

CONSTRUCTION LOAN AGREEMENT

This Construction Loan Agreement ("Agreement") is made as of November 1, 1994 by and between George P. and Katherine Korbakes (referred to herein as "Borrower"), and Highland Community Bank (referred to herein as the "Bank").

RECITALS:

A. Borrower is the owner of that parcel of real estate, legally described on Exhibit "A" attached (the "Land").

B. Borrower intends to construct a single family home on the Land, such improvements, together with all fixtures, parking areas, driveways, landscaping, fittings, appliances, apparatuses, machinery, furnishings, equipment, furniture, supplies, and other property of any kind whatsoever and any replacements thereof affixed to the Land or the improvements thereon or used in any way in connection with the operation of the Land or the improvements thereon are hereinafter collectively referred to as the "Project." The Land and the Project are sometimes hereinafter collectively referred to as the "Premises."

C. The Project will be constructed and equipped in accordance with the final plans and specifications and working drawings for Construction of the Project (collectively, the "Plans and Specifications") prepared by SAIARCO CONSULTING, INC. (the "Architect") pursuant to the terms of an agreement dated \_\_\_\_\_ the Architect and Beneficiary (the "Architect's Agreement").

D. The Project will be constructed and equipped pursuant to a construction contract (the "Construction Contract") with Borrower as contractor. For purpose of this Agreement, "Completion of the Project" shall mean completion of the construction of the entire Project, with the sole exceptions of minor items of a "punch-list" nature specifically identified on the Inspector's certificate of completion (defined below) in accordance with the approved Plans and Specifications to the satisfaction of the Bank and the Inspector and in accordance with all applicable laws (including, but not limited to, zoning and building codes) and governmental requirements of any kind; and delivery to the Bank of each of the items described in Section 4(c) with respect to conditions precedent to Final Advance (defined below). For purposes of this Agreement, the "Construction Period" shall mean the period commencing on the date hereof and ending on the date on which construction of the Project is completed in accordance with the terms hereof.

E. For purposes of financing the construction of the Project, Borrower has applied for financing in the amount of up to Four

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Hundred and Fifty Thousand and no/100 (\$450,000) and the Bank has issued its commitment dated October 18, 1994 to loan said funds to Borrower (the "Commitment"). All amounts shall be disbursed in accordance with the terms and conditions hereinafter set forth. All loans and disbursements made by the Bank pursuant to this Agreement are collectively referred to herein as the "Loan".

F. The parties deem it to be in their mutual best interest to set forth their mutual understanding and obligations by this Loan Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, conditions and agreements herein contained, the parties hereto agree as follows:

## Section 1. REPRESENTATIONS AND WARRANTIES OF BORROWER.

(a) Specific Representations and Warranties. To induce the Bank to enter into this Agreement and to make the Loan to the Borrower, Borrower hereby represents and warrants to the Bank as follows:

- (i) Recitals. Each of the foregoing Recitals A through and including H is incorporated herein by reference, and is true and correct in its entirety.
- (ii) Compliance. Neither the Premises nor its present use, occupancy and operation nor the construction of the Project pursuant to the Plans and Specifications, nor the use, occupancy and operation of the Project when completed, violates or conflicts with or will then violate or conflict with any applicable statute, law, regulation, rule, ordinance or order of any kind whatsoever (including but not limited to any zoning or building laws or ordinances, any noise abatement, occupancy, or environmental protection laws or regulations, or any rules, regulations or orders of any other governmental agency), or any building permit or any condition, privilege, license, easement, right-of-way, covenant, restriction or grant (whether or not of record) made for the benefit of or affecting the Premises or any part thereof; provided, however, that with respect to any statute, law, regulation, rule, ordinance or order not in existence or effect as of the date hereof, the preceding portion of this Section 1(a)(iii) shall be deemed to be a covenant by Borrower to so comply at the time any such statute, law, regulation rule, ordinance exists or becomes effective. Borrower hereby agrees to indemnify and hold harmless the Bank, and its officers, directors, partners, employees, agents and participants, if any (collectively, the "Indemnities") against any and all liability, loss,

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claim, damage or expense (including attorneys' fees) to which any of the Indemnities may become subject insofar as they may arise out of or are based upon any breach of the warranties and covenants contained in this Section 1(a)(iii).

- (iii) Power and Authority. Borrower has full power and authority to own its property (including the Premises) and to execute, deliver and perform all of its obligations under this Agreement, the Loan Documents, and all other documents to be executed and delivered by Borrower pursuant to this Agreement in accordance with their respective terms to borrow the sums provided to be borrowed hereunder and to mortgage and encumber its property as provided hereby. All of such execution, delivery, performance, borrowing and encumbering have been duly authorized by all necessary corporate and shareholder actions of Borrower.
- (iv) Binding Agreement. This Agreement constitutes, and the other Loan Documents with other documents to be executed and delivered pursuant to this Agreement, when executed and delivered pursuant hereto, will constitute, the duly authorized, valid and legally binding obligations of the party or parties (other than the Bank) executing the same and will be enforceable by the Bank strictly in accordance with their respective terms (subject only to the effect of bankruptcy, insolvency, reorganization, readjustment of debt, or other similar laws of general application relating to or affecting the enforcement of creditors' rights generally).
- (v) No Violation of Agreement, etc. Borrower is not in default under any agreement to which it is a party, the effect of which might adversely affect the performance by Borrower of any of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement or any other Loan Document. Neither the execution and delivery of this Agreement nor the other Loan Documents, nor the consummation of the transactions herein or therein contemplated, nor the performance of the duties and obligations hereunder or thereunder, nor compliance with the terms and provisions hereof or thereof, does or will violate any provisions of any law or applicable statute, ordinance, rule, regulation, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality, or does or will conflict with or be inconsistent with, or will result in any breach of, any of the terms, covenants, conditions or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, lease, instrument, document, agreement or

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contract of any kind which creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the assets of Borrower, or any other indenture, mortgage, deed of trust, lease, note, instrument, document, agreement or contract of any kind to which Borrower is a party or by which Borrower or any of the property of Borrower may be bound.

(vi) No Litigation. There are no actions, suits or proceedings of any kind pending or, to the knowledge of the Borrower, threatened against the Premises before any court or any governmental, administrative, regulatory, adjudicatory or arbitral body or agency of any kind, the pendency of which or an adverse determination in which might adversely affect the financial condition, continued operations or property of the Borrower or performance by Borrower of any of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement or any of the other Loan Document, or involving the validity, enforceability or priority of the Mortgage (defined below), or the completion of the construction of the Project in accordance with the approved Plans and Specifications, or the proposed use, occupancy and operation of the Project or the performance by the Bank of its obligations hereunder.

