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THIRD LOAN MODIFICATION AND DISBURSEMENT AGREEMENT

88106755

This Third Loan Modification and Disbursement Agreement (the "Agreement") is made and entered into as of this 12th day of February, 1988, by and between HARRIS TRUST AND SAVINGS BANK, not personally but solely as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to such Trustee in pursuance of Trust Agreement dated July 7, 1986 and known as Trust Number 43672 (the "Trustee") and LAKESIDE I, an Illinois limited partnership, the owner of 100% of the entire beneficial interest and power of direction in, to and under the Trust Agreement pursuant to which the Trustee acts (the "Beneficiary") (Trustee and Beneficiary are herein sometimes referred to as the "Borrower") and REPUBLIC SAVINGS BANK, F.S.B. (the "Lender").

W I T N E S S E T H:

WHEREAS, pursuant to the terms of that certain Disbursement Agreement (the "Disbursement Agreement") dated August 12, 1986 by and between Borrower and Lender, Lender has loaned Trustee the principal sum of Four Hundred Thirty-Six Thousand Eight Hundred and No/100 Dollars (\$436,800.00), which indebtedness is evidenced by a Note dated August 12, 1986, in the principal amount of Four Hundred Thirty-Six Thousand Eight Hundred and No/100 Dollars (\$436,800.00) made by Trustee, payable to the order of Lender (the "Note") which Note is secured by a Mortgage (the "Mortgage") of the Trustee dated August 12, 1986 encumbering the real estate legally described on Exhibit A attached hereto and incorporated herein (the "Property"), recorded August 29, 1986 in the Office of the Recorder of Deeds, Cook County, Illinois (the "Recorder's Office") as Document 86385486, a Guaranty of Payment and Performance ("Guaranty of Payment and Performance") dated August 12, 1986 made by Arthur Wong, Wayne Siem and Bernard Kornhaber, a Collateral Assignment of Leases and Rents, dated as of August 12, 1986, made by Borrower to Lender and recorded August 29, 1986 in the Recorder's Office as Document 86385487 ("Collateral Assignment of Leases and Rents"), a Security Agreement, dated August 12, 1986 made by Beneficiary to Lender ("Security Agreement"), a Collateral Assignment of Beneficial Interest, made by Beneficiary to Lender ("Collateral Assignment of Beneficial Interest"), a UCC-1 Financing Statement made by Trustee and filed September 22, 1986 with the Illinois Secretary of State's Office as Document 2187513, a UCC-2 Financing Statement made by Trustee and recorded July 25, 1986 in the Recorder's Office as Document 86 U 22683, a UCC-1 Financing Statement made by Beneficiary and filed September 22, 1986 with the Illinois Secretary of State's Office as Document 2187512, and UCC-2 Financing Statement made by Beneficiary and filed July 25, 1986 in the Recorder's Office as Document 86 U 22684 (collectively referred to as the "UCC Financing Statements") and other security documents evidencing or securing the Note;

WHEREAS, pursuant to the terms of that certain Loan Modification Agreement (the "First Agreement") dated July 14, 1987 and recorded in the Recorder's Office on July 17, 1987 as Document 87396227, the Loan Documents were modified to, among other things, increase the principal amount of the Note and the amount to be disbursed pursuant to the Disbursement Agreement to Six Hundred Sixty-Four Thousand and No/100 Dollars (\$664,000.00);

WHEREAS, pursuant to the terms of that Second Loan Modification Agreement (the "Second Agreement") dated November 25, 1987 and recorded in the Recorder's Office on December 9, 1987 as Document 87652066, the Loan Documents were modified to extend the Maturity Date of the Note to February 12, 1988;

WHEREAS, Lender and Borrower desire to further modify the Loan (as so modified, the "Modified Loan") as hereinafter set forth.

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Beneficiary and Trustee hereby agree as follows:

P.O. 14-21-106-DOB

Address: 3721-23 N. PINE GROVE
CHICAGO, ILL. 60613

MAIL TO: MR. CLARENCE STONE
RUBINICK + WOLFE
ATTORNEYS AT LAW
203 N. LA SALLE, SUITE 1800
CHICAGO, ILL. 60601

CLS0002 03/07/88 1338

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ARTICLE I

MODIFIED LOAN DOCUMENTS

1.1 Concurrently with the execution of this Agreement, the Borrower agrees that it will furnish or cause to be furnished to Lender the following documents:

(a) Modified Mortgage Note ("Modified Note") in the form attached hereto as Exhibit B, executed by Trustee, which Modified Note shall be in full substitution and replacement for the Note.

(b) Guaranty of Payment ("Guaranty") made by Arthur Wong, Wayne Siem and Bernard Kornhaber, in the form attached hereto as Exhibit C, which Guaranty shall be in full substitution and replacement for the Guaranty of Payment and Performance.

(c) Borrower's Certificate and Agreement Regarding Hazardous Substances ("Borrower's Hazardous Substances Agreement") made by Beneficiary and Arthur Wong, Bernard Kornhaber and Wayne Siem individually, in the form attached hereto as Exhibit D.

1.2 Lender and Borrower hereby agree that references in each of the following documents to the Note shall be deemed to be references to the Modified Note:

(a) the Mortgage;

(b) Collateral Assignment of Leases and Rents;

(c) Security Agreement; and

(d) Collateral Assignment of Beneficial Interest.

1.3 Loan Documents. This Agreement, the Mortgage, the Modified Note, the Collateral Assignment of Leases and Rents, the Security Agreement, the Guaranty, Borrower's Hazardous Substance Agreement, the Collateral Assignment of Beneficial Interest and the UCC Financing Statements are hereinafter referred to as the "Loan Documents."

ARTICLE II

DISBURSEMENTS

2.1 Outstanding Balance. Lender and Borrower hereby acknowledge and agree that as of the date hereof Six Hundred Forty-Six Thousand Forty-Two and 46/100 Dollars (\$646,042.46) is the outstanding principal balance under the Modified Loan and the Modified Note.

2.2 Subsequent Disbursements. In the event that the Debt Coverage Ratio (as hereinafter defined) as determined by Lender is equal to or greater than 1.25, then the principal balance outstanding under the Modified Note shall be increased to the lesser of (a) the sum of Eight Hundred Thirty Thousand and No/100 Dollars (\$830,000.00) or (b) an amount equal to Eighty Percent (80%) of the appraised value of the Property as reasonably determined by Lender based upon an appraisal prepared in accordance with Federal Home Loan Bank guidelines. For purposes of this Section 2.2, the term "Debt Coverage Ratio" shall mean the quotient obtained by dividing (x) the Net Operating Income (as hereinafter defined), by (y) the aggregate amount estimated by Lender as being necessary to pay principal and interest (at the interest rate then in effect or at the interest rate estimated by Lender based on the Index Rate and Loan Factor [as such terms are defined in the Note], which ever is higher) payable under the Modified Note for the succeeding twelve (12) months. For purposes of this Section 2.2, the term "Net Operating Income" shall equal "Gross Income" as reasonably determined by Lender (as hereinafter defined) minus "Expenses" as reasonably determined by Lender (as hereinafter defined) based upon certified audited financial statements for the preceding twelve (12) months. For purposes of this Section 2.2, the term "Gross Income" shall equal the aggregate of all gross cash receipts from the ownership and operation of the Property. For purposes of this Section 2.2, the term "Expenses" shall mean (i) a reserve for replacement of capital costs in an amount reasonably determined by Lender; (ii) professional fees in an amount acceptable to Lender; and (iii) all operating expenses

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incurred in connection with the ownership and operation of the Property. Subsequent to the disbursement of the balance of proceeds available under the \$664,000.00 Modified Loan, Lender shall have no obligation to make more than two total disbursements of loan proceeds. Further, Lender shall also have no obligation to make any disbursement to Borrower after November 15, 1990.

ARTICLE III

LOAN FEE

3.1 **Loan Fee.** Lender hereby acknowledges receipt of the nonrefundable loan fee ("Loan Fee") in the amount of Sixteen Thousand Six Hundred and No/100 Dollars (\$16,600.00) previously paid by Borrower to Lender.

