

# UNOFFICIAL COPY

89411038

MODIFICATION AGREEMENT  
and

SUPPLEMENT TO MORTGAGE and ASSUMPTION

THIS MODIFICATION and SUPPLEMENT made as of the 1st day of January, 1989 by and among THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation, having its principal place of business at 787 Seventh Avenue, New York, New York, 10019 ("Equitable"); CHICAGO TITLE AND TRUST COMPANY, not personally but as Ancillary Trustee under an Ancillary Trust dated April 22, 1974 and known as Trust No. 64234 (the "Ancillary Trust"), having offices at 111 West Washington Street, Chicago, Illinois, 60603 ("Ancillary Trustee"); and HENRY HUA, of 450 CLARK DRIVE MOUNT OLIVE, N.J. 07828 ("Owner"). JWC

WITNESSETH:

\$37.00

WHEREAS, Equitable is the holder of certain indebtedness, obligations and security interests respecting such indebtedness and obligations, evidenced and created by the following instruments;

(i) Promissory Note dated December 28, 1972 in the original principal sum of \$1,000,000 and Promissory Note dated December 28, 1972 in the original principal sum of \$1,000,000 (the "Notes");

(ii) Mortgage dated December 28, 1972 and recorded January 19, 1973 in the Office of the Recorder of Cook County, Illinois as Document No. 22193502 (the "Mortgage") respecting the premises legally described as follows (the "Mortgaged Premises");

Legal Description

LOT 129 IN HIGGINS INDUSTRIAL PARK UNIT 87 BEING A SUBDIVISION IN THE SOUTH EAST 1/4 OF SECTION 27, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Address: 1441 Jarvis  
Elk Grove Village, Illinois 60007

P.I.N.: 08-27-401-016

(iii) Modification Agreement dated December 5, 1973 respecting the Notes and Mortgage; and

(iv) Assumption dated July 15, 1975 made by Ancillary Trustee and recorded August 5, 1975 in the aforesaid office as Document No. 23176775;

(hereinafter referred to collectively as the "Loan Documents"); and Equitable is also the holder of that certain Guaranty dated July 15, 1975 and Supplement thereto of even date herewith made and executed by the trustor of the Ancillary Trust respecting the obligations and liabilities under the Loan Documents and hereunder;

WHEREAS, the entire unpaid indebtedness evidenced by the Notes will become due and payable February 1, 1989 by reason of the exercise of certain options by Equitable, (the "Acceleration") as provided in the Notes;

COOK COUNTY, ILLINOIS  
FILED FOR RECORD

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This Instrument Prepared By:

Joan Webster Connor

ROSS & HARDIES

150 North Michigan Avenue

Suite 2500

Chicago, Illinois 60601

(312) 558-1000

RETURN TO:

BOX 303

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WHEREAS, title to the Mortgaged Premises is subject to certain encumbrances subordinate to the Mortgage (hereinafter referred to collectively as the "Junior Encumbrances") securing indebtedness of Collins Co., Ltd., a North Dakota corporation ("Collins") and created by: (i) Trust Deed dated July 13, 1984 and recorded July 31, 1984 in the office of the Recorder of Cook County, Illinois as Document No. 27194053 (the "Junior Trust Deed"); (ii) Mortgage and Security Agreement dated December 17, 1984 and recorded December 18, 1984 in said Office as Document No. 27376483; and (iii) Mortgage and Security Agreement dated and recorded December 21, 1984 in said Office as Document No. 27381124 and rerecorded January 4, 1985 as Document No. 27395897;

WHEREAS, Owner holds title to the Mortgaged Premises and pursuant to the Junior Trust Deed and that certain Assumption Agreement dated December 31, 1986 and recorded April 28, 1987 in said Office as Document No. 87224625, Owner, Collins and certain predecessor owners are obligated to pay and perform certain obligations relating to the Loan Documents; and

