

SUBORDINATION AGREEMENT

Chicago, Illinois
June 9, 1992

You are hereby advised that Kenneth J. Maloney and Merrilly A. Maloney

(hereinafter, together with its successors and assigns, called "Borrower") is now indebted to the undersigned in the amount of _____

Dollars (\$ _____) under a certain note payable by the Borrower to the undersigned in the amount of Fourteen Thousand Eight Hundred and No/100 Dollars (\$ 14,800.00) and dated

January 27, 1986

and may from time to time hereafter become indebted to the undersigned in further amounts, and Borrower has advised the undersigned that it has requested, and may from time to time hereafter request Cole Taylor Bank/

_____ ("Bank") (hereinafter, together with its successors and assigns, called "Bank") to make or agree to make loans, advances or other financial accommodations to Borrower:

NOW, THEREFORE, to induce the Bank from time to time, at its option, to make or agree to make loans, advances or other financial accommodations (including, without limitation, renewals or extensions of any loans or advances heretofore or hereafter made) to Borrower, and for other valuable consideration, receipt whereof is hereby acknowledged, the undersigned agrees as follows:

1. All obligations of Borrower, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, primary or secondary, now or hereafter existing, due or to become due, joint and several, or joint or several, whether arising through discount, overdraft, purchase, direct loan, guaranty, by operation of law or otherwise, are hereinafter called "Liabilities." All Liabilities to the Bank, including but not limited to those arising under

a note from the Borrower payable to the Bank in the amount of Ten Thousand and No/100 Dollars (\$ 10,000.00) and dated

June, 1992

and related or documents, or under any renewal, extension, modification or amendment thereof, or whether arising hereafter under any other loan, advance or financial accommodation that may hereafter be extended by Bank to Borrower, and whether extended by Bank from its own funds, or funded in any portion by participation agreements between Bank and other parties, are hereinafter collectively called "Senior Liabilities;" and all Liabilities to the undersigned are hereinafter called "Junior Liabilities." Further, the term "Senior Liabilities," as used herein, shall include, without limitation, a) any and all interest accruing on any of the Senior Liabilities either before or after the commencement of any proceedings referred to in paragraph 3 hereof, notwithstanding any provision or rule of law which might restrict the rights of the Bank, as against Borrower or anyone else, to collect such interest, and b) any and all expenses, including attorneys' fees and legal expenses paid or incurred by the Bank in enforcing or in endeavoring to collect or realize upon any of the Senior Liabilities or any security therefor.

2. The payment of all Junior Liabilities shall be postponed and subordinated to the payment in full of all Senior Liabilities, and no payments or other distributions whatsoever in respect of any Junior Liabilities shall be made, nor shall any property or assets of Borrower be applied to the purchase or other acquisition or retirement of any Junior Liabilities except that until the Bank, at its sole discretion, has advised the undersigned and the Borrower to the contrary, the following payments may be made with respect to the Junior Liabilities: None until the above

referenced loan with Cole Taylor Bank has been paid in full.

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3. In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar proceedings relating to Borrower or to its creditors, as such, or to its property (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment for the benefit of creditor, or any other marshalling of the assets and liabilities of Borrower, or any sale of all or substantially all of the assets of Borrower, or otherwise), the Senior Liabilities shall first be paid in full before the undersigned shall be entitled to receive and to retain any payment or distribution in respect to the Junior Liabilities, and, in order to implement the foregoing, (a) all payments and distributions of any kind or character in respect of the Junior Liabilities to which the undersigned would be entitled if the Junior Liabilities were not subordinated, shall be made directly to the Bank, (b) at the direction of the Bank, the undersigned shall promptly file, in a manner satisfactory to Bank, a claim or claims, in the form required in such proceedings, for the full outstanding amount of the Junior Liabilities, and shall cause said claim or claims to be approved and all payments and other distributions in respect thereof to be made directly to the Bank, and (c) the undersigned hereby irrevocably agrees that the Bank may, at its sole discretion, in the name of the undersigned or otherwise, demand, sue for, collect, receive and receipt for, any and all such payments or distributions, and file, prove, and vote or consent in any such proceedings with respect to, any and all claims of the undersigned relating to the Junior Liabilities.

