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SECOND MODIFICATION AGREEMENT

SECOND MODIFICATION AGREEMENT ("SECOND MODIFICATION AGREEMENT") DATED AS OF MAY 6, 1999 BY AND BETWEEN CIRCUIT SERVICE, INC., AN ILLINOIS CORPORATION ("COMPANY"), THEODORE MAU ("GUARANTOR") TJM MANAGEMENT LLC, AN ILLINOIS LIMITED LIABILITY COMPANY ("TJM"), AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT INDIVIDUALLY, BUT AS TRUSTEE UNDER TRUST AGREEMENT (THE "LAND TRUST") DATED JUNE 18, 1991 AND KNOWN AS TRUST NUMBER 6129-TR ("TRUSTEE") (COMPANY, GUARANTOR, TJM AND TRUSTEE ARE COLLECTIVELY REFERRED TO AS "BORROWING PARTIES") AND BANK ONE, ILLINOIS, NA ("BANK")

WITNESSETH

WHEREAS, in connection with certain loans ("Loans") made by Bank to Company, Company has executed and delivered to Bank that certain Business Purpose Promissory Note (the "Term Note") dated May 29, 1996 in the original principal amount of One Million Six Hundred Thousand and No/100 Dollars (\$1,600,000.00) and that certain Promissory Note dated May 29, 1997 as modified by that certain Promissory Note Modification Agreement dated March 31, 1998 (the "Revolving Note") in the original principal amount of Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00) (the Term Note and Revolving Credit Note collectively referred to as the "Notes"); and

THIS INSTRUMENT PREPARED BY AND UPON RECORDING SHOULD BE RETURNED TO: STREET ADDRESS: 1475 South Wheeling Road PERMANENT TAX INDEX NUMBERS:

John T. Duax
Schwartz & Freeman
401 N. Michigan Ave.
Suite 1900
Chicago, Illinois 60611

03-14-303-012-0000
03-14-303-010-0000
03-14-303-011-0000
03-14-303-013-0000

BOX 333-CT1

WHEREAS, in connection with all amounts due Bank under the Notes the Company has executed and delivered to Bank that certain Non-Titled Personal Property Security Agreement dated May 29, 1996 (the "Security Agreement") and that certain Loan Agreement dated May 27, 1997 (the "Loan Agreement"); and

WHEREAS, in connection with the Notes, Security agreement and Loan Agreement, Guarantor has executed and delivered to Bank that certain Continuing Guaranty for Business Credit Obligations dated May 29, 1996 (the "Guaranty") (the Notes, Security Agreement, Loan Agreement and Guaranty are hereafter collectively referred to as the "Company Loan Documents"); and

WHEREAS, in connection with the issuance by the Village of Wheeling ("Issuer") of its aggregate \$7,800,000.00 principal amount Adjustable Rate Industrial Development Revenue Bonds, Series 1998 (Circuit Service, Inc. Project) (the "Bonds"), Company and Trustee have entered into a certain Reimbursement Agreement dated April 1, 1998 (the "Reimbursement Agreement") relating to the execution and delivery by Bank of a Letter of Credit (the "Letter of Credit") in connection with the issuance of the Bonds; and

WHEREAS, in connection with the execution and delivery of the Reimbursement Agreement there has also been executed and delivered to Bank (a) that certain Demand Note dated May 11, 1998 (the "Letter of Credit Note") in the original principal amount of Two Million Eight Hundred Thirty Four Thousand Five Hundred Twenty and 55/100 Dollars (\$2,834,520.55); (b) that certain Mortgage and Security Agreement ("Mortgage") dated April 1, 1998 executed by Trustee and TJM encumbering the property commonly known as 1475 South Wheeling Road, Wheeling, Illinois and legally described in Exhibit "A" attached hereto (the "Mortgaged Property") which Mortgage has been recorded on May 11, 1998 with the Recorder of Deeds of Cook County ("Recorder") as document number 98391356; (c) that certain Assignment of Rents and Leases ("Assignment") dated April 1, 1998 executed by Trustee and TJM encumbering the Mortgaged Property and recorded with the Recorder on May 11, 1998 as document number 989391357; (d) that certain Collateral Assignment of Beneficial Interest encumbering the beneficial interest in the Land Trust (the "Collateral Assignment") dated April 1, 1998 executed by TJM; (e) that certain Pledge and Security Agreement executed by Company and Land Trustee dated April 1, 1998; (f) that certain Guaranty ("TJM Guaranty") dated April 1, 1998 executed by TJM; (g) that certain Environmental Indemnity Agreement ("Environmental Indemnity") dated April 1, 1998 executed by Trustee, Company, TJM and Guarantor; and (g) that certain Modification Agreement dated April 1, 1998 ("Modification Agreement") executed by Company, Guarantor and Bank modifying certain provisions of the Company Loan Documents; and

