

UNOFFICIAL COPY

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07-03-101-022

Address of Premises:

Schaumburg Technological Center  
Schaumburg, Illinois

Chicago, Illinois 60603

Suite 4200

55 East Monroe Street

& Geraldson

Seyfarth, Shaw, Fairweather

Elizabeth P. Strand, Esq.

Alvin L. Kruse, Esq.

This Instrument Prepared by and to  
be Returned after Recording to:

Permanent Index Number

(iv) Guaranty dated October 1, 1986, from the Guarantor to  
the Bank; and

(iii) Security Assignment of Beneficial Interest in Land  
Trust dated as of October 1, 1986, from Sheldon F. Simborg, as  
Trustee for the JC Trusts, to the Bank; and

(ii) Mortgage dated as of October 1, 1986 (the "Mortgage"),  
from the Mortgagor to the Bank, recorded in the Office of the  
Recorder of Deeds of Cook County, Illinois, on October 3, 1986,  
as Document No. 86456120, and filed in the Office of the  
Registrar of Titles of said County on such date as Document No.  
LR3555443;

(i) Promissory Note dated as of October 1, 1986 (the  
"Note"), from the Mortgagor to the Bank in the principal amount  
of \$1,300,000;

WHEREAS, the Mortgagor, the Beneficiary, the Guarantor, the  
Bank and others heretofore entered into the following documents  
(collectively, the "Documents"):

THIS THIRD MODIFICATION AGREEMENT dated as of November 1,  
1991, by and among LASALLE NATIONAL TRUST, N.A., a national banking  
association, Successor Trustee to Lasalle National Bank, as Trustee  
under a Trust Agreement dated September 17, 1981, and known as Trust  
No. 104278 (the "Mortgage"), WA LAND PARTNERSHIP, an Illinois  
limited partnership (the "Beneficiary"), WILLIAM A. ALTER (the  
"Guarantor") and THE NORTHERN TRUST COMPANY, an Illinois banking  
corporation (the "Bank");

THIRD MODIFICATION AGREEMENT

11-26-91

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(1)

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D 1  
124

92204059  
1991-11-26  
1492777 1544 9358 03/27/92 10:23:00  
48375 4 5 1-92-204059  
COOK COUNTY, ILLINOIS

92204059

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WHEREAS, the Documents were previously modified and amended by the Modification Agreement (Modifying Promissory Note, "First Modification"), by and between the Mortgagor and the Bank and the Recorder of Deeds of Cook County, Illinois, on January 15, 1987, as Document No. 87030439, and filed in the Office of the Registrar of Titles of said County on December 24, 1986, as Document No. LR3578643, and the Second Modification Agreement (Modifying Mortgage, Promissory Note and Security Assignment of Beneficial Interest in Land Trust) dated as of October 1, 1989 (the "Second Modification"), by and among the Mortgagor, the Beneficiary and the Bank and consented and agreed to by the Guarantor, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on January 22, 1990, as Document No. 90033458, and filed in the Office of the Registrar of Titles of said County on January 22, 1990, as Document No. LR3855074 (the First Modification and the Second Modification being sometimes referred to herein collectively as the "Previous Modifications"); and

WHEREAS, the Documents, as modified and amended by the Previous Modifications, encumber the real estate described in Exhibit A attached hereto and the personal property located thereon (the "Premises"); and

WHEREAS, the parties desire to make certain modifications and amendments to the Documents, as previously modified and amended by the Previous Modifications, as more fully provided for herein;

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

Section 1. Recitals Part of Agreement. References to Documents. The foregoing recitals are hereby incorporated into and made a part of this Agreement. Except as otherwise stated herein, all references in this Agreement to any one or more of the Documents shall be deemed to include the previous modifications and amendments to the Documents provided for in the Previous Modifications, whether or not express reference is made to such previous modifications and amendments.

Section 2. Extension of Maturity. The maturity date of the loan evidenced and secured by the Documents (the "Loan"), as previously extended by the Previous Modifications, is hereby further extended from October 31, 1991, to October 31, 1992, and all of the Documents are hereby modified and amended accordingly. Without limitation on the generality of the foregoing, the date "October 31, 1991," is hereby changed to "October 31, 1992" each time it appears in the Documents, as modified and amended by the Previous Modifications.