ARTICLE IV

DEFAULTS AND REMEDIES

4.1 **Events of Default.** The occurrence and continuance of any of the following events shall be an event of Default hereunder unless waived in writing by Lender:

(a) Any representation or warranty made by Borrower herein or in any of the Loan Documents shall prove to have been untrue or incomplete in any material respect when made; or

(b) Borrower shall fail to pay when due any amount specified in this Agreement; or

(c) Any Default under the Loan Documents is in existence; or

(d) Borrower shall fail to perform or observe any term, covenant or agreement contained in this Agreement, and any such failure shall remain unremedied for ten (10) days after written notice thereof shall have been given to Borrower by Lender; or

(e) Any material provision of this Agreement shall at any time for any reason cease to be valid and binding on Borrower or shall be declared to be null and void, or the validity or enforceability of any provision hereof shall be contested by the Borrower or any governmental agency or authority, or if the Borrower shall deny that it or he has any further liability or obligation under this Agreement.

4.2 **Remedies.** Upon the occurrence of any Default Lender may seek all remedies conferred upon Lender by law or in equity and by the terms of the Loan Documents.

ARTICLE V

CONDITIONS PRECEDENT TO DISBURSEMENT

5.1 **Title.** As a condition precedent to the disbursement of any of the proceeds of the Modified Loan, Borrower shall furnish the following to Lender, all of which must be satisfactory to Lender and to Lender's counsel in form and content:

(a) A pending disbursement endorsement to the ALTA Loan Policy issued by Land Title Company of America, Inc. as Policy No. L-47051-CS updating said title policy to the date of disbursement and increasing the amount of the coverage to the amount of the outstanding principal balance disbursed under the Modified Note together with an Interim Certification over Mechanics' Lien claims, insuring the lien of the Mortgage to be superior to all defects in title (including filed and unfiled mechanics' lien claims); and

(b) Such other endorsements as Lender may require.

5.2 **Opinion of Borrower's Counsel.** Concurrently with the execution of this Agreement, the Borrower agrees that it will cause to be furnished to Lender an opinion of Borrower's counsel addressing the following propositions and questions of law:

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- (i) that Borrower is a duly organized limited partnership, validly existing and in good standing to do business in the State of Illinois;
- (ii) that Borrower has all necessary legal right, power and authority to conduct its business and to enter into and perform its obligations under this Agreement and the Loan Documents;
- (iii) that the execution and delivery of this Agreement and the Loan Documents, the performance thereunder by Borrower and the guarantors, as the case may be, will comply with all applicable law and will not violate or conflict with the instruments under which Borrower is organized or any applicable laws, contracts or agreements;
- (iv) that the Loan Documents and this Agreement have been duly and validly executed and delivered, are enforceable in accordance with their respective terms (subject to bankruptcy laws and laws pertaining to the exercise of creditor's rights generally) and are subject to no defense of any kind; and
- (v) that the making of the Loan, the charging of all interest and fees due thereunder do not violate any usury or consumer credit laws.

ARTICLE VI

MISCELLANEOUS

6.1 **Reserve for Replacement Account.** Borrower shall deposit into a Replacement Reserve Account established with Lender (pursuant to Lender's standard form Replacement Reserve Account Agreement) on the first business day of each and every month during the term of the Modified Note the sum of Five Hundred and no/100 Dollars (\$500.00) per month. All such deposits shall be held by Lender without allowance of interest thereon. Upon a Default under any of the Loan Documents, Lender may, at its option, apply any sums in such Reserve Replacement Account to secure the payment of all sums which may be at any time due and owing or required to be paid under the Loan Documents in such order and manner as Lender may elect. All deposits in such Replacement Reserve Account are hereby pledged as additional security for the Loan and shall be held by Lender irrevocably to be applied for the purposes for which made as herein provided, and shall not be subject to the direction or control of Borrower.

6.2 **Time Is of the Essence.** Beneficiary and the Land Trustee agree that time is of the essence of all of their covenants under this Agreement.

6.3 **No Joint Venturer.** The parties hereto agree that, any provision hereof or in the other Loan Documents to the contrary notwithstanding, Lender by virtue of its making the Modified Loan or any action taken pursuant hereto or contemplated hereby, shall not be deemed a joint venturer with, or partner of, Beneficiary, the Land Trustee, Arthur Wong, Wayne Slem or Bernard Kornhaber or any other parties.

6.4 **Indemnification.** To the fullest extent permitted by law, Beneficiary hereby agrees to protect, indemnify, defend and save harmless, Lender and its directors, officers, agents and employees from and against any and all liability, expense or damage of any kind or nature and from any suits, claims or demands, including legal fees and expenses on account of any matter or thing or action or failure to act by Lender, whether in suit or not, arising out of this Agreement or in connection herewith unless such suit, claim or damage is caused solely by any act, omission or willful malfeasance of Lender, its directors, officers, agents and authorized employees. This indemnity is not intended to excuse Lender from performing hereunder. This obligation on the part of Beneficiary shall survive the Closing, the repayment of the Modified Loan and any cancellation of this Agreement. Beneficiary shall pay, and hold Lender harmless from, any and all claims of any brokers, finders or agents claiming a right to any fees in connection with arranging the financing contemplated hereby. Lender hereby

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represents that it has not employed a broker or other finder in connection with the Modified Loan. Beneficiary represents and warrants that no brokerage commissions or finder's fees are to be paid in connection with the Modified Loan.

6.5 **Captions.** The captions and headings of various Articles and Sections of this Agreement and exhibits pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions hereof.

6.6 **Inconsistent Terms and Partial Invalidity.** In the event of any inconsistency among the terms hereof (including incorporated terms), Lender may elect which terms shall govern and prevail. In the event of any inconsistency between the terms hereof and the terms of any other Loan Document, the terms of the Loan Document shall govern and prevail. If any provision of this Agreement, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Agreement shall be construed as if such invalid part were never included herein.

6.7 **Gender and Number.** Any word herein which is expressed in the masculine or neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural number shall be deemed, whenever appropriate in the context, to include the singular and the plural.

6.8 **Joint and Several Liability.** All obligations of Beneficiary and the Trustee under this Agreement shall be joint and several obligations of both Beneficiary and the Trustee and may be fully enforced against either of them in legal proceedings without any requirement that the other party be joined as a party defendant in those proceedings.

6.9 **Notices.** Any notice as provided for in the Modified Note, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered, or on the third business day after being deposited in United States registered or certified mail, postage prepaid, and addressed to a party at its address set forth below or to such other address the party to receive such notice may have designated to all other parties by notice in accordance herewith:

If to Lender:

Republic Savings Bank, F.S.B.
216 West Jackson Blvd.
Suite 900
Chicago, Illinois 60606
Attention: John T. McLinden

with a copy to:

Rudrick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601-1293
Attention: William J. Ralph, Esq.

If to Beneficiary
and the Land Trustee:

Harris Trust and Savings Bank
111 West Monroe Street
Chicago, Illinois 60690
Attention: Land Trust Department

with a copy to:

Lakeside I
c/o Arthur Wong
180 N. Michigan Avenue
19th Floor
Chicago, Illinois 60601

with another copy to:

Jenner & Block
One IBM Plaza
Suite 4300
Chicago, Illinois 60611
Attention: Richard Helms

or to such other address the party to receive such notice may have theretofore furnished to all other parties by notice in accordance herewith. Except as otherwise

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specifically required herein, no notice of the exercise of any right or option granted to Lender herein is required to be given.

6.10 **Governing Law.** This Agreement has been negotiated, executed and delivered at Chicago, Illinois, and shall be construed and enforced in accordance with the laws of the State of Illinois.

