

5
↑

PREPARED BY:
Septtimous Taylor, Attorney at Law
4830 Towne Square Court
Owensboro, KY 42301

2002 045099

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2002 MAY 14 PM 2:23

ASSIGNMENT OF SECURITY INSTRUMENT

MORRIS W. CARTER
RECORDER

STATE OF INDIANA
COUNTY OF LAKE
Loan # 9559113

FOR VALUE RECEIVED the undersigned CALUMET SECURITIES CORPORATION, Assignor, by and through its Attorney-in-fact, hereby transfers, conveys and assigns unto FIRSTAR BANK, NA, Mortgage Servicing Agent for the Secretary of Housing and Urban Development, Assignee, its successors and assigns, all of the Assignor's right, title and interest in and to that certain Security Instrument to Secure Debt executed by JEFFREY TOTH AND TAMMARA TOTH to LAKE MORTGAGE COMPANY, INC. in the original amount of \$67,262.00, being:

Recorded in Lake, County, IN, as Document Number 128868 on October 16, 1990, and assigned to Calumet Securities Corporation by Document Number 128869 on October 16, 1990.

TAX # 36

The Assignor herein specifically transfers, sells, conveys and assigns to the above Assignee, its successors, representatives and assigns, the aforesaid Security Instrument, the property interest described therein, and the indebtedness secured thereby together with all the powers, options, privileges and immunities therein contained.

IN WITNESS WHEREOF, Assignor has caused this presents to be executed, its corporate name to be subscribed, its corporate seal to be hereto affixed, and these presents delivered, by its duly authorized officer, on May 6th, 2002. Copy of Attorney-in-fact attached.

CALUMET SECURITIES CORPORATION
BY: BANK ONE, KENTUCKY, N. A. as Attorney in fact

[Signature]
James R. Schwarzbach
Vice President, Bank One Kentucky, N. A.

STATE OF KENTUCKY
COUNTY OF JEFFERSON

I, the undersigned notary public and for the county and state aforesaid, do hereby certify James R. Schwarzbach, Vice President of Bank One, Kentucky, N. A., whose name is subscribed to the foregoing instrument as Officer appeared before me this day in person and did hereby acknowledge that he signed, sealed and delivered the said instrument of writing as his free and voluntary act, and as the free and voluntary act of said Corporation as Attorney-in-fact for Calumet Securities Corporation for the uses and purpose therein set forth, the Corporate Seal of said Corporation to be hereto attached.

Given under my hand and notarial seal this 6th day of May, 2002.

Notary Public: County of Bellitt

My Commission expires: 12/12/04

[Signature]
Beverly A. Lasey
Notary Public

19-
N.A.
19363

BANK ONE NON-TITLED PERSONAL PROPERTY SECURITY AGREEMENT

including Addendum and Attachments

This Agreement is made on December 27, 1994, by and between: Bank One, Lexington, NA ("Bank One"), with Bank One's mailing address being at: 201 East Main Street, Lexington, Fayette County, Kentucky 40507-2002 and Calumet Securities Corporation ("Debtor"), with Debtor's mailing address being at: N.W. Corner of U.S. Highway 30 & 41, Schererville, Indiana 46375

1. **Grant of Security Interest.** For valuable consideration, receipt of which is hereby acknowledged, Debtor grants, pledges and assigns to Bank One a security interest in all of Debtor's respective right, title and interest, purchase money as appropriate, in and to the property described below, now or hereafter arising or acquired, wherever located, together with any and all additions, accessions, parts, accessories, substitutions and replacements thereof, now or hereafter installed in, affixed to or used in connection with said property, in all products and proceeds thereof, cash and non-cash, including, but not limited to, proceeds of notes, checks, instruments, indemnity proceeds, or any insurance on such and any refund or rebate of premiums on such, and all books, records, ledger cards, files, correspondence, computer programs, tapes, disks and related data processing software, owned by Debtor or in which it has an interest that at any time evidences or contains information relating thereto or is otherwise necessary or helpful in the collection thereof or realization thereupon ("Collateral"), to secure the prompt payment and complete performance of the Obligations (as hereinafter defined); provided, however, that the Collateral shall not include any Hazardous Materials (as hereinafter defined), except for any Hazardous Materials (a) which are and/or hereafter will be handled, stored and contained in accordance with all applicable Hazardous Materials Laws (as hereinafter defined) and (b) which either (i) are and/or will be hereafter used or useful in the ordinary course of business of Debtor or (ii) have a resale or salvage value which exceeds the cost of disposing of such Hazardous Materials.

