

# UNOFFICIAL COPY

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THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

Greater Illinois Title Company  
120 North LaSalle Street, Suite 900  
Chicago, Illinois 60602  
Attention: Melinda Janczur



Doc#: 0333039185  
Eugene "Gene" Moore Fee: \$66.00  
Cook County Recorder of Deeds  
Date: 11/26/2003 04:35 PM Pg: 1 of 22

*This space reserved for Recorder's use only*

## SECOND MODIFICATION OF LOAN DOCUMENTS

THIS SECOND MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 7<sup>th</sup> day of November, 2003 by and among (i) COLE TAYLOR BANK, not personally but solely as Trustee under Trust Agreement dated May 1, 1999, and known as Trust No. 99-8247 ("Trust") and TRI COUNTY INTERNATIONAL, INC., an Illinois corporation ("Beneficiary"; Trust and Beneficiary are collectively referred to in this Agreement as "Borrower"), (ii) THOMAS W. THOMPSON, individually ("Thompson"; Beneficiary and Thompson are collectively referred to in this Agreement as "Guarantor") and (iii) COLE TAYLOR BANK, a national banking association, its successors and assigns ("Lender").

### RECITALS:

A. Lender previously made a loan ("Loan") to Borrower in the principal amount of Eight Million and No/100 Dollars (\$8,000,000.00) pursuant to the terms and conditions of a Loan Agreement dated as of November 1, 1999 (the "Effective Date"), between Borrower and Lender (the "Loan Agreement"; all terms not otherwise defined in this Agreement shall have the meanings set forth in the Loan Agreement), and as evidenced by a Promissory Note dated the Effective Date, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

B. The Note is secured by, among other things, (i) that certain Mortgage and Security Agreement dated the Effective Date from Trust to Lender recorded with the Recorder of Deeds in Cook, County, Illinois (the "Recorder's Office") on November 20, 1999, as Document No. 0011090671 ("Mortgage"), which encumbers the real property and all improvements thereon legally described on Exhibit A hereto ("Property"), (ii) that certain Assignment of Rents and Leases dated the Effective Date from Borrower to Lender and recorded in the Recorder's Office on November 20, 1999, as Document No. 0011090672 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated the Effective Date from Beneficiary and Thompson to Lender (the "Indemnity Agreement"); and (iv) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended by that certain Modification of Loan Documents recorded with the Recorder's Office on December 18, 2002, as Document No. 0021407206 and from

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COOK TITLE INSURANCE

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time to time, are sometimes collectively referred to in this Agreement as the "**Loan Documents**").

C. The Loan is further secured by a Guaranty of Payment dated the Effective Date from Guarantor to Lender (the "**Guaranty**").

D. Borrower desires to amend the Loan Documents in order to, among other things, increase the amount of the Loan.

## AGREEMENTS:

**NOW, THEREFORE**, in consideration of (i) the facts set forth above (which are incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided in this Agreement, (iii) the covenants and agreements contained in this Agreement, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties agree as follows:

### **1. Amended and Restated Note.**

Concurrently with the execution and delivery of this Agreement, Borrower shall execute and deliver to Lender an Amended and Restated Promissory Note in the original principal amount of Nine Million Two Hundred Three Thousand Nine Hundred Thirty-Seven and 68/100 Dollars (\$9,203,937.68) in the form of the attached and incorporated Exhibit B ("**Amended and Restated Note**").

### **2. Security Agreement.**

Concurrently with the execution and delivery of this Agreement, Beneficiary shall execute and deliver to Lender a Security Agreement in a form acceptable to Lender in its sole discretion.

### **3. Amendment to Loan Agreement.**

(a) Section 1.1 of the Loan Agreement is amended to provide that the Loan Amount is Nine Million Two Hundred Three Thousand Nine Hundred Thirty-Seven and 68/100 Dollars (\$9,203,937.68).

(b) Section 10.1 of the Loan Agreement is amended by:

1. Inserting the following as new clause (l): "(l) The occurrence of an "Event of Default" under that certain Promissory Note (the "**Bridge Note**") dated October 31, 2003, in the original principal amount of One Million Four Hundred Thousand and No/100 Dollars (\$1,400,000.00) made by LP 103 L.L.C., an Illinois limited liability company, in favor of Lender or under any agreement or instrument evidencing, securing or guaranteeing the loan evidenced by the Bridge Note."

2. Inserting the following as new clause (m): "(m) The occurrence of an "Event of Default" under that certain Promissory Note (the "**Line of Credit Note**") dated May 14, 2003, in the original principal amount of Nine Hundred Fifty Thousand and No/100 Dollars (\$950,000.00) made by Thompson's Motor Service, Inc., in favor of Lender or under any agreement or instrument evidencing, securing or guaranteeing the loan evidenced by the Line of Credit Note."

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#### 4. Representations and Warranties of Borrower.

Borrower represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of this date .

(b) There is currently no Event of Default (as defined in the Loan Agreement) under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of this date, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified in this Agreement.

(f) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified in this Agreement. The execution and delivery of this Agreement and the performance of the Loan Documents as modified in this Agreement have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

#### 5. Title Policy.

As a condition precedent to the agreements contained in this Agreement, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender's title insurance policy No. 1301 004279407 GITL (the "**Title Policy**"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

#### 6. Reaffirmation of Guaranty.

Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of this date, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

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## 7. Expenses.

As a condition precedent to the agreements contained in this Agreement, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

## 8. Miscellaneous.

(a) This Agreement is governed by and should be construed in accordance with the laws of the State of Illinois.

(b) This Agreement may not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending to be legally bound by the terms and provisions of this Agreement, of its own free will, without promises or threats or the exertion of duress upon it. The signatories state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, nothing contained in this Agreement may be considered to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor will privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are modified as set forth in this Agreement. Except as expressly modified, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement binds and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents should be considered to refer to the Note, the Mortgage and the other Loan Documents as amended. The paragraph and section headings used in this Agreement are for convenience only and shall not limit the substantive provisions hereof. All words in this Agreement that are expressed in the neuter gender should be considered to include the masculine, feminine and neuter genders. Any word in this Agreement that is expressed in the singular or plural should be considered, whenever appropriate in the context, to include the plural and the singular.

