

*oll*

845587

SUBORDINATION AGREEMENT

WITNESSETH THIS AGREEMENT by and among the CITY OF HAMMOND, INDIANA, by and through its Redevelopment Commission (hereinafter the "City"), CALUMET NATIONAL BANK, a corporation duly organized and existing by virtues of the laws of the United States of America (hereinafter the "Lender"), and CALUMET NATIONAL BANK AS TRUSTEE under Trust Agreement dated September 23, 1981, and known as Trust No. P-2853, THOMAS J. FRANKO and MARGE FRANKO, husband and wife, DAVID J. LEE, and RICHARD J. STERK and BETTY STERK, husband and wife (hereinafter collectively the "Borrower").

WHEREAS, Lender and Borrower have entered into a commitment letter, dated December 23, 1985, wherein Lender has agreed to loan to Borrower the sum of Six Hundred Twenty-two Thousand Five Hundred Dollars (\$622,500.00) subject to various conditions precedent and contingencies as set forth therein, and

WHEREAS, Lender and Borrower have agreed that the Loans from Lender to Borrower will be secured by a first priority mortgage lien upon certain real estate, a first priority lien upon the rentals from said real estate pursuant to an Agreement For Conditional Assignment of Rentals, and a first priority lien upon certain fixtures and personal property pursuant to a Security Agreement, all of which shall affect the following described real estate; and

RECORDED  
SEP 10 1985  
STATE OF INDIANA  
LAKE COUNTY

Lot 5, Block 3, Townsend and Godfrey's Addition, in the City of Hammond, as shown in Plat Book 1, page 40 in Lake County, Indiana.

WHEREAS, Borrower has previously granted unto the City a Mortgage dated August 26, 1985, and recorded September 10, 1985, as Document No. 819447, in the office of the Recorder of Lake County, Indiana, to secure one (1) note for Two Hundred Thirty Thousand Dollars (\$230,000.00), payable as therein provided, which Mortgage encumbers the above-described real estate, and specifically provides that "The Mortgagor will not assign the rents, if any, in whole or in part, from the mortgaged property, or any part thereof, without the prior written consent of the Mortgagee"; and

WHEREAS, said Mortgage to the City provides further that "After the happening of any default hereunder, the Mortgagor shall upon demand of the Mortgagee surrender possession of the mortgaged property to the Mortgagee, and the Mortgagee may enter such property, and let the same and collect all the rents therefrom which are due or to become due, and apply the same, after payment of all charges and expenses, on account of the indebtedness hereby secured, and all such rents and all leases existing at the time of such default are hereby assigned to the Mortgagee as further security for the payment of the indebtedness secured hereby; and

*OK 4250*

the Mortgagee may also dispossess, by the usual summary proceedings, any tenant defaulting in the payment of any rent to the Mortgagee"; and

WHEREAS, Borrower has granted to the City a security interest in the fixtures, equipment, machinery and other personal property now owned by Borrower or thereafter acquired, and which is or which is to be located on the above-described real estate, which security interest is evidenced by a Security Agreement dated August 26, 1985, the lien with respect to which was perfected by UCC Financing Statement nos. 273621, 273622, 273623, and 273624, filed on August 28, 1985, in the office of the Recorder of Lake County, Indiana, and UCC Financing Statements Nos. 1175637, 1175638, 1175639 and 1175640 filed on August 29, 1985, with the Secretary of State of the State of Indiana; and

WHEREAS, as a material inducement to Lender to make the Loan to Borrower, Borrower has agreed to cause the City to subordinate its liens in the real estate and personal property arising out of the above-referenced Mortgage, Security Agreement, and Financing Statements (all to the City), to the lien of Lender arising out of the Mortgage, Agreement For Conditional Assignment of Rentals and the Security Agreement to be granted to Lender as security for the Loan to Borrower; and

WHEREAS, the City has so agreed to subordinate the above-described liens to that of the liens to be granted to the Lender.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00), the recitals above, the covenants, agreements, warranties and representations set forth below, and for other good and valuable consideration, the parties hereto do hereby agree as follows:

1. Subordination of Mortgage Lien. The parties agree that all of the right, title and interest, of whatever nature, kind, extent, description or duration, which the City may have in the above-described real estate arising out of that certain Mortgage dated August 26, 1985, and recorded September 10, 1985, as Document No. 819447, in the office of the Recorder of Lake County, Indiana, or otherwise, is hereby subordinated to the interest of Lender in said real estate, by way of a Mortgage, and an Agreement For Conditional Assignment of Rentals, to be granted to Lender by Borrower to secure the performance of Borrower's obligations under one (1) Mortgage Note in the amount of Six Hundred Twenty-two Thousand Five Hundred Dollars (\$622,500.00), and the covenants, conditions, agreements, warranties and representations made by Borrower as set forth therein and all of the loan documents associated therewith, including, without intending to limit the generality of the foregoing, any future advances or additional amounts made by Lender to Borrower pursuant to Paragraph 2. of the Mortgage to be granted to Lender, not to exceed a total outstanding indebtedness to Lender of Eight Hundred Thirty Thousand Dollars (\$830,000.00) (which obligations of Borrower to Lender

## MORTGAGE

THIS INDENTURE made this \_\_\_\_\_ day of \_\_\_\_\_, 1986, WITNESSETH: That CALUMET NATIONAL BANK, not personally, but as Trustee under Trust Agreement dated September 23, 1981, and known as Trust No. P-2853 ("Mortgagor"), MORTGAGES AND WARRANTS to: the CALUMET NATIONAL BANK, a corporation duly organized and existing by virtue of the laws of the United States of America, and its successors and assigns, doing business hereunder at 1806 Robin Hood Boulevard, in the Town of Schererville, State of Indiana ("Mortgagee"), the following described real estate situate in the City of Hammond, County of Lake, State of Indiana, to-wit:

Lot 5, Block 3, Townsend and Godfrey's Addition, in the City of Hammond, as shown in Plat Book 1, page 40 in Lake County, Indiana.

together with all buildings, improvements, appurtenances, privileges, rights and fixtures therein, thereon or thereto belonging (hereinafter called the "Real Estate") and the rents and profits of the Real Estate, which said rents and profits are now and hereby assigned to Mortgagee as of the date of any default in the performance of Mortgagor's herein obligations, in accordance with that certain Agreement for Conditional Assignment of Rentals, of even date herewith.

