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 . COOK COUNTY RECORDER

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AMENDMENT OF NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS

THIS AMENDMENT OF NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS ("Amendment") is made as of October 17, 1996, and effective as of September, 1, 1995 by and among **AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO**, not personally, but solely as Trustee under a certain Trust Agreement dated February 7, 1984, and known as Trust No. 60276 (the "Trust"), **ROMA JEAN PARKWAY PARTNERSHIP**, an Illinois limited partnership and the sole beneficiary of the Trust (the "Beneficiary"), and **WILLIAM A. LEDERER** (the "Principal") (the Trust and the Beneficiary are sometimes hereinafter referred to collectively as the "Borrower," and the Trust, the Beneficiary and the Principal are sometimes hereinafter referred to collectively as the "Obligors") and **PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY**, a New York corporation, successor by merger to Home Life Insurance Company, a New York corporation ("Lender").

RECITALS:

A. Lender has made a loan to Borrower in the original principal amount of \$1,070,000 (the "Loan"). The Loan is evidenced by a certain Secured Promissory Note

This instrument was prepared by and, after recording, return to:

Schwartz, Cooper, Greenberger & Krauss,
 Chartered
 180 North LaSalle Street
 Suite 2700
 Chicago, Illinois 60601
 Attn: Martin I. Behn

Permanent Real Estate Tax Index Nos.:

06-26-366-003-0000
 06-26-366-004-0000

Common Address:

302 Roma Jean Parkway
 Streamwood, Illinois

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BOX 333-CT1

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dated May 15, 1985 made by the Trust to Lender (the "Note") and secured by various documents and instruments (such documents and instruments, together with the Note and all other documents executed or delivered in connection with the Loan, including this Amendment, as the same may be amended from time to time, are hereinafter referred to collectively as the "Loan Documents") including, without limitation, the following:

(1) Mortgage, Assignment of Rents, Security Agreement and Financing Statement dated May 15, 1985 made by Borrower in favor of Lender recorded as Document No. 85029727 in the Cook County, Illinois Recorder of Deeds' Office (the "Mortgage"), which Mortgage encumbers the real property legally described on Exhibit A attached hereto and commonly known as 302 Roma Jean Parkway in Streamwood, Illinois (the "Property"); and

(2) Assignment of Lessor's Interest in Leases dated May 15, 1985 made by Borrower in favor of Lender recorded as Document No. 85029728 in the Cook County, Illinois Recorder of Deeds' Office (the "Assignment of Rents").

B. The maturity date of the Loan (the "Maturity Date") was originally June 1, 1995, but was extended to September 1, 1995, pursuant to a letter agreement dated May 15, 1995, and was further extended to January 1, 1996, pursuant to letter agreement dated August 25, 1995.

C. As of the effective date of this Amendment and prior to the disbursement described in Section 3 below, the principal balance of the Loan is equal to the amount shown in Section A of Exhibit B attached hereto. Following such disbursement, the principal balance of the Loan shall be \$1,255,000, as shown in Section B of Exhibit B attached hereto.

D. Borrower is in default under the Loan Documents: (1) for failing to pay the principal balance of the Loan and interest thereon in the time and manner required under the Loan Documents, (2) for failing to pay real estate taxes assessed against the property encumbered by the Mortgage (the "Property"), and (3) for those additional matters described in Exhibit E attached hereto (all such defaults being hereinafter referred to collectively as the "Existing Defaults"). Lender has filed a foreclosure action against the Trust, Beneficiary, the Principal, the other current general partners of the Beneficiary and certain additional parties, as Case No. 95 C 6697 in the United States District Court, Northern District of Illinois, Eastern Division (the "Foreclosure Action").

E. The Principal is a partner in Beneficiary and the sole shareholder of Beneficiary's corporate general partner, Roma Jean Corp.

F. The Trust, the Beneficiary and the Principal have requested Lender to (1) extend the Maturity Date of the Loan to October 31, 2001 (2) waive the Existing Defaults, and (3) amend certain other provisions of the Loan Documents in the manner more fully described herein, and Lender is willing to grant such requests, subject to the terms, conditions and provisions set forth herein.

