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92685355

Fred R. McMorris
Rooks, Pitts and Poust
201 Naperville Road
Wheaton, Illinois 60187

92685355

NBD BANK WOODRIDGE

7501 SOUTH LEMONT ROAD
WOODRIDGE, ILLINOIS 60517-2698

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FIRST AMENDMENT AGREEMENT TO LOAN DOCUMENTS

RE: Lots 14 and 26 in Ambriance
Burr Ridge, Illinois
Denis Mulvihill

THIS FIRST AMENDMENT AGREEMENT TO LOAN DOCUMENTS (this "Agreement") is made and effective as of May 31, 1992, between DENIS MULVIHILL (the "Borrower") and NBD BANK WOODRIDGE, formerly known as Heritage Bank of Woodridge, having its principal office at 7501 South Lemont Road, Woodridge, Illinois 60517-2698, its successors and assigns (the "Bank").

WITNESSETH:

WHEREAS, the Bank has loaned to the Borrower the sum of \$400,000.00 (the "Loan"), as evidenced by a Secured Business Note dated March 27, 1989, made by the Borrower and payable to the Bank, which Secured Business Note was cancelled by the Bank and the Loan was renewed on or about April 25, 1990;

WHEREAS, in addition to the Secured Business Note, the Borrower has executed and delivered to the Bank certain other documents which provide for, secure repayment of, or otherwise relate to, the Loan, including but not limited to a certain Trust Deed dated March 27, 1989 and recorded April 12, 1989 with the Cook County Recorder of Deeds as Document Number 89159044 constituting a lien upon the property legally described upon Exhibit A attached hereto; and

WHEREAS, on the effective date hereof the Borrower executed certain other loan documents evidencing repayment of the Loan with an outstanding principal balance as of the effective date hereof of \$100,000.00, including but not limited to, a Credit Agreement and Single Maturity Business Loan Note (the "Note") (all of the above referenced loan documents are collectively referred to hereinafter as the "Loan Documents");

WHEREAS, under the terms of the Loan Documents the Loan is due and payable in full on December 1, 1992 (the "Maturity Date"); and

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73-83-504W

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BOX 333

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WHEREAS, the Borrower and the Bank wish to enter into this Agreement in order to amend the terms of the Loan as provided herein and to set forth certain additional agreements of the Borrower as also provided herein;

NOW, THEREFORE, in consideration of the premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Incorporation of Recitals.** The above and foregoing recitals are incorporated into and made a part of this Agreement.
2. **Extension of Maturity Date.** The Maturity Date is hereby extended to December 1, 1992.
3. **Terms.** All other terms of the Loan Documents shall remain the same, except as hereinafter provided in this Agreement.
4. **Current Representations And Warranties.** To induce the Bank to enter into this Agreement, the Borrower hereby represents and warrants to the Bank as follows:
 - a. **Financial Statements.** The most recent financial statements for the Borrower provided to the Bank fairly present the financial condition of the Borrower at the date thereof and the Borrower's results of operations for the period(s) covered thereby.
 - b. **No Default.** No default or event of default under the Note or the Loan Documents has occurred and is continuing, and no event has occurred and is continuing that, with the giving of notice or passage of time or both, would constitute such a default or event of default.
 - c. **Continued Accuracy.** Each and every representation and warranty made by the Borrower in favor of the Bank in connection with the Loan remains accurate in all respects, subject only to changes expressly permitted by the Bank.
5. **Reaffirmation.** To the extent any term(s) or condition(s) in the Note or any of the Loan Documents shall contradict or be in conflict with the amended terms of the Loan as set forth herein, such terms and conditions are hereby deemed modified and amended accordingly, upon the effective date hereof, to reflect the terms of the Loan as so amended herein. All terms of the Note and the Loan Documents, as amended hereby, shall be and remain in full force and effect and shall constitute the legal, valid, binding and enforceable obligations of the Borrower to the Bank. Upon the effective date hereof, the Borrower herein restates, ratifies and reaffirms each and every term and condition set forth in the Note and the Loan Documents as amended herein.
6. **Extensions, Renewals, Modifications, Replacements, Amendments.** The Borrower acknowledges that the Trust Deed secures the indebtedness or obligations evidenced by the Loan Documents including any indebtedness evidenced by extensions, renewals, modifications,

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IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County of Cook, Illinois, this 1st day of January, 1901.

CLERK OF THE COUNTY OF COOK, ILLINOIS

Attest my hand and the seal of the County of Cook, Illinois, this 1st day of January, 1901.