6.11 **Exculpation of Land Trustee's Liability.** This Agreement is executed by the undersigned, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable only out of the assets of the Trust Estate held under the Trust Agreement creating Trustee, including property specifically described in the Mortgage. No personal liability shall be asserted or be enforceable against Trustee because or in respect of this Agreement or the making, issue or transfer hereof, all such liability, if any, being expressly waived by each taker and holder hereof. The sole remedies of the holder of the Modified Note hereof shall be as provided in the Mortgage, the Loan Documents and any other documents given to secure the indebtedness evidenced by the Modified Note, in accordance with the terms and provisions contained therein, and/or by action to enforce the personal liability of the guarantors, if any, for the payment hereof or for the performance of any other agreements or undertakings made in connection with the indebtedness evidenced by Modified Note. Notwithstanding any of the foregoing, nothing contained in this paragraph shall be deemed to prejudice the rights of Lender: (i) for fraud or material misrepresentation in connection with the making of the loan evidenced by the Modified Note, or similar rights to payment; or (ii) for fraud or material misrepresentation in connection with any warranty or representation given by the Trustee or the Beneficiary in connection with the making of the loan evidenced by this Modified Note; or (iii) to recover any condemnation or insurance proceeds or other similar funds or payments attributable to the Premises which under the terms of the Mortgage securing the Modified Note should have been paid to the Lender; or (iv) to recover any tenant security deposits, advance or prepaid rents or other similar sums paid to or held by the Trustee or the Beneficiary or any other entity or person in the connection with the operation of the Premises; (v) to proceed against any entity or person whatsoever with respect to the enforcement of any guarantees; or (vi) to recover any gross revenues from the Premises received after the occurrence of an Event of Default (as defined in the Mortgage) which have not been applied as follows: to pay any portion of the indebtedness secured by the Mortgage, to pay any operating and maintenance expenses of the Premises, including, without limitation, real estate taxes and assessments and insurance premiums for the Premises or to pay deposits into a reserve for taxes, insurance replacements or other sums required by the Loan Documents.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representative as of the date and year first above written.

LENDER:

REPUBLIC SAVINGS BANK, F.S.B.

By: [Signature]
Its: SENIOR V.P.

ATTEST

By: [Signature]
Its: Asst. Sec.

TRUSTEE:

HARRIS TRUST AND SAVINGS BANK,
as Trustee as aforesaid and not individually

By: [Signature]
Its: V.P.

ATTEST

By: [Signature]
Its: _____

BORROWER:

LAKESIDE I, an Illinois limited partnership

By: WK INVESTMENT CO., an Illinois corporation, a General Partner

By: [Signature]
Arthur Wong
President

By: SIEM LIMITED PARTNERSHIP, an Illinois limited partnership, a General Partner

By: [Signature]
Wayne Siem
General Partner

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Clarence L. Stone, Esq.
Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601

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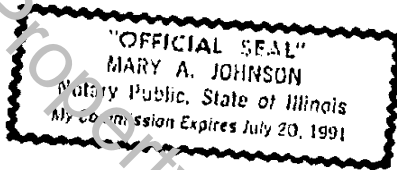
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STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, MARY A. JOHNSON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that ARTHUR WONG, the PRESIDENT of WK INVESTMENT CO., an Illinois corporation, which corporation is the corporate general partner of LAKESIDE I, an Illinois limited partnership, personally known to me to be the person whose name is subscribed to the foregoing instrument as such PRESIDENT, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and for the uses and purposes of said corporation.

GIVEN UNDER my hand and Notarial Seal this 3RD day of MARCH, 1988.



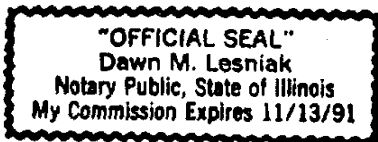
Mary Johnson
NOTARY PUBLIC

My Commission Expires: _____

STATE OF ILLINOIS)
COUNTY OF) SS.

I, DAWN M. LESNIAK, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY JAMES J. PERNER, Vice President of the Harris Trust and Savings Bank, a KENNETH E. PIEKUT, Assistant Secretary of said Bank, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument as such Vice President and Assistant 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 act and as the free and voluntary act of said Bank, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Bank, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN UNDER my hand and Notarial Seal this 2nd day of MARCH, 1988.



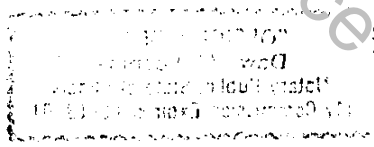
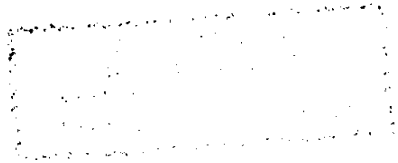
Dawn M. Lesniak
NOTARY PUBLIC

My Commission Expires: _____

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COOK COUNTY

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STATE OF ILLINOIS)

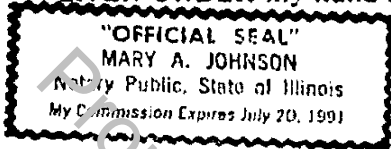
COUNTY OF COOK)

SS

an Illinois Limited Partnership

I, MARY A. JOHNSON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WAYNE SIEM, the GENERAL PARTNER of SIEM LIMITED PARTNERSHIP, ~~an Illinois corporation, which corporation is the corporate general partner of LAKESIDE I, an Illinois limited partnership,~~ personally known to me to be the person whose name is subscribed to the foregoing instrument as such GENERAL PARTNER appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of said ~~corporation,~~ ILLINOIS LIMITED PARTNERSHIP for the uses and purposes therein set forth, and for the uses and purposes of said ~~corporation,~~ PARTNERSHIP.

GIVEN UNDER my hand and Notarial Seal this 3RD day of MARCH, 1988.



Mary Johnson
NOTARY PUBLIC

My Commission Expires: _____

STATE OF ILLINOIS)

COUNTY OF DUPAGE)

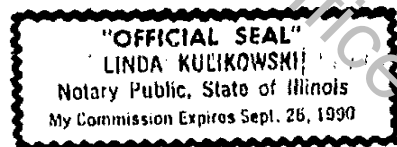
SS

I, LINDA KULIKOWSKI, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JOHN T. MCCLINDEN, the SR. VICE PRESIDENT of REPUBLIC SAVINGS BANK, F.S.B., personally known to me to be the person whose name is subscribed to the foregoing instrument as such SR. VICE PRESIDENT appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth, and for the uses and purposes of REPUBLIC SAVINGS BANK, F.S.B.

GIVEN UNDER my hand and Notarial Seal this 4TH day of MARCH, 1988.

Linda Kulikowski
NOTARY PUBLIC

My Commission Expires Sept. 26, 1990



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EXHIBIT A

The South 50 feet of Lot 10 in Block 6 in Hundley's Subdivision of Lots 3 to 21 and 33 to 37, inclusive, in Pine Grove, in Section 21, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN 14-21-106-008, Volume 485 *CAO M*

Street Address: 3721-23 North Pine Grove Avenue
Chicago, Illinois

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MODIFIED MORTGAGE NOTE

\$830,000.00

Chicago, Illinois
February 12, 1988

FOR VALUE RECEIVED, HARRIS TRUST AND SAVINGS BANK, not personally, but as trustee under Trust Agreement dated July 7, 1986, and known as Trust Number 43672 ("Maker") hereby promises to pay in arrears, out of the assets of the Trust Estate held under the Trust Agreement, to the order of Republic Savings Bank, F.S.B. ("Lender"), in the manner provided hereinafter, the sum of EIGHT HUNDRED THIRTY THOUSAND and no/100 DOLLARS (\$830,000.00), or so much as may be disbursed pursuant to that certain Third Loan Modification and Disbursement Agreement ("Third Loan Modification Agreement") of even date herewith by and between Maker, Lakeside I and Lender, with interest thereon, as follows:

(a) Commencing on the date hereof and continuing thereafter until the first Interest Rate Adjustment Date (as defined hereinafter) interest shall accrue at the rate per annum of two and three-fourths percent (2-3/4%) above the rate for U.S. Government three-year constant maturities Treasury Bills as published by the Federal Reserve on the date hereof;

(b) From and after the date of the first Interest Rate Adjustment Date and continuing thereafter through and including the Maturity Date (as hereinafter defined), interest shall accrue at the rate per annum of two and three-fourths percent (2-3/4%) above the Index Rate then in effect (as hereinafter defined) and shall be paid on the first Business Day of each calendar month from and after the date hereof. As used herein, the term "Business Day" shall mean any day on which national banking associations are required to be open for business in Chicago, Illinois.

