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THIS DOCUMENT PREPARED BY
AND AFTER RECORDING
RETURN
TO:

Christopher M. Novy
Rock, Fusco & Garvey, Ltd.
350 N. LaSalle St., Suite 900
Chicago, Illinois 60610



Doc#: 0432826140
Eugene "Gene" Moore Fee: \$52.00
Cook County Recorder of Deeds
Date: 11/23/2004 03:31 PM Pg: 1 of 15

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BOX 162

SECOND LOAN MODIFICATION AGREEMENT

THIS SECOND LOAN MODIFICATION AGREEMENT (this "Agreement") is made as of the 1st day of November, 2004, by and among **FIRST NATIONAL BANK OF LAGRANGE**, as **Trustee under Trust Agreement dated March 17, 1999 and known as Trust No. 3784** ("Borrower") and **GREATBANK, National Association**, its successors and assigns ("Lender").

RECITALS:

Connor Title
Services, Inc.

4327-0195

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of ONE MILLION NINE HUNDRED FIVE THOUSAND AND 00/100THS DOLLARS (\$1,905,000.00), as evidenced by a Promissory Note ("Note") dated April 24, 2002, 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 April 24, 2002, from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on May 8, 2002, as Document No. 0020526191 ("Mortgage"), which Mortgage encumbers the real property and all, improvements thereon legally described on Exhibit A hereto ("Property") and was modified by that certain Loan Modification and Extension Agreement ("First Loan Modification Agreement") recorded as document number 0317834125; (ii) that certain Assignment of Rents and Leases dated April 24, 2002, from Borrower to Lender and recorded in the Cook County Recorder's Office on May 8, 2002, as Document No. 0020526190 (the "Assignment of Leases") and (iii) certain other loan documents (the Note, the Mortgage, the Assignment of Leases and any other document evidencing, securing and guarantying the Loan, in their original form, are sometimes collectively referred to herein as the "Loan Documents").

C. Borrower now desires to amend the Loan Documents in order to (i) amend the Note Interest Rate; (ii) amend the monthly principal and interest payments due under the Note, as agreed

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by the parties; and (iii) extend the term of the loan until October, 2009; and Lender is willing to (i) amend the Note Interest Rate, on the terms and conditions more fully set forth hereinafter; and (ii) adjust the monthly principal and interest payments due under the Note, as set forth hereinafter; and (iii) extend the term of the loan until October, 2009, as set forth hereafter.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) Borrowers agreement to pay Lender a Loan Modification fee of Nine Thousand Two Hundred Sixty and 20/100ths Dollars (\$9,260.20), plus all of Lender's reasonable attorneys fees and costs in connection with this Modification, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Maturity Date.** The Loan Maturity Date shall be amended to October 1, 2009.
2. **Loan Amount.** Effective as of the date of this Agreement, the principal balance of the Loan is ONE MILLION EIGHT HUNDRED FIFTY TWO THOUSAND FORTY and 00/100THS DOLLARS (\$1,852,040.00)
3. **Amendment of Note.** The Note shall be amended to adjust the Note Interest Rate and adjust the monthly principal and interest payments due under the Note. The Note shall be amended and restated by that certain Amended and Restated Promissory Note of even date herewith executed jointly and severally by Borrower in the form attached hereto as Exhibit B (the "Amended and Restated Note"). As of the date hereof, the Amended and Restated Note shall be substituted for and replace in its entirety the existing Note as evidence of the amounts due and owing to Lender, and the existing Note shall be canceled by Lender.
4. **Principal and Interest.** Commencing on October 1, 2004, through and until October 1, 2009, with the first payment due November 1, 2004, Borrower shall pay to Lender principal and interest in arrears on the unpaid principal balance of the Amended and Restated Note at the fixed rate of Six percent (6.00%) per annum, in equal monthly payments of Twelve Thousand Twenty Seven and 24/100 Dollars (\$12,027.24) (the "Note Rate"). The principal and interest payments shall be based on a twenty-five (25) year amortization schedule. All principal and interest in connection with the Loan shall be due and payable on October 1, 2009.
5. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:
 - (a) The representations and warranties in the Mortgage and the other Loan Documents are true and correct as of the date hereof.
 - (b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event

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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 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 the date hereof, Borrower has no any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein 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.

6. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender's title insurance policy No. 008233990 (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.

7. **Expenses.** As a condition precedent to the agreements contained herein, 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. In addition, at the time of the execution of this Agreement, Borrower shall pay Lender the sum of Nine Thousand Two Hundred Sixty and 20/100ths Dollars (\$9,260.20) as and for a loan modification fee ("Modification Fee").

8. **Miscellaneous.**

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

(b) This Agreement shall not be construed more strictly against Lender than against Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower and Lender each acknowledge and waive 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

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thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto 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, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower 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 and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure 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 shall be deemed to refer to the Amended and Restated Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

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

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

9. **Trustee Exculpation**

This loan modification agreement is executed by First National Bank of LaGrange, as Trustee under Trust Agreement dated March 17, 1999 and known as Trust 3784 in the exercise of the authority conferred upon it as such Trustee and not in its individual capacity. Nothing contained in this loan modification nor the Mortgage shall be construed as creating any liability on First National Bank of LaGrange, in its individual capacity, to pay the Note (as amended) or any interest that may accrue thereon or any fee or charge that may become payable under the Mortgage or the Note, as amended, or to perform any covenant (either expressed or implied) contained in the Mortgage or the

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Note, all such liability, if any, being hereby waived by Noteholder and every person hereafter claiming any right or security hereunder. So far as Mortgagee and/or its successors are concerned, Noteholder and the owner of any indebtedness accruing hereunder shall, in the event of a default, look solely to any one or more of the following for the payment of the indebtedness due under the Note, Mortgage, or this modification agreement:

- (a) The assets of the trust, including the Land and the rents, issues and profit thereof, by the enforcement of the lien hereby created; and
- (b) The enforcement of any remedy available under the any other document acting as security for the Note.

IN WITNESS thereof, Mortgagor have caused this Loan Modification Agreement to be executed as of the date and year first written above.

BORROWER: OWNER ATTACHED HERETO IS HEREBY EXPRESSLY MADE A PART HEREOF

LENDER:

FIRST NATIONAL BANK OF LAGRANGE,
as Trustee, under Trust Agreement dated
March 17, 1999 and known as Trust Number 3784

GREATBANK, NA

By: [Signature]

Its: VP

By: [Signature: Christopher Gyce]

Its: EXECUTIVE VICE PRESIDENT

Attest: [Signature]

Its: VICE PRESIDENT

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, THE UNDERSIGNED, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that CHRISTOPHER P. JOYCE, EXECUTIVE Vice President of First National Bank of LaGrange and CRAIG FINCK, Assistant Secretary, of said First National Bank of LaGrange, personally know to me to be the same persons whose names are subscribed to the foregoing instrument as such E.V. President and V.P. AND Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary acts, and as the free and voluntary act of said First National Bank of LaGrange, as Trustee under Trust No. 3784 for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 11th day of November, 2004.



Rita Phillip
Notary Public

My Commission Expires:

5-20-2006

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

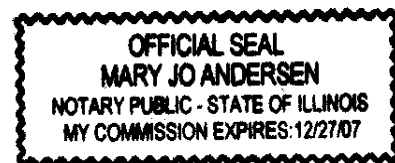
I, Mary Jo Andersen, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Timothy Crowe Vice President of GREATBANK, NA, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act in his capacity as Executive Vice President of GreatBank, NA for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 3RD day of November, 2004.

