

AGREEMENT

THIS AGREEMENT made and entered into this 31st day of MARCH, 1978, by and between George Victor Corporation, a Nebraska corporation, hereinafter referred to as "Victor", Hawaiian Village, Inc., a Nebraska corporation, hereinafter referred to as "Hawaiian" and Postal Thrift Loans, Inc., an Iowa corporation, hereinafter referred to as "Postal", witnesseth:

WHEREAS, Victor is the owner in fee simple of the following described real property:

The North One Half (N 1/2) of the Northwest Quarter (NW 1/4) and Government Lot Three (3), and Tax Lot F Two (F 2) in Section Twenty Six (26), Township Thirteen (13), Range Twelve (12), East of the Sixth Principal Meridian in Sarpy County, Nebraska, and all accretions thereto; and Government Lot One (1), and Tax Lot Twenty Two (22) in Section Twenty Seven (27), Township Thirteen (13), Range Twelve (12), Sarpy County, Nebraska as surveyed platted and recorded.

WHEREAS, Hawaiian has leased the aforementioned property from Victor for term of sixty-five years commencing January 1, 1974 and terminating December 31, 2039, with an option to extend said lease for an additional period of thirty-four years, which lease (hereinafter referred to as the prime lease) is recorded at Book 47, Page 638 in the records of the Register of Deeds of Sarpy County, Nebraska; and,

WHEREAS, all of the conditions contained in said prime lease have been complied with and said prime lease is now a binding and enforceable agreement between Hawaiian and Victor, and Hawaiian has platted and subdivided the above-described real property into residential lots with the consent of Victor, which development is known as Hawaiian Village; and,

WHEREAS, Hawaiian has and will continue to sublease said lots to individuals for lease terms coextensive with the terms of the prime lease, which subleases are and shall be in the form and upon the terms and conditions set forth in the Hawaiian Village Lot Lease Agreement a copy of which form is attached hereto, marked Exhibit "A", and by this reference made a part hereof; and,

WHEREAS, one or more of the subtenants of Hawaiian Village has made application to Postal for loans to be secured by first or second mortgages on the subtenants leasehold interest and improvements situated thereon, and it is contemplated that additional subtenants of Hawaiian Village will make applications to Postal for loans to be secured by a first or second mortgage on a subtenant's leasehold interest and improvements situated thereon; and,

WHEREAS, Postal, in order to assure itself that its proposed mortgage will be a first lien, only inferior to other mortgages which may have been granted by a subtenant, and not inferior to any lien of Victor or Hawaiian Village, desires relief from provisions in the various leases and subleases mentioned above, which relief the parties hereto are desirous of granting.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and as an inducement to Postal to make such loan or loans, and to make similar loans in the future, it is hereby agreed by and between the parties as follows:

1. Hawaiian and Victor agree that Postal is under no obligation to make any loans to subtenants, but if Postal does, in its sole discretion, elect to make such loans to subtenants, Hawaiian and Victor agree that the terms, provisions, and conditions of such loans, including but not limited to the amount, interest rate and maturity date shall be determined by Postal.

FILED FOR RECORD 4:12 PM AT S. 10th M. IN BOOK 51 OF District Rec. PAGE 200 Carl S. Hillstedt REGISTER OF DEEDS, SARPY COUNTY, NEB. 61 00

