

PREPARED BY:

Stephen H. Malato, Esq.  
Hinshaw & Culbertson  
222 North LaSalle Street  
Suite 300  
Chicago, Illinois 60601

Address of Property: 1036 North Dearborn  
Chicago, Illinois

Tax Numbers: 17-04-423-008

Above Space for Recorder's Use Only

**FIRST LOAN MODIFICATION AND ASSUMPTION AGREEMENT**

This First Loan Modification and Assumption Agreement ("First Modification") made this November 19, 1997 ("Effective Date") among SOUTHERN FARM BUREAU LIFE INSURANCE COMPANY, a Mississippi corporation ("Lender"), American National Bank and Trust Company of Chicago, not personally but solely as Trustee of a certain Trust agreement dated June 24, 1993 and known as Trust Number 117136-09 ("Original Trust"), 1036 North Dearborn Associates, L.P., an Illinois limited partnership ("Original Beneficiary") (Original Trust and Original Beneficiary are together "Original Borrower"), Corus Bank, not personally but solely as Trustee of a certain Trust agreement dated July 11, 1997 and known as Trust Number 4283 ("Trust"), 1036 North Dearborn Partnership, an Illinois general partnership ("Beneficiary") ("Borrower").

**RECITALS**

A. By Assignment of Debt Obligation and Security recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document Number 96856844, Lender became the legal owner and holder of Mortgage Note dated October 20, 1993 ("Note"), executed and delivered by Original Borrower in favor of Southern Farm Bureau Annuity Insurance Company,

Handwritten notes on the left margin: "DIPER ALL", "LMT", "76 74 754", "DI", "JY".

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a Mississippi corporation ("Original Lender") in the principal amount of \$2,400,00.00 ("Principal Amount").

B. Note is secured by Mortgage and Security Agreement of even date with Note, executed by Original Borrower, with respect to that certain real estate (as such term is defined in Mortgage) conveying the land and improvements legally described on Exhibit "A" attached hereto and made a part hereof ("Land and Improvements"), recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document Number 93862162 ("Mortgage") and other documents ("Other Loan Documents") executed by Original Borrower to evidence and secure the indebtedness evidenced by Note ("Indebtedness") (Mortgage and Other Loan Documents collectively "Security Documents" and Land, Improvements and interests conveyed in Security Documents are collectively referred to as the "Property").

C. Original Borrower has requested that Lender consent to the transfer of Property to Borrower and the assumption by Borrower of the obligations of Original Borrower pursuant to the terms and provisions of Note and Security Documents (collectively "Existing Loan Papers") and Lender has agreed to do so, all upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the payments made and to be made by Borrower, as hereinafter provided, and the performance of the terms, covenants, conditions and agreements hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. WARRANTIES AND REPRESENTATIONS. Original Borrower and Borrower represents and warrants as follows (collectively "Warranties and Representations"):

a. The execution and delivery of Existing Loan Papers, this First Modification and all other documents executed and delivered in connection with First Modification (collectively "Additional First Modification Documents") were duly authorized;

b. Existing Loan Papers, First Modification and Additional First Modification Documents and each of the covenants, conditions and agreements contained therein are in full force and effect, are the valid and legally binding obligations of Borrower and are free from all legal and equitable defenses, offsets and counterclaims;

c. No part of Property is in receivership nor is any application for receivership pending and no petition in bankruptcy has been filed by or against either Original Borrower or Borrower nor is there any litigation existent which affects Property except as noted on Exhibit B attached hereto and made a part hereof;

d. There are no agreements, state of facts or circumstances presently existing and known to either Original Borrower or Borrower which, with or without the service of notice, passage of time, or both, would grant to Borrower the right to refuse to make or delay the payments or otherwise perform the terms, covenants, conditions and

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agreements required pursuant to Existing Loan Papers, First Modification or Additional First Modification Documents.

e. All statements and representations contained in all documentation provided to Lender and all other representations or statements made by or on behalf of Original Borrower or Borrower to Lender in connection with the transfer of Property to Borrower or the assumption by Borrower of the obligations of Original Borrower pursuant Existing Loan Papers are true and correct.

f. Neither Original Borrower nor Borrower is insolvent and will not be rendered insolvent by the execution of First Modification or Additional First Modification Documents.

