

THIS INSTRUMENT PREPARED BY:  
Bruce A. Salk  
Cohen, Salk & Huvar, P.C.  
630 Dundee Road, Suite 120  
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:  
Oxford Bank & Trust  
1100 West Lake Street  
Addison, Illinois 60101  
Attn: Steve Frank

N#10



Doc#: 0515726184  
Eugene "Gene" Moore Fee: \$44.00  
Cook County Recorder of Deeds  
Date: 06/06/2005 12:03 PM Pg: 1 of 11

**SECOND MODIFICATION AGREEMENT**

**THIS SECOND MODIFICATION AGREEMENT** (hereinafter referred to as the "Modification Agreement") made as of this 26<sup>th</sup> day of April, 2005, by and among OXFORD BANK & TRUST, not personally, but as Trustee under Trust Agreement dated June 18, 2002, and known as Trust No. 965 ("Trustee"), JOSEPH SKIBA, JAN PTASZEK and KASPER DEVELOPMENT, LTD., an Illinois corporation (each a "Guarantor", and collectively the "Guarantors") (Trustee and Guarantors are hereinafter collectively referred to as the "Obligors") and OXFORD BANK & TRUST ("Lender").

**WITNESSETH:**

**WHEREAS**, Trustee has executed and delivered to Lender that certain mortgage note dated as of July 28, 2003 in the original principal sum of Nine Hundred Twenty-Five Thousand and 00/100 (\$925,000.00) Dollars (as modified from time to time, the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as modified from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage and security agreement dated August 20, 2003, made by Trustee in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office") as Document No. 0331133274 (the "First Mortgage") on property commonly known as 640-652 and 656 W. 47<sup>th</sup> Street, Chicago, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "First Premises");
- (ii) mortgage and security agreement dated September 8, 2003, made by Trustee in favor of Lender, recorded in the Recorder's Office as Document No. 0414026226 (the "Second Mortgage") (the First Mortgage and the Second Mortgage are hereinafter sometimes collectively referred to as the "Mortgage") on property commonly known as 500-534 West 47<sup>th</sup> Street, Chicago, Illinois and legally described on Exhibit "B" attached hereto and made a part hereof (the "Second Premises") (the First Premises and the Second Premises are hereinafter sometimes collectively referred to as the "Premises");
- (iii) assignment of rents and of lessor's interest in leases dated of even date with the First Mortgage made by Trustee, Joseph Skiba and Jan Ptaszek in favor of Lender, recorded in the Recorder's Office, as Document No. 0331133275 (the "First Assignment of Rents");

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- (iv) assignment of rents and of lessor's interest in leases dated of even date with the Second Mortgage made by Trustee, Joseph Skiba and Jan Ptaszek in favor of Lender, recorded in the Recorder's Office, as Document No. 0414026227 (the "Second Assignment of Rents") (the First Assignment of Rents and the Second Assignment of Rents are hereinafter sometimes collectively referred to as the "Assignment of Rents");
- (v) collateral assignment of beneficial interest and security agreement dated July 28, 2003 made by Joseph Skiba and Jan Ptaszek in favor of Lender;
- (vi) guaranty dated July 28, 2003 made by Guarantors in favor of Lender;
- (vii) environmental indemnity agreement dated July 28, 2003 made by Guarantors in favor of Lender; and
- (viii) assignment of sales contracts dated July 28, 2003 made by Trustee, Joseph Skiba and Jan Ptaszek in favor of Lender.

**WHEREAS**, the Note and Loan Documents were previously modified pursuant to that certain modification agreement dated as of July 30, 2004 by and among Trustee, Guarantors and Lender, recorded in the Recorder's Office as Document No. 0425950000, whereby the maturity date of the Note was extended to April 30, 2005.

**WHEREAS**, Obligors are desirous of extending the maturity date of the Note to April 30, 2006 and Lender is willing to consent to such extension subject to the terms and provisions hereinafter provided.

