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COOK COUNTY RECORDER

PREPARED BY AND AFTER  
RECORDING MAIL TO:

Dean E. Parker, Esq.  
Hinshaw & Culbertson  
222 North LaSalle Street  
Suite 300  
Chicago, Illinois 60601

Address:

See Exhibit "A" attached hereto and  
made a part hereof

Tax No.:

See Exhibit "A" attached and made  
a part hereof

## MODIFICATION AGREEMENT

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THIS AGREEMENT made this 19th day of April, 1993 ("Date Hereof"), but effective as of April 1, 1993 ("Effective Date"), among AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Lender") and by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee pursuant to Trust Agreement dated September 1, 1986 and known as Trust Number 100187-03 ("Trust 100187-03"), and pursuant to Trust Agreement dated October 1, 1986 and known as Trust Number 100834-00 ("Trust 100834-00") (collectively "Trusts") and 322 SOUTH GREEN STREET PARTNERS, an Illinois Limited Partnership, ("322 Partners") the owner of one hundred per cent (100%) of the beneficial interest of Trust 100187-03 and BUZ-BIL PARTNERSHIP, an Illinois limited partnership ("BUZ-BIL"), the owner of one hundred percent (100%) of the beneficial interest of Trust 100834-00 (for convenience Trusts and Beneficiaries shall together be referred to herein as "Borrower") (322 Partners and BUZ-BIL sometimes hereinafter referred to collectively as "Beneficiaries").

## RECITALS:

A. Lender is the legal owner and holder of Note dated August 15, 1991 ("Note"), executed and delivered by Trusts in favor of Lender, in the principal amount of EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$850,000.00) ("Principal Balance"), which provides, among other things, for the payment of "Indebtedness" (as such term is defined in Note) as more fully provided therein.

B. Note is secured by Second Mortgage and Security Agreement of even date with Note, made by Trusts in their capacities as fee owner and ground lessee, conveying the land and improvements legally described on Exhibit "A" attached hereto and made a part hereof ("Land and Improvements"), recorded in the office of the Recorder of Deeds of Cook County, Illinois ("Recorder's Office") as Document Number 91-449433 ("Mortgage"), and "Other Loan Documents" (as such term is defined in Mortgage) (Mortgage and Other Loan Documents collectively "Security Documents"). Note, Security Documents and any other documents delivered in connection with the loan evidenced thereby, including, without limitation, any guaranty, collectively "Loan Papers."

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C. Trusts and Beneficiaries have requested that Note and Security Documents be modified in certain respects and Lender has agreed to modify the same upon the terms and conditions hereafter set forth.

NOW, THEREFORE, in consideration of the payments made and to be made by Trusts and Beneficiaries, as hereinafter provided, and the performance of the terms, covenants, conditions and agreements hereafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. WARRANTIES AND REPRESENTATIONS: Trusts represent and Beneficiaries warrant and represent as follows (collectively "Warranties and Representations"):

- a. the execution and delivery of Note and Security Documents were duly authorized;
- b. Note and Security Documents, and each of the covenants, conditions and agreements contained therein are in full force and effect, are the valid and legally binding obligations of Trusts and Beneficiaries, as the case may be, and are free from all legal and equitable defenses, offsets and counterclaims;
- c. no person, firm or corporation has or claims any interest in Land and Improvements which does not appear in loan policy Number 265127 dated September 4, 1991, issued by Ticor Title Insurance Company ("Loan Policy") (other than tenants of Land and Improvements pursuant to their respective leases or other tenancy agreements, oral or written as identified on the current rent roll described below ["Leases"]), nor is there any unrecorded deed, deed of trust, mortgage or other conveyance or any undelivered bill of sale, assignment or instrument of transfer relating thereto;
- d. no part of Land and Improvements is in receivership nor is any application for receivership pending and no petition in bankruptcy has been filed by or against Trusts or Beneficiaries;
- e. the only parties entitled to possession of Land and Improvements, or any part thereof, are Trusts, Beneficiaries and tenants pursuant to Leases;
- f. real estate taxes assessed against Land and Improvements have been paid in full through tax year 1992 (first installment);
- g. there are no agreements, state of facts or circumstances presently existing which, with or without the service of notice, passage of time,

