

UNOFFICIAL COPY



0010759830

0010759830

7049/0243 10 001 Page 1 of 13
2001-08-17 13:48:13
Cook County Recorder 45.00

SECOND MORTGAGE MODIFICATION AGREEMENT

THIS SECOND MORTGAGE MODIFICATION AGREEMENT is dated as of March 1, 2001, and is by and between **DAKTON-KOSTNER CORPORATION**, an Illinois corporation ("Mortgagor") and **THE JOSEPH J. HANSEN TRUST U/T/D MAY 29, 1986** ("Mortgagee").

This space reserved for Recorder's use only.

RECITALS:

- A. On or about March 5, 1993, Mortgagee made a loan (the "Loan") to Mortgagor in the original principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00).
- B. Mortgagor executed and delivered to Mortgagee a Mortgage Note (the "Original Note") dated as of March 5, 1993 in the original principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00).
- C. The Loan as evidenced by the Original Note was secured by a Mortgage (the "Original Mortgage") dated as of March 5, 1993, executed by Mortgagor in favor of Mortgagee, encumbering property legally described on attached Exhibit A (the "Premises"), which Mortgage was recorded with the Recorder of Deeds for Cook County, Illinois on March 11, 1993, as Document No. 93186200.
- D. On or about March 1, 1996, Mortgagee agreed to (i) extend the maturity date of the Loan from March 1, 1998 to February 28, 2001 and (ii) reduce the interest rate to a fixed rate of 7.5% per annum.
- E. On or about March 1, 1996, Mortgagor executed and delivered to Mortgagee (i) an Amended and Restated Mortgage Note (the "First Amended and Restated Note") dated March 1, 1996 in the original principal amount of Five Hundred Eight Thousand Three Hundred Ninety-Nine and 93/100 Dollars (\$508,399.93) and (ii) a Mortgage Modification Agreement (the "First Mortgage Modification Agreement") dated as of March 1, 1996, executed by Mortgagor in favor of Mortgagee, which First Mortgage Modification Agreement was recorded with the Recorder of Deeds for Cook County, Illinois on 3/20/96, as Document No. 96213074. The Original Mortgage, as modified by the First Mortgage Modification Agreement shall hereinafter be referred to as the "Mortgage".

A00188379 DW.2 Gault

13
ce

BOX 333-CTI

UNOFFICIAL COPY

F. The parties desire to amend the Mortgage to (i) extend the maturity date of the Loan from February 28, 2001 to February 28, 2005, (ii) amend the amortization schedule of the Loan, and (iii) amend certain other terms and provisions as hereinafter provided.

NOW, THEREFORE, in consideration of the above recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto acknowledge and agree as follows:

1. All capitalized terms used herein shall have the same meaning ascribed to such terms in the Second Amended and Restated Mortgage Note (hereinafter defined) and the Mortgage.
2. The Recitals are hereby incorporated into and shall become part of this Second Mortgage Modification Agreement.
3. Concurrent with the execution and delivery of this Second Mortgage Modification Agreement, Mortgagor shall execute and deliver to Mortgagee a Second Amended and Restated Mortgage Note (the "Second Amended and Restated Mortgage Note") in the form attached hereto as Exhibit B, the terms of which are hereby incorporated by reference herein, which Second Amended and Restated Mortgage Note shall evidence the Loan as hereby modified, and supersede the Original Note and the First Amended and Restated Note and shall be secured by and entitled to all of the benefits of the Mortgage, as amended hereby.
4. All references in the Mortgage to (i) the Mortgage Note (or Note) dated March 5, 1993, executed by Mortgagor payable to the order of Mortgagee in the original principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00) or (ii) the Amended and Restated Mortgage Note dated as of March 1, 1996 executed by Mortgagor payable to the order of Mortgagee in the original principal amount of Five Hundred Eight Thousand Three Hundred Ninety-Nine and 93/100 Dollars (\$508,399.93) are hereby deleted and the Second Amended and Restated Mortgage Note dated as of March 1, 2001, executed by Mortgagor payable to the order of Mortgagee in the original principal amount of Three Hundred Ninety Nine Thousand Eight Hundred Seventy-Six and 68/100 Dollars (\$399,876.68) is hereby inserted in lieu thereof, which Second Amended and Restated Mortgage Note is and shall be secured by the Mortgage, as amended hereby.
5. The Maturity Date of the Loan is hereby extended from February 28, 2001 to February 28, 2005. All references in the Mortgage to the Maturity Date of the Loan of "March 1, 1998" or "February 28, 2001" are hereby deleted in their entirety and the Maturity Date of the Loan of "February 28, 2005" shall be inserted in the Mortgage in lieu thereof.
6. Mortgagor represents and warrants that no Default has occurred under the Mortgage, and Mortgagor hereby agrees that the Mortgage, as hereby amended, secures Mortgagor's obligations under the Loan.

