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**THIRD
LOAN MODIFICATION
AGREEMENT,
AMENDMENT TO NOTE,
MORTGAGE, AND OTHER
LOAN DOCUMENTS
AND ACKNOWLEDGMENT
OF CO-MAKERS**

DEPT-01 RECORDING \$51.00
T90012 TRAN 6741 09/18/97 14:00:00
#1126 CG *-97-688073
COOK COUNTY RECORDER

51.00
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This **THIRD LOAN MODIFICATION AGREEMENT, AMENDMENT TO NOTE, MORTGAGE, AND OTHER LOAN DOCUMENTS AND ACKNOWLEDGMENT OF CO-MAKERS** (this "Modification Agreement") is entered into as of this 25th day of July, 1997, by and among **FIRST BANK AND TRUST COMPANY OF ILLINOIS**, an Illinois banking corporation ("Lender"), **FIRST BANK AND TRUST COMPANY OF ILLINOIS**, as Trustee under Trust Agreement dated March 14, 1996 and known as Trust No. 10-2020 (the "Trustee"), **CENTRAL PARK PLACE ASSOCIATES LIMITED PARTNERSHIP**, an Illinois limited partnership ("Beneficiary") (Trustee and Beneficiary shall hereinafter be collectively referred to as the "Borrower"), **ROGER J. LEVIN** ("Levin") and **DONALD GRAUER** ("Grauer").

WITNESSETH:

WHEREAS, Lender and Borrower have entered into a certain Construction Loan Agreement dated April 10, 1996 (the "Loan Agreement"), whereby Lender agreed to lend Borrower up to the maximum principal amount of \$1,850,000.00 (the "Loan") secured in part by the real property commonly known as 1232 Central Avenue, Wilmette, Illinois 60091 as more fully described on Exhibit A attached hereto and made a part hereof (the "Property");

WHEREAS, Lender, Borrower, Levin and Grauer entered into that certain Loan Modification Agreement, Amendment to Note, Mortgage, and Other Loan Documents and Acknowledgment of Co-Makers which, among other things, increased the maximum principal amount of the Loan to \$2,350,000.00, (the "Loan Modification").

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This instrument prepared by (and return after recording to):

Robert W. Glantz, Esq.
ROSS & HARDIES

150 N. Michigan Ave., Suite 2500
Chicago, Illinois 60601

RHC125:RGLANTZ
111943-1

BOX 333-CTI

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WHEREAS, Lender, Borrower, Levin and Grauer entered into that certain Second Loan Modification Agreement, Amendment to Note, Mortgage and Other Loan Documents and Acknowledgement of Co-Makers which, among other things, increased the maximum principal amount of the Loan to \$2,800,000.00, (the "Second Loan Modification").

WHEREAS, to evidence the Loan, Borrower, Levin and Grauer executed and delivered to Lender that certain Secured Note dated April 10, 1996 (the "Original Note") which, pursuant to the Loan Modification, was replaced with an Amended and Restated Secured Note in the principal amount of \$2,350,000.00 and which, pursuant to the Second Loan Modification, was replaced with a Second Amended and Restated Secured Note in the principal amount of \$2,800,000.00, which notes, together with the Original Note, shall be hereinafter referred to as the "Note";

WHEREAS, payment of the Note is further secured by the following instruments of even date with the Note:

- (1) Loan Agreement;
- (2) Mortgage, Security Agreement Financing Statement by the Borrower recorded in the real estate records of Cook County s Document Number 96283606 (the "Mortgage");
- (3) Assignment of Leases and Rents (the "Assignment of Rents") by the Borrower recorded in the real estate records of Cook County as Document Number 96283607;
- (4) Collateral Assignment of Beneficial Interest (the "Collateral Assignment") from Beneficiary; and
- (5) Environmental Indemnity Agreement (the "Environmental Indemnity") from Beneficiary, Levin and Grauer.