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or both, would grant to Trusts or Beneficiaries the right to refuse to make or delay the payments or otherwise perform the terms, covenants, conditions and agreements required pursuant to Note and Security Documents;

- h. the loan in the original principal sum of \$4,750,000 made by Northern Life Insurance Company to Trust 100187-03 secured by Mortgage recorded in Recorder's Office as document number 87438884 conveying Land and Improvements ("First Mortgage Loan") has an outstanding principal balance of \$4,494,466.00 after application of the March 1993 payment and Borrower is in compliance with all of the terms and provisions of the documents evidencing and securing First Mortgage Loan; and
- i. the rent roll dated February 26, 1993 and previously delivered to Lender (the "Rent Roll") is a true, correct and complete summary of all of the Leases at the Land and Improvements and, to the best of Beneficiaries' knowledge, there are no defaults by either Landlord or Tenant pursuant to any of the Leases except as noted on the Rent Roll.

2. ACKNOWLEDGMENT OF AMOUNTS DUE AS OF EFFECTIVE DATE AND DATE HEREOF; REQUIREMENT OF PRINCIPAL REDUCTION. As of Effective Date, the amount of Principal Balance owed Lender is Eight Hundred Forty Six Thousand Three Hundred Twenty Seven and 45/100 Dollars (\$846,327.45). Upon execution of this Modification Agreement, in addition to other payments required pursuant to Loan Papers, Beneficiaries shall make a payment of One Hundred Thousand Dollars (\$100,000.00) to Lender to be applied against Principal Balance ("Principal Reduction").

3. MODIFICATIONS: Note and Security Documents are modified to provide for:

- a. *Extension of Maturity Date.* The Maturity Date shall be extended to **August 1, 1994** in lieu of the present Maturity Date of April 30, 1993 and all Indebtedness, if not sooner paid, shall be due and payable on August 1, 1994; and
- b. *Change in Note Rate.* In lieu of the current fixed rate, the Note Rate (as such term is defined in the Note) beginning April 1, 1993 shall be modified to be:

"the rate of one and one half percent (1½%) above the base rate per annum announced or published from time-to-time by Payee ("Note Rate") [computed on the basis of a three hundred sixty (360) day year, PROVIDED THAT in the event such basis is or shall become illegal,

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the basis for computing interest hereunder shall be a three hundred sixty five (365) day year]."

- c. *Change in Monthly Payments.* Beginning May 1, 1993, the co-makers shall make monthly payments of One Thousand Five Hundred Dollars (\$1,500.00) of principal, plus accrued interest on Note, as amended, which payments shall be due on the first (1st) day of each month until all Indebtedness is due and payable.

#### 4. ADDITIONAL PROVISIONS: Concurrently with the execution hereof:

- a. or within thirty (30) days of the executive hereof, Beneficiaries shall deliver to Lender satisfactory endorsements to Loan Policy insuring the continued validity and priority of the lien of Mortgage, following the recording of this Agreement (subject only to the matters set forth on Schedule B of Loan Policy), confirming all endorsements thereto;
- b. Trusts and Beneficiaries waive, to the extent permitted by law, any and all rights which they, or either of them, now or may hereafter have with respect to application for or the seeking of relief specified in any Federal, State or Municipal bankruptcy law, statute or ordinance ("Debtor Relief") and, to the extent that Trusts and Beneficiaries cannot waive such rights, Beneficiaries hereby indemnifies and holds Lender harmless of, from and against any and all claims, losses or damages (including attorneys' fees) which Lender may incur by reason of the filing of a petition, for or on behalf of Trusts, Beneficiaries or any partner of Beneficiaries, seeking Debtor Relief; and
- c. Beneficiaries shall pay all title and recording charges and other costs and expenses (including attorneys' fees) incurred by Lender by reason of the matters specified herein and the preparation of this Agreement and all other documents necessary and required to effectuate the provisions hereof.