WHEREAS Ancillary Trustee, acting pursuant to direction under the terms of the Ancillary Trust, and Owner has requested that Equitable forbear from exercising its rights under the Acceleration and Equitable is willing to so agree, subject to the terms and conditions contained herein;

NOW, THEREFORE, in consideration of the premises and the covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, Equitable hereby agrees to forbear from exercising its rights with respect to the Acceleration and the parties further hereby agree as follows:

1. The first paragraph of each Note shall be and is hereby modified and amended to provide that, commencing February 1, 1989, the rate of interest payable on all unpaid principal thereunder shall be nine and three-quarters percent (9-3/4%) per annum; that each monthly installment payable thereunder, commencing with the monthly installment due and payable March 1, 1989, shall be in the amount of \$8,503.65 and shall be applied first to accrued interest at the aforesaid rate of 9-3/4% per annum and the balance thereof applied to the principal sum; and that the last installment shall be in the amount of the then remaining principal sum and interest at the aforesaid rate.

2. The Loan Documents each shall be and are hereby modified and amended to provide that the indebtedness evidenced, secured and guaranteed thereby shall include without limitation all interest and payments payable under the Notes as herein modified and amended and that a breach of this Agreement, excepting a breach of any of the representations of Owners contained in clauses (iii) and (iv) of Paragraph 4 of this Agreement, shall constitute a default under the Loan Documents.

Notwithstanding the foregoing provisions or any other provision of this Agreement that might otherwise be deemed or construed to the contrary, nothing herein contained shall be deemed or construed to render Owner personally liable to Equitable for any obligations under the Loan Documents. Owner however hereby expressly acknowledges and agrees that neither such disclaimer nor the exception with respect to default under the Loan Documents hereinabove provided shall be deemed or construed to relieve or waive Owner from liability with respect to a breach of any covenant or agreement of Owner contained herein or to otherwise affect, limit or modify any rights or remedies of Equitable with respect to any such breach.

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3. Ancillary Trustee hereby expressly acknowledges and agrees to and for the benefit of Equitable that

- (i) it has no defense or offset to the Acceleration or to the indebtedness and obligations evidenced and secured by the Loan Documents;
- (ii) to its knowledge, no default exists under the Loan Documents and no event has occurred which, upon notice or lapse of time or both, would constitute a default thereunder; and
- (iii) it is duly empowered and has been duly authorized and directed to enter into this Agreement by the trustor of the Ancillary Trust, and that the Ancillary Trust is valid and subsisting.

4. Owner hereby expressly acknowledges and agrees to and for the benefit of Equitable that

- (i) he has no defense or offset to the Acceleration or to the indebtedness and obligations evidenced and secured by the Loan Documents;
- (ii) no default exists under the Loan Documents and no event has occurred which, upon notice or lapse of time or both, would constitute a default thereunder;
- (iii) he is solvent and is not in default of any obligations to any creditor and no creditor has taken or threatened to take any adverse action against him; and
- (iv) he has determined that the modification herein provided will inure to his benefit and will not materially adversely affect his assets, business, prospects or condition, financial or otherwise, or his ability to pay his debts as they mature or to continue to conduct his business, as presently contemplated or conducted.

5. The parties hereby expressly acknowledge and agree that this Agreement shall be deemed to supplement the Loan Documents and to extend the lien of the Mortgage and all other security for the indebtedness and obligations under the Loan Documents and shall not be deemed or construed to constitute a consent to or waiver of any defaults existing as of the date hereof and that, except as herein modified, all terms and provisions of the Loan Documents are and shall continue in full force and effect and all liens and security therefor shall continue undisturbed until the obligations secured thereby, and as hereby modified, are fully paid, satisfied and released. The parties further expressly acknowledge and agree that, on or after the effective date hereof, all references in the Loan Documents to any of the Loan Documents and the words "herein," "hereof," "hereunder," or words of like import in any such document shall mean and have reference to such document as modified and amended by this Agreement.

