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 COOK COUNTY RECORDER

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## FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT AND OTHER COLLATERAL DOCUMENTS

This First Amendment to Mortgage and Security Agreement and Other Collateral Documents (this "Amendment") is executed and delivered as of the 21st day of July, 1997 by 95 ALGONQUIN L.L.C., an Illinois limited liability company ("Borrower"), ALLAN J. HAMILTON, RONALD C. LUNT and PATRICK J. MCKILLEN (Messrs. Hamilton, Lunt and McKillen being hereinafter collectively referred to as the "Guarantors") to and for the benefit of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association ("Lender"), successor in interest to NBD Bank ("NBD").

### RECITALS

A. Pursuant to the terms and provisions of a certain Loan Agreement (the "Original Loan Agreement") dated June 25, 1996 between Borrower and NBD, NBD agreed to make a certain mortgage loan (the "Original Loan") to Borrower in an amount not to exceed the

This Document Prepared By and  
After Recording Return To:

Merle Teitelbaum Cowin, Esq.  
Rudnick & Wolfe  
203 North LaSalle Street  
Suite 1800  
Chicago, Illinois 60601-1293

Permanent Index No.

08-16-200-103

Common Address:

95 West Algonquin  
Arlington Heights, Illinois

# BOX 333-CTI

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BOX 333-CL1

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principal sum of SEVEN MILLION AND NO/100 DOLLARS (\$7,000,000), upon and subject to the terms, provisions and conditions contained in the Original Loan Agreement.

B. The Original Loan is evidenced by a certain Mortgage Note (the "Original Note") dated June 25, 1996 made by Borrower to the order of NBD in the original principal amount of SEVEN MILLION AND NO/100 DOLLARS (\$7,000,000).

C. The Original Note is secured, among other things, by the following documents (collectively, the "Collateral Documents"):

(i) Mortgage and Security Agreement (the "Original Mortgage") dated June 25, 1996 made by Borrower in favor of NBD, recorded in the Office of the Cook County, Illinois Recorder of Deeds as Document No. 96604164, and encumbering the real estate legally described in Exhibit A attached hereto and made a part hereof;

(ii) Assignment of Rents and Leases dated June 25, 1996 made by Borrower in favor of NBD and recorded in the Office of the Cook County, Illinois Recorder of Deeds as Document No. 96604165;

(iii) Security Agreement (Chattel Mortgage) dated June 25, 1996 made by Borrower in favor of NBD,

(iv) Environmental Indemnity Agreement (the "Environmental Indemnity") dated June 25, 1996 made by Borrower and the Guarantors in favor of NBD; and

(v) Assignment of Deposit Account dated June 25, 1996 made by Borrower in favor of NBD.

D. Lender is the successor in interest to NBD. Concurrently herewith, Borrower has requested that Lender increase the amount of the Original Loan from \$7,000,000 to \$7,100,000 and make an additional loan (the "Garage Loan") to Borrower in the amount of \$5,500,000. The increase in the Original Loan and the Garage Loan are described in that certain Amended and Restated Construction Loan Agreement (the "Amended Loan Agreement") of even date herewith between Borrower and Lender.

E. As a condition to Lender agreeing to increase the amount of the Original Loan from \$7,000,000 to \$7,100,000, to make the Garage Loan to Borrower and to enter into the Amended Loan Agreement, Lender is requiring Borrower to execute and deliver to Lender:

(i) A certain First Amendment to Mortgage Note (the "Note Amendment"), pursuant to which, among other things, the amount of the Original Note as increased from \$7,000,000 to \$7,100,000;

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(ii) A certain Mortgage Note (the "Garage Note") dated of even date herewith made by Borrower to the order of Lender in the original principal amount of \$5,500,000;

(iii) The Amended Loan Agreement; and

(iv) This Amendment.

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

1. The first paragraph appearing on page two of the Mortgage is hereby deleted and the following substituted in lieu thereof:

"Mortgagor is justly indebted to Mortgagee in the principal sum of Twelve Million Six Hundred Thousand and No/100 Dollars (\$12,600,000.00), evidenced by (i) a certain Mortgage Note dated June 25, 1996 made by Mortgagor and payable to the order of and delivered to Mortgagee, in the original principal amount of Seven Million and No/100 Dollars (\$7,000,000), as amended by a certain First Amendment to Mortgage Note dated July 21, 1997, pursuant to which, among other things, the original principal amount of said Mortgage Note has been increased from \$7,000,000 to \$7,100,000 (said Mortgage Note, as so amended, is hereinafter referred to as the "Building Note"), and (ii) a certain Mortgage Note (the "Garage Note") dated July 21, 1997 made by Mortgagor and payable to the order of and delivered to Mortgagee in the original principal amount of Five Million Five Hundred Thousand and No/100 Dollars (\$5,500,000). Pursuant to the Building Note and the Garage Note, Mortgagor promises to pay the said principal sum and interest thereon in the manner and at the rates as provided therein. The unpaid principal amount and all accrued and unpaid interest due under the Building Note, if not sooner paid, shall be due on June 30, 1998, subject to the right of Mortgagor to extend said maturity date to June 30, 2001, subject to the terms and conditions contained in the Building Note. The unpaid principal amount and all accrued and unpaid interest due under the Garage Note, if not sooner paid, shall be due on June 30, 1998. The Building Note and the Garage Note are hereinafter jointly referred to as the "Notes." All such payments on account of the indebtedness evidenced by the Notes shall be first applied to interest on the unpaid principal balance and the remainder to principal and all of said principal and interest being made payable at such place as the holder of the Notes may from time to time in writing appoint, and in the absence of such appointment, then at the office of Mortgagee, at the address indicated above or at such other address as Mortgagee may from time to time designate in writing. Following the occurrence of an Event of Default (as

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hereinafter defined), Mortgagee shall have the right and the exercise of its sole and absolute discretion to allocate any amounts received by it from Mortgagor between the Notes at such manner as Mortgagee shall determine in the exercise of its sole and absolute discretion.

2. The Mortgage and the other Collateral Documents are amended so that they secure both the Original Note, as amended by the Note Amendment, and the Garage Note (jointly, the "Notes).

3. All references contained in the Mortgage and the other Collateral Documents to the "Note" shall be deemed to refer to the Notes.

4. All references contained in the Mortgage and the other Collateral Documents to the "Loan Agreement" shall be deemed to refer to the Amended Loan Agreement.

5. All references contained in the Mortgage and the other Collateral Documents to the "Guaranty" shall be deemed to refer to the Amended and Restated Guaranty of even date herewith made by Allan J. Hamilton, Ronald C. Lunt and Patrick J. McKillen in favor of Lender.

6. All references contained in the Mortgage and the other Collateral Documents to any other Collateral Document shall be deemed to refer to such other Collateral Document, as amended by this Amendment.

7. All references contained in the Mortgage and the other Collateral Documents to the "Loan" shall be deemed to refer to the loans evidenced by the Building Note and the Garage Note, which loans are described in the Amended Loan Agreement as the "Building Loan" and the "Garage Loan."

8. Borrower hereby reaffirms, ratifies and confirms its obligations and liabilities under the Mortgage and the other Collateral Documents, as amended by this Amendment, and the liens and security interests created thereby, and acknowledges that as of the date of delivery of this Amendment to Lender, Borrower has no defenses, claims, counterclaims, rights of offset, objections or set-offs to the enforcement by Lender of the obligations and liabilities of Borrower under the Mortgage and the other Collateral Documents, as so amended.

9. Each Guarantor hereby reaffirms, ratifies and confirms his respective obligations and liabilities under the Environmental Indemnity, as amended by this Amendment, and acknowledges that as of the date of delivery of this Amendment to Lender, no Guarantor has any defenses, claims, counterclaims, rights of offset, objections or set-offs to the enforcement by Lender of the obligations and liabilities of the Guarantors under the Environmental Indemnity, as so amended.

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10. Except as expressly provided herein, the Mortgage and the other Collateral Documents shall remain in full force and effect in accordance with their respective terms.

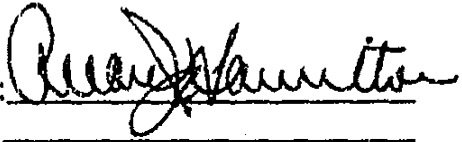
11. This Amendment shall be governed and construed in accordance with the laws of the State of Illinois.

12. This Amendment shall be binding on and enforceable against Borrower, each Guarantor, Lender and their respective heirs, legatees, legal representatives, successors and assigns.

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

95 ALGONQUIN L.L.C., an Illinois limited liability company

By: H.P. 95 Algonquin L.L.C., an Illinois limited liability company, its manager

By:   
Its: \_\_\_\_\_

  
ALLAN J. HAMILTON

\_\_\_\_\_  
RONALD C. LUNT

  
PATRICK J. MCKILLEN

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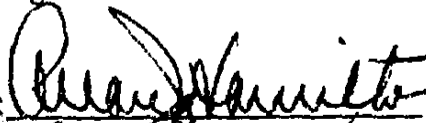
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**IN WITNESS WHEREOF**, this Amendment has been entered into as of the date first written above.