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NOW, THEREFORE, in order to induce Lender to extend the Maturity Date and waive the Existing Defaults and modify certain other provisions of the Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Trust, the Beneficiary, the Principal and Lender hereby agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated herein and made a part hereof.
2. **Extension of Maturity Date.** The Maturity Date is hereby extended to October 31, 2001.
3. **Principal Balance.** Lender has agreed to increase the principal balance of the Loan to \$1,255,000, subject to the terms and conditions of this Amendment. The additional proceeds of the Loan shall be disbursed to pay the amounts described on Exhibit B attached hereto. All references in the Note, the Mortgage and the other Loan Documents to the number "\$1,070,000" and the words "One Million Seventy Thousand and No/100 Dollars" are hereby deleted and the number "\$1,255,000" and the words "One Million Two Hundred Fifty-Five Thousand and No/100 Dollars" are inserted in lieu thereof.
4. **Interest Rate; Default Rate.** The Obligors acknowledge and agree that from and after September 1, 1995, the interest on the principal balance of the Loan outstanding from time to time shall equal 8.00% per annum; provided, however, that interest on the outstanding principal balance of the Loan shall accrue at the rate of 14% per annum from and after the date on which said principal balance is due and payable in full (pursuant to the provisions of the Loan Documents, as modified by this Amendment) whether by acceleration or otherwise. All references in the Note, the Mortgage and the other Loan Documents to the number "12.75%" and the words "twelve and three quarters percent" are hereby deleted and the number "8.00%" and the words "eight percent" are inserted in lieu thereof. Additionally, all references in the Note to the number "18%" are hereby deleted and the number "14%" is inserted in lieu thereof.
5. **Repayment of Loan.** Notwithstanding anything to the contrary contained in the Note or any of the other Loan Documents, from and after the date on which the transactions contemplated by this Amendment are consummated (the "Closing Date") principal and interest payments on the Loan (if not sooner declared to be due in accordance with the provisions of the Loan Documents) shall be made as follows:
 - (a) Accrued and unpaid interest from September 1, 1995, through and including the last day of the month in which the Closing Date occurs (i.e. October 31, 1996) shall be due and payable on the Closing Date in the amount or amounts shown in Exhibit B attached hereto;
 - (b) On the first day of the second month following the month in which the Closing Date occurs (i.e. December 1, 1996), and on the first day of each month

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thereafter through and including October 1, 2001, equal installments of principal and interest in the amount of \$10,497.32 each shall be due and payable; and

(c) The remaining unpaid principal balance of the Loan (together with all accrued and unpaid interest thereon and any other amounts owing to Lender under the Loan Documents), if not sooner declared to be due in accordance with the terms and conditions of the Loan Documents, shall be due and payable in full on the Maturity Date, as extended pursuant to this Amendment.

The Trust, the Beneficiary and the Principal hereby acknowledge and agree that the failure to make such payments when due shall be a Default under the Note and the other Loan Documents and Lender shall have the right to exercise all of its rights and remedies under the Loan Documents, at law or in equity.

6. **Additional Amendments of Note (concerning right to prepay).** The thirteenth line of the first sentence of Paragraph A on the first page of the Note is hereby amended by deleting the number "60" and inserting the number "30" in lieu thereof. Additionally, (a) the clause "subject to the requirements and conditions set out in the following sentence," set forth in the second and third lines of said first sentence of Paragraph A is hereby deleted and (b) the clause "as a consequence of which the provisions of the next four succeeding paragraphs shall, at the option of the holder hereof, become applicable" at the end of such sentence, together with the balance of Paragraph A after such clause, are hereby deleted.

7. **Additional Amendments of Mortgage.** The Mortgage is hereby amended in the following manner:

(a) The number "\$214,329" contained in clause (a) of Paragraph 2A is hereby deleted and the words "the total amount of rent under all leases" is inserted in lieu thereof.

(b) Paragraph 2D is hereby deleted in its entirety, together with all references to said Paragraph contained in the Mortgage.

(c) Paragraphs 4 A through D, both inclusive, are hereby deleted in their entirety and the following is substituted therefor:

"4. That the mortgagor shall not cause or permit to occur, directly or indirectly, the sale, assignment, conveyance, encumbrance, lease or other transfer of all or any part of or interest in (a) the Collateral, (b) the beneficial interest in the Trust, (c) any general partnership interest or any of William Lederer's limited partnership interest in the Partnership or (d) any stock or voting rights in the Partnership's corporate general partner (Roma Jean Corp.), which is and shall remain the sole general partner of Beneficiary."

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(d) The word "reinstatement" is hereby inserted after the word "redemption" in the fifth line of Paragraph 33.

8. **Amendment of Assignment of Rents.** The Assignment of Rents is hereby amended in the following manner:

(a) Clause (4) of the first recital on page 1 is hereby amended by inserting the words "including, without limitation, any such amounts that are collected by Assignor and maintained in any operating or other accounts of Assignor or any affiliate of Assignor or paid or disbursed by Assignor in contravention of the provisions of this Assignment" after the word "Premises".

