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WAIVER OF HOMESTEAD AND MARITAL RIGHT

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In consideration of MidAmerica Federal Savings Bank granting a mortgage loan to ROMULO RODRIGUEZ, AN UNMARRIED PERSON AND ANTONIO LOPEZ, A MARRIED PERSON to ANA VAZQUEZ and for and in consideration of ten dollars paid to the undersigned, and for other good and valuable consideration, the undersigned does hereby waive any and all homestead interest created now or in the future in the favor of the undersigned in the following described real property together with any rights the undersigned may have by reason of the Illinois Marriage and Dissolution Act, Chapter 40, Sec. 101 et. seq. (1977), now or as amended:

LOT 22 IN E.A. CUMMINGS AND COMPANY'S ADDITION TO WARREN PARK, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. #: 16-204-23-013

The undersigned further agrees and consents to the mortgage or transfer of title of the above-mentioned property, to MidAmerica Federal Savings Bank, free and clear of any marital right as defined in Illinois Revised Statutes and of any homestead right or interest created now or hereinafter created in favor of the undersigned.

The undersigned further states that the above described property is not marital property as described and defined in Chapter 40, Sec. 101 et. seq., Illinois Revised Statutes, 1977.

This waiver is given and specifically refers to the mortgage in favor of MidAmerica Federal Savings Bank dated the ? day of ? 19 ?

*Ana Vazquez* Seal

PROPERTY ADDRESS: 2108 S CENTRAL, CICERO, IL 60804

STATE OF Illinois )  
COUNTY OF Cook ) SS

I, Genaro Mondragon, a Notary Public in and for said county and state,  
do hereby certify that Ana Vazquez, subscribed to the  
personally known to me to be the same person(s) whose name(s) foregoing instrument, appeared before me this day in person, and acknowledged that She  
signed and delivered the said instrument as free and voluntary act,  
for the uses and purpose therein set forth.

Given under my hand and official seal, this  
My commission expires:

and day of October, 19 98.

*Genaro Mondragon*  
Notary Public



Property of Cook County Clerk's Office

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negotiate, pursue, enforce, collect, and receive all awards, settlement amounts, purchase proceeds, costs, expenses, and all other types of considerations, whether paid in money or in kind, together with all interest accrued thereon and all other damages, losses, costs and expenses or awards due to Borrower as a result of, arising from, or relating to : (i) the exercise of the right of eminent domain by any condemning authority against all or any portion of the Land, the Appurtenances, the Improvements, or the Tangible Property; (ii) the alteration of the grade of any street or roadway serving the Land or the Appurtenances; (iii) any change in access of the Land or the Appurtenances to any street or roadway serving the Land or the Appurtenances; or (iv) any injury to, decrease in value of, visibility of, or utility of, or taking of any portion of the Land, the Appurtenances, the Improvements, or the Tangible Property, permanently or on a temporary basis, under the power of eminent domain or by voluntary conveyance under the threat thereof (the "Condemnation Rights");

(g) Contract Rights. All Borrower's right, title, and interest (but not Borrower's obligations) in all contracts, including, without limitation, all franchise agreements, license agreements, management agreements, equipment and personal property leases, purchase contracts, option contracts, rights of first refusal, installment sales contracts, agreements for deed, construction contracts, plans and specifications for construction, architectural contracts, engineering contracts, architectural and engineering drawings, test results such as soils tests, structural tests, and tests for hazardous substances, materials, asbestos, petroleum products, and the like, financing commitments, agreements with contractors, subcontractors, suppliers, and maintenance companies, warranties, guaranties, and the benefit of all surety contracts or bonds related to the improvement, use, management, occupancy, operation, sale, or other disposition (voluntary or involuntary) of the Land, the Appurtenances, the Improvements, the Tangible Property, the Rents, or the Condemnation Rights, rights to all advertising materials, catalogs, booklets, brochures, guest lists, tenant lists, supplier lists, correspondence with guests or tenants, communications with suppliers, ledgers, books of account, Borrower's files and records relating to any of the foregoing, together with all deposits, escrow proceeds, reserves, deferred payments, refunds, rebates, discounts, and other cost savings, guaranties of payment or performance, prepaid items, and payments or other considerations of any nature whatsoever, whether in cash or in kind, due or to become due under any of the foregoing (the "Contract Rights"); provided however, that if Borrower is not in default under the Note or this Mortgage, Borrower may enjoy the benefit of all Contract Rights. Bank may be bound to perform on Borrower's behalf under any contract described in this section if, and only if, and, then, only to the extent that, Bank elects in writing to assume Borrower's obligations.

