

CFC 0916 1/18/94 1/21/94

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Prepared by:  
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SECOND MODIFICATION AGREEMENT

THIS SECOND MODIFICATION AGREEMENT ("this Agreement") is made and entered into as of January 17, 1994, by, between and among:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee under Trust Agreement dated June 25, 1979 and known as Trust Number 51490 ("Mortgagor");

SAMUEL MILLER & CO., an Illinois corporation ("Guarantor");

NORTHBROOK OFFICE INVESTORS, an Illinois general partnership ("Beneficiary"); and

KANSAS CITY LIFE INSURANCE COMPANY, a Missouri corporation ("Mortgagee").

Recitals:

A. Mortgagor has executed and delivered to Cohen Financial Corporation, a Delaware corporation ("CFC") a promissory note dated August 21, 1986 in the principal sum of Nine Hundred Thousand and No/100 Dollars (\$900,000.00).

B. Payment of said promissory note is secured by that certain mortgage dated August 21, 1986 and recorded October 31, 1986 as Document No. 86512927, which mortgage encumbers the real property legally described in Exhibit A attached hereto.

C. Payment of said promissory note is further secured by that certain assignment of rents and leases dated August 21, 1986 and recorded on October 31, 1986 as Document No. 86512928.

D. Payment of said promissory note is further secured by that certain security agreement dated August 21, 1986.

E. The Beneficiary has executed and delivered that certain irrevocable right to approve trust documents dated August 21, 1986.

F. Guarantor has executed that certain guaranty agreement dated August 21, 1986.

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G. CFC assigned all of its rights in said promissory note, mortgage, assignment of rents and leases, security agreement, irrevocable right to approve trust documents and guaranty agreement to Mortgagee in a General Assignment dated October 31, 1986 and recorded on October 31, 1986 as Document No. 86512929.

H. Said promissory note, mortgage, assignment of rents and leases, security agreement, irrevocable right to approve trust documents and guaranty agreement have been modified pursuant to that certain Modification Agreement dated March 20, 1987 by and among the parties hereto; and

I. Said promissory note, mortgage, assignment of rents and leases, security agreement, irrevocable right to approve trust documents and guaranty agreement, as modified by said Modification Agreement dated March 20, 1987 are hereinafter respectively referred to as the "Note", "Mortgage", "Assignment", "Security Agreement", "Trust Approval Document" and "Guaranty" and said documents as modified are hereinafter collectively referred to as the "Loan Documents".

J. The Loan Documents are in default because the monthly payments of principal and interest due under the Note on June, July, August, September, October, November and December, 1993 and January, 1994 have not been paid, because the monthly deposits for the payment of real estate taxes due under Paragraph 3 of the Mortgage on June, July, August, September, October, November, December, 1993 and January, 1994 have not been paid, because the monthly deposits for the payment of premiums on policies of fire and other hazard insurance due under Paragraph 28 of the Mortgage on October, November, December, 1993 and January, 1994 have not been paid because interest at the Default Rate as set forth in the Note has not been paid and because certain "late charges" as specified in the Note and the Mortgage have not been paid.

K. Other defaults may exist under the Note, Mortgage, the Guaranty and other Loan Documents and interest on the principal sums evidenced and secured thereby continues to accrue at the interest rate of fourteen and seventy-five one-hundredths percent (14.75%) per annum (the "Default Rate") as set forth in the Note from June 1, 1993.

L. As a result of the defaults referred to above, Mortgagee has the right to declare the principal sum evidenced and secured by the Loan Documents to be due and payable but has not elected to exercise that right.

M. Mortgagor, Beneficiary and Guarantor have requested that Mortgagee forbear from exercising its right to declare the sums evidenced and secured by the Loan Documents to be due and payable, to waive collection of interest at the Default Rate, to waive the collection of late charges and to consider reinstating the loan evidenced by the Note and Mortgagee has expressed its willingness to do so in accordance with the terms hereof provided that the Reinstatement Conditions (as hereinafter defined) are complied with by the Reinstatement Date (as hereinafter defined).

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N. Provided that the Reinstatement Conditions are complied with by the Reinstatement Date, upon the Reinstatement Date, the Note, Mortgage and other Loan Documents shall be modified as hereinafter set forth.

NOW, THEREFORE, intending to be legally bound hereby, Mortgagor, Beneficiary, Guarantor and Mortgagee hereby agree as follows:

1. INCORPORATION OF RECITALS. The foregoing Recitals are incorporated herein and provide adequate consideration for the agreements of the parties contained herein.