*and as to GNMA Servicing Rights, Agreements and Records ("GNMA Rights") additionally assigns The Collateral in which this security interest is granted is all of the Debtor's property described below in reference to which an "X" or checkmark has been placed in the box applicable thereto:

- All inventory, merchandise, raw materials, work in process and supplies
- All accounts, general intangibles, chattel paper, instruments, and other forms of obligations and receivables
- All goods, equipment, machinery, furnishings and other personal property
- Specific collateral described as follows:

Bank accounts, deposits, deposit accounts, treasury notes and treasury bills including and together with that property shown on Attachments "A" and "B" hereto.

2. **Secured Obligations.** This Agreement secures, the prompt payment and complete performance in full when due, whether at the stated maturity, by acceleration or otherwise, the following:

(a)	Business Purpose	Amount	Date	Obligor
	<u>Promissory Note</u>	<u>\$ 3,780,000.00</u>	<u>12/27/94</u>	
	<u>The Lexus Companies, Inc.</u>			
(b)	Instrument	Amount	Date	Obligor
(c)	Instrument	Amount	Date	Obligor

Debtor's Continuing Guaranty thereof and any and all renewals, extensions or substitutions thereof, and also any and all other liabilities of Debtor to Bank One, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and without limitation, all indebtedness, debts and liabilities (including principal, interest, late charges, collection costs, attorney fees and the like) ("Obligations"). It is Debtor's expressed intention that this Agreement and the continuing security interest granted hereby, in addition to covering all present Obligations of Debtor to Bank One, shall extend to all future Obligations of Debtor to Bank One, whether or not such Obligations are reduced or entirely extinguished and thereafter increase or are reincurred, whether or not such Obligations are related to the indebtedness identified above by class, type or kind and whether or not such Obligations are specifically contemplated by Debtor and Bank One as of the date hereof. The absence of any reference to this Agreement in any documents, instruments or agreements evidencing or relating to any Obligations secured hereby shall not limit or be construed to limit the scope of this Agreement.

*and Obligor
3. **Debtor's Place(s) of Business and Location(s) of Collateral.** All of Debtor's Place(s) of Business and location(s) where Collateral will be kept at are as follows ("Location(s)"): See above address.

- (a) See above address.
- (b)
- (c)

4. **Debtor's Doing Business As Names, Trade Names, or Fictitious Names.** Debtor is transacting business under the following doing business as names, trade names or fictitious names (if not applicable, check (a)):

- (a) Not Applicable
- (b)
- (c)

ADDITIONAL TERMS AND CONDITIONS OF THIS SECURITY AGREEMENT ARE CONTAINED ON THE FOLLOWING THREE PAGES OF THIS DOCUMENT.