(viii) Utilities. All utility services necessary for the construction of the Project and the use, occupancy and operation of the Project for its intended purposes (including, without limitation, water, storm and sanitary sewer, electric and telephone facilities) are available at the Land and are currently available to the Project or written permission has or will be obtained from the applicable utilities or municipality, as required, to tie the Project into each of such services without any conditions having to be satisfied other than payment of reasonable tap-on fees. All consents, permits, variances or grants of any kind with respect to such utility services have been or will be obtained, which are necessary for the completion of the Project, and for the use, occupancy and operation of the Project, and which may, under applicable law and the rules and regulations of the respective utility companies or municipalities involved, be obtained with respect to the Project.

(viii) Financial Statements. The financial statements of the Borrower and the operating projections of the Project heretofore delivered to Bank, are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles consistently applied, and fully and fairly present the financial condition and

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result of operation of the subjects thereof, respectively as of the date shown thereon. As of the date of the First Advance hereunder (defined below), no adverse changes will have occurred in the financial condition of any of the subjects thereof since the date of such statement, and none of the subjects thereof have made any borrowings or committed to make any borrowings or committed to make any borrowings of any kind except as shown therein, other than the Loan provided for in this Agreement and any other loan approved in writing by the Bank.

- (ix) Material Facts. Neither this Agreement nor any document, financial statement, credit information, certificate or statement required herein to be furnished by the Borrower, or which has been or may hereafter be furnished by the Borrower, to the Bank contains or will contain any material omission or any untrue or misleading statement, or is in any respect materially misleading.
- (x) Approval of Project Budget. The Borrower has submitted to the Bank a construction budget (the "Project Budget"), attached hereto as Exhibit B showing the total cost of development, financing and construction of the Project. The Project Budget shall not be changed without Bank's prior written consent. The Project Budget includes an interest reserve sufficient to pay the interest which is projected to accrue under the terms hereof.
- (xi) Brokerage Fees. No brokerage fees or commissions of any kind are payable in connection with the Loan to be disbursed by the Bank. Borrower shall indemnify the Bank and hold the Bank harmless from and against all loss, cost, liability or expense incurred as a result of any claim for a broker's or finder's fee against the Bank by any person or entity in connection with any of the transactions herein contemplated. The Bank hereby represents and warrants that it has not dealt with any brokers or finders in connection with any of the transactions herein contemplated.
- (xii) No Unpaid Bills. There are no unpaid bills (except for those which will be paid in the ordinary course of business within 30 days after the date hereof) for labor, materials, supplies or services furnished to the Premises; and no claim of lien affecting the Premises has been served upon Borrower or Contractor or filed in the public records in Cook County, Illinois.
- (xiii) Fee Ownership. Trustee is the owner in fee simple of, and hold good and marketable title to the Premises subject only to taxes which are not yet due and payable.

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(b) Representations to be Continuing. Borrower further represents and warrants to the Bank, with respect to the foregoing representations, warranties and covenants made by Borrower that all of the foregoing representations and warranties (including the Recital representations and warranties) are, to the extent required to be hereunder on the date hereof, true as of the date of this Agreement, and will, to the extent required to be hereunder effective and/or continuing at any future date in accordance with the terms hereof, continue to be true as of each such date and thereafter, at the dates of all subsequent Advances and at all times until all indebtedness hereunder and under the other Loan Documents has been paid in full, except as expressly set forth herein. By submitting to the Bank any Request for Advance (defined below), the Borrower shall be deemed to have restated each of such applicable representations, warranties and covenants as of the date of such Request for Advance.

(c) Acknowledgement of Bank's Reliance. All representations, warranties, covenants and agreements made herein or in any certificate or other document heretofore hereafter delivered to the Bank by or on behalf of Borrower pursuant to or with respect to this Agreement or the Loan made hereunder shall be deemed to have been relied upon by the Bank notwithstanding any investigation heretofore or hereafter made by the Bank or on its behalf, and shall survive the making of any or all of the Advances contemplated hereby and shall continue in full force and effect until the Loan is repaid in full.

## Section 2. THE LOAN.

(a) Loan Amount. Subject to and upon the terms and conditions set forth in this Agreement, the Bank, in its sole and absolute discretion, may lend to Borrower, from time to time such sums as may be requested by Borrower, the total of which shall not exceed Four Hundred and Fifty Thousand Dollars (\$450,000). In this Agreement, all loans and disbursements made by the Bank pursuant to this Agreement are collectively called the Loan, and each disbursement made by the Bank is herein called an "Advance."

### (b). Advances.

(i) First Advance. The first Advance (the "First Advance") will be made on the date hereof to be utilized by Borrower for the purpose of construction costs, all as more fully described in the *Project Budget*. The balance of the Loan will be available for disbursement, if at all, as construction is completed. The First Advance will be made through an escrow account established with the Title Company (defined below) pursuant to documentation satisfactory in form and substance to the Bank, all of the expenses of which will be paid by Borrower.

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(ii) Subsequent Advances. Advances of the Loan after the First Advance ("Subsequent Advances") may be made periodically by the Bank upon submission of a Request for Advance by Borrower to or for the account of Borrower in accordance with the Project Budget, less Reserves, except for the Final Advance (defined below). It is presently contemplated that as a general matter all Advances will be made through a construction loan disbursement escrow account (the "Construction Disbursement Escrow") to be maintained at the Title Company pursuant to documentation satisfactory in form and substance to the Bank, all of the expenses of which will be paid by Borrower.

(iii) Advances Authorized by Borrower. In addition to Advances made pursuant to Request for Advances made by Borrower from time to time, Borrower hereby irrevocably authorized the Bank to disburse Loan funds to pay: (A) interest which is accrued but unpaid and which is due and payable pursuant to the terms of the Note on the first day of each month until the Loan is paid in full; (B) after the occurrence of an Event of Default, for the payment or performance of any of the obligations of Borrower set out in this Agreement or in any of the other Loan Papers (including, without limitation, expenses incurred by the Bank in connection with the negotiation, preparation, execution, administration, enforcement or collection of the Loan or any of the Loan Documents and amounts necessary or appropriate to complete the construction of the Project in accordance with the approved Plans and Specifications); (C) for any amounts necessary or appropriate to protect the lien or priority of the Mortgage or of any of the other Loan Papers or to pay, settle, compromise or contest any lien or claim of lien against the Premises or any part thereof; and (D) for any and all other costs or expenses incurred by Borrower or the Bank (including, without limitation, expenses and reasonable fees of the Bank's attorneys in connection with the Loan. The execution of this Agreement by Borrower shall, and hereby does, constitute an irrevocable direction and authorization to the Bank so to disburse such funds described in the foregoing paragraph and to treat such Advances as money loaned pursuant to this Agreement and as indebtedness evidenced by the Note.