2. REINSTATEMENT CONDITIONS. Provided that the following conditions ("Reinstatement Conditions") are satisfied by the Mortgagor, Beneficiary or Guarantor on or before February 20, 1994 ("Reinstatement Date"), Mortgagee agrees that the loan evidenced by the Note shall be deemed to be reinstated on the Reinstatement Date:

(a) The Note, Mortgage and other Loan Documents shall not otherwise be in default on the Reinstatement Date;

(b) Mortgagor, Beneficiary or Guarantor shall pay to Mortgagee an amount as follows:

(i) The monthly installments of principal and interest as set forth in the Note for the months of June, July, August, September, October, November, December, 1993 and February, 1994;

(ii) The monthly deposits for real estate taxes pursuant to Paragraph 3 of the Mortgage for the months of June, July, August, September, October, November, December, 1993 and February, 1994; and

(iii) The monthly payments of insurance premium deposits pursuant to Paragraph 28 of the Mortgage for the months of October, November, December, 1993 and February, 1994.

(c) Mortgagor, Beneficiary or Guarantor shall pay all fees and costs incurred by Mortgagee in connection with this Agreement and the negotiations and discussions that preceded the preparation of this Agreement which sums shall consist of the fees and costs of Michael I. Freeman, P.C., who is legal counsel for Mortgagee and the charges of Cohen Financial Corporation, in the amount of Eight Thousand Four Hundred and No/100 Dollars (\$8,400.00), who is the servicer for Mortgagee.

(d) Mortgagee shall receive evidence satisfactory to it that Guarantor as sublessor under that certain Sublease dated November \_\_\_\_, 1993 with Cole Taylor Bank, not individually but as Trustee under Trust Agreement dated November 2, 1993 and known as Trust No. 93-6017 as lessee has complied with Paragraph 7(a) of said Sublease.

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(e) Mortgagor, Beneficiary and Guarantor shall provide Lender with such further documents, instruments, opinions and certificates that Mortgagee shall require.

3. MODIFICATION OF NOTE AND MORTGAGE. From and after the Reinstatement Date and provided that the Reinstatement Conditions have been complied with, the Note, Mortgage and other Loan Documents shall be deemed modified as follows:

(a) The interest rate set forth on Page 1 of the Note shall be changed from nine and three-quarters percent (9.75%) to eight percent (8%) per annum. This change in interest rate shall not affect the amount of the monthly payments of principal and interest as set forth in Paragraph 2 on Page 1 of the Note which payment shall continue to be in the amount of Seven Thousand Seven Hundred Thirty-Three and No/100 Dollars (\$7,733.00) each, and the final installment payable on November 1, 1996 shall be the full amount of principal and interest then remaining unpaid under the Note. All monthly installment payments on account of the indebtedness evidenced by the Note shall be applied first to interest on the Note at the rate of eight percent (8%) per annum on the unpaid principal balance and the remainder to principal.

4. CONSEQUENCES OF REINSTATEMENT AND DEFAULT INTEREST. If the Reinstatement Conditions are complied with as set forth in Paragraph 2 above by the Reinstatement Date, the difference between (1) the amount of interest at the Default Rate which has accrued to the Reinstatement Date and (2) the amount of interest at nine and three-quarters percent (9.75%) per annum which has accrued to the Reinstatement Date (such difference being hereinafter referred to as the "Default Interest Accrual") and the late charges which have accrued to the Reinstatement Date shall continue to be evidenced by the Note as amended hereby and secured by the Mortgage as amended hereby and other Loan Documents as amended hereby and the amount of the Default Interest Accrual and the amount of late charges shall be immediately due and payable, without notice to Mortgagor, Beneficiary or Guarantor should any default occur under the Note, as amended hereby or should the right to foreclose the Mortgage otherwise accrue to the legal holder of the Note. In the event that the principal sum evidenced by the Note, as amended hereby, together with accrued interest thereon is repaid in accordance with the terms and provisions of the Note, as amended hereby and provided that default shall not occur under the Note as amended hereby and provided that the right to foreclose the Mortgage as amended hereby shall not otherwise accrue to the legal holder of the Note, the amount of the Default Interest Accrual and said late charges shall be deemed forgiven and need not thereafter be paid.

5. MISCELLANEOUS.

(a) Mortgagor, Beneficiary and Guarantor hereby acknowledge that:

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(i) Mortgagor, Beneficiary and Guarantor have no defense, off-set or counterclaim with respect to the payment of any sums owed to Mortgagee, or with respect to any covenant in the Note, Mortgage, Guaranty or Other Loan Documents;

(ii) Mortgagee, on as of the date hereof, has fully performed all obligations to Mortgagor, Beneficiary and Guarantor which it may have had or has on and as of the date hereof; and

(iii) Other than as expressly set forth herein, by entering into this Agreement, Mortgagee does not waive any condition or obligation in the Note, Mortgage, Guaranty or Other Loan Documents.