g. To the best knowledge of Original Borrower and Borrower, based upon title commitments issued by Chicago Title Insurance Company, no person, firm or corporation has or claims any interest in Land and Improvements which does not appear in Policy for Title Insurance, Policy Number 1401 007460940 D2 dated October 26, 1993, issued by Chicago Title Insurance Company ("Title Policy") [other than tenants of Land and Improvements ("Occupancy Tenants"), pursuant to their respective leases ("Leases")], nor is there any unrecorded deed, deed of trust, mortgage or other conveyance or any undelivered bill of sale, assignment, option, right of first refusal or instrument of transfer relating to Land and Improvements;

h. There are no agreements, state of facts or circumstances presently existing which, with or without the service of notice, passage of time, or both, would grant to Borrower the right to refuse to make or delay the payments or otherwise perform the terms, covenants, conditions and agreements required pursuant hereto and the Existing Loan Papers;

i. For purposes of this First Modification the term "Hazardous Substance" is as defined in that certain Environmental Indemnity Agreement executed by Borrower of even date herewith;

j. Neither Original Borrower nor Borrower has received any notice, summons, citation, directive, letter or other communication, written or oral, from any agency or department of the City of Chicago, Illinois, the County of Cook, the State of Illinois, the United States Government or any agency of government, nor, to the best knowledge of either Borrower or Borrower, has any action ever been commenced or threatened by any such party concerning any intentional or unintentional action or omission on the part of Original Borrower or Borrower or, to the knowledge of either Original Borrower or Borrower, adjacent owners which resulted from the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substances into or onto Land and Improvements or the land adjacent to Land.

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Any inaccuracies in Representations and Warranties shall be an event of default pursuant to Existing Loan Papers, thereby entitling Lender to exercise its right to accelerate the payment of Indebtedness and exercise any and all other rights available to Lender pursuant to Existing Loan Papers, First Modification or Additional First Modification Documents or at law or in equity.

2. **ACKNOWLEDGMENT OF PRINCIPAL AMOUNT OF LOAN AMOUNT DUE AS OF EFFECTIVE DATE.** As of November 1, 1997, after application of the payment of principal and interest made for November 1, 1997, the present balance of the Principal Amount is TWO MILLION ONE HUNDRED EIGHTY-FOUR THOUSAND NINE HUNDRED TWENTY-EIGHT DOLLARS AND .70/100 (\$2,184,928.70).

3. **ASSUMPTION OF OBLIGATIONS.** From and after Effective Date, Borrower hereby assumes all of Original Borrower's obligations owed Lender pursuant to Existing Loan Papers. Borrower shall be liable pursuant to Existing Loan Papers, this First Modification and Additional First Modification Documents, whether such liabilities arose before or after Effective Date.

4. **RELEASE OF ORIGINAL BORROWER.** From and after Effective Date, Original Borrower shall be released from liability pursuant to Existing Loan Papers.

5. **CONSENT TO TRANSFER.** Lender hereby consents to the transfer of the Property from Original Borrower to Borrower, including the transfer of the tax and insurance escrow balances being held by Lender's loan servicer pursuant to the terms and provisions of Mortgage.

6. **RELEASE OF LENDER.** As additional consideration of Lender's consent to the transfer of Property to Borrower, as herein provided, Original Borrower and its general partners hereby release and forever discharge Lender, its agents, servants, employees, directors, officers, attorneys, branches, affiliates, subsidiaries, successors, assigns and all persons, firms, and corporations acting in its behalf, of and from all damage, loss, claims, demands, liabilities, obligations, actions and causes of action whatsoever which Original Borrower or its general partners may now have or claim to have against Lender as of the Date Hereof and whether presently known or unknown and of every nature and extent whatsoever on account of or in any way concerning, arising out of or founded upon the Existing Loan Papers, First Modification or Additional First Modification Documents, including, but not limited to, all loss or damage of any kind heretofore sustained or which may arise as a consequence of the transactions between Original Borrower, general partners and Lender to and including the Date Hereof, and this release and covenant by Original Borrower, general partners and Lender is contractual and not a mere recital.

7. **REQUIRED NOTICES.** Wherever notices are required, pursuant to Existing Loan Papers, this First Modification or Additional First Modification Documents, the same shall be in writing and shall be delivered either personally or by United States certified or registered mail,

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postage prepaid, return receipt requested, which shall be deemed received three (3) days after the deposit thereof with the United States Postal Service and shall be mailed to the Borrower or Additional Indemnitors at their respective addresses set forth below or to such other addresses as Borrower or Additional Indemnitors shall direct in writing.

If to Trust, Corus Bank, 2401 N. Halsted, Chicago, Illinois 60614, Attn: Land Trust Department, with copies thereof to Beneficiary;

If to Beneficiary, 1036 North Dearborn Partnership, c/o  
John D. Norcross; and  
2 N. LaSalle, #2000, Chicago IL 60602

If to Lender, Southern Farm Bureau Life Insurance Company, 1401 Livingston Lane, Post Office Box 78, Jackson, Mississippi 39205, Attn: Mortgage Loan Administration Department.

