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Cook County Recorder 35.50



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1999-07-02 10:07:03
Cook County Recorder 37.50

Prepared by:

After recording, mail to
The First National Bank of Chicago
1048 Lake Street
Oak Park, IL 60301
Attn: Commercial Real Estate
C. Metzger

TICOR TITLE INSURANCE

SECOND LOAN MODIFICATION AGREEMENT

*Firststar Bank Illinois fka

April 15, 1999

WHEREAS, South Dearborn Limited Partnership, an Illinois limited partnership, and First Colonial Trust Company, not personally but as Trustee under Trust Agreement dated December 19, 1989 and known as Trust No. 1-4894, (the "Borrower"), jointly and severally if more than one, is justly indebted to THE FIRST NATIONAL BANK OF CHICAGO, Successor by merger to NBD Bank, Successor to NBD Bank Evanston, N.A., ("Lender"), having its principal office in Chicago, Illinois, under its Loan No. 8442549814-26, originally in the sum of Six Hundred Thirty Thousand 00/100 Dollars (\$630,000.00) as established by a Mortgage Note dated February 15, 1990 and any extensions, amendments, and modifications thereof, (the "Note"). The Note is secured by a certain Mortgage and Security Agreement, and a certain Collateral Assignment of Leases and Rents, both dated February 15, 1990, and recorded in the Cook County Recorder's Office on March 2, 1990 as Document Nos. 90098034 and 90098035, and a certain Note and Mortgage Assumption and Modification Agreement, dated September 15, 1994, and not recorded, ("Security Documents"); against the property legally described as follows;

SEE ATTACHED LEGAL

COMMONLY KNOWN AS: 722-34 S. DEARBORN STREET, CHICAGO, ILLINOIS

P.I.N.: #17-16-406-026-1001 THROUGH 17-16-406-026-1065 BOTH INCLUSIVE

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

WHEREAS, the Borrower, and Deirdre H. Henderson ("Guarantor") do hereby request this Second Loan Modification Agreement.

NOW, THEREFORE, it is hereby agreed by the parties hereto that the Note is hereby modified and amended in its entirety by the Term Loan Note of even date herewith in the amount of \$650,000.00 ("Revised Note"), and any and all extensions, modifications, and amendments thereof, 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. The Mortgage and all security documents ("Security Documents") are hereby modified and amended to secure the Revised Note and any extensions, renewals, or

* Re-Recorded to record legal description

REI TITLE SERVICES # 719523

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Property of Cook County Clerk's Office

modifications thereof. 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.

LENDER:

THE FIRST NATIONAL BANK OF CHICAGO

By: Chene E. Pickens
Its: Commercial Banking Officer

BORROWER:

South Dearborn Limited Partnership, an Illinois limited partnership

By: 730 South Dearborn Corporation, an Illinois corporation
Its: General Partner

By: Deirdre H. Henderson
Its: General Partner

Firststar Bank Illinois fka First Colonial Trust Company, as Trustee, as aforesaid

By: Mary Figiel
Its: Mary Figiel, Land Trust Officer

By: Angela Mc Clain
Its: Angela Mc Clain, Land Trust Officer

GUARANTOR:

Deirdre H. Henderson
Deirdre H. Henderson

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GENERAL DOCUMENT EXONERATION RIDER

This document is executed by Firststar Bank Illinois, not personally but as Trustee under Trust No. 1-4894 as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in said document contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any covenants, either expressed or implied, including but not limited to warranties, indemnifications, and hold harmless representations in said document (all such liability if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. In event of conflict between the terms of this rider and of the agreement to which it is attached, on any questions of apparent liability or obligation resting upon said trustee, the provisions of this rider shall be controlling.

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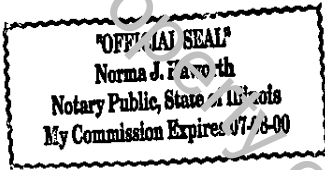
ACKNOWLEDGMENT

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STATE OF Illinois)
) SS
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named Mary Figiel and Angela McClain of the First Colonial Trust Company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Land Trust Officer and Land Trust Ofcr., appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes herein set forth.

Given under my hand and Notarial Seal this 19th day of May, 19 99



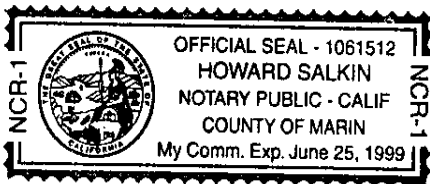
Norma J. Hawthorn
Notary Public
My Commission Expires: _____

ACKNOWLEDGMENT

STATE OF California)
COUNTY OF Marin)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that the above-named Douglas H. McQuinn, the General Partner of 730 South Dearborn Corporation, the General Manager of South Dearborn Limited Partnership, an Illinois limited partnership, ("Company") personally known to me to be the same person whose name is subscribed to the foregoing instrument as such she appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 17th day of May, 1999.