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(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

**[NO FURTHER TEXT ON THIS PAGE]**

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IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first above written.

**LENDER:**

COLE TAYLOR BANK

By: *Craig Brzezinski*

Name: Craig Brzezinski  
Title: SVP

**BORROWER:**

COLE TAYLOR BANK, as Trustee aforesaid

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

TRI COUNTY INTERNATIONAL, INC., an Illinois corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**GUARANTOR:**

TRI COUNTY INTERNATIONAL, INC., an Illinois corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

\_\_\_\_\_  
Thomas W. Thompson, Individually

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*Trustee's Agreement*

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first above written.

**LENDER:**

COLE TAYLOR BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

COLE TAYLOR BANK, as Trustee aforesaid

By: [Signature]  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: [Signature]  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

TRI-COUNTY INTERNATIONAL, INC., an Illinois corporation

By: [Signature]  
Name: Thomas W. Thompson  
Title: President

**GUARANTOR:**

TRI-COUNTY INTERNATIONAL, INC., an Illinois corporation

By: [Signature]  
Name: Thomas W. Thompson  
Title: President

[Signature]  
Thomas W. Thompson, Individually

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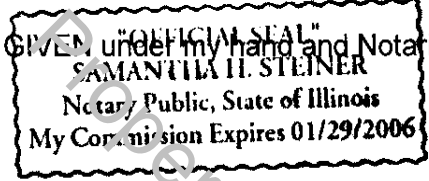
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STATE OF ILLINOIS )

) .ss

COUNTY OF COOK )

I Samantha H. Steiner a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Craig Brzezinski, JVP of Cole Taylor Bank, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.



GIVEN under my hand and Notarial Seal this 7th day of November, 2003

Samantha H. Steiner  
Notary Public

My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS )

) .ss

COUNTY OF Cook )

I \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ and \_\_\_\_\_, Vice President and \_\_\_\_\_, respectively, of Cole Taylor Bank, not personally but as Trustee aforesaid, are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7th day of November, 2003.



Sherry Smith  
Notary Public

My Commission Expires: \_\_\_\_\_



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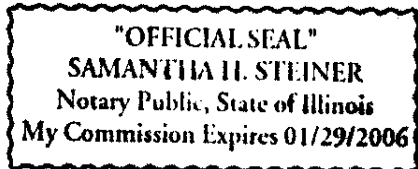
STATE OF ILLINOIS        )  
  ) .ss  
COUNTY OF Cook        )

I, Samantha H. Steiner, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas W. Thompson, individually and as President of Tri-County International, Inc., is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7th day of November, 2003

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1/29/06



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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL I:

A PARCEL OF LAND SITUATED IN THE CITY OF CHICAGO TO WIT: ALL THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL, MERIDIAN, TOGETHER WITH THOSE PARTS OF LOTS 3 TO 1, 10 AND 11 IN HART L. STEWART'S SUBDIVISION OF LOTS 11 TO 20 BOTH INCLUSIVE, IN BLOCK 2 IN THE 'SOUTH BRANCH ADDITION TO SAID CITY OF CHICAGO; THAT PART OF LOTS 1 AND 2 IN DAVID KREIGH'S SUBDIVISION IN THE SOUTH, FRACTION OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, THAT PART OF LOTS 21, 22, 23 AND 24 IN ADAM MURRAY'S SUBDIVISION OF LOTS 15 AND 187 IN HIS SECOND SUBDIVISION IN THE MURRAY'S 15 ACRES IN THE SOUTH FRACTION OF THE NORTHWEST 1/4 OF SAID SECTION 28; THAT PART OF THE NORTH AND SOUTH VACATED ALLEY 15 FEET IN WIDTH LYING BETWEEN LOTS 21 AND 22 IN SAID ADAM MURRAY'S SUBDIVISION AND THAT PART OF AN EASTERLY AND WESTERLY STRIP OF LAND 30 FEET IN WIDTH LYING ON THE NORTH SIDE OF AND IMMEDIATELY ADJACENT TO THE NORTHERLY LINE OF THE ORIGINAL LOT 15 IN SAID ADAM MURRAY'S SECOND SUBDIVISION AND THE NORTHERLY SIDE OF LOT 2 IN SAID DAVID KREIGH'S SUBDIVISION SAID STRIP OF LAND EXTENDING FROM THE WEST LINE OF SAID SOUTH BRANCH ADDITION TO THE ORIGINAL EAST LINE OF HALSTED STREET, TOGETHER WITH PART OF VACATED WAIVER STREET IN SAID CITY OF CHICAGO, ALL OF THE PROPERTY DESCRIBED HEREIN LYING IN THE NORTHWEST 1/4 OF SAID SECTION 28, BOUNDED AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN EASTERLY LINE OF SOUTH HALSTED STREET AT SOUTHEAST ANGLE CORNER OF PARCEL OF LAND, CONTAINING AN AREA OF 7009 SQUARE FEET MORE OR LESS WHICH HAS BEEN CONVEYED BY SUSQUEHANNA COAL COMPANY TO CITY OF CHICAGO BY THE FIRST PARCEL IN THE DEED BEARING DATE OF JANUARY 24, 1933 DOCUMENT 11428961 (WHICH PLACE OF BEGINNING IS IN THE SOUTHERLY LINE OF LOT 1 OF DAVID KREIGH'S SUBDIVISION AFORESAID AND IN THE GENERAL NORTHERLY LINE OF LAND FORMERLY OWNED BY GULF, MOBILE AND OHIO RAILROAD); THENCE NORTH 0 DEGREES, 54 MINUTES EAST ALONG SAID EAST LINE OF SOUTH HALSTED STREET (WHICH IS THE EAST LINE OF SAID PARCEL OF LAND CONTAINING 7009 SQUARE FEET MORE OR LESS SO CONVEYED TO THE CITY OF CHICAGO), THROUGH SAID LOT 1 IN DAVID KREIGH'S SUBDIVISION, 207.51 FEET TO GENERAL SOUTHERLY LINE OF SOUTH BRANCH OF THE CHICAGO RIVER, AT NORTHEAST ANGLE CORNER OF SAID LAST MENTIONED PARCEL OF LAND; THENCE NORTH 67 DEGREES 52 MINUTES EAST PARTLY THROUGH SAID LOT 1 OF DAVID KREIGH'S SUBDIVISION 41.18 FEET TO AN ANGLE POINT; THENCE NORTH 86 DEGREES 52 MINUTES EAST PARTLY THROUGH LOT 1 AFORESAID AND THROUGH LOT 6 AND PARTLY THROUGH LOT 5, SAID TWO LAST MENTIONED LOTS BEING IN SAID HART L. STEWART SUBDIVISION AFORESAID, 323.94 FEET TO NORTHWEST ANGLE CORNER OF PARCEL OF LAND 30 FEET WIDE WHICH WAS CONVEYED BY GRANITE IMPROVEMENT COMPANY TO NOX-RUST CHEMICAL CORPORATION BY DEED BEARING DATED OF MARCH 4, 1952 AS DOCUMENT 15307405 (THE LAST TWO COURSES AND DISTANCES BEING ALONG SAID GENERAL SOUTHERLY LINE OF SOUTH BRANCH OF CHICAGO RIVER); THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SOUTH BRANCH OF CHICAGO RIVER); THENCE EASTERLY ALONG THE SOUTHERLY LINE OF THE SOUTH BRANCH OF THE CHICAGO RIVER TO THE EASTERLY LINE OF LOT 5 AFORESAID; THENCE EASTERLY ALONG THE SOUTHERLY DOCK LINE OF THE SOUTH BRANCH OF CHICAGO RIVER TO A POINT 79 FEET (MEASURED ALONG SAID DOCK LINE) EASTERLY OF THE INTERSECTION OF THE WEST LINE OF LOT 4 IN SAID H.L. STEWART'S SUBDIVISION WITH