[The Loan Agreement, Note, Loan Modification, Second Loan Modification, and Modification Agreement, Note (as hereinafter defined), Mortgage, Assignment of Rents, Collateral Assignment and Environmental Indemnity shall hereinafter be collectively referred to as the "Loan Documents"]

WHEREAS, Borrower, Levin and Grauer have requested that Lender increase the maximum principal amount of the Loan from \$2,800,000.00 to \$3,000,000.00.

WHEREAS, Lender is willing to increase the maximum principal amount of the Loan from \$2,800,000.00 to \$3,000,000.00 upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, for and in considerations of the covenant and agreements hereinafter set forth, and also in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid to Lender by Borrower, the parties hereto agree as follows:

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1. Amendment and Restatement of Note. Simultaneously with the execution and delivery of this Modification Agreement, the Note has been amended and restated in its entirety pursuant to Borrower's execution and delivery of a Third Amended and Restated Secured Note effective as of July 25, 1997 payable to Lender in the principal amount of \$3,000,000.00, a copy of which is attached hereto as Exhibit B, (the aforesaid Third Amended and Restated Secured Note, as amended, extended, renewed or consolidated from time to time in substitution or replacement therefor, being hereinafter referred to as the "Third Note"). The Third Note amends and restates the terms of the Note and replaces and supersedes the Note as evidence of the indebtedness heretofore evidenced by the Note. Neither the execution, delivery and acceptance of the Third Note or this Modification Agreement nor any of the terms and provisions set forth in the Third Note or this Modification Agreement shall be deemed to have been paid, extinguished, released, satisfied or discharged.

2. Amendment of Loan Agreement. The definition of "Loan Amount" on page 3 of the Loan Agreement shall be amended to be the maximum principal amount of \$3,000,000.00. The definition of "Maturity Date" shall be amended to be the earlier of (i) demand made upon Borrower by Lender, or (ii) December 30, 1997. The Interest Rate shall never be less than eleven percent (11%) per annum.

3. Amendment of Mortgage, Assignment of Rents and other Loan Documents. The principal amount of the debt evidenced and secured by the Mortgage, Assignment of Rents and other Loan Documents shall be \$3,000,000.00.

4. Modification/Extension Fee. Borrower acknowledges that as partial consideration for Lender increasing the maximum principal loan amount and extending the maturity date of the Loan, as provided in this Modification Agreement, the Third Note shall accrue a fee payable to Lender in the amount of \$10,000.00 as of the date of this Modification Agreement.

5. Covenants of Borrower, Levin and Grauer. Borrower, Levin and Grauer hereby represent to and covenant with Lender that:

- (a) At the date hereof, the Loan Documents as amended hereto are in full force and effect, and Borrower is not in default in the payment of any sums, charges or obligations under the Loan Documents or in the payment or performance of any covenants, agreements or conditions of Borrower contained in the Loan Documents;
- (b) At the date hereof, Borrower has no right or claim of set-off, discount, deduction, defense or counterclaim which could be asserted in any action brought to enforce the Loan Documents;
- (c) Lender is not in default in the performance or observance of any of its covenants, agreements and obligations under the Loan Documents;
- (d) There are no actions, suits or proceedings (including, without limitation, proceedings before any court, arbitrator or governmental authority or

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agency) pending or threatened against Borrower (or to the knowledge of Borrower any basis for any such action, suit or proceeding), which if adversely determined, might individually, or in the aggregate, materially adversely:

- i) impair the ability of Borrower to pay or perform its obligations under the Loan Documents; or
 - ii) affect the assets pledged as collateral under the Loan Documents;
- (e) There is no presently known fact which affects, or may affect in the future (so far as the undersigned can foresee), materially and adversely the condition (financial or other) of Borrower to pay or perform its obligations under the Loan Documents; and
- (f) Neither the Loan Documents nor any other document or written materials delivered or made, and any other communication made, to Lender or any employee or agent of Lender contains any untrue statement of a material fact or fails to state a material fact necessary in order to make any statement contained therein not misleading in light of the circumstances in which such statement was made.