WHEREAS, the Revolving Note was further modified pursuant to that certain Change in Terms Agreement dated March 31, 1999 extending the maturity date thereof to March 31, 2000 (the Company Loan Documents, Reimbursement Agreement, Letter of Credit Note, Mortgage, Assignment, Collateral Assignment, Pledge Agreement, TJM Guaranty and Environmental Indemnity are herein collectively referred to as the "Loan Documents"); and

WHEREAS, the Borrowing Parties and Bank are desirous of further modifying certain terms of the Loan Documents in accordance with the terms of this Second Modification Agreement as hereafter set forth.

NOW, THEREFORE, in consideration of the mutual premises of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

IT IS AGREED:

1. Preambles. The preambles to this Second Modification Agreement are fully incorporated herein by this reference thereto with the same force and effect as though restated herein.

2. Defined Terms. To the extent not otherwise defined herein to the contrary, all capitalized terms and/or phrases used in this Second Modification Agreement shall have the respective meanings assigned to them in the Loan Documents.

3. Modification of Revolving Note. The Revolving Note is hereby modified to provide that (a) the face principal amount thereof is hereby increased to Two Million Seven Hundred Fifty Thousand and No/100 Dollars (\$2,750,000.00); and (b) the Interest Rate due and payable to Bank in connection with all principal amounts outstanding under the Revolving Note at all times prior to a default thereunder is hereby lowered, commencing on the Effective Date, as hereafter defined, from "the sum of the Prime Rate of Bank as changing from time to time plus 0.500%" to "the sum of the Prime Rate of Bank as changing from time to time plus .250%". In order to evidence said modifications, Company shall execute and deliver to Bank the Restated Revolving Note ("Restated Revolving Note") attached hereto as Exhibit "B".

4. Modification of Guaranty. The Guaranty is hereby modified by the addition of the following sentence thereto:

"Notwithstanding anything to the contrary contained herein, the Liabilities of Guarantor under this Guaranty shall not exceed the aggregate of (a) One Million and No/100 Dollars (\$1,000,000.00) plus (b) all costs and expenses incurred by Bank One, including Bank One's reasonable attorneys' fees in enforcing the provisions of this Guaranty against Guarantor plus (c) interest accruing at the highest default rate under any note evidencing the Obligations on the amount described in sub-paragraph (a) hereof from the date of demand for payment by Bank One until payment in full by Guarantor."

5. Modification of Reimbursement Agreement. The Reimbursement Agreement is hereby modified to provide that commencing on the Effective Date, as hereafter defined, the Letter of Credit Fee as described in Section 3(a) of the Reimbursement Agreement is reduced from "one and a quarter (1.25%) percent per annum" to "one (1%) percent per annum".

6. Modification of Loan Agreement. The Loan Agreement is hereby modified to provide that the "Committed Sum" as defined therein is hereby increased from "\$2,250,000.00" to "\$2,750,000.00".

7. Modification of Mortgage. The Mortgage is hereby modified to provide that the description of the Revolving Note on page 2 of the Mortgage is hereby modified to provide:

- (a) that the original principal amount thereof is hereby changed from "Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$2,250,000.00)" to "Two Million Seven Hundred Fifty Thousand and No/100 Dollars (\$2,750,000.00)";
- (b) that the "Maturity Date" is hereby changed from "March 31, 1999" to "March 31, 2000"; and
- (c) that the interest rate payable on the outstanding principal balance thereof is reduced from the sum of the Prime Rate plus 0.500% to the sum of the Prime Rate plus 0.250%.

