

RESTATEMENT AND MODIFICATION  
AGREEMENT



THIS RESTATEMENT AND MODIFICATION AGREEMENT (this "Modification") is entered into as of August ~~8~~<sup>8</sup>, 2000 by and among LASALLE NATIONAL BANK, not personally, but as successor Trustee to American National Bank and Trust Company of Chicago, as Successor Trustee to First Chicago Trust Company of Illinois, as Successor Trustee to First Chicago Bank of Ravenswood, under Trust Agreement dated November 22, 1989 and known as Trust No. 25-10451 ("Trustee") Kaiser Family Limited Partnership, an Illinois limited partnership ("KFLP"), Jordon Kaiser ("J. Kaiser"), Walter Kaiser ("W. Kaiser") (KFLP, J. Kaiser and W. Kaiser are collectively referred to herein as "Beneficiary") (Trustee and Beneficiary are collectively referred to herein as "Borrower"), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Lender").

RECITALS:

- A. On April 19, 1991, Borrower and Jeffrey Kaiser (collectively, "Old Borrower") borrowed from First Chicago Trust Company of Illinois ("Old Lender") the sum of \$821,900 (the "Loan").
- B. The Loan was evidenced by a Note of even date therewith made by Old Borrower to Old Lender in the principal amount of \$821,900 (the "Original Note"), which note was payable to the order of First Chicago Bank of Ravenswood. The Original Note was evidenced and secured, among other things, by:
  - 1. A Trust Deed by Trustee in favor of Old Lender, dated April 19, 1991 (the "Mortgage") and recorded May 14, 1991 in the Office of the Cook County Recorder as Document No. 91228456.
  - 2. An Assignment of Rents by Old Borrower in favor of Old Lender, dated April 19, 1991 (the "Assignment of Rents") and recorded May 14, 1991 in the Office of the Cook County Recorder as Document No. 91228457.
- C. The interest of Old Lender in the Loan was transferred to Lender by virtue of various assignments, including but not limited to, the Assignment dated August 28, 1996 and

recorded October 29, 1996 in the Office of the Cook County Recorder as Document No. 96824148.

D. On October 31, 1996, Old Borrower and Lender modified the term of the Initial Loan to, among other things, increase the principal balance of the Loan to \$833,082.43 (the "First Modification").

E. The First Modification was evidenced by an Installment Note (Secured) of even date therewith made by Old Borrower to Lender in the principal amount of \$558,082.43 (the "New First Note"), and a Demand Note (Secured) dated as of November 14, 1996, made by Old Borrower to Lender in the principal amount of \$275,000 (the "New Second Note"). (The New First Note and the New Second Note are collectively referred to herein as the "New Note"). The New Note was evidenced and secured, among other things, by the Mortgage and Assignment of Rents. (The Note, the Mortgage, the Assignment of Rents, the New Note, and any other document or instrument securing the obligations of Borrower under the Loan are hereinafter collectively referred to as the "Loan Documents")

F. The current outstanding principal balance under the Loan is \$595,082.43.

G. Borrower wishes, and Lender is willing, to further modify the terms of the Loan Documents, subject to the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitals. The foregoing recitals are hereby incorporated into and made a part of this Modification, and Borrower hereby certifies to the accuracy of the foregoing recitals.

2. Capitalized Terms. Capitalized terms contained in this Modification shall retain the meaning given under the New Note or the Loan Documents.

3. Interest Rate. The third full paragraph of the New First Note and the fourth full paragraph of the New Second Note are hereby deleted in their entirety and replaced with the following:

The unpaid principal balance of Borrower's Liabilities due hereunder shall bear interest from the date of disbursement until paid, computed as follows: at a daily rate equal to the daily rate equivalent of 9.50% per annum (computed on the basis of a 360-day year and actual days elapsed); provided, however, that in the event that any of Borrower's Liabilities are not paid when due, the unpaid amount of Borrower's Liabilities shall bear interest after the due date until paid at a rate equal to the sum of the rate that would otherwise be in effect plus 3%.

4. Release of Jeffrey Kaiser. Due to the death of Jeffrey Kaiser, the Loan Documents shall be modified so that Old Borrower is replaced with Borrower.

5. Repayment of Principal and Interest. Notwithstanding anything to the contrary contained in the Loan Documents, the amounts due under the New Note shall be payable in successive installments as follows: monthly installments of principal and interest in the amount of \$10,000, with the final installment equal to the balance of all amounts due under the New Note on April 30, 2007.

6. Conditions Precedent. Borrower acknowledges and agrees that this Modification shall be of no force or effect unless and until:

(a) This Modification has been executed by Borrower and delivered to and accepted and executed by Lender and recorded with the Cook County Recorder of Deeds.

(b) Chicago Title Insurance Company shall have delivered to Lender an endorsement, dated no earlier than the recording date of this Modification, to its Policy No. 1401-007286981 dated October 29, 1996, which endorsement shall (i) insure the validity and first priority of each of the recorded Loan Documents as securing the Note, as the same are amended by this Modification; (ii) disclose no Schedule B-1 exceptions other than those set forth in said Policy or as approved in writing by Lender's counsel; and (iii) insure that Borrower is owner in fee simple of title to the Property.

