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FIRST AMENDMENT TO SECOND MORTGAGE AND SUBORDINATION OF SECOND MORTGAGE AND FIRST AMENDMENT TO SECOND MORTGAGE

GEORGE J. BUGLEWICZ REGISTER OF DEEDS DOUGLAS COUNTY, NEBR.

This First Amendment to Second Mortgage and Subordination of Second Mortgage and First Amendment to Second Mortgage (hereinafter referred to as "First Amendment and Subordination"), dated March 7, 1989 is entered into by and between TOD Company, a Nebraska corporation (hereinafter referred to as "TOD") and Clair H. Morgan (hereinafter referred to as the "Mortgagee").

WITNESSETH:

WHEREAS, in order to provide for and to secure the obligations to the Mortgagee under an Agreement dated May 2, 1986, which included an initial loan by the Mortgagee to TOD in the original principal amount of Four Hundred Eighty-Five Thousand Five Hundred Forty-Six Dollars and Nine Cents (\$485,546.09), and all subsequent advances made by the Mortgagee to or for the benefit of TOD, TOD executed and delivered to the Mortgagee, a second mortgage dated May 2, 1986, which second mortgage was recorded in the Mortgage Records of the Register of Deeds, Douglas County, Nebraska, in [redacted] (hereinafter referred to as the "Second Mortgage"), and

WHEREAS, as the result of a replat and the release of various lots from the original legal set forth in the Second Mortgage and the addition of certain lots to the Second Mortgage as described herein, the real property subject to the Second Mortgage is described on Exhibit "A" attached hereto and by reference made a part hereof, and

WHEREAS, TOD and the Mortgagee, along with the Mortgagee's spouse, Judith Morgan, have entered into a certain agreement dated March 7, 1989, whereby (a) the Mortgagee loaned to TOD the additional sum of Eight Hundred Thirty-Eight Thousand Five Hundred Fifty-Two Dollars and Sixty-Six Cents (\$838,552.66), which loan is evidenced by a promissory note in said principal sum plus interest thereon pursuant to the terms of said note (hereinafter the "Morgan Note"), to enable TOD to pay off a loan to the entity who holds a First Deed of Trust against the premises; (b) the Second Mortgage would be modified to include the loan of Eight Hundred Thirty-Eight Thousand Five Hundred Fifty-Two Dollars and Sixty-Six Cents (\$838,552.66) of Mortgagee and his spouse to TOD ("Morgan Note"), and all other obligations of TOD to Mortgagee and his spouse under the March 7, 1989 Agreement, as obligations of TOD under the Second Mortgage in addition to the obligations presently secured by the Second

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Mortgage; (c) FirstTier Bank, N.A. of Omaha, Nebraska would be granted a First Deed of Trust on the real property and this Second Mortgage would be subordinated to said FirstTier Bank's First Deed of Trust; and (d) to include Lots 7, 8, 100, 101, 102 and 103, Lake Cunningham Hills, as part of the real property subject to the Second Mortgage, and

NOW, THEREFORE, to provide for and to secure the obligations evidenced by the Morgan Note dated March 7, 1989 in the original principal amount of Eight Hundred Thirty-Eight Thousand Five Hundred Fifty-Two Dollars and Sixty-Six Cents (\$838,552.66), plus interest thereon, and all of TOD's obligations under the March 7, 1989 agreement and all of TOD's obligations to the Mortgagee under the May 2, 1986 agreement, in addition to those obligations previously secured by the Second Mortgage, and to add Lots 7, 8, 100, 101, 102 and 103, Lake Cunningham Hills, a subdivision in Douglas County, Nebraska, to the Second Mortgage, and to subordinate the Second Mortgage to the First Deed of Trust of FirstTier Bank, N.A., and in order to secure any and all sums advanced or to be advanced in the future by the Mortgagee to TOD, and for and in consideration of the mutual agreements between the parties and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby amend the Second Mortgage as follows:

1. That Lots 7, 8, 100, 101, 102 and 103 in Lake Cunningham Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, are hereby added to the real property described in the Second Mortgage.

2. To include, in addition to those matters specified in the Second Mortgage, the obligations of TOD Company to pay the Morgan Note, in the amount of Eight Hundred Thirty-Eight Thousand Five Hundred Fifty-Two Dollars and Sixty-Six Cents (\$838,552.66) plus interest thereon, to pay all sums and perform all obligations under the March 7, 1989 Agreement and all sums advanced by the Mortgagee, Judith Morgan and/or M & S Grading, Inc. through the date hereof under the May 2, 1986 Agreement, and any extensions, modifications, amendments, substitutions or renewals of the above notes or agreements.

3. That the word "Mortgagee" set forth in the Second Mortgage is hereby amended to include the Mortgagee's spouse, Judith Morgan and any and all obligations owed to her by TOD, as well as those obligations which are owed by TOD to the Mortgagee and to the Mortgagee and his spouse jointly.

4. That all sums advanced by the Mortgagee, plus interest thereon, in addition to the initial Four Hundred Eighty-

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Lots 2 through 8 inclusive; 12, 16, 17, 28 through 120 inclusive; 122 through 126 inclusive; 128 through 139 inclusive; 141 through 153 inclusive; 155 through 162 inclusive; 164, 169, 176 through 210 inclusive; 212 through 225 inclusive; 232 through 241 inclusive; Lots 243 through 289 inclusive Lake Cunningham Hills, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

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