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2. Hawaiian agrees that all subleases which it may enter into in connection with the subletting of lots located in the subject subdivision will be in the form of Exhibit "A" attached hereto, and that Hawaiian will not amend or modify the terms and provisions of said sublease without the prior written approval of Postal.
 3. Notwithstanding any provisions contained in the lease between Hawaiian and Victor, and further, notwithstanding any provision contained in the sublease between Hawaiian and any of its subtenants, Hawaiian and Victor agree to permit the subtenants to mortgage their leasehold interest and improvements situated thereon to Postal and such leasehold mortgages to Postal shall, at all times, be prior and superior to any interest, lien or claim of Hawaiian or Victor in and to said leasehold interest.
 4. Notwithstanding any provisions of the prime lease, and further, notwithstanding any provision of any sublease between Hawaiian and a subtenant, Hawaiian and Victor agree that in the event of any default by Hawaiian under the prime lease, or of any default by a subtenant or Hawaiian under the lot sublease, which default may result in a termination of either the prime lease or the sublease Hawaiian and Victor will at all times recognize Postal's mortgages as a valid lien upon the leasehold interest and improvement situated thereon, prior and superior to any interest, lien, or claim of Hawaiian or Victor in and to said leasehold interest or the improvements thereon.
 5. Upon any default by a sublessee in the performance of the terms and conditions of its leasehold mortgage and note to Postal, Postal may exercise any right that it may have as a result of such default to foreclose its leasehold mortgage or to accept an assignment or some similar conveyance of the leasehold interest, including improvements, in lieu of foreclosure, and to acquire the entire interest of any such sublessee in the leasehold and the improvements located thereon.
 6. In the event that any sublessee defaults under the terms of its sublease with Hawaiian, such default shall be null and void as to Postal unless notice thereof, in writing, is given to Postal as well as to the sublessee. Postal may, within sixty days after the receipt of such notice, cure any default which is curable by the payment of money, and in such event, any amounts expended by Postal shall be added to the debts secured by such leasehold mortgage and recovered as a part thereof, and such amounts shall bear interest at the highest lawful rate from the date of payment until paid by the sublessee. Postal shall also have the right, within said sixty day period, to commence an action at law or in equity to foreclose its mortgage. The commencement of such foreclosure action shall constitute a curing of any such default which is incurable by payment of money, so that the sublease between Hawaiian and any such sublessee shall not be terminated after the commencement of such foreclosure action and the purchaser at the Sheriff's sale in such foreclosure action shall be recognized by the parties hereto as the valid sublessee of Hawaiian for the unexpired term of the sublease between Hawaiian and the sublessee. Any purchaser at the Sheriff's sale in such foreclosure action, including Postal, shall purchase the leasehold interest and improvements subject to any obligation under the sublease accruing prior to the date of sale including obligations to pay real estate taxes and assessments lawfully levied.

7. Any purchaser at such Sheriff's sale, other than Postal or a prior mortgage holder, shall execute a new sublease for the unexpired term of the original sublease, and the new sublessee shall have the same terms and conditions as those set forth in the lot lease agreement attached hereto and marked Exhibit "A". Postal shall also have the right, within said sixty day period, or at any time after the commencement of a foreclosure action, to accept an assignment or conveyance of said leasehold interest, including the improvements thereon, from a sublessee. In the event that Postal acquires title to said leasehold interest, including improvements thereon, by foreclosure, assignment or otherwise, it shall have the right to assign or convey said leasehold interest, including the improvements located thereon, and in such instance, Postal's transferee shall be recognized by the parties hereto as the valid sublessee of Hawaiian for the unexpired term of the original sublease between Hawaiian and a sublessee who has defaulted, and such new sublease shall be upon the same terms and conditions as those set forth in Exhibit "A" attached hereto. Any such transferee shall purchase the leasehold interest and improvements located thereon subject to any obligations under the sublease which accrued prior to the date of transfer, including obligations to pay real estate taxes and assessments lawfully levied.

8. In the event of any breach of any agreement between the parties hereto, written notice of such breach shall be sent to Postal, and no such notice shall be effective until received by Postal. No such breach, other than a breach by a sublessee, shall effect the leasehold interest of a sublessee.

9. Notwithstanding any provision contained in the various leases and subleases mentioned herein, in the event of any default of any sublessee under its sublease with Hawaiian resulting in a termination of such sublease, the parties hereto will recognize as a valid lien on the leasehold interest and improvements located thereon, paramount and superior to any lien or claim that Hawaiian or Victor may have, the unpaid balance due Postal under its mortgage.

