

# UNOFFICIAL COPY

## SECOND MORTGAGE

Date: February 28, 1994

94191014

Mortgagors: Edwin Schmidt and Mary Ann Schmidt  
(Borrowers)

Mortgagee: Martin Walsh and Kathleen Walsh  
(Lender)

Secured Obligation: \$28,400.00 Promissory Note  
dated January 24, 1991

### Property Subject to Mortgage:

Lot 36 in Ridgemoor Resubdivision of Hinsdale Ridgemoor Estates Unit Number 2, in the North Half of Section 23, Township 38 North, Range 11, East of the Third Principal Meridian, according to the Plat thereof recorded November 20, 1963 as Document R63-42653, in DuPage County, Illinois.

P.I.N. 09-23-204-023-0000

Commonly known as 873 Willow Lane, Willowbrook, IL 60521

1. The Property. For purposes of this Mortgage, the term "Property" shall include the land above described, along with all improvements now or subsequently erected on the land, and all easements, rights, appurtenances, rents, royalties, mineral rights and profits, oil and gas rights and profits, water rights, all fixtures now or subsequently attached to the premises, as well as all replacements thereof or additions thereto.

2. Borrower Warranty of Title. Borrower hereby warrants and represents to Lender: (i) that Borrower has title to the Property; (ii) that the title to the Property is unencumbered (except for covenants and restrictions of record, and except for a first mortgage in favor of the First National Bank of Chicago); (iii) that Borrower has the right to mortgage, grant and convey the Property; and (iv) that Borrower shall defend generally the title to the Property against all claims and demands (except for covenants and restrictions of record).

3. Creation of Second Mortgage Lien. Borrower hereby mortgages, grants and conveys to Lender a second mortgage and lien on the above described property to secure Borrower's performance of the Secured Obligation and of Borrower's representations and obligations under this Mortgage. The second mortgage and lien created herein shall be second in priority and subordinate to the first mortgage and lien on the Property in favor of the First National Bank of Chicago.

94191014

2950  
K4

# UNOFFICIAL COPY

4. Borrower to Pay Note. Borrower shall pay when due all amounts due under the Secured Obligation.

5. Borrower to Pay Real Estate Taxes. Borrower shall pay when due all real estate taxes, special assessments and all similar charges levied against the Property.

6. Borrower to Maintain Hazard Insurance. As long as this Mortgage is in effect, Borrower shall keep the improvements on the Property insured against loss by fire and hazards included within the term "extended coverage". The amount of insurance coverage shall approximate the fair market value of the Property. Insurance proceeds shall be applied to restore and replace the Property if Borrower deems such action to be economically feasible. Otherwise, insurance proceeds shall be applied first to pay off the first mortgage, then the Secured Obligation in its entirety, with any remaining balance to be retained by Borrower.

7. Borrower to Maintain Property. Borrower shall maintain the Property in good condition and repair. Borrower shall not substantially change the Property without first obtaining Lender's approval in writing. Borrower shall not destroy or damage the Property or commit waste. Borrower shall cause all repair and construction to be performed in a good and workman-like manner. Borrower shall pay for all repair and construction work promptly.

8. Borrower to Prevent Liens Superior to Mortgage. Borrower shall pay all taxes, assessments, fines, charges, and costs attributable to or connected with the Property, which if not paid, could result in a lien or other security interest that is superior to this Mortgage. Borrower shall not allow any mechanics' lien to be filed against the Property. If any superior liens are threatened or filed, Borrower shall promptly pay and discharge such lien. Borrower shall have the right to contest a lien superior to this Mortgage only after payment or discharge of the same, or otherwise only with Lender's prior written consent.

9. Inspection by Lender. By giving reasonable prior notice to Borrower, Lender shall have the right to inspect the Property during normal business hours.

10. Application of Condemnation Proceeds. If the entire Property is seized by condemnation, the proceeds shall be applied first to pay off the first mortgage, and then the Secured Obligation, with any remaining balance to be retained by Borrower. If only part of the Property is seized by condemnation, a portion of the proceeds shall be paid first to the holder of the first mortgage, and then to Lender. That portion shall consist of the ratio that the outstanding balance of the Secured Obligation at the time of such condemnation bears to the fair market value of the Property immediately prior to such condemnation.

# UNOFFICIAL COPY

11. Acceleration on Transfer. If Borrower sells or otherwise transfers any interest in the Property, Lender shall have the option to demand that all or any part of the unpaid principal sum, along with all accrued but unpaid interest, be paid within thirty (30) days of such transfer.

12. Substituted Performance by Lender. If Borrower fails to perform any of its obligations hereunder, and if Lender gives Borrower reasonable prior notice of Lender's intention to perform Borrower's breached obligation, Lender shall have the option to pay the amounts owed, obtain insurance, repair the Property, retain attorneys, or otherwise perform on behalf of Borrower. Money so spent by Lender shall become an additional obligation of Borrower to Lender shall accrue interest at one-and-one-half times the interest rate of the Secured Obligation, and shall be paid by Borrower upon demand.

