtenant thereto, and (b) all buildings, structures, improvements, fixtures, and appliances now or hereafter placed thereon, including but not limited to all apparatus and equipment, whether or not physically attached to the real property, and all plumbing, heating, air conditioning, heat gas, water, light, power, refrigeration, ventilation, sanitary, drainage, and waste disposal, and other services, and all air conditioning systems, antennas, pool equipment, window coverings, drapes and shades, and other improvements, and all awnings, porches, decks, water, gas, and attached cabinets, it being intended and agreed that such items be considered as part of the real property that is conveyed hereby, and (c) all water and water rights (whether or not appurtenant) which Borrower now has or hereafter acquires, and (d) all other instruments as may be requested by Lender to confirm the validity of this Mortgage on any such equipment. The property conveyed to Lender hereunder is hereinafter referred to as "such property".

TO PROTECT THE SECURITY OF THIS MORTGAGE, BORROWER AGREES:

1. **Construction or Improvements.** To complete in good and workmanlike manner any building or improvement or repair relating thereto which may be begun on such property or contemplated by the loan secured hereby, to pay when due all costs and liabilities incurred therefor, and not to permit any mechanic's lien against such property, nor any stoppage against any loan proceeds. Borrower also agrees, anything in this Mortgage to the contrary notwithstanding, not to promptly commence work or to complete the proposed improvements promptly in accordance with plans and specifications approved by Lender. If Lender is required to inspect such property, it is hereby authorized to enter upon such property and to make any such factory to order, with all necessary and proper notices, and the cost of such work or materials may be paid to Borrower by certified mail sent to his last known address, or by registered mail, in either case.

Note

Property of Cook County Clerk's Office

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(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 3 years or more, or changes or permits to be changed the character or use of the property, or drills or extracts or enters into a lease for the drilling for or extracting oil, gas or other hydrocarbon substance or any 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 material misrepresentation or failed to disclose any material fact in those certain financial and other written representations and disclosures made by Borrower in order to induce Lender to enter into the transaction evidenced by the Promissory Note or notes or agreements which this Mortgage secures.

(17) **No Waivers by Lender.** No waiver by Lender of any right under this Mortgage shall be effective unless in writing. Waiver by Lender of any right granted to Lender under this Mortgage or of any provision of this Mortgage as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment or performing any act on behalf of Borrower that Borrower was obligated hereunder, but failed to make or perform, or by adding 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 so to pay.

(18) **Modification in Writing.** This Mortgage cannot be changed or modified except as otherwise provided in this Mortgage or by agreement in writing signed by Borrower, or any successor in interest to Borrower, and Lender.

(19) **Right to Collect and Receive Rents and Profits.** Notwithstanding any other provisions hereof, Lender hereby grants permission to Borrower to collect and retain the rents, income, issues and profits of such property as they become due and payable, but Lender reserves the right to revoke such permission at any time with or without cause by notice in writing to Borrower mailed to Borrower at his last known address. 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 security for the indebtedness hereby secured, enter upon and take possession of such property or any part thereof, make, sell, lease or modify, lease, sell or otherwise dispose of the same, and collect the rents, income, issues and profits therefrom, and apply the same, including these payments and unpaid, to apply the same to the costs and expenses of operation and collect on up any indebtedness secured hereby and to use the same for the same purposes as if the same were the proceeds of the sale of the property, and Lender shall not be liable for any loss or diminution in the value of any rents, income, issues and profits, or for the failure to collect or receive any of the foregoing rights. The entering upon and taking possession of such property, the collection of rents, income, issues and profits, the doing of other acts herein authorized, and the application thereon as aforesaid shall not constitute a default in the performance of any other obligations of Borrower under this Mortgage.

Remedies. The remedies herein provided shall not be deemed to exhaust the remedies here provided or hereafter existing by law, but shall be cumulative and in addition to any other remedies which may be available to Lender. The remedies herein provided may be exercised from time to time and in any order and as often as may be deemed necessary by Lender. The remedies herein provided shall not be deemed to exhaust the remedies here provided or hereafter existing by law, but shall be cumulative and in addition to any other remedies which may be available to Lender. The remedies herein provided may be exercised from time to time and in any order and as often as may be deemed necessary by Lender. The remedies herein provided shall not be deemed to exhaust the remedies here provided or hereafter existing by law, but shall be cumulative and in addition to any other remedies which may be available to Lender.

Foreclosure of Mortgage. In the event of default by Borrower in payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Lender shall have the right to foreclose this Mortgage and to sell the property secured hereby, and to apply the proceeds of such sale to the payment of the indebtedness secured hereby and to the payment of the costs and expenses of such foreclosure and sale, and to the payment of the balance of the indebtedness secured hereby, and to the payment of the balance of the indebtedness secured hereby, and to the payment of the balance of the indebtedness secured hereby.