(c) Limitations. Notwithstanding any other provision of this Agreement, in no event shall the Bank be required to make any Advance hereunder. Bank shall not make any Advance if (i) the Bank determines that such Advance will reduce the undisbursed amount of the Loan (after setting aside the Reserve, all other reserves and retainages of whatever nature held by the Bank) below the amount necessary to pay in full the unpaid costs as set forth in the Project Budget in accordance with the approved Plans and

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Specifications, (ii) any Event of Default or Unmatured Event of Default (defined below) has occurred and is continuing, (iii) on the date of such Advance there is an existing material breach of any representation, warranty or covenant contained herein, or (iv) Borrower has not complied with or satisfied any condition or covenant contained herein or any other Loan Document.

(d) Conditions To All Advances. The following are conditions precedent (in addition to other conditions provided elsewhere in this Agreement) to making each Advance hereunder (except for Advances to pay accrued but unpaid interest hereunder), provided that satisfaction of such conditions precedent shall not require Bank to make any Advance hereunder. All Advances made hereunder, shall be made in Lender's sole and exclusive discretion, under such terms and conditions as Lender shall deem appropriate or acceptable.

(i) Notice. The Bank shall be given at least five (5) full business days' prior written notice of a Request for Advance, which request shall in each case specify the amount of the proposed Advance and shall in each case be signed by Borrower.

(ii) Place of Disbursement. Each Advance hereunder shall be made at the office of the Bank, and at the Bank's option shall be disbursed (A) to the credit of Borrower's account to be maintained at the Bank, (B) to the order of Borrower, (C) to the Title Company for the account of Borrower under the terms of a Construction Escrow, (D) directly to the Bank itself for its own account, or (E) to any other person necessary or appropriate to accomplish any of the purposes set out in this Agreement.

(iii) Monthly Advances. In no event shall Bank approve more than one Request for Advance in any calendar month after initial Advances.

(iv) Increase in Principal. Each Advance by Bank will increase the outstanding principal balance of the Note by the amount of the Advance.

(v) No Casualty. The Premises shall not have suffered any damage by fire or other casualty.

(vi) Continuing Representations. All representations and warranties set forth herein shall be true and correct as of the date of the respective Advance.

(e) Maturity Date. Subject to Bank's right to accelerate the payments hereunder in accordance with the terms of the Note, the unpaid principal balance of all advances, interest, penalties and all other sums due and payable pursuant to the terms

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hereof or the other Loan Documents shall be due and payable July 1, 1995 (the "Maturity Date").

(f) Application of Payments. Notwithstanding anything to the contrary contained herein or in any other Loan Document, Mortgagee shall have the sole, exclusive and unreviewable right unilaterally (and without notice to or the consent of any person) to allocate any and all payments which may be received by or tendered to Mortgagee made by the Mortgagors or at any time or from time to time and which relate in any way to the sums advanced under the Note, hereunder or any of the other Loan Documents in any order of priority as Holder, in its sole and exclusive discretion determine to: (i) the payment of any costs and expenses incurred by Holder hereof to enforce any rights hereunder or under the other Loan Documents or to preserve or protect the Property, (ii) accrued but unpaid interest, penalties and late payment fees, (iii) principal.

## Section 3. THE LOAN DOCUMENTS.

Borrower shall execute and deliver or cause to be executed and delivered to the Bank, as evidence of or security for the payment of the Loan, all Advances made under this Agreement and all other liabilities and obligations described in this Agreement, the following documents (all of which, together with all other instruments, guaranties, letters of credit, security agreements, and other documents or agreements of any kind furnished at any time to the Bank to evidence or secure all or any part of the Loan or any indebtedness arising at any time under this Agreement, are referred to collectively herein as the "Loan Papers"), all to be in form and content as specified by the Bank: (a) this Agreement, (b) A promissory note; (c) Environmental Indemnity Agreement and (d) such other or additional documents or instruments, including but not limited to an accountant's reliance letter, as the Bank may reasonably require.

## Section 4. COVENANTS OF BORROWER.

(a) Covenants of Borrower Which Are Conditions Precedent to the First Advance. Borrower covenants and agrees that, prior to and as a condition precedent to the First Advance by the Bank of any monies pursuant to this Agreement (in addition to those requirements set forth in Section 2) and at all times until all indebtedness of any kind under this Agreement or the Note has been repaid in full:

- (i) Check List Items. Borrower will deliver to the Bank all items on the documentation Checklist delivered to Borrower by Bank concurrently herewith.
- (ii) Licenses. Borrower will furnish to the Bank (A) to the fullest extent available under applicable law, and in all



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events before such times as such licenses are required by law to be obtained, all licenses required by law for use, occupancy, construction and operation of the Project, (B) evidence satisfactory to the Bank establishing that any and all required licenses, permits and approvals of the Project have been issued by all environmental protection agencies (federal, state and local) having jurisdiction, which approvals shall be satisfactory in form and substance to the Bank, (C) evidence satisfactory to the Bank of the availability and adequacy of all utilities and municipal services required for the Project and of the authority to tie into such utilities and municipal services, and (D) evidence satisfactory to the Bank that the Project is and will be in compliance with all applicable FAA regulations, applicable OSHA regulations, all applicable building, fire, safety and zoning laws, rules and regulations, and all other applicable laws of any kind whatsoever, that no covenants or restrictions affecting the Premises are presently or will be violated by the Project, and (E) evidence that there are no petitions, proceedings or actions pending or threatened to alter or declare invalid any laws, ordinances, rules, regulations, permits, certificates, restrictions, leases or agreements authorizing or relating to the Project which could have an adverse effect on the Project or the value of or security for the Loan.

- (iii) Certificates of Architect. The Borrower shall have furnished Certificates from the Architect containing such agreements as the Bank shall request in form and substance reasonably satisfactory to the Bank.
- (iv) Construction Documents and Collateral Assignments: Completion Date. The Borrower will deliver or cause to be delivered to the Bank a detailed list of all construction contracts and subcontracts which have been signed at any time through the date of the First Advance, which list will set out, inter alia, the name and address of each contractor or subcontractor and a detailed description of the work he will perform and the materials he will supply, and will also describe the total contracted-for cost of each trade and significant category of work or material to be furnished for the Project. The Construction Contract shall include all the work necessary to the completion of the Project in accordance with the approved Plans and Specifications, shall obligate the Contractor to complete the construction of the Project not later than the Completion Date, shall provide for a price not to exceed that amount previously approved by the Bank on the Project Budget, and shall be in all respects satisfactory to the Bank. For purposes of this Agreement, the "Completion Date"

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means July 1, 1995 subject to extension by the number of days lost due to strike, labor trouble, Acts of God. If the Bank should so request at any time, there shall also be furnished to the Bank a subordination agreement, satisfactory in form and substance to the Bank, pursuant to which the Contractor expressly subordinates any lien it may now or hereafter have against the Premises or any part thereof to any liens or claims now or hereafter existing in favor of any or all of the Bank and any lender purchasing any loan from the Bank or making any new loan which will be used in whole or in part to retire or refinance any loan from the Bank.

