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92711186

FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS

This First Amendment to Mortgage and Security Agreement with Assignment of Rents ("Amendment") dated as of September 24, 1992 between American National Bank and Trust Company of Chicago, not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to said Trustee in pursuance of a Trust Agreement dated February 14, 1983 and known as Trust Number 56881 (the "Mortgagor") and Harris Trust and Savings Bank (the "Mortgagee");

WITNESSETH:

WHEREAS, the Mortgagor has heretofore executed and delivered to the Mortgagee that certain Mortgage and Security Agreement with Assignment of Rents dated July 29, 1991 and recorded with the Recorder's Office of Cook County, Illinois on August 1, 1991 as document number 91388684, encumbering the real property described on Schedule I attached hereto (the "Mortgage") to secure the payment of sums due under that certain Promissory Note of A. Epstein and Sons International, Inc. ("Epstein") dated July 29, 1991 in the amount of \$8,300,000 (the "Previous Epstein Note") and that certain Demand Note of Epstein Real Estate, Inc. ("Epstein REI") dated July 29, 1991 in the amount of \$1,500,000 (the "Previous REI Note") which mortgage was limited to \$5,000,000 in aggregate amount; and

WHEREAS, Epstein REI has executed and delivered to Mortgagee that certain Term Loan Note dated September 24, 1992 in the face principal amount of \$2,400,000 (the "Term Note"), which Term Note was issued partially in replacement of, and evidences in part the same indebtedness evidenced by, the Previous REI Note; and

WHEREAS, Epstein has executed and delivered to Mortgagee that certain Replacement Promissory Note dated September 24, 1992 in the face principal amount of \$10,300,000 (the "International Note"), which International Note was issued partially in replacement of, and evidences in part the same indebtedness evidenced by, the Previous Epstein Note; and

This Document Prepared by and After Recording Should be Returned to:

Ann L. Kirkpatrick  
Chapman and Cutler  
111 West Monroe Street  
Chicago, Illinois 60603

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BOX 333

JR 02 7309491 10F3

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WHEREAS, the International Note was issued pursuant to the terms of that certain Amended and Restated Credit Agreement between Epstein and Mortgagee dated September 27 1992, which Amended and Restated Credit Agreement amends and restates the terms of the Credit Agreement originally referred to in the Mortgage; and

WHEREAS, the Mortgagor and the Mortgagee desire to amend the Mortgage to secure the Term Loan Note in addition to the indebtedness currently secured thereby, and to reflect the execution of the documents hereinbefore described;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Mortgagor and the Mortgagee hereby agree that the Mortgage shall be and hereby is amended as follows:

1. The "WHEREAS" paragraphs are hereby deleted and the following "WHEREAS" paragraphs are hereby substituted therefor:

"WHEREAS, A. Epstein and Sons International, Inc. ("Epstein Int'l") is justly and truly indebted to Mortgagee in the principal sum of Ten Million Three Hundred Thousand Dollars (\$10,300,000) as evidenced by that certain Replacement Promissory Note dated September 24, 1992 and payable to the order of Mortgagee whereby Epstein Int'l promises to pay said principal sum together with interest thereon at the rates per annum described in the Credit Agreement hereinafter identified with a final maturity of all principal and interest not required to be sooner paid of April 30, 1994 (such promissory note and any and all notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the "International Note"); and

WHEREAS, the International Note has been issued under and subject to the provisions of an Amended and Restated Credit Agreement dated September 24, 1992 between Epstein Int'l and Mortgagee (such Amended and Restated Credit Agreement being hereinafter referred to as the "Credit Agreement"), and the International Note evidences the \$10,300,000 revolving loan (the "International Loan") made pursuant to the Credit Agreement and the reimbursement obligation of Epstein Int'l with respect to letters of credit (collectively, the "Letters of Credit") which may be issued thereunder in the aggregate amount

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not to exceed \$10,300,000, with each Letter of Credit expiring no later than April 30, 1994; provided that the aggregate outstanding amount of Letters of Credit plus the International Loan shall at no time exceed \$10,300,000; and

WHEREAS, Epstein Real Estate, Inc. ("Epstein Real Estate") is justly and truly indebted to Mortgagee in the principal sum of Two Million Four Hundred Thousand Dollars (\$2,400,000) as evidenced by that certain Term Loan Note dated ~~September 24~~, 1992 and payable to the order of Mortgagee whereby Epstein Real Estate promises to pay said principal sum no later than July 1, 1997 together with interest thereon at the rates per annum described in said Term Loan Note (such term loan note and any and all notes issued in renewal thereof or in substitution or replacement therefor being hereinafter referred to as the "Real Estate Note"; the International Note and the Real Estate Note being hereinafter together referred to as the "Notes");

2. The "TO HAVE AND TO HOLD" paragraph, appearing immediately after Granting Clause VI of the Mortgage, is hereby amended by deleting the sum "\$5,000,000", appearing in the ninth line thereof and by substituting therefor the sum "\$6,400,000".