5. Representations, Warranties and Covenants Debtor represents, warrants, covenants and agrees as follows:

- (a) Debtor is and will continue to be (or, with respect to after acquired property, will be when acquired), the legal and beneficial owner of the Collateral free and clear of any lien, security interest, mortgage, charge or encumbrance except for the security interest created by this Agreement and/or any other prior security agreement delivered by Debtor to Bank One. Except as previously disclosed to Bank One in writing, no effective Uniform Commercial Code ("UCC") financing statement or other instrument covering all or any part of the Collateral is on file in any recording office, except those in favor of Bank One;
- (b) Debtor will join with Bank One in executing such financing statements, security agreements or other instruments in form satisfactory to Bank One upon Bank One's request and, in the event for any reason the law of any jurisdiction becomes or is applicable to the Collateral or any part thereof, or to any Obligation owed to Bank One, Debtor agrees to execute and deliver all such instruments and to do all of such other things as may be reasonably necessary or appropriate to preserve, protect and enforce the security interest and lien of Bank One under the law of such jurisdiction to the extent such security interest would be protected under that jurisdiction's UCC and will pay all expenses of filing and releasing same in all public offices wherever filing is deemed necessary or desired by Bank One;
- (c) The Collateral will not be attached or affixed to real estate in such a manner that it would become a fixture thereto or an accession to other goods without prior disclosure, notification to and approval by Bank One in addition to the execution of an owner/mortgagee/landlord release/waiver in favor of Bank One;
- (d) Debtor will keep the Collateral insured at all times against financial loss by damage, loss, theft, destruction, fire and/or other hazards in a company or companies satisfactory to Bank One and in amounts and coverages sufficient to protect Bank One, in its judgment, against loss or damage to said Collateral. Such policy or policies of insurance will be delivered to Bank One, together with loss payable clauses in favor of Bank One as Debtor's interest may appear, in form satisfactory to Bank One. Debtor will provide that at least ten (10) days prior written notice of cancellation of any insurance be given to Bank One by its insurers. If Debtor does not keep the Collateral insured and/or fails to supply Bank One with evidence of that insurance naming Bank One as "loss payee", Bank One shall have the right, in its sole discretion, to obtain insurance in amounts sufficient to fully protect its interests, without notifying Debtor. Debtor agrees that Bank One shall have the right, in its sole discretion, to determine the manner in which Debtor shall reimburse Bank One for the premium for such insurance, including but not limited to (a) requiring Debtor to immediately reimburse Bank One for the premium and other costs it incurs or (b) adding that amount directly to the principal balance of any of the Obligations and then either (i) reamortizing the then-outstanding balance over the remaining term of such Obligation(s) or (ii) including that amount with Debtor's final scheduled payment on such Obligation(s). Debtor will pay interest on any amount added to the principal balance at the highest rate set forth in any of such Obligation(s);
- (e) Debtor assigns to Bank One all right to receive such proceeds of insurance not exceeding amounts secured hereby, directs any insurer to pay all such proceeds directly to Bank One and authorizes Bank One to endorse any draft for such proceeds. Debtor agrees that Bank One may, in its sole discretion, apply any insurance proceeds paid to Bank One to either (i) the repair and restoration of the Collateral or (ii) the then-outstanding balance on any of the Obligations, without regard to whether an Event of Default has or has not occurred;
- (f) Debtor will pay promptly when due all taxes, assessments and governmental charges upon or against Debtor, the Collateral or the property or operations of Debtor, in each case before same becomes delinquent and before penalties accrue thereon, unless and to the extent that same are being contested in good faith by appropriate proceedings. At its option, Bank One may discharge taxes, liens, or security interests or other encumbrances at any time placed on the Collateral and may pay for maintenance and preservation of the Collateral, all at Debtor's expense;
- (g) Debtor will keep the Collateral in good condition and repair, reasonable wear and tear excepted; will use, consume and/or sell the Collateral in carrying on its business in substantially the same manner as is now being conducted; will not sell without the prior written consent of Bank One or offer to sell or otherwise transfer, pledge or encumber the Collateral outside of the ordinary course of Debtor's business; will not waste or destroy the Collateral; will allow Bank One to examine and inspect the Collateral at any time, wherever located; and will not remove the Collateral from the Location(s) without the written consent of Bank One;
- (h) Debtor will, in the event of appropriation or taking of all or any part of the Collateral, give Bank One prompt written notice thereof. Bank One shall be entitled to receive directly, and Debtor shall promptly pay over to Bank One, any awards or other amounts payable with respect to such condemnation, requisition or other taking and in its sole discretion may apply the proceeds as it deems best without regard to whether an Event of Default has or has not occurred;
- (i) At least thirty (30) days prior to the occurrence of any of the following events, Debtor will deliver to Bank One written notice of such impending events:
- (i) any addition, deletion or a change in Debtor's Place(s) of Business and/or the Location(s) of Collateral; or (ii) any addition, deletion or change in Debtor's name, any doing business as name, trade name, fictitious name, identity or legal structure;
- (j) Debtor will defend the Collateral against all claims and demands of all persons at any time claiming the same or an interest therein;
- (k) Debtor will from time to time execute and deliver to Bank One such lists, descriptions and designations of Collateral as Bank One may require to identify the nature, extent and location of the Collateral;
- (l) Debtor is in material compliance with all Federal, State and local laws, statutes, ordinances, regulations, rulings and interpretations relating to industrial hygiene, public health or safety, environmental conditions, the protection of the environment, the release, discharge, emission or disposal to air, water, land or ground water, the withdrawal or use of ground water or the use, handling, disposal, treatment, storage or management of or exposure to Hazardous Materials ("Hazardous Materials Laws"), the violation of which would have a material effect on its business, its financial condition or the Collateral. The term "Hazardous Materials" means any flammable materials, explosives, radioactive materials, pollutants, toxic substances, hazardous water, hazardous materials, hazardous substances, polychlorinated biphenyls, asbestos, urea formaldehyde, petroleum (including its derivatives, by-products or other hydrocarbons) or related materials or other controlled, prohibited or regulated substances or materials, including, without limitation, any substances defined or listed as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "pollutants" or "toxic substances" under any Hazardous Materials Laws. Debtor has not received any written or oral communication or notice from any judicial or governmental entity nor is it aware of any investigation by any agency for any violation of any Hazardous Materials Law;
- (m) If Bank One deems the value of the Collateral to be threatened by loss, dissipation, destruction, damage or other cause, or if the Collateral is decreasing in value, thereupon, or at anytime thereafter, Debtor upon demand by Bank One agrees to forthwith deposit with Bank One, additional collateral to the satisfaction of Bank One; and
- (n) All representations, warranties, covenants and agreements set forth herein and all information furnished by Debtor concerning the Collateral or otherwise in connection with the Obligations, shall be at the time same is furnished, accurate, correct and complete in all material respects as of the date hereof, on the date upon which Debtor acquires any of the Collateral or any rights therein not presently acquired or existing and shall continue until the Obligations are paid in full.

