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Cook County Recorder 37.50

COOK COUNTY
RECORDER
EUGENE "GENE" MOORE
MARKHAM OFFICE



THIRD AMENDMENT TO
MORTGAGE AND
ASSIGNMENT OF RENTS

*Cosmopolitan Bank & Trust Successor
Trustee to Pullman Bank & Trust Co.

Space Above This Line For Recording Data

This THIRD AMENDMENT TO MORTGAGE AND ASSIGNMENT OF RENTS (hereinafter referred to as this "Amendment") is made as of April 1, 2001 by and between *Pullman Bank and Trust Company, not personally but as Trustee under Trust Agreement dated April 16, 1973 as amended February 19, 1980 and known as Trust No. 71-81194 ("Mortgagor") and Pioneer Bank & Trust Company subsequently known as Banco Popular, Illinois, n/k/a Banco Popular North America ("Mortgagee"). All capitalized terms which are not defined hereunder shall have the same meanings herein as set forth in the Mortgage (as defined below).

WITNESSETH:

WHEREAS, Mortgagor conveyed to Mortgagee a mortgage lien on the real estate in Cook County, Illinois described in Exhibit A attached hereto and made a part hereof (the "Real Estate") pursuant to a mortgage dated September 29, 1995 and recorded with the Cook County Recorder of Deeds on October 4, 1995 as document number 95673464 (the "Mortgage"); and

WHEREAS, Mortgagor conveyed to Mortgagee a security interest in all rents from the Real Estate pursuant to the terms of an Assignment of Rents dated September 29, 1995 and recorded with the Cook County Recorder of Deeds on October 4, 1995 as document number 95673465 (the "Assignment of Rents"); and

WHEREAS, on or about April 1, 2001, the parties hereto along with other parties amended various loan documents relating to various credit facilities from Mortgagee to Mortgagor and other parties pursuant to and in accordance with the terms of that certain Seventh Modification of Secured Credit Agreement, Security Agreement, Mortgage, Assignment of Rents, and Related Loan Documents dated April 1, 2001 (the "Seventh Modification"); and,

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WHEREAS, pursuant to the terms of the Fourth Modification, the terms of the present Mortgage and Assignment of Rents are to be modified as set forth herein;

NOW THEREFORE, for and in consideration of the premises and mutual agreements herein contained and for the purposes of setting forth the terms and conditions of this Amendment, the parties, intending to be bound, hereby agree as follows:

1. **AFFIRMATION OF RECITALS.** The recitals set forth above are true and correct and are incorporated herein by this reference.

2. **AMENDMENT OF THE MORTGAGE.** The Mortgage is hereby amended as follows:

2.1 Paragraph 1.01 of the Mortgage, is hereby amended by deleting same in its entirety and inserting in lieu thereof the following:

1.01 **Collateral Agreement.** Whereas, pursuant to the terms of that certain Collateral Agreement Covering Loans To Third Party (together with any amendments, modifications, renewals or extensions thereof or substitutions therefor, the "Collateral Agreement") dated September 29, 1995, as the Collateral Agreement is modified and extended by that certain Extension of Collateral Agreement Covering Loans to Third Party dated November 21, 1997, that certain Second Extension of Collateral Agreement Covering Loans to Third Party Dated December 16, 1998, that certain Third Extension of Collateral Agreement Covering Loans to Third Party Dated June 14, 1999, that certain Fourth Extension of Collateral Agreement Covering Loans to Third Party Dated April 1, 2000, and that certain Fifth Extension of Collateral Agreement Covering Loans to Third Party Dated April 1, 2001, Lender is granted a security interest in the collateral specified therein as security for loans and advances (the "Loans") extended by Lender to Wittek Golf Supply Co., Inc., ("Wittek Golf") pursuant to the terms of that certain Secured Credit Agreement dated September 29, 1995 executed by Wittek Golf, said Loans including, but not being limited to (a) that certain Mortgage Note (the "Mortgage Note") of even date herewith, executed by Pullman Bank & Trust Company, not personally but as Trustee under Trust Agreement dated April 16, 1973 as amended February 19, 1980, and known as Trust No. 71-81194 and by Wittek Golf wherein said Obligors promise to pay to the order of Lender the principal amount of Seven Hundred Thousand and No/100 Dollars (\$700,000.00) in repayment of a loan from Lender to said Obligors in like amount; (b) that certain Secured Revolving Business Note dated April 1, 2001 in the original principal amount of Two Million and No/100 Dollars (\$2,000,000.00) executed by Wittek Golf, in repayment of a loan from Lender to Wittek Golf in like amount; and (c) those certain multi credit facility notes executed by Wittek Golf pursuant to the terms of the Secured Credit Agreement as amended, said multi credit facility notes totaling the maximum principal amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00), in repayment of loans from Lender to Wittek Golf in like amount; and

