

# UNOFFICIAL COPY

97545749

After recording, mail to  
The First National Bank of Chicago  
1048 Lake Street  
Oak Park, IL 60301  
Attn: Commercial Real Estate



DEPT-01 RECORDING \$35.50  
T#0009 TRAN 9931 07/29/97 09:55:00  
#7577 ÷ SK \*-97-545749  
COOK COUNTY RECORDER

Property of Cook County Recorder

## LOAN MODIFICATION AGREEMENT

June 19, 1997

355  
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WHEREAS Amalgamated Bank of Chicago f/k/a Amalgamated Trust & Savings Bank as Trustee under Trust Agreement dated December 11, 1915 and known as Trust Number 2951, (the "Borrower"), jointly and severally if more than one, is justly indebted to THE FIRST NATIONAL BANK OF CHICAGO, successor by merger to Lake Shore National Bank ("Lender"), having its principal office in Chicago, Illinois, under its Loan No. 6906887035-26, originally in the sum of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) as established by a certain Installment Note (the "Note") dated April 3, 1989 in the original amount of \$400,000.00 made by the Borrower to the Bank. The Note is secured by a certain Trust Deed and a certain Assignment of Rents both dated April 7, 1989, made by the Borrower to the Bank and recorded in the Cook County Recorder's Office on April 21, 1989 as Document Nos. 89178139 and 89178140, respectively, modified by a certain Modification and Extension Agreement dated December 16, 1991 and recorded in the Cook County Recorder's Office on January 24, 1992 as Document No. 92047344, and as further modified by a certain Note and Mortgage Modification Agreement dated July 27, 1993 and recorded in the Cook County Recorder's Office on April 7, 1994 as Document No. 94311815, ("Security Documents"); against the property legally described as follows:

LOTS 1 AND 2 IN BLOCK 16 IN NEWBERRY'S ADDITION TO CHICAGO, A SUBDIVISION OF THE EAST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 658-660 N. Wells  
Chicago, IL

REI TITLE SERVICES #

513069

P.I.N. #: 17-09-216-015 (Affects Lot 1 and the south 5 feet of Lot 2)  
17-09-216-014 (Affects Lot 2, except the south 5 feet thereof)

and hereby referred to as part of this Agreement, and;

WHEREAS, the Borrower and Kenneth B. Pearl (the "Guarantor") do hereby request this Loan Modification Agreement.

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NOW, THEREFORE, it is hereby agreed by the parties hereto that the Note is hereby modified and amended in its entirety by the Term Loan Note of even date herewith in the amount of \$309,970.97 ("Revised Note"), a copy of which is attached hereto as Exhibit A. The undersigned hereby promises to pay the indebtedness with interest at the rate in accordance with the terms provided in the Revised Note. The Mortgage and all security documents ("Security Documents") are hereby modified and amended to secure the Revised Note and any extensions, renewals, or modifications thereof. All references to the Note in the Security Documents are modified and amended to refer to the Revised Note in place of the Note.

In all other respects said Mortgage and Security Documents shall remain in full force and effect and the undersigned, his or their heirs, assigns and representatives, shall be obligated to pay the same.

BORROWER:

Amalgamated Bank of Chicago,  
as Trustee as aforesaid

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

**EXONERATION PROVISION RESTRICTING  
ANY LIABILITY OF AMALGAMATED BANK OF  
CHICAGO ATTACHED HERETO IS HEREBY  
EXPRESSLY MADE A PART HEREOF.**

LENDER:

THE FIRST NATIONAL BANK  
OF CHICAGO

By: J. Paul Seabro  
Its: ASST Vice President

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GUARANTOR:

x Kenneth B. Pearl  
Kenneth B. Pearl

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STATE OF ILLINOIS

)  
) ss.