4. In the event that the undersigned receives any payment or other distribution of any kind or character from Borrower or from any other source whatsoever in respect of any of the Junior Liabilities, other than as expressly permitted by the terms of this Agreement, such payment or other distribution shall be received in trust for the Bank and promptly turned over by the undersigned to the Bank. The undersigned will mark its books and records, and cause Borrower to mark its books and records, so as to clearly indicate that the Junior Liabilities are subordinated in accordance with the terms of this Agreement, and will cause to be clearly inserted in any promissory note or other instrument which at any time evidences any of the Junior Liabilities a statement to the effect that the payment thereof is subordinated in accordance with the terms of this Agreement. The undersigned will execute such further documents or instruments and take such further action as the Bank may reasonably from time to time request to carry out the intent of this Agreement.

5. All payments and distributions received by the Bank in respect of the Junior Liabilities, to the extent received in or converted into cash, may be applied by the Bank first to the payment of any and all expenses (including attorney's fees and legal expenses) paid or incurred by the Bank in enforcing this Agreement or in endeavoring to collect or realize upon any of the Junior Liabilities or any security therefor, and any balance thereof shall be applied, solely as between the undersigned and the Bank, in such order of application as the Bank may from time to time select, toward the payment of the Senior Liabilities remaining unpaid; but, as between Borrower and its creditors, no such payments or distributions of any kind or character shall be deemed to be payments or distributions in respect of the Senior Liabilities; and notwithstanding any such payments or distributions received by the Bank in respect of the Junior Liabilities and so applied by the Bank toward the payment of the Senior Liabilities, the undersigned shall be subrogated to the then existing rights of the Bank, if any, in respect of the Senior Liabilities only at such time as this Agreement shall have been discontinued and the Bank shall have received payment of the full amount of the Senior Liabilities, as provided for in paragraph 9 hereof.

6. The undersigned hereby waives (a) notice of acceptance by the Bank of this Agreement; (b) notice of the existence or creation or non-payment of all or any of the Senior Liabilities; and (c) all diligence in collection or protection of or realization upon the Senior Liabilities or any thereof or any security thereof.

7. The undersigned will not without the prior written consent of the Bank: (a) cancel, waive, forgive, transfer, or assign, or attempt to enforce or collect, or subordinate to any Liabilities other than the Senior Liabilities, any Junior Liabilities or any rights in respect thereof; (b) take any collateral security for any Junior Liabilities; (c) convert any Junior Liabilities into stock of Borrower; or (d) commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceeding with respect to Borrower.

(This Subordination Agreement consists of 2 pages.

The terms and conditions on the reverse side hereof are hereby incorporated into and made part of this Subordination Agreement.)

UNOFFICIAL COPY

8. The Bank may, from time to time, whether before or after any discontinuance of this Agreement, at its sole discretion and without notice to the undersigned, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities, (b) retain or obtain the primary or secondary obligation of any other obligor or obligors with respect to any of the Senior Liabilities, (c) extend or renew for one or more periods (whether or not longer than the original period), after or exchange any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities, and (d) release its security interest in, or surrender, release or permit any substitution or exchange for all or any part of any property securing any of the Senior Liabilities, or extend or renew for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any obligor with respect to any such property.

9. This Agreement shall in all respects be a continuing agreement and shall remain in full force and effect (notwithstanding, without limitation, the death, incompetency or dissolution of the undersigned or that at any time or from time to time all Senior Liabilities may have been paid in full) until all such Senior Liabilities (including any extensions or renewals of any thereof and all interest accruing thereon and all expenses paid or incurred by the Bank in endeavoring to collect or realize upon any of the Senior Liabilities or any security therefor) shall have been paid in full and Bank has sent the undersigned written notice of the same.

10. The Bank may, from time to time, without notice to the undersigned, assign or transfer any or all of the Senior Liabilities or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Liabilities shall be and remain Senior Liabilities for the purposes of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee of any of the Senior Liabilities, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were the Bank; provided, however, that, unless the Bank shall otherwise consent in writing, the Bank shall have an unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement, for the benefit of the Bank, as to those of the Senior Liabilities which the Bank has not assigned or transferred.