2.2 Except as specifically set forth to the contrary hereinabove, the Mortgage remains unmodified and in full force and effect.

3. **AMENDMENT OF ASSIGNMENT OF RENTS.** The Assignment of Rents is hereby amended as follows:

3.1 Paragraph 1.1 of the Assignment of Rents, is hereby amended by deleting same in its entirety

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and inserting in lieu thereof the following:

1.1 **Collateral Agreement.** Whereas, pursuant to the terms of that certain Collateral Agreement Covering Loans To Third Party (together with any amendments, modifications, renewals or extensions thereof or substitutions therefor, the "Collateral Agreement") dated September 29, 1995, as the Collateral Agreement is modified and extended by that certain Extension of Collateral Agreement Covering Loans to Third Party dated November 21, 1997, that certain Second Extension of Collateral Agreement Covering Loans to Third Party Dated December 10, 1998, that certain Third Extension of Collateral Agreement Covering Loans to Third Party Dated June 14, 1999, that certain Fourth Extension of Collateral Agreement Covering Loans to Third Party Dated April 1, 2000, and that certain Fifth Extension of Collateral Agreement Covering Loans to Third Party Dated April 1, 2001, Lender is granted a security interest in the collateral specified therein as security for loans and advances (the "Loans") extended by Lender to Wittek Golf Supply Co., Inc., ("Wittek Golf") pursuant to the terms of that certain Secured Credit Agreement dated September 29, 1995 executed by Wittek Golf, said Loans including, but not being limited to (a) that certain Mortgage Note (the "Mortgage Note") of even date herewith, executed by Pullman Bank & Trust Company, not personally but as Trustee under Trust Agreement dated April 10, 1973 as amended February 19, 1980, and known as Trust No. 71-81194 and by Wittek Golf wherein said Obligor promise to pay to the order of Lender the principal amount of Seven Hundred Thousand and No/100 Dollars (\$700,000.00) in repayment of a loan from Lender to said Obligor in like amount; (b) that certain Secured Revolving Business Note dated April 1, 2001 in the original principal amount of Two Million and No/100 Dollars (\$2,000,000.00) executed by Wittek Golf, in repayment of a loan from Lender to Wittek Golf in like amount; and (c) those certain multi credit facility notes executed by Wittek Golf pursuant to the terms of the Secured Credit Agreement, as amended, said multi credit facility notes totaling the maximum principal amount of Two Hundred Thousand and No/100 Dollars (\$200,000.00), in repayment of loans from Lender to Wittek Golf in like amount, and

3.2 Except as specifically set forth to the contrary hereinabove, the Assignment of Rents remains unmodified and in full force and effect.

4. **RELATION BACK.** This Amendment constitutes only an amendment to the Mortgage and Assignment of Rents and shall not be deemed to constitute a new security interest or lien or otherwise effect the priority of the mortgage lien granted by the Mortgage or the lien on Rents granted by the Assignment of Rents. Except as specifically set forth herein, the Mortgage and Assignment of Rents as recorded shall retain their priority position and shall remain in full force and effect and their provisions shall continue to be binding on the parties hereto.

