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Doc#: 0328334194
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 10/10/2003 04:07 PM Pg: 1 of 9

This Instrument Prepared By and After
Recording Should Be Returned to:
Charter One Bank, N.A.
1215 Superior Avenue, 6th Floor
Cleveland, Ohio 44114
Attn: Commercial Loan Servicing Dept.
Mail Code: SU670

LOAN MODIFICATION AGREEMENT

Loan No. 63-1163461

This Loan Modification Agreement (hereinafter referred to as the "Agreement") is entered into by and among 441 W. OAKDALE, LLC, an Illinois limited liability company (hereinafter collectively referred to as "Borrower"), ROBERT J. BUFORD (hereinafter referred to as "Guarantor") and CHARTER ONE BANK, N.A., a corporation organized and doing business under the laws of the United States of America, formerly Charter One Bank, F.S.B., successor by merger to Liberty Federal Bank (hereinafter referred to as "Lender").

WITNESSETH:

WHEREAS, Borrower obtained a loan (the "Loan") from Liberty Federal Bank (hereinafter referred to as "Liberty Federal") in the original amount of Two Million Nine Hundred Sixty Thousand Dollars U.S. (\$2,960,000.00) which loan is evidenced by a promissory note (hereinafter referred to as the "Note"), dated July 1, 1998, executed by Borrower; and

WHEREAS, the Guarantor executed a guaranty (hereinafter referred to as the "Guaranty") of even date with the Note, which guarantees the repayment of the Loan; and

WHEREAS, the Note is secured by a third mortgage and security agreement (hereinafter referred to as the "Mortgage") of even date with the Note, from Borrower to Liberty Federal, which Mortgage was recorded on July 8, 1998 at 14:24:00 as Instrument No. 98588281 of the Official Records of Cook County, Illinois, and covers certain real property located in said County more fully described on Exhibit A attached hereto and made a part hereof (the "Property"); and

cc 12455

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WHEREAS, Borrower and Guarantor have also executed other documents evidencing, securing and relating to Borrower's obligations concerning the Loan (collectively, such documents together with the Note, the Guaranty and the Mortgage are referred to herein as the "Loan Documents"); and

WHEREAS, effective as of July 2, 2001, Charter One Bank, F.S.B. became the successor in interest to the Loan by virtue of the merger with Liberty Federal Bank; and on May 7, 2002, Charter One Bank, F.S.B. converted from a federal savings bank to a national banking association and changed its name to Charter One Bank, N.A.; and

WHEREAS, the principal balance outstanding on the Loan, as evidenced by the Note is Two Million Seven Hundred Seventy-Eight Thousand Five Hundred Seventy-Four Dollars and Seventy-Nine Cents U.S. (\$2,778,574.79), after application of all payments due and owing on the Note through and including August 1, 2003; and

WHEREAS, all of the terms, conditions, provision and covenants contained in the Loan Documents are desired by Borrower, Guarantor and Lender to be and are hereby incorporated by reference herein as if fully rewritten herein all unchanged except to the extent modified herein.

NOW, THEREFORE, for good and valuable consideration, the mutuality, sufficiency and receipt of which is hereby acknowledged Borrower, Guarantor and Lender agree as follows:

1. THE LOAN DOCUMENTS:

The Note and the Mortgage shall be amended as follows:

RATE OF INTEREST. On September 1, 2003, the rate of interest shall be adjusted to be equal to four and one-half percent (4.50%) per annum. On September 1, 2008 (the "Change Date"), the rate of interest hereon shall be adjusted to be equal to the greater of: (a) four and twenty-five one-hundredths percent (4.25%); or (b) one hundred fifty (150) basis points plus the Current Index. The adjusted rate of interest will become effective on the Change Date. The "Index" shall be the interest rate for Fixed Rate Advances for a term of five (5) years as published by the Federal Home Loan Bank of Cincinnati on its website at <http://www.fhlbcin.com>. The most recent Index figure available on the Change Date is called the "Current Index". Interest shall be computed on the aggregate principal sum outstanding from time to time, on a basis of a three hundred sixty (360) day year, but shall be charged for the actual number of days within the period for which interest is being charged.