Mary Jo Andersen
Notary Public

My Commission Expires:

12/27/07



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1: THE SOUTH ½ OF LOT 7 AND LOT 8 (EXCEPT THE SOUTH 5.0 FEET THEREOF) IN FREDERICK ZAPPEL'S SUBDIVISION OF THE NORTH ½ OF THE EAST ½ OF THE SOUTH ½ OR THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART THEREOF LYING EAST OF A LINE 50.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION 30) IN COOK COUNTY, ILLINOIS

PIN: 14-30-212-038-0000

COMMONLY KNOWN AS: 3040 N. ASHLAND AVENUE, CHICAGO, ILLINOIS 60657

PARCEL 2: LOT 4 IN GOODRICH'S SUBDIVISION OF LOTS 6 to 11, INCLUSIVE, IN BLOCK 2 IN THE SUBDIVISION OF BLOCK 15 IN THE CANAL TRUSTEES' SUBDIVISION OF THE EAST ½ OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 14-29-420-047-0000

COMMONLY KNOWN AS: 806 W. ALTGELD, CHICAGO, ILLINOIS 60614

PARCEL 3: LOT 5 IN ROOD'S SUBDIVISION OF BLOCK 11 IN LILL AND DIVERSEY'S DIVISION OF THE SOUTHWEST ½ OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PIN: 14-29-116-024-0000

COMMONLY KNOWN AS: 1511 W. WELLINGTON, CHICAGO, ILLINOIS 60657

PARCEL 4: THE WEST 25 FEET OF LOT 7 IN THE SUBDIVISION OF THE SOUTH 173 FEET OF THE EAST 483 FEET OF BLOCK 4 IN WILLIAM LILL AND MICHAEL DIVERSEY'S DIVISION OF THE SOUTHWEST ½ OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 14-29-128-028-0000

COMMONLY KNOWN AS: 1532 W. DIVERSEY, CHICAGO, ILLINOIS 60657

This document prepared by:
ROCK, FUSCO, & GARVEY, LTD.
Christopher M. Novy, Esq.
350 N. LaSalle Street - Suite 900
Chicago, Illinois 60610

UNOFFICIAL COPY**EXHIBIT B**

\$1,852,040.00

November 1, 2004
Chicago, Illinois**AMENDED AND RESTATED PROMISSORY NOTE**

THIS AMENDED AND RESTATED PROMISSORY NOTE, made this 1st day of November, 2004 by **FIRST NATIONAL BANK OF LAGRANGE, as Trustee under Trust Agreement dated March 17, 1999 and known as Trust No. 3784** ("Maker" or "Borrower"), to and for the benefit of **GREATBANK, NA**, its successors and assigns ("Lender").

RECITALS

Maker originally executed and delivered to Lender a certain Promissory Note ("Note") dated April 24, 2002 (the "Note") in the principal amount of ONE MILLION NINE HUNDRED FIVE THOUSAND and NO/100ths DOLLARS (\$1,905,000.00) payable to the order of Lender, which Note is held by Lender.

The Note is secured by a certain Mortgage and Security Agreement, dated April 24, 2002, which encumbers a certain real estate parcel ("Premises"), as modified by that certain First Loan Modification Agreement (as defined in the Second Loan Modification Agreement), and a certain Assignment of Rents and Leases also of even date with the Mortgage made by Maker to Lender, and a certain Guaranty also of even date with the Mortgage made by John Rooney, individually and Margaret Rooney, individually, as Guarantors, and certain other documents and instruments (referred to herein as the "Loan Documents").

Maker and Lender have now agreed to amend the Note and the Loan Documents to reflect that the Note Interest Rate and monthly interest and principal payments due under the Note have been amended pursuant to the terms of that certain Second Loan Modification Agreement of even date herewith, to extend the Maturity Date and to restate the current principal balance of the Note. Lender and Maker agree that it is therefore appropriate to amend and restate the Note in its entirety to reflect the amendments to the Note (as amended from time to time), as set forth in the Second Loan Modification Agreement of even date herewith.

