

# UNOFFICIAL COPY

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This Agreement is made as of the 20th day of October, 1987 between Midway Realty Associates L.P. II, having an address c/o Bernstein and Gershman, 300 Garden City Plaza, Garden City, New York ("Midway"); Commodore Resources Corporation, having an office at 40 Cutter Mill Road, Suite 509, Great Neck, New York 11021 ("Commodore"); Mid-Warehouses, Corp., having an office at 40 Cutter Mill Road, Suite 509, Great Neck, NY 11021 ("Mid-Warehouses"); and Providence Life Insurance Company, on behalf of its Harvest Real Estate Annuity Account (P), One Bridge Plaza, Fort Lee, NJ 07024 ("Providence").

WHEREAS, Midway is the owner of premises known as Alsip 3A, Alsip, Illinois, which premises are more particularly described on Exhibit A annexed hereto and made part hereof; and

WHEREAS, Commodore is the owner of the improvements located on premises adjacent to Alsip 3A known as Alsip 3, which premises are more particularly described on Exhibit B annexed hereto and made part hereof and Mid-Warehouses is the owner of the underlying land; and

WHEREAS, the improvements located on Alsip 3 and Alsip 3A, which consists of two (2) warehouses, share a party wall; and

WHEREAS, as of this date, the holders of the existing first and second mortgages encumbering Alsip 3 are not parties to the party wall agreement governing the rights and obligations of the owners of Alsip 3 and Alsip 3A with respect to said party wall; and

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2011/11/15

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WHEREAS, on February 2, 1987 Providence loaned Midway the sum of Four Million (\$4,000,000) Dollars, which loan is secured by a first mortgage encumbering Alsip 3A (the "Mortgage"); and

WHEREAS, Providence has required that Midway, Commodore and Mid-Warehouses enter into this Agreement, which provides that Commodore and Mid-Warehouses shall refinance all mortgages encumbering Alsip 3 upon the request of Providence, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, for Ten (\$10.00) Dollars and other good and valuable consideration, the parties hereto agree as follows:

1. Upon not less than thirty (30) days' written notice from Providence, Mid-Warehouses and Commodore agree to satisfy in full any mortgages then encumbering Alsip 3 (the "Existing Mortgages"), provided that (1) the Existing Mortgage(s) may be prepaid without any premium or penalties and (2) Providence (or an affiliate of Providence) simultaneously therewith refinances the Existing Mortgages on the same terms and conditions as are contained in the Existing Mortgages or, at Commodore's and Mid-Warehouses' option, on the then prevailing terms on which Providence is then offering to loan similar amounts secured by comparable properties (the "New Mortgage"). In no event shall Providence be entitled to receive any fees for originating such refinancing, including, without limitation, commitment or origination fees.

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IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County of Cook, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Clerk of Cook County, Illinois

\_\_\_\_\_  
Notary Public in and for the State of Illinois

\_\_\_\_\_  
Notary Public in and for the State of Illinois

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2. Midway shall pay all costs and expenses of Commodore and Mid-Warehouses in connection with such refinancing, including, without limitation, title charges, mortgage recording taxes or other governmental taxes, fees or charges imposed in connection with the execution and/or recording of the New Mortgage, survey costs, attorneys' fees for Commodore, Mid-Warehouses and Providence, appraiser's and engineer's fees and the like. Providence shall pay all costs and expenses customarily paid by lenders in similar transactions.

3. If the refinancing of the Existing Mortgages cannot reasonably be consummated within thirty (30) days after the receipt of the written notice from Providence described in Paragraph 1 above, Commodore, Mid-Warehouses and Midway shall be entitled to such additional period as may be reasonably required to consummate such refinancing, provided that Commodore, Mid-Warehouses and Midway diligently proceed to close such refinancing during such extended period.

4. All notices or other communications given hereunder shall be in writing and shall be deemed given only if mailed by United States registered mail, postage prepaid, addressed as follows: (i) to Midway, Commodore and Mid-Warehouses, at the addresses set forth above, with a copy to Newman Tannenbaum Helpern Syracuse & Hirschtritt, 900 Third Avenue, New York, New York 10022, Attention: Robert E. Helpern, Esq., and (ii) to Providence at c/o Resources Variable Account

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The undersigned, Clerk of Cook County, Illinois, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the County Clerk's Office, Cook County, Illinois, and that the same is a true and correct copy of the original as the same appears in the records of the County Clerk's Office, Cook County, Illinois.

Witness my hand and the seal of the County Clerk's Office, Cook County, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Clerk of Cook County, Illinois

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10-11-19

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Management Corp., 666 Third Avenue, New York, New York 10017, with a copy to Rogers & Wells, 200 Park Avenue, New York, New York 10166, Attention: Lawrence A. Kestin, Esq., or to such other address as any party may designate by notice delivered in accordance with the foregoing. All notices shall be deemed given upon receipt.

