

THIS IS A JUNIOR MORTGAGE  
**UNOFFICIAL COPY**  
**MORTGAGE**

89056687

THIS MORTGAGE is made this 31st day of January, 1989, between Salvatore D'Amico and Mary Ann D'Amico, his wife (herein "Borrower" or "Mortgagor"), and the FRANKFORT STATE BANK, a corporation organized and existing under the laws of the State of Illinois, whose address is 28 W. Nebraska Street, Frankfort, Illinois 60423 (herein "Lender" or "Mortgagee").

WHEREAS, Borrower is indebted to Lender in the principal sum of Fifty Thousand & No/100 Dollars, which indebtedness is evidenced by Borrower's note dated January 31, 1989 (herein "Note"), providing for periodic installments of principal and interest in the amount of Six Hundred Ninety & 04/100 Dollars, commencing the 15th day of March, 1989, and continuing on the same day of each period thereafter until the principal and interest are fully paid except that if not sooner paid, the final payment of Principal plus interest shall be due and payable February 15, 1999; and

WHEREAS TO SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, and (b) the repayment of any future advances, with interest thereon, made to Borrower by Lender pursuant to paragraph 21 hereof (herein "Future Advances"), Borrower does hereby mortgage, grant and convey to Lender the following described property located in the County of Cook State of Illinois:

Lot 265 in Cherry Hill Farms Unit 3 being a subdivision of part of the Southwest 1/4 of Section 23 and part of the East half of the Northwest 1/4 of Section 26, all in Township 36 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

This is a Second Mortgage or Junior Encumbrance subject to a previous mortgage dated May 23, 1978 and recorded January 27, 1979 as Document No. 24784575 made by Salvatore D'Amico and Mary Ann D'Amico, his wife to Granwald Savings and Loan Association and the terms and conditions thereof.

Together with all legal right, title, and interest of the Mortgagor in and to the streets abutting said premises to the center line thereof which has an address of 8449 Current Avenue, Tinley Park, IL, 60477 hereinafter the property address; and

WHEREAS said real estate at the property address, together with all the improvements now or hereafter erected on the property, all the right, title, and interest of the mortgagor in and to all equipment and fixtures to be used in connection with the operation or enjoyment of the buildings on the premises, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property"; and

WHEREAS Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend beneficially the title to the Property against all claims and demands.

NOW THEREFORE, THE BORROWER AND LENDER COVENANT AND AGREE AS FOLLOWS:

1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, late charges as provided in the Note, and the principal of and interest on any Future Advances secured by this Mortgage.

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 periodic installments of principal and interest are payable under the Note, until the Note is paid in full, a sum (herein "Funds") equal to 1/12th of the yearly taxes and assessments which may attain priority over this Mortgage, and ground rents on the Property, if any, plus 1/12th of yearly premium installments for hazard insurance, plus 1/12th of yearly premium installments for mortgage insurance, if any, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof.

Lender shall apply the Funds to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for holding and applying the Funds, analyzing said account, or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. Borrower and Lender MAY AGREE in writing at the time of execution of this Mortgage that interest on the Funds shall be paid to Borrower, and unless such agreement is made or applicable law requires such interest to be paid, Lender shall not be required to pay Borrower any interest or earnings on the Funds. At borrowers request, lender may give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with the future periodic installments of Funds payable prior to the due dates of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay said taxes, assessments, insurance premiums and ground rents as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on monthly installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 30 days from the date notice is mailed by Lender to Borrower requesting payment thereof.

Upon payment in full of all sums secured by this Mortgage, Lender shall promptly refund to Borrower any Funds held by Lender. If under paragraph 18 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply, no later than immediately prior to the sale of the Property or its acquisition by Lender, any Funds held by Lender at the time of application as a credit against the sums secured by this Mortgage.

3. APPLICATION OF PAYMENTS. Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 of this Mortgage, shall be applied by Lender first in payment of amounts payable to Lender by Borrower under paragraph 2 of this Mortgage, then to interest payable on the Note, then to the principal of the Note, and then to interest and principal on any Future Advances.

4. CHARGES; LIENS. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payments, when due, directly to the payee

7/27/89

80053687

Property of Cook County Clerk's Office

80053687

COOK COUNTY RECORDER  
#102 \* 89-05487  
BILL FROM 2/27/89 TO 2/27/89 14:35:00  
\$14.25

Prepared by:  
Frankfort State Bank  
28 W. Nebraska  
Frankfort, Illinois 60423  
Mail to:  
William J. Peters  
237 S. Lagrange Road  
Frankfort, Illinois 60423

Notary Public  
*[Signature]*

This instrument was acknowledged before me this 31st day of January, 1989.