8. Conditions Precedent. Bank's obligation to execute this Second Modification Agreement is conditioned upon Bank receiving the following documents in a form and content acceptable to Bank by no later than May 30, 1999 (the "Effective Date"), except as provided in sub-paragraph (d) below:

- (a) the Restated Revolving Note executed by Borrower;
- (b) date down endorsement to the title insurance policy received by Bank in connection with the execution and recording of the Mortgage issued by Chicago Title Insurance Company as policy number 1401 007701213 in a form and content acceptable to Bank;
- (c) Certificate of Good Standing for Company;
- (d) Certificate of Good Standing for TJM to be delivered to Bank by no later than July 1, 1999;
- (e) Corporate Certificate of Company with attached Corporate Resolutions;
- (f) Limited Liability Certificate for TJM with attached Members' Resolution;
- (g) payment of all costs and expenses incurred by Bank in connection with this Second Modification Agreement, including but not limited to recording fees and title insurance charges; and

- (h) such other documents as may reasonably be requested by Bank in order to effectuate the terms and provisions of this Second Modification Agreement.

9. Other Loan Document Modifications. All Loan Documents are hereby deemed amended and modified to provide that any and all references to the Revolving Note, Guaranty, Loan Agreement, Reimbursement Agreement and Mortgage therein are hereby deemed to be references to the Restated Revolving Note, Guaranty, Loan Agreement, Reimbursement Agreement and Mortgage as modified by this Second Modification Agreement.

10. Other Documents. At Bank's request, the Borrowing Parties hereby agree to execute and deliver promptly to Bank such other documents as Bank, in its reasonable discretion, shall deem necessary or appropriate to evidence the transactions contemplated herein and/or to perfect or otherwise secure Bank's interest in any collateral pledged under the Loan Documents.

11. Reaffirmation. The Borrowing Parties do hereby reaffirm each and every covenant, condition, obligation and provision set forth in the Loan Documents, as modified hereby. The Borrowing Parties hereby restate and reaffirm all of the warranties and representations contained in the Loan Documents, as modified hereby, as being true and correct as of the date hereof.

12. Event of Default. The Borrowing Parties hereby acknowledge and agree that a breach by any Borrower Party of any term, provision, covenant or condition herein set forth or herein required of the Borrowing Parties to be kept or performed and which is not kept or performed pursuant to the terms hereof, shall constitute an Event of Default under the Loan Documents.

13. References. All references herein to any of the Loan Documents shall be understood to be to the Loan Documents as modified hereby. All references in any of the Loan Documents to any other one or more of the Loan Documents shall hereafter be deemed to be to such document(s) as modified hereby.

14. No Defense, Counterclaims. Each Borrowing Party hereby represents and warrants to, and covenants with, Bank that as of the date hereof, (a) each Borrowing Party has no defenses, offsets or counterclaims of any kind or nature whatsoever against Bank with respect to the Loans or any of the Loan Documents, or any action previously taken or not taken by Bank with respect thereto or with respect to any security interest, encumbrance, lien or collateral in connection therewith to secure the liabilities of each Borrowing Party, and (b) that Bank has fully performed all obligations to each Borrowing Party which it may have had or has on and of the date hereof.

15. Release. Without limiting the generality of the foregoing, each Borrowing Party, on its own behalf and on the behalf of its representatives, partners, shareholders, subsidiaries, affiliated and related entities, successors and assigns (hereinafter collectively

referred to as the "Borrowing Group" and as to the Borrowing Group, each Borrowing Party represents and warrants that it has the right, power and authority to waive, release and forever discharge on behalf of the Borrowing Group, Bank and "Bank Group" as hereinafter defined) waives, releases and forever discharges Bank, and its respective partners and their respective officers, directors, subsidiaries, affiliated and related companies or entities, agents, servants, employees, shareholders, representatives, successors, assigns, attorneys, accountants, assets and properties, as the case may be (together hereinafter referred to as the "Bank Group") from and against all manner of actions, cause and causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, obligations, liabilities, costs, expenses, losses, damages, judgments, executions, claims and demands, of whatsoever kind or nature, in law or in equity, whether known or unknown, whether or not concealed or hidden, arising out of or relating to any matter, cause or thing whatsoever, that any of the Borrowing Group, jointly or severally, may have had, or now have or that may subsequently accrue against the Bank Group by reason of any matter or thing whatsoever arising out of or in way connected to, directly, or indirectly, the Loans and/or any of the Loan Documents through the date hereof. Each Borrowing Party acknowledges and agrees that Bank is specifically relying upon the representations, warranties, covenants and agreements contained herein and that such representations, warranties, covenants and agreements constitute a material inducement to enter into this Second Modification Agreement.