UNOFFICIAL COPY

7. In all other respects, the terms and provisions of the Mortgage, as hereby amended, shall remain in full force and effect.

IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Amendment as of the day and year first above written.

MORTGAGOR:

OAKTON-KOSTNER CORPORATION

By David H. Radler
David H. Radler, President

MORTGAGEE:

THE JOSEPH J. HANSEN TRUST
U/T/D MAY 29, 1986

By Virginia M. Radler
Virginia M. Radler, Trustee

By Rosemarie H. McNett
Rosemarie H. McNett, Trustee

By Daniel J. McNett
Daniel J. McNett, Trustee

Property of Cook County Clerk's Office

10759830

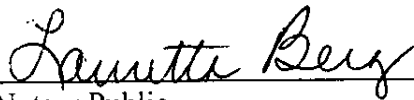
UNOFFICIAL COPY

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a notary Public, in and for said County, in the State aforesaid, do hereby certify that David H. Radler, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the President of OAKTON-KOSTNER CORPORATION, an Illinois corporation appeared before me 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 corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of March, 2001.



Notary Public

My Commission Expires:



10759830

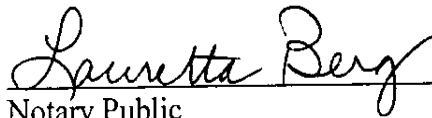
UNOFFICIAL COPY

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a notary Public, in and for said County, in the State aforesaid, do hereby certify that Virginia M. Radler, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Trustee of THE JOSEPH J. HANSEN TRUST U/T/D MAY 29, 1986 appeared before me and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of March, 2001.



Notary Public

My Commission Expires:



10759830
10759830

UNOFFICIAL COPY

STATE OF ILLINOIS

COUNTY OF COOK

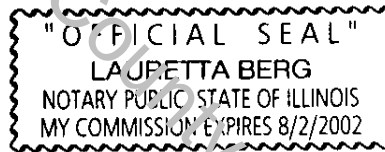
I, the undersigned, a notary Public, in and for said County, in the State aforesaid, do hereby certify that Rosemarie H. McNett, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Trustee of THE JOSEPH J. HANSEN TRUST U/T/D MAY 29, 1986 appeared before me and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of March, 2001.



Notary Public

My Commission Expires:



10759830


UNOFFICIAL COPY

STATE OF ILLINOIS

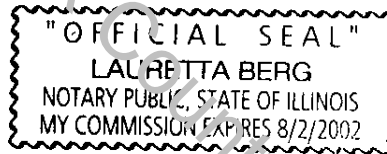
COUNTY OF COOK

I, the undersigned, a notary Public, in and for said County, in the State aforesaid, do hereby certify that Daniel J. McNett, personally known to me to be the same person whose name is subscribed to the foregoing instrument as the Trustee of THE JOSEPH J. HANSEN TRUST U/T/D MAY 29, 1986 appeared before me 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 Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of March, 2001.


Notary Public

My Commission Expires:



10759830

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

LOTS 16, 17, 18, 19, 20 AND 21 IN BLOCK 6 IN NORTH SIDE REALTY COMPANY'S
DEMPSTER GOLF COURSE SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 23,
TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK
COUNTY, ILLINOIS

PROPERTY ADDRESS: 8411 Christiana, Skokie, Illinois

PROPERTY INDEX NUMBER: 10-23-224-068

10759830

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

AMENDED AND RESTATED MORTGAGE NOTE

\$399,876.68

State of Illinois
March 1, 2001

1. Description of Parties. This Amended and Restated Mortgage Note (this "Note") is made by **OAKTON-KOSTNER CORPORATION**, an Illinois corporation (hereinafter referred to as the "Borrower") and is payable to the order of **THE JOSEPH J. HANSEN TRUST U/T/D MAY 29, 1986** (hereinafter referred to as the "Lender") evidencing a loan (hereinafter referred to as the "Loan") from Lender to Borrower. This Note is a renewal of and shall replace and supersede (i) that certain Mortgage Note dated March 5, 1993, executed by Borrower payable to the order of Lender in the original principal amount of Six Hundred Thousand and No/100 Dollars (\$600,000.00) and (ii) that certain Amended and Restated Mortgage Note dated March 1, 1996, executed by Borrower and payable to the order of Lender in the original principal amount of Five Hundred Eight Thousand Three Hundred Ninety-Nine and 93/100 Dollars (\$508,399.93).