ACCORDINGLY, Maker hereby amends and restates the Promissory Note to read in its entirety as follows:

1. FOR VALUE RECEIVED, the undersigned, **FIRST NATIONAL BANK OF LAGRANGE, as Trustee under Trust Agreement dated March 17, 1999 and known as Trust No. 3784** (hereinafter "Borrower"), promises to pay to the order of **GREATBANK, NA** ("Lender" or "Holder"), in the manner provided herein the principal sum of ONE MILLION EIGHT HUNDRED FIFTY TWO THOUSAND FORTY and 00/100THS DOLLARS (\$1,852,040.00) together with interest prior to maturity on the balance of principal remaining from time to time unpaid at the respective rates set forth below and interest after maturity on such balances at the Default Rate specified in Section 5 hereof (in each case computed daily on the basis of an actual

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number of days/360 day year for each day all or any part of the principal balance hereof shall remain outstanding), principal and interest hereon being payable as hereinafter provided.

2. Principal and interest upon this Note shall be paid as follows:
 - (a) Commencing on October 1, 2004, and on the first day of each and every month thereafter, with the first payment due November 1, 2004, Borrower shall pay to Lender principal and interest in arrears on the unpaid principal balance of the Loan, at the fixed rate of Six percent (6.00%) per annum, in equal monthly payments of TWELVE THOUSAND TWENTY SEVEN and 24/100 DOLLARS (\$12,027.24) (the "Note Rate"). The principal and interest payments shall be based on a twenty-five (25) year amortization schedule.
 - (b) The unpaid principal balance outstanding hereon together with all accrued and unpaid interest thereon shall be due and payable without notice or grace on October 1, 2009 (herein called the "Maturity Date").
 - (c) All payments on account of the indebtedness evidenced by this Note shall be first applied to interest, then to scheduled principal repayments, any collection of escrow premiums, then to late charges, then to repayment of any additional advances or costs, including reasonable attorney's fees, incurred by the Lender, with interest thereon and the remainder to principal.

3. The Holder of this Note may collect a "late charge" of Five (5%) of any installment of principal and interest, as well as any tax or insurance premium, which is not paid on or before or within fifteen (15) days of the due date thereof to cover the extra expenses involved in handling delinquent payments.

4. Payments upon this Note shall be made (a) at such place as the Holder of this Note may from time to time in writing appoint, provided that in the absence of such appointment, such payments shall be made at the offices of GreatBank, NA, at 3300 W. Dempster Street, Skokie, Illinois 60076 and (b) in lawful money of the United States of America which shall be in legal tender for public and private debts at the time of payment.

5. Borrower shall be in default upon the occurrence of any of the following events, circumstances or conditions ("Events of Default"):
 - (a) Any default hereunder, including but not limited to the failure to make the required monthly principal and interest payments required hereunder or any monthly tax or insurance payments due in any other document securing the Promissory Note;
 - (b) Any default under any of the Loan Documents (as hereinafter defined) securing this Promissory Note;
 - (c) Maturity of the indebtedness evidenced hereby whether by passage of time or otherwise;

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- (d) The making or furnishing of any written representation, statement or warranty to Lender which is or becomes false or incorrect in any material respect by or on behalf of Borrower, or any one of them, or any co-signer, endorser, surety or guarantor of the Note or any other obligations Borrower has with Lender; or
- (e) The (i) dissolution or insolvency of, the appointment of a receiver by or on behalf of, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Borrower, or any one of them, or any co-signer, endorser or surety of the Note or any other obligations Borrower or Guarantor, or any one of them, has with Bank; or,
- (f) Any creditor attaches any of Borrower's property on or in which Lender has a lien or security interest. This includes a garnishment of any of the Borrower's or any one of their, accounts, including deposit accounts, with Lender; or,
- (g) Failure to obtain or maintain the insurance coverages required by Lender, or insurance as is customary and proper for any collateral (as herein defined); or
- (h) Failure to pay or provide proof of payment of any tax, assessment, rent, insurance premium or escrow, escrow deficiency on or before its due date; or
- (i) A default by Borrower, or any one of them, under any other loan agreement or obligation between Borrower and Lender, now existing, or owing in the future;

and provided any monetary Events of Default as described in paragraphs 5 (a) and (c) hereinabove are not cured within ten (10) days after written notice from Lender to Borrower, or any nonmonetary Events of Default as described in paragraphs 5 (b), (d-i) are not cured within thirty (30) days after written notice from Lender to Borrower, then and in any such event, the entire principal balance hereof, at Lender's sole option, shall thereafter bear interest at the rate of fourteen percent (14%) per annum (herein called the "Default Rate") and at the election of the Holder hereof, and without notice, the principal sum remaining unpaid hereon, together with accrued interest thereon, shall be and become at once due and payable at the place herein provided for payment.