Howard Salkin
NOTARY PUBLIC
My Commission expires: 6/25/99

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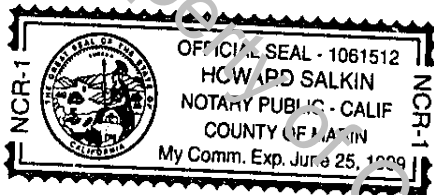
ACKNOWLEDGMENT

STATE OF Illinois)
COUNTY OF Martin) SS

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I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Deirdre H. Henderson, 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 she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 17th day of May, 1999.



Howard Salkin
NOTARY PUBLIC
My Commission expires: 6/25/99

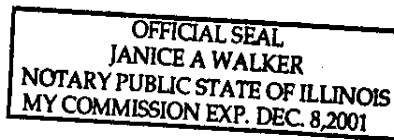
STATE OF ILLINOIS]
COUNTY OF COOK] ss.
]]

I, the undersigned, a Notary Public in and for said county and state, DO HEREBY CERTIFY that Irene E. Prekeres, of THE FIRST NATIONAL BANK OF CHICAGO (the "Bank"), a national banking association, personally known to me to be the same person(s) whose name(s) is subscribed as the Commercial Banking Officer of the Bank to the foregoing instrument, appeared before me this day in person, and acknowledged that she signed and delivered the said instrument as her free and voluntary act, and the free and voluntary act of the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 11 day of May, 1999.
My Commission Expires:

Notary Public

Janice A. Walker



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EXHIBIT A
TERM LOAN NOTE
(5-YEAR Fixed Rate)

\$650,000.00

April 15, 1999

FOR VALUE RECEIVED, South Dearborn Limited Partnership, an Illinois limited partnership, and First Colonial Trust Company, not personally but as Trustee under Trust Agreement dated December 19, 1989 and known as Trust No. 1-4894 ("Trustee"), jointly and severally, if more than one, (the "Borrower") promises to pay to the order of The First National Bank of Chicago, Successor by merger to NBD Bank, Successor to NBD Bank Evanston, N.A., (the "Bank"), the principal sum of Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00) 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.

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 240 months. Payments on account of this Note shall be made as follows:

(a) On May 15, 1999 and on the fifteenth day of each month thereafter to and including March 15, 2004, there shall be paid \$5,216.50 which shall be applied first to interest at the rate of 7.45% per annum and the balance to principal.

(b) On April 15, 2004 ("Maturity Date"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

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 to prepay 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 Four (4%) percent of the amount prepaid during year One; Three (3%) percent of the amount prepaid during year Two; Two (2%) percent of the amount prepaid during year Three; One (1%) percent of the amount prepaid during year Four.

After maturity or upon an event of default, 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 elapsed. The Borrower agrees to pay reasonable attorneys' fees, costs and expenses incurred by the Bank in the collection and enforcement of this Note.

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.

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.

A certain Mortgage and Security Agreement, and a certain Collateral Assignment of Leases and Rents, both dated February 15, 1990, and recorded with the Cook County Recorder's Office on March 2, 1990 as Document Nos. 90098034 and 90098035, and a certain Note and Mortgage Assumption and Modification Agreement dated September 15, 1994 and not recorded; and a certain Second Loan Modification Agreement of even date and not yet recorded made by Borrower and Bank, on real estate located at 722-34 S. Dearborn Street, Chicago, Cook County, Illinois; and any and all

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other agreements whether now or hereafter entered into between the undersigned and the Bank. All of the terms and conditions of the above referenced agreements 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 liabilities 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 obtained; (e) the Borrower has filed all United States federal tax returns and all other tax returns which are required to be filed and has paid all taxes due pursuant to said returns or pursuant to any assessment received by the Borrower, and no tax liens have been filed and 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 taxes 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 existing or hereafter enacted Federal or State statute and the Borrower will at all times indemnify and hold harmless the Bank against 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 is for business purposes 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. Defaults. 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.

(d) Any individual guarantor of the indebtedness represented hereby shall die or any corporate guarantor shall fail to maintain its corporate existence.

(e) The Borrower or any guarantor of the indebtedness represented hereby shall have an order for relief 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 guarantor and shall remain undischarged 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 indebtedness due from the legal holder hereof to the Borrower may be appropriated and applied hereon after any expressed or accelerated maturity hereof.