5. JOINT AND SEVERAL OBLIGATIONS: All obligations of Trusts and Beneficiaries pursuant hereto shall be joint and several and may be fully enforced against either Trusts or Beneficiaries in legal proceedings without any requirement that the other party be joined as a party defendant in such proceedings.

6. FAILURE OR DELAY: No failure by Lender to exercise, or delay by Lender in exercising, any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement, Note and Security Documents are cumulative and not exclusive of each other or of any right or remedy provided by law or in equity. No notice to or demand upon Trusts or Beneficiaries, in any

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instance, shall, in itself, entitle Trusts or Beneficiaries to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstance without notice or demand.

7. **EFFECTIVENESS:** Subject to the condition that Beneficiaries have made Principal Reduction, this Agreement shall become effective on Effective Date, concurrently with the execution and delivery hereof by Lender, Trusts and Beneficiaries.

8. **CONSTRUCTION:** This Agreement shall not be construed more strictly against Lender than against Trusts and Beneficiaries merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that both Borrower and Lender have had the opportunity to contribute substantially and materially to the preparation of this Agreement, and Trusts, Beneficiaries and Lender each acknowledges and waives any claims contesting the existence and the adequacy of the consideration given by the others in entering into this Agreement.

This Agreement shall be construed in conjunction with Note and Security Documents. All terms used herein shall have the meanings ascribed in Note and Security Documents unless otherwise defined herein.

9. **ENTIRE AGREEMENT:** Trusts, Beneficiaries and Lender each acknowledge that there are no other agreements or representations, either oral or written, express or implied, not embodied in this Agreement, Note and Security Documents, which, together, represent a complete integration of all prior and contemporaneous agreements and understandings of Trusts, Beneficiaries and Lender and, except to the extent modified herein, the provisions of Note and Security Documents are hereby ratified and confirmed.

This Loan Modification Agreement is executed by Trusts, not personally but solely as trustee under the terms of the aforesaid Trust Agreement, solely in the exercise of the power and authority conferred upon and vested in it as such Trustees (and Trusts hereby warrant that they possess full power and authority to execute this instrument). It is expressly understood and agreed that:

1. Nothing contained in Loan Papers shall be construed as establishing any personal liability upon Trusts, personally, to pay Indebtedness or to perform any of the terms, covenants, conditions and agreements therein contained, all such personal liability being hereby expressly waived by Lender; Lender's only recourse against Trusts being against Mortgaged Premises and other property given as security for the payment of Indebtedness ("Other Security"), in the manner herein, in Loan Papers and by law provided.
2. In the event of the occurrence of a Monetary Default or Non Monetary Default or upon the maturity of Indebtedness, whether by acceleration, passage of time or otherwise, the recourse of Mortgagee shall be limited to judicial foreclosure of Mortgaged Premises or the exercise of the other remedies set forth herein and in Loan Papers.

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3. Except as in Loan Papers provided, Lender shall look solely to Mortgage Premises, Other Security and the foreclosure of the lien of Mortgage or the realization on the security of Security Documents and no deficiency judgment for Indebtedness (following the application of Mortgaged Premises, Other Security and the proceeds thereof) shall be instituted, sought, taken or obtained against Trusts or any successor in title to Trusts, PROVIDED THAT nothing contained herein shall be deemed to prejudice the rights of Lender to recover from Beneficiaries and others, except Trusts:
- a. all losses, damages, costs and expenses (including attorney fees) suffered by Lender as a result of fraud and material misrepresentation made by Beneficiaries or a breach of Beneficiary's warranty and representation contained in any document delivered to Lender by or at the request of Borrower or as a result of the intentional or negligent waste of Mortgaged Premises;
  - b. all rents, revenues, issues and profits from Mortgaged Premises received by Borrower during the period of any Monetary Default or Non-Monetary Default or after acceleration of Indebtedness and not applied to the normal operating expenses of Mortgage Premises;
  - c. all rents from Mortgaged Premises collected more than one (1) month in advance by Borrower which are not earned at the time of the occurrence of any Monetary Default or Non-Monetary Default and which are not applied to the payment of the Indebtedness or normal operating expenses of Mortgaged Premises or as required by the "First Mortgage Loan Documents" (defined in Mortgage);
  - d. all "Proceeds" and "Awards" paid to Borrower (as such terms are defined in Mortgage) which are not applied in accordance with the provisions of Loan Papers;
  - e. any and all of Lender's costs, expenses, damages or liabilities, including, without limitation, all reasonable attorneys' fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about Mortgaged Premises of any "Hazardous Substances" (as such term is defined in Mortgage).

