

# UNOFFICIAL COPY

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## FORBEARANCE AGREEMENT

AGREEMENT dated as of May 11, 1995, by and between Angel David Roldan and Gloria N. Roldan (collectively "Borrower") and Bank One, Chicago, NA, f/k/a Bank One, Evanston, NA ("Lender").

### RECITALS

A. The Bank is the holder of a promissory note ("Note") dated as of November 2, 1992 in the original principal sum of Eighty Five Thousand Dollars (\$85,000), executed by Borrower, which Note is secured in part by a Mortgage, Assignment of Rents, Security Agreement and Financing Statement ("Mortgage") recorded with the Cook County Recorder of Deeds on November 25, 1992 as Document No. 92-887715, covering the property commonly known as 4048 West Kamerling, Chicago, Illinois ("Property"), legally described as:

LOT 33 AND THE EAST 12 1/2 FEET OF LOT 32 IN BLOCK 1 IN DEMAREST AND KAMERLING'S GRAND AVENUE SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. PIN# 13 03-223-018

- B. The Note is currently in Default, as defined in the Note, Mortgage, and related security documents executed in connection therewith (collectively the "Loan Documents"), including without limitation, by virtue of the failure of Borrower to make timely payments when due.
- C. Pursuant to the terms of the Loan Documents, the occurrence of said Defaults permitted Bank to exercise the remedies provided in said Loan Documents including but not limited to, the cessation of financing to Borrower, accelerating the indebtedness evidenced by the Note and the commencement of foreclosure proceedings.
- D. The Bank has commenced foreclosure proceedings pursuant to Case No. 94 CH 7568.
- E. Borrower has requested Bank to forbear from entering a judgment in 94 CH 7568 so long as Borrower complies with all terms and conditions of the Note and Mortgage as modified by this Forbearance Agreement.
- F. Bank has agreed to forbear from entering a judgment of foreclosure in 94 CH 7568 and other remedies under the Loan Documents upon the terms and conditions set forth in this Agreement.

DEPT-01 RECORDING

17555 TRAN 05/26/95 10:11:00  
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COOK COUNTY RECORDER

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NOW, THEREFORE, in consideration of the Recitals which are deemed a material part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. Borrower hereby ratifies the Note and Mortgage dated November 2, 1992 and all terms and conditions contained there in and acknowledges and agrees that material Events of Default have occurred and exist as of the date hereof, that any and all cure and rehabilitation periods set forth in the Loan Documents have expired, and that Borrower is presently obligated to pay all of its liabilities to Bank, all without setoff, counter claim or defenses.
2. In order to allow Borrower to continue to conduct its business, Borrower has requested that Bank: (a) waive, on a limited basis, the Events of Default, and (b) change the maturity date of the Note to June 1, 1996. In consideration of Bank's agreement to comply with Borrower's request, Borrower has offered and agreed to undertake certain financial and other arrangements as hereinafter set forth.
3. Borrower and Bank acknowledge and agree that as of May 11, 1995 Borrower's liabilities are as follows:

<u>Principal</u>	<u>Interest</u>	<u>Collection Fees</u>	<u>Total</u>
\$85,000.00	\$18,217.54	\$3,408.80	\$106,626.34

4. Borrower and Bank also acknowledge and agree that Borrower's liabilities shall also be deemed to include any and all advances made by Bank to Borrower from and after May 11, 1995, interest from and after May 11, 1995 and legal fees, including, but not limited to, fees paid to outside counsel for Bank. Borrower's liabilities are fully matured and presently due and payable to Bank, subject, however to the terms and provisions hereof.
5. Borrower acknowledges and agrees that the security interest and lien granted to Bank by Borrower covering the Premises (as defined in the Mortgage) remain first and valid security interests and liens, therein, and Borrower represents and warrants, that, as of the date hereof, there are no claims, setoffs or defenses to Bank's exercise of any rights or remedies available to Bank under the terms of the Loan Documents or any other document or instrument executed in connection therewith.

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6. Borrower acknowledges and agrees that Borrower's liabilities arising out of the Loan Documents are the valid obligations of Borrower, jointly and severally, and, as of the date hereof, there are no claims, setoffs or defenses to the payment by Borrower or Borrower's liabilities, and that Bank may enforce the payment of Borrower's liabilities as set forth in the Loan Documents.
7. Borrower waives and affirmatively agrees not to allege or otherwise pursue any or all defenses, affirmative defenses, counterclaims, claims, causes of action, setoffs or other rights that they may have, as of the date hereof, to contest (a) any Events of Default which could be declared by Bank, at the date hereof; (b) any provision of the Loan Documents, or this Agreement; (c) the right of Bank to all of the rents, issues, profits and proceeds from the Property; (d) the security interest or lien of Bank in any property, whether real or personal, tangible or intangible, or any right or other interest, now or hereafter arising in connection with the Property; or (e) the conduct of Bank in administering the financing arrangements by and between Borrower and Bank.
8. Future administration of the financing arrangements between Borrower and Bank shall continue to be governed by all of the terms and conditions of the Loan Documents, except to the extent that the same have been amended and supplemented by this Agreement. To the extent that any provision of this Agreement conflicts with any term or condition set forth in the Loan Documents, the provisions of this Agreement shall supersede and control.
9. All financing arrangements between Borrower and Bank as set forth herein shall terminate upon the earliest to occur of the following: (a) June 1, 1996; (b) the failure of Borrower to perform in accordance with the provisions of this Agreement, including without limitation, the conditions described in Section 12 hereof; or (c) the occurrence or reoccurrence of an Event of Default as defined in the Loan Documents.
10. For the sole purpose of effectuating this Agreement and the interim financing arrangements provided hereby, in order to allow borrower sufficient time and opportunity to refinance sums due under the Note and Mortgage, and for no other purpose, Bank agrees that the Events of Default which have occurred prior to the date hereof, shall be deemed to be waived until June 1, 1996 (subject to compliance by Borrower of the provisions of this Agreement, including without limitation, the conditions described in Section 12 hereof), upon which date such limited waiver of the Events of Default