STATE OF ILLINOIS  
COUNTY OF WILL  
SS

X *[Signature]* Borrower Mary Ann D'Amico  
X *[Signature]* Borrower Salvatore D'Amico

IN WITNESS WHEREFORE, BORROWER has executed this Mortgage.

the Mortgagor and Borrower and all subsequent owners, encumbrancers, tenants, and subtenants of the premises, and shall inure to the benefit of the Mortgagor or Lender, its successors and assigns and to all subsequent holders of this Mortgage. The word Mortgage or Borrower shall be construed as if it read Mortgages or Borrowers and the word Mortgagor or Lender shall be construed as if it read Mortgages or Lenders whenever the sense of this Mortgage so requires.

# UNOFFICIAL COPY

11. FORFEITURE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The pro- curement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

10. BORROWER NOT RELEASED. Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

Lender is authorized to collect and apply the proceeds at Lender's option, either to restoration or repair of the Property or to the award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, if the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condempnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, or the Property is immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking.

9. CONDEMNATION. The proceeds of any award or claim for damages, direct or consequential, in connection with any con- demnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

8. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder. Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law.

7. PROTECTION OF LENDER'S SECURITY. If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency code enforcement, or arrangements involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrower, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOP- MENTS. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations of the condominium or planned unit development, and constituent documents. If a condominium or planned unit development rider is executed by Borrower and recorded together with this Mortgage, the covenants and agreements of such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage to the extent not inconsistent as if the rider were a part hereof.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such install- ments. If under paragraph 10 hereof the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

5. HAZARD 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 such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by Borrower subject to approval by Lender; provided, that such approval shall not be unreasonably withheld. All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payment, when due, directly to the insurance carrier. All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts for paid premiums. 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, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. If the Property is abandoned by Borrower, or if Borrower fails to respond to Lender within 30 days from the date notice is mailed by Lender to Borrower that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

4. BORROWER'S OBLIGATION TO PAY. Borrower shall be bound by the terms of this Mortgage and shall be obligated to pay the sums secured by this Mortgage to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

3. BORROWER'S OBLIGATION TO PAY. Borrower shall be bound by the terms of this Mortgage and shall be obligated to pay the sums secured by this Mortgage to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

2. BORROWER'S OBLIGATION TO PAY. Borrower shall be bound by the terms of this Mortgage and shall be obligated to pay the sums secured by this Mortgage to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

1. BORROWER'S OBLIGATION TO PAY. Borrower shall be bound by the terms of this Mortgage and shall be obligated to pay the sums secured by this Mortgage to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

10000069

# UNOFFICIAL COPY

12. **REMEDIES CUMULATIVE.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headlines of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrower at the last party address or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

15. **GOVERNING LAW; SEVERABILITY.** This Mortgage shall be governed by the law of the State of Illinois. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect the provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

16. **BORROWER'S COPY.** Borrower shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

17. **TRANSFER OF THE PROPERTY; ASSUMPTION.** If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by will, descent or by operation of law upon the death of a joint tenant, or (d) the grant of any leasehold interest of three years or less in part containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Mortgage and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

## BORROWER AND LENDER FURTHER COVENANT AND AGREE AS FOLLOWS:

18. **ACCELERATION; REMEDIES.** Except as provided in paragraph 17 hereof, upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 14 hereof specifying: (1) the nature of the action required to cure such breach; (2) a date, not less than 30 days from the date the notice is mailed to Borrower by which such breach must be cured; and (3) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Property, and Lender 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 Breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, and costs of documentary evidence, abstracts and title reports.

19. **BORROWER'S RIGHT TO REINSTATE.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrower shall have the right to have any proceedings begun by Lender to foreclose this Mortgage discontinued at any time prior to entry of a judgment foreclosing this Mortgage if Borrower takes all of the following actions: (a) Borrower pays Lender all sums which would be then due under this Mortgage and the Note and notes securing Future Advances, if any, if no acceleration occurred; (b) Borrower cures all breaches of any other covenants or agreements of Borrower contained in this Mortgage; (c) Borrower pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrower contained in this Mortgage and in enforcing Lender's remedies as provided in paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrower takes such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the property and Borrower's obligation to pay the sums secured by this Mortgage shall continue unchanged. Upon such payment and cure by Borrower, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred. The right of the Borrower to reinstate under this paragraph 19 shall not be exercised more than once in any single five year period.

20. **ASSIGNMENT OF RENT'S APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** As additional security to the order Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration of this Mortgage under paragraph 18 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 18 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including the past due. All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage. Lender and the receiver shall be liable to account only for those rents actually received.

21. **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 and evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the sums 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 \$ -0-

22. **RELEASE.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage to Borrower. Borrower shall pay all costs of recordation, if any.

23. **WAIVER OF HOMESTEAD.** Borrower hereby waives all right of homestead exemption in the Property.

24. **LIABILITY.** If the Mortgagor or the Borrower consists of more than one party, such Mortgagors or Borrowers shall be jointly and severally liable under any and all obligations, covenants, and agreements of the Mortgagors or Borrowers contained herein.

25. **MISCELLANEOUS.** This Mortgage may not be changed or terminated orally. The covenants contained in this Mortgage shall run with the land and bind the Mortgagor and the Borrower, their heirs, personal representatives, successors and assigns of

59056587