Nothing contained herein or in Note and Security Documents to the contrary notwithstanding shall be deemed to release, affect or impair Indebtedness or the rights of Lender to enforce its remedies pursuant hereto and to Note and Security Documents, including, without limitation, the right to pursue any remedy for injunctive or other equitable relief.

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IN WITNESS WHEREOF, Lender, Beneficiaries and Trusts have caused this Loan Modification Agreement to be signed by their respective duly authorized officers and General Partners have executed this Assignment on the day and year first above written.

Lender:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO

This instrument is executed by the undersigned Land Trustee, not personally 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, covenants, conditions, undertakings and agreements herein made on the part of the Trustee are made solely by it solely in its capacity as Trustee and not personally. The 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, representation, covenant, undertaking or agreement of the Trustee in this instrument.

ATTEST:

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

JUDITH E. CRAVEN

ATTEST:

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

JUDITH E. CRAVEN

Beneficiaries:

By: Terry Olsen  
Title: Senior Vice President

American National Bank and Trust Company of Chicago, not personally but solely as trustee of Trust Agreement dated September 1, 1986 and known as Trust No. 100187-03

Gregory S. Kasprzyk

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

American National Bank and Trust Company of Chicago, not personally but solely as trustee of Trust Agreement dated October 1, 1986 and known as Trust No. 100834-00

Gregory S. Kasprzyk

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

322 SOUTH GREEN STREET PARTNERS, an Illinois limited partnership

By: David W. Ruttenberg  
David W. Ruttenberg, General Partner

BUZ-BIL PARTNERSHIP, an Illinois limited partnership

By: David W. Ruttenberg  
David W. Ruttenberg, General Partner

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## CONSENT BY GUARANTOR AND AMENDMENT OF GUARANTY

The undersigned has previously executed a guaranty dated August 15, 1991 in favor of Lender ("Guaranty"), absolutely and unconditionally guaranteeing the due and punctual payment of "guaranteed debt" as defined therein and other expenses with a limit on total liability as set forth herein. The undersigned does hereby consent to the execution of the modification agreement to which this consent and amendment is attached ("Modification Agreement"), agrees that "guaranteed debt" pursuant to Guaranty shall be deemed to include any obligations of Trusts evidenced by Note (as defined in Modification Agreement), as amended, and all other Loan Papers (as defined in Modification Agreement), as amended and all advances made and obligations incurred by Lender with respect to any of the foregoing, including any amounts evidenced or secured by Modification Agreement, including a guaranty of:

- a. payment of any and all sums due and owing pursuant to Modification Agreement or other Loan Papers; and
- b. prompt and faithful performance of each and every term, covenant, condition and agreement contained in or pursuant to Modification Agreement or other Loan Papers; and

Without limitation of any obligations contained in the Guaranty, the undersigned further agrees to pay, upon demand, all costs and expenses, including reasonable attorneys fees, incurred in connection with the enforcement of the Modification Agreement to which this consent and amendment are attached.

Except as modified hereby, the undersigned does hereby ratify and confirm the terms and conditions of Guaranty, as amended hereby, and agrees that the same as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this Consent by Guarantor and Amendment of Guaranty as of the day and year first above written.