(v) Initial Report of Inspector. The Bank shall have received the favorable report of King-Cooper and Associates (the "Inspector"), satisfactory in all respects to the Bank, concerning the Plans and Specifications, the Construction Contract, if applicable, the Architect's Agreement the Project Budget, soil tests, the status of any work done on the Project, and such other matters as the Bank may request.

(vi) Site Plan and Working Drawings. The Borrower shall have delivered to the Bank (i) a site plan for the Project approved in writing by the Architect (which approval will expressly state that such plan complies with all applicable laws, ordinances, set-back and other requirements of law and any applicable covenants, conditions and restrictions), and (ii) final working drawings and Plans and Specifications for the Project certified by the Architect as being complete, sufficient and appropriate and complying with all applicable laws and ordinances, and approved in writing by the Contractor and the Bank.

(vii) Additional Matters. Borrower shall have delivered to the Bank such other or additional documents, instruments, information or items of any kind or nature (all in form and substance satisfactory to the Bank) as the Bank may reasonably request.

(b) Further Covenants of Borrower. Borrower covenants and agrees that, at all times from the date of this Agreement and until all indebtedness of any kind to the Bank under this Agreement and the Note has been repaid in full, and also as a condition to each Subsequent Advance and as of the time of each such Subsequent Advance:

(i) Continued Compliance with Section 4(a). There shall be and continue to have been full compliance with, performance of and satisfaction of all covenants, agreements and conditions set out in subsection 4(a).

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(ii) Construction of the Project.

(A) The Borrower shall cause the construction of the Project to be prosecuted with diligence, in good faith and without delay, so that the same will be fully completed no later than July 1, 1995.

(B) Borrower will cause the Project to be constructed in a good and workmanlike manner, in accordance with the Plans and Specifications, pursuant to the Construction Contract and in all respects in compliance with all applicable laws, regulations, permits, and requirements of public authorities having jurisdiction over the Premises and will not cause, permit or allow any deviations from the approved Plans and Specifications without the prior written consent of the Bank.

(C) All materials contracted or purchased for delivery to the Premises or for use in construction, and all labor contracted or hired for or in connection with the construction of the Project, shall be used and employed solely on the Premises and in the construction of the Project and for no other purpose.

(D) No extra work or materials or change in the approved Plans and Specifications shall be ordered or authorized by Borrower without the prior written consent of the Bank, provided, however, that the Borrower may, without the prior written consent of the Bank, order or authorize change orders to the Plans and Specifications which in their aggregate do not exceed \$10,000 during the term of the Loan.

(E) If the Bank shall consent to any such extra work or materials or change in the approved Plans and Specifications and if the undisbursed balance of the Loan provided for in this Agreement is insufficient to complete the Project incorporating such extra work or materials or changes, the amount of such insufficiency shall be deemed a deficiency, and the Borrower shall immediately deposit with the Bank either funds or the security satisfactory in all respects to the Bank, in an amount equal to the cost of such extra work or materials or changes, and such additional deposit shall be released upon the completion of such extras or changes in payment therefor.

(iii) Compliance with Agreements. Borrower shall comply with all terms and conditions of the Construction Contract, the Architect's Agreement and all other agreements with third parties relating to the acquisition, development and construction of the Project, including but not limited to all obligations of Borrower under the terms of the Post-Closing Agreement. Borrower shall not change or replace the general contractor without the prior written consent of the Bank.

- (iv) No Default. There shall have been full compliance, performance of and satisfaction of all covenants, agreements and conditions set forth herein and all other Loan Documents. No Event of Default or Unmatured Event of Default (both terms are defined herein) shall have occurred and remain uncured under the terms hereof or any other Loan Document.
- (v) Books and Records. Borrower will allow the Bank and its representatives or agents, access at any time during normal business hours to the records and books of account (including all supporting or related vouchers or papers), kept by or on behalf of Borrower, its representatives or agents in connection with the Project and the Premises, such access to include the right to make extracts or copies thereof.
- (vi) Remedying Construction Defects. Borrower will remedy, in a manner reasonably satisfactory to the City of Chicago and the Bank, such portions or aspects of the construction contemplated herein as may be determined to be not substantially in compliance with the approved Plans and Specifications, or any governmental laws, ordinances, rules, and regulations affecting the Premises.
- (vii) Requests for Advances. Concurrently with the notice of intention to effect any subsequent Advance, the Borrower shall furnish the Bank with the following, all in form and substance satisfactory to the Bank:
- (A) A detailed Application for Payment and Contractor's Sworn Statement, sworn to by each Contractor seeking payment;
  - (B) Supporting lien waiver from each Contractor and each subcontractor seeking payment shown in each such Sworn Statement (provided, however, that if the Title Company will insure over the same as required herein, after the first two Advances have been made said lien waivers may be provided within 30 days of said notice but prior to the next Advance);
  - (C) An Application for Advance;
  - (D) A certificate of the Architect; and
  - (E) Such other or additional forms and supporting documentation as the Bank may reasonably require from time to time. The documentation set forth above is sometimes herein collectively referred to as the "Request for Advance". Prior to each Subsequent Advance, the Borrower will furnish the Bank with a revised and current Request for Advance satisfactory in form and substance to the Bank, showing changes in, variations from, and all additions to

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the last preceding Request for Advance, with each component part of the Request for Advance being signed or sworn to, as the case may be, by the same person or entities which were required to do so in the last preceding Request for Advance and by such additional entities as the Bank may request.

- (xii) Later Date Title Endorsements. The Borrower will furnish to the Bank later date pending disbursement endorsements to the title policy (issued by the Title Company) stating, in form and substance satisfactory to the Bank, that title to the Premises has been re-examined and that there has been no adverse change in the condition of title since the last such examination, and each of which later date endorsements shall also (A) contain the Title Company's interim insurance covering all Advances theretofore and then being made pursuant to this Agreement, (B) cover the date of the making of the applicable Subsequent Advance, (C) contain the endorsements set forth in or otherwise required hereunder and (D) be subject to no exceptions other than the Permitted Exceptions.
- (xiii) No Damage. There shall be no substantial unrepaired damage to the Project by fire or other casualty which is not covered by insurance collected or in the process of collection and provided such damage will not delay the completion of construction past July 1, 1995.
- (xiv) Inspections by Borrowers. Borrower shall cause to be made such inspections of the Premises as are necessary to determine that (i) the quality, design and construction of the Project are pursuant to and consistent with all applicable laws, ordinances, rules and regulations and the approved Plans and Specifications, and (ii) the construction of the Project will be completed on or before the Completion Date; and Borrower will immediately notify the Bank, in writing, should Borrower ascertain any deficiency or variance with respect to any of the foregoing.
- (xv) Access For Inspector. The Bank and its agents, representatives, contractors and participants (if any) including the Inspector, shall have access to the Premises and all parts thereof at all times for inspection thereof or for any other purpose. Borrower will permit, and will cooperate with Bank in arranging for, inspections from time to time of the Premises by the Inspector, if requested by Bank, and any other representatives of Bank. In the event that the Inspector or other representative furnishes Bank with reports covering such inspections, Bank may, but is not under any obligation whatsoever, to furnish Borrower with copies of