REPAYMENT. Principal and interest shall be payable in monthly installments as follows:

On the first day of October, 2003 and continuing on the first day of each and every month thereafter up to and including September 1, 2008, the Borrower shall pay to the order of Lender monthly installments of principal and interest in the amount of Fourteen Thousand One Hundred Sixty-Three Dollars and Ninety-Eight Cents U.S.

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(\$14,163.98). On October 1, 2008, the installments of principal and interest shall be adjusted by the Lender based upon changes in the rate of interest, so that the changed installments would be sufficient to repay the principal hereunder in full over a thirty (30) year amortization, beginning with September 1, 2003. In any event, if not sooner paid, on the first day of July, 2013 (the "Maturity Date"), Borrower shall pay to Lender the unpaid principal balance then outstanding under the Note in full, together with all accrued but unpaid interest and other sums due Lender under the Note or any of the Loan Documents.

PREPAYMENT. Borrower shall have the right to prepay all, or any portion, of the unpaid principal amount of the indebtedness evidenced by the Note, together with (a) any accrued and unpaid interest thereon, and (b) a prepayment premium equal to the product obtained by multiplying (i) the principal amount of the prepayment, and (ii) the Percentage set forth below for the Loan Year (hereinafter defined) during which such prepayment was made:

<u>Loan Year</u>	<u>Percentage</u>
1	5.00%
2	4.00%
3	3.00%
4	2.00%
5	1.00%
6	1.00%
7 and thereafter	-0-

Notwithstanding the above, Borrower may prepay, without penalty, at any time during each of the above Loan Years, up to ten percent (10%) of the principal balance due on the Loan at the commencement of each Loan Year. As used herein, the term "Loan Year" shall mean each successive one (1)-year period, the first such Loan Year commencing on September 1, 2003, and each succeeding Loan Year commencing on each successive anniversary of September 1, 2003. The payment of any partial prepayment shall not relieve Borrower from the obligation to make subsequent scheduled monthly installments of principal and interest due hereunder.

In the event that Lender shall accelerate the maturity of the Note due to Borrower's default under the Note or under any of the Loan Documents, and there shall be tendered to Lender, whether by Borrower or upon distribution of proceeds of foreclosure sale, an amount equal to the entire unpaid principal balance of the indebtedness evidenced hereby, together with all accrued and unpaid interest thereon and all other sums or charges due hereunder or under any of the Loan Documents, such tender shall be deemed to be a voluntary prepayment of the Note and incomplete and ineffective unless such tender is accompanied by the prepayment premium computed as set forth above. Lender shall be entitled, to the fullest extent not then prohibited by applicable law, to recover such prepayment premium in any proceedings, at foreclosure or otherwise, to enforce collection of the indebtedness evidenced hereby. Recovery of the prepayment premium shall be a condition precedent to Lender's acceptance of such

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(b) Clark/Diversey Properties Limited Partnership is an Illinois limited partnership, duly organized and validly existing under the laws of the State of Illinois, and has full power and authority to conduct its business as presently conducted, to own

(a) Borrower is an Illinois limited liability company, duly organized and validly existing under the laws of the State of Illinois, and has full power and authority to conduct its business as presently conducted, to own and operate the Property, to execute and perform all of its duties and obligations under this Agreement and to perform each of the Loan Documents. Such execution and performance has been duly authorized by all necessary resolutions and action. Upon the execution hereby by Borrower, this Agreement shall constitute legal, valid and binding obligations of Borrower enforceable in accordance with its terms;

To induce Lender to execute and perform this Agreement, Borrower and Guarantor, for and on behalf of itself, hereby represents, covenants and warrants to Lender that:

4. REPRESENTATIONS AND WARRANTIES.

Borrower shall pay to Lender, on or before the date hereof, a loan modification fee equal to Thirteen Thousand Eight Hundred Seventy-Five Dollars U.S. (\$13,875.00) and a documentation fee equal to Five Hundred Dollars U.S. (\$500.00) for a total of Fourteen Thousand Three Hundred Seventy-Five Dollars U.S. (\$14,375.00) in fees due on or before the date hereof. Borrower will also be responsible for filing and the endorsement fees.

