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This instrument was
prepared by and
should be mailed to:

Francis L. Keldermans, Esq.
Holland & Knight
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603

0030222311

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2003-02-18 13:27:03
Cook County Recorder 50.50



INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT (this "Agreement") is made and entered into this 10th day of February, 2003, by and between **CIB Marine Capital, L.L.C.**, a Wisconsin limited liability company ("Junior Lender") and **CIB Bank**, an Illinois banking corporation ("Senior Lender").

RECITALS:

WHEREAS, Global Real Estate Investors, L.L.C., an Illinois limited liability company ("Investors") and North Star Trust Company, not individually, but as Trustee under Trust Agreement dated December 2, 1999 and known as Trust Number 99-2200 ("Trust" or "Trustee") (Investors and Trustee are referred to collectively as "Borrower") and Senior Lender entered into that certain Construction Loan Agreement dated as of June 25, 2001 (the "Original Senior Loan Agreement"), wherein, among other things, Senior Lender agreed to make, and Borrower agreed to accept, a loan in the maximum principal amount of Forty-Four Million Eight Hundred Thousand and no/100 Dollars (\$44,800,000.00) (the "Original Senior Loan") upon the terms and conditions set forth in the Loan Agreement; and

WHEREAS, the Loan is evidenced by, among other things, that certain Mortgage Note, dated June 25, 2001, in the original principal amount equal to Forty-Four Million Eight Hundred Thousand and no/100 Dollars (\$44,800,000.00) made by Borrower and payable to the order of the Senior Lender (the "Original Senior Note"); and

WHEREAS, the Original Senior Note is secured by, among other things, that certain Construction Mortgage and Assignment of Leases and Rents and Security Agreement dated June 25, 2001 from Borrower to Senior Lender (the "Original Senior Mortgage"). The Original Senior Mortgage encumbers the fee interest in the real estate legally described on Exhibit "A" attached hereto (the "Property") (the Property and all other security for repayment of the Senior Loan is referred to herein as the "Collateral");

WHEREAS, Borrower and Senior Lender entered into a First Modification of Mortgage and Loan Documents dated December 17, 2002 (the "First Modification") whereby Lender agreed to increase the principal balance of the Original Senior Loan (the "Increase") to Forty-eight Million Three Hundred Thousand and no/100 Dollars (\$48,300,000.00) (the "Senior

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Loan"). In consideration of the Increase, Investors caused one of its affiliated entities to hypothecate additional collateral for the Senior Loan.

WHEREAS, Borrower executed and delivered to Lender its amended promissory note dated December 17, 2002 made payable to the order of Lender, in the principal amount of Forty-eight Million Three Hundred Thousand and no/100 Dollars (\$48,300,000.00) (the "Amended Note") (hereinafter, the Original Senior Note and the Amended Note are referred to collectively as the "Senior Note;" the Original Senior Loan Agreement and the First Modification are referred to collectively as the "Senior Loan Agreement;" the Original Senior Mortgage as modified by the First Modification is referred to as the "Senior Mortgage;" and the Senior Loan Agreement, the Senior Note, the Senior Mortgage and all of the other documents and instruments executed in connection with the Senior Loan are referred to as the "Senior Loan Documents")

WHEREAS, concurrent herewith Junior Lender has made a loan to Borrower in the original principal amount of \$2,500,000.00 ("Junior Loan"). The Junior Loan is evidenced by, among other things, that certain Second Mortgage Note, of even date herewith in the original principal amount of Two Million Five Hundred Thousand and no/100 Dollars (\$2,500,000.00) made by Borrower and payable to Junior Lender ("Junior Note"). The Junior Note is secured by, among other things, that certain Second Mortgage and Assignment of Leases and Rents and Security Agreement and UCC Fixture Filing of even date herewith from Trustee to Junior Lender encumbering the Property (the "Junior Mortgage, and collectively with the Junior Note, and all other documents evidencing and/or securing the Junior Loan, the "Junior Loan Documents"); and

