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# AMENDED AND RESTATED EASEMENT AGREEMENT

THIS AMENDED AND RESTATED EASEMENT AGREEMENT ("Amended Agreement") is made and entered into on this 36th day of APRIL, 2000 by and between MVP PARTNERSHIP, a Nebraska general partnership, 11717, L.L.C., a Nebraska limited liability company ("11717") and WILLIAM R. JENSEN and MARY JENSEN, husband and wife ("Jensen").

WHEREAS, MVP is the owner of the real property more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("MVP Property");

WHEREAS, 11717 is the owner of the real property more particularly described on Exhibit "B" attached hereto and incorporated herein by reference ("11717 Property");

WHEREAS, Jensen is the owner of the real property more particularly described on Exhibit "C" attached hereto and incorporated herein by reference ("Jensen Property");

WHEREAS, the MVP Property, the 11717 Property and the Jensen Property are subject to the terms of that certain Easement Agreement dated February 29, 1988 and recorded on January 9, 1999 in Book 874, Page 108 of the Miscellaneous Records of Douglas County, Nebraska ("Original Agreement");

WHEREAS, the parties desire to amend and restate the Original Agreement upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of Ten Dollars and no/100 (\$10.00) and other good and valuable consideration the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Each Party hereby grants and conveys to each other Party for its use and the use of its Permitees, in common with others entitled to use the same, a non-exclusive easement for the passage of vehicles over and across the parking and driveway areas of their respective property as the same may from time to time be constructed and maintained for such use. The Parties specifically acknowledge that the terms of this Amended

Agreement shall not be construed to grant the right of any Party to use the parking areas of any other Parties' property.

- 2. For purposes hereof, the term Party shall mean each signatory hereto and their respective heirs, successors and assigns who become owners of any portion of the MVP Property, the 11717 Property and/or the Jensen Property. For purposes hereof, the term Permitee shall mean all occupants, the officers, directors, employees and agents, contractors, customers, suppliers, visitors, invitees, licensees, sub-tenants and concessionaires insofar as their activities relate to the intended use of the improvements constructed on any portion of the real estate subject to this Amended Agreement.
- 3. It is the intention of the parties hereto that this Amended Agreement completely amend and restate the Original Agreement.

IN WITNESS WHEREOF, the parties have executed this Amended Agreement on the day and year first written above.

"MVP"

MVP PARTNERSHIP, a Nebraska general partnership

By Kaud Underwood, Partner

Leo E. Dahlke, Partner

ROYCE ENTERPRISES INCORPORATED, a Nebraska corporation, Partner

Lawrence R. James I, President

"11717"

11717, L.L.C., a Nebraska limited liability company

By: Its Members

David L. Underwood, sole member

"JENSEN"

William R. Jensen

Mary Jensen

STATE OF NEBRASKA

ss.

COUNTY OF DOUGLAS

Subscribed, sworn to and acknowledged before me this day of APRIC, 2000 by David L. Underwood, the Partner of MVP Partnership, a Nebraska general partnership.

GENERAL NOTARY-State of Nebraska
CARL J. TROIA, JR.
My Comm. Exp. Sept. 28, 2000

Notary F**y**olic

My Commission Expires:

My Commission Expires:

STATE OF NEBRASKA )
) ss. COUNTY OF DOUGLAS )
Subscribed, sworn to and acknowledged before me this <u>36 th</u> day of <u>APRIL</u> , 2000 by William R. Jensen.
GENERAL NOTARY-State of Nebraska CARL J. TROIA, JR.  Notary Public
My Comm. Exp. Sept. 28, 2000  My Commission Expires:
STATE OF NEBRASKA ) ) ss.
COUNTY OF DOUGLAS )
Subscribed, sworn to and acknowledged before me this 26 day of APRIL, 2000 by Mary Jensen.
GENERAL NOTARY-State of Nebraska CARL J. TROIA, JR. My Comm. Exp. Sept. 28, 2000  Notary Public

My Commission Expires:

#### **EXHIBIT "A"**

Lots 1 and 2, in Miracle Village, an Addition to the City of Omaha, Douglas County, Nebraska, located in the Southwest Quarter of Section 17, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, EXCEPT that part of Lot 2 being described as follows: Beginning at the Southwest corner of Lot 2, Miracle Village; thence N 11°11'45" E, along the East R.O.W. of 120th Street, 137.00 feet; thence S 78°48'15" E, 210.79 feet to a point on the East line of said Lot 2, Miracle Village; thence S 28°13'59" W along said East line, 109.64 feet to the Southeast corner of said Lot 2; thence N 89°00'41" W along the North R.O.W. of Webster Street, 181.53 feet to the point of beginning.