6. Acknowledgment and Consent of Levin. Levin, as cosigner under the Note and the Third Amended and Restated Secured Note, hereby acknowledges and consents to the modification of the Loan Documents as herein provided and, in consideration of the modification of the terms of the Loan Documents, hereby agrees that:

- (a) The modification of the Loan Documents as herein provided does not and shall not in any way limit, prejudice or impair the obligations of Levin, as an obligor under the Third Note, or the rights, powers, privileges, benefits and remedies of Lender under the Loan Documents;
- (b) The Third Note constitutes a valid and binding obligation of Levin to pay unconditionally and absolutely the entire amount of the indebtedness evidenced by the Third Note, which obligations are enforceable in accordance with the terms and conditions of the Loan Documents, as modified by the terms of this Modification Agreement; and
- (c) Levin hereby waives all errors and imperfections, if any, in the Third Note, and all defenses, if any, on account thereof in case of any subsequent action to enforce any of the Loan Documents.

7. Acknowledgment and Consent of Grauer. Grauer, as cosigner under the Note and the Third Amended and Restated Secured Note, hereby acknowledges and consents to the modification of the Loan Documents as herein provided and, in consideration of the modification of the terms of the Loan Documents, hereby agrees that:

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- (a) The modification of the Loan Documents as herein provided does not and shall not in any way limit, prejudice or impair the obligations of Grauer, as an obligor under the Third Note, or the rights, powers, privileges, benefits and remedies of the Lender under the Loan Documents;
- (b) The Third Note constitutes a valid and binding obligation of Grauer to pay unconditionally and absolutely the entire amount of the indebtedness evidenced by the Third Note, which obligations are enforceable in accordance with the terms and conditions of the Loan Documents, as modified by the terms of this Modification Agreement; and
- (c) Grauer hereby waives all errors and imperfections, if any, in the Third Note and all defenses, if any, on account thereof in case of any subsequent action to enforce any of the Loan Documents.

8. Title Policy Endorsements and Legal Opinion. Concurrently with the execution of this Modification Agreement, Borrower, at its sole cost and expense, shall obtain and deliver to Lender:

- (a) An endorsement to Loan Policy of title insurance No. 1401-007559949 D2 dated April 16, 1996 issued by Chicago Title Insurance Company (the "Policy"), extending the effective date of the Policy through the recording of this Modification Agreement, insuring this Modification Agreement in Schedule A of the Policy, and insuring the priority of the Mortgage as modified by this Modification Agreement;
- (b) An endorsement to the Policy assuring Lender that the lien of the Mortgage shall not be impaired by reason of the changes in the Loan Amount. Endorsements pursuant to subparagraphs (a) and (b) of this Paragraph 8 shall be delivered to Lender simultaneously with and as a condition to the recordation of this Modification Agreement and shall be in form and content satisfactory to Lender; and
- (c) Two copies of an opinion executed by Borrower's attorney (acceptable to Lender) describing this Modification Agreement and all other Loan Documents executed in connection herewith and favorably opining:
 - i) the organization, existence and good standing of Borrower and each general partner thereof;
 - ii) the authority of Borrower and each general partner thereof to consummate this Modification Agreement;
 - iii) the due and proper execution of this Modification Agreement and all other loan modification documents;

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- iv) the validity, binding effect and enforceability of this Modification Agreement, all other Loan Documents: specifying that they are not subject to defenses of or claims based on usury or lack of capacity or any other claims or defenses;
- v) the availability of exemptions for usury laws;
- vi) that to the best of counsel's knowledge, after reasonable investigation and inquiry to the Borrower, the nonexistence of any undisclosed litigation involving the Borrower, or any partner thereof or the Property, which could affect any of Lender's rights, powers or security under the Loan Documents or this Modification Agreement;
- vii) that to the best of counsel's knowledge, after reasonable investigation and inquiry to the Borrower and review of necessary documentation, the nonexistence of any conflict or breach of any mortgage, agreement, covenant, restriction, law, rule, regulation, judgement or decree affecting or binding Borrower or any partner thereof, with this Modification Agreement or any other Loan Document on account of the execution, delivery or performance of this Modification Agreement or any of the other Loan Documents; and
- viii) any other matters reasonably required by Lender.

