

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

SIXTEEN PLUS CORPORATION,	)	
	)	Civil No. SX-15-CV-65
Plaintiff,	)	
	)	ACTION FOR
v.	)	DECLARATORY JUDGMENT
	)	
MANAL MOHAMMAD YOUSEF,	)	
	)	
_____	)	
Defendant.	)	

**MOTION FOR SUMMARY JUDGMENT**

Plaintiff Sixteen Plus Corporation (“Plaintiff”) respectfully requests that the Court enter judgment as a matter of law in favor of Plaintiff and against the above-captioned defendant on Plaintiff’s request for declaratory judgment that the Mortgage<sup>1</sup> is null, void and unenforceable (this “Motion”). In support of this Motion, Plaintiff relies upon the accompanying supporting Memorandum of Law, any reply in further support of this Motion and any arguments adduced at oral argument or otherwise at any hearing or in any way related to or touching upon this Motion.

A proposed form of judgment is attached hereto as **Exhibit A**.

Respectfully submitted,

**HAMMECKARD, LLP**

By: 

Dated: October 21, 2016

Mark W. Eckard (VI Bar No. 1051)  
5030 Anchor Way, Suite 13  
Christiansted, VI 00820  
Telephone: (340) 514-2690  
Email: meckard@hammeckard.com

Counsel to Sixteen Plus Corporation

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<sup>1</sup> Capitalized terms not defined herein shall have the meanings ascribed thereto in the accompanying Memorandum of Law.

**CERTIFICATE OF SERVICE**

I certify that, on the 21<sup>st</sup> day of October, 2016, I caused a true and correct copy of the foregoing document to be served upon Kye Walker, Esquire via United States Mail, postage prepaid, to 2201 Church Street, Suite 6, Christiansted, VI, 00820.

Camie Donnelly

# EXHIBIT A

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

SIXTEEN PLUS CORPORATION,	)	
	)	Civil No. SX-15-CV-65
Plaintiff,	)	
	)	ACTION FOR
v.	)	DECLARATORY JUDGMENT
	)	
MANAL MOHAMMAD YOUSEF,	)	
	)	
_____	)	
Defendant.	)	

**JUDGMENT**

Before the Court is the Motion for Summary Judgment filed by Plaintiff Sixteen Plus Corporation (the "Motion"). The Court finding that the facts of the Complaint are uncontested and being otherwise fully advised in the premises, and finding good and just cause for the relief requested in the Motion, it is hereby:

**ORDERED, ADJUDGED and DECREED AS FOLLOWS:**

1. Judgment is and shall be entered in favor of the above-captioned plaintiff, Sixteen Plus and against the above-captioned defendant, Manal Mohammad Yousef in the above-captioned civil action.
2. That certain First Priority Mortgage recorded at the Office of the Recorder of Deeds, Christiansted, VI, on February 22, 1999, in PC 679, at p. 33, as Doc. No. 768/1999 (the "Mortgage") is hereby **DECLARED** to be null, void and unenforceable.
3. Plaintiff shall forthwith cause an original certified copy of this Judgment to be recorded at the Office of the Recorder of Deeds, Christiansted, VI, against all of those certain plots of real property set forth on Exhibit A to the Mortgage (the "Encumbered Plots").

4. The Recorder of Deeds shall make appropriate notations in the title of the Encumbered Plots that the Mortgage is and has been **DECLARED** to be null, void and unenforceable.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Honorable Harold W.L. Willocks  
Superior Court Judge

A T T E S T:  
Estrella H. George  
Acting Clerk of the Court

By: \_\_\_\_\_  
Court Clerk Supervisor

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

SIXTEEN PLUS CORPORATION,	)	
	)	Civil No. SX-16-CV-65
Plaintiff,	)	
	)	ACTION FOR
v.	)	DECLARATORY JUDGMENT
	)	
MANAL MOHAMMAD YOUSEF,	)	
	)	
_____	)	
Defendant.	)	

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Sixteen Plus Corporation (“Plaintiff”) by and through its undersigned counsel, files this Memorandum of Law in Support of its Motion for Summary Judgment (the “Motion”) and, in support of the Motion states as follows:

**INTRODUCTION**

The facts set forth in Plaintiff’s original complaint (the “Complaint”) have not been disputed. Plaintiff is a person interested under the Mortgage, which constitutes a contract, as contemplated in 5 V.I.C. § 1262. The Mortgage is unenforceable because Defendant did not give any consideration to Plaintiff in exchange for the Mortgage. Plaintiff is therefore entitled to judgment as a matter of law that the Mortgage (as defined herein) is null, void and unenforceable.

**PROCEDURAL BACKGROUND**

1. Plaintiff commenced the above-captioned civil action (this “Action”) on February 12, 2016 by filing the Complaint.
2. On or about June 10, 2016, Defendant entered a general notice of appearance in this Action by and through Kye Walker, Esquire, of The Walker Legal Group.

3. Also on or about June 10, 2016, Defendant filed her Motion for Extension of Time wherein Defendant stated that “Ms. Yousef was served with the Complaint and Summons in this case on or about April 4, 2016 in St. Maarten.”

4. Also in her Motion for Extension of Time, Defendant requested that her time to respond to the Complaint be extended until June 30, 2016.

5. On June 28, 2016, the Court (acting by and through Honorable Harold W.L. Willocks, Superior Court Judge) granted Defendant’s Motion for Extension of Time and ordered that Defendant shall have until June 30, 2016 to respond to the Complaint.

6. As of the date hereof, Defendant has not responded to the Complaint or otherwise contested the facts set forth therein.