8. **FAILURE OR DELAY.** No failure by Lender to exercise, or delay by Lender in exercising, any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in Existing Loan Papers, First Modification and Additional First Modification Documents are cumulative and not exclusive of each other or of any right or remedy provided by law or in equity. No notice to or demand upon Borrower, in any instance, shall, in itself, entitle

Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstance without notice or demand.

9. **EFFECTIVENESS.** This First Modification shall be effective as of Effective Date.

10. **CONSTRUCTION.** This First Modification shall not be construed more strictly against Lender than against Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that both Borrower and Lender have contributed substantially and materially to the preparation of this First Modification, and Borrower and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the others in entering into this First Modification.

This First Modification shall universally modify Existing Loan Papers and shall be construed in conjunction with Existing Loan Papers. All terms used herein shall have the meanings ascribed in Existing Loan Papers unless otherwise defined herein. Except to the extent modified herein, and in Additional First Modification Documents, the provisions of Existing Loan Papers are hereby ratified and confirmed.

11. **ENTIRE AGREEMENT.** Original Borrower, Borrower and Lender each acknowledge that there are no other agreements or representations, either oral or written, expressed or implied, not embodied in this First Modification, Additional First Modification

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Documents, Note, Mortgage and Other Loan Documents and any other documents executed in connection with the Loan, which, together, represent a complete integration of all prior and contemporaneous agreements and understandings of Original Borrower, Borrower and Lender.

IN WITNESS WHEREOF, Lender, Original Borrower and Borrower have caused this First Modification to be signed by their respective duly authorized signatories and have executed this First Modification on the day and year first above written.

**LENDER:**

SOUTHERN FARM BUREAU LIFE INSURANCE COMPANY, a Mississippi corporation

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

**ORIGINAL TRUST:**

This instrument is hereby executed by the undersigned not personally but solely as Trustee in the exercise of the power and authority conferred upon the undersigned by the will of the testator and vested in it as such Trustee. It is a part of the original and agreed-upon trust agreement, including all amendments, supplements, warranties, indentures, and other instruments, and the undersigned hereby agrees to be bound by the terms and conditions of the trust agreement herein made on the part of the undersigned and to be held liable in the capacity as Trustee and not personally. The undersigned hereby agrees to be held liable on account of any warranty, indemnity, reproduction, covenant, or undertaking or agreement of the Trustee in this instrument.

American National Bank and Trust Company of Chicago, not personally but solely as Trustee of a certain Trust Agreement dated June 24, 1993 and known as Trust Number T17136-09

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

**ORIGINAL BENEFICIARY:**

1036 North Dearborn Associates, L.P., an Illinois limited partnership

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

**TRUST:**

SEE EXCULPATORY LANGUAGE ON REVERSE SIDE OR ATTACHED HERETO AND MADE A PART HEREOF

Corus Bank, not personally but solely as a Trustee of a certain trust Agreement dated July 11, 1997 and known as Trust Number 4283

By: \_\_\_\_\_  
Title: **TRUST OFFICER**

**BENEFICIARY:**

1036 NORTH DEARBORN PARTNERSHIP, an Illinois general partnership

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

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## TRUSTEE DOES NOT WARRANT AND DEFEND

This document is executed by CORUS BANK, not individually, but solely as Trustee under Trust Agreement mentioned in said Document. Said Trust Agreement is hereby made a part hereof and any claims against said Trustee which may result from the signing of this Document shall be payable only out of any Trust property which may be held thereunder, except that no duty shall rest upon CORUS BANK as Trustee, to sequester any of the earnings, assets, or proceeds of any of the terms and conditions of this document or for the validity or condition of the trust property or for any agreement with respect thereto. Any and all personal liability of CORUS BANK is hereby expressly waived by the parties hereto and their respective successors and assigns. All warranties, covenants, indemnities and representations of each kind are those of the Trustee's beneficiaries only and shall not in any way be considered the responsibility and liability of CORUS BANK. This Trustee's exculpatory clause shall be controlling in the event of a conflict of terms created by the documents executed by CORUS BANK, as Trustee.

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Documents, Note, Mortgage and Other Loan Documents and any other documents executed in connection with the Loan, which, together, represent a complete integration of all prior and contemporaneous agreements and understandings of Original Borrower, Borrower and Lender.

IN WITNESS WHEREOF, Lender, Original Borrower and Borrower have caused this First Modification to be signed by their respective duly authorized signatories and have executed this First Modification on the day and year first above written.