**NOW THEREFORE**, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement, at the sole election of Lender, shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct. All defined terms used herein and not otherwise defined shall have the meaning ascribed to such terms as set forth in the Loan Documents.
2. As of April 26, 2005, the outstanding principal balance of the Note is \$162,468.98. The Note is hereby modified as follows:
  - a. The date "April 30, 2005" as it appears in both (i) the eighth line of the first paragraph on page one and (ii) the third line of the second paragraph on page one, is deleted and replaced in each instance with the date "April 30, 2006".
  - b. The date "April 1, 2005" as it appears in the second line of the second paragraph on page one is deleted and replaced with the date "April 1, 2006".

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c. Notwithstanding anything to the contrary contained in the Note or the Loan Documents, from and after the date of this Modification Agreement, Lender shall have no obligation to disburse more than an additional \$37,930.37 of loan proceeds.

3. The First Mortgage is hereby amended by deleting the date "30<sup>th</sup> day of April, 2005" as it appears in the fifth line of the first "Whereas" paragraph on page 1 and replacing it with the date "30<sup>th</sup> day of April, 2006".

4. The Second Mortgage is hereby amended by deleting the date "30<sup>th</sup> day of April, 2005" as it appears in the fifth line of the first "Whereas" paragraph on page 1 and replacing it with the date "30<sup>th</sup> day of April, 2006".

5. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified and amended.

6. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

7. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender a non-refundable modification fee in the amount of \$500.00, plus all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

8. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, or conveyance of title (if any) effected thereby, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to effect the lien, charge or encumbrance of, or warranty of title in, or conveyance effected by the Mortgage, or the priority thereof over liens, charges, encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note and/or Mortgage, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

9. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

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10. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

11. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principals), including all matters of construction, validity and performance.

12. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

13. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

14. This Modification Agreement is executed by Oxford Bank & Trust, not personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in said Trustee, and it is expressly understood and agreed that nothing in this Modification Agreement shall be construed as creating any personal liability on said Trustee.

15. Lender's consent to this Modification Agreement shall be subject to Lender (or Lender's nominee) having received the following in a form and substance acceptable to Lender on or before May 31, 2005 (the "Modification Termination Date"):

(a) An endorsement to each of the following Loan Policies (each a "Title Policy" and collectively, the "Title Policies"): (i) Tigor Title Insurance Company Loan Policy No. 523763 and (ii) Professional National Title Network, Inc. Loan Policy No. 3069882, which (i) amends the description of the Mortgage insured under the Title Policy to include this Modification Agreement, (ii) amends the description of the Assignment of Rents to include this Modification Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Modification Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender and (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full;

(b) Certified copy of land trust agreement showing Lender's Collateral Assignment of Beneficial interest as lodged; and

(c) Such other documents as Lender may reasonably require.

The Obligors' failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Modification Agreement (including all agreements and waivers of Lender contained herein) being null and void.

16. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE

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SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

OXFORD BANK & TRUST, not personally, but solely as  
Trustee as aforesaid

By: *Diana B. Mancini*

Its: *Vice President - Trust Officer*

*[Signature]*  
JOSEPH SKIBA, individually

*[Signature]*  
JAN PTASZEK, individually

[SIGNATURES ARE CONTINUED ON THE NEXT PAGE]

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KASPER DEVELOPMENT, LTD., an Illinois corporation

By: [Signature]  
Its: President

ATTEST:

By: [Signature]  
Its: [Signature]

OXFORD BANK & TRUST

By: [Signature]  
Its: VP.

Property of Cook County Clerk's Office

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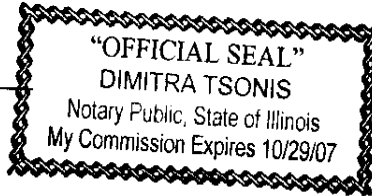
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF DUPAGE )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY Irene Nawcki T.O. of OXFORD BANK & TRUST, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26<sup>th</sup> day of April, 2005.

Dimitra Tsonis  
Notary Public

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



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 JOSEPH SKIBA personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 26<sup>th</sup> day of April, 2005.

St. M. Frank  
Notary Public

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



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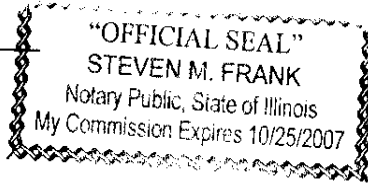
STATE OF ILLINOIS )  
 )  
COUNTY OF COOK ) SS

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that JAN PTASZEK personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 26<sup>th</sup> day of April, 2005.