(b) The following is hereby inserted after Paragraph 14:

"15. Immediately upon the occurrence of a Default, all of Assignor's rights in or to the Rents shall, to the maximum extent permitted by law, immediately terminate and all of the Rents (wherever located and in whoever's possession or control) shall be immediately paid over to Assignee. **ALL THIRD PARTIES ARE HEREBY EXPRESSLY PUT ON NOTICE OF THE PROVISIONS OF THE PREVIOUS SENTENCE AND SHALL BE REQUIRED TO TURN OVER TO ASSIGNEE, UPON DEMAND, ALL MONIES RECEIVED WHICH CONSTITUTE RENTS HELD BY OR PAID TO ANY THIRD PARTY AFTER THE OCCURRENCE OF A DEFAULT, EXCEPTING ONLY RENTS PAID TO THIRD PARTIES NOT AFFILIATED WITH ASSIGNOR IN EXCHANGE FOR SERVICES RENDERED OR GOODS SOLD AND APPROVED BY ASSIGNEE WITH RESPECT TO THE OPERATION OF THE PREMISES IN THE ORDINARY COURSE OF BUSINESS.**

Notwithstanding the foregoing or any other provisions of this Assignment to the contrary, the provisions hereof are not intended to limit in any way any provisions of the Mortgage or any of the other Loan Documents requiring the deposit of the Rents into a lock-box or other similar arrangement."

9. **Delivery of Financial Statements.** Notwithstanding anything to the contrary contained in the Mortgage or the other Loan Documents, Borrower hereby covenants to Lender that it shall deliver the following to Lender:

(a) As soon as available and in any event within 90 days after the close of each fiscal year, a copy of the compiled statements of income and cash flow for such year for the Property, setting forth in each case in comparative form the corresponding figures for the preceding year, all in detail reasonably satisfactory to Lender.

(b) As soon as available and in any event within 30 days after the end of each month, Borrower shall furnish to Lender a copy of (i) an unaudited statement

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of income and cash flow for such month and for the period from the beginning of the then current fiscal year to the end of such month and (ii) a rent roll for the Property, all in reasonable detail and containing such information as Lender may require and certified by the Principal.

10. **Lockbox Deposits; Payment of Expenses.** Concurrently with the execution and delivery of this Amendment, (i) Borrower shall pay the sum of \$160,000 toward the amounts described in Exhibit C, including the deposit into the Lockbox Account described in that certain Security Agreement and Lockbox Agreement of even date herewith (the "Lockbox Agreement") among the Trust, Beneficiary, Lender and Julian Toft & Downey (the "Service"), and (ii) Borrower and Lender shall cause the Property's receiver, Axiom Realty, to pay the balance of the funds held by such receiver toward such amounts described in Exhibit C.

11. **Tax Refunds.** Borrower hereby acknowledges and covenants to Lender that any and all real estate tax refunds to which Borrower is now or may hereafter become entitled have been pledged to Lender as additional security for the payment and performance of Borrower's obligations under the Loan Documents (including, without limitation, the repayment of the Loan) and that Borrower shall immediately deposit any such refunds into the Lockbox Account in accordance with the provisions of the Lockbox Agreement. Borrower further covenants to Lender that it shall diligently and in good faith by appropriate proceedings seek to obtain any and all such refunds in a timely manner and shall promptly notify Lender of any changes in the status of any such proceedings or other matters pertaining to such refunds.

12. **Capital Improvements.** Borrower hereby covenants to Lender that the capital improvements described on Exhibit D attached hereto shall be completed in a manner reasonably satisfactory to Lender on or before the dates set forth in Exhibit D.

13. **Junior Indebtedness Prohibited.** Borrower hereby represents and warrants to Lender that upon the consummation of the transactions contemplated by this Amendment, no indebtedness for borrowed money (other than the Loan) shall be secured by a lien, security interest or mortgage on the Property, the rents or other income derived from the Property or the beneficial interest in the Trust, and Borrower further covenants to Lender that no such lien, security interest or mortgage shall hereafter be granted by Borrower (nor shall Borrower permit any rent or other proceeds earned or derived from the Property to be used to repay any indebtedness except the Loan and permitted operating expenses) without the prior written consent of Lender.

14. **Lender's Right of Possession in Case of Default.** If a Default under the Mortgage or the other Loan Documents has occurred and is continuing, Borrower shall, upon demand of Lender, surrender to Lender possession of the Property. Lender, in its discretion, may, with or without process of law, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts relating thereto, and may exclude Borrower and its employees, agents

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or servants therefrom, and Lender may then hold, operate, manage and control the Property, either personally or by its agents. Lender shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Property, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Lender shall have full power to:

- (a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same;
- (b) elect to disaffirm any lease or sublease which is then subordinate to the lien of the Mortgage;
- (c) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness secured hereby and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (d) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property as Lender deems are necessary;
- (e) insure and reinsure the Property and all risks incidental to Lender's possession, operation and management thereof; and
- (f) receive all of such avails, rents, issues and profits.

