

# UNOFFICIAL COPY

## SECOND MORTGAGE (Illinois)

THIS INDENTURE, made this \_\_\_\_\_ day of  
April 13, 2006, between Frank C. Senn and  
Mary E. Senn, husband and wife herein  
referred to as "Mortgagors," and Immanuel  
Evangelical Lutheran Church herein referred  
to as "Mortgagee," witnesseth:



Doc#: 0705944064 Fee: \$42.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/28/2007 04:02 PM Pg: 1 of 10

RECORDER'S STAMP

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon the installment note of even date herewith, in the principal sum of EIGHTY-SEVEN THOUSAND AND NO/100 DOLLARS (\$87,000.00), payable to the order of and delivered to the Mortgagee, in and by which note the Mortgagors promise to pay the said principal sum and interest at the rate and in installments as provided in said note and the Riders to this Second Mortgage, and all of said principal and interest are made payable at such place as the holders of the note may, from time to time, in writing appoint, and in the absence of such appointment, then at the office of the Mortgagee at 616 Lake Street, Evanston, Illinois 60202.

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the City of Evanston, County of Cook and State of Illinois, to wit:

LOT 12 IN BLOCK 5 IN PITNER'S ADDITION TO EVANSTON IN SECTION 24, TOWNSHIP 41 NORTH, RANGE 13, AND SECTION 19, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

which, with the property hereinafter described, is referred to herein as the "premises".

THIS MORTGAGE is given in substitution for a prior second mortgage recorded October 9, 2002 as Document #0021107678 which second mortgage was released so that the new first mortgage would have priority over the second mortgage.

P.I.N.: 10-24-217-011-0000

COMMON ADDRESS: 1015 Florence Avenue, Evanston, Illinois

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereafter placed in the premises by Mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagors do hereby expressly release and waive.

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The name of a record owner is: Frank C. Senn and Mary E. Senn

This mortgage consists of four pages. The covenants, conditions and provisions appearing on the following pages are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.

Witness the hand(s) and seal(s) of Mortgagors the day and year first above written.

Frank C. Senn (Seal)  
Frank C. Senn

Mary E. Senn (Seal)  
Mary E. Senn

State of Illinois )  
                          ) SS  
County of Cook )

I, the undersigned, a Notary Public in and for said County in the State aforesaid DO HEREBY CERTIFY that Frank C. Senn and Mary E. Senn, husband and wife, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he/she/they signed, sealed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal this 13<sup>th</sup> day of April, 2006

[Signature]  
Notary Public



### THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO HEREIN:

1. Mortgagors shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.
2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder, Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.
3. In the event of the enactment after this date of any law of Illinois deducting from the value of the land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagors, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagors, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagors to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.
4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the note secured hereby.

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5. At such time as the Mortgagors are not in default either under the terms of the note secured hereby or under the terms of this mortgage, the Mortgagors shall have such privilege of making prepayments on the principal of said note (in addition to the required payments) as may be provided in said note.
6. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm 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, all in companies satisfactory to the Mortgagee, under insurance policies payable, in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.
7. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale of forfeiture affecting said premises or contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.
8. The Mortgagee making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.
9. Mortgagors shall pay each item of indebtedness herein mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagors, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the note or in this mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.
10. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Mortgagee 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 for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem to be 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 premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding including probate and bankruptcy proceedings, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.
11. The proceeds of any foreclosure sale of the premises 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 the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.
12. Upon or at any time after the filing of a complaint to foreclose this mortgage, the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and,

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in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, 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 premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

13. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured.

14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

15. The Mortgagors shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.

16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefore, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

17. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

18. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the note secured hereby.

**This instrument prepared by:** Kathryn E. Skelton, Esq.  
Hoogendoorn & Talbot LLP  
122 South Michigan Avenue  
Suite 1220  
Chicago, Illinois 60603-6107

**After recording, mail to:** Kathryn E. Skelton, Esq.  
Hoogendoorn & Talbot LLP  
122 South Michigan Avenue  
Suite 1220  
Chicago, Illinois 60603-6107

**or Recorder's Office Box No.:** \_\_\_\_\_

SEE RIDER 1 - SHARED APPRECIATION NOTE incorporated herein and made a part hereof.

03 07 1993

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**RIDER 1**

This Rider 1 is attached to and made a part of the Second Mortgage dated November 2, 1990 by Frank C. Senn and Mary E. Senn in favor of Immanuel Evangelical Church and in event of conflict between terms of this Rider 1 and said Second Mortgage the terms of this Rider 1 shall control. All defined terms used in this Rider 1 shall have the same meaning as set forth in the Second Mortgage, unless otherwise defined herein.