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The Note secured hereby, which is incorporated into this Mortgage by reference with the same effect as if set forth in full herein, is in the principal amount of \$1,296,200.97, and bears interest at a variable rate of 1-1/2% per annum in addition to the Mortgagee's Prime Rate (as defined below) from time to time in effect while the Note is outstanding. For such purposes, the term "Prime Rate" shall mean the rate of interest announced from time to time by the Mortgagee called its prime rate, which rate at any time may not be the lowest rate charged by the Mortgagee. Changes in the rate of interest on the Note

(c) The following new paragraph is hereby inserted into the Mortgage:

(b) In order to provide for the option referred to in paragraph (a) above, the Mortgagee shall execute and deliver to the Bank, and the Bank shall accept, an Amended and Restated Promissory Note (the "Amended Note") in the form attached to this Agreement as Exhibit B, which Amended Note shall supersede and replace the Note effective as of the date of this Agreement. From and after the execution and delivery of the Amended Note, all references in the documents to the "Note" shall be deemed to be references to the Amended Note.

(a) Addition of Cost of Funds Interest Rate Option. (a) Effective as of the date of the execution and delivery of this Agreement, the Mortgagee shall have the option (the "Cost of Funds Rate Option") from time to time to convert the interest rate on the Loan from a variable rate equal to 1-1/2% per annum in addition to the Bank's prime rate, as more fully described in the Amended Note (as defined in paragraph (b) below), to that rate of interest per annum determined by the Bank in the usual and ordinary course of business for its general lending purposes as being equal to the then cost of funds to the Bank for such period of time.

Section 3. Reduction in Amount of Loan. The parties acknowledge that as of the date hereof, the outstanding balance of the Loan is \$1,296,200.97. The amount of the Loan is hereby reduced from \$1,300,000 to \$1,296,200.97 and all of the Documents are hereby modified and amended accordingly. Without limitation on the generality of the foregoing, the figure "\$1,300,000" is hereby changed to the figure "\$1,296,200.97" each time it appears in any of the Documents, and the words "One Million Three Hundred Thousand" are hereby changed to the words "One Million Two Hundred Ninety-Six Thousand Two Hundred and 97/100" each time they appear in the Documents. From and after the date of this Agreement, the Mortgagee shall not be entitled to receive any additional disbursements of loan proceeds, and all of the Documents are hereby modified and amended accordingly.

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Section 7. Documents to Remain in Effect. Confirmation of Obligations. References. The Documents shall remain in full force and effect as originally executed and delivered by the parties, except as previously modified and amended by the Previous Modifications and as expressly modified herein. The Mortgagor, the Beneficiary and the Guarantor hereby confirm and reaffirm all of their obligations under the Documents as previously modified and amended by the Previous Modifications and as modified herein; (ii) acknowledge and agree that the Bank, by entering into this Agreement, does not waive any existing or future rights or remedies under any of the Documents, or any default or event of default under any of the Documents; and (iv) acknowledge that they do not have any defense, set-off or counterclaim to the payment or performance of any of their obligations under the Documents, as previously modified and amended by the Previous Modifications and as modified herein. All references in the Documents to any one or more of the Documents,

Section 6. Attachment to Amended Note. The Bank may, and prior to any transfer by it of the Amended Note shall, attach a copy of this Agreement to the original Amended Note and place an endorsement on the Amended Note making reference to the fact that such attachment has been made.

Section 5. Extension Fee. As a condition to the extension of the maturity date of the loan provided for herein, on the date of the execution and delivery of this Agreement, the Mortgagor and the Beneficiary shall pay to the Bank a nonrefundable extension fee in the amount of \$12,962, which amount represents 1% of the face amount of the Amended Note.

Section 4. Interest. As a condition to the extension of the maturity date of the loan provided for herein, on the date of the execution and delivery of this Agreement, the Mortgagor shall pay to the Bank a nonrefundable extension fee in the amount of \$12,962, which amount represents 1% of the face amount of the Amended Note. Interest on the loan evidenced by the Note is payable in arrears on the first day of each month commencing December 1, 1991. The principal of the Note and all accrued and unpaid interest thereon shall be due and payable on October 31, 1992. Rate set forth in each announcement. The Mortgagor shall have the option from time to time, in the manner provided in the Note, to convert the interest rate on the loan evidenced thereby and secured by this Mortgage from a rate based on the Mortgagor's Prime Rate to that rate of interest per annum determined by the Mortgagor in the usual and ordinary course of business for its general lending purposes as being equal to the then cost of funds to the Mortgagor for such period of time, all as more fully provided for in the Note. Interest on the loan evidenced by the Note is payable in arrears on the first day of each month commencing December 1, 1991. The principal of the Note and all accrued and unpaid interest thereon shall be due and payable on October 31, 1992.

