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Cook County Recorder 35.50

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FIFTH LOAN MODIFICATION AGREEMENT

THIS FIFTH LOAN MODIFICATION AGREEMENT (this "Agreement") is made as of the 1st day of May, 1995 by and among American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated February 1, 1978 and known as Trust No. 42116 ("Borrower"), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association ("Lender").

RECITALS:

A. Lender has heretofore made a loan (the "Loan") to Borrower in the original principal amount of \$1,300,000, which Loan is evidenced by that certain Installment Note (the "Note"), dated May 15, 1986 made by Borrower payable to the order of Lender in the original principal amount of \$1,300,000.

PREPARED BY AND AFTER RECORDING

RUDNICK & WOLFE
203 N. LASALLE ST., SUITE 1800
CHICAGO, IL 60601
ATTN: JANET B. CORY, ESQ.

JBC0994 04/13/95 1352

Return To:

LEXIS Document Services
135 S. LaSalle St., Suite 2260
Chicago, IL 60603
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(FM N) - ("B")
Debtor: Fifth Loan Modification Agreement By
Juris: Recorder of Deeds, Cook County, IL

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B. The Note is secured by, among other things, (i) that certain Mortgage, dated May 15, 1986 made by Borrower and recorded in the Office of the Recorder of Cook County, Illinois (the "Recorder's Office") on June 5, 1986 as Document No. 86226947, encumbering the real property (the "Property") legally described on Exhibit A attached hereto and made a part hereof (the "Mortgage"), (ii) that certain Assignment of Rents and Leases dated May 15, 1986 made by Borrower and recorded in the Recorder's Office on June 5, 1986 as Document No. 86226948 (the "Assignment of Rents"), (iii) that certain Guaranty dated May 15, 1986 made by Jerome Bornstein, now known as Jerome J. Born or J. J. Born ("Guarantor") (the "Guaranty"), and (iv) that certain Amended Security Agreement and Security Assignment Under Land Trust dated May 15, 1986 made by Guarantor, as the beneficiary of Borrower (the "Security Agreement") (the Note, the Mortgage, the Assignment of Rents, the Guaranty, the Security Agreement and any other documents evidencing or securing the Loan, as amended by the modifications described below, shall be collectively referred to herein as the "Loan Documents").

C. Borrower and Lender entered into that certain Modification Agreement dated July 1, 1986 and recorded in the Recorder's Office on July 14, 1986 as Document No. 86292703 (the "First Modification"), that certain Modification Agreement dated May 15, 1989 recorded in the Recorder's Office as Document No. 89371690 (the "Second Modification"), that certain Third Loan Modification Agreement dated November 30, 1992 recorded in the Recorder's Office as Document No. 93032253 (the "Third Modification") and that certain Fourth Loan Modification Agreement dated January 4, 1995 recorded in the Recorder's Office as Document No. 95021136 (the "Fourth Modification").

D. Borrower and Guarantor have requested and Lender has agreed to further extend the maturity date of the Loan and to otherwise amend the terms and conditions of the Loan Documents as more particularly hereinafter set forth.

NOW, THEREFORE, in consideration of Lender extending the maturity date of the Loan and amending the terms of the Loan Documents, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENTS

1. Maturity Date, Extension. The maturity date of the Loan is extended from November 15, 1995 to April 1, 1996. In the event that (i) there shall be no Default under any of the Loan Documents, and (ii) on or before March 15, 1996, Borrower has recorded a

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Declaration of Condominium on the Property with the Recorder's Office, which Declaration shall be reviewed and approved by Lender prior to the recording thereof, and Lender has reviewed and approved a plan submitted by Borrower to Lender for converting the improvements on the Property to condominiums, then the Maturity Date shall be extended to April 1, 1997. Borrower shall execute and deliver to Lender such documents as may be reasonably required to evidence such extension.

2. **Principal and Interest.** As of the date hereof, the outstanding principal balance of the Loan is \$891,427.09. Interest shall continue to accrue on the outstanding principal balance of the Loan at the Prime Rate. Such interest shall be paid monthly in arrears on the fifteenth (15th) day of each month of the term of the Loan. The entire outstanding principal balance and accrued interest thereon shall be paid by Borrower to Lender on or before April 1, 1996, unless extended pursuant to paragraph 1 hereof. Lender and Borrower hereby acknowledge and agree that Borrower did not make the principal payment required under paragraph 2 of the Fourth Modification and Borrower shall not be required to make such principal payment until the Maturity Date.

3. **Additional Security.** An additional security for the Loan, Borrower shall execute and deliver to Lender a collateral assignment of the beneficial interest in American National Bank and Trust Company of Chicago Land Trust No. 103443-07 dated September 9, 1987.

4. **Title Policy.** In connection with the execution and delivery of this Agreement, Borrower shall deliver to Lender an endorsement to Lender's Title Insurance Policy issued by Chicago Title Insurance Company (the "Title Company") as Policy No. 70-56-897 and dated August 28, 1986 (the "Title Policy"), whereby the Title Company shall insure that there are no mechanic's liens or other liens or encumbrances affecting Borrower's title to the Property or Lender's security interest in the Property other than those liens or encumbrances listed in the Title Policy as of November 30, 1992, and otherwise insuring the priority of the Mortgage.