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SAID DOCK LINE; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE FOR A DISTANCE OF 88 FEET TO A POINT 119 FEET EAST OF THE WEST LINE OF SAID LOT 4 AS MEASURED AT RIGHT ANGLES THERETO; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE AT RIGHT ANGLES TO LAST DESCRIBED LINE FOR A DISTANCE OF 15 FEET; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE TO A POINT IN THE SOUTH LINE OF LOT 3 AFORESAID, WHICH POINT IS 178 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 4; THENCE CONTINUING ON LAST DESCRIBED COURSE EXTENDED TO ITS INTERSECTION WITH A STRAIGHT LINE (SAID STRAIGHT LINE EXTENDS FROM A POINT IN THE NORTH LINE OF LOT 11 IN SAID H.L. STEWART'S SUBDIVISION, SAID POINT BEING 15 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 11, NORTHEASTERLY FOR A DISTANCE OF 292.23 FEET MORE OR LESS TO A POINT WHICH IS 41 FEET NORTH OF THE NORTH LINE OF LOT 26 IN SAID H.L. STEWART'S SUBDIVISION, MEASURED FROM A POIN IN THE NORTH LINE OF SAID LOT 26, 25 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 26); THENCE SOUTHWESTERLY ALONG LAST MENTIONED LINE TO SAID POINT ON THE NORTH LINE OF LOT 11 IN HART L. STEWART'S AND OTHERS SUBDIVISION AFORESAID WHICH IS 15 FEET EASTERLY OF THE NORTHWEST CORNER THEREOF; THENCE SOUTHWESTERLY 87 FEET MORE OR LESS TO A POINT IN THE WEST LINE OF SAID LOT 7 AND THE EAST LINE OF SAID LOT 2, SAID POINT ALSO BEING 24 FEET SOUTHERLY FROM THE NORTHEAST CORNER OF SAID LOT 2 (MEASURED ALONG THE EAST LINE OF SAID LOT 2); SAID POINT BEING 28 FEET SOUTHERLY FROM THE NORTHWEST CORNER OF SAID LOT 21 (MEASURED ALONG THE WEST LINE OF SAID LOT 21); (THE LAST FIVE MENTIONED COURSES AND DISTANCES BEING THE SOUTHERLY LINE OF PART OF PARCELS "A", "B" AND "C" AS SHOWN ON THE PRINT OF DRAWING NO. 21471 ATTACHED TO DEED RECORDED AS DOCUMENT 14731252); THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE IF EXTENDED WOULD INTERSECT THE WESTERLY LINE OF LOT 24 IN ADAM MURRAY'S SUBDIVISION OF LOTS 15 AND 18 IN HIS SECOND SUBDIVISION IN THE MURRAY'S 15 ACRES IN SOUTH FRACTIONAL OF THE NORTHWEST 1/4 OF SAID SECTION 28; 7 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 24 TO A POINT 74 FEET DISTANT NORTHEASTERLY OF THE WEST LINE OF LOT 24 AFORESAID; THENCE SOUTH 27 DEGREES 51 MINUTES 48 SECONDS EAST, A DISTANCE OF 11.0 FEET; THENCE SOUTH 57 DEGREES 23 MINUTES 00 SECONDS WEST A DISTANCE OF 36.2 FEET; THENCE NORTH 88 DEGREES 59 MINUTES 50 SECONDS WEST A DISTANCE OF 29.0 FEET TO A POINT ON THE ABOVE DESCRIBED STRAIGHT LINE THAT IS 11.0 FEET NORTHEASTERLY OF THE WEST LINE OF LOT 24 AFORESAID (AS MEASURED ALONG SAID STRAIGHT LINE); THENCE SOUTHWESTERLY ALONG SAID STRAIGHT LINE A DISTANCE OF 11.0 FEET TO THE EASTERLY LINE OF SOUTH HALSTED STREET (BEING ALSO THE WEST LINE OF LOTS 22 TO 24 IN ADAM MURRAY'S SECOND SUBDIVISION AFORESAID); (THE LAST 5 MENTIONED COURSED AND DISTANCES BEING THE SOUTHERLY LINES OF PART OF PARCEL "B" AND THE EASTERLY AND SOUTHERLY LINES OF PARCEL "D" AS SHOWN ON PRINT OF DRAWING NO. 21471 ATTACHED TO DEED RECORDED AS DOCUMENT 14731252); THENCE NORTH ALONG THE WEST LINE OF SAID LOTS 24, 23 AND 22 ALONG THE ORIGINAL EAST LINE OF SAID HALSTED STREET, TO THE SOUTHERLY LINE OF THE PARCEL OF LAND CONVEYED BY THE SUSQUEHANNA COAL COMPANY TO THE CITY OF CHICAGO BY DOCUMENT 11428961; THENCE EASTERLY ALONG A-CURVED LINE CONVEX SOUTHEASTERLY BEING ALSO THE NORTHERLY LINE OF SAID STRIP OF LAND 30 FEET IN WIDTH, A DISTANCE OF 34.26 FEET MORE OR LESS, THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS (EXCEPTING THEREFROM THAT PART OF THE LAND CONDEMNED FOR PUBLIC HIGHWAY KNOWN AS I-90/94 BY JUDGMENT ORDER ENTERED MAY 18, 1987 IN CASE NUMBER 86 L 50817).