### **UNCONTESTED FACTS**

7. Plaintiff is the fee simple owner of the following described real property (collectively, the “Property”):

Parcel No. 8, Estate Cane Garden, consisting of approximately 2.6171 U.S. Acres;

Remainder no. 46A, Estate Cane Garden, consisting of approximately 7.6460 U.S. Acres;

Parcel No. 10, Estate Cane Garden, consisting of approximately 2.0867 U.S. Acres;

Road Plot No. 11, Estate Cane Garden, consisting of approximately 0.868 U.S. Acres;

Parcel No. 11, Estate Retreat, Matr. No. 37B of Company Quarter and Peter’s Minde, Matr. No. 37A and 37BA, Company Quarter, and No. 54 Queen’s Quarter all consisting of approximately 42.3095 U.S. Acres;

Remainder Matr. 32B, Estate Cane Garden of approximately 48.5175 U.S. Acres;

Parcel No. 9 Estate Cane Garden, consisting of approximately 11.9965 U.S. Acres;

Remainder Matr. 32A, Estate Granard, consisting of approximately 41.0736 U.S. Acres;

Parcel No. 40, Estate Granard, consisting of approximately 14.9507 U.S. Acres;

Remainder Matr. No. 31, Estate Diamond, consisting of approximately 74.4220 U.S. Acres;

Parcel No. 4, Estate Diamond, consisting of approximately 5.8662 U.S. Acres;

Parcel No. 1, Estate Diamond, consisting of approximately 61.2358 U.S. Acres;

Parcel No. 3, Estate Diamond, consisting of approximately 6.9368 U.S. Acres;

Parcel No. 2, Estate Diamond, consisting of approximately 6.5484 U.S. Acres;

Road Plot No. 12, Estate Cane Garden, consisting of approximately 0.4252 U.S. Acres;

Road Plot No. 41, Estate Granard, consisting of approximately 0.4255 U.S. Acres; and

Road Plot No. 6, Estate Diamond, of approximately 0.8510 U.S. Acres.

See **Exhibit A** (deed).

8. On September 15, 1997, Plaintiff executed a mortgage on the Property to Defendant in the amount of \$4,500,000 (the "Mortgage"). A copy of the Mortgage, as recorded in the Office of the Recorder of Deeds, Christiansted, VI, on February 22, 1999, in PC 679, at p. 33, as Doc. No. 768/1999 is attached as **Exhibit B**.

9. In support hereof, Plaintiff has attached the Affidavit of Hisham Hamed as **Exhibit C** (the "Hisham Hamed Affidavit").



10. Defendant did not have funds on hand to make such a loan, as secured by the Mortgage. See Hisham Hamed Affidavit at ¶ 15.

11. Defendant's name was used as a "straw" mortgagee, without any consideration given by her in exchange for the Mortgage. See Hisham Hamed Affidavit at ¶ 16.

12. The Mortgage was signed well over a year before the Property was purchased. See Hisham Hamed Affidavit at ¶ 18.

13. Defendant did not advance any funds or other consideration of any kind whatsoever to Plaintiff as consideration for the mortgage. See Hisham Hamed Affidavit at ¶ 19.

14. The Mortgage is unenforceable because Defendant did not give any consideration to Plaintiff in exchange for the Mortgage. See Hisham Hamed Affidavit at ¶ 20.

### **LEGAL ARGUMENT**

15. Fed.R.Civ.P. 56(c) provides that, "[u]nless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery."

16. Fed.R.Civ.P. 56(a) provides as follows:

A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.

See Fed.R.Civ.P. 56(a).

17. Here, the facts as set forth in the Complaint are uncontested. Defendant did not give any consideration for the Mortgage.

18. The Mortgage is null, void and unenforceable.

19. Plaintiff is entitled to declaratory judgment as a matter of law that the Mortgage is null, void and unenforceable.

WHEREFORE, for the reasons set forth herein, Plaintiff respectfully requests that the Court (i) enter judgment in substantially the same form as that attached to the Motion as Exhibit A, in Plaintiff's favor and against Defendant, declaring the Mortgage to be null, void and unenforceable and (ii) grant to Plaintiff such other and further relief as is just and proper.

Respectfully submitted,

**HAMMECKARD, LLP**

By: 

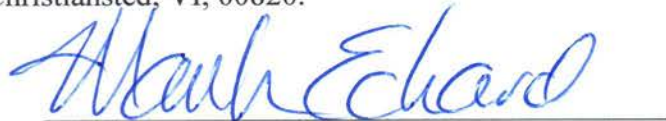
Dated: October 21, 2016

Mark W. Eckard (VI Bar No. 1051)  
5030 Anchor Way, Ste. 13  
Christiansted, VI 00824  
Telephone: (340) 773-6955  
Facsimile: (855) 456-8784  
Email: [meckard@hammeckard.com](mailto:meckard@hammeckard.com)

Counsel to Plaintiff

**CERTIFICATE OF SERVICE**

I certify that, on the 21<sup>st</sup> day of October, 2016, I caused a true and correct copy of the foregoing document to be served upon Kye Walker, Esquire via United States Mail, postage prepaid, to 2201 Church Street, Suite 6, Christiansted, VI, 00820.



# EXHIBIT A

51,271

February 22, 1999

MARSHAL'S DEED

No. 767/1999

THIS INDENTURE, made between BURTON O'REILLY, <sup>Ast.</sup> Marshal of the Territorial Court of the Virgin Islands (GRANTOR) and SIXTEEN PLUS CORPORATION of ST. CROIX, U.S. VIRGIN ISLANDS (GRANTEE):

WITNESSETH:

WHEREAS pursuant to a judgment of foreclosure of the Territorial Court of the Virgin Islands, Division of St. Croix, in an action entitled THE BANK OF NOVA SCOTIA v. PALM SHORES VENTURE GROUP, et al. and bearing File No.746/1992 execution was issued and a judicial sale was held on September 13, 1996 at which the following premises were sold:

All that certain property lying and being situate in St. Croix, United States Virgin Islands, to-wit:\*

1. Parcel No. 8, Estate Cane Garden, of approximately 2.6171 U.S. Acres.
2. Remainder No. 46A, Estate Cane Garden, of approximately 7.6460 U.S. Acres.
3. Parcel No. 10, Estate Cane Garden, of approximately 2.0867 U.S. Acres.
4. Road Plot No. 11, Estate Cane Garden, of approximately 0.0868 U.S. Acres.
5. Parcel No. 11, Estate Retreat, Matr. No. 37B of Company Quarter and Peter's Minde, Matr. No. 37A and No. 37BA, Company Quarter, and No. 54 Queen's Quarter all of approximately 39.1395 U.S. Acres.
6. Remainder Matr. No. 32B, Estate Cane Garden of approximately 48.5175 U.S. Acres.
7. Parcel No. 9, Estate Cane Garden, of approximately 11.9965 U.S. Acres.
8. Remainder Matr. No. 32A, Estate Granard, of approximately 41.0736, U.S. Acres.
9. Parcel No. 40, Estate Granard of approximately 14.9507 U.S. Acres.
10. Remainder Matr. No. 31, Estate Diamond, of approximately 74.4220 U.S. Acres.
11. Parcel No. 4, Estate Diamond, of approximately 5.8662 U.S. Acres.
12. Parcel No. 1, Estate Diamond, of approximately 61.2358 U.S. Acres.
13. Parcel No. 3, Estate Diamond, of approximately 6.9368 U.S. Acres.