IN CONSIDERATION FOR AND TO SECURE THE PAYMENT OF THE PRINCIPAL SUM OF Six Hundred Twenty-two Thousand Five Hundred Dollars (\$622,500.00), by certain individual persons jointly and severally obligated therefor (hereinafter the "Makers") pursuant to the provision of that certain Mortgage Note of even date herewith in said principal amount, payable with interest and in such manner as set forth therein, and all future advances and additional amounts, all of said principal and interest payments being payable in legal tender of the United States of America, at such place in the United States of America as the legal holder thereof may from time to time direct, and all principal and interest payments being with attorneys' fees and without relief from valuation and appraisements laws of Indiana, and bearing interest after maturity until paid at the highest rate for which it is now lawful to contract in Indiana;

AND LIKEWISE IN CONSIDERATION FOR AND TO SECURE THE PERFORMANCE by Makers and Mortgagor of all covenants, agreements, promises, payments and conditions hereinbefore or hereinafter set out, those set out in that certain loan Commitment dated the 23rd day of December, 1985, as well as those set out in that certain First Mortgage Refinance and Construction Loan Agreement, Agreement For Conditional Assignment of Rentals, and Security Agreement, all of even date herewith, and the construction plans and specifications and all other documents and instruments relating to the Loan from Mortgagee to Maker, whether or not executed by either party hereto, and any document or instrument

referred to in the foregoing, (which, together with said Commitment, Mortgage Note and this Mortgage are hereinafter collectively called the "Loan Documents"), the provisions of all of which are incorporated herein by reference, Mortgagor covenants with Mortgagee and warrants and represents as follows:

1. Title To and Condition and Use of the Real Estate.  
That Mortgagor owns the Real Estate in fee simple; that this instrument is a valid and subsisting first mortgage and lien thereon; to deliver contemporaneously herewith to Mortgagee a satisfactory title insurance policy and/or an abstract of title thereto, as required by the Loan Documents, to be held by Mortgagee until this Mortgage is fully satisfied; that upon default by Mortgagor in any of its obligations hereunder, or under the Loan Documents, to procure at its own expense a continuation of said title insurance policy to the date of default, made by a title insurance company designated by Mortgagee, and deliver same to Mortgagee; upon any foreclosure hereof, Mortgagor to procure and furnish a like continuation of title insurance policy to and including the expiration of the time for redemption, if any, of the Real Estate from the sale had under such foreclosure; to execute and deliver all further instruments necessary or deemed so by Mortgagee to effectuate the first mortgage security hereby intended to be given; to pay all indebtedness hereby secured as the same becomes due; to perform all covenants, agreements and obligations under the Loan Documents; to keep the Real Estate in good repair and not to suffer or permit waste thereon; to pay all taxes, impositions and assessments levied against the Real Estate and premises and to make all such payments when due, and to file receipts therefor with Mortgagee within ten (10) calendar days thereafter; to suffer or permit no liens of mechanics or materialmen to attach to the Real Estate; to remove or demolish no improvements or fixtures that are now or hereafter on the Real Estate; to pay, when the same become due, all encumbrances and liens upon the Real Estate; to permit nothing unlawful to be done upon the Real Estate or any thing that might impair the value of the security intended to be effected by this instrument; to comply with all laws, ordinances and rulings of any governmental agency in which the Real Estate is located relating to the Real Estate; to keep the premises herein described constantly insured for their full insurable value against loss or damage by fire, lightning, tornado, windstorm, cyclone and plate glass, damage and otherwise in such manner as deemed necessary by Mortgagee under the Loan Documents, to likewise procure any and all other kinds of insurance, all such forms of insurance to be in such insurance companies as Mortgagee may approve, with a mortgage clause in said insurance policies in favor of Mortgagee for the full amount of all indebtedness now due or hereinafter due hereunder, and immediately to deliver such policies to Mortgagee, to be held by it until the obligations hereby secured are fully performed and not less than thirty (30) days before the expiration of any of such policies, renewals thereof shall be procured and forwarded to Mortgagee, and in the event of any sums becoming due under any of said policies the same may be collected by Mortgagee and at its

option applied either upon principal or interest due or to become due after this Mortgage and the obligations secured hereby or may be released to the Mortgagor upon his having repaired and replaced all damages covered by such insurance and in the event any sums are so released to the Mortgagor no part thereof shall be treated as a payment upon any obligations secured by this Mortgage; that all obligations of the Mortgagor hereunder and under the Loan Documents, shall continue in full force and effect until all of the herein described obligations are fully performed and paid; that the Mortgagee may at any time, by written agreement therefor with Mortgagor and without notice to any person, extend the time for the performance of Mortgagor's obligations hereunder of any part thereof, without thereby impairing, affecting, postponing or subordinating the lien of this Mortgage or releasing any person from liability hereunder; that upon suit being brought to foreclose any lien upon the hereinbefore described premises, this Mortgage may be foreclosed for the entire principal sum, interest, expenses, obligations and attorneys' fees hereby secured.