**SHARED APPRECIATION NOTE**

\$87,000.00

November 2, 1990

Evanston, Illinois

Address of the property:

1015 Florence Avenue  
Evanston, Illinois 60201**BORROWERS PROMISE TO PAY**

In return for a loan I have received, I promise to pay to Immanuel Evangelical Lutheran Church ("Immanuel") or any assignee or transferee thereof ("Lender"), or order at 616 Lake Street, Evanston, Illinois 60201, or such other place it may from time to time designate in writing:

The principal sum of eighty-seven thousand (\$87,000.00) dollars ("Principal"), plus

Total Lender Interest which will be calculated as provided for herein.

**FIXED INTEREST**

The loan shall bear no interest other than the Total Lender Interest outlined herein.

**DEFINITIONS**

**Adjusted Basis:** The sum of the Purchase Price and the cumulative total of the cost of Qualifying Improvements.

**Borrower:** Frank C. Senn and Mary E. Senn.

**Capital Improvements:** Improvements which the Internal Revenue Code allows a homeowner to adjust the basis of his property by for federal tax purposes.

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**Fraction:** The fraction used to calculate the Lenders share of appreciation on the loan shall be the Principal divided by the Adjusted Basis. The Fraction shall be adjusted whenever the Adjusted Basis is adjusted.

**Interest Period:** The first interest period shall begin with the date of the note and end on the date of the first appraisal. Subsequent interest periods shall be the period of time between appraisals. In the event the note is due and payable, the final interest period shall be the period of time between the most recent appraisal prior to the event triggering the payment of the note and the date the note is due.

**Lender Interest Factor:** Lender's share of appreciation for a particular Interest Period. Lender Interest Factor shall be calculated by multiplying the Period Appreciation by the Fraction in effect for the Interest Period in question. If no appreciation or negative appreciation, during an Interest Period, Lender Interest Factor shall be set at zero for this period.

**Net Sale Price:** The sale price less expenses of sale actually paid by the borrower, including real estate commissions, advertising, documentary transfer taxes, legal, escrow and recording fees, and title insurance premiums.

**Period Appreciation:** The appreciation which is recognized in an Interest Period. Period Appreciation shall be the Total Appreciation less the Period Appreciation recognized in all previous Interest Periods. If this value is negative or zero, Period Appreciation shall be set at zero for this period.

**Property:** 1015 Florence Avenue, Evanston, Illinois 60201, which is legally described on Exhibit A attached hereto.

**Purchase Price:** \$189,886.50. The total cost to Borrower of purchasing the property including purchase price, documentary transfer taxes, escrow and recording fees and title insurance premiums.

**Qualifying Improvements:** The sum of the cost of Capital improvements to the property completed within any 12-month period. Adjusted Basis will only be adjusted if the sum is greater than or equal to two thousand five hundred (\$2,500.00) dollars during a twelve (12) month period.

**Senn Interest Factor:** Senn's share of appreciation for a particular Interest Period. Senn Interest Factor shall equal Period Appreciation less Lender Interest Factor. If Period Appreciation is negative or zero, Senn Interest Factor shall be set at zero for the Interest Period.

**Total Appreciation:** The value set by an appraisal (which meets the requirements outlined in Section 5 of this Note) less the sum of the Purchase Price and the cumulative total of the cost of Qualifying Improvements. In the event of an arm's length sale or conveyance, Total Appreciation shall mean the Net Sale Price less the sum of the Purchase Price and the cumulative total of the cost of Qualifying Improvements.

**Total Lender Interest:** Computed at the date the note is due and payable. It is equal to Total Lender Interest Factor if the Total Lender Interest Factor and Total

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Senn Interest Factor equal Total Appreciation at the date the note is due payable. Otherwise, Total Lender Interest shall be calculated using the following formula:

$$\frac{\text{Total Lender Interest Factor} \times \text{Total Appreciation}}{\text{Total Lender Interest Factor} + \text{Total Senn Interest Factor}}$$

If Total Appreciation is negative or zero, Total Lender Interest shall equal zero.

Total Lender Interest Factor: The sum of the Lender Interest Factors calculated for each Interest Period.

Total Senn Interest Factor: The sum of the Senn Interest Factors calculated for each interest period.

### SECURITY

The loan is secured by a second mortgage on the property at which I reside.

