

# UNOFFICIAL COPY

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## SECOND MORTGAGE

THIS MORTGAGE is made as of this 23rd day of March, 1990, between the Mortgagors, MICHAEL A. PHILLIPS and SARAH EASTON PHILLIPS, his wife, residing at 1013 West Heatherlea Drive, Palatine, Illinois 60067, (herein "Borrowers"), and the Mortgagee, St. Phillips Episcopal Church, 342 East Wood Street, Palatine, Illinois 60062, by and through the St. Philip's Rector's Fund (herein "Lender").

WHEREAS, Borrowers are indebted to Lender in the principal sum of Thirty Five Thousand and 00/100 Dollars (\$35,000), which indebtedness is evidenced by their Mortgage Note of even date herewith (herein "Note"), providing for payments of interest or principal and interest, with the balance of the indebtedness, if not sooner paid, due and payable on March 1, 2015;

TO SECURE to Lender 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 Borrowers herein contained, Borrowers do hereby mortgage, grant and convey to Lender the following described property located in the County of Cook, State of Illinois:

Lot 37 in Pepper Tree Farms Unit Number 4, being a Subdivision in the Southwest 1/4 of Section 11, Township 12 North, Range 10 East of the Third Principal Meridian, in Cook County, Illinois.

which has the address of 1013 West Heatherlea Drive, Palatine, Illinois 60067 and Property Identification No. of 02-11-313-003 (herein "Property Address");

TOGETHER with all the improvements now or hereafter erected on the property, 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 are herein referred to as the "Property."

Borrowers covenant that Borrowers are lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that the Property is unencumbered, except for the lien of a first mortgage more particularly described in Paragraph 2 hereof, and that Borrowers will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions of record.

Borrowers and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Borrowers shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and the principal of and interest on any future advances secured by this Mortgage.

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2. First Mortgage. This Mortgage is subject and subordinate to the lien of a certain mortgage dated on or about January 23, 1987 by and between Borrowers and GMAC Mortgage Corporation securing payment in the principal sum of Ninety Thousand Five Hundred and 00/100 Dollars (\$90,500), with interest ("First Mortgage") herein. Any act of default by the Borrowers under the provisions of the First Mortgage and the note secured thereby shall be deemed to be an act of default under the provisions of this Mortgage and the Lender hereunder shall be entitled to all the remedies set forth in Paragraph 17 of this Mortgage.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender under the Note and Paragraph 1 hereof shall be applied by Lender first in payment of costs and expenses incurred by Lender in connection with the enforcement 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. Borrowers shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property when due, directly to the payee thereof; provided, however, that Borrowers shall not be required to discharge any such lien so long as Borrowers shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable 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. Borrowers shall promptly furnish to Lender receipts evidencing any such payments required hereunder.

5. Hazard Insurance. Borrowers shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage". All premiums on insurance policies shall be paid by Borrowers making payment, when due, directly to the insurance carrier or shall be paid in the manner provided for in the First Mortgage. In the event of loss, Borrowers shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrowers.

Unless Lender and Borrowers 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 first to the sums secured by the First Mortgage if required by the terms of the First Mortgage, then to sums secured by this Mortgage, with the excess, if any, paid to Borrowers. If the Property is abandoned by Borrowers, or if Borrowers fail to respond to Lender within 30 days from the date notice is mailed by Lender to Borrowers 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.

Unless Lender and Borrowers 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 Paragraph 1 hereof or change the amount of such installments. If under Paragraph 17 hereof the Property is acquired by Lender, all right, title and interest of Borrowers 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.

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Notwithstanding anything contained herein to the contrary, Lender acknowledges that Borrowers' obligations concerning insurance under the terms of the First Mortgage are or may be different from Borrowers' obligations hereunder; and, accordingly, no action taken by Borrowers in compliance with the terms of the First Mortgage shall be deemed to be a default hereunder.