(c) From and after the occurrence of (i) any default in the payment of interest when due in accordance with the terms hereof, (ii) a Default (as hereinafter defined) under this Note, or (iii) the Maturity Date (as hereinafter defined) of this Note, whether by acceleration or otherwise, interest shall accrue on the amount of the principal balance outstanding hereunder at the Default Rate. The Default Rate shall be four percent (4%) per annum over the rate of interest then in effect on the date of a Default or the Maturity Date; interest accruing at the Default Rate shall be payable on demand.

(d) Periodic installment payments of principal in an amount determined by Lender as sufficient to amortize the principal amount then disbursed under this Note, based upon a 30 year amortization period ("Amortization Period"), shall be due on the first Business Day in April, 1988 and on the first Business Day of each month thereafter to and including the first Business Day of March, 1995.

(e) The entire remaining principal balance outstanding hereunder and accrued interest thereon shall be due and payable on February 12, 1995 (the "Maturity Date") or on the first Business Day thereafter, if said date is not a Business Day, unless earlier due and payable by reason of the acceleration of the maturity of this Note.

Interest on this Note shall be calculated on the basis of a 360-day year and the actual number of days elapsed in any portion of a month for which interest may be due. Changes in the rates of interest to be charged hereunder based on the Index Rate shall be made as follows:

(a) **Interest Rate Adjustments.** Maker hereby agrees that the Interest Rate shall be adjusted by Lender on each Interest Rate Adjustment Date (as hereinafter defined) to be equal, following such date until the next Interest Rate Adjustment Date, to the sum of (i) the rate for U.S. Government one-year constant maturities Treasury Bills as published by the Federal Reserve in effect on the Interest Rate Adjustment Date (such rate is hereafter referred to as the "Index Rate") plus (ii) two and three-fourths percent (2-3/4%) (the "Loan Factor"). Changes in the Interest Rate on this Note will become effective

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100 N. LAUREL ST. CHICAGO, IL 60602

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commencing on February 12, 1991 and continuing and on the same date each year thereafter, each of which days is called an "Interest Rate Adjustment Date."

(b) **Payment Adjustments.** The monthly payment amount shall be adjusted on March 1, 1991, and on the same date each year thereafter, each of which dates is called a "Payment Adjustment Date" to an amount calculated by Lender as necessary to repay the then outstanding principal balance at the Interest Rate then in effect amortized over the number of years remaining in the Amortization Period.

(c) **Waiver of Increases.** Interest rate increases on each Interest Rate Adjustment Date are at the holder's option, but if the holder does not invoke a permissible interest rate increase in whole or in part, this will not constitute a waiver of the holder's right later to invoke such an increase, subject to the other provisions of this Note.

(d) **Alternative Index.** If, at any time during the term of this Note, the Index Rate is no longer available or is otherwise unpublished, Lender may select an alternative published index substantially similar and comparable to the Index Rate over which the Lender has no control, in which case such alternative index will become the Index Rate and the Loan Factor will be adjusted if necessary such that the sum of the alternative Index and adjusted loan factor equal the most recent prior Index and Loan Factor. Thereafter, the interest rate of this Note shall vary in relation to the alternative Index and the adjusted loan factor.

Prior to the occurrence of any Default, all payments received on account of the indebtedness evidenced by this Note shall be first applied to accrued interest due on the outstanding principal balance, with the remainder, if any, to be applied to the outstanding principal balance.

This Note may not be prepaid in whole or in part on or before February 12, 1992, thereafter, prior to the occurrence of any Default, a prepayment may be made on not less than thirty (30) days' prior written notice of the principal balance of this Note, in whole or in part, on any interest payment date ("Payment Date"); provided, however, that each prepayment shall be accompanied by a payment of all interest accrued as of that date on the principal balance outstanding hereunder plus a prepayment premium in an amount equal to one percent (1%) times the then principal balance outstanding under this Note as of the Prepayment Date. If maturity of the indebtedness evidenced by this Note is accelerated by the Lender because of a Default as provided herein, the Maker agrees that an amount equal to the Default Prepayment Premium (hereinafter defined) shall be added to the balance of principal and interest then outstanding, and that the indebtedness evidenced by this Note shall not be discharged except (i) by payment of such Default Prepayment Premium together with the balance of principal and interest and all other sums then outstanding (if the Maker tenders payment of the indebtedness evidenced by this Note prior to judicial confirmation of foreclosure sale) or (ii) by inclusion of such Default Prepayment Premium as a part of the indebtedness evidenced in any order or judgment of foreclosure. The "Default Prepayment Premium" shall be, in the event of an acceleration ten percent (10%) of the amount prepaid. The Default Prepayment Premium shall be payable at any time that the maturity of the indebtedness evidenced by this Note is accelerated by the Lender, regardless of whether the Maker has the right at such time to make a voluntary prepayment of such indebtedness.

All payments made on account of the indebtedness evidenced by this Note shall be made in currency and coin of the United States of America which shall be legal tender for public and private debts at the time of payment. Said payments and prepayments are to be made at such place as the legal holder of this Note may from time to time in writing appoint and, in the absence of such appointment, then at the office of Republic Savings Bank, F.S.B., 4600 West Lincoln Highway, Matteson, Illinois 60443 Attention: Kathy Goonan.

The payment of this Note is secured by, among other things, a Mortgage ("Mortgage") made by Maker to Lender, conveying certain real estate in the State of Illinois (the "Property"), the Third Loan Modification Agreement and Loan Documents (as hereinafter defined). By this reference, the Mortgage, the Third Loan Modification Agreement and the Loan Documents (as hereinafter defined) are incorporated by reference as if fully set forth herein. It is agreed that upon occurrence of any of the following events of default under this Note (a "Default"):

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- (i) default in the payment of principal when due in accordance with the terms hereof; or
- (ii) default in the payment of interest when due in accordance with the terms hereof, which default continues for a period of five (5) days after the due date; or
- (iii) occurrence of a Prohibited Transfer (as hereinafter defined); or
- (iv) default in the performance or observance of any other covenant or agreement of Maker contained herein, which default continues for a period of thirty (30) days after written notice thereof from Lender; or
- (v) occurrence of any Default under the Mortgage (as defined therein) or any of the Loan Documents (as hereinafter defined) after giving effect to applicable cure periods.

then, at any time thereafter, at the election of the holder or holders hereof and without notice to Maker, the principal sum remaining unpaid hereon, together with accrued interest thereon, shall become at once due and payable at the place of payment as aforesaid, and Lender may proceed to foreclose the Mortgage, to exercise any other rights and remedies available to Lender under the Mortgage and the Loan Documents (as hereinafter defined) and to exercise any other rights and remedies against Maker or with respect to this Note which Lender may have at law, in equity or otherwise. The Loan Documents include this Note, the Third Loan Modification Agreement, the Mortgage, a Guaranty of Payment executed by Arthur Wong, Wayne Siem and Bernard Kornhaber, a Collateral Assignment of Leases and Rents, a Collateral Assignment of Beneficial Interest, a Security Agreement and such other documents and instruments as further security as Lender may require.

Maker shall not, without the prior written consent of Lender, create, effect, contract for, consent to or permit any Prohibited Transfer. Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or agreement to do any of the foregoing) of any of the following properties, rights or interests which occurs, is granted, accomplished, attempted or effectuated without the prior written consent of Lender shall constitute a "Prohibited Transfer":

- (a) the Premises or any part thereof or interest therein, excepting only sales or other dispositions of personal property located on the Premises which are permitted under the terms of the Mortgage;
- (b) all or any portion of the beneficial interest or power of direction in, to or under the trust under which Maker is acting, if Maker is a trustee;
- (c) any shares of capital stock of a corporate Maker, a corporation which is a direct or indirect beneficiary of a trustee Maker, a corporation which is a general partner of a partnership Maker, a corporation which is a general partner in a partnership beneficiary of a trustee Maker or a corporation which is the owner of substantially all of the capital stock of any corporation described in this subparagraph (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealer's Automated Quotation System); or
- (d) all or any part of the partnership or joint venture interest, as the case may be, of a partnership Maker or a partnership beneficiary of a trustee Maker;

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by Maker, or any third party, by operation of law or otherwise; provided, however, that the foregoing provisions of this paragraph shall not apply (i) to the Mortgage or any liens expressly permitted in the Mortgage; (ii) to the lien of current taxes and assessments not in default; or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives; (iv)

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sales of stock of a corporation which is a direct or indirect beneficiary of a trustee Maker provided that notwithstanding such sale, the principal shareholders who are guarantors under the Loan Documents shall continue to own at least fifty-one percent (51%) of such stock; or (v) sales of limited partnership interests in Lakeside I, an Illinois limited partnership; or (vi) leases of individual units in the Property to bona fide tenants.