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replacements, or amendments without limit as to the number or frequency, including this Agreement.

7. **Future Advances.** The Bank may, at its option upon request of the Borrower, at any time before full payment of the secured indebtedness under the Trust Deed (the "Secured Indebtedness"), make further advances to the Borrower, and the same with interest, shall be on a parity with, and not subordinate to, the Secured Indebtedness and such advances shall be secured hereby in accordance with all covenants and agreements contained in the Trust Deed and this Agreement, provided, that the amount of principal secured hereby and remaining unpaid shall not, including the amount of such advances, exceed ten times the original principal sum of the Secured Indebtedness, plus disbursements as herein provided, and further provided, that if the Bank shall make further advances as aforesaid, the Borrower shall repay all such advances in accordance with the Note and Loan Documents evidencing the same, which the Borrower has executed and delivered to the Bank and which shall be payable no later than the Maturity Date of this Agreement and shall include such other terms as the Bank shall require.

8. **Absence Of Claim.** To further induce the Bank to enter into this Agreement, the Borrower hereby acknowledges and agrees that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of the Borrower as against the Bank with respect to the Borrower's obligations to the Bank.

9. **Environmental And Financial Covenants.** To further induce the Bank to enter into this Agreement, in addition to the covenants and agreements of the Borrower set forth in the Note and the Loan Documents, the Borrower agrees with the Bank as follows:

10. **Hazardous Material Regulations Compliance.**

a. **Representations and Warranties.** The Borrower represents to the Bank that:

The Borrower has not used Hazardous Materials (as defined below), on, from or affecting any property given as security to the Bank for repayment of the Loan (hereinafter the "Premises") in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials and, to the best of the Borrower's knowledge, no prior owner of the Premises or any existing or prior tenant, or occupant has used Hazardous Materials on, from or affecting the Premises in any manner which violates federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials;

The Borrower has never received any notice of any violations (and is not aware of any existing violations) of federal, state or local laws, ordinances, rules, regulations or policies governing the use, storage, treatment, transportation, manufacture, refinement, handling, production or disposal of Hazardous Materials at the Premises and, to the best of the Borrower's

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knowledge, there have been no actions commenced or threatened by any party for noncompliance which affects the Premises;

The Borrower shall keep or cause the Premises to be kept free of Hazardous Materials except to the extent that such Hazardous Materials are stored and/or used in compliance with all applicable federal, state and local laws and regulations; and, without limiting the foregoing, Borrower shall not cause or permit the Premises to be used to generate, manufacture, refine, transport, treat, store, handle, dispose of, transfer, produce, or process Hazardous Materials, except in compliance with all applicable federal, state and local laws and regulations, nor shall Borrower cause or permit, as a result of any intentional or unintentional act or omission on the part of Borrower or any tenant, subtenant or occupant, a release, spill, leak or emission of Hazardous Materials onto the Premises or onto any contiguous property;

The Borrower shall conduct and complete all investigations, including a comprehensive environmental audit, studies, sampling, and testing, and all remedial removal and other actions necessary to clean up and remove all Hazardous Materials on, under, from or affecting the Premises as required by all applicable federal, state and local laws, ordinances, rules, regulations and policies, to the satisfaction of the Bank, and in accordance with the orders and directives of all federal, state and local governmental authorities. If the Borrower fails to conduct an environmental audit required by the Bank, then the Bank may at its option and at the expense of the Borrower, conduct such audit.

- b. **Indemnification.** Subject to the limitations set forth below, the Borrower shall defend, indemnify and hold harmless the Bank, its employees, agents, officers and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses, including, without limitation, attorney's and consultant's fees, investigation and laboratory fees, court costs and litigation expenses, known or unknown, contingent or otherwise, arising out of or in any way related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, over, under, from or affecting the Premises or the soil, water, vegetation, buildings, personal property, persons or animals; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials on the Premises; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials with respect to the Premises, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the Bank, which are based upon or in any way related to such Hazardous Materials used in the Premises. The indemnity obligations under this paragraph are specifically limited as follows:

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The plaintiff and the defendant have entered into a contract for the purchase of certain real estate.

The contract provides that the defendant shall deliver to the plaintiff a deed for the property described in the contract. The defendant has failed to do so, and the plaintiff has brought this action to enforce the contract.

The plaintiff seeks specific performance of the contract, and the defendant has moved to dismiss the complaint. The court has granted the motion, and the complaint is dismissed with prejudice.

