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Doc#: 0331742185
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 11/13/2003 10:03 AM 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

7915397 - 0 10/1 CTT

Property of Cook County Clerk's Office

LOAN MODIFICATION AGREEMENT

Loan No. 64-2350103

This Loan Modification Agreement (hereinafter referred to as the "Agreement") is entered into by and among DINO SAVARINO (hereinafter referred to as "Borrower"), CHARLENE SAVARINO and DEAN'S LAWN & LANDSCAPING, INC., an Indiana corporation (hereinafter collectively referred to as "Guarantors") and CHARTER ONE BANK, N.A., a corporation organized and doing business under the laws of the United States of America, successor by merger to Advance Bank (hereinafter referred to as "Lender").

WITNESSETH:

WHEREAS, Borrower obtained a loan (the "Loan") from Advance Bank in the original amount of Nine Hundred Sixty Thousand Dollars U.S. (\$960,000.00) which loan is evidenced by a promissory note (hereinafter referred to as the "Note"), dated April 27, 2001, executed by Borrower; and

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

WHEREAS, the Note is secured by a mortgage (hereinafter referred to as the "Mortgage") of even date with the Note, from Borrower to Advance Bank, which Mortgage was recorded on May 16, 2001 at 13:54:20 as Document No. 010412830 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

WHEREAS, Borrower and Guarantors 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

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BOX 333-CT

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WHEREAS, on July 11, 2003, Charter One Bank, N.A. became the successor in interest by merger to Advance Bank; and

WHEREAS, the principal balance outstanding on the Loan, as evidenced by the Note is Nine Hundred Thirty-One Thousand Two Hundred Twenty Dollars and Ninety-Six Cents U.S. (\$931,220.96), after application of all payments due and owing on the Note through September 10, 2003; and

WHEREAS, all of the terms, conditions, provisions and covenants contained in the Loan Documents are desired by Borrower, Guarantors 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, Guarantors and Lender agree as follows:

1. THE LOAN DOCUMENTS:

The Note, the Guaranty and the Mortgage shall be amended as follows:

RATE OF INTEREST. On November 10, 2003, the rate of interest shall be adjusted to be equal to five and ninety-two one hundredths percent (5.92%) per annum. On November 10, 2008 (the "Change Date"), the rate of interest hereon shall be adjusted to be equal to the greater of: (a) five and sixty-seven one-hundredths percent (5.67%); or (b) one hundred seventy-five (175) 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.

In the event the Index is discontinued and a substitute or substitutes is provided therefor, then such substitute which in the judgment of the Payee most nearly provides the measurement now being provided by the Index shall be used in lieu of the Index.

In the event the Index is discontinued and no substitute is provided therefor, any index, service or publication which in the judgment of the Payee most nearly provides the measurement now being provided by the Index shall be used in place of the Index.

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

On the tenth day of December, 2003 and continuing on the first day of each and every month thereafter up to and including November 10, 2008, the Borrower shall pay to the order of Lender monthly installments of principal and interest in the amount of Six Thousand Three Hundred Eleven Dollars and Ninety-Two Cents U.S. (\$6,311.92). On

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December 10, 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 two hundred sixty-seven (267) month amortization, beginning with November 10, 2003. In any event, if not sooner paid, on the tenth day of November, 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 -

As used herein, the term "Loan Year" shall mean each successive one (1)-year period, the first such Loan Year commencing on November 10, 2003, and each succeeding Loan Year commencing on each successive anniversary of November 10, 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 or 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 prepayment. 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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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 defined); 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.

CONFESSION OF JUDGMENT. Borrower hereby irrevocably authorizes and empowers any attorney-at-law to appear in any court of record and to confess judgment against Borrower for the unpaid amount of this Note as evidenced by an affidavit signed by an officer of Lender setting forth the amount then due, attorneys' fees plus costs of suit, and to release all errors and waive all rights of appeal. If a copy of this Note, verified by an affidavit, shall have been filed in the proceeding, it will not be necessary to file the original as a warrant of attorney. Borrower waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to confess judgment will be deemed to exhaust the power whether or not any such exercise shall be held by any court to be invalid, voidable, or void; but the power will continue undiminished and may be exercised from time to time as Lender may elect until all amounts owing on this Note have been paid in full. Borrower hereby waives and releases any and all claims or causes of action which Borrower might have against any attorney acting under the terms of authority which Borrower has granted herein arising out of or connected with the confession of judgment hereunder.