\* See Exhibit A for further legal description of all listed properties.

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MARSHAL'S DEED

Page 2

- 14. Parcel No. 2, Estate Diamond, of approximately 6.5484 U.S. Acres.
- 15. Road Plot No. 12, Estate Cane Garden, of approximately 0.4252 U.S. Acres.
- 16. Road Plot No. 41, Estate Granard, of approximately 0.4255 U.S. Acres.
- 17. Road Plot No. 6, Estate Diamond, of approximately 0.8510 U.S. Acres.

AND WHEREAS, THE BANK OF NOVA SCOTIA, was the highest bidder, and purchased the premises for the sum of \$4,232,367.95, and said sale was confirmed by the Court on October 28, 1996;

AND WHEREAS, THE BANK OF NOVA SCOTIA is now entitled to conveyance of said premises according to law, the equity of redemption having expired;

AND WHEREAS, THE BANK OF NOVA SCOTIA has assigned all of its right, title and interest to the certificate of sale at the premises to SIXTEEN PLUS CORPORATION;

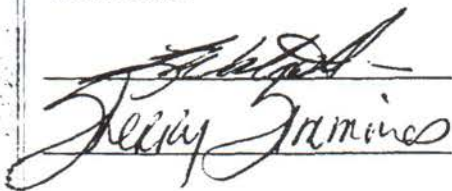
NOW, THEREFORE, the undersigned, BURTON O'REILLY, <sup>Asst.</sup> Marshal of the Territorial Court of the Virgin Islands of the United States, in consideration of the premises and of the sum of \$4,232,367.95 to me in hand paid, hereby convey to SIXTEEN PLUS CORPORATION the premises hereinabove described, together with all improvements thereon, pursuant to the Judgment and Order of the Territorial Court and the laws of the Virgin Islands.

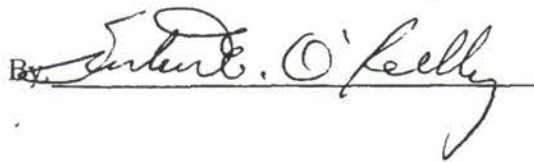
TO HAVE AND TO HOLD THE SAME unto the said GRANTEE, SIXTEEN PLUS CORPORATION, in fee simple forever.

DATED: December 24, 1998

BURTON O'REILLY  
Asst. Marshal of the Territorial Court

WITNESS:

  
\_\_\_\_\_  
Jerry James

By   
\_\_\_\_\_  
Burton O'Reilly

9999  
6666  
9999

MARSHAL'S DEED  
Page 3

22<sup>nd</sup> Feb  
2:51 o'clock P  
Recorded and Entered in Recorder's Book for  
District of St. Croix, Virgin Islands of the U.S.A.  
Photo-copy 10/19 Page 29  
No. 76711999 and noted in Real Property Reg.  
Title 32:66 Page 27:186; 304,305x30.

ACKNOWLEDGMENT

*Burton O'Reilly*  
\$4,235.50

TERRITORY OF THE VIRGIN ISLANDS )  
DIVISION OF ST. CROIX ) SS:

On this 24<sup>th</sup> day of December, 1998, before me personally came and appeared BURTON O'REILLY, <sup>Asst</sup> Marshal of the Territorial Court of the Virgin Islands, known to me to be the person described in the foregoing instrument, and he acknowledged that he executed same in the capacity therein stated and for the purposes therein contained.

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

*William J. ...*  
NOTARY PUBLIC  
Notary Public No. E.X. Office

CERTIFICATE OF VALUE

This is to certify that this transaction is exempt from stamp tax under the provisions of Title 33 Virgin Islands Code Paragraph 128(1).

*Luca ...*



CERTIFICATE OF THE PUBLIC SURVEYOR

IT IS HEREBY CERTIFIED that according to the records in the Public Surveyor's Office, the property described in the foregoing instrument, has not undergone any change in regard to boundary and area.

Office of the Public Surveyor, Christiansted, St. Croix.

DATED: JAN 15 1999

FEE: \$ 3800

*Laurely K. Lynch*  
Sub Surveyor & Assoc Secy

9599  
9599  
9599

All of the following, being in Queen's Quarter, St. Croix, U.S. Virgin Islands, as shown on Public Works Drawing No. 4335, dated September 22, 1986, as revised April 18, 1988:

1. Parcel No. 8, Estate Cane Garden, of approximately 2.6171 U.S. Acres.
2. Remainder No. 46A, Estate Cane Garden, of approximately 7.6460 U.S. Acres.
3. Parcel No. 10, Estate Cane Garden, of approximately 2.0867 U.S. Acres.
4. Road Plot No. 11, Estate Cane Garden, of approximately 0.0868 U.S. Acres.

All of the following, being in Queen's Quarter and Company Quarter, St. Croix, U.S. Virgin Islands, as shown on Public Works Drawing No. 4335, dated September 22, 1986, as revised April 18, 1988:

5. Parcel No. 11 of Estate Retreat, Matr. No. 37B of Company Quarter and Peter's Minde, Matr. No. 37A and 37BA, Company Quarter, and No. 54 Queen's Quarter all of Approximately 39.1395 U.S. Acres.

All of the following, being in Company Quarter, St. Croix, U.S. Virgin Islands, as shown on Public Works Drawing No. 4335, dated September 22, 1986, as revised December 29, 1990:

6. Remainder Matr. 32B, Estate Cane Garden of approximately 48.5175 U.S. Acres.
7. Parcel No. 9 Estate Cane Garden, of approximately 11.9965 U.S. Acres.
8. Remainder Matr. 32A, Estate Granard, of approximately 41.0736, U.S. Acres.
9. Parcel No. 40, Estate Granard of approximately 14.9507 U.S. Acres.
10. Remainder Matr. No. 31, Estate Diamond, of approximately 74.4220 U.S. Acres.
11. Parcel No. 4, Estate Diamond, of approximately 5.8662 U.S. Acres.
12. Parcel No. 1, Estate Diamond of approximately 61.2358 U.S. Acres.
13. Parcel No. 3, Estate Diamond, of approximately 6.9368 U.S. Acres.
14. Parcel No. 2, Estate Diamond, of approximately 6.5484 U.S. Acres.
15. Road Plot No. 12, Estate Cane Garden, of approximately 0.4252 U.S. Acres
16. Road Plot No. 41, Estate Granard, of approximately 0.4255 U.S. Acres.
17. Road Plot No. 6, Estate Diamond, of approximately 0.8510 U.S. Acres.



