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THIS INSTRUMENT PREPARED BY/RETURN TO:

07/31/0076 28 001 Page 1 of 5
2000-08-30 15:43:48
Cook County Recorder 29.00

DENISE WICK
FIRST BANK AND TRUST COMPANY
300 E. Northwest Highway
Palatine, IL 60067



00674948

Fourth Modification Agreement

THIS AGREEMENT, dated this 18th day of July, 2000, but with an effective date of June 30, 2000, by and between FIRST BANK AND TRUST COMPANY OF ILLINOIS, NOT PERSONALLY, BUT AS TRUSTEE UNDER THE PROVISIONS OF TRUST AGREEMENT DATED OCTOBER 28, 1997 and known as TRUST NO. 10-2166 ("TRUSTEE"), RUSSELL MCELWAIN, an individual, and WARREN MCELWAIN, an individual, jointly and severally (Trustee, Russell McElwain and Warren McElwain are hereinafter collectively referred to as "BORROWER" whether singular or plural), and FIRST BANK AND TRUST COMPANY OF ILLINOIS, (hereinafter referred to as the "BANK" and/or the "LENDER").

WITNESSETH:

WHEREAS, BORROWER executed and delivered to the BANK, a Promissory Note (hereinafter referred to as "NOTE") dated JANUARY 29, 1998 in the amount of Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00).

WHEREAS, BORROWER executed and delivered to the BANK a Mortgage (hereinafter referred to as "MORTGAGE") dated JANUARY 29, 1998 securing the NOTE and conveying and mortgaging real estate located in COOK County, State of ILLINOIS, legally described as follows:

SEE LEGAL DESCRIPTION AS DESCRIBED ON EXHIBIT "A-1" ATTACHED HERETO AND MADE A PART HEREOF.

COMMONLY KNOWN AS: 3.1 ACRES AT THE SOUTHEAST CORNER OF QUENTIN AND NORTHWEST HIGHWAY, PALATINE, ILLINOIS 60067

PIN: 02-15-100-002

said MORTGAGE being recorded in the Recorder's/Registrar's Office of COOK County, Illinois, on FEBRUARY 25, 1998, as Document Number 98150033.

WHEREAS, BORROWER executed and delivered to the BANK an Assignment of Rents and Lessor's Interest In Leases (hereinafter referred to as "ASSIGNMENT OF RENTS") dated JANUARY 29, 1998, on the above-referenced property. Said Assignment of Rents was recorded in the Recorder's/Registrar's Office of COOK County, Illinois, on February 25, 1998, as document number 98150034.

WHEREAS, the BORROWER certifies that there are no other liens, encumbrances or other mortgages (except for real estate taxes not yet due), on the real estate and improvements, except in favor of the BANK.

WHEREAS, the MORTGAGE represents a FIRST mortgage upon the real estate located at 3.1 ACRES AT THE SOUTHEAST CORNER OF QUENTIN AND NORTHWEST HIGHWAY, PALATINE, ILLINOIS.

WHEREAS, BORROWER assigned to BANK their entire beneficial interest in First Bank land trust no. 10-2166 by executing a SECURITY AGREEMENT AND COLLATERAL ASSIGNMENT OF BENEFICIAL INTEREST IN LAND TRUST, dated JANUARY 29, 1998, as additional collateral for the above described NOTE.

WHEREAS, BORROWER delivered an Amended and Restated Mortgage Note dated September 29, 1998 (the "Amended Note") (the Amended Note is sometimes referred to herein as "NOTE" along with that certain Note dated January 29, 1998) to Bank, in the principal sum of Four Million Five Hundred Thousand and No/100 (\$4,500,000.00), the terms of which Amended Note are incorporated herein by this reference.

WHEREAS, BORROWER executed and delivered to BANK an AMENDMENT TO MORTGAGE (referred to herein as "FIRST MODIFICATION") dated OCTOBER 5, 1998, extending the maturity date of the NOTE to the earlier of Lender's demand or JUNE 30, 1999, which was recorded in the Recorder's/Registrar's Office of COOK County, Illinois, on October 20, 1998 as document number 98939677.

BOX 158

WHEREAS, BORROWER executed and delivered to BANK a second modification (herein referred to as "SECOND MODIFICATION") extending the maturity date of the NOTE to the earlier of Lender's demand or DECEMBER 31, 1999.

WHEREAS, BORROWER executed and delivered to BANK a third modification (herein referred to as "THIRD MODIFICATION" also, the Third Modification shall be collectively referred to herein with the First Modification and Second Modification as "MODIFICATIONS") extending the maturity date of the NOTE to the earlier of Lender's demand or JUNE 30, 2000."

WHEREAS, the BORROWER and LENDER agree that as of the date hereof the principal loan balance is One Million Four Hundred Twenty-four Thousand Seven Hundred Seventy-three and-----86/100 (\$1,424,773.86).