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(d) Where the context so requires, words used in singular shall include the plural and vice versa, and words of one gender shall include all other genders.

(c) The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

(b) References to Sections and other subdivisions of this Agreement are to the designated Sections and other subdivisions of this Agreement as originally executed.

(a) The words "hereof", "herein", and "retained", and other words of a similar import refer to this Agreement as a whole and not to the individual Sections in which such terms are used.

## Section 13. Construction.

Section 12. Amendments, Changes and Modifications. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

Section 11. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10. Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors, assigns and legal representatives.

Section 9. Entire Agreement. This Agreement sets forth all of the covenants, provisions, agreements, conditions and other than as are herein set forth. conditions or understandings, either oral or written, between them Agreement, and there are no covenants, promises, agreements, understandings of the parties relating to the subject matter of this

Section 8. Certifications, Representations and Warranties. In order to induce the Bank to enter into this Agreement, the Mortgagor hereby certifies and represents, and the Beneficiary and the Guarantor hereby certify, represent and warrant, to the Bank that all certifications, representations and warranties contained in the Documents and in all certificates heretofore delivered to the Bank are true and correct as of the date hereof, and all such certifications, representations and warranties are hereby remade and made to speak as of the date of this Agreement.

or to the "Loan Documents", shall be deemed to refer to such Document, Documents or Loan Documents, as the case may be, as previously modified and amended by the Previous Modifications and as modified and amended by this Agreement.

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Section 14. Execution of Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of Illinois shall govern its construction and enforcement.

Section 16. Execution by Mortgagor. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Mortgagor, while in form purporting to be the representations, covenants, undertakings and agreements of the Mortgagor are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by LaSalle National Trust, N.A., as successor to LaSalle National Bank, in its own right, but solely in the exercise of the powers conferred upon it as such trustee; and that no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against LaSalle National Trust, N.A., as successor to LaSalle National Bank, on account of this Agreement or on account of any representation, covenant, undertaking or agreement in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

LA SALLE NATIONAL TRUST, N.A., Successor  
Trustee to LaSalle National Bank, as Trustee  
as aforesaid and not personally

By [Signature]  
Title: ASST VICE PRESIDENT

(SEAL)

Attest:

[Signature]  
Title: ASSISTANT SECRETARY

WA LAND PARTNERSHIP

By 18-Chai Corp.,  
General Partner

By [Signature]  
Title: VP

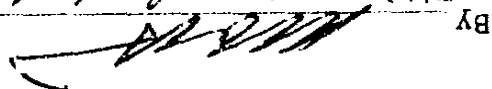
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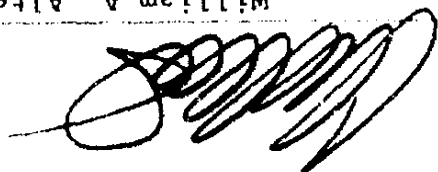
Property of Cook County Clerk's Office

By Title: Vice President

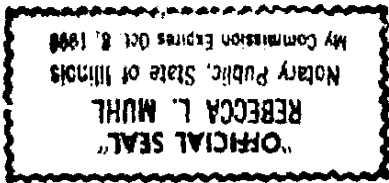


THE NORTHERN TRUST COMPANY

William A. Alter



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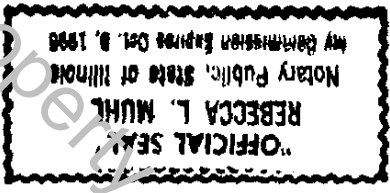


Notary Public

*[Signature]*

The foregoing instrument was acknowledged before me this 12th day of Dec, 1991, by William A. Alter.

92201019



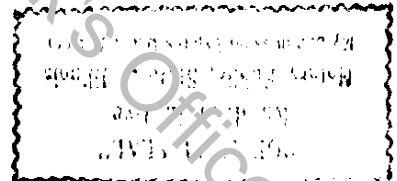
Notary Public

*[Signature]*

The foregoing instrument was acknowledged before me this 12th day of Dec, 1991, by *[Signature]* of 18-Chai Corp, an Illinois corporation, duly authorized general partner of WA Land Partnership, an Illinois limited partnership, on behalf of said corporation and said limited partnership.