6. As a condition hereof, Owner shall obtain execution of the consents of Collins and the holders of the Junior Mortgages in the forms attached hereto and by this reference made a part hereof and each party shall execute, deliver and record or cause to be executed, delivered and recorded such other documents and consents, if any, as may be reasonably required to effectuate the purpose of this agreement and to preserve all liens and security for payment of the indebtedness and obligations

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evidenced and created by the Loan Documents.

7. This Agreement is executed by Chicago Title and Trust Company, not personally, but as Ancillary Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Ancillary Trustee and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Chicago Title and Trust Company personally to pay the Notes or any interest that may accrue thereto, or any indebtedness accruing under the Mortgage, or to perform any covenant there expressed or implied contained in the Mortgage, all such liability, if any, being expressly waived by the Equitable and by every person now or hereafter claiming by right or security under the Mortgage and that so far as Chicago Title and Trust Company personally is concerned the legal holder or holders of the Notes and the owner or owners of any indebtedness accruing under the Mortgage shall look solely to the premises encumbered by the Mortgage for the enforcement of the lien created in the Mortgage and in the Note provided or by action to enforce the personal liability of the guarantor.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first above written.

THE EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES

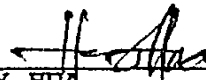
ATTEST:

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

CHICAGO TITLE and TRUST COMPANY,  
not personally but as Trustee aforesaid

ATTEST:

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

4-12 ←   
HENRY HUA

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evidenced and created by the Loan Documents.

7. This Agreement is executed by Chicago Title and Trust Company, not personally, but as Ancillary Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Ancillary Trustee and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Chicago Title and Trust Company personally to pay the Notes or any interest that may accrue thereto, or any indebtedness accruing under the Mortgage, or to perform any covenant there expressed or implied contained in the Mortgage, all such liability, if any, being expressly waived by the Equitable and by every person now or hereafter claiming by right or security under the Mortgage and that so far as Chicago Title and Trust Company personally is concerned the legal holder or holders of the Notes and the owner or owners of any indebtedness accruing under the Mortgage shall look solely to the premises encumbered by the Mortgage for the enforcement of the lien created in the Mortgage and in the Note provided or by action to enforce the personal liability of the guarantor.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the day and year first above written.

THE EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES

~~ATTEST:~~

By: *[Signature]*  
Title: INVESTMENT OFFICER JWC

CHICAGO TITLE AND TRUST COMPANY,  
not personally but as Trustee aforesaid

ATTEST:

*Archie P. Miller*  
*Assistant Secretary*

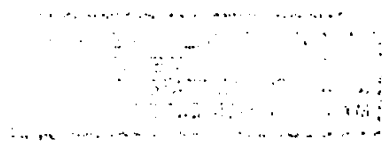
By: *[Signature]*  
Title: vice president

HENRY HUA

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STATE OF Illinois )  
                          ) SS.  
COUNTY OF Cook )

I, Irene F. ZLEVOR, a Notary Public in and for said County in the State aforesaid, do hereby certify that James A West and who is (are) personally known to me to be the same person(s) whose name(s) (is) (are) subscribed to the foregoing instrument as Investment Officer and of THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation, and personally known to be such officer(s), appeared before me this day in person and each acknowledged that, as such officer, (he) (she) signed and delivered said instrument pursuant to authority given by the Board of Directors of said corporation and as (his) (her) free and voluntary act and the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of August, A.D. 1989.

OFFICIAL SEAL  
IRENE F. ZLEVOR  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. MAY 20, 1991

Irene F. Zlevor  
Notary Public

My commission expires:  
5-20-91.

STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK )

I, Charlotte Fox, a Notary Public in and for said County in the State aforesaid, do hereby certify that Hubert A. Adams and Adele P. Miller who is (are) personally known to me to be the same person(s) whose name(s) (is) (are) subscribed to the foregoing instrument as Vice President and Assistant Secretary of CHICAGO TITLE and TRUST COMPANY, an Illinois corporation, who is (are) personally known to me to be such officer(s), appeared before me this day in person and acknowledged that, as such officer, (he) (she) signed and delivered said instrument pursuant to authority given by the Board of Directors of said corporation and as (his) (her) free and voluntary act and the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 4<sup>th</sup> day of August, A.D. 1989.