### APPRAISAL

In those instances when an appraisal is required by this note, the Lender will select a qualified independent appraiser ("Lender's Appraiser") who has the qualifications set forth in paragraph (f) to appraise the property. The appraisal will be performed within twenty (20) days of the event triggering the appraisal and a copy of that appraisal ("Lender's Appraisal") will be sent to me no later than five (5) days following the date of the appraisal. A notice will be sent to me with the Lender's Appraisal, informing me that I may procure an independent appraisal, if I dispute Lender's Appraisal. If I do not dispute Lender's Appraisal, Lender's Appraisal will constitute a final and conclusive determination of the value of the Property. I will pay one-half the cost of Lender's Appraisal. My failure to pay this cost within 90 days of notice will constitute a default under this note. If Lender does not provide a copy of Lender's Appraisal within the time period outlined herein, Lender shall be responsible for the entire cost of the appraisal.

If I do not receive a copy of Lender's Appraisal within 25 days of the event triggering the appraisal, I shall notify Lender that I have not received a copy of Lender's Appraisal. If Lender does not provide me with Lender's Appraisal within 70 days of my notification to Lender, I may procure an independent appraiser who has the qualifications set forth in Paragraph 5(f) ("Independent Appraisal"). The Independent Appraisal will constitute a final and conclusive determination of the value of the Property. Lender will be responsible for one-half of the cost of the Independent Appraisal.

I will provide reasonable exterior and interior access to the property to Lender's Appraiser.

If I do not dispute Lender's Appraisal, it will be used to determine the appreciation on the Property. The value set by the appraisal shall be considered the value of the Property from and after the date of the appraisal until this Shared Appreciation Note calls for a new appraisal or the Property is sold.

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If I dispute Lender's Appraisal, I may, at my own expense and within thirty (30) days after I receive a copy of the appraisal, procure an appraisal by an independent appraiser who has the qualifications set forth in Paragraph (5Xf) ("Borrower's Appraisal"). I will send a copy of Borrower's Appraisal to Lender within this same 30-day period.

If Borrower's Appraisal is lower than Lender's Appraisal, the value of the Property will be set at one-half the sum of the two appraisals and Lender will reimburse me for fifty percent (50%) of the cost of Borrower's Appraisal.

I understand and agree that all appraisals called for in this note shall be made only by an appraiser who has one or more of the following qualifications:

Member of the Appraisal Institute (MAI) appraiser,

Society of Residential Appraisers (SRA) appraiser.

#### CREDIT FOR CAPITAL IMPROVEMENTS

At least 30 days prior to construction of Capital Improvements, I will notify Lender of my intent to construct Capital Improvements. Lender must obtain an appraisal in accordance with the guidelines outlined in Section 5.

Within sixty (60) days following the completion of the Capital Improvements, I will send a notice of completion of the Improvements, with proof of their cost, to Lender.

#### PREPAYMENT

I shall have the right to prepay, at any time, in full the Principal and the Total Lender Interest of this Loan. I cannot prepay a portion of this Loan. I must notify Lender of my decision to prepay this Loan. Lender must obtain an appraisal in accordance with the guidelines outlined in Section 5.

#### DUE DATE/ACCELERATION

In the event I sell, exchange, assign, convey or otherwise transfer the Property or the entire beneficial interest in the Property, this note shall become immediately due and payable. If the Property is sold or conveyed in an arms length transaction, no appraisal is necessary. In all other situations, Lender must obtain an appraisal in accordance with Section 5.

In the event Frank C. Senn is no longer the pastor of Immanuel, including without limitation, Frank C. Senn taking another call, being asked to relinquish his position, becoming disabled, retiring or dying, this note shall become due within 180 days of the date Frank C. Senn is no longer the Pastor of Immanuel. Lender must obtain an appraisal pursuant to the guidelines outlined in Section 5.



03/07/1993 15:51

FROM: [REDACTED]

TO: [REDACTED] P.06/08

**UNOFFICIAL COPY****MISCELLANEOUS TERMS AND PROVISIONS****ASSIGNMENT**

Lender may not assign or transfer this note and the mortgage which secures it without the written consent of Borrower.

**RESPONSIBILITY OF PERSONS UNDER THIS NOTE**

All signers of this note are fully and personally obligated to pay the full amount owed and to keep all of the promises made in this note. Any one of the signers may be required to pay all of the amounts owed under this note.

**GIVING OF NOTICES**

Any notice that must be given under this note must be sent by certified mail or delivered to:

Frank and Mary Senn  
1015 Florence Avenue  
Evanston, Illinois 60201

Any notice that must be given to Lender under this note must be sent by certified mail or delivered to:

Immanuel Lutheran Church  
616 Lake Street  
Evanston, Ill. 60201  
Attn: Vice President.

Lender and Borrower must give written notice to the other party if notice should be sent to a different address.

TO 1054700035\*091001#23 P.07/08

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IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

*Frank C. Senn*

FRANK C. SENN

*Mary E. Senn*

MARY E. SENN

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Property of Cook County Clerk's Office