2. Payment.

FOR VALUE RECEIVED, Borrower hereby promises to pay on or before February 28, 2005, in lawful money of the United States of America to the order of Lender the principal amount of **THREE HUNDRED NINETY NINE THOUSAND EIGHT HUNDRED SEVENTY-SIX AND 68/100 DOLLARS (\$399,876.68)** ("Principal Sum"), together with interest on the principal balance of this Note remaining from time to time unpaid (the "Principal Balance") as follows:

Forty-Seven (47) equal consecutive monthly payments of principal and interest (based on a 10 year amortization schedule) in the amount of Four Thousand Seven Hundred Twenty-Two and 93/100 Dollars (\$4,722.93) each shall be payable, commencing on the first day of April, 2001, and thereafter on the first day of each succeeding month through and including February 1, 2005. All of the Principal Balance hereunder and unpaid interest accrued thereon shall become due, if not sooner paid or due by acceleration or otherwise, on February 28, 2005 (the "Maturity Date"). Interest shall accrue on the Principal Balance of this Note from and after March 1, 2001 at the Loan Rate (hereinafter defined). **THIS IS A BALLOON NOTE.**

The time is hereby extended for the payment of any monthly payment or for performance of any act or for the exercise of any right if the due date thereof falls on a Saturday, Sunday or any other day which is not a business day. Such payment shall be made or act

10759830

UNOFFICIAL COPY

performed or right exercised on the next succeeding business day with the same force and effect as if done on the nominal dates provided in this Note.

3. Interest.

(a) Loan Rate Defined. The "Loan Rate" shall mean the fixed rate of seven and one-half percent (7.50%) per annum.

(b) Interest Rate Computation. All interest calculated hereunder shall be computed on the basis of a three hundred sixty (360) day year and calculated for the actual number of days elapsed.

(c) Application of Payments. All payments made hereunder shall be applied first to the payment of accrued interest and the remainder, if any, shall be applied to the Principal Balance.

4. Description of Security. The payment of this Note is secured by a Mortgage (the "Existing Mortgage") executed by Borrower in favor of Lender, dated March 5, 1993, and recorded March 11, 1993 as Document No. 93186200, as amended by a Mortgage Modification Agreement (the "First Mortgage Modification Agreement") dated as of March 1, 1996, executed by Borrower and Lender, and a further amended by a Second Mortgage Modification Agreement (the "Second Mortgage Modification Agreement") dated concurrently herewith (the Existing Mortgage as amended by the First Mortgage Modification Agreement and the Second Mortgage Modification Agreement shall hereinafter be referred to as the "Mortgage"), encumbering the real estate commonly known as 8411 Christiana, Skokie, Illinois (the "Mortgaged Premises"). The Note and the Mortgage shall hereinafter collectively be referred to as the "Loan Documents."

5. Prepayment. The Principal Balance and any accrued interest may be prepaid in its entirety or partially prepaid at any time without a prepayment penalty.

If any funds are received and applied on account of this Note by the Lender, such funds shall be applied pursuant to Paragraph 3(c) above. The payments under Paragraph 2 above shall continue on the Principal Balance until said Principal Balance is fully retired.

6. Place of Payment. The payments of all amounts due under the Loan Documents shall be made to Lender to its account at Cole Taylor Bank, 4400 Oakton, Skokie, Illinois 60076, or such other place as Lender may from time to time designate in writing.