Exhibit A

# EXHIBIT B



February 22, 1999

**FIRST PRIORITY MORTGAGE**

THIS MORTGAGE ("Mortgage") is made this 15 day of September, 1997, between Sixteen Plus Corporation, whose address is 4C & D Sion Farm, Christiansted, St. Croix, 00820, ("Borrower") and Manal Mohamad Yousef ("Lender") whose address is 25 Gold Finch Road, Pointe Blanche, St. Martin, N.A.;

**WITNESSETH:**

A. Borrower is justly indebted to Lender in the principal sum of Four Million, Five Hundred Thousand Dollars (\$4,500,000) or so much thereof as shall have been advanced and remains unpaid, which indebtedness is evidenced by a Promissory Note in such principal amount, dated of even date herewith and hereinafter referred to as the "Note" and bears interest at the rate or rates and under the terms set forth in the Note, (said Note is incorporated herein by reference and made a part hereof); and

B. Borrower wishes to secure the full and punctual payment of the Note and the indebtedness evidenced thereby, and interest thereon, and the full performance of all the provisions, conditions, covenants and agreements herein contained or in any other document executed in connection herewith, and also to secure the reimbursement to the Lender for any and all money which may be advanced as herein provided for, and for any and all costs and expenses herein provided for or which may arise in respect of this Mortgage or the indebtedness hereby secured or the Property herein mentioned (collectively "Obligations").

NOW, THEREFORE, the Borrower does hereby grant, convey and give to the Lender a first priority mortgage on the following described property (collectively "Property") to secure the full and punctual payment and performance of the Obligations:

**SEE EXHIBIT A**

Together with

(a) all improvements now or hereafter erected thereon, and all modifications, additions, restorations and replacements of such improvements; and all rights-of-way, uses, servitude, licenses, tenements, hereditament, appurtenances, rights, privileges, and easements now or hereafter belonging or pertaining thereto; and

(b) all the appliances, fixtures, equipment, building materials and other personal property now or hereafter owned by the Borrower and located on the premises described above, whether or not incorporated in the improvements constructed thereon, and necessary to the use and occupancy thereof; and

(c) all awards and other payments in respect of any taking (as described in Section 12 herein below) in respect of any of the foregoing, together with all amounts received by the Lender, or expended by the Lender pursuant to this Mortgage; and

(d) all of the Borrower's rights, benefits, title and interest as lessor, in and to any agreement to lease, leases, licenses, concession agreements and other agreements granting a right or privilege to use or occupy any portion of the Property (collectively "Leases") now or hereafter in existence and pertaining to all or any portion of the Property described above, together with any and all rents, issues, profits, revenues, income, earnest money or security deposits made pursuant to such Leases from the Property or any part thereof (collectively "Rents"), and any and all guarantees of performance under any such Leases.

IT IS HEREBY COVENANTED by the parties hereto that the Property is to be held and applied subject to the further terms herein set forth; and the Borrower, for the Borrower and Borrower's successors and assigns, hereby covenants and agrees with the Lender, as follows:

1. **THE NOTE.**

1.1 **Issuance and Payment of the Note.** The Borrower has issued the Note, and will duly and punctually pay the principal of the interest (if any) on the Note in accordance with the terms thereof, and will otherwise duly comply with the terms of the Note.

1.2 **Prepayment on Taking of the Property.** In case of any taking (as described in Section 11.2 hereof) of the Property, the portion of awards or other payments on account thereof shall be paid to the Lender and applied to the prepayment of the Note, together with interest (if any) on the principal amount of the Note so prepaid accrued to the date of such prepayment, and to the payment of all other indebtedness which this Mortgage secures. Any balance of such awards or other payments remaining after payment in full of the principal of and interest (if any) on the Note and all other indebtedness which this Mortgage by its terms secures shall be paid to the Borrower.

1.3 **Replacement of Note.** Upon receipt of evidence reasonably satisfactory to the Borrower of the loss, theft, destruction or mutilation of the Note and, in the case of nay loss, theft or destruction, upon delivery of an indemnity agreement reasonably satisfactory to the Borrower or, in the case of any such mutilation, upon surrender and cancellation of such Note, the Borrower will issue, in lieu thereof, a new Note, dated the date to which interest has been paid on the lost, stolen, destroyed or mutilated Note and otherwise of like tenor, with appropriate variations.

2. **AUTHORITY.** The Borrower represents and warrants that the Borrower has good and lawful right and authority to execute this Mortgage and to mortgage the Property, and that the Borrower is well seized and possessed of a fee simple title to the Property. The Borrower, at the Borrower's expense, will warrant and defend to the Lender and its successors and assigns, for the benefit of the Lender, such interest and the lien and interest of the Lender on and in the Property against all claims and demands and will maintain and preserve such lien as long as the Note is outstanding.

WJA

3. **RECORDATION; PRESERVATION OF LIEN.** The Borrower at its expense, will at all times cause this Mortgage and any supplements hereto, and such other instruments as may be required by applicable law, to be recorded, registered and filed and to be kept recorded, registered and filed in such manner and in such places, and will pay all such recording, registration, filing or other taxes, fees and charges, and will comply with all such statutes and regulation, as may be required by law in order to establish, preserve and protect the lien of this Mortgage on all of the Property and the rights of the Lender hereunder.

4. **COMPLIANCE WITH APPLICABLE LAWS.** Borrower shall comply with all applicable laws, ordinances, rules, regulations, and codes applicable to the Property, including the use and possession thereof and any business located thereon. Borrower has received no notice of, and neither knows of, nor suspects any facts which might constitute any violations of any federal or territorial health, safety or environmental laws, codes, ordinances, rules or regulations with respect to the Property, including the use or possession thereof and any business located thereon.

5. **HAZARDOUS WASTE.** There shall be no emission, spill, release or discharge into or upon the air, soil or any improvements located thereon, surface water or ground water, or the sewer, septic system or waste treatment storage or disposal systems servicing the property, of any hazardous or toxic substances or wastes at or from the Property or otherwise and the Property shall be kept free from all such hazardous or toxic substance or wastes.

6. **LITIGATION.** No litigation, arbitration, condemnation, re-zoning or administrative proceedings are presently pending or, to Borrower's knowledge, threatened, which if adversely determined might have a material adverse effect on the Borrower, the financial condition of Borrower or upon the respective property rights of Borrower. Notwithstanding anything to the contrary set forth herein the parties recognize that a proposed land and water use plan may adversely impact the value of the property.