" OFFICIAL SEAL "  
CHARLOTTE FOX  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 5/8/92

Charlotte Fox  
Notary Public

My commission expires:  
5-8-92.

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STATE OF New Jersey }  
COUNTY OF Morris } SS.

I, Dorothy Shuey the undersigned,  
a Notary Public in and for said County, in the State aforesaid,  
do hereby certify that HENRY BUA, personally known to me to be  
the same person whose name is subscribed to the above instrument,  
appeared before me this day in person and acknowledged that he  
signed and delivered the above instrument as his free and volun-  
tary act for the uses and purposes herein set forth.

GIVEN, under my hand and Notarial Seal this 6<sup>th</sup> Day of  
July, 1989.

Dorothy Shuey  
Notary Public

My Commission Expires:

DOROTHY SHUEY  
Notary Public, State of N.J.  
No. 2028045  
Qualified in Bergen County  
Commission Expires May 1, 1992

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COOK COUNTY CLERK'S OFFICE  
100 N. LAUREL ST. CHICAGO, IL 60602  
TEL: 312.603.1000 FAX: 312.603.1001

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JWC-ACKS  
LARRY/RIA

CONSENT OF CHICAGO TITLE AND TRUST COMPANY,  
AN ILLINOIS CORPORATION

CHICAGO TITLE AND TRUST COMPANY, AN ILLINOIS CORPORATION, as owner and holder of a trust deed dated July 13, 1984 and recorded July 31, 1984 in the Office of the Recorder of Cook County, Illinois as Document No. 27194053, hereby consents to the foregoing Modification Agreement and to the modification and amendment of the Loan Documents described in the foregoing Modification Agreement.

DATED: AUG 4 1989 1989.

CHICAGO TITLE AND TRUST COMPANY,  
an Illinois corporation

By:

Name:

Title:

*James D. Benson*  
JAMES D. BENSON  
VP & President

*Robert G. ...*  
Assistant Secretary

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## CONSENT OF COLLINS CO., LTD.,

Pursuant to that certain Trust Deed dated July 13, 1984 and recorded July 31, 1984 in the Office of the Recorder of Cook County, Illinois as Document No. 27194053 and modification thereto dated as of January 31, 1989, between the undersigned and Chicago Title and Trust Company, as trustee, the undersigned hereby consents to the foregoing Modification Agreement and to the modification and amendment of the Loan Documents described in the foregoing Modification Agreement.

DATED: July 6, 1989.

COLLINS CO., LTD.

By: H. H. H. H.  
Name: \_\_\_\_\_  
Title: President

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2007/10/02

CONSENT OF PITTSBURGH NATIONAL BANK

PITTSBURGH NATIONAL BANK, as owner and holder of a mortgage dated December 21, 1984 and recorded December 21, 1984 at the Office of the Recorder of Cook County, Illinois as Document No. 27381124 and rerecorded January 4, 1985 in said Office as Document No. 27395897, hereby consents to the foregoing Modification Agreement, and to the modification and amendment of the Loan Documents described in the foregoing Modification Agreement.

DATED: July 13, 1989.

PITTSBURGH NATIONAL BANK,  
a National Banking Association

By: Constantine A. Bonten  
Name: Constantine A. Bonten  
Title: Vice President

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## CONSENT OF CITIBANK, N.A.

CITIBANK, N.A., as owner and holder of a mortgage dated December 17, 1984 and recorded December 18, 1984 as Document No. 27376483, hereby consents to Section 1, the first paragraph of Section 2 and Section 5 of the Modification Agreement and Supplement to Mortgage and Assumption made as of January 31, 1989, by and among The Equitable Life Assurance Society of the United States, Chicago Title and Trust Company, as Ancillary Trustee, and Henry Hua, and to the modification and amendment of the documents described in such Sections.