WHEREAS, the Junior Lender has agreed to enter this Agreement and to subordinate its right to payment of the Junior Loan to the lien of the Senior Loan Documents and the Senior Lender's right to payment of all indebtedness evidenced or secured by the Senior Loan Documents and, to the extent related to or concerning the Collateral, to subordinate the liens of the Junior Loan Documents to the Senior Loan Documents, all on the terms, provisions and conditions set forth herein; and

WHEREAS, it is a covenant of the Senior Loan Documents that Borrower cause Junior Lender to execute and deliver this Intercreditor Agreement in favor of Senior Lender.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. Priority of Liens. Notwithstanding the date, time, manner or order of perfection or attachment of the security interests and liens of the Senior Mortgage and Junior Mortgage granted by the Borrower to the Senior Lender or to the Junior Lender, and notwithstanding the usual application of the priority provisions of the Uniform Commercial Code in effect in any jurisdiction or any other applicable law or judicial decision of any jurisdiction, or whether the Junior Lender holds possession of all or any part of the Collateral, or if the Senior Lender is perfected without filing or possession in any part of the collateral, the Senior Lien shall be a first, senior and prior security interest in and lien on the Collateral and the Premises superior to the Junior Mortgage.

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2. Subordination of Junior Debt.

a. The Junior Lender continues to subordinate any and all claims now or hereafter owing to it by the Borrower under the Junior Mortgage to any and all claims of the Senior Lender under the Senior Mortgage, the Senior Loan Agreement and the other Senior Loan Documents, and the Junior Lender agrees that all claims of the Senior Lender shall be paid in full in cash or otherwise satisfied (as evidenced by the cancellation of the Senior Loan Agreement) before any payment may be made on the Junior Debt, whether of principal or interest, except that so long as no monetary default exists under the Senior Debt, the Junior Lender shall be permitted to receive payments required to be made by Borrower under the Junior Loan Documents. Notwithstanding the foregoing, in the event Senior Lender increases the principal balance of the Senior Loan beyond \$18,000,000.00, Senior Lender agrees that as a condition precedent to any such increase, Junior Lender shall first be repaid in full.

b. The Junior Lender agrees not to accept any payment in respect of the Junior Debt, except as expressly provided herein in Subsection 2a above.

c. The Junior Lender further agrees not to sell, assign, transfer or endorse any claim or claims against the Borrower or the Guarantor, as defined in the Junior Loan Agreement, to anyone, except subject to the terms and conditions of this Agreement.

d. The Junior Lender agrees that the priority of the Senior Debt set forth above shall continue during any insolvency, receivership, bankruptcy, dissolution, liquidation, or reorganization proceeding, or in any other proceeding, whether voluntary or involuntary, by or against the Borrower under any bankruptcy or insolvency law or laws relating to the relief of debtors of any jurisdiction, whether now or hereafter in effect, and in any out-of-court composition, assignment for the benefit of creditors or other arrangement of any kind.

3. Forbearance from Exercise of Remedies.

a. As long as the Senior Debt has not been paid in full cash and discharged, Junior Lender agrees that it shall not, for a period of thirty (30) days following notice, (a) take any action or exercise any remedy against the Borrower to enforce the Junior Debt, (b) take any action or exercise any remedy under the Junior Mortgage as a result of any default under the Junior Debt. The Junior Lender understands and agrees that the Senior Lender shall have the right, but shall have no obligation, to cure any default under the Junior Debt.

b. Senior Lender shall provide Junior Lender with written notice of the declaration by Senior Lender of any default or event of default under any of the Senior Loan Documents. Junior Lender shall have the option to cure the

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default or event of default pursuant to any cure provisions set forth in the Senior Loan Documents.

4. Proceeds. The order of priority of liens set forth in Section 1 hereof shall apply to all proceeds of the Property and the Collateral, including, without limitation, any insurance proceeds payable in the event of loss of, or damage to, the Property or the Collateral.