SM Frank  
Notary Public

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



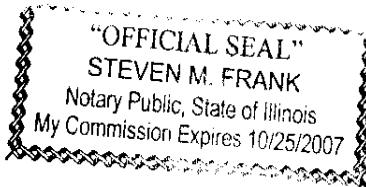
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Joseph Shiba and Joseph Shiba the President and Secretary, respectively, of KASPER DEVELOPMENT, LTD., an Illinois corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me in person and acknowledged that they signed, sealed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26<sup>th</sup> day of April, 2005.

SM Frank  
Notary Public

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





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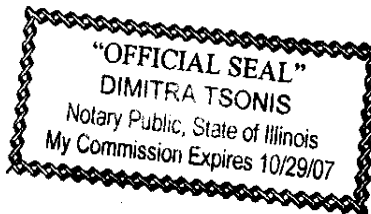
STATE OF ILLINOIS            )  
  )        SS  
COUNTY OF DUPAGE        )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Steve Frank, of OXFORD BANK & TRUST, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26<sup>th</sup> day of April, 2005.

Dimitra Tsonis  
Notary Public

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



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## EXHIBIT "A"

PIN: 20-04-330-030-0000; 20-04-330-031-0000;  
20-04-330-032-0000; 20-04-330-028-0000

ADDRESS: 640-652 and 656 West 47<sup>th</sup> Street, Chicago, Illinois

### PARCEL 1:

LOT 2 IN THE SUBDIVISION OF THE WEST 1/2 OF LOT 10 IN THE ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

LOT 2 IN JOHN E. NELSON'S SUBDIVISION OF THE EAST 50 FEET (EXCEPT THAT PART TAKEN FOR ALLEY) OF THE SOUTH 206 9/12 FEET OF LOT 10 IN ASSESSOR'S DIVISION IN THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 3:

THAT PART SOUTH OF ALLEY OF THE EAST 1/2 OF LOT 10 (EXCEPT THE EAST 50 FEET THEREOF) IN ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 4:

LOT 4 IN THE SUBDIVISION OF THE WEST 1/2 OF LOT \_\_\_\_\_ IN THE ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**UNOFFICIAL COPY****EXHIBIT "B"**

**PIN:** 20-04-331-029 (Lot 13); 20-04-331-030 (Lot 12)  
 20-04-331-031 (Lot 11); 20-04-331-047 (Lots 50-57)  
 20-04-331-040 (Lot 1); 20-04-331-041 (Lot 2)  
 20-04-331-042 (Lot 3); 20-04-331-043 (Lot 4)  
 20-04-331-044 (Lot 5); 20-04-331-045 (Lot 6)  
 20-04-331-046 (Lot 7)

**ADDRESS:** 500 - 534 West 47<sup>th</sup> Street, Chicago, Illinois

**PARCEL 1:**

LOTS 11, 12, AND 13 IN WOOD'S SUBDIVISION OF LOT 8 IN PETER FORTUNE'S SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND A PIECE OF LAND IN THE SOUTHWEST QUARTER OF SECTION 4 AFORESAID, ACCORDING TO THE PLAT RECORDED AS DOCUMENT 281927, ALL IN SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

LOTS 50 TO 57, INCLUSIVE, IN EUREKA SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 3:**

LOTS 1, 2, 3, 4, 5, 6, AND 7 IN THE RESUBDIVISION OF LOTS 58, 59, 60, AND THE WEST 9.73 FEET OF LOT 61 IN EUREKA'S SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN. ALSO THE PRIVATE ALLEY SOUTH OF AND ADJOINING LOT 2, WEST OF AND SOUTH OF AND ADJOINING LOT 3 NORTH OF AND WEST OF AND ADJOINING LOT 4 NORTH; OF AND ADJOINING LOTS 5 AND 6; NORTH OF AND EAST OF AND ADJOINING LOT 7 IN THE RESUBDIVISION OF LOTS 58, 59, 60, AND THE WEST 9.73 FEET OF LOT 61 IN EUREKA'S SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.