The court's decision is based on the fact that the contract is unenforceable under the Statute of Frauds. The contract was not in writing, and the parties have not signed it. Therefore, the plaintiff is not entitled to specific performance.

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The Borrower shall have no indemnity obligation with respect to Hazardous Materials that are first introduced to the Premises or any part of the Premises subsequent to the date that the Borrower's interest in and possession of the Premises or any part of the Premises shall have fully terminated by foreclosure of any Mortgage given to the Bank or acceptance by the Bank of a deed in lieu of foreclosure;

The Borrower shall have no indemnity obligation with respect to any Hazardous Materials introduced to the Premises or any part of the Premises by the Bank, its successors or assigns.

The Borrower agrees that in the event any Mortgage given to the Bank is foreclosed or the Borrower tenders a deed in lieu of foreclosure, the Borrower shall deliver the Premises to the Bank free of any and all Hazardous Materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Premises.

- c. **Definition.** For purposes of this Agreement the term "Hazardous Materials" includes, without limitation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et. seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et. seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et. seq.) and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local governmental law, ordinance, rule or regulation.
- d. **Additional Obligation.** The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Borrower may have to the Bank under this Agreement, the Loan Documents, or by law, and shall survive: (i) the repayment of all sums due for the debt; (ii) the satisfaction of all of the other obligations of the Borrower in any Mortgage and under any Loan Document; (iii) the discharge of any Mortgage given to the Bank; and (iv) the foreclosure of any Mortgage or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Agreement, it is the intention of the Borrower and the Bank that the indemnity provisions of this paragraph shall only apply to an action commenced against any owner or operator of the Premises in which any interest of the Bank is threatened or any claim is made against the Bank for the payment of money.

11. **Additional Documentation.** Borrower shall execute and deliver to Bank, or cause to be executed and delivered to Bank from time to time, immediately upon Bank's request, all documents, including changes to any of the existing documents, required by Bank as Bank

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The Board of Directors of the Cook County Board of Supervisors, in its resolution of the 15th day of January, 1901, authorized the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

Resolved, That the Board of Supervisors do hereby authorize the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

Resolved, That the Board of Supervisors do hereby authorize the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

Resolved, That the Board of Supervisors do hereby authorize the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

Resolved, That the Board of Supervisors do hereby authorize the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

Resolved, That the Board of Supervisors do hereby authorize the undersigned to execute and deliver to the Board of Supervisors a copy of the following resolution, to-wit:

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reasonably deems necessary to protect its security in any existing collateral security for the indebtedness described above.

12. **Understanding Of Consequences.** Each party acknowledges that they have read this Agreement, that they fully understand its terms, provisions, and consequences; and, that the entry into this Agreement is voluntary, free from duress, fraud or undue influence of any kind.

13. **Effective Date.** This Agreement shall be and become effective and binding pursuant to its terms after execution as of the date first above written. It is understood and agreed that said date shall be the effective date even though that date may be a date other or different than the actual date of execution.

14. **Illinois Law To Govern.** This Agreement and each transaction contemplated hereunder shall be deemed to be made under and shall be construed and interpreted in accordance with the laws of the State of Illinois.

15. **Construction.** It is agreed that it is both the intent and the desire of the parties that wherever possible each provision of this Agreement shall be given a judicial construction and interpretation so as to be effective and valid under Illinois law, but if any provision of this Agreement shall be construed or prohibited by or determined invalid under the laws of the State of Illinois, such provision shall be ineffective to the extent of such prohibition or invalidity only, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

16. **Attorney's Fees.** Borrower shall pay Bank's attorneys' fees and costs in connection with the administration and enforcement of this Agreement, any additional documentation required by Bank and any and all of the Loan Documents. Without limiting the generality of the foregoing, if the Bank employs counsel for advise or other representation with respect to any matter concerning the Borrower, Guarantor, this Agreement, the Premises or any aspect of the Loan Documents or to protect, collect, lease, sell, take possession of, or liquidate any of the Premises, or to attempt to enforce or protect any rights of the Bank or obligations of Borrower or any other person, firm or corporation which may be obligated to Bank by virtue of this Agreement or under any of the Loan Documents, then all of the attorneys' fees arising from such services, and any expenses, costs and charges relating thereto, shall constitute an additional indebtedness owing by Borrower to Bank payable on demand and evidenced and secured by the Loan Documents.