7. Events of Default. If the occurrence of any one or more of the following events ("Default") shall occur:

UNOFFICIAL COPY

(a) failure to make payment of principal or interest due hereunder within ten (10) days after Borrower receives written notice from Lender of such payment being due;

(b) failure to perform or observe, within thirty (30) days after written notice from Lender to Borrower, any other covenant, promise or agreement contained herein;

(c) the occurrence of a "Default" (as defined in the Mortgage) under the Mortgage, the terms of which are hereby incorporated by reference herein;

(d) the occurrence of a Prohibited Transfer, as defined in the Mortgage, the terms of which are hereby incorporated by reference herein;

then, at any time thereafter, at the sole option of Lender, without further notice to Borrower, the Maturity Date shall be accelerated and the Principal Balance and all accrued interest thereon together with any other sums due under the Loan Documents shall become immediately due and payable without presentment, demand, notice or protest of any kind, all of which are expressly waived by the Borrower.

8. Extensions. Except as herein provided, Borrower agrees that the time of payment of the Principal Balance or any accrued interest thereon or any part thereof may be extended from time to time without modifying or releasing the Mortgage or the liability of Borrower, the right of recourse against Borrower being hereby reserved by Lender.

9. Governing Law/Venue. This Note shall be governed by and construed in accordance with the laws of the State of Illinois. Venue for all disputes and claims shall be in the Circuit Court of Cook County, Illinois.

10. Names. As used herein, the term "Lender" shall also mean the subsequent holder or holders of this Note from time to time. Regardless of their form, all words shall be deemed singular or plural and shall have the gender as required by the text.

11. Benefit of Lender. This Note shall inure to the benefit of the Lender and its successors and assigns and shall be binding upon Borrower and its successors and assigns.

12. Time of Essence. Time is of the essence of this Note.

13. Compliance With Applicable Law. Borrower agrees that the obligations evidenced by this Note constitute an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Section 1601, et seq. and said obligations constitute a business loan which comes within the purview of Section 4(1)(c) of "An Act in Relation to the Rule of Interest and Lending of Money," approved May 24, 1879, as amended, 815 ILCS 205/4(1)(c). The proceeds of the Loan

10759830

UNOFFICIAL COPY

will not be used for the purchase of registered equity securities within the purview of Regulation "G" issued by the Board of Governors of the Federal Reserve System.

14. Severability. If any provision of this Note is held to be void or unenforceable, such provision, at the option of Lender, shall be deemed omitted and this Note, with such provision omitted, shall remain in full force and effect.

15. Lawful Interest. It being the intention of Lender and Borrower to comply with the applicable laws with regard to the interest charged hereunder, it is agreed that, notwithstanding any provision to the contrary in this Note or other Loan Documents, no such provision, including without limitation any provision of this Note providing for the payment of interest or other charges, shall require the payment or permit the collection of any amount ("Excess Interest") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by this Note or by any extension or renewal hereof. If any Excess Interest is provided for, or is adjudicated to be provided for, in this Note or the other Loan Documents, then in such event:

- (a) the provisions of this paragraph shall govern and control;
- (b) Borrower shall not be obligated to pay any Excess Interest;
- (c) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the Principal Balance due under this Note or accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the Borrower, or (iii) any combination of the foregoing;
- (d) the applicable interest rate or rates shall be automatically subject to reduction to the maximum lawful rate allowed to be contracted for in writing under the applicable governing usury laws, and this Note and the Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in such interest rate or rates; and
- (e) Borrower shall not have any action or remedy against Lender for any damages whatsoever or any defense to enforcement of the Note or arising out of the payment or collection of any Excess Interest.

16. Headings. The various headings used in this Note as headings for sections or otherwise are for convenience and reference only and shall not be used in interpreting the text of the section in which they appear and shall not limit or otherwise affect the meanings thereof.

UNOFFICIAL COPY

17. Incorporation by Reference. To the extent not inconsistent with the terms of this Note, the terms of the Mortgage are incorporated herein and made a part hereof by reference.

18. Notices. Any notice, demand, request or other communication desired to be given or required pursuant to the terms hereof or the Mortgage shall be in writing and shall be delivered by personal service or sent by registered or certified mail, return receipt requested, postage prepaid, to Lender c/o Cole Taylor Bank, 4400 Oakton, Skokie, Illinois 60076, and if to Borrower at 7721 North Kostner, Skokie, Illinois 60076.

IN WITNESS WHEREOF, Borrower has caused this Note to be executed by its duly authorized officer.

OAKTON-KOSTNER CORPORATION

By _____
Its: _____ President

Property of Cook County Clerk's Office

10759830