WHEREAS, the BORROWER has requested and the LENDER has agreed to extend the maturity date of the NOTE.

NOW THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS, and other good and valuable considerations in hand paid, the mutual benefits of the parties hereto, the receipt of which is hereby mutually acknowledged, the parties hereto agree as follows:

1. That the foregoing recitals are hereby incorporated into and made a part of this FOURTH MODIFICATION AGREEMENT.
2. That the maturity date described in the NOTE be extended from the earlier of demand or June 30, 2000, to the earlier of demand or November 30, 2000.
3. That the BORROWER agrees to pay BANK a Ten Thousand and No/100-----(\$10,000.00) loan fee and any other fees due to BANK, including any trust fees, incurred in connection with this Third Modification and authorizes Bank to increase the principal balance of the Note by said amount in payment of said fees.
4. That the interest floor described in said NOTE be changed to ten and a one-half percent (10.50%) per annum.
5. BORROWER agrees to provide Bank its currently dated financial statement on each anniversary date of this Note as well as upon request by Bank. Each financial statement provided by BORROWER shall be signed and currently dated by BORROWER and certified by BORROWER to Bank to be a true and correct financial statement. BORROWER further acknowledges that its failure to timely deliver its financial statement shall constitute a default pursuant to the terms of the Note and Amended Note and other loan documents which shall cause interest to accrue at the default rate from the due date of the financial statement through the date said financial statement is delivered to and received by Bank. BORROWER authorizes Bank to order any credit reports and other information that Bank deems necessary to perform its periodic credit reviews. BORROWER agrees to pay Bank an annual fee of \$250, plus costs, including the cost of credit reports and other information, for and in connection with its periodic credit reviews and further authorizes Bank to add said fee and costs to its loan.
6. In the event any Liabilities are not paid to BANK when due, all Liabilities outstanding will accrue interest, from such due date until such overdue amount is paid, at the rate of twenty-four (24%) per annum, calculated on the basis of a 360-day year and actual days elapsed. All payments hereunder shall be made to BANK at its place of business, 300 E. Northwest Highway, Palatine, Illinois. Any payments received will be applied first to any costs and expenses due hereunder, second to any interest then due, third to any principal then due, fourth to any interest accrued but not then due and the remainder to any principal outstanding.
7. Whenever the context of this MODIFICATION AGREEMENT or any of the other loan documents including, but not limited to, the NOTE, MORTGAGE, MODIFICATION(S) AND ASSIGNMENT OF BENEFICIAL INTEREST IN LAND TRUST so requires, the singular number shall include the plural number and vice versa, and any gender shall be deemed to include the feminine, masculine or neutral gender.
8. That the BANK agrees on behalf of itself and of any subsequent holder to mark the NOTE so as to reflect the terms of this Agreement before transferring or negotiating the same.
9. That the BORROWER hereby agrees that the lien of the said MORTGAGE, MODIFICATION(S) AND ASSIGNMENT OF BENEFICIAL INTEREST IN LAND TRUST shall secure the NOTE as hereby amended to the same extent as if the amendments made herein were set forth and described in said NOTE, MORTGAGE, MODIFICATION(S) AND ASSIGNMENT OF BENEFICIAL INTEREST IN LAND TRUST.
10. That both parties hereto further mutually agree that all of the terms, provisions, stipulations, powers, and covenants in the said NOTE, MORTGAGE, MODIFICATION(S) AND ASSIGNMENT OF BENEFICIAL INTEREST shall stand and remain unchanged and in full force and effect and shall be binding upon them except as changed or modified in express terms by this Agreement.
11. That this Agreement shall extend to and be binding upon the parties hereto, their heirs, personal representatives, successors, and assigns.
12. BORROWER acknowledges that the BANK's Land Trust Department charges fees for its services which may or may not differ substantially from fees charged by other institutions providing land trust services. BORROWER hereby acknowledges receipt of the BANK's current fee schedule for Land Trust Services, a copy of which is attached hereto and made a part hereof as "Exhibit A". BORROWER agrees to pay the BANK's land trust fees pursuant to said Schedule and authorizes the BANK to charge said fees directly to the loan balance at the discretion of the BANK.

13. BORROWER acknowledges that the BANK charges fees for services it provides in connection with administering its loans including but not limited to, release fees, construction draw fees and inspection fees. These may or may not differ substantially from fees charged by other institutions. BORROWER hereby acknowledges receipt of the BANK's current Commercial Real Estate Loan Fee Schedule for the various services described above, a copy of which is attached hereto and made a part hereof as "Exhibit B". BORROWER agrees to pay the BANK's fees pursuant to said Schedule and authorizes the BANK to charge said fees directly to the loan balance at the discretion of the BANK.