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any of said reports. Borrower acknowledges and agrees that (A) all of such inspections and reports shall be made for the sole benefit of Bank and not for the benefit of Borrower or any third party, and neither Bank nor the Inspector or any other of its representatives, agents or contractors assume any responsibility or liability (except to Bank) by reason of such inspections, reports or the furnishing of any of such reports to Borrower, (B) Borrower will not rely upon any of such inspections or reports for any purpose whatsoever, and (C) such inspections and the furnishing of any of such reports to Borrower will not constitute a waiver of any of the provisions of this Agreement or any of the obligations of Borrower hereunder. Borrower further acknowledges and agrees that neither Bank nor the Inspector or any other of Bank's representatives, agents or contractors shall be deemed in any way responsible for any matters relating to design or construction of the Project.

- (xvi) Report of Inspector. Prior to each Subsequent Advance, the Bank shall have received the favorable report of the Inspector, satisfactory in all respects to the Bank, to the effect that the construction of the Project to the date of such report is in compliance with the approved Plans and Specifications and all applicable laws and regulations, that the work for which such Advance is being requested has been completed, that the Project can reasonably be expected to be completed by the Completion Date or such later date as the Completion Date may be extended pursuant to the terms hereof, and that the portion of the Loan remaining undisbursed, if any, is sufficient to pay in full all amounts required to be reserved hereunder, and for the completion of the Project by such date, and covering such other matters as the Bank may request.
- (xvii) Other Documentation. The Borrower will furnish to the Bank, promptly and from time to time, all such other documentation, instruments and information as the Bank may reasonably request.
- (xviii) Payment of Expenses and Costs. The Borrower shall pay promptly to the Bank without demand, with interest thereon from date of expenditure at the Default Rate specified in the Note, reasonable attorneys' fees and all costs and other expenses of any kind whatsoever paid or incurred by the Bank in enforcing or exercising its rights or remedies created by, connected with or provided in this Agreement or in any of the other Loan Documents including, but not limited to all court costs, recording costs, expenses of foreclosure, title insurance premiums, minutes of foreclosure reasonable attorney's fees and all

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other costs and expenses associated therewith, and payment thereof shall be secured by the Mortgage and the other Loan Papers.

- (xix) Payments in Trust. Borrower will receive and hold in trust, for the purpose of paying Project costs and indebtedness evidenced by the Note, all Advances made hereunder directly to Borrower, all rents, income and profit from the Premises and Borrower will not apply the same for any other purposes.
- (xx) Reports. The Borrower agrees that, promptly upon receipt of any audit, construction, marketing or other report relating in any way to the Project from its auditor or any other person or entity, the Borrower will furnish copies of each such report to the Bank.
- (xxi) Notice of Default. The Borrower will promptly notify the Bank if the Borrower learns of the existence of a state of facts which constitute an Event of Default or an Unmatured Event of Default hereunder or under any other Loan Document.

## Section 5. DEFAULT.

(a) Events of Default. Each of the following shall constitute an "Event of Default" under this Agreement.

- (i) The failure of Borrower to pay any payment of principal or interest due under the Note or herein within ten (10) days after the due date thereof; or
- (ii) The failure by the Borrower to perform any obligation under, or the occurrence of any other default with respect to any provision of this Agreement other than as specifically described in any other clause of this subsection 5(a), and the continuation of such default for a period of thirty (30) days after written notice thereof; or
- (iii) The failure by Borrower to perform any obligation under, or the occurrence of any other default with respect to any provision of the other Loan Documents (other than as specifically described in any other clause of this subsection 5(a)), which is not cured within the time period provided therefor, if any; provided that Bank shall not make any additional Advances under this Agreement during such cure period until such Unmatured Event of Default is completely cured. With respect to any event or occurrence which constitutes an Event of Default hereunder solely by reason of its constituting a

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default or Event of Default under another document or instrument, to the extent (if any) that such other document or instrument provides a grace or cure period with respect to such default, the same grace or cure period, and only such period, shall apply with respect thereto under this Agreement; or

- (iv) Any representation, warranty or certification made in this Agreement by Borrower or otherwise made in writing in connection with or as contemplated by this Agreement, proves to have been false in any respect at any time; or
- (v) There is any material adverse change at any time in the financial condition of Borrower as of the date hereof; or
- (vi) The Premises or any material part thereof is damaged or destroyed by fire or other casualty and the loss is not adequately covered by insurance actually collected or in the process of collection, and Borrower fails to deposit or to cause to be deposited with the Bank the full amount of the deficiency in cash within ten (10) days of the Bank's written request therefor; or
- (vii) Borrower fails to comply with any requirement (including, without limitation, compliance with all applicable zoning, building, health, fire and environmental laws, rules, regulations and ordinances) of any governmental authority having jurisdiction within thirty (30) days (or such lesser time, if any, as may be required by law or by such governmental authority) after Borrower has notice of such requirement, provided, however, that Borrower may, in good faith contest such requirement in accordance with the terms of the Mortgage; or
- (viii) Proceedings are formally commenced by any public or quasi-public body to acquire the land, the Premises or any interest in or any part of any of them by condemnation, eminent domain or any similar power or authority, and such proceedings are not dismissed within sixty (60) days of their being instituted, unless in the Bank's opinion such acquisition would not materially interfere with the construction of the Project or the intended uses of the Premises; or
- (ix) Any lien or notice of lien of any kind whatsoever (whether for the performance of work or services or the supplying of materials or other things, or in the nature of a judgment lien or lien for taxes, or otherwise) is filed or served against the Premises or any part thereof or is received by the Bank, and remains unsatisfied or unbounded to the Bank's satisfaction for a period of thirty (30) days after the Borrower receives notice

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thereof, provided that Borrower shall have the right to contest such lien in accordance with the terms of the Mortgage; or

- (x) Any sale, assignment or transfer in violation of Section 4(d) hereof; or
  - (xi) The land or the Premises, or any part thereof or interest (whether legal, beneficial or otherwise) therein, becomes subject to the jurisdiction of any court in any bankruptcy, insolvency, reorganization or similar case or proceeding under the laws of the United States of America, any state, or any other jurisdiction; or
  - (xii) Borrower fails to keep in full force and effect during the term hereof the policy or policies of insurance required pursuant to the terms hereof; or
  - (xiii) the Borrower shall fail to pay it's debts, make an assignment for the benefit of it's creditors, or shall commit an act of bankruptcy, or shall admit in writing it's inability to pay it's debts as they become due, or shall seek a composition, readjustment, arrangement, liquidation, dissolution or insolvency proceeding under any present or future statute or law, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or Federal, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of its property, or any part hereof, in any proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee, liquidator or receiver shall not be discharged, or such jurisdiction shall not be relinquished, vacated or stayed within sixty (60) days of the appointment; or
  - (xix) The Borrower shall die or become incompetent.
  - (xv) An event of default as defined in any other Section of this Agreement shall have occurred.
- (b) Remedies. Upon the occurrence of any Event of Default,

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the Bank shall have the right, in addition to all the remedies, conferred upon the Bank by law or equity or the terms of any of the Loan Documents, to do any or all of the following, concurrently or successively, without notice to Borrower.