5. **COUNTERPARTS.** This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. **ADDITIONAL PROVISIONS.** This Amendment shall be effective only upon:

(a) Delivery by Obligor to Lender of a satisfactory Date Down Endorsement to the existing Mortgagee's title insurance policy issued by Chicago Title Insurance Company insuring the continued validity and priority of the Loan Documents, as herein amended, following the recording of this Agreement (subject only to the matters set forth on Schedule B of said policies and approved by Lender), confirming all previous

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endorsements thereto, if any, adjusting the amount of the insurance to \$2,900,000.00 and extending the effective date of the policies through the date of recording of this Agreement.

(b) Payment by Mortgagor to Mortgagee, immediately upon the submission of bills and invoices therefor, of all amounts incurred by or on behalf of Mortgagee for attorneys' fees, recording expenses, title expenses, title charges, title endorsement fees, and all other costs incurred or to be incurred by or on behalf of Mortgagee by reason of the matters specified herein and the preparation of this Amendment and all other documents necessary and required to effectuate the provisions hereof, including, without limitation, all costs and expenses with respect to compliance by the Mortgagor with the terms and conditions hereof and Mortgagee's enforcement thereof.

(c) The recording of a counterpart of this Amendment in the Recorder's Office.

7. **GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State of Illinois, without regard to its conflict of laws principles.

8. **RATIFICATION; AUTHORITY.** Except as herein amended, the Mortgage shall remain in full force and effect, and all of the terms and provisions of the Mortgage, as herein amended, are hereby ratified and reaffirmed.

Except as herein amended, the Assignment of Rents shall remain in full force and effect, and all of the terms and provisions of the Assignment of Rents, as herein amended, are hereby ratified and reaffirmed. Mortgagor represents to Lender that there is no other ownership interest, mortgage lien, trust deed, or other interest, now outstanding against the Mortgaged Property, other than the lien of the Mortgage; and that the lien of the Mortgage is previously subsisting and, as herein amended, has been, is and shall remain a valid first, prior and paramount lien on the Mortgaged Property, as described on Exhibit A attached hereto, enjoying the same or superior priority with respect to other claims upon the Mortgaged Property as prevailed prior to the execution of this Agreement. Mortgagor has duly authorized, executed and delivered this Agreement, and acknowledges that the Loan Documents are valid and enforceable in accordance with their terms against Mortgagee.

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

MORTGAGOR:

****for signatures, notarys and exculpatory provisions of the Trustee see Rider attached hereto which is expressly incorporated herein and made a part hereof.** *Pullman Bank and Trust Company, not personally but as Trustee as aforesaid

By: _____
Title: _____

[SEAL]

Attest:

Title: _____



This Document Prepared By
and Return To:
Bruce W. Craig
Banco Popular North America
4801 West Fullerton Avenue
Chicago, Illinois 60639

MORTGAGEE:

PIONEER BANK & TRUST COMPANY subsequently know as BANCO POPULAR, ILLINOIS and n/k/a BANCO POPULAR NORTH AMERICA

By: [Signature]
Title: [Signature]

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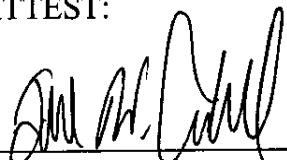
RECEIVED IN BAD CONDITION

This instrument is executed by COSMOPOLITAN BANK AND TRUST, not personally, but solely as Trustee, in 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 COSMOPOLITAN BANK AND TRUST 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 COSMOPOLITAN BANK AND TRUST by reason of any of the terms, provisions, stipulations, covenants, conditions, and/or statements contained in this instrument.