The remedies of Lender as provided herein or in the Mortgage or the Loan Documents, shall be cumulative and concurrent, and may be pursued singularly, successively or together, at the sole discretion of Lender, and may be exercised as often as occasion therefor shall arise. Failure of Lender, for any period of time or on more than one occasion, to exercise its option to accelerate the Maturity Date of this Note shall not constitute a waiver of the right to exercise the same at any time thereafter or in the event of any subsequent Default. No act of omission or commission of Lender, including specifically any failure to exercise any right, remedy or recourse, shall be deemed to be a waiver or release of the same; any such waiver or release is to be effected only through a written document executed by Lender and then only to the extent specifically recited therein. A waiver or release with reference to any one event shall not be construed as a waiver or release of any subsequent event or as a bar to any subsequent exercise of Lender's rights or remedies hereunder. Except as otherwise specifically required herein, notice of the exercise of any right or remedy granted to Lender by this Note is not required to be given.

If: (i) this Note or any Loan Document is placed in the hands of an attorney for collection or enforcement or is collected or enforced through any legal proceeding; (ii) if an attorney is retained to represent Lender in any bankruptcy, reorganization, receivership, or other proceedings affecting creditors' rights and involving a claim under this Note or any Loan Document; (iii) if an attorney is retained to protect or enforce the lien of the Mortgage or any Loan Document; or (iv) if an attorney is retained to represent Lender in any other proceedings whatsoever in connection with this Note, the Mortgage, any of the Loan Documents or any property subject thereto, then Maker shall pay to Lender all reasonable attorneys' fees, costs and expenses incurred in connection therewith, in addition to all other amounts due hereunder.

From and after the occurrence of a Default, Lender is expressly authorized to apply payments made under this Note as Lender may elect against any or all amounts, or portions thereof, then due and payable hereunder or under the Mortgage or any Loan Document, the outstanding principal balance due under this Note, the unpaid and accrued interest due under this Note, or any combination of the foregoing.

If any installment of interest or the unpaid principal balance due under this Note becomes overdue for a period in excess of five (5) days, Maker shall pay to Lender a late charge of five cents (\$.05) for each dollar so overdue in order to defray part of the increased cost of collection resulting from such late payments. Such late charge shall be in addition to and separate from any increase in interest due hereunder as a result of calculation of interest due under this Note at the Default Rate.

Maker, each guarantor hereof, and any and all others who are now or may become liable for all or part of the obligations of Maker under this Note (all of the foregoing being referred to collectively herein as "Obligors") agree to be jointly and severally bound hereby and jointly and severally: (i) waive and renounce any and all 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 hereof; (ii) waive presentment and demand for payment, notices of nonpayment and of dishonor, protest of dishonor, and notice of protest; (iii) waive all notices in connection with the delivery and acceptance hereof and all other notices in connection with the performance, default, or enforcement of the payment hereof or hereunder; (iv) waive any and all lack of diligence and delays in the enforcement of the payment hereof; (v) agree that the liability of each of Obligors shall be unconditional and without regard to the liability of any other person or entity for the payment hereof, and shall not in any manner be affected by any indulgence or forbearance granted or consented to by Lender to any of them with respect hereto; (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 hereof, or any part thereof, with or without substitution, and to the release of any person or entity liable for the payment hereof; and (vii) consent to the addition of any and all other makers, indorsers, guarantors, and other obligors for the payment hereof, and to the acceptance of any and all other security for the

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payment hereof, and agree that the addition of any such obligors or security shall not affect the liability of any of Obligor for the payment hereof.

Time is of the essence hereof.

Maker agrees that: (i) this instrument and the rights and obligations of all parties hereunder shall be governed by and construed under the substantive laws of the State of Illinois; (ii) the obligation evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C. §1601, et seq.; (iii) said obligation constitutes a business loan within the purview of Illinois Revised Statutes Chapter 17, Section 6404; (iv) the proceeds of the indebtedness evidenced by this Note will not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

The parties hereto intend and believe that each provision in this Note comports with all applicable law. However, if any provision in this Note is found by a court of law to be in violation of any applicable law, and if such court should declare such provision of this Note to be unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such provision shall be given full force and effect to the fullest possible extent that it is legal, valid and enforceable, that the remainder of this Note shall be construed as if such unlawful, void or unenforceable provision were not contained therein, and that the rights, obligations and interests of the Maker and the holder hereof under the remainder of this Note shall continue in full force and effect; provided, however, that if any provision of this Note which is found to be in violation of any applicable law concerns the imposition of interest hereunder, the rights, obligations and interests of Maker and Lender with respect to the imposition of interest hereunder shall be governed and controlled by the provisions of the following paragraph.

It being the intention of Lender and Maker to comply with the laws of the State of Illinois with regard to the rate of interest charged hereunder, it is agreed that, notwithstanding any provision to the contrary in this Note, the Mortgage, or any of the other Loan Documents, no such provision, including without limitation any provision of this Note providing for the payment of interest or other charges and any provision of the Mortgage providing for the payment of interest, fees, costs or other charges, shall require the payment or permit the collection of any amount ("Excess Interest") in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by this Note. If any Excess Interest is provided for, or is adjudicated to be provided for, in this Note, the Mortgage, or any of the other Loan Documents, then in such event:

- (a) the provisions of this paragraph shall govern and control;
- (b) neither Maker nor any of the other Obligor shall be obligated to pay any Excess Interest;
- (c) any Excess Interest that Lender may have received hereunder shall, at the option of Lender, be (i) applied as a credit against the then outstanding principal balance due under this Amended Note, accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both, (ii) refunded to the payor thereof, or (iii) any combination of the foregoing;
- (d) the applicable interest rate or rates shall be automatically subject to reduction to the maximum lawful rate allowed to be contracted for in writing under the applicable usury laws of the aforesaid State, and this Amended Note, the Mortgage, and the Loan Documents shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in such interest rate or rates; and
- (e) neither Maker nor any of the other Obligor shall have any action or remedy against Lender for any damages whatsoever or any defense to enforcement of this Note, Mortgage, or any other Loan Document arising out of the payment or collection of any Excess Interest.

Upon any endorsement, assignment, or other transfer of this Note by Lender or by operation of law, the term "Lender," as used herein, shall mean such endorsee, assignee, or other transferee or successor to Lender then becoming the holder of this Note. This Note shall inure to the benefit of Lender and its successors and assigns and shall be binding upon the undersigned and its successors and assigns. The terms "Maker"

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and "Obligors," as used herein, shall include the respective successors, assigns, legal and personal representatives, executors, administrators, devisees, legatees and heirs of Maker and any other Obligors.

This Note is made and delivered in full and complete substitution for that certain Mortgage Note dated August 12, 1986 in the principal amount of Four Hundred Thirty-Six Thousand Eight Hundred and No/100 (\$436,800.00) ("Original Note") delivered by Maker to Lender as such Original Note was modified pursuant to the terms of that certain Loan Modification Agreement dated July 14, 1987 and recorded in the Recorder's Office on July 17, 1987 as Document 87396227 and pursuant to the terms of that certain Second Loan Modification Agreement dated November 25, 1987 and recorded in the Recorder's Office as Document 87652066. Upon execution and delivery of this Note, the Original Note shall no longer be of any force or effect.

Any notice, demand or other communication which any party may desire or may be required to give to any other party shall be in writing, and shall be deemed given if and when personally delivered, or on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith:

If to Lender: Republic Savings Bank, F.S.B.
216 West Jackson Boulevard
Suite 900
Chicago, Illinois 60606
Attention: John T. McLinden

with a copy to: Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601
Attention: William J. Ralph, Esq.