2. Future Advances and Additional Amounts. It is agreed and intended by the parties that the Mortgagee may (but under no circumstances whatsoever shall be required to) make future advances to one or more of the Makers or Mortgagor, in an amount or amounts exceeding that of the obligation initially secured by this Mortgage or which may otherwise become due as a result of such initial obligation. If such future advances or additional amounts are made, this Mortgage shall secure the payment of any and all such future advances and of any such additional amounts, whether or not said future advances or additional amounts are in any way related to, are of the same class as, or are made for a similar or related purpose as, the obligation initially secured hereby; and further, whether or not there is any additional or other security given for such future advances or for such additional amounts; and further, whether or not all, or only one or some, of the Makers and Mortgagor are personally or principally obligated for the payment of such future advances or additional amounts, whether jointly or severally, and whether or not a third person or entity not a party hereto is also personally or principally obligated thereon, whether jointly or severally; and further, regardless of whether or not the beneficial interest in Mortgagor and the Real Estate is owned by the Makers as husband and wife as tenants by the entireties or otherwise, and such future advances or additional amounts are the personal or principal obligation of only one of them; and further, whether or not the initial obligation secured hereby has been paid in whole or in part; and further, whether or not the Mortgagee shall have assigned or otherwise transferred its interest in the Real Estate to an assignee or a successor in interest, and whether or not such future advances or additional amounts are made to Makers by the Mortgagee or its assigns or its successors in interest; and further, whether or not there are any, or were any oral representations or other provisions of this Mortgage or any other document executed and/or delivered in conjunction with or related to the initial obligation secured hereby which are or may be

construed to be in conflict with or in derogation of this paragraph in any manner whatsoever. Provided further, that such future advances or additional amounts are equally secured and to the same extent as the initial obligation secured hereby. The Mortgagee, its assigns and successors, at its option may accept a renewal note, or notes at any time for any portion of the initial obligation secured hereby, or for any portion of any such future advances or additional amounts secured hereby, and may extend the time for payment of any or all of said obligations without affecting the security of this Mortgage in any manner whatsoever.

3. Foreclosure Rights and Default. That in the event of foreclosure of this Mortgage a reasonable sum shall be allowed for the attorneys' fees of Mortgagee, and also reasonable charges for all outlays incident to such foreclosure shall be allowed, and all such attorneys' fees and incidental charges shall be and become so much additional indebtedness hereby secured; that in the event of failure of the Mortgagor to keep, perform and pay each and every one of its covenants, agreements, payments and obligations hereinabove specified, and as set forth in the Loan Documents, the Mortgagee may, but is not required to do so, perform and keep said obligations, and any such money advanced by Mortgagee therefor, together with interest thereon from the date of any such payment until paid at the highest rate for which it is now lawful to contract in Indiana, shall forthwith be due and payable by Mortgagor to Mortgagee, without demand therefor, without relief from valuation and appraisement laws, and with attorneys' fees, and any amount so advanced, together with such interest, shall be and become so much additional indebtedness secured hereby, and in the making of such payment or advance for Mortgagor, it shall not be obligatory upon Mortgagee to inquire into the validity or propriety of any obligation so paid by Mortgagee; that upon any default in payment or performance of the covenants, agreements, payments and obligations of Mortgagor as hereinbefore set out, or as set out in the Loan Documents, then the whole amount of the principal sum hereby secured, together with all interest to date and all sums that may have been advanced, as herein provided, by Mortgagee for Mortgagor, shall, at the option of the Mortgagee and without notice, become immediately due and payable, and upon any such default the Mortgagee shall have the right immediately to foreclose this Mortgage. The omission of Mortgagee to exercise said option upon any default as aforesaid, shall not preclude it from exercise thereof upon any subsequent default. That the making of any payment by Mortgagee hereunder or under the Loan Documents for any of the purposes permitted, shall in no event be construed as a waiver of the right to avail of any breach of covenant committed, but foreclosure of this Mortgage may, at the option of the Mortgagee, be had for said default as if no such payment or advancement had been made; that Mortgagor will at all times indemnify and forthwith, on demand, reimburse Mortgagee from and for any loss, damage, expense or costs, including attorneys' fees, arising out of or incurred in connection with any suit or proceeding to which Mortgagee may be made a party by reason of this instrument, and in default of such reimbursement, the amount

of such loss, damage, expense or costs, together with interest thereon at the highest rate for which it is now lawful to contract in Indiana, shall immediately become so much additional indebtedness secured by this Mortgage and payable immediately; that all rights and remedies hereby secured to Mortgagee are cumulative and not in any way in derogation of the rights of Mortgagee under the laws of Indiana; that the covenants, agreements and promises of the Mortgagor herein shall run with the land as a condition upon which the loan hereby secured was made, are of the essence of this instrument and any breach thereof shall be deemed a material breach going to the substance hereof, and Mortgagor expressly waives its right to relief at law or equity from any forfeiture herein provided; the Mortgagor agrees that in the event of the passage, after the date of this Mortgage, of any law of the State of Indiana, deducting from the value of land for the purpose of taxation, any lien or encumbrance thereon or changing in any way the laws now in force for the taxation of Mortgagee, deeds of trust or debts secured thereby, for state or local purposes, or the manner of the collection of any such taxes, so as to affect the interest of Mortgagee or the holder of the herein described Mortgage Note, the whole of the principal sum secured by this Mortgage, together with the interest due thereon shall, at the option of the Mortgagee, without notice to any party, become immediately due and payable.

4. Appointment of Receiver. In any foreclosure proceedings the court shall, at once and without notice to the Mortgagor, and without requiring a bond of plaintiff, and without reference to the then value of the Real Estate, or its use as a homestead, or to the solvency or insolvency of any person or persons liable for any of the herein obligations, appoint a receiver for the benefit of Mortgagee, and said receiver to have all powers usually incident to receivers appointed during the pendency of mortgage foreclosures and during the period for redemption, if any, from judicial sale, it being expressly understood and agreed that the above provision for the appointment of a receiver is an express and material condition upon which the loan hereby secured was made.

5. Taxes and Insurance Escrow. Mortgagor further covenants to deposit with the Mortgagee upon the request of Mortgagee, together with and in addition to, the monthly payments under the terms of the Mortgage Note secured hereby until all sums secured by this Mortgage are fully paid, one-twelfth (1/12) of the amount (as estimated by the Mortgagee) which will be sufficient to pay taxes, special assessments and other charges on the Real Estate and insurance premiums that will become due and payable during the ensuing year. Mortgagee shall hold such monthly deposits in trust, without any allowance of interest, and shall use such fund for the payment of taxes, assessments, and other charges on the Real Estate and insurance premiums when the same are due and payable. If at any time the fund so held by Mortgagee is insufficient to pay any such tax, assessment, charge or insurance premium when the same shall become due and payable

Mortgagee shall advise Mortgagor of the deficiency and so often as that shall occur Mortgagor, shall, within ten (10) days after receipt of such notice, deposit with Mortgagee such addition funds as may be necessary to pay the tax, assessment, charge or insurance premium. Failure to make any deposit when due shall be a breach of this Mortgage. If at any time there be a default in any of the provisions of this Mortgage, Mortgagee may at its option apply any money in the tax, assessment, charge or insurance premium fund on any of the Mortgage obligations and in such order and manner as it may elect.

