

# UNOFFICIAL COPY

95871671

THIS INSTRUMENT WAS PREPARED BY  
AND UPON RECORDING SHOULD  
BE RETURNED TO:

Reed W. Ramsay, Esq.  
WINSTON & STRAWN  
35 West Wacker Drive  
Chicago, Illinois 60601



DEPT-01 RECORDING 137.50  
155555 TRAN 3511 12/15/95 11:02:00  
#8842 \* P.U. \* - 95 - 871671  
COOK COUNTY RECORDER  
DEPT-10 PENALTY 134.00

F	37
P	34
T	11
I	Buy

## FOURTH AMENDMENT TO MORTGAGE NOTE, MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT, AND OTHER LOAN DOCUMENTS

THIS FOURTH AMENDMENT TO MORTGAGE NOTE, MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT, AND OTHER LOAN DOCUMENTS ("Amendment") dated as of November 30, 1995 is entered into by and among American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust Agreement dated November 25, 1987 and known as Trust No. 104117-00 ("Trustee"), whose address is 33 North LaSalle Street, Chicago, Illinois 60690, 560 Hicks Road Limited Partnership, an Illinois limited partnership ("Beneficiary") (Beneficiary and Trustee are individually and collectively referred to as "Borrower"), and Bank of America Illinois (formerly known as Continental Bank N.A.), an Illinois banking corporation, whose address is 231 South LaSalle Street, Chicago, Illinois 60697 ("Lender"). For purposes of this Amendment, all terms capitalized but not specifically defined herein which are capitalized and defined in the Loan Documents (hereinafter defined), shall have the same respective meanings for purposes hereof as in the Loan Documents.

### RECITALS

A. Real Estate. Borrower is the owner and holder of fee simple title in and to all of the land (the "Land") described on Exhibit A attached hereto, all buildings and other improvements and fixtures situated thereon, and certain equipment and personal property located thereon or thereat. (All the foregoing, together with certain other property described or defined as such in the Loan Documents is referred to collectively herein as the "Premises".)

B. Loan. Lender made a loan to Borrower in the principal amount of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00), which loan was evidenced by a certain Mortgage Note executed by Trustee dated December 1, 1987, and payable to the order of Lender, with interest thereon at the rate set forth therein, in such amounts and on such dates as are set forth in the Note, subject to acceleration as provided for therein as amended by a First Amendment to Mortgage Note, Mortgage, Assignment of Leases and Rents and Security Agreement and Other Loan Documents, dated as of November 17, 1992 and recorded on November 24, 1992 with the Cook County Recorder of Deeds as Document No. 92880369 (the "First Amendment"), a Second Amendment to Mortgage Note, Mortgage, Assignment of Leases and Rents and Security Agreement and Other Loan Documents, dated as of November 29, 1993 and recorded on December 7, 1993 with the Cook County Recorder of Deeds as Document No. 03064613 (the "Second Amendment"), and a Third Amendment to Mortgage Note, Mortgage, Assignment of Leases and Rents and Security Agreement and Other Loan Documents, dated as of November 29, 1994 and recorded on December 22, 1994 with the Cook County Recorder of Deeds as Document No. 04065591 (the "Third Amendment") (said Mortgage Note, as so amended, hereinafter referred to as the "Note").

C. Other Loan Documents. Repayment obligation with respect to said loan and Note was evidenced and secured by certain loan documents and instruments including: (a) Mortgage, Assignment of Leases and Rents and Security Agreement dated as of December 1, 1987 from Trustee to Lender, and recorded on December 8, 1987 with the Cook County Recorder of Deeds as Document No. 87648437 and joined in by Beneficiary, granting a lien on real estate described

95871671

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

therein, as amended by the First Amendment, the Second Amendment and the Third Amendment (herein, as so amended, referred to as the "Mortgage"); (b) Security Agreement dated as of December 1, 1987 from Trustee to Lender; (c) Collateral Assignment of Beneficial Interest and Security Agreement dated as of December 1, 1987 from Beneficiary to Lender; (d) certain Uniform Commercial Code Financing Statements; and (e) all other agreements, and other documents furnished by Trustee, Beneficiary, or any third party that reference and are intended to secure said loan and Note. Such loan documents, together with the Note, are collectively referred to hereinafter as the "Loan Documents".