17. **Partial Invalidity.** Any one or more phrases, sentences, sections or provisions of this Agreement which subsequently shall be deemed, construed or interpreted by a court of competent jurisdiction to be unenforceable, invalid or contrary to law, or the inclusion of which would effect the validity or legal enforceability of this Agreement, shall be of no force or effect; and, in such event each of the remaining provisions of this Agreement shall subsist and remain and be fully effective according to the tenor of this Agreement as though any such unenforceable, invalid or unlawful provision or provisions had never been included in this Agreement.

18. **Modification.** Neither this Agreement nor any provision hereof may be amended, waived, discharged or terminated orally, unless such is deemed unenforceable, invalid or contrary to law as provided above. Rather, any provision of this Agreement may be amended, waived,

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1. The purpose of this Agreement is to provide for the orderly and efficient management of the County of Cook's affairs and to ensure that the County's resources are used in the most effective manner possible.

2. This Agreement shall be entered into by and between the County of Cook and the State of Illinois, and shall be subject to the approval of the Board of Supervisors of the County of Cook.

3. The term of this Agreement shall be for a period of five (5) years, beginning on the date of its execution and ending on the date of its expiration. This Agreement shall be subject to renewal for successive five (5) year periods unless otherwise provided herein.

4. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward.

5. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward.

6. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward.

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8. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward. The County of Cook shall be deemed to have accepted the terms and conditions of this Agreement upon the date of its execution and shall be bound by the same from that date forward.

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discharged or terminated only by a written instrument duly executed and acknowledged by each and every of the parties to this Agreement and by no other means.

19. **Binding Effect.** The terms, provisions and conditions of this Agreement shall be binding upon and inure to the benefit of each respective party and their respective legal representatives, successors and assigns.

20. **Cumulative Rights.** Each right, power, and remedy herein conferred upon any party is cumulative and in addition to every other right, power, or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by either party, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power, or remedy; and no delay or omission of either party in the exercise of any right, power, or remedy accruing hereunder or arising otherwise shall impair any such right, power, or remedy, or be construed to be a waiver of any default, or acquiescence therein.

21. **Non-Waiver.** The failure to insist upon strict performance of any of the terms, covenants, obligations or conditions hereof shall not be deemed a waiver of any rights or remedies that any party may have and shall not be deemed a waiver of any subsequent breach or default in any such terms, covenants or conditions.

22. **Notices.** All notices which any party may be required or may desire to give in connection with this Agreement shall be in writing, and shall be either personally delivered, sent by overnight express deliver by a nationally recognized delivery service, freight pre-paid, or sent by United States registered or certified mail, postage pre-paid, and addressed as follows:

- (a) If to the Bank at the address first set forth above to the attention of the Real Estate Loan Department.
- (b) If to the Borrower at the address set forth below.
- (c) If to the Guarantor at the address set forth below.

23. **Duplicate Originals.** This Agreement may be executed simultaneously or otherwise in one or more identical counterparts, each of which shall be deemed and construed as an original, and all of which shall be construed together to constitute one and the same document. It is specifically agreed and acknowledged by each party that in the event of an actual or alleged variation or discrepancy between two or more executed duplicate originals, the executed duplicate original in the possession of the Bank shall control.

24. **Paragraph Headings.** Each party acknowledges that this Agreement consists of multiple sections each of which is preceded by a heading and understand that the characterizations of such sections are for convenience and general descriptive purposes only, are not definitive in nature, and shall not be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provision hereof. The parties further acknowledge each to the other that

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IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Court at Chicago, Illinois, this _____ day of _____, 20__.

BY: _____
Clerk of the Court

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JAN 15 2008

STATE OF ILLINOIS

COUNTY OF _____

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Court at Chicago, Illinois, this _____ day of _____, 20__.

BY: _____
Clerk of the Court

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EXHIBIT A

LEGAL DESCRIPTION OF MORTGAGED PREMISES

PARCEL 1: LOT 14 AND 26 IN AMBRIANCE, BEING A SUBDIVISION IN PART OF THE WEST 1/2 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL: EASEMENTS FOR INGRESS AND EGRESS OVER OUTLOT A, AS SHOWN IN THE PLAT OF AMBRIANCE AND AS SET FORTH IN THE DECLARATION OF TRUST OF AMBRIANCE RECORDED AS DOCUMENT 88539370, AND CREATED TO THE DEED CONVEYING SUBJECT PROPERTY, RECORDED AS DOCUMENT 89 015803

Common Address: Lots 14 and 26 in Ambriance
Vacant Property
Burr Ridge, Illinois

P.I.N.:

18-30-306-014
18-30-306-026

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