6. Condemnation. To further secure said indebtedness, and in addition to the rights and obligations of the parties under the Loan Documents with respect hereto, Mortgagor hereby assigns to Mortgagee any award of damages made in connection with any condemnation for public use of or injury to said property or any part thereof and any award of damages arising from any cause of action for injury or damages to said property or any part thereof. Mortgagee is authorized and empowered (but not required) to collect and receive any such award and is authorized to apply it in whole or in part in reduction of the then outstanding debt secured by this Mortgage, notwithstanding the fact that the same may not then be due and payable. Any amounts so applied to principal shall be applied to the principal last maturing hereon. Mortgagor agrees to execute such further assignments of any such awards as Mortgagee may require.

7. Assignment for the Benefit of Creditors and Bankruptcy. If the Mortgagor shall make an assignment for the benefit of creditors, or if a receiver be appointed for the Mortgagor or any part of the mortgaged property, or if Mortgagor files a petition in bankruptcy, or is adjudicated a bankrupt or files any petition or institutes any proceedings under the Federal bankruptcy laws of the United States, then, on the happening of any one or more of these events, the whole indebtedness secured hereby shall immediately become due and payable, at the option of the Mortgagee, and this Mortgage may thereupon be foreclosed for the whole of said principal, interests and costs.

8. Inspection. Mortgagee may make or cause to be made reasonable entries upon and inspections of the Real Estate, provided that Mortgagee shall give Mortgagor reasonable notice prior to any such inspection.

9. Sale or Transfer of Real Estate; Assumption. If all or any part of the Real Estate or any interest therein, of any nature, kind, character, description, duration or extent, is sold, granted or transferred by Mortgagor, including a Contract for Conditional Sale, or Installment Sales Contract, or to a land trust controlled by Mortgagor, or if there be any change in the ownership of the beneficial interest of Mortgagor of any nature or kind whatsoever, without Mortgagee's prior written consent, excluding only the grant of a leasehold interest of three years or less not containing an option to purchase, Mortgagee may, at



Mortgagee's option, declare all the sums secured by this Mortgage to be immediately due and payable. Mortgagee shall have waived such option to accelerate if, and only if, prior to such sale, grant or transfer, Mortgagor, Mortgagee and the person to whom the Real Estate or interest therein is to be sold, granted or transferred reach agreement in writing that the credit of such person is satisfactory to Mortgagor and that the interest payable on the sums secured by this Mortgage shall be at such rate as Mortgagor shall request, and that the terms of payment of the principal and interest due shall be on terms and contain the covenants, agreements and provisions as Mortgagee shall request.

If Mortgagee exercises such option to accelerate, it shall mail Mortgagor notice of acceleration in accordance with Paragraph 13 hereof. Such notice shall provide a period of not less than thirty (30) calendar days from the date the notice is mailed within which Mortgagor shall pay the sums declared due. If Mortgagor fails to pay such sums prior to the expiration of such period, Mortgagee may, without further notice or demand on Mortgagor, invoke any remedies permitted hereby or in the Loan Documents.

10. Release of Mortgage. That whenever the indebtedness hereby secured shall have been fully paid, with all the interest thereon, and up to that time, shall have well and truly performed all and singular the covenants and agreements herein and in the Loan Documents undertaken to be performed, then all of such covenants and agreements shall cease and determine (but not otherwise), and the Mortgagor shall be entitled to a satisfaction and release of this Mortgage, but shall pay the expense of recording the same.

11. Miscellaneous. That the words Mortgagor and Mortgagee when used herein shall be taken to include singular and plural number, and masculine, feminine or neuter gender, as may fit the case, and shall also include the successors and assigns of the parties hereto; the the forms of I, He, She and It, in any case or number and their compound forms with Self or Selves, shall, when used herein and in the Loan Documents or in the obligations secured hereby, if the context requires, be construed to be synonymous with each other, and that the forms of the verb "To be" in any tense or number shall, when the context requires, be construed as synonymous with each other.

12. Construction and Applicable Law. That this Mortgage, the Mortgage Note secured hereby and the Loan Documents are made and executed under, and are, in all respects, to be construed by the laws of the State of Indiana, and that the various rights, powers, options, elections, appointments and remedies herein and therein contained shall be construed as cumulative, and no one of them as exclusive of any other or of any right or remedy allowed by law, and all shall inure to the benefit of the successors and assigns of the Mortgagee and of all holders of said Mortgage Note.

13. Notice. Except for any notice required under applicable law to be given in another manner, (a) any notice to Mortgagor provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Mortgagor at the Real Estate address or at such other address as Mortgagor may designate by notice to Mortgagee as provided herein; and (b) any notice to Mortgagee shall be given by certified mail, return receipt requested, to Mortgagee's address stated herein or to such other address as Mortgagee may designate by notice to Mortgagor as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Mortgagor or Mortgagee when given in the manner designated herein.

14. Trustee's Capacity. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertaking, and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Calumet National Bank, Trustee on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the Mortgagor has hereunto set its hand and seal on the date first above written.