If to Maker: Harris Trust and Savings Bank
111 W. Monroe Street
Chicago, Illinois 60690
Attention: Land Trust Department

with a copy to: Lakeside I
c/o Arthur Wong
180 N. Michigan Avenue
19th Floor
Chicago, Illinois 60601

with a copy to: Jenner & Block
One IBM Plaza
Suite 4300
Chicago, Illinois 60611
Attention: W. Richard Helms

This Note is executed by the undersigned, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable only out of the assets of the Trust Estate held under the Trust Agreement creating Maker, including property specifically described in the Mortgage. No personal liability shall be asserted or be enforceable against Maker because or in respect of this Note or the making, issue or transfer hereof, all such liability, if any, being expressly waived by each taker and holder hereof. The sole remedies of the holder hereof shall be as provided in the Mortgage, the Loan Documents and any other documents given to secure the indebtedness evidenced by this Note, in accordance with the terms and provisions contained therein, and/or by action to enforce the personal liability of the guarantors, if any, for the payment hereof or for the performance of any other agreements or undertakings made in connection with the indebtedness evidenced by this Note. Notwithstanding any of the foregoing, nothing contained in this paragraph shall be deemed to prejudice the rights of Lender: (i) for fraud or material misrepresentation in connection with the making of the loan evidenced by this Note, or similar rights to payment; or (ii) for fraud or material misrepresentation in connection with any warranty or representation given by the Maker or the Lakeside I (the "Beneficiary") in connection with the making of the loan evidenced by this Note; or (iii) to recover any condemnation or insurance proceeds or other similar funds or payments

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attributable to the Property which under the terms of the Mortgage securing this Note should have been paid to the Lender; or (iv) to recover any tenant security deposits, advance or prepaid rents or other similar sums paid to or held by the Maker or the Beneficiary or any other entity or person in connection with the operation of the Property; (v) to proceed against any entity or person whatsoever with respect to the enforcement of any guarantees; or (vi) to recover any gross revenues from the Property received after the occurrence of an Event of Default (as defined in the Mortgage) which have not been applied as follows: to pay any portion of the indebtedness secured by the Mortgage, to pay any operating and maintenance expenses of the Property, including, without limitation, real estate taxes and assessments and insurance premiums for the Property or to pay deposits into a reserve for taxes, insurance replacements or other sums required by the Loan Documents.

IN WITNESS WHEREOF, the undersigned has through its duly authorized officers executed this Note as of the day and year first above written.

HARRIS TRUST AND SAVINGS BANK,
not personally but solely as Trustee
under Agreement dated July 7, 1986 and
known as Trust 43672

By: _____
Its: _____

Attest: _____
Its: _____

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GUARANTY OF PAYMENT

THIS GUARANTY OF PAYMENT ("Guaranty"), made as of the 12th day of February, 1988, by Arthur Wong, Wayne Siem and Bernard Kornhaber (collectively the "Guarantor") to and for the benefit of Republic Savings Bank, F.S.B. ("Lender").

WITNESSETH:

WHEREAS, Lender, Lakeside I, an Illinois limited partnership ("Borrower") and Harris Trust and Savings Bank, not personally but solely as Trustee under Trust Agreement dated July 7, 1986 and known as Trust No. 43672 (the "Land Trustee") have entered into a Third Loan Modification and Disbursement Agreement of even date herewith (the "Loan Agreement") providing for a loan in the amount not to exceed the sum of Eight Hundred Thirty Thousand and no/100 Dollars (\$830,000.00) (the "Loan"); and

WHEREAS, pursuant to the Loan Agreement, the Land Trustee has executed and delivered a Modified Mortgage Note to Lender in the amount of Eight Hundred Thirty Thousand and no/100 Dollars (\$830,000.00) (the "Modified Note"); and

WHEREAS, Lender has required, as a condition precedent to disbursement of the Loan under the Loan Agreement, that Guarantor execute and deliver this Guaranty of all sums due under the Note, the Loan Agreement and the Loan Documents (as that term is defined in the Loan Agreement - all terms defined in the Loan Agreement are used herein with the same meanings); and

WHEREAS, WK Investment Co., an Illinois corporation ("WK Investment") and Siem Limited Partnership, an Illinois limited partnership ("Siem Limited Partnership") are the sole general partners of Borrower; and

WHEREAS, Arthur Wong and Bernard Kornhaber are the officers and sole shareholders of WK Investment and Wayne Siem is the sole general partner of Siem Limited Partnership; and

WHEREAS, the Guarantors, having a financial interest in the Loan and in the Property (as defined in the Modified Note) have agreed to execute and deliver this Guaranty.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Guarantor agrees as follows;

1. Guaranty. Guarantor absolutely, unconditionally and irrevocably guarantees to Lender:

(a) the full and prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of any and all debts, liabilities, and obligations of the Borrower and the Land Trustee for the payment of money to Lender, however created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, due or to become due, known or unknown to Guarantor at the time of the execution of this Guaranty, including, without limitation, all debts, liabilities and obligations of Borrower and the Land Trustee to Lender under the Note, the Loan Agreement and the other Loan Documents;

(b) the full and prompt payment upon demand by Lender of any amounts required to be paid by the Mortgage or the Loan Agreement with respect to the Project, including without limitation, real estate taxes, assessments, governmental charges, premiums for insurance policies, amounts required to discharge mechanic's and materialmen's liens and claims therefor, together with all other costs and expenses of construction, development, management, operation and ownership of the Project;

(c) the full and prompt payment upon demand by Lender of any amounts required by Lender under the Loan Agreement to keep the Loan in Balance; and

(d) the payment of all Enforcement Costs (as hereinafter defined).

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All amounts due, debts, liabilities and payment obligations described in subparagraphs (a), (b), (c) and (d) of this Paragraph 1 are referred to herein as the "Indebtedness."

2. **Lender's Remedies.** In the event of any default by Borrower or the Land Trustee under the Note, Mortgage or Loan Agreement, Guarantor agrees, on demand by Lender, to pay all sums due hereunder regardless of any defense, right of set-off or claims which Borrower, the Land Trustee or Guarantor may have against Lender. This is an absolute, irrevocable, present and continuing guaranty of payment and not of collection. In any action to enforce this Guaranty, Lender, at its election, may proceed against the Guarantor, with or without: (i) joining Borrower or the Land Trustee in any such action; (ii) commencing any action against or obtaining any judgment against Borrower or the Land Trustee; or (iii) commencing any proceeding to enforce the Loan Agreement, realize upon any Loan Document, foreclose the Mortgage or obtain any judgment, decree or foreclosure sale therein. Nevertheless, in the event a foreclosure of the Mortgage results in a deficiency, the Guarantor hereby further promises and agrees forthwith to pay to Lender the amount of such deficiency.

3. **Return of Payments.** Guarantor agrees that, if at any time all or any part of any payment theretofore applied by Lender to any Indebtedness is rescinded or returned by Lender for any reason whatsoever (including, without limitation, the insolvency, bankruptcy, liquidation or reorganization of any party), such Indebtedness shall, for the purposes of this Guaranty, be deemed to have continued in existence to the extent of such payment, notwithstanding such application by Lender, and this Guaranty shall continue to be effective or be reinstated, as the case may be, as to such Indebtedness, all as though such application by Lender had not been made.

