This instrument prepared by, and after recording, mail to: The First National Bank of Chicago 1048 West Lake Street Oak Park, Illineis 60301 Attn: Commercial Real Estate Loans

97293459

DEPT-01 RECORDING

\$35.50

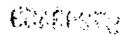
T#0011 TRAN 6773 04/28/97 13:02:00 \$6370 \$ KP \*-97-293459

COOK COUNTY RECURDER

LOAN MODIFICATION AGREEMENT

THIS LOAN MODIFICATION AGREEMENT DATED MARCH 1, 1997 BY AND BETWEEN 464 NORTH AUSTIN PARTNERSHIP, AN ILLINOIS PARTNERSHIP, FREDRICK DAILMER AND RUSSELL S. STEPHENSON (COLLECTIVELY "BORROWER") AND THE FIRST NATIONAL BANK OF CHICAGO (" LENDER") IS BEING RE-RECORDED IN ORD IR TO ADD THE REVISED NOTE, WHICH IS ATTACHED AL OUNTY CORTES OFFICE HERETO AS EXHIBIT A.

4130666 19415C



97231157

After recording, mail to The First National Bank of Chicago 1048 Lake Street Oak Park, 1L 60301 Attn: Commercial Real Estate

DEPT-01 RECORDING \$27.5 740009 TRAN 7946 04/03/97 12:56:00

. #5792 # SK \*-97-231157

COOK COUNTY RECORDER

#### **LOAN MODIFICATION AGREEMENT**

March 1, 1997

WHEREAS 464 North Austin Partnership, an Illinois partnership, Fredrick Dahmer and Russell S. Stephenson (the "Borrower"), jointly and severally if more than one, are justly indebted to THE FIRST NATIONAL BANK OF CHICAGO, ("Lender"), having its principal office in Chicago, Illinois, under its loan No. 998763664-18, originally in the sum of Four Hundred Sixty Thousand and no/ICO Dollars (\$460,000.00) as established by a certain Promissory. Note and secured by a certain Real Estate Mortgage and Assignment of Reads ("Security Documents") both dated May 11, 1992; as modified by a certain Promissory. Note dated December 4, 1993 and a certain Loan Modification. Agreement dated December 4, 1993 and recorded in the Cook County Recorder's Office on December 22, 1993 as Document No. 03053287; and the Mortgage rear field in the Office of the Recorder of Deeds/Registrar of Titles of Cook County, Illinois, on May 15, 1992 as Document No. 92338337, and re-recorded on July 24, 1992 as Document No. 92544588, against the property legally described as follows:

Lots 4 and 5 In Block 36 in the Village of 5/2/geland, a Subdivision of the East 1/2 of the East 1/2 of Section 7, and the Northwest 1/4 and the West 1/2 of the Southwest 1/4 of Section 8, Township 39 North,Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As: 464 North Austin. Oak Park, hitrois 60302

PIN: 16-08-123-029

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

WHEREAS, the undersigned owner of said premises does hereby request this Loan Modification Agreement.

NOW, THEREFORE, it is hereby agreed by the parties hereto that the Note is hereby modificular increased and amended in its entirety by the Term Loan. Note of even date herewith in the amount of \$500.000.00 ("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. On April 1, 2004 (Maturity Date"), any remaining indebtedness, if not sconer paid, shall be due and payable. The Mortgage and all security documents ("Security Documents") are hereby modified and amended to secure the Revised Note and 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.

97234137

BORROWER.

464 North Austin Partnership,

an Illingis partnership

Russell S. Stephenson

LENDER:

or Coot County Clart's Office

The First National Bank of Chicago

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#### **UNOFFICIAL COPY**

#### (Partnership Beneficiary Acknowledgment) ACKNOWLEDGMENT

STATE OF
I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Fredrick Dahmer and Russell S. Stephenson of 464 North Austin Partnership, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such appeared or fore me this day in person and acknowledged that he/she signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Partnership, for the uses and purposes therein set forth.
Given under my hand and Notarial Seal this 37 day of UFUL, 1947.
NGTARY PUBLIC My Commission expires: MC My MMM
"OFFICIAL SEAL"  JILL HOSMAN  Notary Public, State of Ellincis My Commission Expires 1-27-2000
Notary Public, State of Illinois My Commission Expires 1-27-2000  STATE OF ILLINOIS  1  1 ss.
STATE OF ILLINOIS
COUNTY OF LOCK SS.
I, the undersigned, a Notary Public in and for said county and state, DG HEREBY CERTIFY that Juve M. Device., of THE FIRST NATIONAL BANK OF CHICAGO, a national banking association, 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 E. signed and delivered the said instrument as HEL free and voluntary act, for the uses and purposes therein set forth.
GIVEN under my hand and official seal, this 27 day of MHAM, 1997
My Commission Expires:

\*OFFICIAL SEAL\*
JILL HOSMAN
Notary Public, State of Elimois
My Commission Expires 1-27-2009