CALUMET NATIONAL BANK AS TRUSTEE OF  
TRUST NO. P-2853, aforesaid and not  
personally,

By: \_\_\_\_\_

STATE OF INDIANA            )  
                                  ) SS:  
COUNTY OF LAKE            )

ACKNOWLEDGMENT

I, \_\_\_\_\_, a Notary Public in and for said county in the State aforesaid, do hereby certify that \_\_\_\_\_ of Calumet National Bank personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_ appeared before me this \_\_\_\_\_ day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as a free and voluntary act of Calumet National Bank, as Trustee, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of January, 1986.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

County of Residence:  
\_\_\_\_\_

This instrument prepared by Glenn R. Patterson, Attorney At Law, 9013 Indianapolis Boulevard, Highland, Indiana 46322

**SECURITY AGREEMENT**  
**(HOHMAN SQUARE OFFICE PLAZA)**

WITNESSETH THIS AGREEMENT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1986, by and between CALUMET NATIONAL BANK, as Trustee under Trust Agreement dated September 23, 1981, and known as Trust No. P-2853, THOMAS J. FRANKO and MARGE FRANKO, husband and wife, of 9307 Calumet Avenue, Munster, Indiana 46321; DAVID J. LEE of 62 Indi-Illi Park, Hammond, Indiana 46324; and RICHARD J. STERK and BETTY STERK, husband and wife, of 9114 Holly Lane, Munster, Indiana 46321, all of whom shall be jointly and severally liable hereunder, (hereinafter called the "Debtor") and CALUMET NATIONAL BANK, a corporation duly organized and existing by virtue of the laws of the United States of America, with its offices at 1806 Robin Hood Boulevard, Schererville, Indiana (hereinafter called the "Secured Party"); and

WHEREAS, Secured Party has loaned to Debtor the principal sum of Six Hundred Twenty-two Thousand Five Hundred Dollars (\$622,500.00), which loan and debt is evidenced by that certain loan commitment letter, dated December 23, 1985 (hereinafter called the "Commitment"), that certain Mortgage Note, Mortgage, First Mortgage Refinance and Construction Loan Agreement, and Agreement for Conditional Assignment of Rentals, all of even date herewith, and the construction plans and specifications and all other documents and instruments relating to the loan from Secured Party to Debtor, whether or not executed by either party hereto, and any document or instrument referred to in any of the foregoing, (which, along with the Commitment and this Security Agreement are hereinafter called the "Loan Documents"); and

WHEREAS, Debtor has entered into this Security Agreement to provide to Secured Party further security for Debtor's obligations under the Loan Documents, and as a material inducement to Secured Party to enter into the Loan Documents with Debtor.

NOW, THEREFORE, in consideration of the foregoing, and the covenants, agreements, warranties and representations set forth herein and in the Loan Documents, Debtor hereby grants and conveys to Secured Party a security interest in all fixtures, improvements, furniture, equipment and machinery, including, without intending to limit the generality of the foregoing, all rugs, carpeting, plumbing, heating and air conditioning system(s), sinks, storm windows, storm doors, screens, blinds, draperies, shades, antennae, items of personal property, trade fixtures, chattels, and all inventory, contract rights, accounts receivable, rents and profits now or hereafter owned by the Debtor in which Debtor has or will acquire an interest, and situated in any of the buildings, or other improvements now located, or hereafter located, on the real estate or otherwise located on or used in conjunction with the real estate described in Exhibit "A" attached hereto or incorporated herein by reference (hereinafter called the "Real Estate"), together with all after-acquired property of the same or similar description, including, but not limited to,

under the above-described instruments are hereafter and heretofore sometimes collectively referred to as the "Loan"). The subordination of the interest of the City in and to said real estate, and the rentals therefrom, shall be effective as of the date of the Mortgage Note, Mortgage, and Agreement For Conditional Assignment of Rentals from Borrower to Lender. In the event of a default on Lender's Loan, Lender shall give City notice in writing to the Finance Manager of the Department of Redevelopment by certified mail, return receipt requested or equivalent, which notice shall be effective two (2) business days after receipt. In the event City receives payment on its loan to Borrower after the effective date of the notice, City shall remit any payment so received to Borrower and give notice thereof to Lender. The Mortgage to be granted to Lender by Borrower, and to which the interest of the City shall be subordinated in accordance with this Agreement, shall be substantially in the form as set forth on Exhibit "A" hereto.

**2. Subordination of Security Interest In Fixtures, Equipment, Machinery And Other Personal Property.** The parties agree that all of the right, title and interest, of whatever nature, kind, extent, description or duration, which the City may have in the above-described fixtures, equipment, machinery and other personal property arising out of and described in that certain Security Agreement dated August 26, 1985, and the above-referenced Financing Statements, or otherwise, is hereby subordinated to the interest of Lender in said fixtures, equipment, machinery and other personal property, by way of a Security Agreement, to be granted to Lender by Borrower to secure the performance of Borrower's obligations under one (1) Mortgage Note in the amount of Six Hundred Twenty-two Thousand Five Hundred Dollars (\$622,500.00), and the covenants, conditions, agreements, warranties and representations made by Borrower as set forth therein and all of the loan documents associated therewith, including, without intending to limit the generality of the foregoing, any future advances or additional amounts made by Lender to Borrower pursuant to Paragraph 2. of the Mortgage to be granted to Lender, not to exceed a total outstanding indebtedness to Lender at any given time, of Eight Hundred Thirty Thousand Dollars (\$830,000.00) (which obligations of Borrower to Lender under the above-described instruments are hereafter and heretofore sometimes collectively referred to as the "Loan"). The subordination of the interest of the City in and to said fixtures, equipment, machinery and other personal property, shall be effective as of the date of the Security Agreement from Borrower to Lender. In the event of a default on Lender's Loan, Lender shall give city notice in writing to the Finance Manager of the Department of Redevelopment, by certified mail, return receipt requested, or equivalent, which notice shall be effective two (2) business days after receipt. In the event City receives payment on its loan to Borrower after the effective date of the notice, City shall remit any payment so received to Borrower and give notice thereof to Lender. The Security Agreement to be granted

replacements, improvements, substitutions, accessories and proceeds, and including, but not limited to, all insurance and tort claims with respect to such property, all as security for payment of all indebtedness of Debtor to Secured Party and the payment performance and fulfillment of any and all obligations of Debtor to Secured Party under the Loan Documents, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including, without intending to limit the generality of the foregoing, any and all charges, expenses, attorneys' fees and interest chargeable against Debtor under the Loan Documents, or future agreements between Debtor and Secured Party, and any renewals or extensions of any of the foregoing (all of which property is hereinafter called the "Collateral").