7. Documents to Remain in Effect; Confirmation of Obligations. The New Note and the Loan Documents shall remain in full force and effect as originally executed and delivered by the parties, except as expressly modified and amended herein. The Loan Documents shall include this Modification, and all references in the Loan Documents to such documents shall be deemed to refer to the Loan Documents as modified herein. Borrower hereby confirms and reaffirms all of their obligations under the Loan Documents, as modified and amended herein, and confirm and reaffirm that the Loan Documents secure the New Note. To induce Lender to enter into this Modification, Borrower hereby represents, acknowledges and agrees that it does not now have or hold any defense to the performance of any of its obligations under the New Note or the Loan Documents, nor does Borrower have any claim against Lender which might be set off or credited against any payments due under any of the Loan Documents. Borrower further represents, acknowledges and agrees that, as of the date hereof, they do not have any actual or potential actions, claims, suits or defenses arising from any letters of intent, correspondence or other communications (oral or written) between Borrower and Lender.

8. Certifications, Representations and Warranties. In order to induce Lender to enter into this Modification, Borrower hereby certifies, represents and warrants to Lender that all certifications, representations and warranties contained in the Loan Documents and in all certificates heretofore delivered to Lender are true and correct as of the date hereof, and all such certifications, representations and warranties are hereby remade and made to speak as of the date of this Modification.

9. Additional Certifications, Representations and Warranties. In addition to the certifications, representations and warranties set forth in the Loan Documents, Borrower hereby certifies, represents and warrants to Lender that:

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(a) Borrower has all necessary power to carry on its present businesses, and has full right, power and authority to enter into and execute and deliver this Modification and to otherwise perform and consummate the transactions contemplated hereby.

(b) This Modification has been duly authorized, executed and delivered by Borrower and constitute valid and legally binding obligations enforceable against each party in accordance with their terms. The execution and delivery of this Modification and compliance with the provisions hereof and thereof under the circumstances contemplated herein and therein do not and will not conflict with or constitute a breach or violation of or default under the agreement creating Borrower or any agreement or other instrument to which Borrower is a party or by which it is bound, or to which any of its properties are subject, or any existing law, administrative regulation, court order or consent decree to which any one of them is subject.

(c) There is no litigation or administrative proceeding pending or threatened to restrain or enjoin the transactions contemplated by this Modification or questioning the validity hereof, or in any way contesting the existence or powers of Borrower, or in which an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Modification.

10. Not a Novation. Borrower and Lender expressly state, declare and acknowledge that this Modification is intended only to modify Borrower's continuing obligations under the New Note and the Loan Documents in the manner set forth herein and is not intended as a novation.

11. Entire Agreement. This Modification sets forth all of the covenants, provisions, agreements, conditions and understandings of the parties relating to the subject matter of this Modification, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are herein set forth. The parties hereto hereby agree that the terms of this Modification supersede all of the terms, conditions and obligations of Lender set forth in all prior commitment letters, correspondence or other commitments (oral or written) between Borrower and Lender relating to this Modification.

12. Additional Documents. Borrower agrees to execute and deliver such other documents requested by Lender or its counsel to achieve the objectives of this Modification, provided such other and further documents do not obligate Borrower to provide additional collateral for or materially increase Borrower's obligations related to the Loan.

13. Successors. This Modification shall inure to the benefit of and shall be binding upon the parties and their respective successors, assigns and legal representatives.

14. Severability. In the event any provision of this Modification shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

15. Amendments, Changes and Modifications. This Modification may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

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16. Construction.

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a. The words “hereof”, “herein”, and “hereunder”, and other words of a similar import refer to this Modification as a whole and not to the individual sections in which such terms are used.

b. The headings of this Modification are for convenience only and shall not define or limit the provisions hereof.

c. Where the context so requires, words used in singular shall include the plural and vice versa, and words of one gender shall include all other genders.

d. Any capitalized terms not defined herein shall retain the meaning as set forth in the Loan Documents.

17. Execution of Counterparts. This Modification may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

18. Effective Date. The effective date of this Modification shall be as of the date hereof.

**[signatures contained on the following page]**

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IN WITNESS WHEREOF, the parties have executed this Modification as of the date first above written.

LENDER:

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO

By: Jack Guder  
Its: Vice President

TRUSTEE:

LASALLE NATIONAL BANK, not personally, but as successor Trustee to American National Bank and Trust Company of Chicago, as Successor Trustee to First Chicago Trust Company of Illinois, as Successor Trustee to First Chicago Bank of Ravenswood, under Trust Agreement dated November 22, 1989 and known as Trust No. 25-10451

This instrument is executed by LASALLE BANK National Association, not personally but solely as trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LASALLE BANK National Association are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LASALLE BANK National Association by reason of any of the terms, provisions, stipulations covenants and/or statements contained in this instrument

By: Richard A. Edwards  
Its: TRUST OFFICER

BENEFICIARY:

Kaiser Family Limited Partnership, an Illinois limited partnership

By: Kaiser Developers, Inc., an Illinois corporation, its General Partner

By: Walter Kaiser  
Its: PRES.  
Jordan Kaiser

Walter Kaiser  
Walter Kaiser



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STATE OF ILLINOIS )  
 )  
COUNTY OF Cook ) SS.