6. Preservation and Maintenance of Property. Borrowers shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property.

7. Protection of Lender's Security. If Borrowers fail to perform the covenants and agreements contained in this Mortgage or the Note it secures, or the First Mortgage or any note or notes it secures, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, foreclosure, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option and upon thirty days prior written notice to Borrowers, 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 attorneys' fees, payment of the outstanding balance on the First Mortgage or any note or notes it secures, and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Paragraph 7, with interest thereon, shall become additional indebtedness of Borrowers secured by this Mortgage. Unless Borrowers and Lender agree to the terms of payment, such amounts shall be payable upon notice from Lender to Borrowers 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. Nothing contained in this Paragraph 7 shall require Lender to incur any expense or take any action hereunder.

The principal amount of the First Mortgage or any note or notes it secures shall not be increased over the amount of the unpaid principal under such First Mortgage as it exists on the date hereof.

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

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation 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.

In the event of a total taking of the Property, the proceeds shall be applied first to the sums secured by the First Mortgage if required by the terms of the First Mortgage, then to the sums secured by this Mortgage, with the excess, if any, paid to Borrowers. In the event of a partial taking of the Property, unless Borrowers and Lender otherwise agree in writing, or unless otherwise required by the First Mortgage, 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

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prior to the date of taking, with the balance of the proceeds paid to Borrowers.

If the Property is abandoned by Borrowers, or if, after notice by Lender to Borrowers that the condemnor offers to make an award or settle a claim for damages, Borrowers fail to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrowers 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 Paragraph 1 hereof or change the amount of such installments.

10. Borrowers 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 Borrowers shall not operate to release, in any manner, the liability of the original Borrowers and Borrowers' 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 Borrowers and Borrowers' successors in interest.

11. Forbearance 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 of or preclude the exercise of any such right or remedy. The procurement 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.

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. Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrowers, subject to the provisions of Paragraph 16 hereof. The captions and headings 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 Borrowers provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrowers at the Property Address or at such other address as Borrowers 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 Borrowers as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrowers or Lender when given in the manner designated herein.

15. Governing Law; Severability. This Mortgage shall be governed by the laws of the jurisdiction in which the Property is located. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage and the Note are declared to be severable.

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16. Transfer of the Property; Assumption. If all or any part of the Property or an interest therein (or the beneficial interest in an Illinois land trust) is sold or transferred by Borrowers 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 devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three (3) years or less not 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.

If Lender accelerates, Lender shall mail Borrowers 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 Borrowers may pay the sums declared due. If Borrowers fail to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrowers, invoke any remedies permitted by Paragraph 17 hereof.

17. Acceleration; Remedies. Upon Borrowers' breach of any covenant or agreement of Borrowers in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender, prior to acceleration shall mail notice to Borrowers as provided in Paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed to Borrowers, by which such breach must be cured; and (4) 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. The notice shall further inform Borrowers 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 Borrowers 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 attorneys' fees, and costs of documentary evidence, abstracts and title reports.

18. Future Advances. This Mortgage is given to secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or are to be made at the option of Lender, or otherwise, as are made by Lender under the Note, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed five times the aggregate face amounts of the Note hereby secured.

19. Borrowers' Rights to Reinstate. Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrowers shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrowers pay Lender all sums which would be then due under this Mortgage, the Note and notes securing future advances, if any, had no acceleration occurred; (b) Borrowers cure all breaches of any other covenants or agreements of Borrowers contained in this Mortgage; (c) Borrowers pay all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrowers contained in this Mortgage and in enforcing Lender's remedies as provided in Paragraph 17 hereof, including, but not limited to,

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reasonable attorneys' fees; and (d) Borrowers take such action as Lender may reasonably require to assure that the lien of this Mortgage, Lender's interest in the Property and Borrowers' obligation to pay the sums secured by this Mortgage shall continue unimpaired. Upon such payment and cure by Borrowers, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security hereunder, Borrowers hereby assign to Lender the rents of the Property, provided that Borrowers shall, prior to acceleration under Paragraph 17 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 17 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 those 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 attorneys' 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. Release. Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrowers. Borrowers shall pay all costs of recordation, if any.