6. This Note is given to evidence an actual loan in the above amount and is the Note referred to in and secured by:

- (a) A Mortgage and Security Agreement (herein called the "Mortgage"), as amended from time to time, on certain real estate owned by Borrower (the "Premises") in Cook County, Illinois;
- (b) An Assignment of Leases and Rents between Lender and Borrower;
- (c) Personal Guaranty from John Rooney, individually and Margaret Rooney, individually to Lender

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- (d) Various Security Agreements on certain personal property now or hereinafter located on the Premises and Borrower's right to rents, issues and profits arising out of the Premises;

and reference is hereby made to the Mortgage, the Assignment of Leases and Rents, the personal Guaranty and the various Security Agreements (hereinafter collectively "Loan Documents"), and other Loan Documents, which are hereby incorporated herein by this reference as fully and with the same effect as if set forth herein at length.

7. At the election of the Holder hereof, and without notice, the principal sum remaining unpaid hereon, together with accrued interest thereon, shall be and become at once due and payable at the place herein provided for payment, (a) in the case of default after the date payment of interest becomes due in accordance with the terms hereof, or (b) upon the occurrence of any Event of Default as defined in this Note or any default under any other Loan Document evidencing or securing this Note.

8. Borrower represents that the loan evidenced by this Note is a business loan within the purview and intent of the Illinois Interest Act (815 ILCS 205/4 et seq.), transacted solely for the purpose of carrying on or acquiring a business, as contemplated by said Act.

9. In the event that this Note is placed in the hands of an attorney-at-law for collection after maturity, or upon default, or in the event that proceedings at law, in equity, or bankruptcy, receivership or other legal proceedings are instituted in connection herewith, or in the event that this Note is placed in the hands of an attorney-at-law to enforce any of the rights or requirements contained herein or in the Mortgage or Assignment or other instruments given as security for, or related to, the indebtedness evidenced hereby, the Borrower hereby agrees to pay all reasonable costs of collecting or attempting to collect this Note, without limitation, reasonable attorneys' fees (whether or not suit is brought), in addition to all principal, interest and other amounts payable hereunder, all of which shall be secured by the Mortgage and Assignment.

10. Funds representing the proceeds of the indebtedness evidenced hereby which are disbursed by mail, wire transfer or other delivery to the Borrower to escrows or otherwise for the benefit of the Borrower shall, for all purposes, be deemed outstanding hereunder and to have been received by the Borrower as of the date of such mailing wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such wire transfer, mailing or delivery and until repaid, notwithstanding the fact that such funds may not at any time have been remitted by such escrows to the Borrower or for its benefit.

11. This Note shall be governed by the laws of the State of Illinois.

12. Borrower agrees that all loan fees and other prepaid finance charges are earned fully as of the date of this Note and will not be subject to refund upon early payment (whether voluntary or as a result of default), except as otherwise required by law. Borrowers shall be liable and shall pay all of the Lender's out of pocket expenses, including, but not limited to, credit report, inspection fees, appraisal fee and reasonable legal expenses, as well as the sum of \$9,260.20, as an irrevocable loan modification fee ("Loan Modification Fee") prior to or at the time of the Loan closing, or if the Loan fails to close through no fault of Lender, then upon demand by Lender to Borrower.