5. Amendments, Remedies, etc. 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 extent 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 law of conflicts) of the State of Illinois, giving effect, however, to federal laws applicable to national banks.

The Bank may transfer this Note to any assignee, and in that event, the "Bank" will refer to the assignee, but the term "endorser" as used herein does not refer to the Bank.

If any part of this Note shall be adjudged invalid or unenforceable, then such partial invalidity or unenforceability shall not cause the remainder of the Note to be or to become invalid or unenforceable, and if any provision hereof is held invalid or unenforceable in one or more of its applications, the parties hereto agree that said provision shall remain in effect in all valid or enforceable applications that are severable from the invalid or unenforceable application or applications.

The use of the singular herein may also refer to the plural, and vice-versa, and the uses of the neuter or any gender shall be applicable to any other gender or neuter.

Each Borrower, endorser and guarantor waives presentment, demand, notice of dishonor, protest and all other notices and demands in connection with the enforcement of the Bank's rights hereunder, and hereby consents to, and waives notice of: (i) any renewals, extensions and modifications hereof and (ii) the release with or without consideration of any of the Borrower, any guarantor or any collateral. Any failure of the Bank to exercise any right available hereunder or otherwise shall not be construed as a waiver of the right to exercise the same or any other rights at any other time. No waiver by the Bank of any default shall be effective unless made in writing nor operate as a waiver of any other or future default. The validity and construction of this Note shall be governed by the internal law (and not the law of conflicts) of the State of Illinois. The Borrower hereby irrevocably submits to the non-exclusive jurisdiction of any United States federal or Illinois state court sitting in Chicago in any action 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 court.

The Borrower (jointly and severally if more than one) hereby irrevocably authorizes any attorney of any court of record to appear for any one or more of them, or all of them, in such court at any time after this Note becomes due, whether by acceleration or otherwise and confess a judgment without process in favor of the Bank or any other holder of this Note for the amount then due hereon, together with costs of

collection and reasonable attorneys' fees, and to release and waive all errors that may intervene and consent to immediate execution upon such judgment, hereby ratifying and confirming all that said attorney may do by virtue hereof. THE BORROWER HEREBY WAIVES ANY RIGHT TO A JURY TRIAL IN ANY ACTION ARISING HEREUNDER.

This Note evidences the indebtedness previously evidenced by that certain Note and Mortgage Assumption and Modification Agreement dated September 15, 1994, in the original principal amount of \$614,796.84 payable to the Bank and any extensions, modifications or renewals thereof, (the "Prior Note") and is not a repayment or novation of the Prior Note.

IN WITNESS WHEREOF, the Borrower has executed this Note on the date first set forth above.

BORROWER.

South Dearborn Limited Partnership, an Illinois limited partnership

By: 730 South Dearborn Corporation, an Illinois corporation

Its: General Partner

By: Deirdre H. Henderson
Its: General Partner

First Colonial Trust Company, as Trustee as aforesaid

By: _____
Its: _____

By: _____
Its: _____

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LEGAL DESCRIPTION

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Lot 13 (except those parts taken for streets) in Block 126 in School Section Addition to Chicago, also that part of Lot 12 in Block 126 in the School Section Addition to Chicago lying East of the East line of Federal Street and West of the West line of Dearborn Street and South of the center line of the party wall erected pursuant to the agreement made by Stephen W. Rawson with Joseph E. Otis, dated November 12, 1889 and recorded January 20, 1890 as Document Number 1211776 and being the center line of the South wall of an 8 story brick building now situated partially upon Lot 7 in Block 126 aforesaid, also all of that part of the North 1/2 of Lot 18 in Block 126, in the School Section Addition to Chicago described as follows:

Commencing on the North line of said Lot, at its intersection with the West line of Dearborn Street, and running South along the said West line of Dearborn Street, 24 feet 9 5/8 inches to the North face of the North wall of the 3 story brick building now situated partly upon the South 1/2 of said Lot 18, running thence west, along the North face of the said 3 story brick building and the extension thereof, to its intersection with the East line of Federal Street, said intersection being a point 25 feet 2 3/8 inches South of the North line of said Lot 18; thence North along the East line of Federal Street to the North line of said Lot 18, and thence East along the North line of said Lot 18, to the point of beginning, being in Section 16, Township 39 North, Range 14, East of the Third Principal Meridian in Chicago; Cook County, Illinois,

except those parts thereof submitted to the Condominium Property Act of the State of Illinois pursuant to the Declaration of Condominium recorded as Document Number 88,585,732.

Commonly known as: 722-34 S. Dearborn Street, Chicago, IL

Permanent Index Number:

Volume: 511

17-16-406-026-1001 through 17-16-406-026-1065, both inclusive

Said matter affects this and other property.