4. **No Discharge.** Guarantor agrees that the obligations, covenants and agreements of Guarantor under this Guaranty shall not be affected or impaired by any act of Lender, or any event or condition except payment in full of the Indebtedness and any other sums due hereunder. Guarantor agrees that, without payment in full of the Indebtedness, the liability of Guarantor hereunder shall not be discharged by: (i) the renewal or extension of time for the payment of the Indebtedness under the Note, the Loan Documents or any other agreement relating to the Indebtedness, whether made with or without the knowledge or consent of Guarantor; or (ii) any transfer, waiver, compromise, settlement, modification, surrender, or release of the Note, the Loan Agreement or the Loan Documents; or (iii) the existence of any defenses to enforcement of the Note, the Loan Agreement or the Loan Documents; (iv) any failure, omission, delay or inadequacy, whether entire or partial, of Lender to exercise any right, power or remedy regarding the Loan or to enforce or realize upon (or to make any Guarantor a party to the enforcement or realization upon) any of Lender's security for the Loan; (v) the existence of any set-off, claim, reduction or diminution of the Indebtedness, or any defense of any kind or nature, which Guarantor may have against the Borrower or the Land Trustee or which any party has against Lender; (vi) the application of payments received from any source to the payment of any obligation other than the Indebtedness, even though Lender might lawfully have elected to apply such payments to any part or all of the Indebtedness; (vii) the addition of any and all other indorsers, guarantors, obligors and other persons liable for the payment of the Indebtedness and the acceptance of any and all other security for the payment of the Indebtedness; all whether or not Guarantor shall have had notice or knowledge or any act or omission referred to in the foregoing clauses (i) through (vii) of this Paragraph. Guarantor intends that Guarantor shall remain liable hereunder as a principal until the earlier to occur of (x) all Indebtedness shall have been paid in full, or (y) on the date the Lender determines that the Net Operating Income (as defined in the Modified Note) for the Property (as defined in the Modified Note) for twelve (12) consecutive months yields a Debt Coverage Ratio (as defined in the Modified Note) of not less than 1.25, notwithstanding any fact, act, event or occurrence which might otherwise operate as a legal or equitable discharge of a surety or guarantor.

5. **Application of Amounts Received.** Any amounts received by Lender from whatsoever source on account of any Indebtedness may be applied by Lender toward the payment of such Indebtedness, and in such order of application, as Lender may from time to time elect. Notwithstanding any payments made by or for the account of Guarantor on account of the Indebtedness, such Guarantor shall not be subrogated to any rights of Lender until such time as Lender shall have received payment of the full amount of all Indebtedness.

6. **Waiver.** Guarantor expressly waives: (i) notice of the acceptance by Lender of this Guaranty; (ii) notice of the existence, creation, payment or nonpayment

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of the Indebtedness; (iii) presentment, demand, notice of dishonor, protest, and all other notices whatsoever; (iv) any failure by Lender to inform Guarantor of any facts Lender may now or hereafter know about the Borrower, the Land Trustee, the Project, the Loan or the transactions contemplated by the Loan Agreement, it being understood and agreed that Lender has no duty so to inform and that Guarantor is fully responsible for being and remaining informed by the Borrower of all circumstances bearing on the existence or creation, or the risk of nonpayment of the Indebtedness. Credit may be granted or continued from time to time by Lender to Borrower or the Land Trustee without notice to or authorization from Guarantor, regardless of the financial or other condition of the Borrower or the Land Trustee at the time of any such grant or continuation. Lender shall have no obligation to disclose or discuss with Guarantor its assessment of the financial condition of Borrower or the Land Trustee. No modification or waiver of any of the provisions of this Guaranty will be binding upon Lender except as expressly set forth in a writing duly signed and delivered on behalf of Lender. Guarantor further agrees that any exculpatory language pertaining to the Land Trustee contained in the Loan Agreement, the Note and the Mortgage shall in no event apply to this Guaranty, and will not prevent Lender from proceeding against Guarantor to enforce this Guaranty.

7. **Enforcement Costs.** If: (i) this Guaranty, the Note or any Loan Document is placed in the hands of an attorney for collection or is collected through any legal proceeding; (ii) an attorney is retained to represent Lender in any bankruptcy, reorganization, receivership, or other proceedings affecting creditors' rights and involving a claim under this Guaranty, the Note, the Loan Agreement or any Loan Document; (iii) an attorney is retained to protect or enforce the lien of the Mortgage or any of the other Loan Documents; or (iv) an attorney is retained to represent Lender in any other proceedings whatsoever in connection with this Guaranty, the Note, the Mortgage, the Loan Agreement, any of the Loan Documents or any property subject thereto, then Guarantor shall pay to Lender upon demand all attorneys' fees, costs and expenses, including without limitation court costs, filing fees, recording costs, expenses of foreclosure, title insurance premiums, minutes of foreclosure and all other costs and expenses incurred in connection therewith (all of which are referred to herein as "Enforcement Costs"), in addition to all other amounts due hereunder.

8. **Transfer of Indebtedness.** Notwithstanding any assignment or transfer of the Indebtedness or any interest therein, all portions of the Indebtedness including those assigned or transferred shall be and remain Indebtedness for the purposes of this Guaranty, and each and every immediate and successive assignee or transferee of such Indebtedness or interest shall, to the extent of the Indebtedness or interests assigned or transferred, be entitled to the benefits of this Guaranty to the same extent as if such assignee or transferee were Lender; provided, however, that unless the assignor or transferor shall otherwise consent in writing, the assignor or transferor shall have an unimpaired right, prior and superior to that of its such assignee or transferee, to enforce this Guaranty for its benefit as to such portions of the Indebtedness or interest therein not assigned or transferred.

9. **Governing Law; Interpretation.** This Guaranty has been negotiated, executed and delivered in Chicago, Illinois and shall be governed by the laws of the State of Illinois. The headings of sections and paragraphs in this Guaranty are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions hereof. As used in this Guaranty, the singular shall include the plural, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires. If any provision of this Guaranty, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstances, is adjudicated by a court of competent jurisdiction to be invalid, the validity of the remainder of this Guaranty shall be construed as if such invalid part were never included herein. Time is of the essence of this Guaranty. All payments to be made hereunder shall be made in currency and coin of the United States of America which is legal tender for public and private debts at the time of payment.

10. **Entire Agreement.** This Guaranty and the Loan Documents constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior such agreements and understandings, both written and oral. This Guaranty may not be modified or amended except by a written instrument signed by Lender and Guarantor. If this Guaranty is executed in several counterparts, each of those counterparts shall be deemed an original, and all of them together shall constitute one and the same instrument.

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11. **Lender's Security Interest.** To secure all obligations of Guarantor, Lender shall have a lien upon and security interest in (and may, without demand or notice of any kind, at any time and from time to time when any amount shall be due and payable by the Guarantor, appropriate and apply toward the payment of such amount, in such order of application as Lender may elect) any and all balances, credits, deposits, accounts, moneys, or any other property of or in the name of Guarantor now or hereafter with or in the control or possession of or in transit to Lender or any agent or bailee for Lender and shall have all the rights and remedies with respect thereto of a secured party under the Illinois Uniform Commercial Code.

12. **Subordinated Debt.** Any indebtedness of Borrower or the Land Trustee to Guarantor (the "Subordinated Debt") now or hereafter existing is hereby subordinated to the Indebtedness. Guarantor agrees that, until the entire Indebtedness has been paid in full, Guarantor will not seek, accept or retain for Guarantor's own account, any payment from Borrower or the Land Trustee on account of the Subordinated Debt. Any payments to Guarantor on account of the Subordinated Debt shall be collected and received by Guarantor in trust for Lender and shall be paid over to Lender on account of the Indebtedness without impairing or releasing the obligations of Guarantor hereunder.

13. **Payment of Indebtedness.** Lender agrees that the obligations of Guarantor under this Guaranty shall terminate, subject to the provisions of Paragraph 3 hereof, when Lender shall have received payment of all Indebtedness and all other sums due and owing under this Guaranty and the Loan Documents. Release of this Guaranty, if it occurs, however, shall not affect, in any respect, the Note or any other instrument securing or guarantying the Indebtedness or performance of the Obligations.

14. **Successors and Assigns; Joint and Several Liability.** This Guaranty shall bind Guarantor and the heirs, assigns, successors, executors and legal and personal representatives of Guarantor. If this Guaranty is executed by more than one person, it shall be the joint and several undertaking of each of the undersigned. Irrespective of whether this Guaranty is executed by more than one person, it is agreed that the undersigned's liability hereunder is several and independent of any other guaranties or other obligations at any time in effect with respect to the Indebtedness or any part thereof and that Guarantor's liability hereunder may be enforced regardless of the existence, validity, enforcement or non-enforcement of any such other guaranties or other obligations.

15. **Substitution for Guaranty of Payment and Performance.** This Guaranty is made and delivered in full and complete substitution for that certain Guaranty of Payment and Performance dated August 12, 1986 and made by Arthur Wong, Wayne Siem and Bernard Kornhaber to Lender as such Guaranty was modified pursuant to the terms of that certain Loan Modification Agreement dated July 14, 1987 and recorded in the Recorder's Office as Document 87396227 and pursuant to the terms of that certain agreement dated November 25, 1987 and recorded in the Recorder's Office as Document 87652066.