13. Lender's Notice of Breach to Borrower. If Borrower breaches any representations or obligations under this Mortgage, Lender shall give Borrower written notice of the following: (i) the nature of the breach; (ii) the action that Borrower must take to cure the breach; (iii) a date, not less than thirty (30) days following the date that Lender's notice is given, by which Borrower must cure the breach; (iv) the statement that Borrower's failure to cure the breach by the specified date entitles Lender to demand that the entire outstanding balance, including all accrued but unpaid interest and other amounts owed to Lender hereunder, be paid immediately, and if it is not so paid, then Lender is entitled to foreclose the mortgage by judicial proceeding and to force a sale of the Property; (v) the statement that Borrower has the right to reinstate the mortgage by curing all defaults within ninety (90) days from the date Borrower is served with summons or by publication or otherwise appears in connection with the foreclosure judicial proceeding; and (vi) the statement that in a foreclosure judicial proceeding, Borrower has the right to assert the defense that a breach of the Mortgage has not occurred or any other available defense to acceleration of the obligations due and to foreclosure.

14. Lender Option to Accelerate and Foreclose on Breach by Borrower. If Borrower breaches any representations or obligations under this Mortgage, and if Lender has given Borrower the written notice with respect to that breach described in Section 13, above, and if Borrower has not cured the breach on or before the date specified in that notice, then Lender shall have the option to require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding.

15. Lender Right to Possession. If Borrower abandons the Property, Lender shall have the option to take immediate possession of the Property, manage the Property, and/or sell the Property. If

# UNOFFICIAL COPY

Lender commences a judicial proceeding to foreclose this Mortgage, Lender shall have the option to take possession of and manage the Property, either directly or through a court-appointed receiver, to the full extent permitted by the Illinois Mortgage Foreclosure Law. If Lender or a receiver take possession of the Property, any rents or other amounts received by Lender or the receiver from the Property shall be first applied to the costs of management of the Property and the collection of rents, including but not limited to, receiver fees, premiums on receiver's bonds and attorneys' fees. Any remaining amounts received shall be applied to the sums secured by this Mortgage.

16. Borrower to Pay Enforcement Costs. Borrower shall pay Lender upon demand all reasonable expenses incurred by Lender to enforce Borrower's obligations under the Secured Obligation and this Mortgage, including but not limited to, attorneys' fees and costs of title evidence.

17. Borrower Waiver of Homestead Rights. Borrower hereby waives all rights to a homestead exemption in the Property.

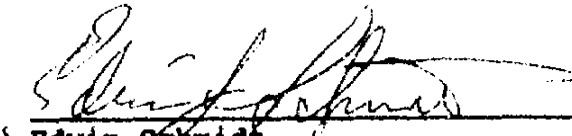
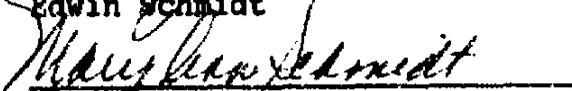
18. Lender to Issue Release. Upon full payment by Borrower of the Secured Obligation and all other sums due hereunder, and upon Borrower's fulfillment of all of Borrower's representations and other obligations under this Mortgage, Lender shall issue a release of this Mortgage in a form suitable for recording at Lender's expense. Borrower shall pay the cost of recording said release.

19. Successors Bound. This Mortgage shall be binding upon Borrower and Borrower's successors, assigns, heirs, legal representatives, and all others succeeding to any interest of Borrower in the Property. This Mortgage shall inure to the benefit of Lender and Lender's successors, assigns, heirs, legal representatives, and all others succeeding to any interest of Lender in the Secured Obligation or this Mortgage.

20. No Waiver by Lender. No delay or omission by Lender concerning the exercise of any rights under this Mortgage shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence in, or consent to, any further or succeeding default of the same nature.

21. Interpretation. Each provision of this Mortgage shall be governed by the laws of the State of Illinois. If there is any provision of this Mortgage, or any application of this Mortgage to any party or circumstance, which shall be prohibited by, or invalid under such applicable law, such provision or application shall be ineffective to the minimal extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Mortgage, or the application of such provision to any other parties or circumstances.

# UNOFFICIAL COPY


  
Edwin Schmidt  
  
Mary Ann Schmidt

State of Illinois )  
County of Cook ) ss

I, Carlos A. Saavedra, a Notary Public in and for said county and state, do hereby certify that Edwin Schmidt and Mary Ann Schmidt, husband and wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the same instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this 28<sup>th</sup> day of February, 1994.

[SEAL]

  
Carlos A. Saavedra  
Notary Public

My commission expires November 15, 1997.

This document was prepared by:  
Mail to:

Carlos A. Saavedra  
Hooks & Saavedra, P.C.  
70 W. Madison St.  
Suite 5200  
Chicago, IL 60602.



DEPT-01 \$29.50  
T44444 TRAN 5554 03/01/94 09:15:00  
45770 # LF \*-94-191014  
COOK COUNTY RECORDER

94191014