9. No Waiver. Notwithstanding anything contained in this Modification Agreement to the contrary or any prior act of Lender or any procedure established by Lender with regard to the Loan, Borrower acknowledges and agrees that Lender has not heretofore waived any of its rights or remedies under the Loan Documents nor has Lender waived any of the duties or obligations of Borrower thereunder. No waiver by Lender of any covenant or condition under the Loan Documents shall be deemed a waiver of any subsequent breach of the same or any other covenant or condition. No covenant, term or condition of the Loan Documents shall be deemed waived by Lender unless waived in writing.

10. Miscellaneous.

- (a) Time is of the essence with respect to the payment, performance and observance of each and every covenant, agreement, condition, representation, warranty and obligation of Borrower, Levin and Grauer under the Loan Documents.
- (b) This Modification Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute and be taken as one and the same instrument.

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- (c) None of the covenants, terms or conditions of this Modification Agreement shall in any manner be altered, waived, modified, changed or abandoned, except by written instrument, duly signed and delivered by all the parties hereto.
- (d) This Modification Agreement contains the entire agreement between the parties hereto as to the subject matter hereof and there are no other terms, obligations, covenants, representations, warranties, statements or conditions, oral or otherwise, of any kind.
- (e) The recitals to this Modification Agreement are hereby incorporated into and made a part of this Modification Agreement, and shall constitute covenants and representations of Borrower, Levin and Grauer and shall be binding upon and enforceable against Borrower, Levin and Grauer.

IN WITNESS WHEREOF, the Lender, Borrower, Levin and Grauer have executed or caused this Modification Agreement to be executed as of the day and year first above written.

**FIRST BANK AND TRUST COMPANY
OF ILLINOIS**, an Illinois banking
corporation

**FIRST BANK AND TRUST COMPANY
OF ILLINOIS**, as Trustee under Trust
Agreement dated March 14, 1996 and
known as Trust No. 10-2020

By: [Signature]
Name: Michael C. Winter
Title: President

By: [Signature]
Name: Michael C. Winter
Title: Assistant Trust Officer

ROBER J. LEVIN

[Signature]

**CENTRAL PARK PLACE ASSOCIATES
LIMITED PARTNERSHIP**, an Illinois
limited partnership

By: Churchill Venture Wilmette Limited
Corporation, its general partner

DONALD GRAUER

[Signature]

By: [Signature]
Name: ROGER LEVIN
Title: PRES

ATTEST:

By: [Signature]
Name: _____
Title: _____

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EXHIBIT A

LEGAL DESCRIPTION

P.I.N: 05-34-101-014-0000
05-34-101-015-0000
05-34-101-028-0000

LOT 3 IN CHURCHILL SUBDIVISION IN BLOCK 4 IN THE ORIGINAL PLAT OF WILMETTE VILLAGE IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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EXHIBIT B

THIRD AMENDED AND RESTATED SECURED NOTE

\$3,000,000.00

Date: July 25, 1997

FOR VALUE RECEIVED, the undersigned, FIRST BANK AND TRUST COMPANY OF ILLINOIS, not personally, but solely as Trustee Under Trust Agreement dated March 14, 1996, and known as Trust No 10-2020 (the "Trustee"), CENTRAL PARK PLACE ASSOCIATES LIMITED PARTNERSHIP, an Illinois limited partnership (the "Beneficiary"), ROGER J. LEVIN, an individual, and DONALD GRAUER, an individual, hereby jointly and severally promise to pay, upon demand made, to the order of FIRST BANK AND TRUST COMPANY OF ILLINOIS, an Illinois banking corporation ("Lender"), the principal sum of THREE MILLION AND NO/100 DOLLARS (\$3,000,000.00) together with interest thereon as hereinafter provided.