5. **Consents; Release.** Borrower, Guarantor and Trust No. 103443-07 (as hereinafter described) hereby consent to this Agreement and all terms and provisions contained herein. Guarantor does hereby covenant and agree that his liability under the Guaranty does and shall remain unchanged and otherwise in full force and effect and Guarantor does hereby reaffirm all of his obligations thereunder. The Subsequent Loan Documents (as defined in the Third Modification) shall be released of even date herewith upon payment in full of the debt secured thereby.

6. **Reaffirmation.** Borrower and Guarantor do hereby reaffirm and agree to perform each and every covenant, condition, obligation and provision set forth in the Note and all other

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Loan Documents as herein modified and nothing contained herein shall vitiate or affect Borrower's and Guarantor's liability under the Note and any of the other Loan Documents except as may be modified herein.

7. **Conflict.** In the event of a conflict between the terms and conditions of this Agreement and the terms of the Loan Documents, the terms of this Agreement shall control.

8. **Miscellaneous.**

(a) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(b) Borrower hereby agrees to pay to Lender all of Lender's costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, reasonable attorneys' fees, recording fees, title insurance fees and other charges.

(c) Borrower hereby further agrees to enter into any additional modifications or amendments to the Loan Documents as may be reasonably requested by Lender to effectuate or confirm the modifications made pursuant to this Agreement or to otherwise conform the Loan Documents to the modifications contained herein.

(d) The Loan Documents, as expressly modified and amended by this Agreement, shall continue in full force and effect and the Loan Documents, as thus modified and amended, are hereby ratified, confirmed and approved.

(e) This Agreement is executed by the undersigned Land Trustee, 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 is payable only out of the assets of the trust estate held under the Trust Agreement creating such trusts, including property specifically described in Exhibits A and B hereto. No personal liability shall be asserted or be enforceable against the Land Trustee, because or in respect of this Agreement or the making, issue, transfer or enforcement hereof, all such liability of the Land Trustee, if any, being expressly waived by Lender, and the sole remedies of Lender against the Land Trustee shall be as provided in the Mortgage, the Loan Documents and any other documents given to secure the Note, in accordance with the terms and provisions contained therein, and/or by action to enforce the personal liability of Guarantor for payment of all amounts due and performance of all obligations required under this Agreement and the Loan Documents.

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IN WITNESS WHEREOF, Borrower and Lender have caused these presents to be executed as of the day and year first above written.

LENDER:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association

By: [Signature]
Name: VETE STABLES
Title: V.P.

BORROWER:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under Trust Agreement dated February 1, 1978 and known as Trust No. 42116

By: [Signature] M.W.
Name: J. J. Born
Title: Trustee

AGREED AND CONSENTED TO:

GUARANTOR:

[Signature]
Jerome J. Born, formerly known as Jerome Bornstein

TRUST NO. 103443-07:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under Trust Agreement dated September 9, 1987 and known as Trust No. 103443-07

By: _____
Name: _____
Title: _____

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of American National Bank and Trust Company of Chicago, as Trustee as aforesaid, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me and acknowledged that he signed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this ____ day of _____, 1995.

Notary Public

My Commission Expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Leah Thomas, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Peter C. Malucck, the Vice President of American National Bank and Trust Company of Chicago, as Trustee as aforesaid, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me and acknowledged that he signed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 2 day of May, 1995.

Leah Thomas
Notary Public

My Commission Expires: _____



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EXHIBIT A

PARCEL 1:

LOT 12 AND THE SOUTHEASTERLY 25 FEET OF LOT 11, MEASURED AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF SAID LOT 11, IN THE DENNIS SUBDIVISION (RECORDED AS DOCUMENT 14609563) OF PART OF THE WEST 1/2 OF GOVERNMENT LOT 1 OF THE NORTH EAST 1/4 OF SECTION 2 AND PART OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THAT PART OF THE WEST 1/2 OF SAID GOVERNMENT LOT 1 AND PART OF THE SAID SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 2 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHEASTERLY LINE OF THE COMMONWEALTH EDISON COMPANY'S SKOKIE VALLEY RIGHT OF WAY (FORMERLY PUBLIC SERVICE COMPANY OF NORTHERN ILLINOIS) 34.99 FEET SOUTHEASTERLY OF THE WEST LINE OF THE WEST 1/2 OF SAID GOVERNMENT LOT 1; THENCE NORTHEASTERLY IN A STRAIGHT LINE TO THE SOUTHWESTERLY CORNER OF LOT 12 IN THE DENNIS SUBDIVISION; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID DENNIS SUBDIVISION A DISTANCE OF 75 FEET; THENCE SOUTHWESTERLY TO A POINT ON THE NORTHEASTERLY LINE OF SAID COMMONWEALTH EDISON COMPANY'S SKOKIE VALLEY RIGHT OF WAY, SAID POINT BEING 75.60 FEET NORTHWESTERLY OF THE PLACE OF BEGINNING; THENCE SOUTHEASTERLY ALONG SAID RIGHT OF WAY A DISTANCE OF 75.60 FEET TO THE PLACE OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Address: 280 Skokie Boulevard, Northbrook, Illinois 60062

PIN: 04-02-202-029-0000

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EXHIBIT A

LEGAL DESCRIPTION

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