2. PRIORITY OF MORTGAGE.

The Mortgage shall in all respects as of the date of recording of this Agreement be a valid and existing first 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.

3. FEES.

Borrower shall pay to Lender, on or before the date hereof, a loan modification fee equal to Four Thousand Six Hundred Sixty Dollars U.S. (\$4,660.00) and a prepayment penalty equal to Nine Thousand Two Hundred Ninety Dollars U.S. (\$9,290.00), for a total of Thirteen Thousand Nine Hundred Fifty Dollars U.S. (\$13,950.00) in fees. Borrower will also be responsible for filing and title endorsement fees.

4. REPRESENTATIONS AND WARRANTIES.

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

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(a) Dean's Lawn & Landscaping, Inc. (the "Company") is an Indiana corporation, duly organized and validly existing under the laws of the State of Indiana, and has full power and authority to conduct its business as presently conducted, 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 resolutions and action. Upon the execution hereby by the Company, this Agreement shall constitute legal, valid and binding obligations of the Company, enforceable in accordance with its terms;

(b) No changes have been made to the company's organizational documents;

(c) Borrower and each 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

(d) None of the Guarantors have revoked, attempted to revoke or have any intention to revoke their Guaranty and each hereby reaffirms their respective obligations thereunder as and to the extent amended or modified thereby.

5. RECORDING; EFFECTIVE DATE.

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.

6. HEADINGS.

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.

7. ENTIRE AGREEMENT.

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.

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

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IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in triplicate on _____, 2003.

BORROWER:



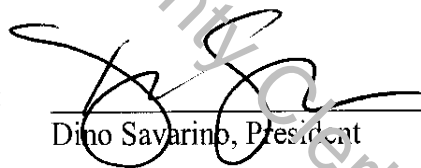
DINO SAVARINO, an Individual

GUARANTORS:



CHARLENE SAVARINO, an Individual

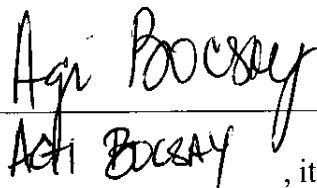
DEAN'S LAWN & LANDSCAPING, INC.,
an Indiana corporation

By: 

Dino Savarino, President

LENDER:

CHARTER ONE BANK, N.A.

By: 

AGRI BOOCSEY, its VP

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STATE OF Indiana)
COUNTY OF Lake) ss.

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

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Highland, ~~Illinois~~, this 3rd day of October, 2003.
Indiana

Gayle Saranno
Notary Public

STATE OF Indiana)
COUNTY OF Lake) ss.

Before me, a Notary Public in and for said County, this day personally appeared the above-named CHARLENE SAVARINO, who acknowledged that she did sign the foregoing instrument and that the same is the free act and deed of her personally.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Highland, this 3rd day of October, 2003.

Gayle Saranno
Notary Public

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STATE OF Indiana)
) ss.
 COUNTY OF Lake)

Before me, a Notary Public in and for said County and State, personally appeared the above-named DEAN'S LAWN & LANDSCAPING, INC., an Indiana corporation, by Dino Savarino, President, who acknowledged that he did sign the foregoing instrument for and on behalf of said company, and that the same is the free act and deed of said company, and the free act and deed of him personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Highland, this 3rd day of October, 2003.

Dino Savarino
 Notary Public

STATE OF OHIO)
) ss.
 COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared the above-named CHARTER ONE BANK, N.A., by AGIBOSAI, its VICE PRESIDENT, 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.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at CLEVELAND, OHIO, this 7th day of October, 2003.



Robert A. Mihalko
 Notary Public

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

~~EXHIBIT A~~
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LOTS 1, 2 AND THE NORTH 26 FEET OF LOTS 3 AND 4 IN LIPINSKI'S SUBDIVISION OF PART OF FRACTIONAL QUARTER OF SECTION 29, TOWNSHIP 36 NORTH, RANGE 15 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

The Real Property or its address is commonly known as 117-121 167th Street, Calumet City, IL 60409.
The Real Property tax identification number is 30-29-200-015-0000.

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