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13. Prepayment Premium. Privilege is reserved by Borrower to repay the principal balance hereunder, in whole or in part, with accrued interest thereon to date of payment on any installment which is then due, upon giving thirty (30) days prior written notice to Lender hereof of the intention to make such prepayment and subject to Borrower paying the following Prepayment Premium to Lender at the time it tenders the prepayment:

(i) Borrower shall pay to Lender, concurrently with such prepayment, a prepayment premium ("Prepayment Premium") equal to (a) one percent (1%) of the then current loan balance if paid within the years one through three of the loan, and (b) one half percent (.50%) of the then current loan balance if paid within years four and five of the loan, plus any accrued but unpaid interest, late charges, and other unpaid and outstanding fees or costs due Lender in connection with this Note;

Except (i) upon the sale of the Premises to a bona fide third party purchaser, or, (ii) a refinance of the Loan with Lender, or (iii) upon Lender demanding payment of this Note when no Event of Default then exists (as provided in paragraph 2(c) hereinabove), the above Prepayment Premium will be applicable to all amounts prepaid including without limitation, all payments arising from the acceleration of the maturity date of the Note as a result of a default hereunder. Except as expressly set forth above, this Note may not be prepaid by Borrowers.

Borrower (for itself and for its successors and assigns) acknowledges and agrees that Lender is making the loan evidenced by this Note in consideration of the receipt by Lender or any other holder hereof of all interest and other benefits intended to be conferred by the Loan Documents (including, under the circumstances described in this Paragraph 12, the payment to the Lender of the Prepayment Premium determined as set out above) and that, in the event of a prepayment of this Note for whatever reason and under whatever circumstances (whether voluntarily or involuntary, after the occurrence of an Event of Default hereunder, or under the terms or conditions of any document evidencing or securing this Note, with or without the consent of the holder, by the Lender's application of any condemnation or insurance proceeds to amounts due under this Note, by operation of law or otherwise and whether or not as a result of the holder's exercise of its rights to accelerate the indebtedness evidenced hereby), the Lender will not receive all interest and all other benefits intended to be conferred by the Loan Documents unless the applicable Prepayment Premium as set out above is also paid, and for that reason Borrower (for itself and its successors and assigns) agree to pay all such amounts under all such circumstances. Without limiting the generality of the preceding sentence, Borrower acknowledges and agrees that: (i) the Prepayment Premium to be paid by Borrower to the Lender hereof pursuant to this Paragraph 12 is compensatory to the Lender, will provide to the Lender part of its bargained-for consideration in making the loan evidenced by this Note, and is not penal or punitive in nature; and (ii) Borrower will pay to the Lender hereof the Prepayment Premium provided for in this Paragraph 12 even if the reason this Note becomes due before the stated Maturity Date is because the Lender thereof exercises its right to accelerate payment of this Note, and that any such acceleration by the Lender shall not be deemed an election of remedies by the Lender and shall not preclude the election of remedies by the Lender and shall not preclude the holder from enforcing its right to charge and collect the Prepayment Premium provided to be paid by Borrower pursuant to this Paragraph 12, such right being in addition to (and not in lieu of) all other rights and remedies of the Lender and all other debts and obligations of the Borrowers to the Lender. In addition, Borrower shall pay Lender the sum of \$150.00 for each release deed prepared by Lender. Borrower acknowledges that said fee is reasonable.

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14. Borrower grants to Lender a contractual possessory security interest in, and hereby assigns, conveys, delivers, pledges, and transfers to Lender all of Borrower's (or any one of them) right, title and interest in and to, Borrower's accounts with Lender (whether checking, savings, or some other account), including without limitation all accounts held jointly with someone else and all accounts Borrower, or any one of them may open in the future. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on this Note against any and all such accounts.

15. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made.

16. Borrower hereby (a) waives protest, presentment for payment, demand, notice of acceleration, notice of intent to accelerate and notice of dishonor, (b) consents to any renewals and extensions for payment on this Note, regardless of the number of such renewals or extensions (c) consents to Lender's release of any endorser, guarantor, surety, accommodation maker or any other co-signer, (d) consents to the release, substitution or impairment of any collateral, (e) consents that Borrower, or any Borrower herein, is authorized to modify the terms of this Note or any instrument securing, guarantying or relating to this Note, (f) consents to Lender's right of set-off as any right of set-off of any bank participating in the Loan or (g) consents to any and all sales, repurchases and participation of this Note to any person in any amounts and waive notice of such sales, repurchases or participation of this Note.