- (i) Declare the Note to be, and the Note shall thereupon become, immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding;
- (ii) Terminate the Bank's obligations under this Agreement to extend credit of any kind or to make any Advance, whereupon the commitment and obligations of the Bank to extend credit or to make Advances hereunder shall terminate;
- (iii) Enter upon, take possession of, and use the Premises and all parts thereof and all material, equipment and supplies thereon and elsewhere which were ordered for or appropriated to the construction or operation of the Project for the purpose of continuing the construction or operations of the Project, and do anything which in its sole judgment is necessary or desirable to fulfill, pay, settle or compromise any obligation to Borrower hereunder or to complete the Project, including availing itself, or through others, of, and procuring performance of, the Architect's Agreement, the Construction Contract and each subcontract or letting new contracts with the Contractor or the Architect or others. All sums paid or incurred for the construction completion and equipping of the Project, pursuant to the provisions of this paragraph or otherwise, and all other payments made or liabilities incurred in good faith by the Bank under this Agreement of any kind whatsoever, shall bear interest from the date of payment or incurrence at the Default Rate of interest provided for in the Note, and such amounts, including interest, shall be deemed and shall constitute Advances under this Agreement. The Bank and its assignees, representatives, agents, licensees, contractors and Inspector shall be entitled to such entry, possession and use without the consent of any party and without any legal process or other condition precedent whatsoever. Borrower acknowledges that any denial of such entry, possession and use by the Bank will cause irreparable injury and damage to the Bank; and
- (iv) To the fullest extent permitted by law, appropriate and apply on the payment of all indebtedness of any kind under this Agreement, the Note or the other Loan Documents (whether or not due and in any order of priority as may be selected by the Bank in its sole and

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absolute discretion), any and all accounts and monies held in possession of Bank for the benefit of Borrower.

(c) Completion of the Project by the Bank. To implement the rights of the Bank under Section 5(b) upon the occurrence of an Event of Default, Borrower hereby constitutes and appoints the Bank its true and lawful attorney-in-fact with full power of substitution in the Premises to take possession of the Premises after notice to the Borrower and to complete, furnish, fixture and equip the Project in the name of Borrower in good faith and to pay all bills and expenses incurred thereby, and hereby further empowers the Bank as its attorney-in-fact to do any or all of the following after the occurrence of any Event of Default.

- (i) to use any funds of the Borrower, including any Loan balance which might not have been disbursed, for the purposes of completing the Project.
- (ii) to make such corrections, additions, changes and modification in the Plans and Specifications as may be necessary or desirable in the sole determination of the Bank to complete the Project in substantially the manner contemplated in the approved Plans and Specifications;
- (iii) to employ such contractors, subcontractors, employees, agents, architects, engineers, watchmen, managers, consultants and inspectors as the Bank may deem appropriate;
- (iv) to pay, settle or compromise all existing bills and claims which may be or become liens against the Premises (or any part thereof) or as may be necessary or desirable in the opinion of the Bank for completion of the Project or for the clearance of title;
- (v) to prosecute and defend all actions and proceedings in connection with the construction of the Project or title to the Premises;
- (vi) to execute all applications, certificates, or instruments in the name of Borrower which in the opinion of the Bank may be or are required by any governmental authority or contract; to enter into leases relating to the Premises;
- (vii) to do all acts and things of any kind whatsoever that may, in the Bank's judgement, be necessary or appropriate;
- (viii) to do any and every act which Borrower might do in its own behalf;
- (ix) to prosecute and defend all actions and proceedings in

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connection with the construction, equipping, furnishing and fixturing of the Project; and

(x) It is further understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest and irrevocable to take such action and require such performance under any surety bond or other obligation, and to execute in the name of Borrower such further bonds or obligations, as may be reasonably required in connection with the work. It is further understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest and irrevocable. Anything in this Agreement to the contrary notwithstanding, it is specifically understood and agreed that all funds furnished by the Bank and employed in performance of the obligations of Borrower under this Agreement shall be deemed advanced by the Bank under an obligation to do so regardless of the identity of the person or persons to whom such funds are furnished. Funds advanced by the Bank in the exercise of its judgement that the same are needed to complete the Project or to protect it's security are to be deemed obligatory advances hereunder and are to be added to the total indebtedness evidenced by the Note and secured by the Mortgage and the other Loan Papers, and said indebtedness shall be increased accordingly. The provisions of this Section 5(c) shall prevail over any inconsistent provisions of this Agreement.

(d) Unmatured Event of Default. For purposes of this Agreement, the term "Unmatured Event of Default" means any event or circumstances which would, with the giving of notice or the passage of time or both, if not cured, constitute an Event of Default.

(e) Budget Line Items and Reserves. Whenever there has occurred and is continuing any Event of Default hereunder or any deficiency, the Bank may, without the request or consent of the Borrower, apply any and all funds or amounts from any category set out in the Project Budget for any purpose whatsoever as long as it is related to completion of the Project.

(f) Advances by the Bank. The Bank shall have the right (but not the obligation), at any time after the occurrence of an Event of Default or an Unmatured Event of Default, to do any and all acts which the Bank may deem necessary or appropriate to assure the prompt and proper operation of the Premises, completion of the Project and the protection of the Loan and the lien or charge thereof, including but not limited to the settlement, compromise or contest of any lien or claim of lien, the taking of possession of the Premises and completion of all the work contemplated hereby, and the commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights, obligations or duties

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of the parties hereto. Any expense paid or incurred, or any advance made by the Bank in such connection, shall be paid by the Borrower to the Bank upon demand. Such amounts as are advanced or expanded by the Bank hereunder shall be secured by the Mortgage and the other Loan Papers and shall bear interest from the date of advance or expenditure at the applicable interest rate provided in the Note unless an Event of Default shall have occurred and be continuing, in which event interest shall be at the Default Rate provided in the Note.