3. FEES.

The Mortgage shall in all respects as of the date of recording of this Agreement be a valid and existing third mortgage lien covering the Property (less any part thereof previously released by Lender), and such priority of the Mortgage shall be evidenced by an ALTA Mortgagee's policy of title insurance acceptable to Lender in all respects.

2. PRIORITY OF MORTGAGE.

The following shall not be deemed a voluntary prepayment of the Note and there shall be no prepayment premium due and payable as a result thereof: (a) the application of insurance proceeds which become available, or any other damages recovered in connection with any eminent domain proceeding, by Lender in reduction of the indebtedness evidenced hereby in accordance with the terms of the Mortgage (hereinafter "deficiency"); and (b) acceleration of the indebtedness evidenced hereby as a result of imposition of a mortgage tax or other tax or action adversely affecting the value of the Mortgage, in accordance with Paragraph 7 of the Mortgage.

Without limiting the generality of the foregoing, the amount of such prepayment premium so computed shall be included in and a part of the aggregate indebtedness evidenced hereby and secured by the Loan Documents upon the prosecution of foreclosure proceedings and/or the exercise of other rights or remedies by the Lender in the event of a default by the Borrower.

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This Agreement shall be effective upon its recording by Lender in the Mortgage Records of Cook County, Illinois, provided that the requirements of Paragraphs 2 and 3 of this Agreement have been satisfied in Lender's sole determination.

5. RECORDING; EFFECTIVE DATE.

(i) Guarantor has not revoked, attempted to revoke or has any intention to revoke its Guaranty and hereby reaffirms its respective obligations thereunder as and to the extent amended or modified hereby.

(h) Borrower and Guarantor reaffirm each of their respective applicable Representations and Warranties contained in the Loan Documents as of the date of their respective execution hereof; and

(g) Guarantor and/or immediate family members of Guarantor are direct or indirect owners of some interest in Borrower.

(f) No changes have been made to Diversy Clark, Inc.'s organizational documents;

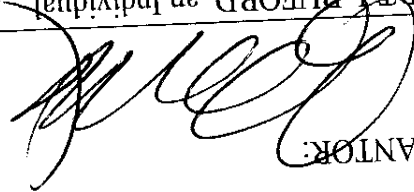
(e) No changes have been made to Clark/Diversy Properties Limited Partnership's organizational documents;

(d) No changes have been made to Borrower's organizational documents;

(c) Diversy Clark, Inc. is an Illinois corporation, duly organized and validly existing under the laws of the State of Illinois, and has full power and authority to conduct its business as presently conducted, to own and operate the Property, to execute this Agreement, and to perform all of its duties and obligations under this Agreement and each of the Loan Documents. Such execution and performance has been duly authorized by Borrower, this Agreement shall constitute legal, valid and binding obligations of Borrower enforceable in accordance with its terms;

and operate the Property, to execute this Agreement, and to perform all of its duties and obligations under this Agreement and each of the Loan Documents. Such execution and performance has been duly authorized by all necessary partnership resolutions and action. Upon the execution hereby by Borrower, this Agreement shall constitute legal, valid and binding obligations of Borrower enforceable in accordance with its terms;

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GUARANTOR:


 ROBERT J. BUFORD, an Individual

By: _____
 Robert J. Buford, its President
 and Secretary

By: _____
 an Illinois corporation,
 General Partner
 Diversey Clark, Inc.,
 Managing Member
 an Illinois limited partnership,
 Clark/Diversey Properties Limited Partnership,
 an Illinois limited liability partnership

OAKDALE PARTNERS, LLC,
 an Illinois limited liability partnership

BORROWER:

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in triplicate on _____, 2002.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, permitted transferees and assigns.