6. Provisions as to Accounts and Other Forms of Obligations and Receivables. If the security interest granted by Debtor herein consists of accounts, general intangibles, chattel paper, instruments and other forms of obligations and receivables, or any part thereof ("Receivable" or "Receivables"), then Debtor represents, warrants, covenants and agrees as follows:

- (a) As of the time any Receivable becomes subject to the security interest provided for herein, Debtor shall be deemed to have warranted as to such Receivable that such Receivable and all papers and documents related thereto are genuine and in all respects what they purport to be; that such Receivable

is due and payable and is not past due or in default as to payment; that such Receivable arises out of the true sale of goods sold and delivered to, or in the process of being delivered to, or out of and for services theretofore actually rendered to the account debtor ("Account Debtor") named in the Receivable; that Debtor has in its possession records evidencing the delivery of the goods or services to the Account Debtor; the amount of such Receivable represented as owing is the correct amount actually owing except for normal cash discounts allowed for prompt payment and adjustments arising in the ordinary course of Debtor's business and is not disputed, and except for such normal cash discounts or adjustments is not subject to any set-offs, claims for credits, allowances, adjustments, credits, deductions or other counter charges;

(b) Debtor will keep or will cause to be kept, accurate and complete records of the Receivables and will deliver such records and other financial information to Bank One as are requested, and that Bank One or its designee shall have the right at any time upon request to call at Debtor's Place(s) of Business at intervals solely determined by Bank One, and without hindrance or delay, inspect, audit, make test verifications, send verification of a Receivable to any Account Debtor and otherwise check and make copies of books, records, journals, orders, receipts, correspondence and other data related to the Receivables or the processing or collection thereof;

(c) If any Receivable arises out of a contract with the United States government or any department, agency, or instrumentality thereof, Debtor will promptly notify Bank One in writing, execute any instruments and take any steps required by Bank One in order to insure that all monies due and to become due under said contract will be assigned to Bank One and proper notice will be given to such party pursuant to the Federal Assignment of Claims Act;

(d) If any Receivable shall be evidenced by a promissory note, trade acceptance or any other instrument for the payment of money, Debtor, upon Bank One's request, will promptly deliver same to Bank One, properly endorsed to Bank One's order. Regardless of the form of such endorsement, Debtor hereby waives presentment, demand, notice of dishonor, protest and notice of protest and all other notices to which Debtor might be entitled;

(e) Debtor will upon Bank One's demand turn over to Bank One copies of invoices indicating and certifying thereon the assignment of such Receivable to Bank One and will furnish Bank One with a copy of any document which gave rise to the Receivable; and

(f) At any time and from time to time during the term of this Agreement, Bank One may give notice of its security interest in any Receivable to any Account Debtor or any other party otherwise concerned with any Receivable.