7. **PAYMENT OF TAXES, ETC.** Subject to Section 9 relating to contests, the Borrower will pay or cause to be paid all taxes, assessments (including, without limitation, all assessments for public improvements or benefits, whether or not commenced or completed prior to the date hereof), water, sewer or other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees and other charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of any character (including all interest and penalties thereon), which at any time may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon (a) the Property or any part thereof or any rent therefrom or any estate, right or interest therein, or (b) any occupancy, use or possession of or activity conducted on the Property or any part thereof. Such payments will be made before any fine, penalty, interest or cost may be added for nonpayment, and the Borrower will furnish to the Lender, upon request, official receipts or other satisfactory proof evidencing such payments.

8. **CONSTRUCTION LIENS.** Subject to Section 9 relating to contests, the

Borrower shall not, without the Lender's prior written approval, directly or indirectly create or permit or suffer to be created or to remain, and will discharge, or cause to be discharged within thirty (30) days after issuance thereof, any construction lien with respect to the Property or any part thereof, or the Lender's interest therein.

9. **PERMITTED CONTESTS.** The Borrower or a tenant under any lease, at its expense, may contest (after prior written notice to the Lender) by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any mechanics' lien, construction lien, or taxes or other charges enumerated in Section 7 or lien therefor or the application of any instrument of record referred to in Section 8 provided, that (a) in the case of unpaid mechanics' liens, construction liens, or taxes or other charges enumerated in Section 7 or liens therefor, such proceedings shall suspend the collection thereof from the Borrower, the Lender and the Property; (b) neither the Property nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost; (c) neither the Borrower nor the Lender would be in any danger of any additional civil or any criminal inability for failure to comply therewith (except interest, or penalties in the nature of interest, and attorney's fees or court costs) and the Property would not be subject to the imposition of any additional lien as a result of such failure; and (d) the Borrower shall have deposited adequate monies with respect thereto with the lender, who shall have the power to pay such contested amounts in the event the Property is in danger of forfeiture or the Lender is in danger of being held civilly or criminally liable with respect thereto, or, in the event the contested matter is the subject of litigation, the Borrower shall have deposited in a fund administered by the court adequate moneys therefor (as determined by the Lender).

10. **NOTICES CONCERNING THE PROPERTY.** The Borrower will deliver to the Lender, promptly upon receipt of the same, copies of all notices, certificates, documents and instruments received by the Borrower which materially affect the Property.

11. **TAKING; APPLICATION OF AWARD.**

11.1. **Borrower to Give Notice, etc.** In case of any taking of all or any part of the Property, or any interest therein or right accruing thereto as the result of or in lien or in application of the exercise of the right of condemnation or eminent domain during the term hereof, the Borrower shall promptly give to the Lender written notice generally describing the nature of the proceedings and negotiations for such taking and the nature and extent of the taking which might result therefrom, as the case may be. The Lender may appear in any such proceedings and negotiation, and the Borrower shall promptly give to the Lender copies of all notices, pleadings, determinations and other papers in any such proceedings. The Borrower will in good faith and with due diligence file and prosecute any claim or claims for any award or payment on account of any taking of the Property, will pay all costs and expenses (including, without limitation, attorneys' fees and the expense of the Lender) in connection with any such taking and seeking and obtaining any award or payment on account thereof. Such costs and expenses shall constitute indebtedness secured by this Mortgage.

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11.2 Taking. In the case of a taking of whatever nature, total or partial, of the Property or any portion thereof, any payment or award on account of such taking shall be collected and paid over in accordance with the provisions of Section 1.2 hereof.

12. INTENTIONALLY OMITTED.

13. INTENTIONALLY OMITTED.

14. NO CREDIT FOR PAYMENT OF TAXES. The Borrower shall not be entitled to any credit against the Principal of and interest, if any, on the Note, or any other sums which may become payable under the terms thereof or hereof, by reason of the payment of any tax on the Property or any part thereof.

15. EVENTS OF DEFAULT; DECLARATION OF NOTICE DUE. If one or more of the following events (herein referred to as "Events of Default") shall occur:

(a) if the Borrower shall fail to pay any principal of or interest, if any, on the Note when the same becomes due and payable (whether at maturity or on a date fixed for any interest payment, any installment payment, any prepayment or otherwise) and such default is not cured within fifteen (15) days after the payment due date; or

(b) if the Borrower shall fail to perform or comply with any of the other terms of this Mortgage and such default is not cured within thirty (30) days after the effective date of written notice from Lender to Borrower; or

(c) if the Borrower shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any arrangement, composition, readjustment or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee or receiver; or

(d) if, within sixty (60) days after the commencement of any proceeding against the Borrower with seeks any arrangement, composition or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment of any trustee or receiver of the Borrower, without the consent or acquiescence of the Borrower, such appointment shall not have been vacated; or

(e) if the Borrower assigns or sells, or further encumbers, its interest in all or any part of the Property or if the Beneficial Ownership of Borrower shall change in violation of paragraphs 30, 31 and/or 32;

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Then and in any such event (regardless of the pendency of any proceeding which has or might have the effect of preventing the Borrower from complying with the terms of the Mortgage), the Lender may at any time, without notice to declare the entire unpaid principal balance and all other indebtedness evidenced by the Note and/or secured by this Mortgage to be immediately due and payable, without presentment, demand, protest or notice, all of which are hereby waived.

16. **REMEDIES OF THE HOLDER OF THE NOTE.**

16.1 **Legal Proceedings.** If an Event of Default shall have occurred, the Lender may proceed to foreclose this Mortgage and to protect and enforce its rights by any action at law, suit in equity or other appropriate proceeding, whether for the specific performance of agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law.

16.2 **Cost of Enforcement.** The Borrower shall pay on demand all costs and expenses (including, without limitation, attorneys' fees and expenses) incurred by or on behalf of the Lender in enforcing this Mortgage, the Note, or any of the other documents executed in connection herewith, or occasioned by any default hereunder or thereunder. Such costs and expenses shall constitute indebtedness secured by this Mortgage.

16.3 **No Waiver.** Neither failure or any delay on the part of the Lender to exercise any right, remedy, power or privilege provided for herein or by statute or at law or in equity or otherwise shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, remedy, power or privilege preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17. **INTENTIONALLY OMITTED.**

18. **FORECLOSURE.** If an Event of Default shall have occurred, the Lender may at any time proceed at law or in equity or otherwise to foreclose the lien of this Mortgage as against all or any part of the Property. Borrower hereby expressly waives all rights to require Lender to first resort to the sale of any portion of the Property before foreclosing upon and/or selling any other portion(s) of the Property which is subject to this Mortgage and Borrower hereby agrees that Lender, at Lender's sole discretion, may elect to sell any one or more portion of the property in one or more Marshal's sales.