(b) Except as expressly modified hereby, the Note, Guaranty, Mortgage and Other Loan Documents shall remain unmodified and in full force and effect.

(c) This SECOND MODIFICATION AGREEMENT may be executed and acknowledged in any number of counterparts by any of the parties hereto and the signature and acknowledgment pages of such executed counterparts may be collated by counsel for the Mortgagee. All of such executed counterparts, including collated signature and acknowledgment pages, shall for all purposes be deemed to be originals and all such counterparts, taken together, shall constitute but one and the same Agreement.

(d) Anything herein to the contrary notwithstanding, the parties hereto expressly understand and agree that any representations, covenants, undertakings, warranties and agreements herein made on the part of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid, while in form purporting to be the representations, covenants, warranties, undertakings and agreements of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO as Trustee as aforesaid, are nevertheless each and every one of them, not made by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally or for the purpose or with the intention of binding AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally, but are made by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO solely in the exercise of the powers conferred upon and vested in it as Trustee under the Trust Agreement aforesaid; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO personally on account of this instrument or on account of any representation, covenant, undertaking, warranty or agreement of the Trustee in this instrument contained, either express or implied, all such personal liability, if any, being expressly waived and released by every person now or hereafter claiming any right or security hereunder.

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IN WITNESS WHEREOF, the undersigned have executed this MODIFICATION AGREEMENT as of the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid

By: [Signature]  
Its: [Signature]

ATTEST:

By: [Signature]  
Its: [Signature]

SAMUEL MILLER & CO., an Illinois corporation

By: [Signature]  
Its: [Signature]

ATTEST:

By: [Signature]  
Its: [Signature]

NORTHBROOK OFFICE INVESTORS, an Illinois general partnership

By: [Signature]  
Its: [Signature]

KANSAS CITY LIFE INSURANCE COMPANY, a Missouri corporation

By: [Signature]  
Its: [Signature]

ATTEST:

By: [Signature]  
Its: [Signature]

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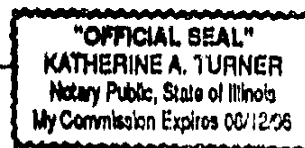
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, KATHERINE A. TURNER, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Philip Miller, personally known to me to be the \_\_\_\_\_ President of **SAMUEL MILLER & CO.**, a corporation of the State of Illinois, and Carl S. Miller, personally known to me to be the (Assistant) Secretary of said Corporation, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such \_\_\_\_\_ President and (Assistant) Secretary, they signed and delivered the said Instrument of writing as \_\_\_\_\_ President and (Assistant) Secretary of said Corporation and caused the corporate seal of said Corporation to be thereunto affixed, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18<sup>th</sup> day of May, A.D. 1994.

Katherine A. Turner  
Notary Public

My Commission expires: June 12, 1996



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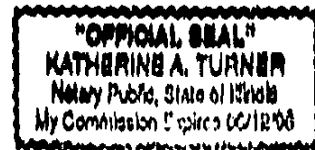
STATE OF ILLINOIS )  
COUNTY OF COOK ) SS.

I, KATHERINE A. TURNER, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Philip [unclear], personally known to me to be the \_\_\_\_\_ partners of **NORTHBROOK OFFICE INVESTORS**, an Illinois general partnership, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such \_\_\_\_\_ partners, they signed and delivered the said instrument of writing as \_\_\_\_\_ partners of said partnership and executed same as their free and voluntary act and deed of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 24 day of May, A.D. 1994.

Katherine A. Turner  
Notary Public

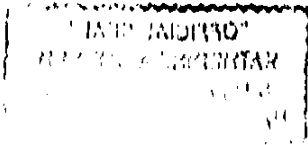
My Commission expires: June 12, 1996



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STATE OF Missouri )  
COUNTY OF Jackson ) SS.

I, Fred A. Tilling, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert L. Lane, personally known to me to be the Dr. Lane President of KANSAS CITY LIFE INSURANCE COMPANY, a corporation of the State of Missouri, and Gene Sheehy, personally known to me to be the (Assistant) Secretary of said Corporation, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such Dr. Lane President and (Assistant) Secretary, they signed and delivered the said Instrument of writing as Dr. Lane President and (Assistant) Secretary of said Corporation and caused the corporate seal of said Corporation to be thereunto affixed, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1st day of June A.D. 1994.

Fred A. Tilling  
Notary Public

FRED A. TILLING  
Notary Public - State of Missouri  
Commissioned in Jackson County  
My Commission Expires January 18, 1997

My Commission expires: \_\_\_\_\_

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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 9 IN NORTHBROOK COURT OFFICE PLAZA, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

P.L.M. 64-02-101-018

Property address:  
125 Keene Dr.  
Northbrook, IL

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