16. No Custom. This Second Modification Agreement shall not establish a custom or waive, limit or condition the rights and remedies of Bank under the Loan Documents, all of which rights and remedies are expressly reserved.

17. Reaffirmation of Loan Documents, No Novation. Except as may be expressly set forth herein to the contrary, the Loan Documents remain unmodified, and all other terms and conditions thereof remain in full force and effect. Notwithstanding anything to the contrary contained herein, Borrowing Parties and Bank expressly state, declare and acknowledge that this Second Modification Agreement is intended only to modify each Borrowing Party's continuing obligations in the manner set forth herein, and is not intended as a novation of any and all amounts presently due and owing from any Borrowing Party to Bank.

18. Captions; Counterparts. The captions used herein are for convenience of reference only and shall not be deemed to limit or affect the construction and interpretation of the terms of this Second Modification Agreement. This Second Modification Agreement may be signed in counterparts, each of which shall be deemed an original and all of which shall be deemed one Second Modification Agreement.

19. Choice of Law; Severability and Consent to Jurisdiction. This Second Modification Agreement shall be governed and construed under the laws of the State of Illinois. If any provision of this Second Modification Agreement is held invalid or unenforceable, the remainder of this Second Modification Agreement will not be affected thereby and the provisions of this Second Modification Agreement shall be severable in any

such instance. Each party hereto consents to the jurisdiction of any federal or state court located in Cook County, Illinois.

20. Trustee Exculpation. This Second Modification Agreement is executed and delivered by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and invested in it as such Trustee and said Trustee hereby personally warrants that it possesses full power and authority to execute and deliver the same. No personal liability shall be asserted or be enforceable against AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, because or in respect of this Second Modification Agreement or the making, issuance or transfer hereof (except for a breach of the warranty contained in this paragraph), all such liability, if any, being expressly waived but nothing herein contained in this paragraph shall modify or discharge the personal liability of any other party personally liable under any of the Loan Documents nor limit the enforcement of any right or remedy of Bank under any of the Loan Documents against said parties or any property or collateral pledged to Bank thereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Second Modification Agreement as of the day and year first above written.

CIRCUIT SERVICE, INC.,
an Illinois corporation

By: [Signature]
Title: President

[Signature]
THEODORE MAU, individually

BANK ONE, ILLINOIS, NA

By: [Signature]
Title: Vice President

TJM MANAGEMENT LLC, an Illinois
limited liability company

By: [Signature]
Theodore J. Mau, as Trustee of the
Theodore J. Mau Revocable Trust,
as Member

AMERICAN NATIONAL BANK AND
TRUST COMPANY OF CHICAGO, not
individually, but as Trustee under Trust
Agreement dated June 18, 1998 and known
as Trust Number 6129-PR

By: [Signature]
Title: ASSISTANT VICE PRESIDENT

UNOFFICIAL COPY

99548960

STATE OF IL)
)
COUNTY OF Cook) SS.

I, Mark D Levine, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that C S Harring, President of CIRCUIT SERVICE, INC., personally known to me to be the same person whose name 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 and as the free and voluntary act of said company for the uses and purposes therein set forth.

Witness my hand and seal this 25 day of May, 1999.

Mark D Levine
Notary Public

My Commission Expires: 09/28/02



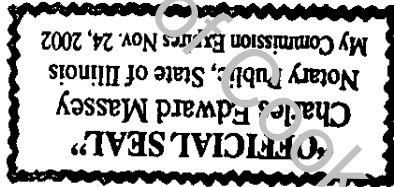
UNOFFICIAL COPY

99548960

STATE OF IL)
)
 COUNTY OF COOK) SS.

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that DAVID S. ROSENFELD, ASSISTANT VICE PRESIDENT of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, personally known to me to be the same person whose name 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 and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

Witness my hand and seal this 2 day of June, 1999.



Charles Edward Massey

 Notary Public

My Commission Expires:

Cook County Clerk's Office


UNOFFICIAL COPY

99548960

STATE OF IL)
)
COUNTY OF Cook) SS.

I, Mark D Levine, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that THEODORE MAU, personally known to me to be the same person whose name 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.

Witness my hand and seal this 25 day of May, 1999.