PIN : 17-28-111-001-0000; 17-28-111-023-0000; 17-28-111-025-0000; 17-28-111-026-0000;  
17-28-111-028-0000; 17-28-111-032-0000; 17-28-111-033-0000

Commonly Known As: 2425 South Halsted, Chicago, Illinois 60608

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## PARCEL II:

(A) THE WEST 51.00 FEET OF LOTS 46 TO 50, BOTH INCLUSIVE, AND TAKEN AS ONE TRACT, IN WILLARD'S SUBDIVISION OF THE WEST 1/2 OF BLOCK 5 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; EXCEPTING FROM THE ABOVE DESCRIBED TRACT OF LAND THAT PART THEREOF LYING NORTH OF A LINE DRAWN 33.00 FEET SOUTH OF AN PARALLEL WITH THE NORTH LINE OF THE AFORESAID LOT 50; AND ALSO EXCEPTING THEREFROM THAT PART THEREOF LYING SOUTH OF A LINE 516.00 FEET NORTH OF AN PARALLEL WITH THE SOUTH LINE OF LOT 26 IN THE AFORESAID WILLARD'S SUBDIVISION, SAID SOUTH LINE BEING ALSO THE NORTH LINE OF WEST 33RD STREET, IN COOK COUNTY, ILLINOIS.

(B): THE NORTH 33.00 FEET OF THE WEST 51.00 FEET OF LOTS 49 AND 50, TAKEN AS ONE TRACT; TOGETHER WITH THE WEST 51.00 FEET OF THAT PART OF WEST 32ND STREET VACATED PER DOCUMENT NUMBER 11127072, NORTH OF AND ADJOINING THE NORTH LINE OF THE AFORESAID LOT 50 LYING EAST OF THE NORTHERLY EXTENSION OF THE WEST LINE OF THE AFORESAID LOTS 49 AND 50; ALL IN WILLARD'S SUBDIVISION OF THE WEST 1/2 OF BLOCK 5 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; IN COOK COUNTY, ILLINOIS.

(C): THE NORTH 33.00 FEET OF LOTS 1 AND 2, TAKEN AS ONE TRACT, IN WILLARD'S SUBDIVISION OF THE WEST 1/2 OF BLOCK 5 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

(D): THE NORTH 1/2 OF THE FOLLOWING DESCRIBED REAL ESTATE:

THE EAST 250.00 FEET OF A STRIP OF LAND, 66.00 FEET IN WIDTH, LYING IN THE FOLLOWING DESCRIBED TRACT OF LAND.

LOTS 5 TO 8, BOTH INCLUSIVE; LOTS 43 TO 46, BOTH INCLUSIVE; AND THE 15-FOOT NORTH AND SOUTH ALLEY, VACATED PER DOCUMENT NUMBER 11127072 WEST OF AND ADJOINING THE WEST LINE OF THE AFORESAID LOTS 43 TO 46; ALL IN HERRICK STEVEN'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 5 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; THE SOUTH LINE OF THE AFORESAID STRIP OF LAND BEING A LINE DRAWN 450.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOTS 25 AND 26 IN THE AFORESAID HERRICK STEVEN'S SUBDIVISION, SAID SOUTHLINE OF LOTS 25 AND 26 IN THE AFORESAID HERRICK STEVEN'S SUBDIVISION, SAID SOUTH LINE OF LOTS 25 AND 26 BEING ALSO THE NORTH LINE OF WEST 33RD STREET; AND THE EAST LIMIT OF THE AFORESAID STRIP OF LAND BEING THE EAST LINE OF THE AFORESAID LOTS 43 TO 46; IN COOK COUNTY, ILLINOIS.

(E): THAT PART OF BLOCKS 1 AND 2 IN WALKER AND WESTON'S SUBDIVISION OF BLOCK 4 IN CANAL TRUSTEE'S SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, INCLUDING VACATED STREETS AND ALLEYS, LYING WITHIN THE FOLLOWING DESCRIBED TRACT OF LAND:

BEGINNING AT A POINT ON THE EAST LINE OF LOT 38 IN BLOCK 1, 20 FEET SOUTH OF THE NORTHEAST CORNER THEREOF, THENCE NORTHWESTERLY TO A POINT ON THE SOUTH LINE OF LOT 39 IN BLOCK 1, 20 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE WEST ALONG THE SOUTH LINE OF LOT 39 AND SAID LINE EXTENDED WEST, ALONG THE