This Third Amended and Restated Secured Note (this "Note") amends, restates and replaces that certain Secured Note dated April 10, 1996 in the original principal amount of \$1,850,000.00 and as amended and restated by that certain Amended and Restated Note in the principal amount of \$2,350,000.00 and as amended and restated by that certain Second Amended and Restated Secured Note in the principal amount of \$2,800,000.00.

Interest. Prior to maturity or default, the principal balance remaining from time to time unpaid hereunder shall bear interest at a rate (the "Interest Rate") equal to the Prime Rate (as hereinafter defined) plus one percent (1%) per annum, calculated daily on the basis of a 360-day year; for each day all or any part of the principal balance shall remain outstanding. As used herein, "Prime Rate" means the rate of interest announced by Lender as its prime (or equivalent) rate of interest. If Lender ceases to announce a "Prime Rate," then the Prime Rate herein shall be determined by reference to the "prime rate" announced by any other national bank selected by Lender. Notwithstanding anything contained in this Note to the contrary, the Interest Rate shall never be less than eleven percent (11%) per annum.

Debt Service. Monthly installments of interest only shall be due and payable on this Note on the first (1st) day of each month immediately following the date hereof and on the first day of each month thereafter. In addition to the monthly payments of interest described above and until such time as this Note is paid in full, upon the closing of the sale of each residential townhome ("Unit") (which Units secure, in part, the indebtedness due under this Note and are located upon the real estate more fully described on Exhibit A attached hereto), one hundred percent (100%) of the Net Sales Proceeds (as hereinafter defined) of each Unit shall be immediately due and payable.

The term "Net Sales Proceeds" means an amount equal to the gross sales price for each Unit less (i) the amount of any sales commission, not to exceed six percent (6%) of the gross

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sales price, actually payable with respect to such sale; and (ii) the amount of actual and reasonable closing costs, not to exceed five percent (5%) of the gross sales price.

A final payment of all principal, interest and other amounts unpaid hereunder and under the Security Instruments (as hereinafter defined) shall be due and payable in full on the earlier of (i) the date demand is made by Lender, or (ii) December 30, 1997 (such earlier date being referred to herein as the "Maturity Date"), if not sooner paid. Notwithstanding anything contained in this Note to the contrary, Borrower shall have the right to prepay this Note in full or in part at any time and without penalty.

Application of Payments. Prior to default or maturity, all payments due hereon shall be first applied to accrued and unpaid interest and the balance shall be applied to principal, after default or maturity, such payments may be applied in such order as Lender may determine in its sole discretion. The undersigned reserves and shall have the right to prepay the principal amount due hereon in whole or in part at any time without premium or penalty. Any partial prepayments of principal shall be applied to the principal balance remaining unpaid hereunder and such partial prepayments of principal shall not reduce or extend the due dates for the next payable monthly installments of interest.

Place of Payments. All payments hereunder shall be made in lawful money of the United States of America at 300 East Northwest Highway, Palatine, Illinois 60067 or at such other place as the Lender or the legal holder hereof may designate from time to time in writing. No credit against any indebtedness evidenced hereby shall be given to the undersigned until Lender has received collected funds.

Security. Payment of this Note is secured by the following instrument(s) of even date herewith (collectively, the "Security Instruments") in favor of Lender:

- (1) Mortgage, Security Agreement and Financing Statement by the Trustee and the Beneficiary;
- (2) Collateral Assignment of Beneficial Interest by the Beneficiary; and
- (3) Assignment of Leases and Rents by the Trustee and the Beneficiary.

The undersigned agree to provide Lender, forthwith upon demand, such additional collateral as Lender may request from time to time should the value of the collateral described in the Security Instruments decline in value or become subject to any adverse lien or encumbrance as determined by Lender in its reasonable judgment.