D. Extension. The Borrower and the Lender are entering into, executing, delivering and recording this Amendment to (among other things) extend the maturity date of the Note to November 30, 1999.

NOW THEREFORE, in consideration of the foregoing RECITALS and the mutual promises and undertakings set out herein, and in consideration of the execution and delivery of this Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, Borrower and Lender agree as follows:

1. Amendment to the Note. The Note is hereby amended as follows:

- (a) All references in the Note to "November 30, 1995" or to the "Maturity Date" and similar terms and references to the maturity date of the Loan shall mean November 30, 1999.
- (b) The paragraph numbered 1.1 on the first page of the Note is deleted in its entirety and the following paragraph 1.1 is inserted in lieu thereof:

1.1. Installments of Principal and Interest. Prior to the Maturity Date or the Loan's otherwise becoming due, interest shall accrue on the amount of the principal balance outstanding under this Note at the Interest Rate (as defined below). Principal and interest shall be paid in forty-seven (47) equal, subsequent installments of SEVENTEEN THOUSAND THREE HUNDRED FIFTY EIGHT AND 45/100 DOLLARS (\$17,358.45) each, commencing December 31, 1995 and continuing on the last day of each successive month until the Maturity Date, at which time the entire outstanding Indebtedness (as defined below) shall be due and payable in full. All installments of interest and principal shall be applied first to interest at the rate herein specified to the date of receipt of payment and the balance shall be applied on account of principal. Interest shall be calculated on the basis of the actual number of days elapsed during the period for which interest is being charged, predicated on a 360-day year.

As used herein, the term "Interest Rate" shall mean that for all periods after and including November 30, 1995, interest shall accrue on the principal balance outstanding under this Note from time to time, at a rate equal to 7.35% per annum.

- (c) Borrower may from time to time, upon at least thirty (30) days' prior written notice, prepay the principal of the Loan in whole or in part together with any applicable Prepayment Fee; provided, however, that any partial payment of principal shall be in a minimum amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) and in integral multiples of ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) in excess thereof and shall be applied to the unpaid installments of the Loan in inverse order of their

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

maturities. Any prepayment of the principal Loan shall include interest to the date of prepayment on the principal amount being prepaid.

As used herein the term Prepayment Fee means the excess, if any, of (a) the present value on the Prepayment Date of the Scheduled Payments after the Prepayment Date less (b) the sum of the outstanding principal being prepaid and the interest accrued thereon to the Prepayment Date since the immediately preceding interest payment date and not due on or before the Prepayment Date. The present value shall be calculated by discounting to the Prepayment Date such Scheduled Payments at the Alternative Fixed Rate relating to the Weighted Average Maturity of Scheduled Principal Payments on the basis of a year consisting of 360 days for actual days elapsed.

"Alternative Fixed Rate" means the per annum Treasury Offered Rate.

"Prepayment Date" means the date on which a prepayment is to be made.

"Scheduled Payments" means the scheduled principal payments (or any portion thereof) being prepaid and the scheduled interest payments related thereto.

"Scheduled Principal Payments" means the scheduled principal payments (or any portion thereof) being prepaid.

"Treasury Offered Rate" for the Weighted Average Maturity means the per annum offered rate (as adjusted pursuant to the terms hereof) determined by the Lender by reference to the then most recently auctioned U.S. Government Treasury Securities which correspond in maturity to the Weighted Average Maturity, or as interpolated between or among the most recently auctioned U.S. Government Treasury Securities closest in maturities occurring before and after the Weighted Average Maturity, as published on page 5 of the Telerate Screen (or any successor to such page) as of 10:00 a.m., Chicago time, on the Prepayment Date (or a date as near as practicable thereto). If such rate cannot be determined by the Lender on such date by reference to the Telerate Screen, such rate shall be determined by the Lender on the basis of the arithmetic mean of the offered rates quoted by the Reference Dealers as of 10:00 a.m., Chicago time, on such date for U.S. Government Treasury Securities with maturities determined as aforesaid. If such rate cannot be determined either by reference to the Telerate Screen or on the basis of the offered rates of the Reference Dealers, such rate shall be determined by the Lender in good faith from such sources as shall then be available for the purpose. Such rate shall be adjusted to provide for a yield equal to the yield on an instrument paying interest on the same dates as the interest payment dates (or as near as practicable thereto).