Notary Public

My Commission Expires: 09/28/02



UNOFFICIAL COPY

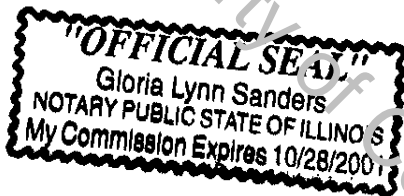
99548960

STATE OF IL)
)
COUNTY OF COOK) SS.

I, Gloria LYNN Sanders a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Regina Carls, Vice President of BANK ONE, ILLINOIS, NA, personally known to me to be the same person whose name 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 and as the free and voluntary act of said company for the uses and purposes therein set forth.

Witness my hand and seal this 2 day of June, 1999.

Gloria Sanders
Notary Public



My Commission Expires:

10 / 28 / 2001


UNOFFICIAL COPY

99548960

STATE OF IL)
)
COUNTY OF Cook) SS.

I, Mark D Levine, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Theodore J Mau, a Member of TJM MANAGEMENT LLC, an Illinois limited liability company, personally known to me to be the same person whose name 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 and as the free and voluntary act of said company for the uses and purposes therein set forth.

Witness my hand and seal this 25 day of May, 1999.



Notary Public



UNOFFICIAL COPY

99548960

EXHIBIT "A"

LEGAL DESCRIPTION

LOTS 26, 27, 28 AND 29 IN FIRST ADDITION TO PALATINE EXPRESSWAY INDUSTRIAL PARK, BEING A SUBDIVISION IN THE SOUTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON FEBRUARY 27, 1970 AS DOCUMENT 2493375 IN COOK COUNTY, ILLINOIS.

RESTATED REVOLVING NOTE

\$2,750,000.00

May 6, 1999
Chicago, Illinois

FOR VALUE RECEIVED, the undersigned, CIRCUIT SERVICE, INC., an Illinois corporation ("Borrower"), hereby promises to pay to the order of BANK ONE, ILLINOIS, NA ("Lender"), with its principal office and place of business located at 200 South Wacker Drive, Chicago, Illinois 60606, or any successor holder of this Note (the "Note"), at Lender's principal place of business, or such other place or places as Lender from time to time may designate in writing, the principal sum of TWO MILLION SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$2,750,000.00), or such lesser amount as may be advanced and not repaid pursuant to the terms of the hereafter defined Loan Agreement, in lawful money of the United States of America, together with interest calculated in arrears at the rate of the prime rate of Lender as announced from time to time plus 0.250% (the "Interest Rate") on the unpaid principal balance hereof from time to time outstanding, and payable in installments of principal and interest, as follows:

- (a) Commencing on May 31, 1999 and on the last day of each month thereafter, a payment of accrued interest only on the principal balance hereof; and
- (b) A final payment of the full remaining principal balance hereof together with all remaining accrued interest shall be due and payable on March 31, 2000 (the "Maturity Date").

This Note is executed and delivered by Borrower to Lender in connection with that certain Loan Agreement dated May 29, 1997 as thereafter amended and modified (the "Loan Agreement"). Unless otherwise defined herein or the context otherwise requires, capitalized terms used in this Note have the meanings in the Loan Agreement. All interest due hereunder shall be computed for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. Monthly interest installments will change to reflect changes in the Interest Rate, and changes in the principal balance from time to time as provided herein. To the extent the term "prime rate" is used herein, Borrower acknowledges and agrees that the term is not intended to reflect nor does said term imply that said rate of interest is a preferred rate of interest or one offered by Lender to only its most credit-worthy customers.

Receipt of a check shall not constitute payment hereunder until such check is fully and finally honored by the bank upon which it is drawn, and any wire transfer of funds shall not constitute payment until actually credited to such bank account of Lender as Lender may from time to time designate. If Lender receives any payment due hereunder more than five (5) days after the due date thereof, then, upon Lender's request, all payments thereafter shall be made by wire transfer, cashier's or certified check.

1. Revolving Credit. The loan evidenced by this Note is a revolving loan, and so long as no Default or Event of Default exists, Borrower may borrow, repay and reborrow amounts hereunder provided, however, that the outstanding principal balance hereof shall never exceed the Committed Sum.

2. Security for Note. The payment of this Note is secured by all security interests, liens, pledges, assignments and encumbrances concurrently herewith and/or from time to time hereafter granted by or for Borrower to Lender in connection with this Note, including, but not limited to, the liens evidenced by the Related Documents and such other instruments, documents and agreements evidencing and/or securing the payment of this Note as Borrower or any other person executes and delivers to Lender now and from time to time hereafter. (This Note, the Related Documents, the Loan Agreement and all other documents defined as the "Related Documents" in the Loan Agreement are all collectively referred to herein as the "Financing Agreements".)