17. Trustee Exculpation

This Amended and Restated Note is executed by First National Bank of LaGrange, as Trustee under Trust Agreement dated March 17, 1999 and known as Trust 3784 in the exercise of the authority conferred upon it as such Trustee and not in its individual capacity. Nothing contained in this Note, nor the Second Loan Modification Agreement, nor the Mortgage shall be construed as creating any liability on First National Bank of LaGrange, in its individual capacity, to pay the Note (as amended) or any interest that may accrue thereon or any fee or charge that may become payable under the Mortgage or the Note, as amended, or to perform any covenant (either expressed or implied) contained in the Mortgage or the Note, all such liability, if any, being hereby waived by Noteholder and every person hereafter claiming any right or security hereunder. So far as Mortgagee and/or its successors are concerned, Noteholder and the owner of any indebtedness accruing hereunder shall, in the event of a default, look solely to any one or more of the following for the payment of the indebtedness due under the Note, Mortgage, or the loan modification agreement:

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- (a) The assets of the trust, including the Land and the rents, issues and profit thereof, by the enforcement of the lien hereby created; and
- (b) The enforcement of any remedy available under the any other document acting as security for the Note.

18. **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 HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT 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.

19. **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.

IN WITNESS WHEREOF, the undersigned have executed this Note as of the date first above written.

BORROWER:

RIDER ATTACHED HERETO IS HEREBY EXPRESSLY MADE A PART HEREOF

FIRST NATIONAL BANK OF LAGRANGE,
as Trustee, under Trust Agreement dated
March 17, 1999 and known as Trust Number 3784

By: Christopher D. Pyce

Its: EXECUTIVE VICE PRESIDENT

Attest: _____

Its: VICE PRESIDENT

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Exhibit B – Amended and Restated Promissory Note is executed as a duplicate original of the separate document titled Amended and Restated Promissory Note.

This instrument is executed by the First National Bank of LaGrange as Trustee under the provisions of a Trust Agreement dated 3/17/1999 and known as Trust no. 3784 not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. This instrument is executed and delivered by the Trust solely in the exercise of the powers expressly conferred upon the Trustee under the Trust and upon the written direction of the beneficiaries and/or holders of the power of direction of said Trust and First National Bank of LaGrange warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein made on the part of the trustee while in form purporting to be the said representations, warranties, covenants, undertakings and agreements of said Trustee are each and every one of them not made with the intention of binding First National Bank of LaGrange, in its individual capacity, but are made and intended solely for the purpose of binding only that portion of the Trust property specifically described herein. No personal liability or personal responsibility is assumed by or nor shall at any time be asserted or enforceable against the First National Bank of LaGrange on account of any representations, warranties, (including but not limited to any representations and/or warranties in regards to potential and/or existent Hazardous Waste) covenants, undertakings and agreements contained in the instrument, (including but not limited to any indebtedness accruing plus interest hereunder) either express or implied or arising in any way out of the transaction in connection with which this instrument is executed, all such personal liability or responsibility, if any, being expressly waived and released, and any liability (including any and all liability for any violation under the Federal and/or state Environmental or Hazardous Waste laws) hereunder being specifically limited to the Trust assets, if any, securing this instrument. Any provision of this instrument referring to a right of any person to be indemnified or held harmless, or reimbursed by the Trustee for any costs, claims, losses, fines, penalties, damages, costs of any nature including attorney's fees and expenses, arising in any way out of the execution of this instrument or in connection thereto are expressly waived and released by all parties to and parties claiming, under this instrument. Any person claiming or any provision of this instrument referring to a right to be held harmless, indemnified or reimbursed for any and all costs, losses and expenses of any nature, in connection with the execution of this instrument, shall be construed as only a right of redemption out of the assets of the Trust. Notwithstanding anything in this instrument contained, in the event of any conflict between the body of this exoneration and the body of this instrument, the provisions of this paragraph shall control. Trustee being fully exempted, nothing herein contained shall limit the right of any part to enforce the personal liability of any other party to this instrument.