11. The Bank shall not be prejudiced in its rights under this Agreement by any act or failure to act of Borrower or the undersigned, or any non-compliance of Borrower or the undersigned with any agreement or obligation, regardless of any knowledge thereof which the Bank may have or with which the Bank may be charged; and no action of the Bank permitted hereunder shall in any way affect or impair the rights of the Bank and the obligations of the undersigned under this Agreement.

12. No delay on the part of the Bank in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Bank of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon the Bank except as expressly set forth in a writing duly signed and delivered on behalf of the Bank. For the purposes of this Agreement, Senior Liabilities shall include all obligations of Borrower to the Bank, notwithstanding any right or power of Borrower or anyone else to assert any claim or defense as to the invalidity or unenforceability of any such obligation, and no such claim or defense shall affect or impair the agreements and obligations of the undersigned hereunder.

13. This Agreement shall be binding upon the heirs, legal representatives, successors and assigns of the undersigned; and, to the extent that Borrower or the undersigned is either a partnership or a corporation, all references herein to Borrower and to the undersigned, respectively, shall be deemed to include any successor to such partnership or corporation. If more than one party shall execute this Agreement, the term "undersigned" as used herein shall mean all parties executing this Agreement and each of them, and all such parties shall be jointly and severally obligated hereunder.

14. This Subordination Agreement may be executed in several identical counterparts by various of the undersigned parties and that the various such counterparts shall constitute the respective subordination of the respective signers.

15. The undersigned will, from time to time, (a) promptly notify the Bank of the creation of any Junior Liabilities and of the issuance of any promissory note or other instrument to evidence any Junior Liabilities, (b) upon request by the Bank, cause any Junior Liabilities which are not evidenced by a promissory note or other instrument of Borrower to be so evidenced, and (c) upon request by the Bank, and as collateral security for all Senior Liabilities, indorse without recourse, deliver and pledge to the Bank any or all promissory notes or other instruments evidencing Junior Liabilities, and otherwise assign to the Bank any or all Junior Liabilities and any or all security therefor and guaranties thereof, all in a manner satisfactory to the Bank.

16. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been concluded at Chicago, Illinois, this 15th day of

June, 1992.

ADDRESS:

118 N. CLARK STREET RM 824
Chicago, Illinois
60602

Cook County Discretionary Rehabilitation Program

By: Thomas E. Hinchey
Assistant Director Title

COMMUNITY DEVELOPMENT PROGRAM
DEPT-01 RECORDED \$23.50
T#7799 TRAN 6692 06/30/92 16:02:00
#6712 # F * - 92 - 47694.2

COOK COUNTY RECORDER

The undersigned Borrower hereby acknowledges receipt of a copy of the foregoing Subordination Agreement, waives notice of acceptance thereof by the Bank, and agrees to be bound by the terms and provisions thereof, to make no payments or distributions contrary to the terms and provisions thereof, and to do every other act and thing necessary or appropriate to carry out such terms and provisions. In the event of any violation of any of the terms and provisions of the foregoing Subordination Agreement, then, at the election of the Bank, any and all obligations of the undersigned Borrower to the Bank shall forthwith become due and payable, and any and all agreements of the Bank to make loans, advances or other financial accommodations to the undersigned Borrower shall forthwith terminate, notwithstanding any provisions thereof to the contrary.

Dated: 6-23-92

BORROWERS:

By Kerato Maloney
By Marilyn Maloney

Legal Description: Lots 11 and 12 in R.J. Fintzo and Company's Central Subdivision, being a Subdivision of part of Lot 7 in Assessor's Subdivision of Section 34, and the north 1/2 of Section 32, Township 38 North, Range 13, East of the Third Principal Meridian, according to the plat thereof recorded as Document No. 10,368,211, in Cook County, Illinois.

PIN 19 32 229 014 & 015 a/k/a 5615 W. 82nd Pl. Burbank Il. 60459