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(h) Development Rights, Permits, Fees, and Other Land Use Rights. All Borrower's rights as the "developer" or the "owner" or otherwise, under any development order, preliminary development agreement, declaration of covenants and restrictions, declaration of condominium, condominium prospectus, homeowners' association documents, neighborhood association documents, master association documents, recreational facilities documents, master lease, or other private agreements or governmental agreements with respect to the development or use of the Land, the Appurtenances, the Improvements, or the Tangible Property, all rights to develop or use the Land the Appurtenances, the Improvements or the Tangible Property and all rights to operate any business operated on the Land now or at any time in the future, including, without limitation, all zoning classifications, zoning variances and the benefit of all permitted nonconforming uses, the benefit of all vested rights under zoning, land use, permitting, or concurrency laws, the benefit of all written and oral opinions or conclusions of any governmental authorities having jurisdiction over the development or use of the Land, the Appurtenances, the Improvements, or the Tangible Property, all governmental permits, authorizations, consents, certificates of compliance, certificates of occupancy, licenses, and other approvals issued now or at any time in the future with respect to the development or use of the Land, the Appurtenances, the Improvements, or the Tangible Property, all electric, water, gas, sewer, stormwater drainage, and roadway rights, reservations, hookup fees, impact fees, fee credits and periodic use fees paid or obtained for or in connection with the development or use of the Land, the Appurtenances, the Improvements, or the Tangible Property together with all refunds, reimbursements, settlement amounts, fee credits, and other credits or refunds with respect to such rights, and all other rights to have the Land, the Appurtenances, the Improvements, and the Tangible Property served by public roadways, private roadways, utilities, services, fire and police protection, street lights, and the like (the "Development Rights"); provided, however, that if Borrower is not in default under the Note or this Mortgage, Borrower may enjoy the benefit of all Development Rights. Bank may be bound to perform on Borrower's behalf under any of the contracts, permits, or other obligations or agreements described above, if, and only if, and, then, only to the extent that Bank elects in writing to assume Borrower's obligations.

(i) Proceeds. All proceeds of any of the above-described property or of the conversion, (voluntary or involuntary), of any of the above-described property into cash, other property, or other liquidated claims, and all proceeds that are payable for injury or loss to, or the taking, conversion, requisitioning or destruction of, any of the above-described property including, without limitation, insurance proceeds, condemnation proceeds, and unearned premiums under all insurance policies.

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TO HAVE AND TO HOLD the Mortgaged Property subject, however, to the terms and conditions of this Mortgage.

## 2. Liabilities Secured; Future Advances; Maximum Amount and Time.

(a) This Mortgage shall secure the payment and performance of (i) the initial indebtedness of Borrower to Bank, as evidenced by a promissory note of even date herewith executed by Borrower and payable to Bank in the amount specified above, and all obligations under any other loan documents executed now or in the future in connection therewith, and all extensions, modifications, renewals, consolidations, or increases of any of the foregoing (collectively, the "Note"), (ii) any future advances made by Bank to Borrower, and (iii) all other indebtedness, liabilities, and obligations of Borrower, however and wherever incurred or evidenced, whether primary, secondary, direct, indirect, absolute, contingent, sole, joint or several, due or to become due, or which may be hereafter contracted or acquired, whether arising in the ordinary course of business or otherwise (a "Liability" or the "Liabilities").

(b) The total amount of Liabilities secured hereby may decrease or increase from time to time, but the total unpaid balance so secured at any one time shall not exceed the maximum principal amount specified above plus interest thereon, and any disbursements made for the payment of taxes, levies, or insurance on the Mortgaged Property, and for maintenance, repair, protection, and preservation of the Mortgaged Property, with interest on such disbursements, all as provided in this Mortgage. This Mortgage shall not secure any future advances made more than twenty years from the date hereof.

(c) The loan evidenced by the Note is a variable rate obligation in which the interest rate applicable to the Note shall change in accordance with the terms and conditions of the Note.

3. **Payment of Liabilities.** Borrower shall pay all Liabilities and perform all obligations herein promptly when due.