3. Acceleration on Default; Waivers. If any payment due under this Note or any other monies owing from Borrower to Lender hereunder or under the Financing Agreements is not paid when due or if a Default or Event of Default occurs under any of the Financing Agreements (after the expiration of any applicable grace or cure periods specifically provided for therein) (collectively referred to herein as a "Default"), then all indebtedness evidenced by this Note, together with all other monies owing hereunder by Borrower to Lender, will, at the option of Lender, be immediately due and payable in full. The acceptance by Lender of any payment, partial or otherwise, made hereunder after the time when it becomes due as herein set forth will not establish a custom or constitute a waiver by Lender of any right to enforce prompt payment thereof or a waiver of any other Default or the same Default on another occasion. BORROWER HEREBY WAIVES THE APPLICATION OF ANY AND ALL OF ITS RIGHTS AND POWERS UNDER ALL STATUTES OF LIMITATION AND SIMILAR STATUTES AND LAWS AS TO THIS NOTE. DEMAND, PRESENTMENT FOR PAYMENT, PROTEST AND NOTICE OF NON-PAYMENT AND PROTEST HEREBY ARE WAIVED BY BORROWER AND EVERY ENDORSER AND/OR GUARANTOR HEREOF.

4. Default Rate of Interest. Upon Default, including failure to pay upon the Maturity Date, Lender, at its option, may also, if permitted under applicable law, do one or both of the following: (a) increase the applicable Interest Rate on this Note 3.00 percentage points (the "Default Rate"), and (b) add any unpaid accrued interest to principal and such sum will bear interest therefrom until paid at the Interest Rate provided in this Note (including any increased rate). The Interest Rate will not exceed the maximum rate permitted by applicable law as provided in Paragraph 8 hereof.

5. Late Payment Provision. If payment is 10 days or more late, Borrower will be charged five percent (5.0%) of the regularly scheduled payment or Ten Dollars (\$10.00), whichever is greater, up to the maximum amount of Two Hundred Fifty Dollars (\$250.00) per late charge.

6. Application of Payments. Unless otherwise agreed to, in writing, or otherwise required by applicable law, payments will be applied first to accrued, unpaid interest, then to principal, and any remaining amount to any unpaid collection costs, late charges and other charges; provided, however, upon delinquency or other Default, Lender reserves the right to apply payments among principal, interest, late charges, collection costs and other charges at its discretion. All prepayments shall be applied to the indebtedness owing hereunder in such order and manner as Lender may from time to time determine in its sole discretion.

7. Fees and Expenses. If Lender employs counsel for advice with respect to the Financing Agreements to respond to any request of Borrower, including but not limited to, a request for a consent, waiver, amendment or interpretation of the Financing Agreements or to intervene, file a petition, answer, motion or other pleading in any suit or proceeding (bankruptcy or otherwise) relating to the Financing Agreements, or to attempt to collect this Note or said other monies from, or to enforce the Financing Agreements, against Borrower or any other party, then, in any such event, to the extent permitted by law all of the reasonable attorneys' paralegal fees, and expenses arising from such services, and all expenses, court costs and charges relating thereto, shall be an additional liability owing hereunder by Borrower to Lender, and bearing interest at the Default Rate, until paid in full to Lender and shall be secured by the lien evidenced by the Financing Agreements.

8. Interest Limitation. All agreements between Borrower and Lender expressly are limited so that in no contingency or event whatsoever, whether by reason of disbursement of the proceeds hereof or otherwise, shall the amount paid or agreed to be paid by Borrower to Lender for the use, detention or forbearance of the amounts to be disbursed hereunder exceed the highest lawful rate of interest permissible under the law which a court of competent jurisdiction, by a final non-appealable order, determines is applicable hereto ("Highest Lawful Rate"). If fulfillment of any provision herein contained at the time performance of such provision becomes due involves exceeding the Highest Lawful Rate, then ipso facto, the obligation to fulfill the same shall be reduced to such Highest Lawful Rate. If by any circumstance Lender shall ever receive as interest an amount which would exceed the Highest Lawful Rate, the amount which may be deemed excessive interest shall be applied to the principal and not to interest, or, if such excessive interest exceeds the unpaid principal under this Note, such excess shall be refunded to Borrower. All interest paid or agreed to be paid to Lender under this Note or any instrument executed in connection with this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension of this Note) so that the interest on this Note for such full period shall not exceed interest computed at the Highest Lawful Rate. It is Lender's intention that the performance of any provision herein never result in any payments due or paid which involve exceeding the Highest Lawful Rate. The terms and provisions of this Paragraph shall control all other terms and provisions contained herein and in the other Financing Agreements.

