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Doc#: 0600333167 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/03/2006 10:02 AM Pg: 1 of 12

Property of Cook County Clerk's Office

(Space Above This Line For Recording)

SA 5296137-2512708

This instrument was prepared by Berg & Berg, 2100 W. 35th Street, Chicago, IL. 60609

Settle
w/c

When recorded return to Berg & Berg, 2100 W. 35th Street, Chicago, Illinois 60609.

MORTGAGE

DATE AND PARTIES: The date of this Mortgage (Security Instrument) is December 9, 2005. The parties and their addresses are:

MORTGAGOR:

Arturo Cervantes
5734 W. 26th St.
Cicero, IL 60804

Mateo E. Castanon
7005 W. 96th St.
Oak Lawn, IL 60453

LENDER:

Rafael Herrera and Francisco Ramirez
5112 Margaret Ct.
Midlothian, IL 60445

CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Mortgagor's performance

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under this Security Instrument, Mortgagor grants, bargains, sells, conveys, mortgages and warrants to Lender, the following described property:

PARCEL 1

LOTS 19, 20, 21, 22 AND 23 IN BLOCK 6 IN WALLACE G. CLARKE AND COMPANY'S 3RD ADDITION TO CLARKDALE, A SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Number (PIN): 19-35-121-073-0000

Address of Real Estate: 8201 S. Pulaski, Chicago, IL 60652

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property). This Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

MAXIMUM OBLIGATION LIMIT. The total principal amount secured by this Security Instrument at any one time will not exceed \$57,000.00. This limitation of amount does not include interest, attorney's fees and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Interest.

SECURED DEBTS. This Security Instrument will secure the following secured debts:

- A. **Specific Debts.** The following debts and all extensions, renewals, refinancings, modifications and replacements. A Promissory Note dated December 9, 2005, from Mortgagor to Lender, with a loan amount of \$57,000.00 with an interest rate at 8% and maturing on December 31, 2010.
- B. **All Debts.** All present and future debts from Mortgagor to Lender, even if this Security Instrument is not specifically referenced, or if the future debt is unrelated to or of a different type than this debts. If more than one person signs this Security Instrument, each agrees that it will secure debts incurred either individually or with others who may not sign this Security Instrument. Nothing in this Security Instrument constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing. In the event that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Mortgagors principal dwelling that

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is created by this security instrument. This Security Instrument will not secure any debt for which a non-possessory, non purchase money security interest is created in household goods in connection with a consumer loan, as those terms are defined by federal law governing unfair and deceptive credit practices. This security instrument will not secure any debt for which a security interest is created in "margin stock" and Lender does not obtain a "statement of purpose", as defined and required by federal law governing securities.

- C. **Sums Advanced**. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

PAYMENTS. Mortgagor agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument.

PRIOR SECURITY INTERESTS. Lender recognizes that this loan is subordinate to another loan from Interbay Funding LLC LOAN NO. 2088534 for \$370,000.00. With regard to these prior mortgages and any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

- A. To make all payments when due and to perform or comply with all covenants.
- B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.
- C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the property against any claims that would impair the lien of this security instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the property.

DUE ON SALE. Lender may, at its option, declare the entire balance of the Secured Debts to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of the property. This right is subject to the restrictions imposed by federal law governing the preemption of state due on sale laws, as applicable.

WARRANTIES AND REPRESENTATIONS. Mortgagor makes to Lender the following warranties and representations which will continue as long as this Security Instrument is in effect:

- A. **Power**. Mortgagor is duly organized, and validly existing and in good standing in all jurisdictions in which Mortgagor operates. Mortgagor has the power and authority to enter into this transaction and to carry on Mortgagor's business or

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activity as it is now being conducted and, as applicable, is qualified to do so in each jurisdiction in which Mortgagor operates.

- B. **Authority.** The execution, delivery and performance of this Security Instrument and the obligation evidenced by this Security Instruments are within Mortgagor's powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which Mortgagor is a party or to which Mortgagor is or any of Mortgagor's property is subject.

PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and will make all repairs that are reasonably necessary. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the property.

No portion of the property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other person property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor will not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the property at any reasonable time for the purpose of inspecting the property. Lender will give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property will be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

AUTHORITY TO PERFORM. If mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Lender's right to perform for Mortgagor will not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law of this Security Instrument. If any construction on the property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect the Lender's security interest in the property, including completion of the construction.

DEFAULT. Mortgagor will be in default if any of the following occur:

- A. **Payments.** Mortgagor fails to make a payment in full when due.

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- B. Insolvency. Mortgagor makes an assignment for the benefit of creditors or becomes insolvent, either because Mortgagor's liabilities exceed Mortgagor's assets or Mortgagor is unable to pay Mortgagor's debts as they become due
- C. Death or Incompetency. Mortgagor dies or is declared legally incompetent.
- D. Business Termination. Mortgagor merges, dissolves, reorganizes, end its business or existence, or a partner of majority owner dies or is declared legally incompetent.
- E. Failure to Perform. Mortgagor fails to perform any condition or to keep any promise or covenant of this Security Instrument.
- F. Other Documents. A default occurs under the terms of any other transaction documents.
- G. Other Agreement. Mortgagor is in default on any other debt or agreement Mortgagor has with Lender.
- H. Misrepresentation. Mortgagor makes any verbal or written statement or provides any financial information to lender that is untrue, inaccurate, or conceals a material fact at the time that is made or provided.
- I. Judgment. Mortgagor fails to satisfy or appeal any judgment against Mortgagor.
- J. Forfeiture. The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- K. Name Change. Mortgagor changes Mortgagor's name or assumes an additional name with out notifying Lender before making such a change.
- L. Property Transfer. Mortgagor transfers all or substantial part of Mortgagor's money or property. This condition of default, as it relates to the transfer of the Property, is subject to the restrictions contained in the DUE ON SALE section.
- M. Property value. The value of the property declines or is impaired.
- N. Material change. Without first notifying Lender, there is a material change in Mortgagor's business, including ownership, management, and financial conditions.
- O. Insecurity. Lender reasonably believes that Lender is insecure.

REMEDIES. Lender may use any and all remedies Lender has under state or federal law or in any instrument evidencing or pertaining to the Secured Debt. Any amounts advanced on Mortgagors behalf will be immediately due and may be added to the balance owing under the Secured Debts. Lender may make claim for any and all insurance benefits or refunds that may be available on Mortgagor's default.

Subject to any right to cure, required time schedules or any other notice rights Mortgagor may have under federal and state law, Lender may make all or any part of the amount owing by the terms of the Secured Debts immediately due and foreclose this Security Instrument in a manner provided by law upon the occurrence of a default or anytime thereafter.

Upon default, Lender will have the right, without declaring the whole indebtedness due and payable, to foreclose against or any part of the Property and will have the right to possession provided by law. This Security Instrument will continue as a lien on any part of the Property not sold on foreclosure.

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All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

COLLECTION EXPENSES AND ATTORNEYS FEES. On or after default, to the extent permitted by law, Mortgagor agrees to pay all expenses of collection, enforcement or protection of Lender's right and remedies under this Security Instrument. Mortgagor agrees to pay expenses for Lender to inspect and preserve the Property and for any recordation cost of releasing the Property from this Security instrument. Expenses include all cost and disbursements, including reasonable attorneys' fees and collection agency charges, incurred to collect or enforce this debt. These expenses are due and payable immediately. If not paid, immediately these expenses will bear interest for the date of payment until paid in full at the highest interest rate in effect, as provided for in the terms of the Secured Debts. To the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fee Lender incurs to collect the Secured Debts as awarded by any court exercising jurisdiction under the Bankruptcy Code.

ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this sections, (1) Environmental Law means without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substance defined as "hazardous material", "toxic substance", "hazardous waste", "hazardous substance", or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledge in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any

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- Environmental Law concerning the Property. In such event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to the Lender, Mortgagor has no knowledge of or reason to believe that there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim or proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Except as previously disclosed and acknowledged in writing to the Lender, Mortgagor and every tenant have been, are and will remain in full compliance with any applicable Environmental Law.
- F. Except as previously disclosed and acknowledged in writing to lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.
- G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
- H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature and magnitude of any Hazardous Substance on, under or about the Property; or (3) whether or not Mortgagor any tenant are in compliance with applicable Environmental Law.
- K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigations and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release the Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.
- L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section will survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

CONDEMNATION: Mortgagor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all the Property through condemnations, eminent domain, or any other means. Mortgagor

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assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement, or other lien document.

INSURANCE. Mortgagor agrees to keep the Property insured against the risks reasonably associated with the Property. Mortgagor will maintain this insurance in the amounts Lender reasonably requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term the Secured Debts. Mortgagor may choose the insurance company, subject to the Lender's approval, which will not be unreasonably withheld.

All insurance policies and renewals will include a standard "mortgagee clause" and where applicable, "loss payee clause". If required by Lender, Mortgagor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts under policies acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss of business interruption insurance must be equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing).

Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to the restoration or repair of the Property or to the Secured Debts at Lender's option. If Lender acquires the Property in damaged condition, Mortgagor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Property insured, Lender may obtain insurance to protect the lender's interest in the Property. This insurance may include coverage's not originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance.

ESCROW FOR TAXES AND INSURANCE. Mortgagor will not be required to pay Lender funds for taxes and insurance in escrow.

CO-SIGNERS. If Mortgagor signs this Security Instrument but does not sign the Secured Debts, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debts and Mortgagor does not agree to be personally liable on the Secured Debts. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any third party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws.

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WAIVERS. Except to the extent prohibited by law, Mortgagor waives all homestead exemption, redemption, reinstatement and appraisal rights relating to the Property.

APPLICABLE LAW. This Security Instrument is governed by the laws of Illinois and the United States of America.

JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each of Mortgagor's obligation under this Security Instrument are independent of the obligations of any other Mortgagor. Lender may sue each Mortgagor individually or together with any other Mortgagor. Lender may release any part of the Property and Mortgagor will still be obligated under the Security Instrument for the remaining Property. The duties and benefits of this Security Instrument will bind and benefit the successors and assigns of the Lender and Mortgagor.

AMENDMENT, INTEGRATION AND SEVERABILITY. This Security Instrument may not be amended or modified by oral agreement. No amendment or modification of this Security Instrument is effective unless made in writing and executed by Mortgagor and Lender. This Security Instrument is the complete and final expression of the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for conveniences only and are not to be used to interpret or define the terms of this Security Instrument.

NOTICE, FINANCIAL REPORTS, AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Mortgagor will inform Lender in writing of any change in Mortgagor's name, address or other application information. Mortgagor will provide Lender any financial statements of information Lender requests. All financial statements and information Mortgagor gives Lender will be correct and complete. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and to confirm Lender's lien status on Property. Time is of the essence.

SIGNATURES. By signing, Mortgagor agrees to the terms and conditions contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

AGREEMENT TO ARBITRATE: Lender or Mortgagor may submit to arbitration any dispute, claim or other matter in question between or among Lender and

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Mortgagor that arises out of or relates to this Transaction (Dispute), except as otherwise indicated in this section or as Lender and Mortgagor agree to in writing. For purposes of this section, this Transaction includes the Security Instrument and any other documents, instruments, and proposed loans or extensions of credit that relate to this Security Instrument. Lender or Mortgagor will not arbitrate any Dispute within any "core proceedings" under the United States bankruptcy laws.