4. **Title Covenants.** Borrower covenants that the Mortgaged Property is free from all liens, charges, and encumbrances other than this Mortgage and those matters approved in writing by Bank or as evidenced by the mortgagee title insurance commitment for this Mortgage in the form accepted by Bank at the closing hereof (the "Permitted Encumbrances"), that lawful seisin of and good right to encumber the Mortgaged Property are vested in Borrower, and that Borrower hereby fully warrants the title to the Mortgaged Property and will defend the same against the lawful claims of all persons whomsoever.

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5. **Maintenance and Repair.** Borrower shall not permit, commit, or suffer any waste, impairment, or deterioration of the Mortgaged Property. Borrower shall maintain the Mortgaged Property in good condition and repair. If Borrower fails to do so, then Bank, without waiving the option to foreclose, may take some or all measures that Bank reasonably deems necessary or desirable for the maintenance, repair, preservation, or protection of the Mortgaged Property, and any expenses reasonably incurred by Bank in so doing shall become part of the Liabilities, shall, at the option of Bank, become immediately due and payable, and shall bear interest at the highest lawful rate specified in any note evidencing any Liability. Bank shall have no obligation to care for and maintain the Mortgaged Property, or, having taken some measures therefor, to continue the same or take other measures.

6. **Hazard Insurance.**

(a) Borrower shall keep the Improvements insured against loss or damage by fire and other hazards included within the term "extended coverage," and against such other hazards as Bank may require, in the full insurable value thereof (or such lesser amount as Bank may authorize in writing), with an insurer of high financial reputation and to which Bank has no reasonable objection. The policy or policies of insurance shall contain a standard mortgagee clause, without contribution, in favor of Bank, shall prohibit cancellation or substantial modification without at least thirty (30) days prior written notice to Bank, shall contain a provision to the effect that any waiver of subrogation rights by the insured does not void the coverage, and shall be delivered to Bank. Borrower shall pay all premiums and charges for the maintenance and renewal of the insurance, and shall furnish Bank with receipts and proofs thereof not less than ten (10) days before the expiration thereof, without notice or demand from Bank. If Borrower fails to do so, then Bank, without waiving the option to foreclose, may obtain such insurance for the protection of Bank, and any expenses reasonably incurred by Bank in so doing shall become part of the Liabilities, shall, at the option of Bank, become immediately due and payable, and shall bear interest at the highest lawful rate specified in any note evidencing any Liability. In the event of loss, the insurance proceeds shall be applied by Bank to the reduction of the Liabilities, or to the restoration and repair of the Mortgaged Property, at the option of Bank. Bank shall have the full power to settle or compromise claims under all policies and to demand, receive, and receipt for all monies becoming payable thereunder. In the event of foreclosure of this Mortgage or transfer of the Mortgaged Property in full or partial satisfaction of the Liabilities, all interest of Borrower in the policy or policies of insurance (including any claim to proceeds attributable to losses theretofore occurring but not yet paid to Borrower) shall pass to the purchaser, grantee, or transferee.

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(b) Notwithstanding the foregoing, upon the occurrence of an Event of Default and Bank's demand, in addition to the payments required under the Liabilities, Borrower shall pay Bank an amount equal to one-twelfth of the yearly premiums for all insurance policies as estimated by Bank. If Bank requires monthly installments of insurance premiums, Bank shall pay those insurance premiums when due, but Bank's obligation to pay insurance premiums is incumbent upon Borrower's prompt submission to Bank of all insurance premium statements, and Bank is obligated to pay such insurance premiums only to the extent that Borrower provides Bank with cleared funds. Borrower shall promptly furnish Bank with all insurance premium statements. Bank shall not be required to hold Borrower's monthly installments of insurance premiums in trust, but Bank may commingle them with Bank's general funds. Bank shall not be required to pay interest on Borrower's monthly installments of insurance premiums. At Bank's option, the monthly installments of insurance premiums may be carried as a debit item on Bank's books. Upon Bank's demand, Borrower agrees to deliver to Bank all additional sums necessary to make up any deficiencies in the amounts necessary to pay the insurance premiums. If any payment under any Liability is not made promptly when due (or within such grace period as may be provided in connection therewith) or a default otherwise occurs thereunder, or if Borrower breaches any other covenant herein or otherwise defaults hereunder, Bank may apply the balance of all monthly installments of insurance premiums to the reduction of the Liabilities.