7. Appointment of Attorney-in-Fact. Debtor hereby irrevocably appoints Bank One or its designee as Debtor's attorney in fact, with full authority in the place instead of Debtor, from time to time in Bank One's discretion prior to, upon, during, and after an Event of Default, to take any action and to execute any instrument which Bank One may deem necessary or advisable to accomplish the purposes of this Agreement, including without limitation, (a) to perfect and continue to perfect the security interests created by this Agreement; (b) to ask, demand, collect or sue for, recover, compound, receive and give acquittance in receipts for any monies due or become due under or in respect for any Collateral; (c) to receive, endorse and collect any drafts or other instruments, documents and chattel paper, in connection with the Collateral; and (d) to file any claims or take any action or institute any proceeding which Bank One may deem necessary or desirable for the collection of any Collateral or otherwise to enforce the rights of Bank One in the Collateral. *****and assignment**

8. Events of Default. The following events shall be "Events of Default" under this Agreement: (a) default by Debtor in performance of any covenant or agreement herein; (b) any warranty, representation or statement made or furnished to Bank One by or on behalf of Debtor in connection with this Agreement or to induce Bank One to make a loan to Debtor, proving to have been false in any material respect when made or furnished; (c) default by Debtor or any Obligor in performance of any covenant or agreement contained in any Obligation; (d) default by Debtor or any Obligor in performance of any covenant or agreement contained in any letter or agreement executed in conjunction with any Obligation; (e) death, dissolution, termination of existence, insolvency, business failure, appointment of a receiver of any part of the property of, assignment for the benefit of creditors by or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Debtor or any guarantor or surety for Debtor; (f) any uninsured loss, theft, damage or destruction of the Collateral; (g) the making of any levy, seizure or attachment of any Collateral; (h) refusal to surrender the Collateral or to deposit additional collateral as herein above provided; or (i) if Bank One shall for any reason deem itself insecure as to the prospect of payment of any Obligation. *****including the Loan Agreement, Stock Pledge Agreement and the Debtor's Guaranty Agreement of even date and any other Loan Documents as defined in said Loan Agreement.**

9. Rights upon Default. If any Event of Default shall occur, then:

(a) Bank One may, at its option and without notice, declare the unpaid balance of any or all of the Obligations immediately due and payable and this Agreement and any or all of the Obligations in default;

(b) All payments received by Debtor under or in connection with any of the Collateral shall be held by Debtor in trust for Bank One, shall be segregated from other funds of Debtor and shall forthwith upon receipt by Debtor be turned over to Bank One in the same form as received by Debtor (duly endorsed by Debtor to Bank One, if required). Any and all such payments so received by Bank One (whether from Debtor or otherwise) may, in the sole discretion of Bank One, be held by Bank One, or then or at any time thereafter be applied in whole or in part by Bank One against, all or any part of the Obligations in such order as Bank One may elect;

(c) Bank One shall have the rights and remedies of a secured party under this Agreement, under any other instrument or agreement securing, evidencing or relating to the Obligations and under the UCC as adopted in the state where Bank One's principal office is located or other applicable laws. Without limiting the generality of the foregoing, Bank One shall have the right to take possession of the Collateral in full or in part and for that purpose Bank One may enter upon any premises on which the Collateral may be situated and remove the Collateral therefrom; **(including Acknowledgment and assignee (GMA Rights) Agreements)**

(d) As to any and/or all Receivables, Bank One shall have the right to take possession of all Receivables and/or records thereof and, at its option, shall have the right to collect and enforce the Receivables in its own name or in the name of Debtor and may instruct any such Account Debtor or other party to remit all payments on any Receivable directly to Bank One. Without limiting its rights and powers to possess, collect and enforce any Receivable, Bank One may (i) have the right in its own name or in the name of Debtor to demand, collect, receive, give receipt for, sue for, adjust, settle, compromise or enforce for cash, credit, or otherwise and give acquittance for any and all amounts due or become due on any Receivable and to endorse or sign the name of Debtor on all Receivables given a full or part payment thereof, and in Bank One's discretion file any claim or take any other action or proceeding which Bank One may deem necessary or appropriate to protect and preserve and realize upon the security interest of Bank One in the Receivables and proceeds thereof; (ii) sign Debtor's name on any invoice or document related to any Receivable or draft against any Account Debtor, assignments and verifications of any Receivable, and notices to Account Debtors; (iii) notify the postal authorities to change the address for delivery of mail addressed to Debtor to any address which Bank One may designate; (iv) open mail addressed to Debtor and take possession of any Receivable contained therein; (v) grant credit extensions of time for payment or performance or any other indulgences to anyone with respect to any Receivable; (vi) release any Account Debtor and anyone else from liability on any Receivable; (vii) accept the return of the goods represented by any Receivable; or (viii) do anything else which Bank One is permitted to do under any provision of law or any provision of this Agreement;