STATE OF ILLINOIS )  
COUNTY OF COOK )  
SS )

STATE OF ILLINOIS )  
COUNTY OF COOK )  
SS )



Notary Public

*[Signature]*

The foregoing instrument was acknowledged before me this 12th day of Dec, 1991, by *[Signature]* and *[Signature]* respectively, of Lasalle National Trust, N.A., a national banking association, successor Trustee to Lasalle National Bank, Trustee under a Trust Agreement dated September 17, 1981, and known as Trust No. 104378, on behalf of said Trustee.

STATE OF ILLINOIS )  
COUNTY OF COOK )  
SS )

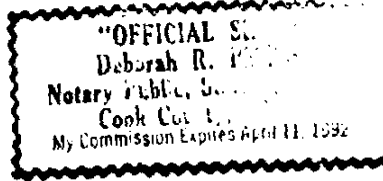


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STATE OF ILLINOIS            )  
                                          ) SS  
COUNTY OF COOK            )

The foregoing instrument was acknowledged before me this  
\_\_\_\_ day of DECEMBER, 1991, by MARTIN G. ALSTON,  
\_\_\_\_ of The Northern Trust Company, an Illinois  
banking corporation, on behalf of the corporation.

Deborah R. Phillips  
Notary Public



Property of Cook County Clerk's Office

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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 2 IN HIGHLAND WOODS INDUSTRIAL CENTER, BEING A SUBDIVISION OF PART OF FRACTIONAL SECTION 3, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 20, 1980 AS DOCUMENT 25398072 AND REGISTERED MARCH 20, 1980 AS DOCUMENT NUMBER LR3252134, EXCEPTING THEREFROM THAT PART OF SAID LOT 2 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH WEST CORNER OF SAID LOT 2; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 2, 261.00 FEET TO THE WEST LINE OF CENTER COURT (FORMERLY KNOWN AS GOEDE DRIVE), SAID POINT BEING ALSO A NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID WEST LINE OF CENTER COURT, 386.00 FEET TO A POINT OF CURVATURE IN SAID WEST LINE; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID CENTER COURT, BEING A CURVED LINE CONVEX SOUTHWESTERLY, HAVING A RADIUS OF 163.00 FEET AND BEING TANGENT TO SAID LAST DESCRIBED LINE AT SAID LAST DESCRIBED POINT, AN ARC DISTANCE OF 247.42 FEET TO A POINT OF TANGENCY (THE CHORD OF SAID ARC BEARS SOUTH 43 DEGREES 29 MINUTES 04 SECONDS EAST, 224.34 FEET); THENCE SOUTH 86 DEGREES 58 MINUTES 07 SECONDS EAST ALONG THE SOUTH LINE OF CENTER COURT, 126.85 FEET; THENCE SOUTH 00 DEGREES 12 MINUTES 04 SECONDS WEST, 265.89 FEET TO THE SOUTHERLY LINE OF SAID LOT 2; THENCE NORTH 80 DEGREES 54 MINUTES 39 SECONDS WEST ALONG THE SOUTHERLY LINE OF SAID LOT 2, 550.61 FEET TO THE SOUTH WEST CORNER OF SAID LOT 2; THENCE NORTH 00 DEGREES 12 MINUTES 04 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 2, 734.39 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

PIN: 07-03-101-022-0000

Common Address: Southdale Technology Center  
Southdale, Illinois

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EXHIBIT B

FORM OF AMENDED AND RESTATED PROMISSORY NOTE

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7723S  
11-26-91

(2)

## AMENDED AND RESTATED PROMISSORY NOTE

\$1,296,200.97

Chicago, Illinois  
November 1, 1991

FOR VALUE RECEIVED, the undersigned LASALLE NATIONAL TRUST, N.A., a national banking association, Successor Trustee to LaSalle National Bank, as Trustee under Trust Agreement dated September 17, 1981 and known as Trust No. 104278 (herein called the "Mortgagor"), promises to pay to the order of THE NORTHERN TRUST COMPANY, an Illinois banking corporation (herein called the "Bank"), the principal sum of ONE MILLION TWO HUNDRED NINETY-SIX THOUSAND TWO HUNDRED and 97/100 Dollars (\$1,296,200.97), together with interest from the date of this Note on the balance of principal from time to time remaining unpaid as provided below.