**7. Liability Insurance.** Borrower shall at all times maintain, or cause its tenant to maintain, comprehensive public liability insurance insuring Borrower and its tenant, if any, in such amounts as Bank shall require and issued by an insurer of high financial reputation to which Bank has no reasonable objection. Borrower or its tenant shall pay all premiums and charges for the maintenance and renewal of the insurance, and shall furnish Bank with receipts and proofs thereof not less than ten (10) days before the expiration thereof, without notice or demand from Bank.

**8. Assignment of Rents, Leases, and Profits.** As further security for the payment and performance of the Liabilities, Borrower absolutely and unconditionally assigns to Bank all rents and profits of the Mortgaged Property and all Borrower's right, title, and interest (but not Borrower's obligations) as landlord or lessor under all leases affecting the Mortgaged Property. Borrower authorizes Bank to give written notice to all interested parties of this assignment. Borrower agrees to execute all further instruments Bank requests to evidence or perfect Bank's interest in the rents, leases, and profits.

**9. Direct Payments; Receiver; No Liability for Leases.** If this Mortgage falls into default, Bank is authorized and empowered to direct all tenants of the Mortgaged Property to make all payments required of them under their lease agreements directly to

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Bank. At its option, Bank shall be entitled to the appointment of a receiver to take charge of the Mortgaged Property, and the rents, issues, profits, proceeds, and revenues arising therefrom, and hold the same subject to the direction of a court of competent jurisdiction, regardless of the solvency of Borrower or the adequacy of the security. Bank is not obligated to perform any of Borrower's obligations under the lease agreements and is not otherwise liable thereunder, unless and only to the extent that Bank elects in writing to assume any of such obligations.

## 10. Taxes, Assessments, and liens.

(a) Borrower shall pay all taxes, assessments, liens, charges, and encumbrances upon or with respect to the Mortgaged Property before the same become delinquent, and shall furnish Bank with receipts and proofs thereof at least ten days before the last day allowed for payment free from penalty, without notice or demand from Bank. If Borrower fails to do so, then Bank, without waiving the option to foreclose, may pay the same, together with any penalty that may have accrued thereon, and with any expense attending the same, including the reasonable charge for services of counsel, or for any person employed to aid in the discharge or in the matter of the adjustment thereof, or for advice in respect thereto, and any amounts so paid shall become part of the Liabilities, shall, at the option of Bank, become immediately due and payable, and shall bear interest at the highest lawful rate specified in any note evidencing any Liability.

(b) Notwithstanding the foregoing, upon the occurrence of an Event of Default and Bank's demand in addition to the payments required under the Liabilities, Borrower shall pay Bank an amount equal to one-twelfth of the yearly taxes and assessments on the Mortgaged Property as estimated by Bank. If Bank requires monthly tax deposits, Bank shall pay all taxes, assessments and other similar charges against the Mortgaged Property before they become delinquent, but Bank's obligation to pay all taxes, assessments, and other charges is incumbent upon Borrower's prompt submission to Bank of all tax notices and statements, and Bank is obligated to pay any taxes and assessments concerning the Mortgaged Property only to the extent that Borrower provides Bank with cleared funds. Bank shall not be required to hold Borrower's monthly tax deposits in trust, but Bank may commingle them with Bank's general funds. Bank shall not be required to pay interest on the monthly tax deposits. At Bank's option, the monthly tax deposits may be carried as a debit item on Bank's books. Upon Bank's demand, Borrower shall deliver to Bank all additional sums necessary to make up any deficiencies in the amounts necessary to pay all taxes, assessments, and similar charges assessed against the Mortgaged Property. If any payment under any Liability is not made promptly when due (or within such grace period as may be provided in connection therewith) or a default otherwise occurs thereunder, or if Borrower breaches any other covenant herein or



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otherwise defaults hereunder, Bank may apply the balance of all monthly tax deposits held by Bank to the reduction of the Liabilities.

11. **Inspection.** Bank and Bank's representatives may enter upon the Mortgaged Property for inspection at all reasonable times and in a reasonable manner, both before and after default.

12. **Condemnation.** This Mortgage extends to and shall encumber, and Borrower hereby grants a security interest to Bank in, any judgments, awards, damages, and settlements hereafter rendered or paid and resulting from condemnation proceedings with respect to the Mortgaged Property or the taking of the Mortgaged Property or any part thereof under the power of eminent domain, and Bank may require that any sums payable to Borrower and arising out of the power of eminent domain with respect to the Mortgaged Property shall be applied to the Liabilities. Bank at its option may commence, appear in, and prosecute in its own name or in the name of Borrower, any action or proceedings, or make any compromise or settlement, in connection with such proceedings.