(e) Without demand of performance or other demand, advertisement or notice of any kind (except the notice(s) specified below regarding the time and place of public sale or disposition or time after which a private sale or disposition is to occur) to Debtor, any Obligor or any other person or entity (all and each of which demands, advertisements and/or notices are hereby expressly waived), Bank One may forthwith collect, receive, appropriate and realize upon the Collateral, in full or in any part thereof, may abandon, not claim or not take possession of any Collateral, and/or may forthwith sell, lease, assign, give an option or options to purchase or sell or otherwise dispose of and deliver the Collateral (or contract to do so), or any part thereof, in one or more parcels at public or private sale(s) at any of Bank One's offices or elsewhere at such price(s) as Bank One may determine, for cash or on credit or for future delivery without assumption of any credit risk, Bank One shall have the right upon any public sale(s), and, to the extent permitted by law, upon any such private sale(s), to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption of Debtor.

(f) Debtor, at Bank One's request, will assemble the Collateral and make it available to Bank One at such place(s) as Bank One may reasonably select, whether at Debtor's Place(s) of Business and/or the Location(s) of Collateral or elsewhere. Debtor further agrees to allow Bank One to use or occupy Debtor's Place(s) of Business and/or Location(s) of Collateral, without charge, for the purpose of effecting Bank One's remedies in respect to the Collateral;

(g) Bank One shall apply the net proceeds of any such collection, recovery, receipt, appropriation, liquidation or sale, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any or all of the Collateral or in any way relating to the rights of Bank One hereunder, including attorneys' fees and legal expenses, to the payment in whole or in part of the Obligations, in such order as Bank One may elect, and only after or applying over such net proceeds and after the payment by Bank One of any other amount required by any provision of law, need Bank One account for the surplus, if any, to Debtor;

(h) To the extent permitted by applicable law, Debtor waives all claims, damages and demands against Bank One arising out of the repossession, retention, sale or disposition of the Collateral;

(i) Debtor agrees that Bank One need not give more than ten (10) calendar days' notice, addressed to Debtor at Debtor's mailing address set forth above, of the time and place of any public sale or of the time after which a private sale may take place and that such notice is reasonable notification of such matters; and,

(j) Debtor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all amounts to which Bank One is entitled.

(k) See Addendum attached

10. **Processing of Collateral After an Event of Default.** Debtor hereby agrees that Bank One or its designee may do whatever Bank One in its sole discretion deems to be commercially reasonable to prepare any Collateral for disposition and to dispose of any Collateral, including without limitation operating any of Debtor's manufacturing or other processes relating to the Collateral and using patents, copyrights, trademarks, trade names, trade secrets, and the like relating to or affecting such processes or the Collateral and disposition thereof, and that Debtor shall not do anything which would restrict Bank One's right so to act. Bank One may transfer Collateral into its name or that of a nominee and receive the dividends, royalties or income thereof. Bank One shall have no duty as to the collection or protection of the Collateral or any income therefrom, nor as to the preservation of rights against prior parties, nor as to the preservation of any right pertaining thereto.

11. **Construction of Rights and Remedies and Waiver of Notice and Consent.** Unless otherwise expressly provided herein, (a) any right or remedy of Bank One may be pursued without notice to or further consent of Debtor, both of which Debtor hereby expressly waives; (b) each right or remedy is distinct from but cumulative to each other right or remedy and may be exercised independently of concurrently with, or successively to any other right and remedy; (c) no extension(s) of time and/or modification(s) of amortization of any Obligation shall release the liability of or bar the availability of any right or remedy against Debtor, and Bank One shall not be required to commence proceedings against Debtor or to extend time for payment or otherwise to modify amortization of any Obligation; and (d) Bank One has the right to proceed at its election against any or all of the Collateral, against all such property together or against any items thereof from time to time, and no action against any item(s) of property shall bar subsequent actions against any other item(s) of property.

12. **Extensions and Compromises.** With respect to any Collateral or any Obligation, Debtor assents to all extensions or postponements to the time of payment thereof or any other indulgence in connection therewith, to each substitution, exchange or release of Collateral, to the release of any party primarily or secondarily liable, to the acceptance of partial payment thereon or to the settlement or compromise thereof, all in such matter and such time or times as Bank One may deem advisable. No forbearance in exercising any right or remedy on any one or more occasions shall operate as a waiver thereof on any future occasion; and no single or partial exercise of any right or remedy shall preclude any other exercise thereof or the exercise of any other right or remedy.