95 ALGONQUIN L.L.C., an Illinois limited liability company

By: H.P. 95 Algonquin L.L.C., an Illinois limited liability company, its manager

By:   
Its: *Manager, Member*

  
ALLAN J. KAMILTON

  
RONALD C. LUNT

\_\_\_\_\_  
PATRICK J. MCKILLEN

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STATE OF ILLINOIS )  
COUNTY OF DuPage ) SS.

I, SUSAN D. VONEY, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ALAN V. HAMILTON, the managing member of H.P. 95 Algonquin L.L.C., an Illinois limited liability company ("H.P. 95"), and the manager of 95 Algonquin L.L.C., an Illinois limited liability company ("Borrower"), who is 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 H.P. 95 and Borrower, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 21 day of July, 1997.

Susan D. Voney  
NOTARY PUBLIC

(SEAL)

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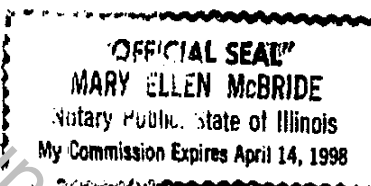
STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF COOK     )

I, MARY ELLEN McBRIDE, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Allan J. Hamilton, Ronald C. Lunt and Patrick J. McKillen, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 21st day of JULY, 1997.

Mary Ellen McBride  
NOTARY PUBLIC

(SEAL)



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## EXHIBIT A

PARCEL 1:

LOT 3

(EXCEPTING THEREFROM THAT PART OF LOT 3 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTHEASTERLY ALONG A 2541.29 FOOT RADIUS CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 3, THE CENTER OF CIRCLE OF SAID CURVE BEARS ON AN ASSUMED BEARING OF NORTH 47 DEGREES 58 MINUTES 18 SECONDS EAST FROM SAID POINT, CENTRAL ANGLE 2 DEGREES 12 MINUTES 20 SECONDS, 97.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE CONCAVE TO THE NORTHEAST RADIUS 2541.29 FEET, CENTRAL ANGLE 11 DEGREES 26 MINUTES 54 SECONDS, 507.78 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHERLY ALONG A 30.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, CENTRAL ANGLE 55 DEGREES 04 MINUTES 09 SECONDS, 28.83 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 35 DEGREES 00 MINUTE 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 8 DEGREES 26 MINUTES 03 SECONDS, 375.52 FEET TO A POINT ON A 2546.12 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 42 DEGREES 14 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2546.12 FEET, CENTRAL ANGLE 2 DEGREES 14 MINUTES 00 SECOND, 102.21 FEET; THENCE NORTH 40 DEGREES 00 MINUTE 13 SECONDS WEST 56.36 FEET TO THE POINT OF BEGINNING).

IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE RECIPROCAL EASEMENT AGREEMENT BY AND BETWEEN URBS-SCHMITT AND KEPPEN INCORPORATED, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 3, 1979 AND KNOWN AS TRUST NUMBER 47058 AND OTHERS, DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND FILED OCTOBER 1, 1979 AS DOCUMENT LR. 3121973 AND AS AMENDED BY INSTRUMENT RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR. 3218008 FOR INGRESS AND EGRESS IN PART OF ARLINGTON PLACE SUBDIVISION AND TELLICH'S SUBDIVISION AS DELINEATED IN SAID AGREEMENT, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS BY AND AMONG AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 45170, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, SAID AGREEMENT BEING DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527048 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296792, OVER, UPON AND ACROSS LOT 1 FOR THE PURPOSE OF USING AND GAINING ACCESS TO A SURFACE WATER DETENTION/RETENTION POND LOCATED IMMEDIATELY EAST OF THE WESTERNMOST LINE OF LOT 1 IN ARLINGTON PLACE SUBDIVISION AFORESAID, AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED JANUARY 4, 1980 AS DOCUMENT 25306989 AND FILED JANUARY 4, 1980 AS DOCUMENT LR. 3139276 AND ALSO OVER, UPON AND ACROSS LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID FOR THE PURPOSE OF GAINING ACCESS TO SAID POND LOCATED ON SAID LOT 1 AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO THE AFORESAID AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS IDENTIFIED ABOVE, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF EASEMENT DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527049 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296793 BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 47058, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, OVER, UPON AND ACROSS THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID AS DEPICTED ON EXHIBIT "A", FOR CONSTRUCTING, RUNNING, MAINTAINING AND REPAIRING SANITARY SEWER LINES AND PIPES, IN COOK COUNTY, ILLINOIS.

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