13. **Events of Default.** The following shall constitute events of default ("Events of Default:") hereunder:

(a) Any Liability is not paid when due.

(b) Any representation or warranty made by Borrower under this Mortgage or any report, certificate, financial statement, or other information provided by Borrower or any other person to Bank in connection herewith is false or misleading in any material respect when made or deemed made.

(c) Borrower fails to fully and promptly perform when due any agreement or covenant under this Mortgage.

(d) Any other default or event of default occurs under any of the Liabilities, or any loan document evidencing, securing, guaranteeing, or otherwise relating to any of the Liabilities or this Mortgage.

(e) The sale or transfer of the Mortgaged Property in the manner described in Section 15 of this Mortgage.

14. **Security Interest.** This Mortgage constitutes a Security Agreement and a Financing Statement under the Illinois Uniform Commercial Code, and the giving of this Mortgage by Borrower constitutes the grant of a security interest in the Mortgaged Property to the extent that any of the Mortgaged Property is subject to the provisions of the Illinois Uniform Commercial Code. Bank has all the rights, powers, and remedies (including, without limitation, notice of a secured party) provided to secured parties under the Illinois Uniform Commercial Code in addition to the

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Bank's rights, powers, and remedies under this Mortgage or otherwise provided by law. On Bank's demand, Borrower shall promptly pay all costs and expenses of filing financing statements, continuation statements, partial releases, and termination statements Bank considers appropriate to establish and maintain the validity and priority of Bank's security interest in the Mortgaged Property.

Except for the purposes of replacement or repair, Borrower shall not remove any portion of the Mortgaged Property, or allow any portion of the Mortgaged Property to be removed, from the Land without Bank's prior written consent.

Borrower shall, at all times, keep and maintain all fixtures and personal property located on the Land in good order, repair, and condition, and will promptly replace all parts of such fixtures or personal property that become obsolete, worn, or in a state of disrepair. Borrower shall periodically replenish all supplies consumed in the normal course of Borrower's business on the Mortgaged Property. All repairs and replacements shall be free of any lien, charge, security interest, or other encumbrances (other than this Mortgage and those matters approved by Bank).

Borrower may sell or otherwise dispose of those portions of the fixtures or personal property Borrower is obligated to repair or replace. All proceeds from the sale or disposition of those portions of the fixtures or personal property shall be applied first to the restoration or replacements and the balance shall be paid to Bank.

If any fixture or item of personal property is subject to a lien, charge, security interest, or other encumbrance, Bank may, at any time, pay the balance due to satisfy such lien, charge, security interest, or other encumbrance, and the amount paid shall be added to the sums secured by this Mortgage and shall earn interest at the default rate set forth in the Note.

Borrower acknowledges that ten days' notice from Bank to Borrower shall be "reasonable" notice under any provision of the Illinois Uniform Commercial Code requiring notice.

Upon a default of this Mortgage, at Bank's request, Borrower shall assemble all portions of the Mortgaged Property not permanently affixed to the Land at a location specified by Bank and reasonably convenient to Borrower.

Notwithstanding this section, Borrower agrees that Bank may, at its option, dispose of the Mortgaged Property in accordance with Bank's rights, powers, and remedies under this Mortgage, in lieu of proceeding under the Illinois Uniform Commercial Code.

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**15. Rights and Remedies.** (a) Bank shall have, in addition to the rights and remedies contained in this Mortgage and any other loan documents now or hereafter evidencing, securing, guaranteeing, or otherwise relating to any of the Liabilities, all of the rights and remedies of a secured party and, to the extent applicable, of a creditor at law or in equity. Bank may, at its option, exercise any one or more of such rights and remedies individually, partially, or in any combination from time to time, including, to the extent applicable, before an Event of Default. No right, power, or remedy conferred upon Bank by the Loan Documents shall be exclusive of any other right, power, or remedy referred to therein or now or hereafter available at law or in equity.

(b) Without limiting the generality of the foregoing, if an Event of Default shall occur: (i) All commitments of Bank to make advances shall terminate; (ii) Bank may declare any or all of the Liabilities, whether direct or indirect, contingent or certain, to be accelerated and due and payable at once, whereupon any such Liability, together with interest thereon, shall forthwith become due and payable, all without presentment, demand, protest, or other notice of any kind from Bank, all of which are hereby expressly waived; and (iii) Bank may proceed to do all other things provided by law, equity, or contract to enforce its rights under the Liabilities and under this Mortgage and to collect all amounts owing to Bank.