19. **APPOINTMENT OF RECEIVER.** If an Event of Default shall have occurred, the Lender shall be entitled, as a matter of right without regard to the adequacy or inadequacy of the Lender's security, to the appointment of a receiver for all or any part of the Property, whether such receivership is incidental to a proposed sale of the Property or otherwise, and the Borrower hereby consents to the appointment of such a receiver and shall not oppose any such appointment.

20. **PURCHASE OF PROPERTY BY THE HOLDER OF THE NOTE.** The Lender may be a purchaser of the Property or of any part thereof or of any interest therein at any foreclosure sale thereof and may apply upon the purchase price the indebtedness secured hereby owing to the Lender. The Lender shall, upon any such purchase, acquire good title to the properties so purchased, free of the lien of this Mortgage and free of all liens and encumbrances subordinate to the Mortgage.

21. **RECEIPT A SUFFICIENT DISCHARGE TO PURCHASER.** Upon any sale of the Property or any part thereof or any interest therein pursuant to foreclosure, the receipt of the officer making the sale under judicial proceedings shall be sufficient discharge to the purchaser for the purchase money, and such purchaser shall not be obliged to see to the application thereof.

22. **APPLICATION OF PROCEEDS OF SALE.** The proceeds of any sale of the Property or any part thereof or any interest therein pursuant to foreclosure or otherwise hereunder, together with any other monies at any time held by the Lender pursuant to this Mortgage, shall be applied to pay:

FIRST: All costs and expenses of the sale of the Property or any part thereof or any interest in connection therewith, or all costs and expenses of entering upon, taking possession of, removal from, holding, operating and managing the Property or any part thereof, as the case may be, reasonable attorneys' fees, and any taxes, assessments or other charges, prior to the lien of this Mortgage, which the Lender may consider it necessary or desirable to pay;

SECOND: All amounts of principal and interest at the time due and payable on the Note (whether at maturity or on a date fixed for any installment payment or any prepayment or by declaration and acceleration or otherwise), and in case such monies shall be insufficient to pay in full the amount so due an unpaid upon the Note, then, first, to the payment of all amounts of interest at the time due and payable on the Note, without preference or priority of any installment of interest over any other installment of interest, and, second, to the payment of all amounts of principal a the time due and payable on the Note, without preference or priority of any amount of principal over any other amount of principal;

THIRD: Any other indebtedness secured by this Mortgage and at the time due and payable (whether by acceleration or otherwise);

FOURTH: Any indebtedness secured by any lien on the Property which is subordinate to the lien of this Mortgage; and

FIFTH: Any balance to the Borrower.

23. **REMEDIES CUMULATIVE.** Each right, power and remedy of the Lender

provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise of any one or more of such rights, shall not preclude the simultaneous or later exercise of any or all such other rights, powers or remedies.

24. **NO WAIVER, ETC.** No failure by the Lender or the holder of the Note to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term or any such breach. No waiver of any breach shall affect or alter this Mortgage, which shall continue in full force and effect with respect to any other then existing or subsequent breach.

25. **FURTHER ASSURANCES.** The Borrower at its expense will execute, acknowledge and deliver all such instruments and take all such actions as the Lender from time to time may reasonably request for the better assurance to the Lender of the Property and rights now or hereafter subjected to the lien hereof or assigned hereunder or intended so to be subjected or assigned.

26. **INDEMNIFICATION BY THE BORROWER.** The Borrower will protect, indemnify and save harmless the Lender from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against the Lender by reason of (a) its Mortgage interest in the Property, or receipt of any rent or other sum therefrom; (b) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Property; (c) any use, non-use or condition of the Property; (d) any failure on the part of the Borrower to perform or comply with any of the terms of this Mortgage or the terms of any other documents executed in connection herewith; or (e) performance of any labor or services or the furnishing of any materials or other property in respect of the property or any part thereof for construction or maintenance or otherwise. Provided, however, that the foregoing indemnification provision shall not be applicable to any occurrence arising after the Lender retakes possession of the Property in connection with a default by the Borrower. Any amounts payable to the Lender under this Section which are not paid within ten (10) days after written demand therefor by the Lender shall bear interest at the rate set forth in the Note from the day of such demand and shall be secured by this Mortgage. In case any action, suit or proceeding is brought against the Lender by reason of any such occurrence, the Borrower, upon the Lender's request, will at the Borrower's expense resist and defend such action, suit or proceeding or cause the same to be resisted and defended by counsel designated by the Borrower and approved by the Lender. Such obligations of the Borrower under this Section as shall have accrued at the time of any termination or satisfaction of this Mortgage shall survive any such termination or satisfaction.

27. **RIGHT OF HOLDER OF THE NOTE TO PERFORM BORROWER'S COVENANTS, ETC.** If the Borrower fails to make any payment or perform any act required



to be made or performed hereunder, the Lender, after such notice to the Borrower as may be reasonable under the circumstance, and without waiving or releasing any obligation or default, may (but shall be under no obligation or default, may (but shall be under no obligation to) at any time hereafter make such payment or perform such acct for the account and at the expense of the Borrower, and may enter upon the Property or any part thereof for such purpose and take all such action thereon as, in the opinion of the Lender, may be necessary or appropriate therefor. All sums so paid by the Lender and all costs and expenses (including, without limitation, attorney's fees and expenses) so incurred, together with interest thereon at the rate set forth in the Note, from the date of payment or incurring, shall constitute indebtedness secured by this Mortgage and shall be paid by the Borrower to the Lender on demand.

28. **PROVISIONS SUBJECT TO APPLICABLE LAW.** All rights, power and remedies provided herein may be executed only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid, illegal or unenforceable, the validity of other terms of the Mortgage shall in no way be affected thereby.

29. **NOTICES.** All notices and other communications hereunder shall be in writing and shall be deemed to have been given when hand delivered or mailed by first class certified mail, postage prepaid, return receipt requested, to the address given at the beginning of this Mortgage or at such other address as a party may have furnished to the other party by written notice.

30. **ASSIGNMENT.**

30.1. **Assignment by Borrower.** This Mortgage shall be binding upon the Borrower and the Borrower's successors and assigns, and all persons claiming under or through the Borrower or any such successor or assign, and shall inure to the benefit of and be enforceable by the Lender and the successors and assigns thereof; provided, however that the Borrower hereby agrees that the Borrower will not sell, assign or convey the Borrower's interest in the Property until all amounts of principal and interest at the time due and payable under the Note have been paid in full, without the prior written consent and approval of the Lender, which consent may be withheld for any reason or no reason at all. If legal or equitable title to the Property or any part thereof shall hereafter change by any means or if the Property or any part thereof shall be further encumbered without Lender's consent, then the indebtedness secured hereby shall become immediately due and payable upon demand of Lender and same shall constitute an Event of Default.