Lender and Mortgagor must all consent to arbitrate any Dispute concerning a debt secured by real estate at the time of the proposed arbitration. Lender may foreclose or exercise any powers of sale against real property securing a debt underlying any Dispute before, during, or after any arbitration. Lender may also enforce the debt secured by this real property and underlying the Dispute before, during, or after any arbitration.

Lender or Mortgagor may seek provisional remedies at any time from a court having jurisdiction to preserve the rights of or to prevent irreparable injury to Lender or Mortgagor. Foreclosing or exercising a power of sale, beginning and continuing a judicial action or pursuing self-help remedies will not constitute a waiver of our right to compel arbitration.

The arbitrator will determine whether a Dispute is arbitrable. A single arbitrator will resolve any Dispute, whether individual, joint, or class in nature, or whether based on contract, tort, or any other matter at law or in equity. The arbitrator may consolidate any Dispute with any related Disputes, claims, or other matters in question not arising out of this Transaction. Any court having jurisdiction may enter a judgment or decree on the arbitrator's award. The judgment or decree will be enforced as any other judgment or decree.

Lender and Mortgagor acknowledge that the agreements, transactions or the relationships which result from the agreements or transactions between and among Lender and Mortgagor involve interstate commerce. The United States Arbitration Act will govern the interpretation and enforcement of this section.

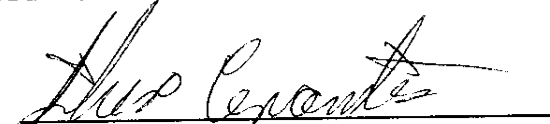
The American Arbitration Association's Commercial Arbitration Rules, in effect on the date of this Security Instrument, will govern the selection of the arbitrator and arbitration process, unless otherwise agreed to in this Security Instrument or another writing.

WAIVER OF TRIAL FOR ARBITRATION: Lender and Mortgagor understand that the parties have the right or opportunity to litigate any Dispute through a trial by judge or jury, but that the parties prefer to resolve Disputes through arbitration instead of litigation. Lender and Mortgagor voluntarily and knowingly waive the right to have a trial by jury or judge during any arbitration of any Dispute.


SIGNATURES: By signing, Mortgagor agrees to the terms and covenants contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

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MORTGAGOR:

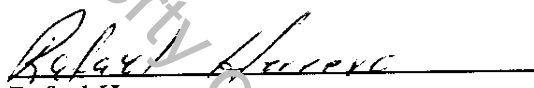


Arturo Cervantes

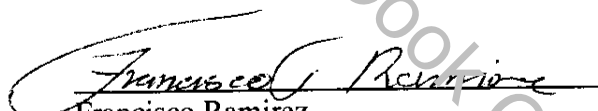


Mateo E. Castanon

LENDER

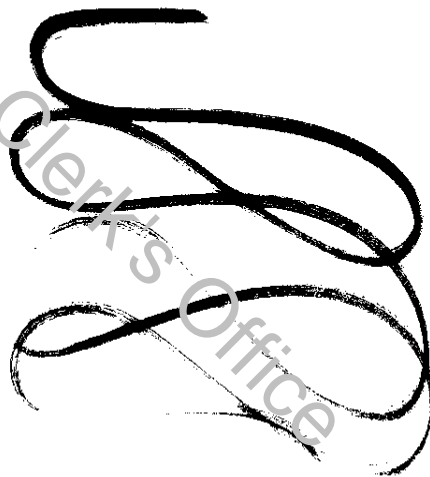


Rafael Herrera



Francisco Ramirez

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Kristi Crowley, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Rafael Herrera and Francisco Ramirez (Lenders) and Arturo Cervantes Mateo E. Castanon (Borrowers)**, personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument appeared before me this day in person and acknowledged that they signed and delivered the said instrument as the free and voluntary act of said corporation, for uses and purposes therein set forth, and the said

Given under my hand and official seal this 9th day of Dec, 2004.

Kristi Crowley
Notary Public
My commission expires on _____



[Large handwritten scribble]

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