**16. Acceleration Upon Transfer of Mortgaged Property.** If all or any part of the Mortgaged Property or an interest therein is sold or transferred by Borrower in any manner whatsoever without Bank's prior written consent, Bank may, at Bank's option, declare this Mortgage to be in default and declare all of the Liabilities to be accelerated and immediately due and payable. Bank's right to accelerate this Mortgage upon any sale or transfer of the Mortgaged Property or any interest therein is included in this Mortgage as a material inducement to Bank's making the loan or loans secured hereby and has been relied upon by Bank in establishing the terms and conditions thereof; accordingly, the limitations contained in this Section shall be strictly construed against Borrower and Borrower's successor(s) in interest and in favor of Bank. Bank may deal with any successor or successors in interest without in any way discharging or reducing the liability for the Liabilities secured hereby.

**17. Waiver of Appraisal, Valuation, Stay, etc.** In consideration of the Liabilities secured hereby, Borrower agrees that neither Borrower nor anyone claiming through or under Borrower will set up, claim, or seek to take advantage of any moratorium, reinstatement, forbearance, appraisal, valuation, stay, cash collateral, extension, homestead, exemption, or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, the absolute sale of the Mortgaged Property, or the delivery of possession thereof

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immediately after such sale to the purchaser at such sale. Borrower for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully do so, the benefit of all such laws, and any and all right to have the Mortgaged Property marshalled upon any foreclosure or sale.

**18. Hazardous Waste Materials.** Borrower represents and warrants to Bank that the Mortgaged Property does not presently contain any hazardous wastes, hazardous substances or materials, toxic materials, or the like, as defined or designated in any federal, state, or local law or environmental statute, regulation, or ordinance, presently in effect, as amended from time to time, and as enacted in the future, including asbestos (collectively, the "hazardous or toxic materials"), except as previously disclosed to Bank. The Mortgaged Property does not constitute an environmental hazard under any local, state, or federal laws or regulations directly or indirectly applicable to the Mortgaged Property, and, until the Liabilities are paid in full, Borrower covenants that Borrower shall not make, store, use, treat, or dispose of any hazardous or toxic materials on the Mortgaged Property, or permit any tenant to do so. Borrower agrees to indemnify, defend, and save Bank harmless from and against any and all claims, demands, suits, losses, damages, assessments, fines, penalties, costs, and expenses, including the costs of inspection, audit, cleanup, and detoxification, and including attorneys' fees whether or not suit is filed and if suit is filed, through all appellate proceedings, arising from or in any way related to personal injury or death, or to damage to property, or to a claim by any person that hazardous or toxic materials or trash, refuse, or the like, are located on or under the Mortgaged Property or in the surface water or ground water on or under the Mortgaged Property, or related to a claim by any person that the Mortgaged Property constitutes an environmental hazard, whether the claim proves to be true or false. This indemnification shall survive the repayment of all sums directly or indirectly secured by this Mortgage and shall continue for so long as Bank may incur liability for hazardous or toxic materials, or trash, refuse, or the like contained in or located on or about the Mortgaged Property.

**19. Other Environmental Laws.** Borrower represents and warrants to Bank that there is no violation of any federal, state, or local environmental law or regulation, including but not limited to United States Environmental Protection Agency (EPA) regulations pertaining to underground and above ground storage tanks; EPA surface water quality standards; EPA ground water quality standards; Army Corps of Engineers dredge and fill regulations; EPA storm water and surface water management regulations; EPA hazardous waste regulations and state and federal superfund regulations. In the event Borrower is cited for violating any of the above laws or regulations, Borrower agrees to indemnify and hold harmless Bank from any and all fines, penalties, and cleanup costs associated with such violations or necessary corrective action. This

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indemnification shall survive the repayment of all sums directly or indirectly secured by this Mortgage.

**20. Notice of Limitation on Future Advances.** Borrower shall not file a notice of limitation on future advances for this Mortgage in the public records of the county where the Mortgaged Property is located without Bank's prior written consent, which consent Bank may refuse for any reason whatsoever.

**21. No Subordinate Liens.** Until the Note and all other Liabilities are paid in full, Borrower shall maintain the title to the Mortgaged Property (including all after-acquired property, additions, and replacements) free and clear of all liens and encumbrances other than this Mortgage.