13. **Indemnity and Expenses.** (a) Debtor agrees to indemnify Bank One from any and all claims, losses and liabilities growing out of or resulting from this Agreement; (b) Debtor will upon demand pay or reimburse Bank One, as the case may be, the amount of any and all expenses, including fees and disbursements of counsel, experts and agents, which Bank One may incur in connection with, (i) the administration of this Agreement; (ii) the custody, preservation, use or operation of, or the sale of, collections from, or other realization upon, any Collateral; (iii) the exercise or enforcement of any of the rights of Bank One hereunder; or (iv) the failure by Debtor to perform or observe any of the provisions hereof. Upon Debtor's failure to promptly pay any said amount, Bank One may add said amount to the principal amount owed on any Obligation and charge interest on the same at the rate of interest as set forth in said Obligation; (c) Debtor shall fully and promptly pay, perform, discharge, defend, indemnify and hold harmless Bank One from any and all claims, orders, demands, causes of action, proceedings, judgments, or suits and all liabilities, losses, costs or expenses (including, without limitation, technical consultant fees, court costs, expenses paid to third parties and reasonable legal fees) and damages arising out of, or as a result of (i) any release, discharge, deposit, dump, spill, leak or placement of any Hazardous Material into or on any Collateral or property owned, leased, rented or used by Debtor (the "Property") at any time; (ii) any contamination of the soil or ground water of the Property or damage to the environment and natural resources of the Property or the result of actions whether arising under any Hazardous Materials Law, or common law; or (iii) any toxic, explosive or otherwise dangerous Hazardous Materials which have been buried beneath or concealed within the Property. The indemnities set forth in this paragraph shall survive termination of this Agreement and shall be effective for the full dollar amount of any said cost, expense, etc., regardless of the actual dollar amount of any Obligation(s).

14. **Miscellaneous.** (a) Any notice, statement, request, demand, consent, or other document required to be given hereunder (any of which may be referred to as "notice") by either party shall be in writing and shall be delivered personally or by certified or registered mail, postage prepaid, return receipt requested, to the last known address of said party. When personally delivered, any notice shall be deemed given when actually received. Except as otherwise provided herein, a notice shall be deemed given when mailed. Any mailed notice given pursuant to this section shall be deemed reasonable and shall be effective, regardless of whether actually received; (b) this Agreement shall be construed and interpreted under the laws of the state of where Bank One's principal office is located; (c) this Agreement shall be binding upon Debtor, Debtor's personal representatives, heirs, successors and assigns, as the case may be, and shall be binding upon the inure to the benefit of Bank One and its successors and assigns. Debtor cannot assign this Agreement; (d) this Agreement may be amended, but only by a written amendment signed by Bank One and Debtor; (e) if any provisions of this Agreement or the application of any provision to any party or circumstance shall, to any extent, be adjudged invalid or unenforceable, the application of the remainder of such provision to such party or circumstance, the application of such provision to other parties or circumstances, and the application of the remainder of this Agreement shall not be affected thereby; (f) the headings contained in this Agreement have been inserted for convenience of reference only and are not to be used to interpreting this Agreement; (g) where appropriate, the number of all words in this Agreement shall be both singular and plural and the gender of all pronouns shall be masculine, feminine, neuter, or any combination thereof; (h) a carbon, photographic or other reproduction of this Agreement or a financing statement shall be sufficient as a financing statement and may be filed as such whenever necessary or desirable, in Bank One's opinion, to perfect the security interest granted by this Agreement; (i) Bank One may correct patent errors herein, may fill in any blank spaces herein and may date this Agreement; (j) if more than one signer executes this instrument, the word "Debtor" as used herein shall be deemed to include all such signers, and all of the warranties, representations, covenants and obligations hereof shall be joint and several of and for all such signers; (k) this Agreement shall take effect when signed by Debtor; and (l) time is of the essence of all requirements of Debtor hereunder.

BANK ONE, LEXINGTON, NA

BY: Donald Schelley
Debtor

ITS: Vice President

CALUMET SECURITIES CORPORATION

BY: [Signature]
Debtor

ITS: Vice President