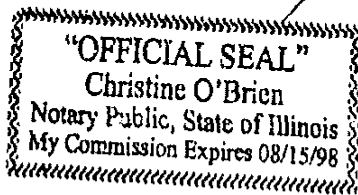
COUNTY OF Cook

AMALGAMATED BANK OF CHICAGO

I, the undersigned, a Notary Public in and for said county and state, DO HEREBY CERTIFY that IRVING B. POLAKOW, of AMALGAMATED TRUST & SAVINGS BANK, as Trustee as aforesaid (the "Trustee"), personally known to me to be the same person(s) whose name(s) is subscribed as the SENIOR VICE PRESIDENT of the Trustee to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, and the free and voluntary act of the Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 10<sup>th</sup> day of July, 1997

My Commission Expires:  
Christine O'Brien  
Notary Public



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STATE OF ILLINOIS

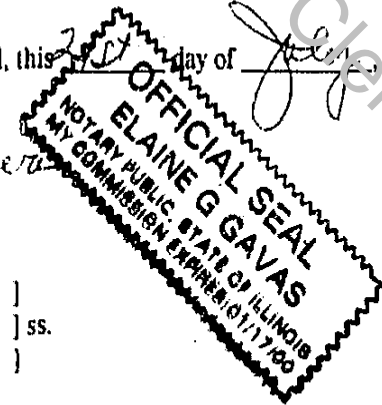
)  
) ss.

COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public in and for said county and state, DO HEREBY CERTIFY that David Jenks, of THE FIRST NATIONAL BANK OF CHICAGO (the "Bank"), a national banking association, personally known to me to be the same person(s) whose name(s) is subscribed as the Asst Vice Pres of the Bank to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, and the free and voluntary act of the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 20<sup>th</sup> day of July, 1997

My Commission Expires:  
Elaine G Gavas  
Notary Public



STATE OF ILLINOIS

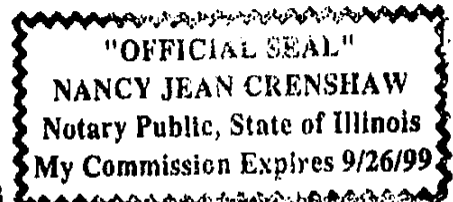
)  
) ss.

COUNTY OF \_\_\_\_\_

I, the undersigned, a Notary Public in and for said county and state, DO HEREBY CERTIFY that Kenneth B. Pearl, personally known to me to be the same person(s) whose name(s) 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 free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 16<sup>th</sup> day of July, 1997

My Commission Expires: 9-26-99  
Nancy Jean Crenshaw  
Notary Public



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## EXHIBIT A

### TERM LOAN NOTE (5-YEAR ARM)

\$309,970.97

June 19, 1997

FOR VALUE RECEIVED, Amalgamated Bank of Chicago f/k/a Amalgamated Trust & Savings Bank, as Trustee under Trust Agreement dated December 11, 1975 and known as Trust No. 2951, jointly and severally, if more than one, (the "Borrower") promises to pay to the order of The First National Bank of Chicago, successor by merger to Lake Shore National Bank (the "Bank"), the principal sum of Three Hundred Nine Thousand Nine Hundred Seventy and 97/100 Dollars (\$309,970.97) payable at its office in Chicago, Illinois in lawful money of the United States bearing interest from time to time as hereunder provided. Monthly payments on account of this Note shall be made in equal monthly installments representing principal and interest as provided below and shall be applied first to interest with the balance to principal.

The rate of interest payable on this Note will change from time to time as hereunder provided. Monthly payments on account of this Note are to be made in such amounts as are appropriate to amortize the original principal balance, by the level rate amortization method, over a term of 132 months, adjusted, however, from time to time as the rate of interest changes. Payments on account of this Note shall be made as follows:

(a) On July 18, 1997 and on the eighteenth day of each month thereafter to and including June 18, 2002 there shall be paid \$3,570.24 which shall be applied first to interest at the rate of 8.19% per annum and the balance to principal.

(b) On June 18, 2002 ("Adjustment Date") the rate of interest shall be adjusted ("Adjusted Rate") to a rate determined by adding 1.25% to the average of yields for the month of April two months preceding the Adjustment Date on actively traded U.S. Government Securities, Five-Year Treasury, Constant Maturities, as published in the Federal Reserve Statistical Release (H.15, Selected Interest Rates Report).