"Weighted Average Maturity" of a group of Scheduled Principal Payments means the period of time (expressed as a number of days) from the Prepayment Date which is equal to the quotient of:

- (a) the sum of the products of:
  - (i) the amount of each principal payment in such group, and

95871671

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

- (ii) the number of days between the Prepayment Date of such group and scheduled date of each such principal payment,

divided by:

- (b) the aggregate principal amount of such group.

2. Amendment to the Mortgage. The Mortgage is hereby amended so that:

- (b) all references to "November 30, 1995" or the "Maturity Date" and similar terms and references to the maturity date of the Loan shall mean November 30, 1999.

3. Conditions Precedent to Effectiveness of Amendment. The effectiveness of this Amendment is subject to the condition precedent that concurrently with Borrower's execution and delivery of this Amendment, (i) Borrower shall agree to pay to Lender all of Lender's reasonable attorneys' fees, title insurance fees, and other out-of-pocket expenses incurred in connection with this Amendment; and (ii) Borrower shall pay to Lender the appropriate sum in order to establish the current outstanding balance of the Loan at SEVEN HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$720,000.00).

4. Amendment Pertaining to all Loan Documents. Except as and to the extent amended by this Amendment, the Loan Documents and all terms, conditions and provisions thereof shall be in all respects unmodified and unchanged and are hereby reaffirmed, ratified and confirmed and shall remain in full force and effect. From and after the Effective Date hereof (as defined hereinafter), all references in the Loan Documents to "hereunder", "hereof", or words of like import, shall mean the Loan Documents as amended and modified hereby except where the context otherwise requires.

5. Effective Date. Subject to the provisions of Paragraph 3 of this Amendment, upon execution and delivery of this Amendment by all the parties hereto, this Amendment shall be deemed to be effective as of the earlier of (a) the date of such execution and delivery and (b) November 30, 1995.

6. Reaffirmation. Borrower hereby repeats, reaffirms and remakes all representations, warranties, covenants and agreements contained in the Note, Mortgage, and other Loan Documents, each and all of which shall be applicable to the Indebtedness secured by the Mortgage, Loan Agreement and the other Loan Documents as amended hereby and to all of the properties, rights and privileges subject to the lien thereof as amended hereby.

7. Full Force and Effect. All of the provisions, rights, powers and remedies contained in the Note, Mortgage, and other Loan Documents shall stand and remain unchanged and in full force and effect except to the extent specifically amended hereby and shall be applicable to all of the properties, rights and privileges subject to the lien of the Mortgage and the other Loan Documents as amended hereby.

8. Successors and Assigns. Whenever Trustee, Beneficiary or Lender is named or referred to herein, heirs, legal representatives, successors and assigns of such person or entity shall be included and all of the covenants and agreements contained herein shall bind the heirs, legal representative, successors and assigns of Trustee and Beneficiary, including a subsequent owner of all or any part of the Premises, and inure to the benefit of the successors and assigns of Lender. This Paragraph 8 shall not be construed to permit an assignment, transfer, conveyance, encumbrance or other disposition otherwise prohibited by the Note, Mortgage and the other Loan Documents as amended hereby.

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

9. References. No reference to this Amendment need be made in any instrument or document at any time referring to the Note, Mortgage or the other Loan Documents as amended hereby and any reference in any such instrument or document to the Note, Mortgage or the other Loan Documents shall be deemed to be a reference to the Note, Mortgage and the other Loan Documents as amended hereby.

10. Authorization. Each person or entity executing this Amendment on behalf of Trustee and Beneficiary represents and warrants to Lender that such execution has been duly authorized by all necessary corporate, partnership or other action on behalf of Trustee and Beneficiary.

11. Governing Law. This Amendment shall be construed in accordance with and governed by the internal laws of the State of Illinois.