This Amendment and the Notes referred to in paragraph 1 hereof are deemed to be "Junior Loan Documents" for the purposes of that certain Subordination Agreement executed by Mortgagee recorded as Document No. 92531213, and the undersigned hereby confirm (i) the provisions of such Subordination Agreement, and (ii) that the provisions of §18(f) of the "Senior Mortgage" (as defined in the said Subordination Agreement) remain in full force and effect after the recording hereof.

All of the terms, provisions, agreements and covenants contained in the Mortgage shall stand and remain unchanged and in full force and effect except to the extent specifically amended hereby.

No reference to this Amendment need be made in any instrument or document at any time referring to the Mortgage, any reference in any such instrument or document to be deemed a reference to the Mortgage as amended hereby.

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This Amendment may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one instrument.

IN WITNESS WHEREOF, the Mortgagor and the Mortgagee have executed this Amendment as of the date first above written.

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, as Trustee  
as Aforesaid and not Personally

By: [Signature]  
Its                                  Vice President

J. MICHAEL WHELAN

Type or Print Name

(SEAL)

ATTEST:

[Signature]  
JUDITH B. CRAVEY  
Its ASST Secretary

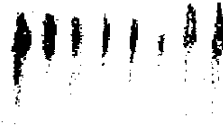
HARRIS TRUST AND SAVINGS BANK

By: [Signature]  
Its                                  Vice President

David Saverman →  
Type or Print Name

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This instrument is executed by the undersigned Land Trustee, not personal, but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.



COOK COUNTY, ILLINOIS  
CLERK OF COURT

1992 SEP 24 PM 2:59

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STATE OF ILLINOIS )  
COUNTY OF Cook ) SS.

I, L. M. SOVIENSKI, a Notary Public in and for said County, in the State aforesaid, do hereby certify that J. MICHAEL WHELAN, VICE President of American National Bank and Trust Company of Chicago, a national banking association, and JUDITH B. CRAVEN Secretary of said national banking association, who are personally known to me to be the same 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 national banking association, 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 seal of said corporation, did affix the corporate seal of said national banking association to said instrument, as his own free and voluntary act and as the free and voluntary act of said national banking association as Trustee as aforesaid, for the uses and purposes therein set forth.

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Given under my hand and notarial seal, this \_\_\_ day of \_\_\_\_\_, 1992.

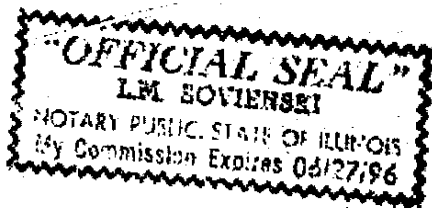
SEP 24 1992

L. M. Sovienksi  
Notary Public

(TYPE OR PRINT NAME)

(SEAL

My Commission Expires:



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STATE OF ILLINOIS  
COUNTY OF COOK

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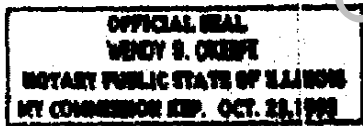
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STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK   )

I, Wendy S. O'Keefe, a Notary Public in and for said County, in the State aforesaid, do hereby certify that David Saverman, Vice President of Harris Trust and Savings Bank, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said bank.

Given under my hand and notarial seal, this 24th day of September 1992.



Wendy S. O'Keefe  
Notary Public  
Wendy S. O'Keefe  
(TYPE OR PRINT NAME)

(SEAL)

My Commission Expires:

\_\_\_\_\_

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JAMES J. COUGHLIN  
37840 S. YONGE ST.  
CHICAGO, ILL. 60649  
OFFICE OF THE CLERK OF COOK COUNTY

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## SCHEDULE I

### Legal Description

LOTS 18 TO 22 BOTH INCLUSIVE, IN BLOCK 11 IN CANAL TRUSTEES' SUBDIVISION OF LOTS AND BLOCKS IN THE SOUTH WEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 31, 1848 IN BOOK 29 OF MAPS PAGE 52 (NEW VOLUME PAGE 24) AND RERECORDED SEPTEMBER 24, 1877 IN BOOK 13 OF PLATS PAGE 22 SAID SUBDIVISION BEING ALSO KNOWN AS PART OF ORIGINAL TOWN OF CHICAGO SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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Property Address: 600 West Fulton Street, Chicago, IL

P.I.N. No.: 17-09-309-002-0000

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