Debtor warrants, represents, covenants and agrees as follows:

1. Except for the security interest of the Secured Party granted herein, Debtor is or will be the owner of the Collateral free from any prior liens, security interests or encumbrances whatsoever. Debtor will defend the Collateral against all claims and demands of all persons at any time claiming the same or any interest therein, except Secured Party.

2. The persons signing this Agreement and delivering it for Debtor are authorized and empowered to execute and deliver the same and to create the security interest herein provided for, and that the making of this Agreement does not violate any term or condition of any agreement, contract, indenture, note, obligation or other undertaking to which the Debtor is a party or by which the Debtor is bound.

3. The Collateral will be kept on the Real Estate where it is now located. Debtor will not remove the Collateral from the State of Indiana without the prior written consent of Secured Party. Debtor will immediately give written notice to the Secured Party of any change of address and any change in its principal place of business.

4. Debtor authorizes Secured Party at the expense of Debtor to execute and file on its behalf, a financing statement or statements in those public offices deemed necessary by Secured Party to perfect its security interest in the Collateral, without the necessity of obtaining Debtor's signature thereon.

5. Debtor will keep the Collateral free from any adverse lien, security interest or encumbrance and in good repair and will not waste or destroy the Collateral or any part thereof. Debtor will not use the Collateral in violation of any statute or ordinance or any policy of insurance thereon and Secured Party may inspect such Collateral at any reasonable time or times wherever located. Debtor assumes the risk of loss of the Collateral.

6. Debtor agrees to keep the Collateral insured at Debtor's expense and to make Secured Party an additional insured thereunder to the extent of its security interest. This insurance policy will insure against fire, theft and other risks which are generally insured against in a broad form policy of comprehensive insurance. Debtor has furnished satisfactory evidence of such insurance to Secured Party as of the date hereof, and will furnish same in the future to Secured Party upon demand and upon any failure of Debtor to do so, Secured Party may, but need not, so insure the Collateral. Debtor agrees to pay to Secured Party, upon demand, the amount of any such expenditures, made by Secured Party, with interest until paid at the highest rate for which it is now lawful to contract in Indiana. In the event of default by Debtor hereunder, Secured Party may cancel any insurance hereinabove referred to. Debtor hereby irrevocably assigns to Secured Party any monies which may become payable under or on account of any such insurance, including returned or unearned premiums, and directs such insurance company to make payment directly to Secured Party to be applied to such of the indebtedness of Debtor hereunder as, subject to any requirement of applicable law, Secured Party may elect, and appoints Secured Party as attorney-in-fact of Debtor to endorse drafts or checks. Said appointment by Debtor of Secured Party as attorney-in-fact is hereby coupled with an interest and is irrevocable.

7. The occurrence of any one of the following events shall constitute default under this Agreement:

- (a) nonpayment when due of any part or all of the indebtedness hereby secured or failure to perform any agreement contained herein or in the Loan Documents;
- (b) any statement, representation or warranty, at any time furnished Secured Party is untrue in any material respect as of the date made;
- (c) any Debtor becomes insolvent or unable to pay debts as they mature;
- (d) entry of a judgment against any Debtor;
- (e) loss, theft, substantial damage, destruction or encumbrance to or of all or any portion of the Collateral or the making of any levy, seizure or attachment thereof or thereon;
- (f) death of any Debtor;
- (g) dissolution, liquidation, termination, merger or consolidation of Debtor's land trust and/or business organization or the transfer or sale by any means or manner whatsoever, of a substantial portion of the property of any Debtor;

(h) the Secured Party deems itself insecure for any reason whatsoever.

When a default shall be existing, the indebtedness of the Debtor and any other liabilities of Debtor may at the option of Secured Party and without notice or demand be declared immediately due and payable and Secured Party may exercise from time to time any rights and remedies of a secured party under the Uniform Commercial Code or any other applicable law. Debtor agrees in the event of default to make the Collateral available to Secured Party at a place acceptable to the Secured Party which is convenient to Secured Party. When default shall be existing, the Secured Party may notify any and all account debtors and obligors whose accounts or obligations are Collateral hereunder to make payment directly to Secured Party, whether or not Debtor was making collection thereon, and in such event Secured Party may also take immediate control of any proceeds constituting Collateral under this Agreement. Any notice of any sale of the Collateral hereunder by Secured Party may be sent by mail to the address of Debtor as stated in this Agreement or at any address stated in a written notice of change of address received by Secured Party, or in lieu of such mailing, such notice may be delivered to a responsible person or at such address or attached in a conspicuous place at such address, and is sufficient if so mailed or delivered at least ten (10) days before such sale. Any such sale may be held or made on such terms as Secured Party may deem advisable. Secured Party may purchase any part or all of the Collateral at any such sale. The proceeds of any sale of the Collateral may be applied first to all expenses of retaking, storing, repairing, preparing for sale and selling such Collateral, including the Secured Party's reasonable attorneys' fees and expenses and, second, towards the payment of the indebtedness due to Secured Party hereunder and any additional attorneys' fees of Secured Party for the collection of such indebtedness. Debtor promises to pay Secured Party any deficiency remaining after the disposal of the Collateral for the collection of such indebtedness with interest until paid at the highest rate for which it is now lawful to contract in Indiana. Debtor hereby expressly waives relief from valuation and appraisal laws. Debtor hereby waives presentment, protest, notice of dishonor and notice of protest of any instrument on which Borrower may be liable to the Secured Party, as maker, endorser, guarantor or otherwise.

8. Time is of the essence of the performance of all covenants and agreements of the Debtor contained herein and in the Loan Documents. No delay on the part of Secured Party in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Secured Party of any right or remedy shall preclude other or future exercise thereof or the exercise of any other right or remedy. If more than one party shall execute this Agreement, the term "Debtor" shall mean all parties signing this Agreement and each of them, and all such parties shall be jointly and severally obligated hereunder.



9. This Agreement is delivered in and shall be construed by the laws of the State of Indiana, and shall be binding upon the heirs, personal representatives, successors and assigns of Debtor and all rights and privileges of the Secured Party hereunder shall pass to and inure to the benefit of the successors and assigns of Secured Party, and may not be assigned by Debtor without Secured Party's prior written consent.