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SOUTH LINE OF LOT 18 IN BLOCK 1, AND SAID LINE EXTENDED WEST, AND ALONG THE SOUTH LINES OF LOTS 39 AND 18, AND EXTENSIONS THEREOF, IN BLOCK 2, TO A POINT ON THE SOUTH LINE OF LOT 18 IN BLOCK 2, SAID POINT BEING 23.11 FEET EAST OF THE SOUTHWEST CORNER OF SAID LOT 18; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE SOUTH LINE OF LOT 28 IN BLOCK 2, ALSO BEING THE SOUTH LINE OF BLOCK 2, SAID POINT BEING 11.58 EAST OF THE SOUTHWEST CORNER OF SAID LOT 28, THENCE EAST ALONG THE SOUTH LINE OF SAID BLOCK 2, TO ITS INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 66 FEET EAST OF THE EAST LINE OF LOTS 1 TO 25, INCLUSIVE, IN J.P. WILLARD'S SUBDIVISION OF THE WEST 1/2 OF BLOCK 5 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH ALONG THE LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 33.65 FEET; THENCE EAST ALONG A LINE 696 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF WEST 33RD STREET, TO ITS INTERSECTION WITH THE EAST LINE OF SAID BLOCK 1; THENCE NORTH ALONG SAID EAST LINE OF BLOCK 1 TO THE POINT OF BEGINNING.

(EXCEPT FROM SAID TRACT THAT PART DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER THEREOF, AND RUNNING THENCE EAST ALONG THE NORTH LINE THEREOF, 21.44 FEET; THENCE SOUTH 1 DEGREE, 30 MINUTES, 57 SECONDS EAST, 17.64 FEET; THENCE SOUTH 87 DEGREES, 56 MINUTES, 27 SECONDS WEST 22.24 FEET TO A POINT ON THE WEST LINE OF SAID TRACT, 17.68 FEET SOUTH OF THE NORTHWEST CORNER THEREOF; THENCE NORTH ALONG SAID WEST LINE TO SAID NORTHWEST CORNER, AND THE POINT OF BEGINNING; WHICH WAS CONVEYED TO THE STATE OF ILLINOIS WARRANTY DEED RECORDED AS DOCUMENT 96495527); IN COOK COUNTY, ILLINOIS.

(F): A PARCEL OF LAND COMPRISED OF A PART OF LOTS 27 AND 28 IN BLOCK 1, LOTS 29 AND 30 IN BLOCK 2, TOGETHER WITH A PART OF VACATED SOUTH WINCHESTER AVENUE BETWEEN SAID BLOCKS 1 AND 2, AND A PART OF VACATED WEST 32<sup>ND</sup> STREET SOUTH OF SAID BLOCKS 1 AND 2, ALL IN WALKER AND WESTON'S SUBDIVISION OF BLOCK 4 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31 TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO A PART OF LOTS 1 TO 5, INCLUSIVE, IN HERRICK STEVEN'S SUBDIVISION OF THE EAST 1/2 OF BLOCK 5 IN SAID CANAL TRUSTEES' SUBDIVISION, AND ALSO A PART OF LOTS 46 TO 50, INCLUSIVE, IN J.P. WILLARD'S SUBDIVISION OF THE WEST 1/2 OF SAID BLOCK 5; TOGETHER WITH A PART OF SAID VACATED SOUTH WINCHESTER AVENUE LYING BETWEEN SAID LOTS 1 TO 5, INCLUSIVE, AND LOTS 46 TO 50, INCLUSIVE; WHICH PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF A LINE PARALLEL TO AND 200 FEET WEST OF THE WEST LINE OF SOUTH WOLCOTT STREET (FORMERLY LINCOLN STREET) WITH A LINE PARALLEL TO AND 516 FEET NORTH OF THE NORTH LINE OF WEST 33RD STREET, AND RUNNING THENCE WEST ALONG THE LAST ABOVEMENTIONED PARALLEL LINE, A DISTANCE OF 208.06 FEET TO ITS INTERSECTION WITH A LINE PARALLEL TO AND 66 FEET EAST OF THE EAST LINE OF LOTS 1 TO 25, INCLUSIVE, IN SAID J.P. WILLARD'S SUBDIVISION; THENCE NORTH ALONG THE LAST ABOVE-MENTIONED PARALLEL LINE AND ITS NORTHERLY EXTENSION, A DISTANCE OF 180 FEET TO ITS INTERSECTION WITH A LINE PARALLEL TO AND 696 FEET NORTH OF SAID NORTH LINE OF WEST 33RD STREET; THENCE EAST ALONG THE LAST ABOVEMENTIONED PARALLEL LINE, A DISTANCE OF 208.06 FEET TO ITS INTERSECTION WITH SAID LINE THAT IS PARALLEL TO AND 200 FEET WEST OF THE WEST LINE OF SOUTH WOLCOTT STREET (FORMERLY LINCOLN STREET); THENCE SOUTH ALONG THE LAST ABOVE-MENTIONED PARALLEL LINE, A DISTANCE OF 180 FEET TO THE POINT OF BEGINNING; IN COOK COUNTY, ILLINOIS.

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(G): A PARCEL OF LAND COMPRISED OF LOTS 47 TO 50, INCLUSIVE, PART OF LOTS 1 TO 4, INCLUSIVE PART OF LOTS 5 AND 46, AND THE VACATED ALLEY LYING BETWEEN SAID LOTS AND PARTS OF LOTS, ALL IN HERRICK STEVENS' SUBDIVISION OF THE EAST 1/2 OF BLOCK 5; ALSO LOT 29 AND PART OF LOTS 27, 28 AND 30, TOGETHER WITH THE VACATED ALLEY LYING BETWEEN SAID LOTS AND PARTS OF LOTS, IN BLOCK 1 OF WALKER AND WESTON'S SUBDIVISION OF BLOCK 4; ALSO, THAT PART OF VACATED WEST 32"D STREET LYING BETWEEN SAID BLOCKS; ALL IN CANAL TRUSTEES' SUBDIVISION OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH PARCEL OF LAND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SOUTH WOLCOTT STREET (FORMERLY LINCOLN STREET) WITH A LINE 516 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF WEST 33RD STREET, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 200 FEET; THENCE NORTH, PARALLEL WITH THE WEST LINE OF SOUTH WOLCOTT STREET, MA DISTANCE OF 180 FEET; THENCE EAST, PARALLEL WITH THE NORTH LINE OF SAID WEST 33RD STREET, 200 FEET TO THE WEST LINE OF SOUTH WOLCOTT SECTION, TOWNSHIP, RANGE; THENCE SOUTH 180 FEET TO THE PLACE OF BEGINNING,; IN COOK COUNTY, ILLINOIS.

