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**COOK COUNTY  
RECORDER  
EUGENE "GENE" MOORE  
BRIDGEVIEW OFFICE**



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**NOTE AND MORTGAGE MODIFICATION AGREEMENT**

**EASTERN SAVINGS BANK, FSB  
(Lender)**

with

**JAMES E. GRACA  
(Borrower)**

Dated as of: April 13, 2000

Property Address:

509 West Wrightwood Avenue  
Chicago, Illinois 60614

Tax Number: 14-28-318-020-0000  
County: Cook  
State: Illinois

**DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:**

Kriss & Feit, P.C.  
360 Lexington Avenue, 13th Floor  
New York, New York 10017  
Attn: Jerold C. Feuerstein, Esq.



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**UNOFFICIAL COPY** 17310 Page 2 of 8NOTE AND MORTGAGE MODIFICATION AGREEMENT

THIS NOTE AND MORTGAGE MODIFICATION AGREEMENT (this "Agreement") dated as of the 13th day of April, 2000 is made and executed by JAMES E. GRACA, an individual having an address at 166 E. Westminster, Lake Forest, Illinois ("Borrower") and EASTERN SAVINGS BANK, FSB, having an address at 11350 McCormick Road, Executive Plaza 2, Suite 200, Hunt Valley, MD 21031 ("Lender").

WITNESSETH

WHEREAS, Borrower has previously obtained a loan from Lender in the original principal amount of \$800,000.00 (the "Loan"). The Loan is evidenced by a certain Promissory Note dated November 3, 1999, in the stated principal amount of \$800,000.00 (the "Principal Sum"), executed and delivered by Borrower in favor of Lender (the "Note"). The payment of the Note and the Loan are secured by among other things, that certain Mortgage, dated November 3, 1999, executed and delivered by Borrower to Lender (the "Mortgage") and recorded on November 12, 1999 as Document No. 99U12614 in the Cook County Recorder's Office, and which covers that real property described in Exhibit "A" hereto, and all improvements thereon (the "Property").

WHEREAS, Borrower and Lender desire to modify the terms of the Note and Mortgage.

WHEREAS, the Note and Mortgage, and any and all other documents executed and delivered in connection with the Loan are collectively referred to as the "Loan Documents".

WHEREAS, Lender has agreed to advance, on the date hereof, an additional \$75,000.00 (the "Modified Principal Sum") to Borrower to increase the Principal Sum of the Note and Mortgage pursuant to Section 7.19 of the Mortgage.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good valuable consideration, the receipt and sufficiency of which are hereby acknowledged. Borrower and Lender hereby agree as follows:

1. The Modified Principal Sum in the amount of \$75,000.00 shall be advanced by Lender pursuant to Section 7.19 of the Mortgage and is now included in the Principal Sum.
2. The Note and Mortgage are hereby modified as follows:
  - a. The Principal Sum under the Mortgage and Note (including the Modified Principal Sum) as of April 13, 2000 is \$873,129.79 (the "Current Principal Sum").
  - b. On May 1, 2000, Borrower shall deliver to Lender the sum of \$9,942.36 which represents the remaining sum due to Lender from Borrower under the Note and this Agreement for the Interest Accrual Period commencing April 1, 2000 through and including April 30, 2000.



c. Commencing on June 1, 2000, and continuing on the first day of each calendar month thereafter until and including December 1, 2002 (such date, or such earlier date on which Lender accelerates payment of the indebtedness evidenced hereby pursuant to the provisions hereof or of any of the Loan Documents being herein referred to as the "Maturity Date"), monthly payments, in arrears, of principal and interest, on the unpaid balance of the Principal Sum in the amount of \$10,875.95 continuing monthly through the Maturity Date. On the Maturity Date, whether by acceleration, prepayment, or otherwise, the outstanding balance of the Principal Sum, together with accrued and unpaid interest and any other amounts due and payable to the Holder hereunder, under the Mortgage or the Loan Documents, shall be paid in full.

d. Paragraph 3 of the Note is hereby modified as follows:

**Prepayment:** Provided that there shall be no Event of Default (as hereinafter defined) outstanding under this Agreement, the Note, the Mortgage or any of the Loan Documents, the outstanding balance of the Current Principal Sum shall be pre-payable at any time on thirty (30) days notice to Lender, in whole or in part, provided that such prepayment shall be accompanied by a sum of money (the "Prepayment Premium") equal to the following:

If the loan is prepaid at any time between the date hereof (the "Funding Date") and the first day of the first full calendar month following the second (2nd) year anniversary of the Funding Date, a sum in the amount equal to the greater of (i) three (3) months of interest which would have been due and payable under this Agreement or (ii) one hundred percent (100%) of fifteen (15) months of interest which would have been due and payable under this Agreement, less any interest payments made by Borrower from the interest accrual period commencing May 1, 2000 through the date of prepayment. If the Loan is prepaid anytime after the first day of the first full calendar month following the second year anniversary of the Funding Date through the Maturity Date, no prepayment premium shall be due.

Borrower hereby consents that the foregoing Prepayment Premium shall be due and payable to Holder as liquidated damages in the Event of Default under the terms of this Agreement, the Mortgage, Note and any other Loan Documents. Such prepayment shall be paid whether the prepayment is voluntary or involuntary, including any prepayment affected by the acceleration provisions contained in the Note or Mortgage.

3. Any origination fees charged by Lender in connection with this Agreement shall be charged against the Current Principal Sum.