10. Debtor will pay promptly when due all taxes and assessments upon the Collateral or for its use or operation. In the event the Debtor fails to pay taxes, assessments, costs and expenses, which Debtor is required to pay or in the event the Debtor fails to keep the Collateral free from other security interests, liens or encumbrances, Secured Party may (but shall not be required to) pay any such taxes, assessments, costs, expenses and amounts, and any amounts so paid shall constitute additional indebtedness secured hereby. All costs and expenses of the Secured Party in retaking, holding, preparing for sale and selling or otherwise realizing upon any Collateral or enforcing any provisions hereof in the event of any default by Debtor, including court costs and reasonable attorneys' fees and legal expenses, shall likewise constitute additional indebtedness of Debtor. All advances made by Secured Party pursuant to this subparagraph shall bear interest until paid at the highest rate for which it is now lawful to contract in Indiana, and shall be secured equally with and to the same extent as the obligations secured by this Agreement.

11. Debtor shall have the right to possession and control of the Collateral until an event of default, at which time the Secured Party shall have the right of possession and control. The Secured Party may inspect the Collateral. Debtor grants to the Secured Party a license to enter the Real Estate at any reasonable time for such purposes and also for the purpose of repossession, removal or rendering equipment unuseable, or for disposal after default. Debtor is not authorized to act for the Secured Party as its agent or representative in any manner.

12. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertaking, and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Calumet National

Bank, Trustee on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the partners have executed this Agreement as of the date first written above.

DEBTOR:

CALUMET NATIONAL BANK, as Trustee,  
not personally

By: \_\_\_\_\_

\_\_\_\_\_  
Thomas J. Franko

\_\_\_\_\_  
Marge Franko

\_\_\_\_\_  
David J. Lee

\_\_\_\_\_  
Richard J. Sterk

\_\_\_\_\_  
Betty Sterk

SECURED PARTY:

CALUMET NATIONAL BANK

By: \_\_\_\_\_

R. Garry Bradley  
Senior Vice President

LEGAL DESCRIPTION OF REAL ESTATE

Lot 5, Block 3, Townsend and Godfrey's Addition, in the City of Hammond, as shown in Plat Book 1, page 40 in Lake County, Indiana.

EXHIBIT "A"

to Lender by Borrower, and to which the interest of the City shall be subordinated in accordance with this Agreement, shall be substantially in the form as set forth on Exhibit "B" hereto.

3. Primacy and Priority of Lender's Claim As Against City In Certain Proceedings. In any insolvency, receivership, bankruptcy, dissolution, liquidation, or reorganization proceeding, or in any other proceeding, whether voluntary or involuntary, by or against the Borrower under any bankruptcy or insolvency law or laws relating to the relief of debtors, to compositions, extensions or readjustment of indebtedness, the City agrees not to contest the validity or enforceability of Lender's priority liens, and that Lender's Mortgage and Security Agreement are valid and subsisting prior liens.

4. Transfer of City's Claims, Insolvency Proceedings, Further Liens. The City agrees not to sell, assign, transfer or endorse its claim or claims, no matter how evidenced, to anyone except subject to the terms and conditions of this Agreement, and not to join in any petition of bankruptcy or any assignment for the benefit of creditors or any creditors' agreement, or to take any further lien or security on any of the Borrower's property at any time when the Lender has any claim or claims against the Borrower, without a thirty (30) day written notice to Lender of its intent to do so.

5. Reference On Evidence Of Indebtedness. The Borrower and the City agree that any existing evidence of indebtedness of the Borrower to the City or any subsequent evidence of any existing indebtedness shall contain or be stamped with the statement referring to the existence of this Agreement.

6. Waiver. The City waives notice of acceptance hereof, notice of the creation of any indebtedness or liability of the Borrower to the Lender, the giving or extension of credit to the Borrower, or the taking of releasing of security for the payment thereof, and waives presentment, demand, protest, notice of protest, or default (except as provided in Paragraphs 1. and 2. hereof). Lender shall have uncontrolled power and discretion, without notice to the City, to deal in any manner with any indebtedness, interest, cost, expenses payable by or liability of the Borrower to Lender and security and guaranties therefore, including, without limiting the generality of the foregoing, any limitation, release, surrender, extension, renewal, acceleration, compromise or substitution, Nothing in this Agreement shall constitute the City a guarantor or surety, and the City agrees that it shall not exercise the rights of a guarantor or surety.

7. Continuance of Agreement. This Agreement and the obligations of the Borrower and the City and the rights and privileges of the Lender hereunder shall continue until payment in full of all claims of the Lender notwithstanding any action or nonaction of the Lender with respect thereto or any collateral therefore or

any guaranties thereof; and after such payment shall continue until the Lender notifies the City and Borrower in writing to the contrary.

8. Insolvency. The insolvency or bankruptcy of the Borrower shall not affect this Agreement and the same shall remain in full force and effect and in connection with any legal proceedings it is agreed, subject to the right of City to approve any creditors' plan or plan of reorganization, that funds payable to Lender and City shall first be payable to Lender to satisfy any deficiency then existing on Lender's Loans, subject to the prior rights and interest, if any, of third parties, and the Lender covenants to account for and pay over to the City any excess thereof in its hands when its own claims shall have been paid in full.

9. Binding Effect. This Agreement shall extend to and bind the respective successors, assigns, and administrators of the parties hereto, and shall extend to, include, and be enforceable by any transferee or endorsee of the Lender of any of its claim or claims.

10. Acceleration of Claims and Indebtedness. If the Borrower violates any of the provisions of this Agreement, or if any subordinated indebtedness is involuntarily accelerated, the Lender may elect by a notice in writing delivered to the Borrower and the City to cause all indebtedness of the Borrower to the Lender to become immediately due and payable. The obligation of the Borrower and the City hereunder shall continue irrespective of, and the Borrower hereby waives any existing or future statute of limitations applicable thereto or applicable to, the enforcement of indebtedness and liability of the Borrower, and any collateral therefor or guaranties thereof, so far as the law permits.