5. Perfection and Release of Liens. Upon payment and satisfaction in full of the Junior Debt, the Junior Lender shall release the Junior Mortgage, if in existence at such time, as soon as practicable upon the request of the Senior Lender.

6. Voided Payments. To the extent that the Borrower or the Guarantor make any payment on the Senior Debt, which, within one (1) year of the date of such payment, is subsequently invalidated, declared to be fraudulent or preferential, set aside or is required to be repaid to a trustee, receiver or any other party under any bankruptcy act, state or Federal law, common law or equitable cause (such payment being hereinafter referred to as a "Voided Payment"), then to the extent of such Voided Payment that portion of the Senior Debt which had been previously satisfied by such Voided Payment shall be revived and continue in full force and effect as if such Voided Payment had never been made. In the event that a Voided Payment is recovered from the Senior Lender, an Event of Default (as defined in the Loan Agreements) shall be deemed to have occurred and to be continuing from the date of such recovery from the Senior Lender of such voided Payment until the full amount of such Voided payment is fully and finally restored to the Senior Lender and until such time as the provisions of this Agreement shall be in full force and effect.

7. Violation of Agreement by the Borrower. Except as provided in Section 3 hereof, the Borrower agree to make no payment whatsoever on the Junior Debt nor consent to or participate in any act which is in violation of the provisions of this Agreement.

8. Immediate Effect. This Agreement shall be effective immediately upon its execution by each of the parties hereto, and there are no conditions precedent or subsequent to the effectiveness of this Agreement.

9. Successors and Assigns; Continuing Effect, Etc. This Agreement is being entered into for the benefit of, and shall be binding upon, each of the Senior Lender, the Junior Lender, the Borrower, and their respective permitted successors, assigns, heirs and personal representatives, as applicable. The Senior Lender may participate out to other parties any portion of its interest under the Senior Debt and no such participant shall be required to become a signatory hereto. Any assignee or transferee shall execute and deliver to the other parties hereto an agreement pursuant to which they become parties hereto as fully as if they were signatories hereto and providing for the effectiveness of this Agreement as to such transferee or assignee and other parties, and the lien and debt priority of such party shall be that of such party's assignor and transferor. This Agreement shall be a continuing agreement, shall be irrevocable and shall remain in full

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force and effect so long as any of the Senior Debt or the Junior Debt is outstanding and so long as the Senior Loan Agreement has not been terminated.

10. Notification of Default. The Senior Lender and the Junior Lender shall give written notice to the other of an Event of Default by the Borrower under Senior Debt of a breach or default by the Borrower or the Guarantor under the Junior Lender Debt, respectively; *provided, however*, that the failure to give such notice absent gross negligence shall not be deemed to be a breach of this Agreement and shall not affect the effectiveness or any declaration of such breach, default or Event of Default, as the case may be. The Junior Lender understands that, subject to any grace or cure period under its agreements with the Borrower, any default by the Borrower under the Junior Lender Debt is automatically an Event of Default of the Borrower under the Senior Debt. Nothing in this Agreement shall be interpreted to limit or restrict the right of the Senior Lender and the Junior Lender to waive any default under their respective documents, and the Senior Lender, and the Junior Lender agrees that any waiver will be in writing and to provide the other parties hereto with a copy of any such waiver.

11. Notices. Except as otherwise provided herein, all notices, requests and demands to or upon a party hereto to be effective shall be in writing and shall be sent by certified or registered mail, return receipt requested, personal delivery against receipt, delivery service against receipt, overnight courier service against receipt, or by telegraph or telex and, unless otherwise expressly provided herein, shall be deemed to have been validly serviced, given or delivered when delivered against receipt, or one (1) Business Day after deposit in the mail, postage prepaid, or, in the case of telegraphic notice, when delivered to the telegraph company, or, in case of telex notice, when sent, answer back received, addressed as follows:

If to Junior Lender: CIB Marine Capital, L.L.C.
101 N. Wolf Road
Hillside, Illinois 60162
Attn: Nino Pellettieri
Telephone: 708-449-8700
Telecopier: 708-449-2707

With a copy to: Holland & Knight LLC
131 S. Dearborn Street
30th Floor
Chicago, Illinois 60603
Attn: Francis L. Keldermans
Telephone: (312) 715-5732
Telecopier: (312) 715-0839

If to the Senior Lender: CIB Bank
20527 LaGrange Road
Frankfort, Illinois 60423-1345
Attn: Kevin Lietz

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Telephone: (815) 464-4900

Telecopier: (815) 464-4906

The parties hereto may designate such other address or telecopier number by written notice in the aforesaid manner.

12. Amendments; Modifications. This Agreement may not be modified, altered or amended except by an agreement in writing executed by all of the parties hereto.

13. Cost and Expenses of Enforcement. The defaulting party agrees to pay all reasonable costs, legal expenses and attorneys' and paralegals' fees of ever kind, paid or incurred by the non-defaulting party in enforcing its rights hereunder, including, but not limited to, litigation instituted in a State or Federal Court, as hereinafter provided (including proceedings under the United States Bankruptcy Code) enforcing obligations of the defaulting party under this Agreement.

14. FORUM; AGENT; VENUE; JURY TRIAL WAIVER. TO INDUCE THE LENDER TO ACCEPT THIS RESTATED AGREEMENT, EACH OF THE BORROWERS AND THE CREDITOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEED IS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS RESTATED AGREEMENT SHALL BE LITIGATED ONLY IN COURTS HAVING SITUS WITHIN CHICAGO, ILLINOIS. EACH OF THE BORROWERS AND THE CREDITORS HEREBY CONSENTS AND AGREES THAT THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, OR, AT THE LENDER'S OPTION, THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE LENDERS AND ANY OTHER PARTY HERETO PERTAINING TO THIS RESTATED AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATED TO THIS RESTATED AGREEMENT. EACH OF THE BORROWERS AND THE CREDITORS HEREBY IRREVOCABLY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY ACTION IN WHICH IT IS A PARTY.

15. Governing Law. This Agreement shall be governed and controlled by the laws of the State of Illinois without regard to principles of conflict of laws.

16. Severability. In the event any one or more of the provisions contained herein shall for any reason be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

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17. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed one original and all of which taken together shall constitute one and the same instrument.

18. Investor's Acknowledgment. The Investor hereby consent to this Agreement and agree to abide by the terms hereof.

[Signature Page Follows]

Property of Cook County Clerk's Office

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In witness whereof the parties hereto have executed this Intercreditor and Subordination Agreement as of the 10th day of February, 2003.

JUNIOR LENDER

CIB Marine Capital, L.L.C., a Wisconsin limited liability company

By: _____

Name: Nino Pellettieri

Title: Manager and President

SENIOR LENDER

CIB BANK, an Illinois banking corporation

By: Kevin Lietz Sr. v.p.

Name: Kevin Lietz

Title: Vice President

Sr.

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In witness whereof the parties hereto have executed this Intercreditor and Subordination Agreement as of the 10th day of February, 2003.

JUNIOR LENDER

CIB Marine Capital, L.L.C., a Wisconsin limited liability company

By: 

Name: Nino Pellettieri

Title: Manager and President

SENIOR LENDER

CIB BANK, an Illinois banking corporation

By: _____

Name: Kevin Lietz

Title: Vice President

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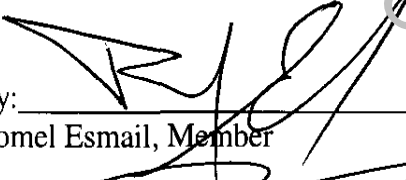
ACKNOWLEDGEMENT AND CONSENT