4. Lender and Borrower hereby confirm, renew and extend the rights, titles, security interests, liens, powers and privileges existing under or by virtue of the Loan Documents until all of the indebtedness evidenced by the Note and secured by the Loan Documents has been paid in full, and agree that this Agreement shall not in any way or manner release, discharge, affect, change, modify or impair

the debts, duties, obligations, liabilities, rights, titles, security interests, liens, powers and privileges existing by virtue of, arising under or in connection with, or relating to the Note and the Loan Documents, the purpose of this Agreement being simply to renew, extend and modify the indebtedness evidenced by the Note in accordance with the terms and provisions herein and to continue and carry forward all of the rights, titles, security interests, liens, powers and privileges existing by virtue of the Loan Documents, each of which are hereby acknowledged by Borrower and Lender to be legal, valid and subsisting. Borrower and Lender acknowledge and agree that the Loan Documents secure the payment of the Note. Borrower and Lender agree that a novation is expressly denied and not intended to be affected and except as amended or modified by this Agreement, the terms, provisions, conditions, rights, duties and obligations contained in the Loan Documents shall remain unchanged and unimpaired by this Agreement and are in full force and effect.

5. Borrower hereby represents and warrants to Lender as follows:

- a. This Agreement is a valid, binding and enforceable obligation of Borrower;
- b. Each of the statements and representations made by Borrower in the Loan Documents is true and correct as of the date hereof;
- c. Borrower has no claims against the Lender;
- d. The mortgage herein is a valid first lien on the Property;
- e. Borrower has no defenses to, or offsets against, any of its obligations under the Note or under the Loan Documents;
- f. Lender has performed and satisfied all of its obligations under the Loan Documents through the date hereof;
- g. No documentary taxes or other similar taxes are payable in connection with transaction evidenced by this Agreement; and
- h. The Property is not in violation of any applicable laws, rules, regulations or ordinances including, without limitation, any applicable environmental laws.

6. Borrower shall be responsible for the payment of all costs and expenses incurred in connection with the preparation of this Agreement including, without limitation, attorneys' fees and expenses, filing fees and recording costs.

7. To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of each party, or that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto.

8. This Agreement contains all of the terms of the agreement between Borrower and Lender with respect to the subject matter hereof and supersedes all prior discussions and agreements between Borrower and Lender and all prior drafts of this Agreement.

9. This Agreement shall be construed in accordance with the laws of the State of Illinois.

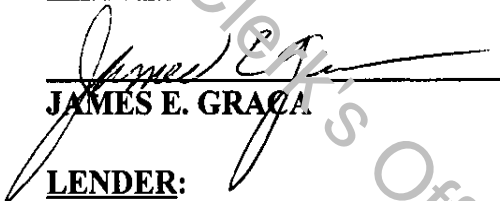
10. All payments shall be made to the following address:

Eastern Savings Bank, fsb.  
11350 McCormick Road  
Executive Plaza 2, Suite 200  
Hunt Valley, MD 21031

11. AS ADDITIONAL CONSIDERATION FOR LENDER'S AGREEMENTS HEREIN, IN THE EVENT THAT BORROWER IS THE SUBJECT OF ANY INSOLVENCY, BANKRUPTCY, RECEIVERSHIP, DISSOLUTION, REORGANIZATION OR SIMILAR PROCEEDING, FEDERAL OR STATE, VOLUNTARY OR INVOLUNTARY, UNDER ANY PRESENT OR FUTURE LAW OR ACT, LENDER IS ENTITLED TO THE AUTOMATIC AND ABSOLUTE LIFTING OF ANY AUTOMATIC STAY AS TO THE ENFORCEMENT OF ITS REMEDIES UNDER THE LOAN DOCUMENTS AGAINST THE MORTGAGED PROPERTY, INCLUDING SPECIFICALLY, BUT NOT LIMITED TO THE STAY IMPOSED BY SECTION 362 OF THE UNITED STATES FEDERAL BANKRUPTCY CODE, AS AMENDED. BORROWER HEREBY CONSENTS TO THE IMMEDIATE LIFTING OF ANY SUCH AUTOMATIC STAY, AND WILL NOT CONTEST ANY MOTION BY LENDER TO LIFT SUCH STAY.


12. All capitalized terms not defined herein shall have the meanings given to them in the Loan Documents. In the case of a conflict, the terms of this Agreement shall prevail.

**BORROWER.**

  
\_\_\_\_\_  
JAMES E. GRACA

**LENDER:**

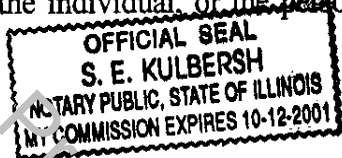
**EASTERN SAVINGS BANK, FS<sup>B</sup>**

By:   
\_\_\_\_\_  
Jonathan Feldman,  
Vice President



STATE OF IL )  
COUNTY OF COOK )ss:

On the 13 day of April in the year 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared, JAMES E. GRACA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument.



*[Signature]*  
Notary Public

STATE OF MARYLAND )  
COUNTY OF Baltimore )ss:

On the 18 day of April in the year 2000 before me, the undersigned, personally appeared, Jerry Bowling, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed this instrument, and that such individual made such appearance before the undersigned in the City of Baltimore and the State of Maryland.

*[Signature]*  
Notary Public  
exp 11/21/9

*[Handwritten mark]*

EXHIBIT "A"

[REDACTED]

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NICO TITLE INSURANCE COMPANY  
LOAN POLICY (1992)

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POLICY NO.: 2000 000357814 SC

SCHEDULE A (CONTINUED)

5. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

THE EAST 15.3 FEET OF LOT 3 AND THE WESTERLY 19.7 FEET LOT 4 IN H.M. HOBART'S SUBDIVISION OF LOTS 15 AND 19, INCLUSIVE AND THE ALLEY SOUTH WEST OF AND ADJOINING LOTS 17, 18 AND 19 IN SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

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THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED.

LPOLA792

LC

04/12/00

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