  
\_\_\_\_\_  
DAVID W. RUTTENBERG

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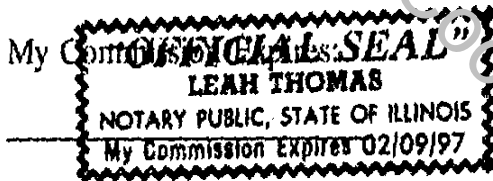
LEADER  
TRUSTEES

STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK )

I, LEAH THOMAS a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that TERRY D. SENGLE, 2ND VICE PRESIDENT of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Bank") and \_\_\_\_\_ of said Bank who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such 2nd Vice President and \_\_\_\_\_, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, as Trustees as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of April, 1993.

Leah Thomas  
Notary Public



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LEADER

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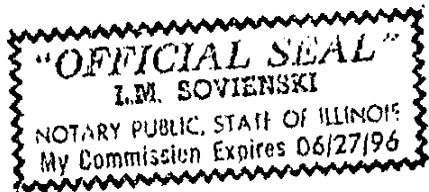
STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF )

The undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Gregory S. Kepczyk of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Bank") and \_\_\_\_\_, JUDITH B. CRAVEN of said Bank who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such 2nd Vice President and ASSISTANT SECRETARY respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

L.M. Soviński  
Notary Public

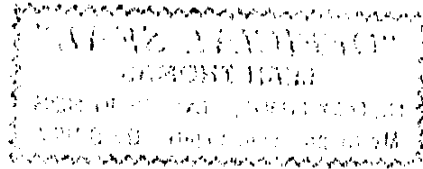
My Commission Expires: \_\_\_\_\_



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## GUARANTOR

STATE OF ILLINOIS

COUNTY OF COOK

)  
)  
)  
SS.

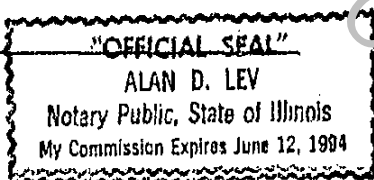
The undersigned, Alan D. Lev, a Notary Public in and for said County in the State aforesaid, do hereby certify that David W. Ruttenberg, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 14<sup>th</sup> day of

April, 1993.

Alan D. Lev  
Notary Public

My Commission Expires:



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STATE OF ILLINOIS )  
COUNTY OF *COOK* ) SS.

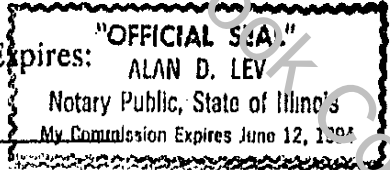
The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that David W. Ruttenberg, personally known to me to be the general partner of 322 SOUTH GREEN STREET PARTNERS, an Illinois limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, 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 Partnership, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 19<sup>th</sup> day of April, 1993.

*Alan D. Lev*

Notary Public

My Commission Expires:



STATE OF ILLINOIS )  
COUNTY OF *COOK* ) SS.

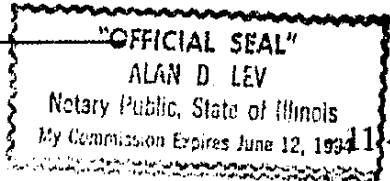
The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that David W. Ruttenberg, personally known to me to be the general partner of BUZ-BIL PARTNERSHIP, an Illinois limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, 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 Partnership, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 19<sup>th</sup> day of April, 1993.

*Alan D. Lev*

Notary Public

My Commission Expires:



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## EXHIBIT "A"

### Legal Description

The South 1/2 of Lot 3 and all of Lots 4, 5, 6, 7 and 8 (except the West 9 feet of all of said lots for alley) in Block 19 in Duncan's Addition to Chicago, being a subdivision of the East 1/2 of the North East 1/4 of Section 17, Township 39 North Range 14 East of the Third Principal Meridian in Cook County, Illinois.

Property Tax I.D. Nos.: 17-17-227-009  
17-17-227-010  
17-17-227-011  
17-17-227-012

Commonly Address: 322 South Green Street, Chicago, Illinois

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