(c) On July 18, 2002 ("Adjusted Payment Date"), there shall be paid on account of this Note the appropriate amount required to amortize by the level rate amortization method, the remaining principal balance on the Adjustment Date, at the Adjusted Rate, over the number of months determined by deducting from 132 months the number of months elapsed from July 18, 1997 through the Adjustment Date.

(d) On June 18, 2007 ("Maturity Date"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

In the event prior to the Adjustment Date the United States shall discontinue the publication of the Federal Reserve Statistical Release, the adjustment provided for in subparagraph (b) above shall be made based upon such index as shall be, in the reasonable judgement of the Bank, comparable to the index provided for in said subparagraph (b). In the event the index selected by the Bank is not acceptable to Borrower, the interest rate previously in effect shall continue to be in effect for an additional period of two months and monthly payments shall continue in the same amount. During such period of two months Borrower and the Bank shall agree on a mutually acceptable rate of interest and a mutually acceptable method of determining a rate of interest for future adjustments. Should the parties reach an agreement the monthly payments shall be calculated based upon such agreement. Should the parties not reach an agreement within such two months, then the principal balance, together with all accrued interest and all other amounts due hereunder, shall be due and payable, and shall be paid on the tenth day following the expiration of such two-month period.

All interest on this promissory note shall be calculated on the basis of a 360-day year and shall be charged for the actual number of days elapsed. The Borrower shall have the right from time to time upon 2 days' notice in writing to the Bank to prepay the unpaid balance of this note or in the inverse order of the maturity thereof any installment or installments due hereunder, prior to the expressed maturity thereof by paying, in addition to the principal amount of such prepayment, the interest accrued on the amount prepaid. Prepayments shall not affect the duty of Borrower to pay all installments when due or change the amount of such installments and shall not affect or impair the right of Bank to pursue all remedies available to Bank under this Note.

After maturity or upon an event of default, interest shall accrue at the rate of 3.0% per annum in excess of the rate which would have been in effect according to the terms of this Note, until fully paid. Interest shall be computed on the basis of a 360-day year and shall be charged for the actual number of

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days elapsed. The Borrower agrees to pay reasonable attorneys' fees, costs and expenses incurred by the Bank in the collection and enforcement of this Note.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of principal and interest is not paid within ten (10) days after the date the same is due, the undersigned promises to pay a "Late Charge" of five (5%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

This Note and any renewals and extensions hereof and any other liabilities and obligations of the undersigned to the Bank are secured pursuant to the below described agreements as each such agreement may be amended, modified or restated from time to time hereafter

A certain Trust Deed and a certain Assignment of Rents both dated April 7, 1989, made by the Borrower to the Bank and recorded in the Cook County Recorder's Office on April 21, 1989 as Document Nos. 89178139 and 89178140, respectively, modified by a certain Modification and Extension Agreement dated December 16, 1991 and recorded in the Cook County Recorder's Office on January 24, 1992 as Document No. 92047344, and as further modified by a certain Note and Mortgage Modification Agreement dated July 27, 1993 and recorded in the Cook County Recorder's Office on April 7, 1994 as Document No. 9311815; on real estate located at 658-660 N. Wells, Chicago, Cook County, Illinois; and any and all other agreements whether now or hereafter entered into between the undersigned and the Bank. All of the terms and conditions of said Mortgage and Assignment of Rents are incorporated herein and made a part hereof.