5. Any default of Commodore, Mid-Warehouses or Midway hereunder which shall remain uncured after not less than thirty (30) days' written notice from Providence (or, provided such defaulting party has commenced to cure and thereafter diligently continues to prosecute such cure, such extended period as may be reasonably required) shall constitute a default of Midway under the Mortgage.

6. The provisions of this Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties.

7. The parties hereto shall execute any and all documents and take any actions reasonably required to consummate the transactions contemplated by this Agreement.

8. This Agreement may not be changed, modified or amended except by a writing signed by all of the parties hereto.

[Signatures on Next Page]

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2011/01/12

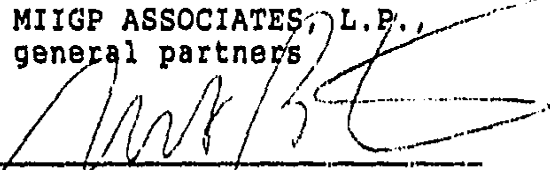


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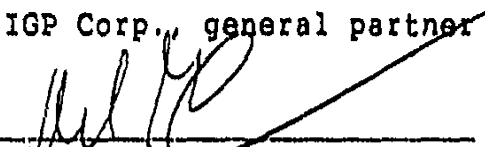
MIDWAY REALTY ASSOCIATES, L.P.

By: MIIGP ASSOCIATES, L.P.,  
general partners

By:   
Marshall A. Bernstein  
General Partner

By:   
Richard S. Gershman  
General Partner

By: MRIIGP Corp., general partner

By:   
Richard S. Gershman

Its: President

COMMODORE RESOURCES CORPORATION

By: 

Its: President

MID-WAREHOUSES, CORP.

By: 

Its: President

PROVIDENCE LIFE INSURANCE  
COMPANY, on behalf of its Harvest  
Real Estate Variable Annuity  
Account (P)

By:   
Authorized Signature  
Signer

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37615515

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NASSAU )

On the 26<sup>th</sup> day of October, 1987, before me personally came Marshall A. Bernstein, to me known to be a general partner of MIIGP Associates L.P., which is a general partner of Midway Realty Associates, L.P. II, the limited partnership described in and which executed the foregoing instrument, and acknowledged that he executed the same as general partner of, and on behalf of, said partnership.

Beatrice Scalise  
Notary Public

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NASSAU )

BEATRICE SCALISE  
Notary Public, State of New York  
No. 30-4785555  
Qualified in Nassau County  
Commission Expires Oct. 31, 1989

On the 26<sup>th</sup> day of October, 1987, before me personally came Richard S. Gershman, to me known to be a general partner of MIIGP Associates L.P., which is a general partner of Midway Realty Associates, L.P. II, the limited partnership described in and which executed the foregoing instrument, and acknowledged that he executed the same as general partner of, and on behalf of, said partnership.

Beatrice Scalise  
Notary Public

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NASSAU )

BEATRICE SCALISE  
Notary Public, State of New York  
No. 30-4785555  
Qualified in Nassau County  
Commission Expires Oct. 31, 1989

On the 26<sup>th</sup> day of October, 1987, before me personally came Richard S. Gershman, to me known to be President of MRIIGP Corp., which is a general partner of Midway Realty Associates, L.P. II, the limited partnership described in and which executed the foregoing instrument, and acknowledged that he executed the same as general partner of, and on behalf of, said partnership.

Beatrice Scalise  
Notary Public

BEATRICE SCALISE  
Notary Public, State of New York  
No. 30-4785555  
Qualified in Nassau County  
Commission Expires Oct. 31, 1989

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RECORDED

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STATE OF ) NEW YORK  
          ) SS.  
COUNTY OF ) NASSAU )

On this 27<sup>th</sup> day of October, 1987, before me personally came Jerry Karlik, to me known, who, being by me duly sworn, did depose and say that he resides at 21 Flamingo Road N. East Hills, NY 11576; that he is the Vice of Commodore Resources Corporation, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Carol Ann Morrison  
Notary Public

CAROL ANN MORRISON  
Notary Public, State of New York  
No. 41-4832721  
Qualified in Queens County  
SS.: Commission Expires April 30, 1988

STATE OF ) New York  
          ) )  
COUNTY OF ) NASSAU )

On this 27<sup>th</sup> day of October, 1987, before me personally came Jerry Karlik, to me known, who, being by me duly sworn, did depose and say that he resides at 21 Flamingo Road N. East Hills, NY 11576; that he is the Vice of MID-WAREHOUSES, CORP., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Carol Ann Morrison  
Notary Public