*and Jason Kaiser*  
*Chairman of the Board*

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that ~~Walter Kaiser~~ the ~~President~~ of Kaiser Developers, Inc., an Illinois corporation, General Partner of KAISER FAMILY LIMITED PARTNERSHIP, an Illinois limited partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

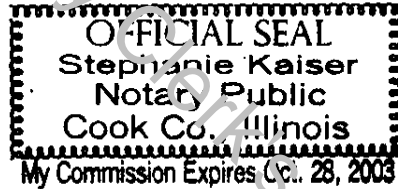
GIVEN under my hand and notarial seal, this 8<sup>th</sup> day of August, 2000.

*Stephanie Kaiser*  
NOTARY PUBLIC

(SEAL)

My Commission expires:

10-28-03



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STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

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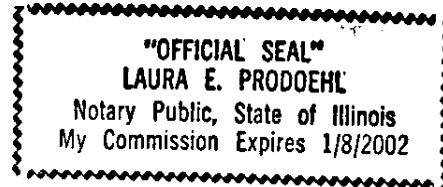
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jack Gander, the Vice President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said bank for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2ND day of August, 2000.

Laura E. Prodoehl  
Notary Public

My Commission Expires:

1/8/2002





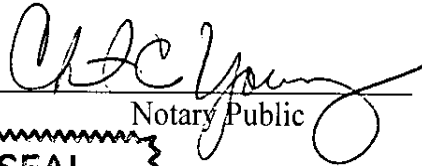
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STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

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I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that **RETA A. EDWARDS** Trust Officer of LASALLE NATIONAL BANK, not personally, but as successor Trustee to American National Bank and Trust Company of Chicago, as Successor Trustee to First Chicago Trust Company of Illinois, as Successor Trustee to First Chicago Bank of Ravenswood, under Trust Agreement dated November 22, 1989 and known as Trust No. 25-10451, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trust Officer and, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said bank, not personally but solely as Trustee aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13 day of <sup>September</sup>~~August~~, 2000.

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

My Commission Expires:

6-21-03



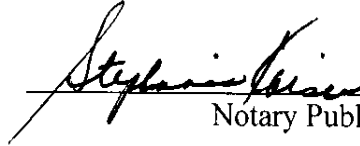
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STATE OF ILLINOIS        )  
                                  ) SS.  
COUNTY OF Cook        )

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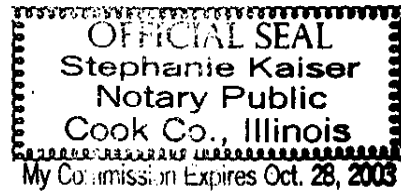
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Walter Kaiser, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8<sup>th</sup> day of August, 2000.

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

My Commission Expires:

10-28-03



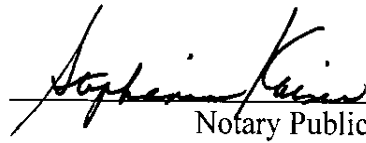
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STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF Cook     )

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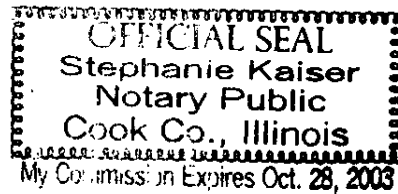
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jordon Kaiser, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8<sup>th</sup> day of August, 2000.

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

My Commission Expires:

10-28-03



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## Exhibit A

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### Legal Description

#### Parcel 1:

LOT 1 IN TOLLVIEW INDUSTRIAL PARK, BEING A RESUBDIVISION OF LOT 3 IN TOLLVIEW INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 12, LYING EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 29, 1992 AS DOCUMENT NUMBER 92057497, IN COOK COUNTY, ILLINOIS.

#### Parcel 2:

LOT 3 IN TOLLVIEW INDUSTRIAL PARK, BEING A RESUBDIVISION OF LOT 3 IN TOLLVIEW INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 29, 1992 AS DOCUMENT NUMBER 92057497, IN COOK COUNTY, ILLINOIS.

#### Parcel 3:

LOT 102 IN CUMMINS CARRIER SUBDIVISION, A RESUBDIVISION OF LOTS 4, 5, AND 6 IN TOLLVIEW INDUSTRIAL PARK, BEING A RESUBDIVISION OF LOT 3 IN TOLLVIEW INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 38 NORTH, RANGE 12, LYING EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 8745 West 82<sup>nd</sup> Street, Justice, Illinois

P.I.N.: 18-35-102-043

18-35-102-045

18-35-102-050

This instrument was prepared by and, after recording, return to:

Marc S. Joseph, Esq.

111 East Wacker Drive, Suite 2800

Chicago, Illinois 60601