11. Definitions. The words "claim" and "indebtedness" are used herein in their most comprehensive sense and include any and all advances, debts, obligations, and liabilities of the Borrower heretofore, now or hereafter made, incurred, or created, whether voluntary or involuntary, and however arising whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, and whether the Borrower may be liable individually or jointly with others, or as principal or as surety or guarantor.

12. Trustee's Capacity. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertaking, and agreements by the Trustee or for the purpose of with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of

the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Calumet National Bank, Trustee on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, this Agreement has been executed by the parties this 14th day of March, 1986.

CITY OF HAMMOND, by and through its  
Redevelopment Commission

By: James Davis Sr.  
President

ATTEST:

By: Margaret Joyce Gorman  
Secretary

LENDER:

CALUMET NATIONAL BANK

By: R. Garry Bradley  
R. Garry Bradley  
Senior Vice President

BORROWER:

CALUMET NATIONAL BANK, not  
personally, but as Trustee under  
Trust No. P-2853

By: Cletis J. Epple, VPT

Thomas J. Franko  
Thomas J. Franko

Marge Franko  
Marge Franko

David J. Lee  
David J. Lee

Richard J. Sterk  
Richard J. Sterk

Betty Sterk  
Betty Sterk

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

CITY

Before me, a Notary Public in and for said County and State, on this 10<sup>th</sup> day of March, 1986, personally appeared James Davis, Jr. and Margaret Kaye Gulain, the president and secretary, respectively, of the City of Hammond Redevelopment Commission, on behalf of the City of Hammond, Indiana, and acknowledges the execution of the above and foregoing Subordination Agreement to be their voluntary act and deed on behalf of said City, by and through its Redevelopment Commission.

Witness my hand and Notarial Seal.

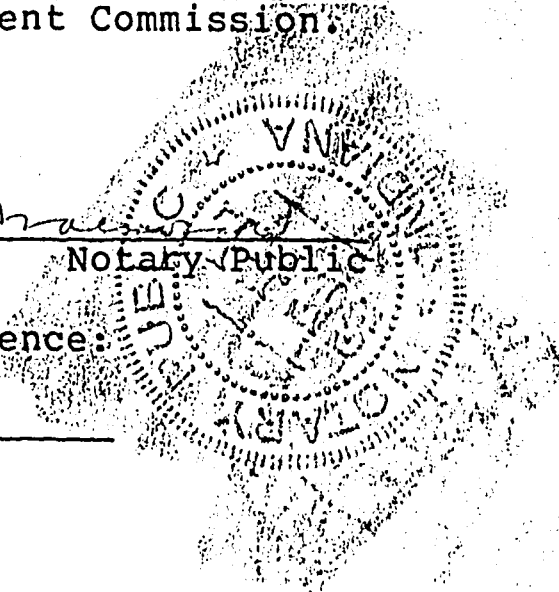
Cheryl J. ...  
Notary Public

My Commission Expires:

4-24-89

County of Residence:

Lake



STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

LENDER

Before me, a Notary Public in and for said County and State, on this 14<sup>th</sup> day of March, 1986, personally appeared R. GARRY BRADLEY, the Senior Vice President of Calumet National Bank, and acknowledged the execution of the above and foregoing Subordination Agreement to be his voluntary act and deed on behalf of said Bank.

Witness my hand and Notarial Seal.

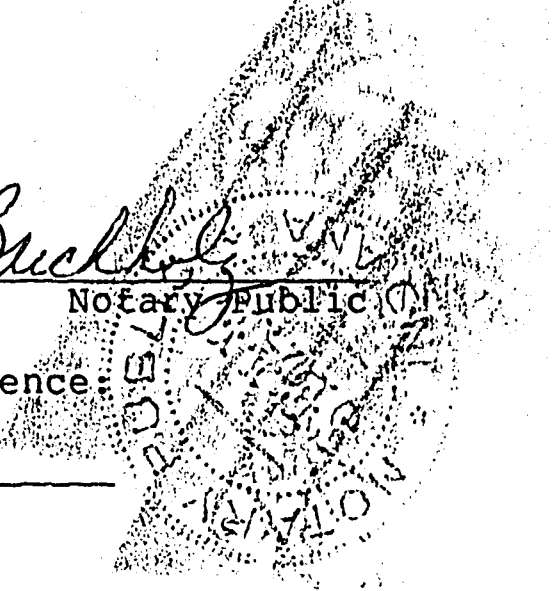
Irene L. Buchholz  
Irene L. Buchholz Notary Public

My Commission Expires:

6-5-88

County of Residence:

Lake





STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

TRUST

I, Irene L. Buchholz, a Notary Public in and for said county in the State aforesaid, do hereby certify that Cletus F. Epple of Calumet National Bank personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Cletus F. Epple appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as a free and voluntary act of Calumet National Bank, as Trustee, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 14th day of March, 1986.

Irene L. Buchholz  
Irene L. Buchholz Notary Public

My Commission Expires:  
6-5-88

County of Residence:  
Lake

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for said County and State, on this 14th day of MARCH, 1986, personally appeared THOMAS J. FRANKO and MARGE FRANKO, husband and wife, acknowledged the execution of the above and foregoing Subordination Agreement to be their voluntary act and deed.

Witness my hand and Notarial Seal.

Carol Jean Johnson  
Notary Public

My Commission Expires:  
7-26-87

County of Residence:  
Lake

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for said County and State, on this 14TH day of MARCH, 1986, personally appeared DAVID J. LEE and acknowledged the execution of the above and foregoing Subordination Agreement to be his voluntary act and deed.

Witness my hand and Notarial Seal.

Caul Jean Johnson  
Notary Public

My Commission Expires:

County of Residence:

7-26-87

Lake

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for said County and State, on this 14TH day of MARCH, 1986, personally appeared RICHARD J. STERK and BETTY STERK, husband and wife, acknowledged the execution of the above and foregoing Subordination Agreement to be their voluntary act and deed.

Witness my hand and Notarial Seal.

Caul Jean Johnson  
Notary Public

My Commission Expires:

County of Residence:

7-26-87

Lake

This instrument prepared by Glenn R. Patterson, Attorney At Law, 9013 Indianapolis Boulevard, Highland, Indiana 46322