15. **Liens of Property Manager and Broker.** Any property management or broker agreement for the Property entered into hereafter with a property manager or real estate broker shall contain a "no lien" provision whereby such property manager or broker waives and releases any and all lien rights that such property manager or broker or anyone claiming by, through or under such property manager or broker may have and shall provide that the Lender may terminate such agreement at any time after the occurrence of a default under any of the Loan Documents. Such property management or broker agreement or a short form thereof, at the Lender's request, may be recorded with the Recorder of Deeds of the county where the Property is located. In addition, if a property management or broker agreement in existence as of the date hereof does not contain a "no lien" provision, the Obligors shall cause the property manager or broker under such agreement to enter into a subordination of the management or broker agreement with the Lender, in recordable form,

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whereby such property manager or broker subordinates present and future lien rights and those of any party claiming by, through or under such property manager or broker to the lien of the Mortgage.

16. Compliance with Illinois Mortgage Foreclosure Law.

(a) In the event that any provision in the Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (herein called the "Act"), the provisions of the Act shall take precedence over the provisions of the Mortgage, but shall not invalidate or render unenforceable any other provision of the Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of the Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of the Mortgage any powers, rights or remedies prior to, upon or following the occurrence of a Default under the Mortgage or the other Loan Documents which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in the Mortgage, shall be added to the indebtedness secured by the Mortgage and/or by the judgment of foreclosure.

17. Notices. Notwithstanding anything to the contrary contained in the Mortgage, the Assignment of Rents or any of the other Loan Documents, all notices, communications and waivers under this Amendment and all of the Loan Documents shall be in writing and shall be (i) delivered in person or (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Lender: Phoenix Home Life Mutual Insurance Company
c/o Phoenix Realty
38 Prospect Street
Hartford, Connecticut 06115-0479
Attn: Mr. John Felletter

With copy to: Schwartz, Cooper, Greenberger & Krauss, Chartered
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
Attn: David Berzon, Esq.

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To any Obligor: Roma Jean Parkway Partnership
c/o Korman-Lederer Management
3100 Dundee Road, Suite 116
Northbrook, Illinois 60062
Attn: Mr. William A. Lederer

With copy to: Saitlin, Patzik, Frank & Samotny Ltd.
150 South Wacker Drive, Suite 900
Chicago, Illinois 60606
Attn: Alan Patzik, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other parties hereto. All notices sent pursuant to the terms of this Section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight express carrier, then on the next business day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third business day following the day sent or when actually received.

18. **Waiver of Existing Defaults.** Lender hereby waives the Existing Defaults, subject to the terms and conditions described in Exhibit E attached hereto. The execution and delivery of this Amendment does not constitute a waiver by Lender of any Default other than the Existing Defaults, whether such Default now exists or hereafter occurs, and the waiver of the Existing Defaults does not constitute a waiver of any duty, obligation or liability under the Loan Documents.

19. **Intentionally Omitted.**

20. **References.** All references to the Note, the Mortgage and the other Loan Documents contained in any of the Loan Documents shall be deemed to refer to each of such documents as further amended by this Amendment.

21. **Payment of Additional Loan Expenses.** The Obligors hereby agree to pay all of Lender's reasonable attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Amendment, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees referred to in, necessitated by or otherwise relating to this Amendment (collectively, the "Additional Loan Expenses").

22. **Automatic Stay; Foreclosure.**

(a) If a petition under any Section, Chapter or provision of the United States Bankruptcy Code (the "Code") or similar law or statute is filed by or against Beneficiary or its general partner, then the Obligors hereby acknowledge and agree that (i) they shall not contest, and they shall consent to, the relief requested in any motion or application of

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Lender made in any court of competent jurisdiction seeking modification or termination of any automatic stay or other injunction against Lender resulting from such filing, and (ii) they shall execute any order or other document necessary to effectuate such modification or termination. If at any time Beneficiary or its general partner seeks relief under the Code, including, without limitation, the filing of a petition under Chapter 7 or 11 thereof, such party shall be deemed to have taken such action in bad faith. Furthermore, if such action is taken against Beneficiary or its general partner by a third party, Beneficiary and its general partner shall take all action necessary to have (A) the petition filed by such third party dismissed, including consenting to the immediate dismissal thereof, and (B) any additional relief requested by such third party denied.

(b) The Obligors acknowledge and agree that if Lender commences a mortgage foreclosure action against the Property, the Obligors (i) shall not contest, and they shall consent to, the relief requested in any motion or application of Lender made in any court of competent jurisdiction requesting the entry of a judgment of foreclosure against the Property in favor of Lender, and (ii) shall execute and deliver to Lender an order or other document pursuant to which they consent to the entry of such judgment of foreclosure, which order or other document shall be in a form sufficient to allow the entry of such judgment. The Obligors further acknowledge and agree that if Default under the Loan Documents has occurred and is continuing, they shall not contest, and they shall consent to, the relief requested in any motion or application of Lender made in any court of competent jurisdiction seeking the appointment of a receiver for the Property.