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shall be void and of no effect and Bank shall have, without limitation, all rights available to it under the Loan Documents. In the event that any other or additional Events of Default in the performance of Borrower's obligations as defined in the Loan Documents or this Agreement shall occur subsequent to the date hereof, this limited waiver of the Events of Default shall be deemed void and of no effect ab initio, at the election of Bank.

11. Upon the occurrence of an Event of Default hereunder or under the Loan Documents at any time hereafter, Bank may at its option cease making advances to Borrower and declare Borrower's liabilities to be immediately due and payable, all without demand, presentment or other notice of any kind, all of which are hereby expressly waived; and thereafter Bank shall be entitled to immediately exercise all rights and remedies available to Bank herein and in the Loan Documents, under the Uniform Commercial Code, and under any other laws of the State of Illinois and Borrower stipulates and agrees that Bank, upon notice, shall be entitled to enter a judgement of foreclosure in 94 CH 7568.
12. Upon execution of this agreement, borrower shall produce an insurance certificate in form and substance acceptable to the Bank naming the Bank as Mortgagee, together with a copy of the underlying insurance policy, which shall also be in form and substance acceptable to the Bank.
13. The Note shall be, and is hereby modified (subject to the satisfaction by Borrower of the provisions of this Agreement, including without limitation, Section 12 hereof) to provide that sums due hereunder shall be payable in monthly installments of \$1,000.00 each, commencing June 1, 1995 and continuing the first day of each month thereafter until June 1, 1996 at which time all sums due under the Note, including principal, interest, fees and expenses, shall be due and payable.
14. This Agreement shall bind and inure to the benefit of the respective parties; provided however that Borrower may not assign this agreement or any rights hereunder without Bank's prior written consent and any prohibited assignment shall be absolutely void. No consent to an assignment by Bank shall release Borrower from their liabilities to Bank. Bank may assign this Agreement and its rights and duties hereunder.

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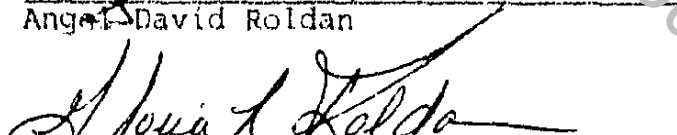


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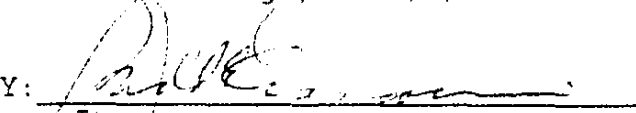
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15. Unless otherwise provided in this Agreement, all notices or demand by any party relating to this Agreement or the Loan Documents shall be in writing and sent by regular United States mail, postage prepaid, properly addressed to Borrower at its chief executive office set forth in the Loan Documents or to Bank at its address set forth in the Loan Documents or to such other addresses as Borrower or Bank may from time to time specify to the other in writing.
16. This Agreement has been negotiated, executed and delivered in and shall be deemed to have been made in the State of Illinois and the validity of this Agreement, its construction, interpretation and enforcement, and the rights of the parties hereunder and concerning the Collateral, shall be determined under, governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of Illinois.
17. Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

  
Angel David Roldan

  
Gloria N. Roldan

Bank One, Chicago, NA E/k/a Bank One, Evanston, NA

BY:   
Its: VICE PRESIDENT

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Stephen C. Sommer, a Notary Public in and for the state and county aforesaid DO HEREBY CERTIFY that Angel David Roldan appeared before me this day and acknowledged that (s)he signed the foregoing instrument as his/her free and voluntary act and in the capacity set forth in the foregoing instrument, if any, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 25 day of May, 1995.

[Signature]  
Notary Public



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Stephen C. Sommer, a Notary Public in and for the state and county aforesaid DO HEREBY CERTIFY that Gloria N. Roldan appeared before me this day and acknowledged that (s)he signed the foregoing instrument as his/her free and voluntary act and in the capacity set forth in the foregoing instrument, if any, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 25 day of May, 1995.

[Signature]  
Notary Public



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Box # 293



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