CAROL ANN MORRISON  
Notary Public, State of New York  
No. 41-4832721  
Qualified in Queens County  
Commission Expires April 30, 1988

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WABOL ANN MORRISON  
1000 North Dearborn Street  
Chicago, Illinois 60610  
Tel: (312) 463-2323

WABOL ANN MORRISON  
1000 North Dearborn Street  
Chicago, Illinois 60610  
Tel: (312) 463-2323

1000 North Dearborn Street  
Chicago, Illinois 60610  
Tel: (312) 463-2323

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STATE OF *New York* )  
 )  
 COUNTY OF *New York* ) SS.:

On this *6th* day of *November*, 1987, before me personally came *John J. Johnston, Jr.*, to me known, who, being by me duly sworn, did depose and say that he resides at *R.D. #10 Sunset Drive, North Salem, N.Y.*; that he is the *Authorized Signer* of *Providence Life Insurance Company*, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.



**Notary Public**

RUSTACHIO P. ARIENA  
 Notary Public, State of New York  
 No. 24-014894798437  
 Qualified in Kings County  
 Term Expires March 30, 19*89*

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## EXHIBIT A

That part of the West two-thirds of the Southwest Quarter of Section 21, Township 37 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois, bounded and described as follows:

Beginning at the point of intersection of the East line of the West 33.00 feet of said Southwest Quarter of Section 21, with a line which is 1766.00 feet South from and parallel with the North line of said Southwest Quarter, and running

Thence South along said East line of the West 33.00 feet of the Southwest Quarter of Section 21, a distance of 373.00 feet to an intersection with a line which is 2139.00 feet South from and parallel with the North line of said Southwest Quarter of Section 21;

Thence East along said parallel line, a distance of 1137.78 feet to a point which is 599.85 feet, measured along said parallel line, West from the East line of said West two-thirds of the Southwest Quarter of Section 21;

Thence southeastwardly along the arc of a circle, convex to the Northeast, Tangent to said parallel line, and having a radius of 420.0 feet, measured perpendicularly, West from and parallel with the East line of the West two-thirds of the Southwest Quarter of Section 21, which point of intersection is 2430.79 feet, measured along said parallel line, South from the North line of said Southwest Quarter of Section 21;

Thence North along said last described parallel line, a distance of 373.00 feet;

Thence Northeastwardly along the arc of a circle, convex to the Northeast and having a radius of 420.00 feet, a distance of 529.45 feet to a point which is 1766 feet South from the North line of said Southwest Quarter of Section 21, and 599.85 feet, measured parallel with said North line of the Southwest Quarter, West from the East line of said West two-thirds of said Southwest Quarter; and

Thence West along a line which is 1766.00 feet South from and parallel with the North line of said Southwest Quarter (said parallel line being tangent to said last described circle) a distance of 1137.70 feet to the point of beginning.

PIN. 24-21-300-022

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2011/01/10

EXHIBIT B

## Alsip 3

That part of the West two-thirds of the Southwest Quarter of Section 21, Township 37 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois, bounded and described as follows:

Beginning at the point of intersection of the East line of the West 33.00 feet of said Southwest Quarter of Section 21, with a line which is 1369.00 feet South from and parallel with the North line of said Southwest Quarter of Section 21, and running

Thence South along said East line of the West 33.00 feet of the Southwest Quarter of Section 21 a distance of 397.00 feet to an intersection with a line which is 1766.00 feet South from and parallel with the North line of said Southwest Quarter of Section 21;

Thence East along said parallel line a distance of 1137.70 feet to a point which is 599.85 feet, measured along said parallel line, West from the East line of said West two-thirds of the Southwest Quarter of Section 21;

Thence Southeastwardly along the arc of a circle, convex to the Northeast, tangent to said parallel line, and having a radius of 420.0 feet, a distance of 529.45 feet to an intersection with a line which is 200.00 feet, measured perpendicularly, West from and parallel with the East line of the West two-thirds of the Southwest Quarter of Section 21;

Thence North along said last described parallel line a distance of 688.79 feet to an intersection with said line which is 1369.00 feet South from and parallel with the North line of the Southwest Quarter of Section 21; and

Thence West along said last described parallel line a distance of 1537.47 feet to the point of beginning;

Containing 641,530 square feet (14.7275 acres) of land more or less.

24-21-300-021

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. 87565 P.C. \*-87-616615  
. COOK COUNTY RECORDER

87-516615

87565

*2/ Mail*

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RETURN TO:

RECORD AND RETURN TO:

~~ROBERT E. HELPERN~~

~~NEWMAN TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT  
900 THIRD AVENUE  
NEW YORK, NEW YORK 10022~~

L. Johnson  
LTIC ASSOC INC  
32 E. 59 ST  
NYC 10016