(5) Loan Deficiency. If the Bank, in its exclusive discretion, determines at any time or from time to time that the undisbursed balance of the Loan is or shall be or become insufficient to pay all Project costs and pay for the completion of the Project in accordance with the approved Plans and Specifications and all expenses and charges of every kind and nature in connection therewith (including, but not limited to, all items which are described in the Budget) or any other obligations of the Borrower contained herein or contained in any of the Loan Documents, the Borrower shall within five (5) days after demand by the Bank, and such deposit shall first be exhausted in payment of Project costs and other items described in the preceding portion of this sentence before any further Advances of any proceeds of the Loan shall be made.

## Section Advance. MISCELLANEOUS.

(a) Notices. Any and all notices given in connection with this Agreement shall be deemed adequately given only if in writing and addressed to the party for whom such notices are intended at the address set forth below. All notices shall be sent by personal delivery, Federal Express or other over-night messenger service, first class registered or certified mail, postage prepaid, return receipt requested or by other means at least as fast and reliable as first class mail. A written notice shall be deemed to have been given to the recipient party on the earlier of (a) the date it shall be delivered to the address required by this Agreement; (b) the date delivery shall have been refused at the address required by this Agreement; or (c) with respect to notices sent by mail, the date as of which the postal service shall have indicated such notice to be undeliverable at the address required by this Agreement. Any and all notices referred to in this Agreement, or which either party desires to give to the other, shall be addressed as follows;

If to Borrower: George P. Korbakes  
and  
Katherine Korbakes  
12749 S. Western Ave.  
Blue Island, IL 60406

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If to Bank: Highland Community Bank  
1701 W. 87th Street  
Chicago, Illinois 60620

Attn: George R. Brokemond

The above addresses may be changed by notice of such change, mailed as provided herein, to the last address designated.

(b) No Waiver. No failure by the Bank to exercise, or delay by the Bank in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided by law. No notice to or demand on Borrower in any case shall, in itself, entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Bank to any other or further action in any circumstances without notice or demand.

(c) Binding Effect. This Agreement and the Loan Document shall be binding upon the respective parties hereto and their respective successors and assigns, provided that no assignment by Borrower shall be effective except as provided in Section 4(d) hereof. This Agreement is made for the sole benefit of Borrower, and the Bank (and inures to the benefit of the Bank and the Bank's participants, successors and assigns), and no other person or persons shall have any benefits, rights or remedies under or by reason of this Agreement, nor shall the Bank owe any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of the Project to apply any undisbursed portion of the Loan to the payment of any such claim or to exercise any right or power of the Bank hereunder or arising from any default by Borrower hereunder.

(d) Form of Documents; Expenses. All documents and other matters required by any of the provisions of this Agreement to be submitted, delivered or furnished to the Bank shall be in form and substance satisfactory to the Bank, and shall be provided at the Borrower's expense and at no expense to the Bank.

(e) Further Assurances. Borrower agrees that, at any time or from time to time, upon the written request of the Bank, it will execute and deliver all such further documents and do all such other acts and things as the Bank may reasonably request in connection with the Loan or this Agreement.

(f) Time of the Essence. Time is hereby declared to be of the essence of this Agreement and of every part hereof.

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(g) Security of Advances and Payments. Any and all disbursements, payments and amounts expended by the Bank pursuant to this Agreement, and all other loan expenses, shall, as and when advanced or incurred, be and become secured by the Mortgage and the other Loan Papers to the same extent and effect as if the terms and provisions of this Agreement were set forth therein, whether or not the aggregate of such indebtedness shall exceed the face amount of the Note, or the principal amount of indebtedness set out in the Mortgage, and any Event of Default which may occur under this Agreement shall constitute a default under the Note, under the Mortgage and under each of the other Loan Papers.

(h) Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto and it supersedes and replaces completely any prior agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the Borrower and the Bank.

(i) Agreement Binding Only Upon Execution by Bank. The submission of this Agreement to Borrower for examination does not constitute a commitment or an offer to make a commitment by the Bank for a loan to Borrower or otherwise, and this Agreement shall become effective as a commitment only upon execution and delivery hereof by the Bank to Borrower.

(j) Governing Law. This Agreement has been executed, delivered and accepted at Chicago, Illinois and the parties agree that the Federal or state courts in Illinois are a proper forum and shall be the only forum for the resolution of any and all disputes of any nature which may arise between the parties to this Agreement. All of the Loan Documents shall also be governed by, and construed in accordance with, the substantive laws of the State of Illinois (including, without limitation, the substantive laws of the State of Illinois concerning interest and usury). No party to this agreement shall attempt to change venue from a court in Illinois to a court in any other jurisdiction.

(k) Waiver of Trial by Jury. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER HEREBY EXPRESSLY ACKNOWLEDGES THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE BANK TO ENTER INTO THIS AGREEMENT AND TO MAKE THE LOAN EVIDENCED HEREBY AND BY THE OTHER LOAN DOCUMENTS.

(l) Representation by Counsel. Borrower hereby represents and warrants that it has consulted and conferred with competent legal counsel of its choice before executing this Agreement and all other Loan Documents. Borrower further represents and warrants that it

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has read and understood the terms of this Agreement and intends to be bound hereby.

(m) Participants. Borrower acknowledges that the Bank may have one or more participants in the Loan to be disbursed under this Agreement and agrees that, if so requested by the Bank, Borrower will sign the participation agreement between the Bank and such participants and will cause all insurance policies, binders and commitments (including, without limitation, casualty insurance and title insurance) required by this Agreement to be delivered to the Bank to name as additional insureds or obligees such participants as the Bank may request; provided, however, that Borrower shall be entitled to deal directly with the Bank, and need not deal directly with any participant of the Bank, in all matters relating to the Loan.

(n) Payment of Expenses. Whether or not the Loan or any Advance is made, Borrower shall pay all fees, costs and expenses incurred by it or by the Bank in connection with the Loan, this Agreement and the Loan Documents, including (but not limited to): all fees and expenses of Borrower's and the Bank's respective attorneys; all costs of preparation, negotiation, execution and (where appropriate) recording or filing this Agreement, the Loan Papers and all closing documents; all costs of title reports, title insurance and surveys; and all cost-estimator fees, construction inspection fees, appraisal fees, engineering fees and expenses (if any), recording and filing fees, and taxes or fees required to be paid at the time or times or recording or filing the Mortgage or any other of the Loan Documents. All amounts payable by Borrower hereunder shall be paid on demand, and shall bear interest as provided for sums advanced under the Loan hereunder from the date of demand until paid in full.

(o) Captions. Captions and headings used in this Agreement are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement.

(p) Gender, Number and Joint and Several Liability. Any word herein which is expressed in the masculine or neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural number shall be deemed, whenever appropriate in the context, to include the singular and the plural.

(q) Counterparts. This Agreement will be signed in two or more counterparts, and each of such fully executed counterparts shall be deemed an original of this Agreement.