23. Waiver of Homestead. Borrowers hereby waive any and all right of homestead exemption in the Property.

24. Waiver of Statutory Rights. To the extent permitted by law, Borrowers hereby agree that Borrowers shall not and will not apply for or avail themselves of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement of foreclosure of this Mortgage, but hereby waives the benefit of such laws. Borrowers for themselves and all who may claim through or under them waive any and all right to have the Property and estates comprising the Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety.

IN WITNESS WHEREOF, Borrowers have executed this Mortgage on the date first written above.

Michael A. Phillips  
Michael A. Phillips

Sarah Easton Phillips  
Sarah Easton Phillips

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IN SENATE, January 11, 1907.  
REPORT  
OF THE  
COMMISSIONERS OF THE LAND OFFICE,  
IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE  
MAY 11, 1906.

ALBANY:  
J. B. LIPPINCOTT COMPANY,  
PRINTERS,  
1907.

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THE LAND OFFICE HAS THE HONOR TO ACKNOWLEDGE THE RECEIPT OF THE REPORT OF THE COMMISSIONERS OF THE LAND OFFICE, IN RESPONSE TO A RESOLUTION PASSED BY THE SENATE MAY 11, 1906.

AND TO STATE THAT THE SAME HAS BEEN FILED IN THE OFFICE OF THE CLERK OF THE SENATE, AND IS HEREBY REFERRED TO THE SENATE FOR THEIR CONSIDERATION.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE, AT ALBANY, THIS 11TH DAY OF JANUARY, 1907.

WILLIAM W. WALKER,  
CLERK OF THE SENATE.

WILLIAM W. WALKER,  
CLERK OF THE SENATE.

WILLIAM W. WALKER,  
CLERK OF THE SENATE.

WILLIAM W. WALKER,  
CLERK OF THE SENATE.

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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 MICHAEL A. PHILLIPS, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument as his 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 6<sup>th</sup> day of July, 1990.

*Rosemary S. Digan*  
\_\_\_\_\_  
Notary Public

My Commission Expires:

6-30-94



THIS INSTRUMENT PREPARED BY AND AFTER  
RECORDING SHOULD BE RETURNED TO:

Gene H. Hansen  
GREENBERG KEELE LUM & ARONBERG  
One IBM Plaza, Suite 4500  
Chicago, Illinois 60611

90347485

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IN SENATE  
JANUARY 10, 1901

REPORT OF THE  
COMMISSIONERS OF THE LAND OFFICE  
ON THE  
LANDS BELONGING TO THE STATE OF ILLINOIS

PROPERTY OF COOK COUNTY CLERK'S OFFICE



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STATE OF ILLINOIS )  
                          ) SS  
COUNTY OF C O O K )

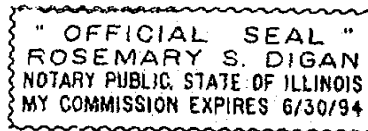
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that SARAH EASTON PHILLIPS, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered said instrument as his 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 6<sup>th</sup> day of July, 1990.

*Rosemary S. Digan*  
\_\_\_\_\_  
Notary Public

My Commission Expires:

6-30-94



THIS INSTRUMENT PREPARED BY AND AFTER RECORDING SHOULD BE RETURNED TO:

Gene H. Hansen  
GREENBERG KEELE LUND & ARONBERG  
One IBM Plaza, Suite 4500  
Chicago, Illinois 60611

DEPT-01 RECORDING \$19.25  
TM2222 TRAN 2334 07/19/90 12:07:00  
#9778 # B \* -90-347483  
COOK COUNTY RECORDER

~~90-347483~~  
COOK COUNTY RECORDER

Clerk's Office

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1990 Mail

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CLERK OF COURT

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COOK COUNTY CLERK OF COURT  
JANUARY 15 2000

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