### **EXHIBIT "B"**

Lots Three (3) and Four (4) MIRACLE VILLAGE, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

#### EXHIBIT "C"

That part of Lot 2, in MIRACLE VILLAGE, an Addition to the City of Omaha, Douglas County, Nebraska, located in the Southwest Quarter of Section 127, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows: Beginning at the Southwest corner of Lot 2, Miracle Village; thence N 11°11'45" E, along the East R.O.W. of 120th Street, 137.00 feet; thence S 78°48'15" E, 210.79 feet to a point on the East line of said Lot 2, Miracle Village; thence S 28°13'59" W along said East line, 109.64 feet to the Southeast corner of said Lot 2; thence N 89°00'41" W along the North R.O.W. of Webster Street, 181.53 feet to the point of beginning.

## MORTGAGEE'S JOINDER, ACKNOWLEDGMENT AND CONSENT

FOR VALUE RECEIVED this <u>3</u> day of May, 2000, the undersigned INDIANAPOLIS LIFE INSURANCE COMPANY ("Beneficiary"), as the holder of the following deed of trust covering that Property which is described in Exhibit "A" to the Agreement ("Deed of Trust"):

Deed of Trust Assignment of Rents and Security Agreement and Fixture Filing dated February 24, 2000 given by MVP Partnership, a Nebraska general partnership in favor of Beneficiary and recorded in the Mortgage Records of Douglas County, Nebraska on February 25, 2000 in Book 5973 Page 413.

does hereby acknowledge and consent to the within and foregoing Agreement and does hereby agree that any foreclosure, deed in lieu of foreclosure, or any sale under any of the Deed of Trust will be made subject to the terms of the Agreement.

IN WITNESS WHEREOF, the undersigned have executed the Joinder, Acknowledgment and Consent to the Agreement as of the day and year first written above.

BENEFICIARY: INDIANAPOLIS LIFE INSURANCE COMPANY,

By May In ma Duitt

STATE OF  $\overline{IN}$  ) ss. COUNTY OF  $\underline{MANION}$  )

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires:

JANET L MILES
NOTARY PUBLIC STATE OF INDIANA
JOHNSON COUNTY
MY COMMISSION EXP. NOV. 1,2006

### MORTGAGEE'S JOINDER, ACKNOWLEDGMENT AND CONSENT

FOR VALUE RECEIVED this <u>/o</u> day of May, 2000, the undersigned Norwest Bank Nebraska, National Association ("Beneficiary"), as the holder of the following deed of trust covering that Property which is described in Exhibit "C" to the Agreement ("Deed of Trust"):

Deed of Trust dated August 12, 1988 given by William R. Jensen and Mary Jensen, husband and wife, in favor of Beneficiary and recorded August 15, 1988 in the Mortgage Records of Douglas County, Nebraska in Book 3265, Page 31

does hereby acknowledge and consent to the within and foregoing Agreement and does hereby agree that any foreclosure, deed in lieu of foreclosure, or any sale under any of the Deed of Trust will be made subject to the terms of the Agreement.

IN WITNESS WHEREOF, the undersigned have executed the Joinder, Acknowledgment and Consent to the Agreement as of the day and year first written above.

BENEFICIARY:

NORWEST BANK NEBRASKA, NATIONAL ASSOCIATION

By Linelly Kennyunty
Gerald J. Lenczowski, V.P.

STATE OF1	NEBRASKA	)
		) ss.
COUNTY OF	DOUGLAS	)

On this 10 day of May, 2000, before me, a Notary Public, duly commissioned, qualified and acting, within and for said county and said state, appeared in person the within named person, Gerald J. Lenczowski , to me personally well known, who stated that he is the V.P. for the Beneficiary, Norwest Bank Nebraska, National Association and was duly authorized in this capacity to execute the foregoing instrument for and in the name and on behalf of said Beneficiary, and further stated and acknowledged that he has so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal.

GENERAL NOTARY-State of Nebraska
JOYGE E. ANDERSEN
My Comm. Exp. March 30, 2001

My commission expires: 3-30-0/

Jose E. andersen Notary Public