**22. Extensions, Leniencies, and Releases.** Bank may grant extensions of time for payment and other leniencies with respect to any Liabilities, and may waive or fail to enforce any of Bank's rights hereunder, and may release a portion or portions of the Mortgaged Property from the lien hereof, without releasing or diminishing the obligation or liability of any person constituting Borrower, or any guarantor or endorser.

**23. Subrogation.** Bank shall be subrogated to the lien (notwithstanding its release of record) of any vendor, mortgagee, or other lienholder paid or discharged by the proceeds of any loan or advance made by Bank to Borrower and secured hereby.

**24. Release or Satisfaction.** Whenever there are no Liabilities and no commitment to make advances, Bank shall on written demand by Borrower give a release hereof, in recordable form.

**25. Costs and Expenses; Taxes.**

(a) Borrower agrees to pay or reimburse Bank for all of its costs and expenses incurred in connection with the administration, supervision, collection, or enforcement of, or the preservation of any rights under, this Mortgage, including without limitation, the fees and disbursements of counsel for Bank, including attorneys' fees out of court, in trial, on appeal, in bankruptcy proceedings, or otherwise.

(b) Borrower agrees to promptly pay and reimburse Bank for, and indemnify and hold Bank harmless against any liability for, any and all documentary stamp taxes, nonrecurring intangible taxes, or other taxes, together with any interest, penalties, or other liabilities in connection therewith, that Bank now or hereafter determines are payable with respect to this Mortgage. The foregoing obligations shall survive the satisfaction of this Mortgage.

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The foregoing amounts shall become part of the Liabilities secured hereby, shall, at the option of Bank, become immediately due and payable, and shall bear interest at the highest lawful rate specified in any note evidencing any of the Liabilities.

**26. Notices.** Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the parties hereto shall be deemed to have been given or made when delivered by hand or by courier service, when provided to a nationally recognized overnight delivery service for overnight delivery, when transmitted to a receiving telecopier, or three days after deposit in the mail, postage prepaid by registered or certified mail, return receipt requested, addressed to the address shown above or such other address as may be hereafter designated in writing by one party to the other.

**27. Miscellaneous.**

(a) This Mortgage shall be governed by, and construed and interpreted in accordance with, the laws of the State of Illinois, excluding those laws relating to the resolution of conflicts between laws of different jurisdictions.

(b) In any litigation in connection with or to enforce this Mortgage, Borrower irrevocably consents to and confers personal jurisdiction on the courts of the State of Illinois or the United States courts located within the State of Illinois, expressly waives any objections as to venue in any of such courts, and agrees that service of process may be made on Borrower by mailing a copy of the summons and complaint by registered or certified mail, return receipt requested, to its address set forth herein (or otherwise expressly provided in writing). Nothing contained herein shall, however, prevent Bank from bringing any action or exercising any rights within any other state or jurisdiction or from obtaining personal jurisdiction by any other means available by applicable law.

(c) In the event that any one or more of the provisions of this Mortgage is determined to be invalid, illegal, or unenforceable in any respect as to one or more of the parties, all remaining provisions nevertheless shall remain effective and binding on the parties thereto and the validity, legality, and enforceability thereof shall not be affected or impaired thereby. If any such provision is held to be illegal, invalid, or unenforceable, there will be deemed added in lieu thereof a provision as similar in terms to such provision as is possible, that is legal, valid, and enforceable. To the extent permitted by applicable law, Borrower hereby waives any law that renders any such provision invalid, illegal, or unenforceable in any respect.

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(d) The singular shall include the plural, the plural shall include the singular, and any gender shall be applicable to all genders when the context permits or implies. If more than one party constitutes Borrower, their obligations under this Mortgage shall be joint and several and the term "Borrower" shall mean all such parties and any one or more of them. If more than one party constitutes Borrower, the term "Borrower" shall mean all such parties and any one or more of them.

(e) Any party executing this Mortgage shall be bound by the terms hereby without regard to execution by any other party and the failure of any party to execute this Mortgage shall not release or otherwise affect the obligations of the party or parties who do sign this Mortgage.

(f) No action which Bank, or Borrower with the consent of Bank, may take or refrain from taking with respect to the Liabilities, any note or notes representing the same, any collateral therefor, or any agreement or agreements (including guaranties), in connection therewith, shall affect this Mortgage or the obligations of Borrower hereunder.