Except as otherwise provided below, interest on this Note shall be at a variable rate equal to 1-1/2% (except as otherwise provided below) per annum in addition to the Bank's Prime Rate (as defined below) from time to time in effect while this Note is outstanding (the "Prime Based Rate"). For purposes of this Note, the term "Prime Rate" shall mean the rate of interest per year announced from time to time by the Bank called its prime rate, which rate at any time may not be the lowest rate charged by the Bank. Changes in the rate of interest on this Note resulting from a change in the Prime Rate shall take effect on the date of change in the Prime Rate set forth in each announcement. The Mortgagor shall have the option (the "Cost of Funds Rate Option") from time to time to have the interest rate on the entire unpaid principal balance of this Note (but not less than the entire principal balance hereof) changed from the Prime Based Rate to a Cost of Funds Based Rate (as defined below), all on and subject to the terms and conditions hereinafter provided.

Interest only shall be payable in arrears on the first day of each month commencing December 1, 1991, and all of the principal of and accrued and unpaid interest on this Note shall be due and payable on October 31, 1992. Interest shall be computed on the basis of a 360-day year and days elapsed. All payments on account of the indebtedness evidenced by this Note shall be applied first to interest on the unpaid principal balance and the remainder to principal. All payments on this Note are to be made to The Northern Trust Company, 50 South LaSalle Street, Chicago, Illinois, or at such other place as the legal holder or holders of this Note may from time to time in writing direct. All payments on this Note shall be made in lawful money of the United States of America which shall be legal tender for the payment of public and private debts at the time of payment.

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Notwithstanding any other provision of this Note, any installments of principal or interest not paid when due shall bear interest after maturity at the greater of (i) a rate 4% per annum greater than the Prime Based Rate provided for above, or (ii) in the case of unpaid principal then bearing interest at a Cost of Funds Based Rate and any unpaid interest thereon, a rate of 4% per annum greater than such Cost of Funds Based Rate.

For the purposes of the Cost of Funds Rate Option, the following terms shall have the following meanings:

(i) "Business Day" shall mean any day on which the Bank is open for business in Chicago, Illinois.

(ii) "Election Notice" shall mean a written, telex or telephonic (promptly confirmed in writing) notice to the Bank of the Mortgagor's election to exercise the Cost of Funds Rate Option, which notice shall specify the date on which the Interest Period is to commence and its duration. Each Election Notice shall be irrevocable.

(iii) "Cost of Funds Based Rate" shall mean, for any period of time with respect to which the term is used, that rate of interest per annum determined by the Bank in the usual and ordinary course of business for its general lending purposes as being equal to the then cost of funds to the Bank for such period of time. Each determination of a Cost of Funds Based Rate shall be made by the Bank and shall be conclusive and binding upon the Mortgagor absent manifest error.

(v) "Interest Period" shall mean the period commencing on the date so specified in the Mortgagor's Election Notice and ending on a date specified in such notice, which ending date (a) shall be either 30, 60, 90 or 180 days after the commencement of the Interest Period, and (b) shall not extend beyond the maturity date of this Note. No Interest Period shall commence other than on a Business Day. If any Interest Period shall end on a day which is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day, unless such next succeeding Business Day would fall in the next calendar month, in which event such Interest Period shall end on the next preceding Business Day.

(vi) "Roll Over Date" shall mean the day immediately following the last day of an Interest Period.

The Mortgagor shall give the Bank an Election Notice of any election to exercise the Cost of Funds Rate Option not later than 11:00 A.M., local time then prevailing in Chicago, Illinois, on the date of the commencement of an Interest Period. The Bank shall, on the date of the commencement of the Interest Period, determine the