16. **Notices.** Any notice, demand or other communication which Lender may desire or may be required to give to Guarantor shall be in writing, and shall be deemed given if and when personally delivered, or on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to Guarantor at its address set forth below, or to such other address as Guarantor may have designated to Lender in writing at Lender's address set forth below:

If to Lender: Republic Savings Bank, F.S.B.
216 West Jackson Boulevard
Suite 900
Chicago, Illinois 60606
Attention: John T. McLinden

with a copy to: Rudnick & Wolfe
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601-1293
Attention: William J. Ralph, Esq.

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if to Guarantor: Arthur Wong
180 North Michigan
19th Floor
Chicago, Illinois 60601

with a copy to: Jenner & Block
One IBM Plaza
Suite 4300
Chicago, Illinois 60611
Attention: W. Richard Helms

Except as otherwise specifically required herein, notice of the exercise of any right, option or power granted to Lender by this Guaranty is not required to be given.

SIGNED AND DELIVERED the date first above specified.

GUARANTORS:

Arthur Wong

Wayne Siem

Bernard R. Kornhaber

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EXHIBIT D

**BORROWER'S CERTIFICATE AND AGREEMENT
REGARDING HAZARDOUS SUBSTANCES**

THIS BORROWER'S CERTIFICATE AND AGREEMENT REGARDING HAZARDOUS SUBSTANCES ("Agreement") made as of the 12th day of February, 1988, by LAKESIDE I, an Illinois limited partnership ("Lakeside I"), Arthur Wong, Wayne Slem and Bernard Kornhaber, individuals and residents of Illinois (collectively, the "Indemnitors"), to and for the benefit of REPUBLIC SAVINGS BANK, F.S.B. ("Lender").

WITNESSETH:

WHEREAS, Lender, in accordance with that certain Third Modification and Disbursement Agreement of even date herewith (the "Agreement"), by and between Lender and Lakeside I, has agreed to make a loan in the amount of up to Eight Hundred Thirty Thousand and No/100 Dollars (\$830,000.00) (the "Loan");

WHEREAS, Lakeside I executed and delivered a Modified Mortgage Note to Lender in the full amount of the Loan, which Modified Note is secured by a Mortgage dated August 12, 1986, as modified (the "Mortgage") securing that certain parcel of real estate and the improvements situated thereon located in Chicago, Illinois as legally described in Exhibit "A" attached hereto and made a part hereof (collectively, the "Premises") and other Loan Documents (as that term is described in the Agreement -- all terms defined in the Agreement are used herein with the same meanings); and

WHEREAS, Lender as required as a condition precedent to disbursement of the Loan to Lakeside I that Indemnitors execute and deliver this Agreement; and

WHEREAS, the legal title holder of the Premises is Harris Trust and Savings Bank, not personally, but as Trustee under Trust Agreement dated July 7, 1986, and known as Trust Number 43672 (the "Trust");

WHEREAS, the beneficiary under the Trust is Lakeside I; and

WHEREAS, Indemnitors, having a financial interest in the Loan and in the Premises, have agreed to execute and deliver this Agreement.

NOW THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Indemnitors hereby agree as follows:

1. REPRESENTATIONS, WARRANTIES AND COVENANTS REGARDING HAZARDOUS SUBSTANCES. Indemnitors represent and warrant to Lender that:

- (a) The Premises are not subject to any liens, actions or proceedings relating to Hazardous Substances (as hereinafter defined) or Environmental Laws (as hereinafter defined), and Indemnitors are not a party to any such action or proceeding relating to the Premises and Indemnitors have received no notice of any such lien, action or proceeding pending or threatened.

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(b) No Hazardous Substances are presently located on the surface or in the subsurface of the Premises or any surface waters or ground waters on or under the Premises.

(c) To the best knowledge of Indemnitors, after due inquiry, no Hazardous Substances have been located, stored or processed on the Premises, and no Hazardous Substances have been disposed on or released or discharged from (including groundwater contamination) the Premises.

(d) The Premises and its use and operation are currently in compliance with all Environmental Laws.

(e) There are no storage tanks, polychlorinated biphenyls, asbestos, or Hazardous Substances present on the Premises.

(f) To the best knowledge of Indemnitors, after due inquiry, the real estate adjacent to the Premises is not currently and has not in the past been used for the on-site storage, treatment or disposal of Hazardous Substances or been in violation of any Environmental Laws.

(g) The Premises has not been used as a sanitary landfill, dump, industrial waste disposal area or for any other similar uses.

(h) Indemnitors have obtained all permits and licenses required by all governmental agencies having jurisdiction over Indemnitors and the Premises and under all Environmental Laws.

(i) Indemnitors' representations and warranties set forth in subparagraphs (a) through (h) above shall be continuing and shall remain true and correct in all material respects until the Loan has been paid in full and all applicable statutes of limitation shall have expired and have not been affected by any investigation by or on behalf of the Lender or by any information Lender may have or obtain with respect thereto.

(j) Indemnitors shall immediately notify Lender of any circumstances or occurrences that would make any representation or warranty in subparagraphs (a) through (h) false, or subject Lakeside I, Lender or any previous owner of the Premises to liability under any Environmental Laws.

(k) Indemnitors shall comply with all Environmental Laws affecting the Premises and shall, at no cost or expense to Lender, take all actions necessary in connection herewith, including, without limitation, remediation, removal, containment, correction and disposal required by any Environmental Laws or any governmental agencies in the enforcement of Environmental Laws affecting the Premises.

2. DEFINITIONS.

(a) For purposes of this Agreement, the term "Hazardous Substances" shall mean and include all hazardous and toxic substances, wastes or materials, any pollutant or contaminant, including, without limitation, petroleum products,

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polychlorinated biphenyls, asbestos and raw materials that include hazardous constituents or any other similar substances or materials that are included under or regulated by any Environmental Law or that would pose a health, safety or environmental hazard.

(b) For purposes of this Agreement, the term "Environmental Law" shall mean and include all federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and clean-up, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq. ("CERCLA") and the Resources Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 et seq. ("RCRA") and state superlien and environmental clean-up statutes.

3. **INDEMNIFICATION.** Indemnitors shall indemnify, defend and hold harmless Lender, its officers, directors, employees and agents against any liability, loss, claim, damage or expense (including attorney's fees and disbursements, consultant fees, investigation and laboratory fees) to which any of them may become subject insofar as they may arise or are based upon:

(a) Any violation or claim of violation of Environmental Laws with respect to the Premises, injury to any person or their property as a result of the violation or claim of violation of Environmental Laws, or any governmental or judicial claim, or ordinance or judgment with respect to the clean-up of Hazardous Substances at or with respect to the Premises;

(b) The presence of Hazardous Substances in or on the Premises (including the improvements) or the subsurface thereof.

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(c) Any cost, claim, liability or damage expended in remediation of the Premises required by a governmental authority, regarding the presence of Hazardous Substances in or on the Premises or the subsurface thereof or the release, escape, seepage, leakage, discharge or migration of any Hazardous Substances.

(d) Any error, misstatement or omission by Indemnitors with respect to this Agreement; and

(e) Any breach of any of the warranties, representations and covenants contained in Section 1 hereof.

LAKESIDE I, an Illinois limited partnership

By: WK Investment Co., an Illinois corporation, a General Partner

By: _____
Arthur Wong, Individually and as President

By: Siem Limited Partnership, an Illinois limited partnership, a General Partner

By: _____
Wayne Siem, Individually and as General Partner

By: _____
Bernard Korzhner

LENDER:

Republic Savings Bank, F.S.B.

By: _____
Its: _____

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EXHIBIT A

The South 50 feet of Lot 10 in Block 6 in Hundley's Subdivision of Lots 3 to 21 and 33 to 37, inclusive, in Pine Grove, in Section 21, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN 14-21-106-008, Volume 485

Street Address: 3721-23 North Pine Grove Avenue
Chicago, Illinois

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1975-1976 ANNUAL BUDGET REPORT
CHIEF OF BUREAU OF FINANCE
BUREAU OF FINANCE

1975-1976