(Individual Acknowledgment) ACKNOWLEDGMENT STATE OF ) **SS**. COUNTY OF I, III HOBINAN a Notary Public in and for said county and state, do hereby certify that Frederick Dahmer, personally appeared before me and is (are) known to me to the person(s) who, being informed of the contents of the foregoing instrument, have executed same, and acknowledged said instrument to be 416 free and voluntary act and deed and that 46 executed said instrument for the purposes and uses therein set forth. Witness my hand and official seal this 27 day of WIRRIH . 1997. My Commission Expires: E. St. Of County (SEAL) Notary Public OFFICIAL SEAR JHLL HOSMAN Notary Public, State of Elineis My Cemmission Expires 1-27-2000 (Individual Acknowledgment) ACKNOWLEDGMENT STATE OF ) SS. **COUNTY OF** IMALIA Wa Notary Public in and for said county and state, do hereby coalify that Russell S. Stephenson, personally appeared before the and is (are) known to me to the personals) who, being informed of the contents of the foregoing instrument, have executed same, and acknowledged said instrument to be  $\underline{H15}$  free and voluntary act and deed and that  $\underline{H6}$  executed said instrument for the purposes and uses therein set forth. Witness my hand and official seal this 27 day of MAROH. 1997 My Commission Expires: (SEAL)

Property of Cook County Clerk's Office

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TERM LOAN NOTE (5-YEAR ARM)

\$500,000.00 March 1, 1997

FOR VALUE RECEIVED. 464 North Austin Partnership, an Illinois partnership, Fredrick Dahmer and Russell S. Stephenson, jointly and severally, if more than one, (the "Borrower") premises to pay to the order of The First National Bank of Chicago (the "Bank"), the principal sum of FIVE HUNDRED THOUSAND AND NO/100 Dollars (\$500,000.00) 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 300 months, adjusted, however, from time to time as the rate of interest changes. Payments on account of this Note small be made as follows:

- (a) On May 1, 1597 and on the first day of each month thereafter to and including April 1, 2002 there shall be paid \$4,032.88 which shall be applied first to interest at the rate of 8.52 % per annum and the balance to principal.
- (b) On April 1, 2002 ("Adjustment Date(s)") the rate of interest on this Note shall be adjusted ("Adjusted Rate") to a rate determined by adding 2.25% to the average of yields for the month of February two months preceding the Adjustment Date on actively traded U.S. Government Securities, 5.00-Year Treasury Constant Maturities as published in the Federal Reserve Statistical Release (H.15, Selected Interest Rates Report).
- (c) On May 1, 2002 and on the first day of each succeeding month thereafter until the Maturity Date (as defined below), 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 300 months the number of months clapsed from May 1, 1997 through the most recent Adjustment Date.
- (d) On April 1, 2004 ("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 of the date on which the Borrower proposes to prepay ("Prepayment Date") 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 and the applicable Prepayment Premium. 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. The Prepayment Premium shall apply to any payments, voluntary or involuntary, including those made after acceleration of maturity of the Note.

"Prepayment Premium" means an amount equal to Three (3%) percent of the amount prepaid during year One; Two (2%) percent of the amount prepaid during year Two; One (1%) percent of the amount prepaid during year Three; and One (1%) percent during year Six.

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.

After demand or maturity, 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 charged for the actual number of days chapsed. The Borrower agrees to pay reasonable attorneys' fees, costs and expenses incurred by the Bank in the collection and enforcement of this Note.

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:

Real Estate Mortgage and Assignment of Rents, dated May 11, 1992 and recorded on May 15, 1992 as Document No. 92338337 and re-recorded on July 24, 1992 as Document No. 92544588, and modified by a Loan Modification Agreement dated December 4, 1993 and recorded on December 22, 1993 as Document No. 03053287 on real estate located at 464 N. Austin, Oak Park, 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 and Loan Modification Agreement 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 habilities 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 brained; te) the Borrower has filed all United States federal tax returns and all other tax returns which are required to be filed and las pold all taxes due pursuant to said returns or pursuant to any assessment received by the Borrower, and no tax liens have been filed at a 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 tixes 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 cristing or hereafter enacted Federal or State statute and the Borrower will at all times indemnify and hold harmless the Bank logainst 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 to refinance indebtedness 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.
- 3. <u>Defaults</u>. 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 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.

- Any individual guarantor of the indebtodness represented hereby shall die or any corporate guarantor shall (d) fail to maintain its corporate existence.
- The Borrower or any guarantor of the indebtedness represented hereby shall have an order for relief (c) 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 guaranter 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 involved lness due from the legal holder hereof to the Borrower may be appropriated and applied hereon after any expressed or accelerated majurity hereof.
- 5. Amendments, Remedies, e.c. 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 citent 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 it wolf conflicts) of the State of Illinois, giving effect, however, to federal laws applicable to national banks. THE BORROWER HEFEPY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING HEREUNDER.

This Note is a substitute for and an increase to that certain Promissory Note dated December 4, 1993 in the original principal amount of \$452,881.00 executed by the Borrower and payable to the Bank ("the Prior Note"). This Note is not a 750 OFFICO repayment or novation of the Prior Note.

464 North Austin Partnership, an illinois partnership

Fredrick Dah Russell S. Stephenson

Fredrick Dahmen Vidually

Russell S. Stephenson, individually