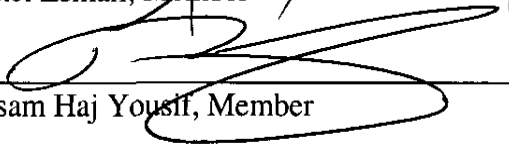
The undersigned, Global Real Estate Investors, LLC an Illinois limited liability company ("Investor") hereby acknowledges receipt of a copy of the foregoing Intercreditor Agreement (the "Intercreditor Agreement"; all capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed to them in the Intercreditor Agreement) and consents to the terms thereof. Investor acknowledges and agrees that any payments or other amounts received by Junior Lender which are required to be turned over or otherwise remitted by Junior Lender to Senior Lender pursuant to the terms of the Intercreditor Agreement shall not be deemed to be payments on the Junior Lender Indebtedness.

Executed this ____ day of February, 2003.

BORROWER:

Global Real Estate Investors, LLC, an
Illinois limited liability company

By: 
Romel Esmail, Member

By: 
Bassam Haj Yousif, Member

JUNIOR LENDER:

CIB Marine Capital, L.L.C., a Wisconsin
limited liability company

By: _____
Name: _____
Title: _____

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ACKNOWLEDGEMENT AND CONSENT

The undersigned, Global Real Estate Investors, LLC an Illinois limited liability company ("Investor") hereby acknowledges receipt of a copy of the foregoing Intercreditor Agreement (the "Intercreditor Agreement"; all capitalized terms used and not otherwise defined herein shall have the respective meanings ascribed to them in the Intercreditor Agreement) and consents to the terms thereof. Investor acknowledges and agrees that any payments or other amounts received by Junior Lender which are required to be turned over or otherwise remitted by Junior Lender to Senior Lender pursuant to the terms of the Intercreditor Agreement shall not be deemed to be payments on the Junior Lender Indebtedness.

Executed this _____ day of February, 2003.

BORROWER:


Global Real Estate Investors, LLC, an
Illinois limited liability company

By: _____
Romel Esmail, Member

By: _____
Bassam Haj Yousif, Member

JUNIOR LENDER:

CIB Marine Capital, L.L.C., a Wisconsin
limited liability company

By: 
Name: Nino Bellettreri
Title: Manager / President

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STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Nino Pellettieri**, Manager and President of **CIB Marine Capital, L.L.C.**, is 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 and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of February, 2003.

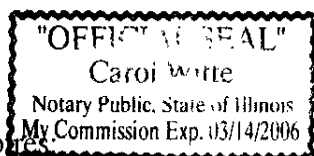
Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I CAROL RITTE, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Kevin Lietz**, Vice President of **CIB Bank**, is 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 and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10 day of February, 2003



My Commission Expires _____

Notary Public

CH01 #1267857 v1

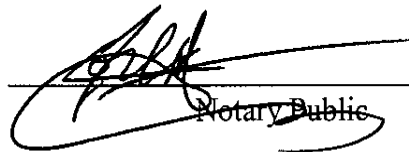
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STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

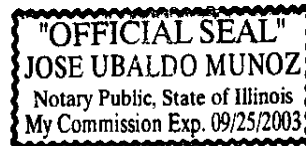
I Jose Ubaldino Munoz, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Nino Pellettieri**, Manager and President of **CIB Marine Capital, L.L.C.**, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 12th day of February, 2003.



Notary Public

My Commission Expires: 9/25/03



STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Kevin Lietz**, Vice President of **CIB Bank**, is 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 and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of February, 2003

Notary Public

My Commission Expires: _____

CH01 #1267857 v1

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EXHIBIT A

LEGAL DESCRIPTION

LOT 6 AND 7 IN BLOCK 15 IN FORT DEARBORN ADDITION TO CHICAGO THE WHOLE SOUTHWEST FRACTIONAL $\frac{1}{4}$ OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO: 17-10-312-008-0000

COMMONLY KNOWN AS: 6 N. Michigan Avenue
Chicago, Illinois

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