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Cost of Funds Based Rate and inform the Mortgagor of the Cost of Funds Based Rate so determined. Such Cost of Funds Based Rate shall be applicable during the Interest Period specified by the Mortgagor in such Election Notice. The interest rate shall revert from the Cost of Funds Based Rate to the Prime Based Rate as of the Roll Over Date applicable thereto, unless the Mortgagor shall again have exercised the Cost of Funds Rate Option as provided herein. The Bank shall be under no duty or obligation to notify the Mortgagor that the interest rate is about to revert from a Cost of Funds Based Rate to the Prime Based Rate. The Cost of Funds Rate Option may be exercised by the Mortgagor only as to principal of this Note which would bear interest at the Prime Based Rate on the date of commencement of the applicable Interest Period but for the exercise by the Mortgagor of the Cost of Funds Rate Option. The Mortgagor's right to exercise the Cost of Funds Rate Option shall be conditioned upon there being no event of default under this Note. In the event, and on each occasion, that on the date of the commencement of an Interest Period, the Bank shall have determined (which determination shall be conclusive and binding upon the Mortgagor) that a Cost of Funds Based Rate would be in excess of the maximum interest rate which the Mortgagor may by law pay, the Bank shall so notify the Mortgagor and the principal balance of this Note shall continue to bear interest at the Prime Based Rate. If any change in any law or regulation or in the interpretation thereof by any governmental authority charged with the administration or interpretation thereof shall make it unlawful for the Bank to maintain Cost of Funds Based Rates with respect to this Note, or to give effect to its obligations as contemplated hereby, then any Cost of Funds Based Rate then in effect shall be automatically converted to the Prime Based Rate. Any notice given by the Bank to the Mortgagor pursuant to this paragraph shall, if lawful, be effective on the last day of any existing Interest Period.

If in any instance the Bank shall waive one or more of the conditions or limitations to the exercise by the Mortgagor of the Cost of Funds Rate Option, such waiver shall apply only to the instance in which given and shall not be construed as a waiver of any such condition or limitation with respect to any subsequent exercise by the Mortgagor of the Cost of Funds Rate Option.

Any change in the interest rate on this Note from the Prime Based Rate to a Cost of Funds Based Rate shall also be subject to the condition that if and to the extent that this Note bears interest at a Cost of Funds Based Rate, then in addition to interest and other costs required to be paid by the Mortgagor hereunder, the Mortgagor shall pay or reimburse the Bank, upon written demand, for any loss, including loss of anticipated profits reasonably calculated (assuming that this Note would otherwise have remained outstanding for the entire applicable Interest Period), and/or expense reasonably incurred by reason of the reinvestment or reemployment of any principal of this Note, as a result of (i) a voluntary prepayment of such principal during an Interest Period in accordance with the terms hereof, or (ii) an acceleration and

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mandatory repayment of such principal during an Interest Period by reason of default in the payment of principal or interest when due in accordance with the terms of this Note or by reason of any default under the terms of any of the Loan Documents (as hereinafter defined). Any amount or amounts payable by the Mortgagor to the Bank pursuant to this paragraph shall be paid by the Mortgagor to the Bank within 10 days of receipt from the Bank of a statement setting forth the amount or amounts due and the basis for the determination from time to time of such amount or amounts, which statement shall be conclusive and binding upon the Mortgagor absent manifest error. Failure on the part of the Bank to demand compensation for any increased costs in any Interest Period shall not constitute a waiver of the Bank's right to demand compensation for any increased costs incurred during any such Interest Period or in any other subsequent or prior Interest Period.

The principal portion of this Note may be prepaid in whole, or in part at any time prior to maturity, provided that any such prepayment shall be accompanied by payment of all accrued and unpaid interest on this Note to the date of the prepayment. Any prepayment of principal then bearing interest at a Cost of Funds Based Rate shall also be accompanied by payment of an additional charge calculated as provided in the immediately preceding paragraph. No such partial prepayment shall operate to defer the scheduled payments of interest provided for hereunder. No amount prepaid may be borrowed again.

The payment of this Note is secured by the following instruments: (i) a Mortgage dated as of October 1, 1986, from the Mortgagor to the Bank on 10.23 acres of vacant land in the Schaumburg Technological Center in Schaumburg, Illinois (the "Premises"), (ii) a Security Assignment of Beneficial Interest in Land Trust dated as of October 1, 1986, from the Mortgagor and Sheldon F. Simborg, as Trustee for the JC Trusts (the original beneficiary of the Mortgagor) to the Bank, (iii) a Guaranty dated October 1, 1986, from William A. Alter to the Bank, (iv) a Modification Agreement (Modifying Promissory Note, Mortgage and Security Assignment) dated as of October 1, 1986, by and between the Mortgagor and the Bank and consented and agreed to by William A. Alter, and (v) a Second Modification Agreement (Modifying Mortgage, Promissory Note and Security Assignment of Beneficial Interest in Land Trust) dated as of October 1, 1986, by and among the Mortgagor, WA Land Partnership, an Illinois limited partnership, and the Bank and consented and agreed to by William A. Alter. This Note and the other instruments described in (i) through (v) above are hereinafter referred to as the "Loan Documents".