In consideration of the granting of the loan evidenced by this promissory note, the Borrower hereby agrees as follows:

1. Representations and Warranties. The Borrower represents and warrants that (a) all financial statements and other information heretofore furnished to the Bank are true and correct and fairly reflect the financial condition of the Borrower at the dates thereof, including contingent liabilities of every type, which financial condition has not changed materially and adversely since such dates; (b) neither the making of this note nor the performance by the Borrower of the obligations hereunder will violate any provision of law or any agreement, indenture, note or other instrument binding upon the Borrower or give cause for acceleration of any indebtedness of the Borrower; (c) no agreement, indenture, note or other instrument binding upon the Borrower contains any provision prohibiting the creation of a mortgage, pledge, lien, security interest or any other encumbrance upon any of the assets of the Borrower; (d) all authority from or approval by any governmental body, commission or agency, State or Federal, requisite to the making or validity of this note has been obtained; (e) the Borrower has filed all United States federal tax returns and all other tax returns which are required to be filed and has paid all taxes due pursuant to said returns or pursuant to any assessment received by the Borrower, and no tax liens have been filed and no claims are being asserted with respect to any such taxes, (f) there is no litigation or proceeding pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower which might materially adversely affect the financial condition of the Borrower or the ability of the Borrower to perform its obligations under this note; (g) this loan is made solely to acquire or carry on a business or commercial enterprise of Borrower; and (h) margin stock (as defined in Regulation U) constitutes less than 25% of those assets of the Borrower which are subject to any limitation on sale, pledge, or other restriction hereunder.

2. Affirmative Covenants. The Borrower will (a) duly pay and discharge all taxes or other claims which might become a lien upon any of the property owned by Borrower, except to the extent that such items are being appropriately contested in good faith and an adequate reserve for payment thereof is being maintained; (b) carry on and conduct the Borrower's business in substantially the same manner and in substantially the same fields as such business is now and has heretofore been carried on and conducted; (c) comply with all applicable statutes, rules and regulations; (d) pay all Federal or State stamp or issuance taxes, if any, payable or ruled to be payable by reason of the execution, delivery or issuance hereof under any now existing or hereafter enacted Federal or State statute and the Borrower will at all times indemnify and hold harmless the Bank against any liability in respect thereof; (e) furnish such financial statements to the Bank as it may from time to time reasonably request; and (f) use the proceeds of the loan evidenced by this note for a business purpose, and in this connection the Borrower warrants that no part of the proceeds of this note will be used directly or indirectly for the purpose of purchasing or carrying any stock in violation of any of the provisions of Regulation U of the Board of Governors of the Federal Reserve System.

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3. Defaults. This note and all installments hereof shall, at the option of the Bank (and automatically in the case of clause (e) below), immediately mature and become due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, upon the occurrence of any one or more of the following events:

- (a) Any representation or warranty in connection with this note shall be materially false as of the date on which made.
- (b) Any installment of interest or principal of this note or of any other debt owing by the Borrower which shall not be paid when due.
- (c) The Borrower shall fail to comply with any provision of Paragraph 2 hereof, which failure is not remedied within 10 days after receipt of written notice from the Bank.
- (d) Any individual guarantor of the indebtedness represented hereby shall die or any corporate guarantor shall fail to maintain its corporate existence.
- (e) The Borrower or any guarantor of the indebtedness represented hereby shall have an order for relief entered with respect to it under the Federal Bankruptcy Code similar state law or be adjudicated a bankrupt or an insolvent, or admit in writing its inability to pay its debts as they mature, or make an assignment for the benefit of its creditors; or the Borrower or any such guarantor shall apply for or consent to the appointment of any receiver, trustee, or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer shall be appointed without the application or consent of the Borrower or any such guarantor, as the case may be, and such appointment shall continue undischarged for a period of 60 days; or the Borrower or any such guarantor shall institute (by petition, application, answer, consent or otherwise) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, liquidation or similar proceedings relating to it under the laws of any jurisdiction; or any such proceeding shall be instituted (by petition, application or otherwise) against the Borrower or any such guarantor and shall remain undismissed for a period of 60 days; or the Borrower or any such guarantor shall fail to pay or otherwise discharge any one or more judgments or attachments against any one or more of them.

4. Setoff. Any indebtedness due from the legal holder hereof to the Borrower may be appropriated and applied hereon after any expressed or accelerated maturity hereof.