PIN: 17-31-200-040-0000; 17-31-201-020-0000; 17-31-207-034-0000; 17-31-207-037-0000;  
17-31-207-038-0000; 17-31-208-012-0000; 17-31-208-016-0000

Commonly Known As: 3210 SOUTH WOLCOTT, CHICAGO, Illinois 60608

Parcel III

LOTS 36 TO 49, INCLUSIVE, IN THE SUBDIVISION OF LOTS 1 AND 2 (EXCEPT THE EAST 65 FEET AND THE SOUTH 200 FEET OF SAID LOTS 1 AND 2 TAKEN TOGETHER) IN BLOCK 43 IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND SO MUCH OF THE SOUTHEAST 1/4 OF SAID SECTION 21 AS LIES WEST OF THE SOUTH BRANCH OF THE CHICAGO RIVER, IN COOK COUNTY, ILLINOIS.

PINNOS.: 17-21-309-015, 17-21-309-001, 17-21-309-002, 17-21-309-003, 17-21-309-004, 17-21-309-005,  
17-21-309-006 and 17-21-309-007

PROPERTY ADDRESS: 1601 SOUTH CANAL STREET, CHICAGO, ILLINOIS 60616

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## AMENDED AND RESTATED PROMISSORY NOTE

\$9,203,937.68

November 7, 2003  
Chicago, Illinois

### 1. Agreement to Pay.

FOR VALUE RECEIVED, each of COLE TAYLOR BANK, not personally but solely as Trustee under Trust Agreement dated May 1, 1999, and known as Trust No. 99-8247 ("Trust") and TRI COUNTY INTERNATIONAL, INC., an Illinois corporation ("Beneficiary"; Trust and Beneficiary are collectively referred to as "Borrower") promises to pay to the order of COLE TAYLOR BANK, a national banking association, its successors and assigns ("Lender"), the principal sum of Nine Million Two Hundred Three Thousand Nine Hundred Thirty-Seven and 68/100 Dollars (\$9,203,937.68) ("Loan"), at the place and in the manner provided in this Note, together with interest at the rate or rates described below, and any and all other amounts that are due and payable from time to time.

### 2. Interest Rate.

#### 2.1 Interest Prior to Default.

Interest will accrue on the outstanding principal balance of this Note from this date through October 31, 2008 ("Maturity Date"), at an annual rate equal to the Prime Rate ("Loan Rate"). Changes in the rate of interest to be charged based on the Prime Rate take effect immediately upon the occurrence of any change in the Prime Rate.

"Prime Rate" means the rate of interest most recently announced by Lender at Chicago, Illinois as its prime or base rate. A certificate made by an officer of Lender stating the Prime Rate in effect on any given day will be conclusive evidence of the Prime Rate in effect on such day. The "Prime Rate" is a base reference rate of interest adopted by Lender as a general benchmark from which Lender determines the floating interest rates chargeable on various loans to borrowers with varying degrees of creditworthiness and Borrower acknowledges and agrees that Lender has made no representations whatsoever that the "Prime Rate" is the interest rate actually offered by Lender to borrowers of any particular creditworthiness.

#### 2.2 Interest After Default.

From and after the Maturity Date or upon the occurrence and during the continuance of an Event of Default, interest shall accrue on the balance of principal remaining unpaid during any such period at an annual rate ("Default Rate") equal to five percent (5%) plus the Loan Rate; but in no event may the Default Rate exceed the maximum rate permitted by law. The interest accruing under this paragraph is immediately due and payable by Borrower to the holder of this Note upon demand and is additional indebtedness evidenced by this Note.

#### 2.3 Interest Calculation.

Interest on this Note will be calculated on the basis of a 360-day year and the actual number of days elapsed in any portion of a month in which interest is due.



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## 3. Payment Terms.

### 3.1 Principal and Interest.

Payments of principal and interest due under this Note, if not sooner declared to be due in accordance with the provisions hereof, shall be made as follows:

(a) Commencing on December 1, 2003, and on the first Business Day of each month thereafter through and including the month in which the Maturity Date occurs, payments of (i) principal in the amount of \$38,349.74 each, and (ii) accrued and unpaid interest on the outstanding principal balance hereof, will be due and payable.

(b) The unpaid principal balance of this Note, if not sooner paid or declared to be due in accordance with the terms of this Note, together with all accrued and unpaid interest and any other amounts due and payable under this Note or under any other Loan Document (as defined), will be due and payable in full on the Maturity Date.

### 3.2 Application of Payments.

Prior to the occurrence of an Event of Default, all payments and prepayments on account of the indebtedness evidenced by this Note will be applied as follows: (a) first, to fees, expenses, costs and other similar amounts then due and payable to Lender, including, without limitation any prepayment premium, exit fee or late charges due hereunder, (b) second, to accrued and unpaid interest on the principal balance of this Note, (c) third, to the payment of principal due in the month in which the payment or prepayment is made, (d) fourth, to any escrows, impounds or other amounts which may then be due and payable under the Loan Documents (as hereinafter defined), (e) fifth, to any other amounts then due Lender hereunder or under any of the Loan Documents, and (f) last, to the unpaid principal balance of this Note in the inverse order of maturity. Any prepayment on account of the indebtedness evidenced by this Note shall not extend or postpone the due date or reduce the amount of any subsequent monthly payment of principal and interest due hereunder. After an Event of Default has occurred and is continuing, payments may be applied by Lender to amounts owed hereunder and under the Loan Documents in such order as Lender shall determine, in its sole discretion.