12. Representations. Trustee represents and Beneficiary represents and warrants that (i) no default or event of default currently exists under the Note, the Mortgage or the other Loan Documents; (ii) no condition exists which with the giving of notice or the passage of time, or both, would result in such a default or event of default; (iii) each of the foregoing recitals is correct; and (iv) there has been no material adverse change in the financial condition of Borrower from that shown in the financial statements most recently furnished to Lender in connection with the Loan.

13. Counterparts. This Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.

14. Land Trustee Exculpation. This Amendment is executed by American National Bank and Trust Company of Chicago, not personally but as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee (and said trustee in its personal individual capacity hereby warrants that it as trustee possesses full power and authority to execute this instrument), and it is expressly understood and agreed by every person now or hereafter claiming any right or security hereunder that nothing contained herein shall be construed as creating any liability on said trustee in its individual capacity all such liability, if any, being expressly waived.

(Signature page follows)

95871671

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned have executed and delivered this Amendment in Chicago, Illinois on the day and year first above written.

**TRUSTEE:**

THE AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, not personally but solely as trustee as aforesaid

**ATTEST:**

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

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

**BENEFICIARY:**

560 HICKS ROAD LIMITED PARTNERSHIP, an Illinois limited partnership

**ATTEST:**

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

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

**LENDER:**

BANK OF AMERICA ILLINOIS (formerly known as Continental Bank N.A.), an Illinois banking corporation

**ATTEST:**

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

By: \_\_\_\_\_  
Title: Paul A. O'Mara  
Senior Vice President

95871671

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that personally known to be the same persons whose names are respectively, as \_\_\_\_\_ and \_\_\_\_\_ of the American National Bank and Trust Company of Chicago, a national banking association, not personally but solely as trustee under Trust Agreement dated November 25, 1987, and known as Trust No. 104117-00, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged to me that they, being thereunto duly authorized, signed sealed with the corporate seal of said association and delivered said instrument as the free and voluntary act of said association as Trustee aforesaid, and as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1995.

DEC 14 1995

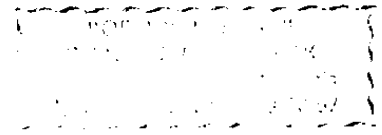
\_\_\_\_\_  
Notary Public

Commission expires \_\_\_\_\_, 19\_\_

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ personally known to me to be the Assistant Vice President of BANK OF AMERICA ILLINOIS, an Illinois banking corporation, and personally known to me to be the same person whose names is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Assistant Vice President he signed and delivered the said instrument as Assistant Vice President of said corporation, pursuant to authority given by the Board of Directors of said corporation as his 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 \_\_\_\_\_ day of \_\_\_\_\_, 1995.



\_\_\_\_\_  
Notary Public

Commission expires 9/30, 1997

95871671

UNOFFICIAL COPY

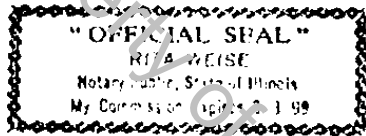
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Rita Weise, a Notary Public in and for the County of Will and State of Illinois aforesaid, DO HEREBY CERTIFY that Rita Weise personally known to be the general partner of 560 Hicks Road Limited Partnership, and 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 severally acknowledged that as such general partner he signed and delivered the said instrument as general partner of said limited partnership pursuant to authority, as his free and voluntary act, and as the free and voluntary act and deed of said limited partnership, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 14<sup>th</sup> day of December, 1995.



Rita Weise  
Notary Public

Commission expires 3/3, 1999

Property of Cook County Clerk's Office

95871671



UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

THE SOUTH 245 FEET OF LOT 6 IN KLEFSTAD'S PALATINE INDUSTRIAL PARK,  
BEING A SUBDIVISION OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST  
1/4 OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD  
PRINCIPAL MERIDIAN LYING WEST OF THE RIGHT OF WAY OF STATE ROUTE 53  
(HICKS ROAD) IN COOK COUNTY, ILLINOIS

Property address commonly known as:

560 Hicks Road  
Palatine, Illinois

Permanent Tax No:

02-23-313-023

Property of Cook County Clerk's Office

95871671

UNOFFICIAL COPY

Property of Cook County Clerk's Office

92577