5. Amendments, Remedies, etc. No delay or omission of the Bank to exercise any right or power hereunder shall impair such right or power or be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right or power shall not preclude other or further exercise thereof or the exercise of any other right; and no waiver shall be valid unless in writing signed by the Bank, and then only to the extent in such writing specifically set forth. All remedies hereunder or by law afforded shall be cumulative and all shall be available to the Bank until it and other liabilities of the Borrower have been paid in full in lawful money.

6. Miscellaneous. This note shall be binding upon the Borrower and inure to the benefit of the holder, from time to time, of this note, and its or their respective heirs, personal representatives, successors and assigns. This note is accepted in Chicago, Illinois and shall be governed by the internal laws (and not the law of conflicts) of the State of Illinois, giving effect, however, to federal laws applicable to national banks. **THE BORROWER HEREBY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING HEREUNDER.**

This Note is a substitution of that certain Note and Mortgage Modification Agreement dated July 27, 1993, in the principal amount of \$366,674.58 made by Borrower to Bank (the "Prior Note") and is not a repayment or novation of the Prior Note.

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IN WITNESS WHEREOF, the Borrower has executed this Note on the date first set forth above.

**BORROWER:**

Amalgamated Bank of Chicago,  
as Trustee as aforesaid

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

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

EXONERATION PROVISION RESTRICTING  
ANY LIABILITY OF AMALGAMATED BANK OF  
CHICAGO ATTACHED HEREIN IS HEREBY  
EXPRESSLY MADE A PART HEREOF.

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RIDER ATTACHED TO AND MADE A PART OF LOAN MODIFICATION AGREEMENT

DATED June 19, 1997 UNDER TRUST NO. 2951

This loan modification agreement is executed by AMALGAMATED BANK OF CHICAGO, not personally, but solely as Trustee under Trust No. 2951 in the exercise of the power and authority conferred upon and vested in it as such Trustee and is payable only out of the property described in the Trust Deed or Mortgage given to secure payment hereof. It is expressly understood and agreed by each original and successive holder of the loan modification agreement that no personal liability shall be asserted or be enforceable against the promisor or any person interested beneficially or otherwise in said property specifically described in said Trust Deed or Mortgage given to secure payment hereof or in the property or funds at any time subject to said Trust Agreement, because or in respect of this loan modification or in the making issue or transfer hereof, all such liability, if any, being expressly waived by each taker and holder hereof, but nothing herein contained shall modify or discharge the personal liability expressly assumed by the guarantor hereof, if any, and each original and successive holder of this loan modification accepts the same upon the express condition that no duty shall rest upon said AMALGAMATED BANK OF CHICAGO, either personally or as said Trustee, to sequester the rents, issue and profits arising from that sale or other disposition thereof, but in case of default in the payment of this and profits arising from that sale or other disposition thereof, but in case of default in the payment of this loan modification or of any installment hereof, the sole remedy of the holder hereof shall be foreclosure of said Trust Deed or Mortgage given to secure the indebtedness evidenced by this loan modification, in accordance with the terms and provisions in said Trust Deed or Mortgage set forth, or by action to enforce their personal liability of the guarantor, if any, of the payment hereof, or both.

It is expressly understood and agreed by every person, firm, or corporation claiming any interest under this document that AMALGAMATED BANK OF CHICAGO, shall have no liability, contingent or otherwise, arising out of, or in any way related to, (i) the presence, disposal, release or threatened release of any hazardous materials on, over, under, from or affecting the property, soil, water, vegetation, building, personal property, persons or animals thereof; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials; (iii) any lawsuit brought or threatened, settlement reached or government order relating to such hazardous materials, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities or any policies or requirements of the Trustee which are based upon or in any way related to such hazardous materials including without limitations, attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses.

In the event any conflict between the provisions of this exculpatory rider and the provisions of the document to which it is attached, the provisions of this rider shall govern.

AMALGAMATED BANK OF CHICAGO, not personally but as  
Trustee under Trust No. 2951

By: 

Senior ~~Assistant~~ Vice President / Trust Officer

Attest: 

~~Assistant~~ Vice President / Trust Officer

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