### 3.3 Method of Payments.

All payments of principal and interest hereunder must be paid by automatic debit, wire transfer, check or in coin or currency which, at the time or times of payment, is the legal tender for public and private debts in the United States of America and must be made at such place as Lender or the legal holder or holders of this Note may from time to time appoint in the payment invoice or otherwise in writing, and in the absence of such appointment, then at the offices of Lender at 111 West Washington Street, Fourth Floor, Chicago, Illinois 60602. Payment made by check is considered paid on the date Lender receives such check; provided, however, that if such check is subsequently returned to Lender unpaid due to insufficient funds or otherwise, the payment will not be considered to have been made and will continue to bear interest until collected. Notwithstanding the foregoing, the final payment due under this Note must be made by wire transfer or other final funds.

### 3.4 Late Charge.

If any payment of interest or principal due under this Note is not made within five days after such payment is due, then, in addition to the payment of the amount so due, Borrower agrees to pay to Lender a "late charge" of five cents for each whole dollar so overdue to defray part of the cost of collection and handling such late payment. Borrower agrees that the damages to be sustained by the holder of this Note for the detriment caused by any late payment are extremely difficult and impractical to ascertain, and that the amount of five cents for

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each one dollar due is a reasonable estimate of such damages, does not constitute interest, and is not a penalty.

### 3.5 Prepayment.

This Note may be prepaid, either in whole or in part, without penalty or premium, at any time and from time to time upon fourteen (14) days prior notice to Lender.

### 4. Security.

This Note is secured by a Loan Agreement dated November 9, 2001, by and between Borrower and Lender (as amended, "**Loan Agreement**"), a Mortgage and Security Agreement (as amended, "**Mortgage**") dated November 9, 2001, made by Trust to Lender creating a first mortgage lien on certain real property ("**Premises**") legally described in Exhibit A attached to the Mortgage, an Assignment of Rents and Leases (as amended, "**Assignment**") dated November 9, 2001, Borrower to Lender, a Guaranty of Payment (as amended, "**Guaranty**") November 9, 2001, from Thomas W. Thompson and Tri County International, Inc. (collectively, "**Guarantor**") to Lender and an Environmental Indemnity Agreement (as amended, "**Indemnity Agreement**") dated November 9, 2001, from Borrower and Guarantor to Lender, each of which is modified by a Modification of Loan documents dated of even date herewith by and among Borrower, Lender and Guarantor (the "**Modification**"; the Loan Agreement, the Mortgage, the Assignment, the Guaranty, the Indemnity Agreement, the Modification and any other document now or later given to evidence or secure payment of this Note or delivered to induce Lender to disburse the proceeds of the Loan, as such documents may be amended, restated or replaced from time to time, are collectively referred to as the "**Loan Documents**"). Reference is made to the Loan Documents (which are incorporated by reference as fully and with the same effect as if set forth at length) for a statement of the covenants and agreements, a statement of the rights, remedies, and security afforded.

### 5. Events of Default.

The occurrence of any one or more of the following events constitutes an "**Event of Default**" under this Note:

- (a) failure by Borrower to pay (i) any installment of principal or interest payable pursuant to this Note within five (5) days after the date when due, or (ii) any other amount payable to Lender under this Note, the Mortgage or any of the other Loan Documents within five (5) days after the date when any such payment is due; or
- (b) occurrence of any "Event of Default" under the Mortgage or any of the other Loan Documents; or
- (c) occurrence of the dissolution, insolvency, winding-up, death or legal incompetency, as applicable, of any guarantor of this Note.

### 6. Remedies.

At the election of the holder of this Note, and without notice, the principal balance remaining unpaid under this Note, and all unpaid interest accrued and any other amounts due, will become immediately due and payable in full upon the occurrence of any Event of Default. Failure to exercise this option will not constitute a waiver of the right to exercise same in the event of any subsequent Event of Default. No holder of this Note will, by any act of omission or commission, be deemed to waive any of its rights, remedies or powers under this Note or otherwise unless such waiver is in writing and signed by the holder, and then only to the extent specifically set forth. The rights, remedies and powers of the holder of this Note, as provided in

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this Note, the Mortgage and in all of the other Loan Documents are cumulative and concurrent, and may be pursued singly, successively or together against Borrower, the Guarantors, the Premises and any other security given at any time to secure the repayment, all at the sole discretion of the holder. If any suit or action is instituted or attorneys are employed to collect all or any part of this Note, Borrower promises and agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.

## **7. Covenants and Waivers.**

Borrower and all others who now or may at any time become liable for all or any part of the obligations evidenced by this Note, expressly agree to be jointly and severally bound, and jointly and severally: (i) waive and renounce any and all homestead, redemption and exemption rights and the benefit of all valuation and appraisal privileges against the indebtedness evidenced by this Note or by any extension or renewal; (ii) waive presentment and demand for payment, notices of nonpayment and of dishonor, protest of dishonor, and notice of protest; (iii) except as expressly provided in the Loan Documents, waive any and all notices in connection with the delivery and acceptance and all other notices in connection with the performance, default, or enforcement of the payment; (iv) waive any and all lack of diligence and delays in the enforcement of the payment; (v) agree that the liability of each Borrower, guarantor, endorser or obligor is unconditional and without regard to the liability of any other person or entity for the payment hereof, and will not in any manner be affected by any indulgence or forbearance granted or consented to by Lender to any of them; (vi) consent to any and all extensions of time, renewals, waivers, or modifications that may be granted by Lender with respect to the payment or other provisions hereof, and to the release of any security at any time given for the payment, or any part, with or without substitution, and to the release of any person or entity liable for the payment; and (vii) consent to the addition of any and all other makers, endorsers, guarantors, and other obligors for the payment, and to the acceptance of any and all other security for the payment, and agree that the addition of any such makers, endorsers, guarantors or other obligors, or security shall not affect the liability of Borrower, any guarantor and all others now liable for all or any part of the obligations evidenced hereby. This provision is a material inducement for Lender making the Loan to Borrower.