Default. The undersigned shall be in default hereunder upon the occurrence of any one of the following events: (a) any payment of the principal of or interest on this Note or any other

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indebtedness of the undersigned or any guarantor of the undersigned to Lender is not paid when due; (b) there shall be such change in the financial condition of any of the undersigned or any guarantor of this Note that Lender in good faith deems itself insecure; (c) any of the undersigned or any guarantor of this Note shall die, be dissolved or liquidated or become bankrupt or insolvent, however evidenced; (d) any transfer of an interest in Beneficiary's general partner by assignment, pledge, transfer, hypothecation or other disposition; or (e) any of the undersigned or any guarantor of this Note shall be in default under any of the Security Instruments or that certain Construction Loan Agreement by and between Borrower, Beneficiary and Lender of even date herewith. Whenever the undersigned shall be in default as aforesaid, Lender, at its option, may declare the entire unpaid principal balance hereof together with all accrued and unpaid interest thereon immediately due and payable. The undersigned agree to pay on demand all costs of collection, including reasonable attorneys' fees, paid or incurred by Lender or the legal holder of this Note in enforcing any rights of Lender or the legal holder hereof or in connection with assembling, collecting, selling or otherwise dealing with or realizing upon any guaranty or collateral for the indebtedness evidenced hereby. From and after the occurrence of any one or more of the aforementioned defaults, whether by acceleration or otherwise, interest hereunder shall accrue at the default rate which rate shall be the Interest Rate plus eight percent (8%) per annum (the "Default Rate").

Notice. Any notice which Lender may desire or may be required to give to the undersigned shall be in writing, and shall be deemed given (a) if and when personally delivered, (b) upon receipt if sent by facsimile or a nationally recognized overnight courier, or (c) on the second (2nd) day after being deposited in United States registered or certified mail, postage prepaid, addressed to:

Central Park Place Associates Limited Partnership
1255 North State Parkway
Suite One North
Chicago, Illinois 60610
Attn: Roger J. Levin

with a copy to:

Mandell & Associates, Ltd.
1255 North State Parkway
Suite One North
Chicago, Illinois 60610
Attn: Michael S. Mandell, Esq.

General. The undersigned agree that: (a) the obligation evidenced by this Note is an exempted transaction under the Truth In Lending Act, 15 U.S.C. § 1601, et seq.; and (b) said obligation constitutes a business loan within the purview of Illinois law.

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If this Note is signed by more than one person, firm or corporation, every obligation of each signatory shall be joint and several. The undersigned hereby waives presentment, demand, notice of dishonor and protest and all other notices or demands with respect to this Note and the indebtedness evidenced hereby. Any failure by the Lender or the legal holder hereof to exercise any right or remedy available hereunder shall not be constituted as a waiver of the right to exercise the same or any other right or remedy at any other time. No waiver of any right or remedy of Lender hereunder shall be effective unless in a writing signed by an authorized officer of Lender and then only to the extent specifically provided therein. Time is of the essence of this Note. Each of the undersigned shall have no right of subrogation and waive any right to enforce and remedy which Lender now has or may hereafter have against any of the undersigned and any benefit of, and any right to participate in, any security now or hereafter held by Lender.

The headings of sections and paragraphs in this Note are for convenience only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. As used in this Note, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires. This Note is executed, delivered and accepted in Chicago, Illinois, and shall be governed by the laws of the State of Illinois, without reference to the conflict of law principle of such State. The undersigned agrees that any suit, action, proceeding or other litigation under or on account of this Note may be brought or instituted in or removed to any State or federal court situated in Cook County, Illinois, having subject matter jurisdiction and the undersigned hereby consents thereto and submits to the jurisdiction of any such court.

THE UNDERSIGNED HEREBY IRREVOCABLY WAIVES THE RIGHT TO TRIAL BY JURY WITH RESPECT TO ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR RELATING TO THIS NOTE.