30.2. **ASSIGNMENT BY LENDER.** The Note and this Mortgage may at any time be assigned, in whole or in part, by the Lender and the benefits, advantages, rights and obligations of the Lender hereunder shall inure to the successors and assigns of the Lender.

31. **TRANSFER OF THE PROPERTY; ASSUMPTION.** If all or any part of the Property or an interest therein is sold or transferred by the Borrower without the Lender's prior written consent (which consent may be withheld for any reason or no reason at all), the Lender may, at the Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable and same shall constitute an Event of Default.

32. **CHANGE OF OWNERSHIP.** In the event beneficial ownership of the Property shall change by any means without the Lender's consent (which consent may be withheld for any reason or no reason at all), then the indebtedness secured hereby shall become immediately due and payable upon demand of the Lender and same shall constitute an Event of Default. For the purposes of this provision, if the Borrower is a corporation, any sale or other change in the controlling or controlling beneficial interest of the corporate stock of Borrower to persons not shareholders of the Borrower as of the date hereof shall be considered a change of ownership requiring the Lender's consent.

33. **ASSIGNMENT OF RENTS.** Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the Rents of the Property, including those now due, past due or to become due by virtue of any one or more of the Leases, regardless of to whom the Rents of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the Rents and hereby directs each tenant of the Property to pay such Rents to Lender or Lender's agents; however, prior to written notice given by Lender to Borrower of the default by Borrower of any covenant or agreement of Borrower in this Mortgage and the expiration of any period of cure therefor, Borrower shall have the right to collect and receive all Rents of the Property as trustee for the benefit of Lender and Borrower, to apply the Rents so collected to the sums secured by this Mortgage with the balance, so long as no such breach has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of Rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of the default by Borrower of any covenant or agreement of Borrower in this Mortgage and the expiration of any period of time therefor and without the necessity of Lender entering upon the taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall be immediately entitled to possession of all Rents of the Property as specified in this paragraph as the same become due and payable, including, but not limited to Rents then due and unpaid, and all such Rents shall immediately be held by Borrower as trustee for the benefit of Lender only; however, the written notice by Lender to Borrower of the breach by Borrower shall contain a statement that Lender exercises its rights to such Rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such Rents payable to and pay such Rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of the tenant to inquire further as to the existence of a default by Borrower.

33.1 Borrower hereby covenants that Borrower has not executed any prior

assignment of the Rents, that Borrower has not performed and will not perform any acts and has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph, and that at the time of execution of this Mortgage there has been no anticipation or prepayment of any of the Rents of the Property for more than one (1) month prior to the due dates of such Rents. Borrower covenants that Borrower will not hereafter collect or accept payments of any Rents of the Property more than one (1) month prior to the due dates of such Rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of Rents of the Property as Lender may from time to time request.

33.2 Upon Borrower's default of any covenant or agreement of Borrower in this Mortgage, and upon the notice and expiration of period to cure, if any, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases and subleases, the collection of all Rents of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of the covenant or agreement of Borrower in this Mortgage, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

33.3. All Rents collected by Lender pursuant to this Section 33 shall be applied as provided in Section 22 hereof. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph.

33.4. If the Rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the Rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Mortgage. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

33.5. Any entering upon and taking and maintaining of Control of the Property by Lender or the receiver and any application of Rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or as provided herein. This assignment of Rents of the Property shall terminate at such time

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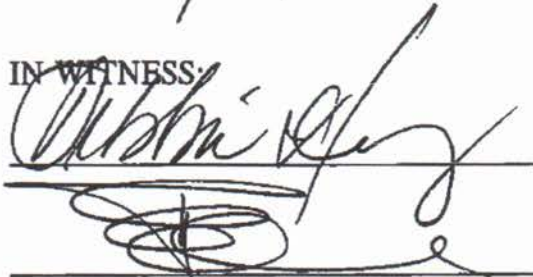
as this Mortgage ceases to secure indebtedness held by Lender.

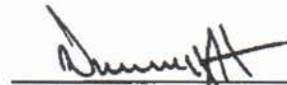
34. **MISCELLANEOUS.** This Mortgage may be changed, waived, discharged, or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. The headings in this Mortgage are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Mortgage shall be governed by and construed in accordance with the laws of the United States Virgin Islands.

35. **INTEREST AND ADVANCES TO PROTECT COLLATERAL.** This Mortgage secures and shall secure the Obligations. Without limiting the foregoing, this Mortgage secures any and all interest on the indebtedness, costs of collection, and any advances made by the Lender reasonably necessary for protection of the collateral or otherwise authorized hereby.

IN WITNESS WHEREOF, the Borrower has caused this Mortgage to be duly executed on the date first above written:

DATED: 9/15/97

IN WITNESS:  
  
\_\_\_\_\_

  
\_\_\_\_\_  
Waleed Hamed, President  
Sixteen Plus Corporation

[CORPORATE SEAL]

ATTEST:  
  
\_\_\_\_\_  
Fathi Yusuf, Secretary

**ACKNOWLEDGEMENT FOR CORPORATION**

TERRITORY OF THE VIRGIN ISLANDS )  
 )ss:  
DISTRICT OF ST. CROIX )

On this 15<sup>th</sup> day of September, 1997, before me the undersigned officer, personally appeared **Fathi Yusuf**, known to me (or satisfactorily proven) and this person acknowledged under oath, to my satisfaction, that:

- (a) this person is the Secretary of Sixteen Plus Corporation, the corporation named in this Contract;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer who is **Waleed Hamad**, the President of the corporation;
- (c) this document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- (d) this person knows the proper seal of the corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

SIGNED AND SWORN to before me on this 15 day of September, 1997.