14. BORROWER hereby acknowledges and agrees that certain costs and expenses advanced by the BANK and charged to BORROWER (including, but not limited to, appraisal fees, overnight delivery service, messenger service, attorney's fees, title fees and environmental inspection report fees) may include not only the BANK's actual out-of-pocket costs but additionally a "mark-up" by the BANK. BORROWER acknowledges and agrees that said "mark-up" will be an amount determined by the BANK, in its sole discretion, which may, but does not need to be, deemed reasonable and/or customary to others, and will represent compensation for the BANK's oversight, review and analysis as well as a profit for the BANK for providing these services. BORROWER agrees to pay the BANK's charges for such services rendered by it or others and authorizes the BANK to charge said fees directly to the loan balance at the discretion of the BANK.

15. This Fourth Modification Agreement dated July 18, 2000, by and among First Bank and Trust Company of Illinois, not personally but solely as Trustee under Trust Agreement dated October 28, 1997, and known as Trust No. 10-2166 and Russell McElwain and Warren McElwain is executed by First Bank and Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois), not personally, but solely as Trustee under and pursuant to that certain Trust Agreement hereinafter described and the Trustee does not obligate itself hereunder, anything herein contained to the contrary notwithstanding, to the performance of any of the terms, conditions and representations made and contained in the within instrument, it being specifically understood by any and all parties dealing with this instrument that said trustee has affixed its signature hereto as such Trustee by direction in behalf of the beneficiary or beneficiaries under the said trust without any intention of binding the said Trustee in its individual capacity. The Trustee has no knowledge of the factual matters herein contained and all agreements, conditions and representations are made solely upon the direction in behalf of the beneficiary or beneficiaries as aforesaid, and no personal liability shall be asserted to be enforceable against said Bank by reason hereof or thereof, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, First Bank and Trust Company of Illinois (formerly known as First Bank and Trust Co., Palatine, Illinois) not personally, but as Trustee under the provisions of a Trust Agreement dated October 28, 1997 and known as Trust Number 10-2166, has caused these present to be signed by its Assistant Trust Officer and Assistant Trust Officer, and its corporate seal to be hereunto affixed and attested by its Assistant Trust Officer this 18th day of July, 2000.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and first above written.

BORROWER:

BY: 

RUSSELL MCELWAIN

BY: 

WARREN MCELWAIN

AND;

FIRST BANK AND TRUST COMPANY OF ILLINOIS, NOT PERSONALLY, BUT AS TRUSTEE UNDER A TRUST AGREEMENT DATED OCTOBER 28, 1997 AND KNOWN AS TRUST #10-2166.

BY: 

ASST. TRUST OFFICER

ATTEST: 

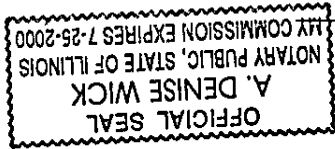
ASST. TRUST OFFICER

STATE OF ILLINOIS)
COUNTY OF COOK)

I, A. Denise Wick, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT WARREN MCLEWAIN personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial Seal this 18th day of July, 2000.

A. Denise Wick
NOTARY PUBLIC

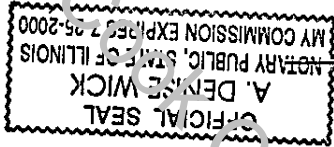


STATE OF ILLINOIS)
COUNTY OF COOK)

I, A. Denise Wick, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT RUSSELL MCLEWAIN personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial Seal this 18th day of July, 2000.

A. Denise Wick
NOTARY PUBLIC



STATE OF ILLINOIS)
COUNTY OF COOK)

I, Cathy S. Hoffman, a Notary Public, in and for said County, do hereby certify that Carl Ralf VP. ASST. TRUST OFFICER of the First Bank and Trust Company of Illinois and Jeremy Ardis VP. ASST. TRUST OFFICER of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such ASST. TRUST OFFICERS respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said ASST. TRUST OFFICERS then and there acknowledged that they, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as their own free and voluntary act of said Bank as Trustee, aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of August, 2000.

Cathy S. Hoffman
NOTARY PUBLIC

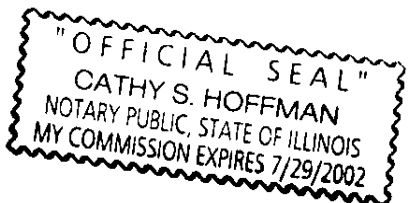


EXHIBIT "A"

LEGAL DESCRIPTION

THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 15, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN PUBLIC HIGHWAY 5.60 CHAINS EAST OF THE NORTHWEST CORNER OF SAID SECTION 15, THENCE EAST 3.80 CHAINS, THENCE SOUTH 8 CHAINS, THENCE WEST 3.80 CHAINS, THENCE NORTH 8 CHAINS TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

TAX No: 02-15-100-002

Property of Cook County Clerk's Office