(c) Lender is specifically relying upon the representations, warranties, covenants and agreements contained in this Section and such representations, warranties, covenants and agreements constitute a material inducement to enter into this Amendment.

23. **Defaults.** Beneficiary represents and warrants and the Trust represents to Lender that, to the best knowledge of such entity, as of the date hereof no Default under the Loan Documents or event or condition which could become a Default under the Loan Documents with the giving of notice or passage of time, or both, exists, except the Existing Defaults. The Beneficiary and the Principal further acknowledge and agree that a Default under the Note and the other Loan Documents shall be deemed to exist upon the occurrence of a breach of any of the representations, warranties or covenants set forth in this Amendment.

24. **No Defenses.** Beneficiary represents and warrants and the Trust represents to Lender there is not any condition, event or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending or threatened affecting the Beneficiary, the Trust or the Property, or which would prevent the Beneficiary or the Trust from complying with or performing its respective obligations under the Note or the other Loan Documents, and no basis for any such matter exists. The Principal represents and warrants to Lender there is not any condition, event or circumstance existing, or any litigation, arbitration, governmental or administrative proceeding, actions, examinations, claims or demands pending or threatened

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against the Principal which would prevent the Principal from complying with or performing his obligations under the Loan Documents, and no basis for any such matter exists.

25. **Authority to Execute Amendment; No Conflict.** Beneficiary and the Principal represents and warrants and the Trust represents to Lender that he or it has full power and authority to execute and deliver this Amendment and to perform his or its respective obligations hereunder. Upon the execution and delivery hereof, this Amendment will be valid, binding and enforceable upon the Obligor in accordance with its terms. Execution and delivery of this Amendment does not and will not contravene, conflict with, violate or constitute a default under any applicable law, rule, regulation, judgment, decree or order or any agreement, indenture or instrument to which any Obligor is a party or is bound.

26. **Ratification of Liability.** Each Obligor hereby ratifies and confirms his or its respective liabilities and obligations, if any, under the Note and the other Loan Documents and the liens and security interests created thereby, and acknowledge that he or it no defenses, claims or set-offs to the enforcement by Lender of their respective obligations and liabilities thereunder.

27. **Amendment Binding.** This Amendment shall be binding on Beneficiary, the Trust, the Principal and their respective heirs, legatees, successors and permitted assigns, and shall inure to the benefit of Lender and its successors and assigns.

28. **Continued Effectiveness.** Except as expressly provided herein, the Note and the other Loan Documents shall remain in full force and effect in accordance with their respective terms, including all provisions benefiting Lender or any Obligor.

29. **Counterparts.** This Amendment may be executed in counterparts, and all said counterparts when taken together shall constitute one and the same Amendment.

30. **Limitations on Liability.**

(a) Notwithstanding anything to the contrary set forth in the Note, the Mortgage or any of the other Loan Documents, but subject to the provisions of subsections (b) and (c) hereof:

(i) Lender shall look solely to the Property, any other property encumbered by the Mortgage or any of the other Loan Documents and the rents and profits therefrom for the satisfaction of the Note or any obligations of Borrower under the Loan Documents;

(ii) Lender shall not seek a personal judgment against any of the Obligor or their affiliates, except to the extent that applicable law requires a judgment against an Obligor or their affiliates in order to foreclose the Mortgage or otherwise subject the Property, such other property or the rents

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and profits therefrom to the payment of the Note or any obligations of the Obligors under any of the Loan Documents; and

(iii) Lender shall not seek a deficiency judgment against any Obligor or their affiliates.

(b) Notwithstanding anything set forth in subsection (a) hereof, the Note shall become a recourse obligation of the Obligors (and of Beneficiary's general partner, Roma Jean Corp., which shall be deemed to be an Obligor for purposes of this Section 30), jointly and severally, upon the occurrence of any of the events set forth in clauses (i) through (xi) below, each of which events shall constitute a Default under the Note, the Mortgage and the other Loan Documents:

(i) the existence of any Hazardous Materials (as defined in the Environmental Indemnity Agreement of even date herewith made by Beneficiary and the Principal for the benefit of Lender) on the Property or any part thereof; provided, however, that: (A) the Note shall become a recourse obligation of the Obligors under this clause (i) only if said Hazardous Materials initially exist on the Property after June 1, 1995 (being the original maturity date of the Loan) and only if such Hazardous Materials are in violation of Environmental Laws (as defined in said Environmental Indemnity Agreement); and (B) Obligors' liability under this clause (i) shall not exceed the cost reasonably estimated to be necessary (the "Remediation Cost") to cause the remediation, to the extent required by applicable Environmental Laws, of the conditions arising from the Hazardous Materials initially existing on the Property after June 1, 1995. For purposes of this clause, the Remediation Cost shall be determined by a fully-qualified environmental engineering firm to be engaged by Lender;

(ii) the filing by Beneficiary or any general partner of Beneficiary of any voluntary petition in any bankruptcy or similar insolvency proceedings which is not withdrawn within 30 days after the initial filing thereof;

(iii) the placement of any secondary financing on all or any part of the Property in violation of any prohibitions set forth in the Mortgage or any of the other Loan Documents, as amended hereby;

(iv) the voluntary sale, assignment, conveyance, encumbrance, lease or other transfer in violation of Paragraph 4 of the Mortgage (as amended pursuant to Paragraph 7(c) of this Amendment above);

(v) the failure of Borrower to apply the following in strict accordance with the applicable provisions of the Loan Documents: (A) the proceeds of any insurance for any loss to all or any part of the Property; and/or (B) the proceeds of any condemnation of all or any part of the

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Property or any award or settlement made in lieu thereof; provided, however, that the Obligors' liability under this clause (v) shall not exceed the sum of such misapplied proceeds;

(vi) the failure of Borrower to pay over to Lender any rents from tenants of the Property received by or on behalf of Borrower after (A) a Default under the Loan Documents, and (B) receipt by Borrower of a demand for such rents from Lender; provided, however, that the Obligors' liability under this clause (vi) shall not exceed the sum of such rents not paid over to Lender;

(vii) the failure of Borrower prior to the completion of any foreclosure proceedings against the Property to pay over to Lender any security deposits received by or on behalf of Borrower from any of the tenants of the Property; provided, however, that the Obligors' liability under this clause (vii) shall not exceed the sum of such security deposits not paid over to Lender;

(viii) the failure of Borrower to carry and/or maintain any insurance required by any of the Loan Documents as amended hereby; provided, however, that the Obligors' liability under this clause (viii) shall not exceed the cost of replacing or repairing any uninsured casualty to the Property and shall be limited to any loss incurred by Lender as a result of such failure by Borrower;

(ix) the failure of Borrower to pay any taxes, assessments, charges for labor or materials or any other charges that may give rise to the filing of a lien on all or any part of the Property to the extent that the income from the operation of the Property during the twelve months immediately preceding the date that any such item became due and payable exceeded the bona fide and documented expenses for the operation of the Property actually paid by Borrower during such period; provided, however, that the Obligors' liability under this clause (ix) shall not exceed the cost of removing the lien, to the extent that income from the Property was available for such purpose;

(x) the commission of any waste on the Property by Borrower or the failure of Borrower to use its best efforts to prevent the commission of any waste on the Property; provided, however, that Obligors' liability under this clause (x) shall not exceed the cost of remedying the waste; and

(xi) any fraudulent misrepresentation or nondisclosure by Borrower with respect to any of the Loan Documents or any other documents submitted by Borrower to Lender in connection with the Loan.

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(c) Notwithstanding anything set forth in subsection (b) hereof:

(i) Lender shall not enforce any personal liability against any Obligor as a result of any of the defaults described in clauses (i), (v), (vi), (vii), (ix) or (x) thereof unless (A) Lender gives Borrower written notice of the default in question, and (B) Borrower fails to cure the same within thirty days after its receipt of such notice, or, if such default, by its nature, cannot reasonably be cured within such thirty days, if Borrower fails to commence to cure the same within such thirty days or thereafter fails diligently to prosecute such cure or, in any event, fails to cure such default within ninety days after its receipt of such notice from Lender or one week prior to the date that foreclosure proceedings against the Property are completed, whichever is earlier; and

(ii) except (A) with respect to the defaults described in clauses (i) and (ii), respectively, of clause (b) hereof, and (B) to the extent that applicable law requires a judgment against Borrower in order to foreclose the Mortgage or otherwise subject the Property, any other property encumbered by any of the other Loan Documents or the rents and profits therefrom to the payment of the Note or any obligations of Borrower under the Mortgage or any of the other Loan Documents, Lender shall foreclose on the Property before seeking a judgment on the Note or to enforce any deficiency remaining after foreclosure.

(d) Nothing in this Section shall limit the right of Lender to obtain one or more judgments against Borrower for the failure to pay any sums due under the Note or any of the other Loan Documents.