  
Notary Public

22<sup>nd</sup> Feb  
 2:51 o'clock  
 Recorded and Entered in Recorder's Book for  
 District of St. Croix, Virgin Islands of the U.S.A.  
 Photo copy 679 Page 33  
 No. 7108/1999 and noted in Real Property Register  
 L: 37: 46 Page 77: 186; 304, 305 + =  
 Susan J. Rubaton  
 \$ 508.50



# EXHIBIT A

1. Parcel No. 8, Estate Cane Garden, of approximately 2.6171 U.S. Acres.
2. Remainder No. 46A, Estate Cane Garden, of approximately 7.6460 U.S. Acres.
3. Parcel No. 10, Estate Cane Garden, of approximately 2.0867 U.S. Acres.
4. Road Plot No. 11, Estate Cane Garden, of approximately 0.0868 U.S. Acres.
5. Parcel No. 11, Estate Retreat, Matr. No. 37B of Company Quarter and Peter's Minde, Matr. No. 37A and 37BA, Company Quarter, and No. 54 Queen's Quarter all of approximately 42.3095 U.S. Acres.
6. Remainder Matr. 32B, Estate Cane Garden of approximately 48.5175 U.S. Acres.
7. Parcel No. 9 Estate Cane Garden, of approximately 11.9965 U.S. Acres.
8. Remainder Matr. 32A, Estate Granard, of approximately 41.0736, U.S. Acres.
9. Parcel No. 40, Estate Granard of approximately 14.9507 U.S. Acres.
10. Remainder Matr. No. 31, Estate Diamond, of approximately 74.4220 U.S. Acres.
11. Parcel No. 4, Estate Diamond, of approximately 5.8662 U.S. Acres.
12. Parcel No. 1, Estate Diamond, of approximately 61.2358 U.S. Acres.
13. Parcel No. 3, Estate Diamond, of approximately 6.9368 U.S. Acres.
14. Parcel No. 2, Estate Diamond, of approximately 6.5484 U.S. Acres.
15. Road Plot No. 12, Estate Cane Garden, of approximately 0.4252 U.S. Acres.
16. Road Plot No. 41, Estate Granard, of approximately 0.4255 U.S. Acres.
17. Road Plot No. 6, Estate Diamond, of approximately 0.8510 U.S. Acres.



20<sup>nd</sup> Feb  
8:51 o'clock P.M.  
Recorded and Entered in Recorder's Book for  
District of St. Croix, Virgin Islands of the U.S.A.  
Photo copy 1079 Page 33  
No. 11081999 and noted in Real Property Return  
II: 37; 166 Page 277; 186; 304, 305 & 306  
*Brian J. Robinson*  
#1-75

# EXHIBIT C

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS**

**DIVISION OF ST. CROIX**

**SIXTEEN PLUS CORPORATION, ,**

Plaintiff,

v.

**MANAL MOHAMMAD YOUSEF,**

Defendant.

Case No.: SX – 2016- 65

**ACTION FOR DAMAGES**

**JURY TRIAL DEMANDED**

**AFFIDAVIT OF HISHAM HAMED**

I, HISHAM HAMED, duly sworn, state under oath as follows:

1. I am an adult resident of St. Croix.
2. I have personal knowledge of the matters set forth herein.
3. I am a shareholder in Sixteen Plus Corporation.
4. On February 10, 1997, Sixteen Plus was formed as a corporation to purchase a 300 plus acre parcel of land on the South shore of St. Croix, often referred to as Diamond Keturah (hereinafter referred to as the “Land”) from the Bank of Nova Scotia (“BNS”), which had obtained its ownership interest through a foreclosure sale conducted in 1996.
5. A contract to buy the Land was entered into between Sixteen Plus and BNS on February 14, 1997.
6. At the time it was formed and at all times up to the present, the stock of Sixteen Plus has been owned 50% by Fathi Yusuf and his family members and 50% by Mohammad Hamed and his family members.
7. At the time Sixteen Plus was formed, Fathi Yusuf and Mohammad Hamed were 50/50 partners in a grocery business known as Plaza Extra Supermarkets.



8. Fathi Yusuf and Mohammad Hamed decided to buy the Land in question by providing the necessary funds to Sixteen Plus using proceeds from the grocery store they owned – which they did.

9. Yusuf, acting for the partners, undertook the business arrangements regarding the purchase of the land.

10. All funds used to buy the Land came from the Plaza Extra Supermarkets partnership.

11. However, Fathi Yusuf did not want either the Government of the Virgin Islands or BNS to know the source of the funds he was using to buy the Land, as he did not want them to know he was secretly diverting unreported cash from the Plaza Extra Supermarket to Sixteen Plus as part of a criminal money laundering plan.

12. As such, Fathi Yusuf conspired with Isam Yousef, his nephew, to launder in excess of \$4,000,000 in unreported, untaxed partnership funds to St. Martin from the Plaza Extra Supermarket operations so that he could then wire these funds back to a Sixteen Plus account at BNS. It was understood that Sixteen Plus was to use these laundered funds from the partnership to purchase the Land.

13. To accomplish this task, Fathi Yusuf had large sums of cash delivered to Isam Yousef in St. Martin, who thereafter deposited it into a bank account in St. Martin. He then transferred these partnership funds by wire to an account in the name of Sixteen Plus at BNS. These wire transfers to Sixteen Plus' account at BNS took place between February 13th and September 4th of 1997.

14. To further cover up the partnership source of these funds, as well as to try to shelter Isam Yousef from exposure to criminal consequences from the scheme to launder the cash from the grocery store, Fathi Yusuf and Isam Yousef agreed to create a sham note and mortgage for the

transaction, naming Fathi Yusuf's niece, Manal Mohammad Yousef ("Manal Yousef"), as the sham mortgagee.

15. In fact, Manal Yousef did not have funds on hand to make such a loan.

16. As such, Manal Mohammad Yousef's name was used as a "straw" mortgagee, without any consideration given by her in exchange for the Mortgage.

17. Fathi Yusuf assured his partner, Mohammad Hamed, as well as the various Hamed shareholders of Sixteen Plus, that Manal Yousef would never try to enforce the mortgage and that he could get it discharged at any time.

18. The sham mortgage and note in the amount of \$4,500,000 was executed by Sixteen Plus in favor of Manal Yousef on September 15, 1997, well over a year before the property was purchased.


19. The sham note and mortgage in the amount of \$4,500,000, were executed by Sixteen Plus in favor of Manal Yousef even though she did not advance any funds or other consideration of any kind whatsoever to Sixteen Plus as consideration for the mortgage.

20. The Mortgage is unenforceable because Manal Yousef did not give any consideration to Sixteen Plus in exchange for the Mortgage.

**Dated:** October 21, 2016

  
\_\_\_\_\_  
**HISHAM HAMED**

Sworn to and Subscribed to Before Me  
this 21 day of October, 2016

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

\_\_\_\_\_  
NOTARY PUBLIC  
**JERRI FARRANTE**  
Commission Exp: September 3, 2019  
NP-93-15