9. Waivers; Continued Liability. It is agreed that the granting to Borrower or any other party of an extension or extensions of time for the payment of any sum or sums due under this Note or the other Financing Agreements or for the performance of any term, provision, covenant or agreement of this Note or the other Financing Agreements, or the taking or releasing of security or Collateral for the payment of this Note or the exercising or failure to exercise of any right or power under this Note or the other Financing Agreements, shall not in any way release or affect the liability of Borrower evidenced by this Note.

10. Amendments and Modifications. This Note may not be amended or modified, nor shall any revision hereof be effective, except by an instrument in writing expressing such intention executed by Lender and directed to Borrower.

11. Confession of Judgment. Borrower hereby irrevocably authorizes and empowers any attorney-at-law to appear in any court of record and to confess judgment against Borrower for the unpaid amount of this Note as evidenced by an affidavit signed by an officer of Lender setting forth the amount then due, plus attorneys' fees as provided in this Note, plus costs of suit, and to release all errors, and waive all rights of appeal. If a copy of this Note, verified by an affidavit, shall have been filed in the proceeding, it will not be necessary to file the original as a warranty of attorney. Borrower waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to confess judgment will be deemed to exhaust the power, whether or not any such exercise shall be held by any court to be invalid, voidable, or void; but the power will continue undiminished and may be exercised from time to time as Lender may elect until all amounts owing on this Note have been paid in full.

12. Dishonored Item Fee. Borrower will pay a fee to Lender of \$20.00 if Borrower makes a payment on Borrower's loan and the check or preauthorized charge with which Borrower pays is later dishonored.

13. Right of Setoff. Unless a lien would be prohibited by law or would render a nontaxable account taxable, Borrower grants to Lender a contractual possessory security interest in, and hereby assigns, conveys, delivers, pledges, and transfers to Lender all Borrower's right, title and interest in and to, Borrower's accounts with Lender (whether checking, savings, or any other account), including without limitation all accounts held jointly with someone else and all accounts Borrower may open in the future. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on this Note against any and all such accounts.

14. Possessory Collateral. In addition to any other collateral that may secure this Note, Borrower hereby assigns and grants a security interest in any and all other property of Borrower of every kind or description now or hereafter in possession or control of Lender, whether as collateral security or any other purpose, including without limitation, all cash, deposits, securities, dividends, distributions, negotiable instruments and documents.

15. Choice of Law, Submission to Jurisdiction, Waiver of Venue and Consent to Service. THIS NOTE SHALL BE CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH AND GOVERNED BY THE LAWS AND DECISIONS (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PRINCIPLES THEREOF) OF THE STATE OF ILLINOIS. THE BORROWER (A) HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY ILLINOIS STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS NOTE, AND THE BORROWER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH ILLINOIS STATE OR FEDERAL COURT, AND (B) AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST THE LENDER OR THE DIRECTORS, OFFICERS, OR EMPLOYEES OF LENDER OR PROPERTY OF THE LENDER, ARISING OUT OF OR RELATING TO THIS NOTE, IN ANY COURT OTHER THAN AS HEREINABOVE SPECIFIED IN THIS SECTION. THE BORROWER HEREBY IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE TO

THE LAYING OF VENUE IN ANY ACTION OR PROCEEDING (WHETHER BROUGHT BY THE BORROWER, THE LENDER OR OTHERWISE) IN ANY COURT HEREINABOVE SPECIFIED AS WELL AS ANY RIGHT IT MAY NOW OR HEREAFTER HAVE TO REMOVE ANY SUCH ACTION OR PROCEEDING, ONCE COMMENCED, TO ANOTHER COURT ON THE GROUNDS OF FORUM NON CONVENIENS OR OTHERWISE. THE BORROWER AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. PERSONAL SERVICE OF ANY KIND AND ALL PROCESS IS HEREBY WAIVED BY BORROWER, AND BORROWER CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE PROPERLY MADE IF MAILED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, POSTAGE PREPAID, DIRECTED TO THE BORROWER AT THE ADDRESS APPEARING ON THE RECORDS OF THE LENDER IN THE MANNER PROVIDED BY APPLICABLE STATUTE, LAW, RULE OF COURT, OR OTHERWISE.