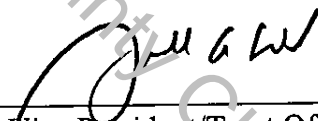
IN WITNESS WHEREOF, COSMOPOLITAN BANK AND TRUST, not personally, but as Trustee as aforesaid, has caused these presents to be signed by its Vice President/Trust Officer and Asst. Vice President/Trust Officer.

COSMOPOLITAN BANK AND TRUST,
AS TRUSTEE AS AFORESAID AND NOT PERSONALLY.

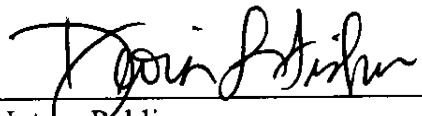
ATTEST:


Asst. Vice President/Trust Officer

BY:


Vice President/Trust Officer

Subscribed and Sworn to before me
This 1st day of June, 2001.


Notary Public

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On this ~~6th~~ day of June, ²⁰⁰¹ ~~1998~~, before me, a Notary Public in and for said County and State, appeared Gerald R Hawk, to me known to be the person who subscribed the name of PIONEER BANK & TRUST COMPANY subsequently known as BANCO POPULAR, ILLINOIS and n/k/a BANCO POPULAR NORTH AMERICA, to the foregoing instrument as its VP who, being by me duly sworn, did state that he/she is the VP of said bank and that said instrument was signed and delivered by him/her on behalf of said bank by authority of its Board of Directors, and said VP acknowledged to me that he/she executed the same for the uses, purposes, and consideration therein set forth and in the capacity therein stated as the free and voluntary act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Sharon M. Scesniak
NOTARY PUBLIC

My Commission Expires:

11-18-04



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 1 TO 10, BOTH INCLUSIVE, LOTS 32 TO 40, BOTH INCLUSIVE, IN BLOCK 14 IN MASON'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT RAILROAD), IN COOK COUNTY, ILLINOIS

PARCEL 2:

ALL OF THE VACATED 16 FOOT PUBLIC ALLEY RUNNING IN A NORTHWESTERLY AND SOUTHEASTERLY DIRECTION SOUTHWESTERLY OF AND ADJOINING THE SOUTHWESTERLY LINE OF LOTS 34 TO 38, BOTH INCLUSIVE, AND NORTHEASTERLY OF AND ADJOINING THE NORTHEASTERLY LINE OF LOT 40, LYING BETWEEN THE SOUTH LINE OF SAID LOT 40 PRODUCED EAST AND THE WEST LINE OF SAID LOT 40 PRODUCED NORTH, AND ALL THE VACATED NORTH AND SOUTH 16 FOOT PUBLIC ALLEY LYING EAST OF AND ADJOINING THE EAST LINE OF LOTS 2 TO 11, BOTH INCLUSIVE, AND LYING WEST OF AND ADJOINING THE WEST LINE OF LOTS 38, 39, AND 40, AND LYING WEST OF AND ADJOINING THE WEST LINE OF THE NORTHWESTERLY AND SOUTHEASTERLY PUBLIC ALLEY HERETOFORE VACATED AND LYING SOUTH OF AND ADJOINING THE NORTHEASTERLY LINE OF SAID LOT 39 PRODUCED NORTHWESTERLY A DISTANCE OF 20.43 FEET TO THE INTERSECTION OF THE EAST AND NORTHWESTERLY LINES OF SAID LOT 2 SAID VACATED PUBLIC ALLEY BEING FURTHER DESCRIBED AS ALL OF THE VACATED NORTH AND SOUTH PUBLIC ALLEY IN THE BLOCK BOUNDED BY NORTH AVONDALE AVENUE, NORTH HAMLIN AVENUE AND WEST ADDISON AVENUE IN BLOCK 14 IN MASON'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPT RAILROAD), IN COOK COUNTY, ILLINOIS.

Common Address of Property:

3650 N. Avondale, Chicago, Illinois

Permanent Tax Identification Number:

12-23-128-030-0000

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