(g) This Mortgage may be signed in original counterparts and by facsimile transmission of signed counterparts, each of which shall be deemed an original, in any number, no one of which need contain all of the signatures of the parties. As many of such counterparts as shall together contain all of the signatures of the parties shall be deemed to constitute one and the same instrument.

(h) No delay or omission by Bank in exercising any right or remedy under this Mortgage or otherwise afforded by law or equity shall operate as a waiver of that right or remedy or of any other right or remedy and no single or partial exercise of any right or remedy shall preclude any other or further exercise of that or any other right or remedy.

(i) All rights and remedies of Bank hereunder and under any other loan documents are cumulative, and are not exclusive of any rights or remedies provided by law or in equity, and may be pursued singularly, successively, or together, and may be exercised as often as the occasion therefor shall arise. The warranties, representations, covenants, and agreements made herein and therein shall be cumulative, except in the case of irreconcilable inconsistency, in which case the provisions of the credit agreement, or if none, the promissory note or notes secured hereby, shall control.

(j) This Mortgage may not be modified or amended nor shall any provision of it be waived except by a written instrument signed by the party against whom such action is to be enforced.

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(k) The headings preceding the text of sections of this Mortgage have been included solely for convenience of reference and shall neither constitute a part of this Mortgage nor affect its meaning, interpretation, or effect.

(l) This Mortgage shall be binding upon and inure to the benefit of Bank, its successors and assigns, and shall be binding upon Borrower and its respective heirs, legal representatives, successors, and assigns; provided, however, that no rights or obligations of Borrower hereunder shall be assigned without the prior written consent of Bank.

(m) Any agreement hereafter made by Borrower and Bank pursuant to this Mortgage shall be superior to the rights of any intervening lien or encumbrance.

(n) TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS MORTGAGE AND THE LIABILITIES.

28. Waiver of Trial by Jury. Borrower and Bank (by its acceptance hereof) hereby knowingly, irrevocably, voluntarily, and intentionally waive any right to a trial by jury in respect of any litigation based on this Mortgage, the Liabilities, or any other document executed in connection with this Mortgage or the Liabilities, or arising out of, under, or in connection therewith, or any course of conduct, course of dealing, statements (whether oral or written), or actions of either party. This provision is a material inducement for Bank to enter into the transactions evidenced hereby.

IN WITNESS WHEREOF, Borrower has executed this Mortgage to be effective as of the date first written above.

WITNESSES:

BARCLAY GROUP NO. 11, LTD.,  
a Florida limited partnership

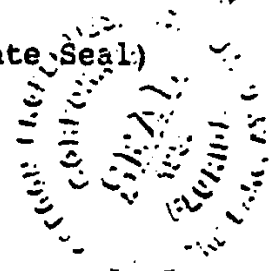
By: OREGON PROPERTIES, INC.,  
a Florida corporation,  
as general partner

Alana Cupter  
(Print Name) Alana Cupter

Helen Ammon  
(Print Name) Helen Ammon

By: [Signature]  
Daniel L. Vietto, as its  
Vice President

(Corporate Seal)



98930301



# UNOFFICIAL COPY

STATE OF FLORIDA

COUNTY OF Pinellas

Execution of the foregoing instrument was acknowledged before me this October 6, 1998, by Daniel L. Vietto, as Vice President of Oregon Properties, Inc., a Florida corporation, as the general partner of Barclay Group No. 11, Ltd., a Florida limited partnership, on behalf of the partnership and the corporation. He is either personally known to me or has produced \_\_\_\_\_ as identification.

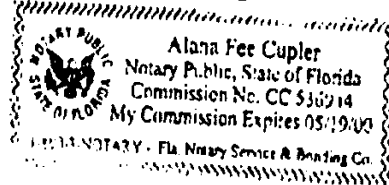
(AFFIX NOTARIAL SEAL)

Commission No. \_\_\_\_\_

TPA3-579725.2  
10/05/98 - 6:41pm

Alana Fee Cupler  
Notary Public  
(Name) \_\_\_\_\_

My Commission Expires:



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98930304

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## EXHIBIT "A"

LOTS 1 AND 40 IN MONT CLARE GARDENS, A  
SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST  
1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 13  
EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK  
COUNTY, ILLINOIS.

6801-25 WEST BELMONT / 3148-50 N. OAK PARK,  
CHICAGO, IL

P.I.S.: 13.30.108.001.0000

13.30.108.012.0000

TPA3-582217

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