16. Jury Waiver. THE UNDERSIGNED AND LENDER (BY ITS ACCEPTANCE HEREOF) HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN OR AMONG THE UNDERSIGNED AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS NOTE OR ANY OTHER FINANCING AGREEMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE FINANCING DESCRIBED HEREIN OR IN THE OTHER FINANCING AGREEMENTS.

17. Binding Effect. Wherever the term "Borrower" is used in this Note, the term shall include (unless otherwise expressly indicated) all of Borrower's successors, and assigns, as the case may be. This Note shall be binding upon Borrower and shall inure to the benefit of Lender and its successors and assigns.

18. Severability. Any provision of this Note which is unenforceable or contrary to applicable law, the inclusion of which would affect the validity, legality or enforcement of this Note, shall be of no effect, to the extent of such prohibition or invalidity, and in such case all the remaining terms and provisions of this Note shall be fully effective, the same as though no such invalid provision had ever been included in this Note.

19. Arbitration. Lender and Borrower agree that upon the written demand of either party, whether made before or after the institution of any legal proceedings, but prior to the rendering of any judgment in that proceeding, all disputes, claims and controversies between them, whether individual, joint, or class in nature, arising from this Note, any other Financing Agreement or otherwise, including without limitation contract disputes and tort claims, shall be resolved by binding arbitration pursuant to the Commercial Rules of the American Arbitration Association. Any arbitration proceeding held pursuant to this arbitration provision shall be conducted in the city nearest the Borrower's address having an AAA regional office, or at any other place selected by mutual agreement of the parties. No act to take or dispose of any Collateral shall constitute a waiver of this arbitration agreement or be prohibited by this arbitration agreement. This arbitration provision shall not limit the right of either party during

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any dispute, claim or controversy to seek, use, and employ ancillary, or preliminary rights and/or remedies, judicial or otherwise, for the purposes of realizing upon, preserving, protecting, foreclosing upon or proceeding under forcible entry and detainer for possession of, any real or personal property, and any such action shall not be deemed an election of remedies. Such remedies include, without limitation, obtaining injunctive relief or a temporary restraining order, invoking a power of sale under any deed of trust or mortgage, obtaining a writ of attachment or imposition of a receivership, or exercising any rights relating to personal property, including taking or disposing of such property with or without judicial process pursuant to Article 9 of the Uniform Commercial Code or when applicable, a judgment by confession of judgment. Any disputes, claims or controversies concerning the lawfulness or reasonableness of an act, or exercise of any right or remedy concerning any Collateral, including any claim to rescind, reform, or otherwise modify any agreement relating to the Collateral, shall also be arbitrated; provided, however that no arbitrator shall have the right or the power to enjoin or restrain any act of either party. Judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. Nothing in this arbitration provision shall preclude either party from seeking equitable relief from a court of competent jurisdiction. The statute of limitations, estoppel, waiver, laches and similar doctrines which would otherwise be applicable in an action brought by a party shall be applicable in any arbitration proceeding, and the commencement of an arbitration proceeding shall be deemed the commencement of any action for these purposes. The Federal Arbitration Act (Title 9 of the United States Code) shall apply to the construction, interpretation, and enforcement of this arbitration provision.

20. No Novation. This Note is in substitution and replacement for, but not in payment of, that certain Promissory Note dated as of May 29, 1997 in the original principal amount of \$2,250,000.00 from the Borrower (the "Existing Note"). The indebtedness evidenced by the Existing Note is continuing indebtedness, and nothing herein shall be deemed to constitute a payment, settlement or novation of the Existing Note, or release or otherwise adversely affect any lien, mortgage or security interest securing such indebtedness or any rights of the Lender against any party. All amounts outstanding under the Existing Note shall be automatically transferred to, and be deemed to be outstanding under, this Note.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Note as of the day and year first above written.

CIRCUIT SERVICE, INC., an Illinois corporation

By: _____
Title: _____