## **8. Other General Agreements.**

(a) The Loan is a business loan covered by Section 205/4, paragraph (1)(c) of Chapter 815 of the Illinois Compiled Statutes, as amended. Borrower agrees that the Loan evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C., Section 1601, et seq.

(b) Time is of the essence under this Note.

(c) This Note is governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects by the statutes, laws and decisions of the State of Illinois. This Note may not be changed or amended orally but only by an instrument in writing signed by the party against whom enforcement of the change or amendment is sought.

(d) Lender should not be construed for any purpose to be a partner, joint venturer, agent or associate of Borrower or of any lessee, operator, concessionaire or licensee of Borrower in the conduct of its business, and by the execution of this Note, Borrower agrees to indemnify, defend, and hold Lender harmless from and against any and all damages, costs, expenses and liability that may be incurred by Lender as a result of a claim that Lender is such partner, joint venturer, agent or associate.

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(e) This Note has been made and delivered at Chicago, Illinois and all funds disbursed to or for the benefit of Borrower will be disbursed in Chicago, Illinois.

(f) If this Note is executed by more than one party, the obligations and liabilities of each Borrower under this Note is joint and several and is binding upon and enforceable against each Borrower and their respective successors and assigns. This Note inures to the benefit of and may be enforced by Lender and its successors and assigns.

(g) If any provision of this Note is determined to be invalid by reason of the operation of law, or by reason of the interpretation by any administrative agency or any court, Borrower and Lender agree to negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this and the validity and enforceability of the remaining provisions, or portions or applications, will not be affected and will remain in full force and effect.

(h) If the interest provisions in this Note or in any of the Loan Documents results, at any time during the Loan, in an effective rate of interest which, for any month, exceeds the limit of usury or other laws applicable to the Loan, all sums in excess of those lawfully collectible as interest of the period in question shall, without further agreement or notice between or by any party hereto, be applied upon principal immediately upon receipt of such monies by Lender, with the same force and effect as though the payer has specifically designated such extra sums to be so applied to principal and Lender had agreed to accept such extra payment(s) as a premium-free prepayment. Notwithstanding the foregoing, however, Lender may at any time and from time to time elect by notice in writing to Borrower to reduce or limit the collection to such sums which, when added to the said first-stated interest, shall not result in any payments toward principal in accordance with the requirements of the preceding sentence. In no event shall any agreed to or actual exaction as consideration for this Loan transcend the limits imposed or provided by the law applicable to this transaction or the makers hereof in the jurisdiction in which the Premises are located for the use or detention of money or for forbearance in seeking its collection.

(i) Lender may at any time assign all or any part of its rights in this Note and the Loan Documents, and transfer its rights in any or all of the collateral, and Lender then will be relieved from all liability with respect to such collateral. In addition, Lender may at any time sell one or more participations in the Note. Borrower may not assign all or any part of its interest in this Note, or any other agreement with Lender, either voluntarily or by operation of law, without the prior written consent of Lender.

## 9. Notices.

All notices required under this Note must be in writing and must be transmitted in the manner and to the addresses or facsimile numbers required by the [Loan Agreement/Mortgage], or to such other addresses or facsimile numbers as Lender and Borrower may specify from time to time in writing.

## 10. Consent to Jurisdiction.

**TO INDUCE LENDER TO ACCEPT THIS NOTE, BORROWER IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS NOTE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. BORROWER CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT**



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LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON BORROWER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO BORROWER AT THE ADDRESS STATED IN THE MORTGAGE AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

11. Waiver of Jury Trial.

BORROWER AND LENDER (BY ACCEPTANCE OF THIS NOTE), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS NOTE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS NOTE OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS NOTE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. BORROWER AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST LENDER ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

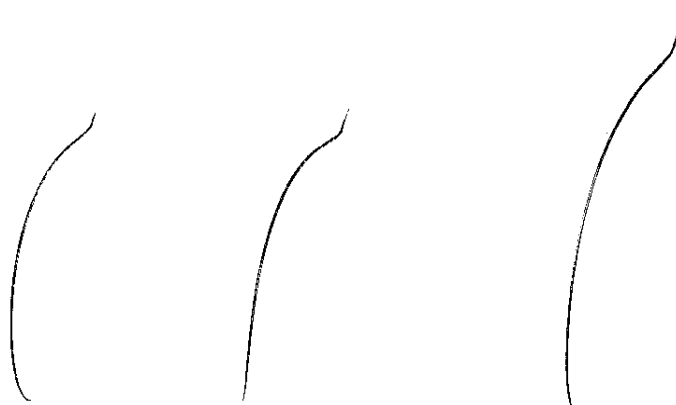
12. Prior Note.

This Note amends and restates in its entirety the Promissory Note dated November 9, 2001, executed by Trust in the amount of \$8,000,000.00 (the "Prior Note"); which Prior Note shall be deemed merged herein. Nothing herein contained shall constitute the satisfaction of the obligations under the Prior Note except the payment in full of all obligations under this Note.

13. Trustee's Exculpation.

This Note is executed by Trust, not individually but solely as Trustee under the aforesaid Trust Agreement. Said Trust Agreement is made a part of this Note and any claims against Trust which may result from the execution of this Note are payable only out of any trust property which may be held under the Trust Agreement, and Trust shall not be held personally liable for the performance of any of the terms and conditions of this Note or for the validity or condition of the title of said trust property or for any agreement with respect thereto. Any and all personal liability of Trust is expressly waived by Lender and its successors and assigns.

[NO FURTHER TEXT ON THIS PAGE]



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Borrower has executed and delivered this Note as of the day and year first written above.

**BORROWER:**

COLE TAYLOR BANK, not personally but solely as Trustee aforesaid

By: [Signature]  
Name: KENNETH E. PIEKUT  
Title: Vice President

By: [Signature]  
Name: [Signature]  
Title: Vice President

TRI-COUNTY INTERNATIONAL, INC., an Illinois corporation

By: [Signature]  
Name: Thomas W. Thompson  
Title: President

Property of Cook County Clerk's Office