**LENDER:**

SOUTHERN FARM BUREAU LIFE INSURANCE COMPANY, a Mississippi corporation

By: Philip Hogue  
Title: Philip Hogue  
Vice President

**ORIGINAL TRUST:**

American National Bank and Trust Company of Chicago, not personally but solely as Trustee of a certain Trust Agreement dated June 24, 1993 and known as Trust Number 117136-09

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

**ORIGINAL BENEFICIARY:**

1036 North Dearborn Associates, L.P., an Illinois limited partnership

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

**TRUST:**

Corus Bank, not personally but solely as a Trustee of a certain trust Agreement dated July 11, 1997 and known as Trust Number 4283

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

**BENEFICIARY:**

1036 NORTH DEARBORN PARTNERSHIP, an Illinois general partnership

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

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STATE OF MISSISSIPPI )  
                                  )     SS.  
COUNTY OF HINES     )

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Philip Hogue, of SOUTHERN FARM BUREAU LIFE INSURANCE COMPANY, a Mississippi corporation ("Lender"), as Vice President thereof, 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Lender, for the uses and purposes therein set forth; and the said Vice President did also then and there acknowledge that as custodian of the corporate seal of Lender, did affix the said corporate seal thereof to said instrument as his own free and voluntary act, and as the free and voluntary act of Lender, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 18 day of November, 1997.

  
\_\_\_\_\_  
Notary Public Elaine P. Mangold

My Commission Expires:

12-21-97

Notary Public of Cook County Clerk's Office

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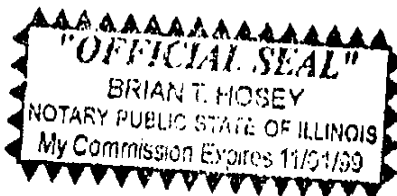
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STATE OF ~~MISSISSIPPI~~ IL )  
                                  ) SS.  
COUNTY OF ~~LINES~~ ) COOK

The undersigned, a Notary Public, in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that GREGORY S. KASPRZYK of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO OF CHICAGO, not personally but solely as Trustee of a certain Trust agreement dated June 24, 1993 and known as Trust Number 117136-09 ("Original Trust"), as VICE PRESIDENT thereof, 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Original Trust, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this NOV 21 1997 day of \_\_\_\_\_, 1997.

*Brian T. Hosey*  
\_\_\_\_\_  
Notary Public



My Commission Expires:  
\_\_\_\_\_

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STATE OF MISSISSIPPI )  
COUNTY OF HINES ) SS.

*President of Illinois Partners, Inc., an Illinois corporation, general partner of*

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Marvin Goldsack of 1036 North Dearborn Associates, L.P., an Illinois limited partnership ("Original Beneficiary") as \_\_\_\_\_ thereof, 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Original Beneficiary, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 20<sup>th</sup> day of November, 1997.

Marthy Borg  
Notary Public

My Commission Expires:  
6-21-2000



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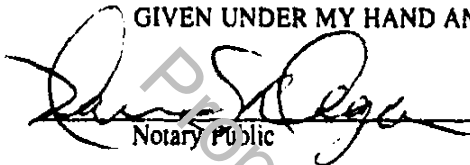
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ILLINOIS  
STATE OF MISSISSIPPI-)  
(POIC. ) SS.  
COUNTY OF HINES )

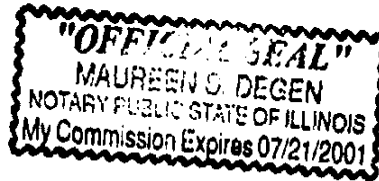
The undersigned, a Notary Public, in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that JUDITH E. LEWIS of CORUS BANK, not personally but solely as Trustee of a certain Trust agreement dated July 11, 1997 and known as Trust Number 4283 ("Trust") thereof, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Trust, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 20<sup>TH</sup> day of NOVEMBER, 1997.

  
Notary Public

My Commission Expires

7/21/01



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ILLINOIS  
STATE OF MISSISSIPPI )  
COOK ) SS.  
COUNTY OF HINES )

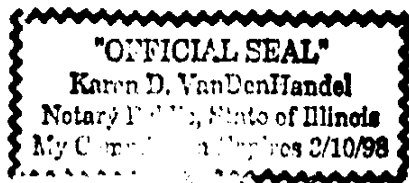
The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that JOHN D. WOLKOFF of 1036 North Dearborn Partnership, an Illinois general partnership ("Borrower") as thereof, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Borrower, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL this 9 day of Nov, 1997.

Karen D. VanDenHandel  
Notary Public

My Commission Expires:

3-10-98



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## EXHIBIT A LEGAL DESCRIPTION

Lots 1 and 2 in the subdivision of block 15 in Bushnell's Addition to Chicago, in the East 1/2 of the Southeast 1/4 of Section 4, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

1036 North Dearborn, Chicago, Illinois  
17-04-423-008

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