Dated: August 16, 1989

CITIBANK, N.A.

By C. S. Li  
Vice President

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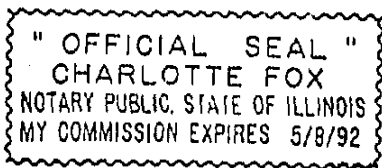
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STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK            )

I, Charlotte Fox, a Notary Public in and  
for said County in the State aforesaid, do hereby certify that

James D. Benson and Karen Naughton  
\_\_\_\_\_ who are personally known to me to be the same  
persons whose names are subscribed to the foregoing instrument as  
Assistant Vice President and Assistant Secretary of CHICAGO  
TITLE AND TRUST COMPANY, an Illinois corporation, who are and  
personally known to be such officers, appeared before me this day  
in person and acknowledged that, as such officer, they signed and  
delivered said instrument pursuant to authority given by the Board  
of Directors of said corporation and as their free and voluntary  
act and the free and voluntary act and deed of said corporation for  
the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 4th day of  
August, A.D. 1989.



Charlotte Fox  
Notary Public

My commission expires:

5-8-92.

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STATE OF New Jersey )  
COUNTY OF Morris ) SS.

I, Dorothy Shuey, a Notary Public in and for said County in the State aforesaid, do hereby certify that Henry Hua and \_\_\_\_\_ who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as President and \_\_\_\_\_ of COLLINS CO., LTD., a North Dakota corporation, and personally known to be such officers, appeared before me this day in person and each acknowledged that, as such officers, they signed and delivered said instrument pursuant to authority given by the Board of Directors of said corporation and as their free and voluntary act and the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 6th day of July, A.D. 1969.

Dorothy Shuey  
Notary Public

My commission expires:

**DOROTHY SHUEY**  
Notary Public, State of N. J.  
No. 202018  
Qualified in Bergen County  
Commission Expires May 1, 1968

Notary of Cook County Clerk's Office

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STATE OF California )  
COUNTY OF Los Angeles ) SS.

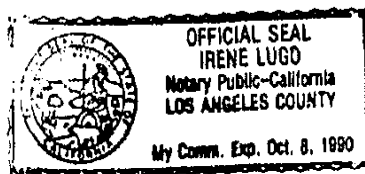
I, Irene Lugo, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY, that Constance Pantzen personally known to me to be the Vice President of PITTSBURGH NATIONAL BANK, a National Banking Association, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as Irene Lugo of said Bank, appeared before me this day in person and acknowledged that as such officer she signed and delivered said instrument and caused the corporate seal of said Bank to be affixed thereto, pursuant to authority, given by the Board of Directors of said Bank as his free and voluntary act and the free and voluntary act and deed of said bank for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 13th day of July, A.D. 1989.

Irene Lugo  
Notary Public

My commission expires:

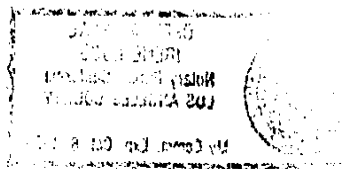
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STATE OF New York )  
COUNTY OF New York ) SS.

I, Patricia Ekman, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY, that

C.S. Lin personally known to me to be the a Vice President of CITIBANK, N.A., a National Banking Association, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as a Vice President of said Bank, appeared before me this day in person and acknowledged that as such officer he signed and delivered said instrument and caused the corporate seal of said Bank to be affixed thereto, pursuant to authority, given by the Board of Directors of said Bank as his free and voluntary act and the free and voluntary act and deed of said bank for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of August, A.D. 1989.

Patricia Ekman  
Notary Public

My commission expires:

PATRICIA EKMAN  
Notary Public, State of New York  
No. 31-4763080  
Qualified in New York County  
Commission Expires August 31, 1990

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