(e) Borrower and the Principal expressly acknowledge and agree that the provisions of this Section supersede the provisions of Section 34 of the Mortgage, Section 12 of the Assignment of Rents and any other provisions thereof or of the Note which purport to limit the liability of Beneficiary or its partners.

31. **Trustee Exculpation.** This Amendment is executed by American National Bank and Trust Company of Chicago, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing in this Amendment shall be construed as creating any liability on such Trustee personally to perform any express or implied covenant, condition or obligation under this Amendment, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under this Amendment; provided, however, that the foregoing exculpation of the Trustee shall not impair or otherwise affect any of Lender's rights or remedies against the assets held by the Trust or Beneficiary or other collateral now or hereafter pledged to Lender as security for the obligations of the Trust or Beneficiary, or against Beneficiary,

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the Principal or any other person or entity liable for the obligations of the Trust or Beneficiary.

IN WITNESS WHEREOF, this Amendment has been entered into as of the date first above written.

LENDER:

**PHOENIX HOME LIFE MUTUAL
INSURANCE COMPANY, a
New York corporation**

By: 
Title: Vice President
Keith D. Robbins

TRUST:

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

By: _____
Title: _____

BENEFICIARY:

**ROMA JEAN PARKWAY PARTNERSHIP,
an Illinois limited partnership**

By: Roma Jean Corp., an Illinois
corporation, Its General Partner

By: _____
William A. Lederer,
President

PRINCIPAL:

WILLIAM A. LEDERER,
individually

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the Principal or any other person or entity liable for the obligations of the Trust or Beneficiary.

IN WITNESS WHEREOF, this Amendment has been entered into as of the date first above written.

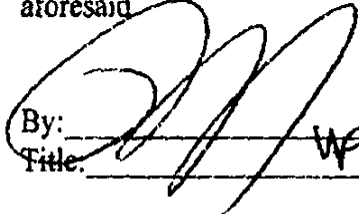
LENDER:

**PHOENIX HOME LIFE MUTUAL
INSURANCE COMPANY, a
New York corporation**

By: _____
Title: _____

TRUST:

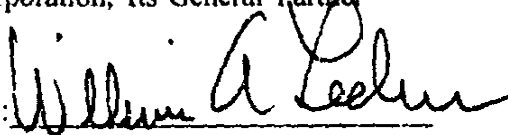
**AMERICAN NATIONAL BANK AND
TRUST COMPANY OF CHICAGO,
not personally but solely as Trustee as
aforesaid**

By:  _____
Title: _____


BENEFICIARY:

**ROMA JEAN PARKWAY PARTNERSHIP,
an Illinois limited partnership**

By: Roma Jean Corp., an Illinois
corporation, Its General Partner

By:  _____
William A. Lederer,
President

PRINCIPAL:



WILLIAM A. LEDERER,
individually

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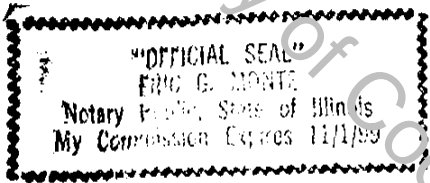
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, ERIC MONTE, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ~~GREGORY E. FUSSELL~~, the VP of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VP, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 15 day of October, 1996.



Eric G. Monte
NOTARY PUBLIC
(SEAL)

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY, a New York corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this _____ day of October, 1996.

NOTARY PUBLIC
(SEAL)

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this _____ day of October, 1996.

NOTARY PUBLIC
(SEAL)

STATE OF CONNECTICUT)
) SS.
COUNTY OF Hartford)

I, Josephine A. Melusky, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Keith D. Robbins, the Vice President of PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY, a New York corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 15th day of October, 1996.

Josephine A. Melusky
NOTARY PUBLIC

(SEAL)

JOSEPHINE A. MELUSKY
NOTARY PUBLIC
MY COMMISSION EXPIRES MAR. 31, 2000

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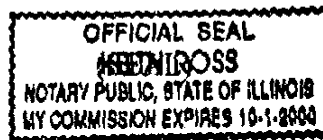
STATE OF IL)
) SS.
COUNTY OF COOK)

I, Keith Ross, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William A. Lederer, the President of Roma Jean Corp., an Illinois corporation and the managing general partner of Roma Jean Parkway Partnership, an Illinois limited partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument in such capacity, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation on behalf of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 17th day of October, 1996.



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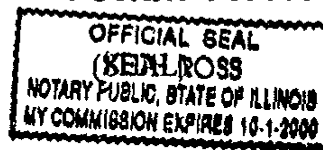
STATE OF IL)
) SS.
COUNTY OF COOK)

I, Keith Ross, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William A. Lederer, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument in his individual capacity, 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 17th day of October, 1996.