Agreement to Assign. Borrower hereby agrees to assign to Lender all of its right, title and interest in and to the property secured hereby, and to execute and deliver to Lender such instruments as may be necessary to carry out the purposes of this Mortgage.

Waiver of Homestead. Borrower hereby waives all right of homestead exemption in such property.

Misrepresentation or Nondisclosure. Borrower warrants that all written representations and disclosures made by Borrower in order to induce Lender to make the loans secured by this Mortgage are true and correct in all material respects, and in the event that Borrower has made any material misrepresentation 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 immediately due and payable.

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UNOFFICIAL COPY

SF-8874-0 (9/85) ARM II & IV - Part 2 (11)

2
1044553480667
3480667
DUPLICATE

LIBERTY TITLE INS. CO.
150 S. Northwest Hwy.
Palatine, Ill. 60067

DEC 2 11 37 AM '85
REGISTRY OF DEEDS

Notary Public

Donna A. Atherton
Notary Public

My commission expires: JUNE 24, 1985

Given under my hand and official seal, this 29th day of NOVEMBER 1985
I, DONALD ATHERTON, HUSBAND AND WIFE, personally known to me to be the same persons (s) whose names (s) ARE subscribed to the foregoing instrument, compared before me this day in person, and acknowledged that they signed and delivered the said instrument as THEIR and voluntary act, for the uses and purposes therein set forth.
THE UNDERSIGNED
DONALD ATHERTON AND SHERRI A. ATHERTON, HUSBAND AND WIFE
a Notary Public in and for said county and state, do hereby certify that
State of Illinois
COOK County ss.

LOAN NO. 504165-1
DONALD ATHERTON
Borrower
SHERRI A. ATHERTON
Borrower

Such 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 75,600.00
(31) Notice to Borrower. Any notice to the Borrower provided for in the note or 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 Lender's records pertaining to the loan evidenced by the note at the time notice is given.
(32) General Provisions. (a) This Mortgage applies to, inures to the benefit of and binds, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors 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 context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this agreement and shall not be used in construing it.
(33) Adjustable Rate Mortgage Provisions. Paragraphs 2 and 6 of the promissory note which this Mortgage secures are set forth below and incorporated herein.
2. I agree that the interest rate on this Note will be adjusted on each interest rate adjustment date, as defined below, to be equal, following such date until the next interest rate adjustment date, to the sum of (i) the most recently available monthly weighted average cost of funds of members of the Federal Home Loan Bank of San Francisco, as computed from statistics tabulated and published by the Federal Home Loan Bank of San Francisco (such monthly weighted average cost of funds being hereafter referred to as the "Index"); plus (ii) 2.500 percentage points
(a) Interest Rate Adjustments. Changes in the interest on this Note will become effective commencing on JUNE 10, 1985 and on the same date of each month thereafter, each of which dates is called an "Interest Rate Adjustment Date". No adjustment to the interest rate on any interest rate adjustment date shall result in an interest rate that is more than 3 percentage points greater or less than the interest rate in effect at the time of such sale or transfer.
(b) Payment Adjustments. The monthly payment amount shall be adjusted on JANUARY 10, 1987 and on the same date thereafter, and on the same date every five years thereafter, the amount of the regular monthly principal and interest payments on this Note will be adjusted to be sufficient so as to amortize the remaining principal balance as of the Due Date at the then current rate of interest to continue in effect until the Due Date.
(c) Waiver of Increases. Interest rate increases on each interest rate adjustment date are at the holder's option, but if the holder does not invoke a permissible interest rate increase in whole or in part, the holder will not constitute a waiver of the holder's right later to invoke such an increase, subject to the other provisions of this Note.
(d) Alternative Index. If, at any time during the term of this Note, the index is no longer available or is otherwise unpublished, the holder may select an alternative published index over which the holder has no control, in which case such alternative index will become the index provided in paragraph 2 of this Note. Holder shall next determine the adjustment to the loan act or provided in paragraph 2 of this Note based upon the value of the substituted index as of the last preceding interest rate adjustment date on which the prior index was available or the date of this Note, whichever occurs later, such that the sum of the substituted index and the adjusted loan factor equal the sum of the prior index and the loan factor set forth in paragraph 2 of this Note as of such date. The most recent value of the substituted index, as announced from time to time, and such adjusted loan factor shall become the index and the loan factor for purposes of paragraph 2 of this Note.
(e) Notices. Notices of any change in the interest rate or amount of the regular monthly installment shall be deemed given by the holder when deposited in the United States mail, postage prepaid, addressed to the maker of, or to the persons shown on the holder's records as transferee at the time of giving notice.
8. The principal amount due on this Note may be prepaid in whole or in part, at any time.