It is agreed that at the election of the holder or holders hereof, the principal sum remaining unpaid hereon, together with accrued interest thereon, shall become at once due and payable at the place of payment aforesaid in case of default in the payment of principal or interest when due in accordance with the terms hereof which default shall remain uncured for a period of ten days after written notice to the Mortgagor, or in case of any default under the

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terms of any of the Loan Documents, such default shall remain uncured after the expiration of any applicable grace period.

Except for liens, charges and encumbrances approved by the Bank in writing, and liens, charges and encumbrances being contested as provided in the Mortgage, in the event that the Mortgagor shall suffer or permit any superior or junior lien, charge or encumbrance to be attached to the Premises, or (ii) in the event of the creation of any lien or security interest upon the beneficial interest under the Trust Agreement by which the Mortgagor was created, or (iii) in the event the Mortgagor shall sell, transfer, convey or assign the title to all or any portion of the Premises, or in the event that the beneficiary of the Mortgagor shall sell, transfer, convey or assign the beneficial interest under the Trust Agreement by which the Mortgagor was created (including a collateral assignment thereof), in either case whether by operation of law, voluntarily, or otherwise, or the Mortgagor or said beneficiary shall contract to do any of the foregoing described in this clause (iii); then in each such case the Bank, at its option, shall have the unqualified right to accelerate the maturity of this Note causing the full principal balance and accrued interest on this Note to become immediately due and payable without notice to the Mortgagor.

It is agreed by the Mortgagor that the proceeds of this Note will be used for the purposes specified in subparagraph 1(c) contained in Paragraph 6404 of Chapter 17 of the Illinois Revised Statutes (1989), and that the indebtedness evidenced by this Note constitutes a "business loan" within the meaning of that Paragraph.

In the event that this Note is placed in the hands of an attorney at law for collection after maturity or upon default, or in the event that proceedings at law, in equity or bankruptcy, receivership or other legal proceedings are instituted in connection herewith, or in the event that this Note is placed in the hands of any attorney at law to enforce any of the rights or agreements contained herein or in any of the other Loan Documents or any other instruments given as security for or related to the indebtedness evidenced hereby, the Mortgagor shall pay all costs of collecting or attempting to collect this Note or protecting or enforcing such rights, including, without limitation, reasonable attorneys' fees, in addition to all principal, interest and other amounts payable hereunder; and all such amounts shall be and be deemed to be secured by the Loan Documents.

The Mortgagor hereby waives demand, presentment for payment, notice of dishonor and protest and does hereby waive notice of and consent to any and all extensions of this Note, the release of all or any part of the security for the payment hereof or the release of any party liable for the obligations hereunder. Any such extension or release may be made at any time and from time to time without giving notice to the Mortgagor and without discharging any liability of the Mortgagor. The Mortgagor hereby waives any and all notice of whatever kind or nature, except as expressly provided herein, and waives the exhaustion of legal remedies hereon.



# UNOFFICIAL COPY

This Note shall be governed by the laws of the State of Illinois.

Time is of the essence of this Note and of each and every provision hereof.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen or be performed, precedent to and in the execution and delivery of this Note and the other Loan Documents have happened and have been performed in due time, form and manner as required by law.

This Note supersedes and replaces the Promissory Note dated October 1, 1986, in the principal amount of \$1,300,000 from the Mortgagor to the Bank.

This Note is executed by LaSalle National Trust, N.A., Successor Trustee to LaSalle National Bank, not personally but as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee. No personal liability is assumed by nor shall at any time be asserted or be enforceable against LaSalle National Trust, N.A., Successor Trustee to LaSalle National Bank, because or in respect of this Note or the making, issue or transfer thereof, all such personal liability, if any, being expressly waived and released by each taker and holder hereof, but nothing herein contained shall modify or discharge the personal liability of any guarantor hereof or of any person under or by virtue of any guaranty of this Note or any of the Loan Documents, and each original and successive holder of this Note accepts the same upon the express condition that no duty shall rest upon the undersigned to sequester the rents, issues and profits arising from the property described in said Mortgage or the proceeds arising from the sale or other disposition thereof.

LASALLE NATIONAL TRUST, N.A.,  
Successor Trustee to LaSalle  
National Bank, solely as Trustee  
as aforesaid and not personally

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

(SEAL)

Attest:

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