NOTARY PUBLIC



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EXHIBIT A

LOTS 3 AND 4 IN STREAMWOOD CENTER FOR INDUSTRY UNIT NO. 1, BEING A SUBDIVISION OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 21, 1978 AS DOCUMENT 24593084, IN COOK COUNTY, ILLINOIS.

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EXHIBIT B

CALCULATION OF PRINCIPAL BALANCE

A. Principal Balance of the Loan as of the Effective Date of this Amendment

—	Original Amount	\$1,070,000.00	
—	(less) principal amortization	<u>(61,333.06)</u>	
		1,008,666.94	
—	(plus) advance for real estate taxes	66,906.86	
	Balance as of Effective Date		<u>\$1,075,573.80</u>

B. Disbursement of Additional Proceeds of the Loan

—	Legal Fees of Lender's Counsel	\$45,000.00 ¹	
—	Environment Fees	24,128.36	
—	Appraisal Fees	4,500.00	
—	Payment of Interest on Loan		
	(a) September 1, 1995 - October 17, 1996	\$98,713.77 ²	
	(b) October 18, 1996 - October 31, 1996	3,904.44 ³	
-	Partial funding of tax and insurance escrow	3,179.63 ⁴	
	Total Disbursement		<u>179,426.20</u>
	NEW PRINCIPAL BALANCE OF THE LOAN		<u>\$1,255,000.00</u>

¹ Estimate (difference to be paid from or deposited into Lockbox Account)

² $1,075,573.80 \times .08 \times 413/360 = 98,713.77$

³ $1,255,000.00 \times .08 \times 14/360 = 3,904.44$

⁴ Tax Deposit 9/96 - 11/96 = 3 months @ \$8,528.00/month = \$25,584.00
Insurance Deposit 3/96 - 11/96 = 9 months @ \$648.00/month = 5,832.00

TOTAL = \$31,416.00

Lender Funding = 3,179.63

Balance Due from Borrower/Receiver = \$28,236.37
(See Exhibit C)

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EXHIBIT C

USE OF BORROWER AND RECEIVER'S FUNDS

A.	Available Funds		
	Borrower's Funds	\$ 160,000.00	
	Receiver's Funds	87,484.72	
	TOTAL FUNDS AVAILABLE		\$247,484.72
B.	Disbursement of Funds		
	Past Due Real Estate Taxes		
	(including interest and penalties)	\$169,565.82	
	Funding of Tax and Insurance Escrow		
	(to the extent not covered by Lender Funding		
	in Paragraph B of Exhibit B)	28,236.37	
	Title, Escrow and Other Closing Costs	1611.00	
	Funding of Lockbox Account (Security Deposit Account)	25,681.51	
	Funding of Lockbox Account (Capital Expense Account)	22,390.02	
	TOTAL FUNDS DISBURSED		\$247,484.72

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EXHIBIT D

DESCRIPTION OF REQUIRED CAPITAL IMPROVEMENTS

Description of Work

Required Completion Date

parking lot repair per letter agreement dated
October 9, 1996 with Coleman Snow Removal, Inc.

November 30, 1996

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EXHIBIT E

ADDITIONAL PRIOR DEFAULTS

The following is a list of matters or occurrences that may have constituted defaults under the Loan Documents. To the best of the Obligors' knowledge, none of such matters or occurrences currently constitutes a default under the Loan Documents, and Lender's agreement to waive the Existing Defaults should not be construed as a waiver of any duty or obligation of any of the Obligors to perform any of the covenants or agreements set forth in the Loan Documents.

1. The existence of environmental conditions disclosed in the environmental report commissioned by the Lender dated February 29, 1996; however, the Obligors shall remain liable for any environmental matters in accordance with the provisions of this Amendment and the Environmental Indemnity Agreement.
2. The prior deterioration of the roof at the Property; however, Borrower shall remain liable for repair, replacement and maintenance of the roof as required under the Loan Documents.
3. The prior Harris Trust & Savings Bank financing which may have been secured by the Property but no longer encumbers the Property. Such financing has been repaid in full.
4. Failure of Borrower to provide accounting and financial information previously required under the Loan Documents; however, the Obligors shall furnish all such information hereafter required.
5. Failure of Borrower to have received Lender's consent as to leases or amendments thereto at the Property or any other documentation to which Lender's consent was previously required under the Loan Documents; however, Borrower shall obtain Lender's consent to all leases, lease amendments and other documentation as hereafter required under the Loan Documents.
6. Any prior change in the constituent members of the Borrower that may have been prohibited or restricted under the Loan Documents; however, no such prohibited or restricted change shall hereafter occur under the Loan Documents.
7. Failure to have provided insurance or tax escrow payments previously required under the Loan Documents; however, Borrower shall hereafter be obligated to make such payments as required under the Loan Documents.

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