Legality. The parties hereto intend and believe that each provision in this Note comports with all applicable law. However, if any provision in this Note is found by a court of law to be in violation of any applicable law, and if such court should declare such provision of this Note to be unlawful, void or unenforceable as written, then it is the intent of all parties to the fullest possible extent that it is legal, valid and enforceable, that the remainder of this Note shall be construed as if such unlawful, void or unenforceable provision were not contained therein, and that the rights, obligations and interests of the undersigned and the holder hereof under the remainder of this Note shall continue in full force and effect; provided, however, that if any provision of this Note which is found to be in violation of any applicable law concerns the imposition of interest hereunder, the rights, obligations and interests of the undersigned and Lender with respect to the imposition of interest hereunder shall be governed and controlled by the following paragraph.

It being the intention of Lender and the undersigned to comply with the laws of the State of Illinois with regard to the rate of interest charged hereunder, it is agreed that, notwithstanding any provision to the contrary in this Note, or in any of the Security Instruments, no such

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provision shall require the payment or permit the collection of any amount in excess of the maximum amount of interest permitted by law to be charged for the use or detention, or the forbearance in the collection, of all or any portion of the indebtedness evidenced by this Note ("Excess Interest"). If any Excess Interest is provided for, or is adjudicated to be provided for, in this Note or in any of the Security Instruments, then in such event:

- (a) the provisions of this paragraph shall govern and control;
- (b) neither the undersigned nor any guarantor of this Note shall be obligated to pay any Excess Interest;
- (c) any Excess Interest that Lender may have received hereunder, at the option of Lender, shall be (i) applied as a credit against either the then outstanding principal balance due under this Note, or the accrued and unpaid interest thereon not to exceed the maximum amount permitted by law, or both; (ii) refunded to the payor thereof; or (iii) any combination of the foregoing;
- (d) the applicable interest rate or rates shall be automatically subject to reduction to the maximum lawful rate allowed to be contracted for in writing under the applicable usury laws of the aforesaid State, and this Note, and the Security Instruments shall be deemed to have been, and shall be, reformed and modified to reflect such reduction in such interest rate or rates; and
- (e) neither the undersigned nor any guarantor of this Note shall have any action or remedy against Lender for any damages whatsoever or any defense to enforcement of the Note, or any of the Security Instruments arising out of the payment or collection of any Excess Interest.

Limitations on Liability of Land Trust. This instrument is executed by First Bank and Trust Company of Illinois, 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 such Trustee hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained (it being understood and agreed that each of the provisions hereof, except the warranty hereinabove contained, shall constitute a condition and not a covenant or agreement regardless of whether the same may be couched in language of a promise or covenant or agreement), all such personal liability, if any, being expressly waived by the Lender and by every person now or hereafter claiming any right hereunder, and that so far as the said Trustee is concerned, the Lender shall look solely to the security granted by the Security Instruments, documents or instruments or guaranties evidencing or securing the indebtedness secured hereby for the payment thereof, by the enforcement of the liens, charges

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and other rights created by said Security Instruments, in the manner herein and in said Security Instruments provided.

IN WITNESS WHEREOF, the undersigned has caused this Third Amended and Restated Secured Note to be executed and delivered as of the date and year first above written.

CENTRAL PARK PLACE ASSOCIATES LIMITED PARTNERSHIP, an Illinois limited partnership

By: **Churchill Venture Wilmette Limited Corporation**, an Illinois corporation and its general partner

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

FIRST BANK AND TRUST COMPANY OF ILLINOIS, not personally, but solely as Trustee under Trust Agreement dated March 14, 1996, and known as Trust No. 10-2020

By: _____
Name: **Michael C. Winter**
Title: **Assistant Trust Officer**

ROGER J. LEVIN, individually

Roger J. Levin

DONALD GRAUER, individually

Donald Grauer

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