(r) Maximum Interest Rate. Regardless of any provision contained in this Agreement or in any of the other Loan Documents, the Bank shall never be entitled to receive, collect, or apply, as interest on the Loan, any amount in excess of the Highest Lawful

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Rate (defined hereinafter) and, in the event the Bank ever receives, collects, or applies as interest any such excess, such amount which would be excessive interest shall be deemed a partial prepayment of principal and treated hereunder as such; and, if the principal of the Note is paid in full, any remaining excess shall forthwith be paid to Borrower. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the Highest Lawful Rate, Borrower and the Bank shall, to the maximum extent permitted under applicable law, (a) characterize any nonprincipal payment as an expense, fee, or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread, in equal parts, the total amount of interest throughout the entire contemplated term of the Loan so that the interest rate is uniform throughout the entire term of the Loan; provided that if the Loan is paid and performed in full prior to the end of the full contemplated term thereof, and if the interest received for the actual period of existence thereof exceeds the Highest Lawful Rate, the Bank shall refund to Borrower the amount of such excess or credit the amount of such excess against the principal of the Note, and in such event, the Bank shall not be subject to any penalties provided by any laws for contracting for, charging, or receiving interest in excess of the Highest Lawful Rate. For purposes hereof "Highest Lawful Rate" means the maximum rate of interest which the Bank is allowed to contract for, charge, take, reserve, or receive under applicable law after taking into account, to the extent required by applicable law, and any and all relevant payments or charges hereunder.

(s) Commitment Fee. A loan commitment fee is an amount equal to one percent (1%) of the Loan amount shall be payable concurrently upon the execution and acceptance of a commitment letter dated October 18, 1994 by and between the Borrower and the Bank.

(t) Representation by Counsel. Mortgagor hereby represents and warrants that Mortgagor has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage, the Note and the other Loan Documents, and that Mortgagor has read and understood this Mortgage, the Note and the other Loan Documents and intends to be bound hereby.

(u) Waiver by Borrower. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT OR REQUIRED BY LAW, BORROWER WAIVES (i) PRESENTMENT, DEFAULT, NON-PAYMENT, MATURITY, RELEASE, COMPROMISE, SETTLEMENT, EXTENSION OR RENEWAL OF ALL OR ALL COMMERCIAL PAPER, ACCOUNTS, CONTRACT RIGHTS, DOCUMENTS, INSTRUMENTS, CHATTEL PAPER AT ANY TIME HELD BY BANK ON WHICH BORROWER MAY IN ANY WAY BE LIABLE AND HEREBY RATIFIES AND CONFIRMS WHATEVER BANK MAY DO IN THIS REGARD; (ii) ALL RIGHTS TO NOTICE AND A HEARING PRIOR TO BANK'S TAKING POSSESSION OR CONTROL OF, OR TO BANK'S REPLEVY, ATTACHMENT OR LEVY UPON THE COLLATERAL OR ANY BOND OR SECURITY WHICH MIGHT BE REQUIRED BY ANY

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COURT PRIOR TO ALLOWING BANK TO EXERCISE ANY OF BANK'S REMEDIES; AND (iii) THE BENEFIT OF ALL VALUATION, APPRAISEMENT, EXTENSION AND EXEMPTION LAWS.

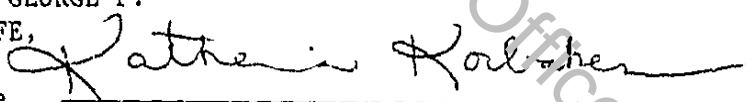
(v) Governing Law Jurisdiction. THIS AGREEMENT HAS BEEN DELIVERED FOR ACCEPTANCE BY BANK IN CHICAGO, ILLINOIS AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICTS OF LAW PROVISIONS) OF THE STATE OF ILLINOIS. BORROWER HEREBY (I) IRREVOCABLY SUBMITS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN CHICAGO, ILLINOIS, OVER ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY MATTER ARISING FROM OR RELATED TO THIS AGREEMENT; (II) IRREVOCABLY WAIVES TO THE FULLEST EXTENT BORROWER MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT, (III) AGREES THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IF ANY OTHER MANNER PROVIDED BY LAW; AND (IV) TO THE EXTENT PERMITTED BY APPLICABLE LAW, AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST BANK OR ANY OF BANK'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY, CONCERNING ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT OTHER THAN ONE LOCATED IN COOK COUNTY, ILLINOIS. NOTHING IN THIS SECTION SHALL AFFECT OR IMPAIR BANK'S RIGHT TO SERVE LEGAL PROCESS IN ANY MANNER PERMITTED BY LAW OR BANK'S RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR BORROWER'S PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION.

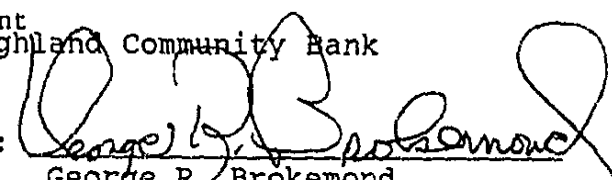
IN WITNESS WHEREOF, the parties have hereto set their respective hands and seals to this Agreement at Chicago, Illinois as of the date first above written, pursuant to proper authority duly granted.

State of Illinois  
County of Cook

I, the undersigned, Susan Bernot, a notary public in and for said county, in state aforesaid, do hereby certify that GEORGE P. KORBAKES AND KATHERINE KORBAKES, HIS WIFE, personally known to me to be the same person whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

  
George P. Korbakes

  
Katherine Korbakes

Highland Community Bank  
By:   
George R. Brokmond

Given under my hand and official seal. this 1st day of November 1994.



"SUSAN BERNOT"  
Susan Bernot  
Notary Public, State of Illinois  
My Commission Expires 4/2/96

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## EXHIBIT "A"

### LEGAL DESCRIPTION:

#### Parcel 1:

Lot 114 in Ruffled Feathers being a Subdivision of part of Section 27 and part of the North 1/2 of Section 34, all in Township 37 North, Range 11, East of the Third Principal Meridian in Cook County, Illinois.

PIN: 22-27-405-022

Common Address: 4 Loblolly Court, Lemont, IL.

#### Parcel 2:

Easement for ingress and egress for the benefit of Parcel 1, as shown on plat of Ruffled Feathers Subdivision recorded October 7, 1991 as document 91522355 and as set forth in declaration of covenants, conditions and restrictions for Ruffled Feathers Golf Estates recorded November 21, 1991 as document 91614473 and as created by Deed to George P. Korbakes and Katherine Korbakes, His Wife, and recorded August 10, 1994 as document 94707959 in Cook County, Illinois.

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2025-01-08 10:00:00

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EXHIBIT "B"

PROJECT BUDGET

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THIS INSTRUMENT  
WAS PREPARED BY  
-AND- MAIL TO:

HIGHLAND COMMUNITY BANK  
KURT DAHL  
1701 W. 87TH ST.  
CHICAGO, IL 60620