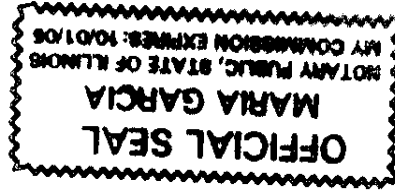
This Agreement constitutes the entire Agreement among the parties hereto concerning the subject matter hereof, and there are no agreements, understandings, warranties, or representations among the parties except as specifically set forth in or specifically referenced in this Agreement. The terms, conditions, provisions and covenants of the Note, the Guaranty, the Mortgage and the other Loan Documents shall remain unchanged except to the extent specifically modified hereby.

7. ENTIRE AGREEMENT.

Paragraph or other headings contained in this Agreement are for reference purposes only and are not intended to affect in any way the meaning or interpretation of this Agreement.

6. HEADINGS.

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Maria Garcia

Notary Public

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Chicago, Illinois, this 17 day of August, 2003.

Before me, a Notary Public in and for said County and State, personally appeared the above-named 441 W. OAKDALE, LLC, an Illinois limited company, by Clark/Diversey Properties Limited Partnership, its Managing Member, by Diversey Clark, Inc., an Illinois corporation, its General Partner, by Robert J. Buford, its President and Secretary, who acknowledged that he did sign the foregoing instrument for and on behalf of said limited liability company, limited partnership and corporation and that the same is the free act and deed of said limited liability company, limited partnership and corporation and the free act and deed of him personally and as such Managing Member of said limited liability company, General Partner of said limited partnership and officer of said corporation.

STATE OF ILLINOIS
()
() ss. *Cox*
COUNTY OF _____

Donald L Baker

DONALD L BAKER
SENIOR VICE PRESIDENT
CHARTER ONE BANK, N.A.

CHARTER ONE BANK, N.A.

LENDER:

By:

Donald L Baker

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Robert A. Mihalko
Notary Public, STATE OF OHIO
My Commission Expires February 4, 2006
(Recorded in Lorain County)

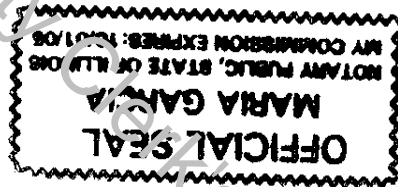
Notary Public

Robert A. Mihalko

IN TESTIMONY WHEREOF, I have herunto subscribed my name and affixed my official seal at CLEVELAND, OHIO, this 15th day of AUGUST, 2003.

Before me, a Notary Public in and for said County and State, personally appeared the above-named CHARTER ONE BANK, N.A., by DOUGLAS L. BAKER, its Service Representative, who acknowledged that he did sign the foregoing instrument for and on behalf of said corporation, and that the same is the free act and deed of said corporation and the free act and deed of him personally and as such officer.

STATE OF OHIO
)
) SS. Cuyahoga
) COUNTY OF Cuyahoga



Notary Public

Maria Garcia

IN TESTIMONY WHEREOF, I have herunto subscribed my name and affixed my official seal at Chicago, Illinois, this 14 day of August, 2003.

Before me, a Notary Public in and for said County, this day personally appeared the above-named ROBERT J. BUFORD, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of him personally.

STATE OF ILLINOIS
)
) SS. Cook
) COUNTY OF Cook

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Property of Cook County Clerk's Office

P. I. N. 14-28-118-005

COMMONLY KNOWN AS: 441 W. OAKDALE, CHICAGO, ILLINOIS

SUB-LOT 1 IN THE SUBDIVISION OF LOT 9 TO 16 INCLUSIVE, IN BLOCK 2 IN GILBERT HUBBARD'S ADDITION TO CHICAGO IN THE SOUTH EAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LEGAL DESCRIPTION

EXHIBIT A

63-1163461