10. Victor and Hawaiian assume no liability for the payment of the mortgage or mortgages entered into by a sublessee to Postal or any part thereof.

11. In the event that Victor or Hawaiian recovers or becomes entitled to recover possession of the lease premises for any reason, they shall diligently attempt to secure a new sublessee to assume the sublease of a sublessee who has defaulted. Any new sublessee shall recognize the mortgage of Postal, shall assume and agree to pay the unpaid balance thereof, and shall acknowledge that said new sublease is subject to an inferior to the lien of Postal. Postal may also attempt to secure a new sublessee in such event. Any such sublessee obtained by the parties hereto shall execute a new sublease for the unexpired terms of the original sublease between Hawaiian and a sublessee who has defaulted upon the same terms and conditions as those set forth in the lot lease agreement marked Exhibit "A" attached hereto.

12. Postal shall have the right to protect the improvements situated on the lease premises and shall have access thereto at all reasonable times.

13. During any such time when Victor or Hawaiian may have possession of a lot as a result of repossession, no rental shall accrue on the sublease between Hawaiian and a sublessee who has defaulted, nor shall any rental in arrears take priority over the interest of Postal, provided, however, that nothing contained herein shall be construed to affect the obligation of Hawaiian on its lease with Victor.
14. In the event that Victor or Hawaiian recovers possession of a lot, for whatever reason, the entire balance of the unpaid debt, together with accrued interest thereon, secured by the mortgage to Postal, shall at the option of Postal, become immediately due and payable and Postal may there upon exercise any right which it may have at law or in equity, or herein, including the rights to foreclose its mortgage.
15. Hawaiian agrees that it will not assign the aforementioned prime lease, nor will it assign or alter any sublease without the prior written consent of Postal.
16. Hawaiian agrees that it will not consent to any assignment by a sublessee of any sublease on which Postal holds a mortgage without the prior written consent of Postal.
17. Notwithstanding any provision of the prime lease to the contrary, Victor agrees that in the event of a default by Hawaiian which may result in a termination of the prime lease, such termination of the prime lease will in no way affect the validity of any existing sublease, nor will such termination have any affect upon any mortgage which may be held by Postal upon any leasehold interest and the improvements located thereon.
18. Hawaiian and Victor agree to subordinate any ^{future} mortgage or incumbrance on the above-described real property or any part thereof to the interest of any subtenant and also to the mortgage interest of Postal. Nothing herein set forth shall effect a subordination of the lease between Hawaiian and Victor.
19. The term "sublessee" and the pronouns referring thereto as used in this agreement make reference to any sublessee of Hawaiian who has executed a lot lease agreement with Hawaiian for the leasing of any lot which is located in the subdivision known as Hawaiian Village.
20. In the event that Victor does not, for whatever reason, become a party to this agreement, the terms and provisions of this agreement shall be binding upon Hawaiian to the maximum extent that the same are applicable.
21. This agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, personal representatives, successors, and assigns.

Dated the day and year first written above.

Attest:

HAWAIIAN VILLAGE, INC., a Nebraska corporation,

Secretary

By *George Victor*
Its President

Attest:

GEORGE VICTOR CORPORATION, a Nebraska corporation,

Secretary

Its President
POSTAL THRIFT LOANS, an Iowa corporation,



Witness

George Victor

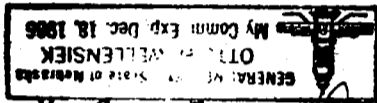
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Victor Corporation, a corporation, known to me to be the President and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be her voluntary act and deed as such officer and the voluntary act and deed of said corporation and that its corporate seal was thereto affixed by its authority.

Witness my hand and notarial seal on May 16, 1984.

Otto H. Wellensiek

Notary Public



My Com. Exp.: *Dec 18, 1986*

