

UNOFFICIAL COPY

H:\4200\EXM421311.wpd

Cook

EIGHTH MODIFICATION AGREEMENT

99996888

8529/0104 49 001 Page 1 of 12
1999-10-22 11:52:25
Cook County Recorder 43.50



THIS EIGHTH MODIFICATION AGREEMENT (this "Agreement") dated as of the 1st day of October, 1999, by and between FRACAR SHEET METAL MFG CO., INC., an Illinois corporation ("Borrower"), ILLINOIS RANGE CORPORATION (f/k/a IR ACQUISITION CORP.), an Illinois corporation ("New Borrower"), 9611 ASSOCIATES, L.P., an Illinois limited partnership ("9611"), JOHN J. DOMBEK, JR. and PRISCILLA W. DOMBEK (collectively, the "Dombeks"), and LASALLE BANK NATIONAL ASSOCIATION, successor to LaSalle National Bank, formerly known as LASALLE BANK NI ("Bank").

RECITALS:

A. Bank previously made a loan (the "Revolving Loan") to Borrower in the stated principal amount of \$1,000,000.00, which was evidenced by a certain Secured Revolving Promissory Note dated July 31, 1996 in the principal amount of \$1,000,000.00 from Borrower to Bank (the "Revolving Note"). The Revolving Loan was made pursuant to a certain Revolving and Term Loan and Security Agreement dated as of July 31, 1996 between Borrower and the Bank ("Original Loan Agreement").

This Instrument Prepared By

Edward W. Malstrom
Miller, Shakman, Hamilton,
Kurtzon & Schlifke
Suite 1100
208 South LaSalle Street
Chicago, Illinois 60604

Address of Property:

See Attached Exhibits
"A" and "B"

Permanent Index Numbers

See Attached Exhibits
"A" and "B"

Return to:
LEXIS Document Services
135 S. LaSalle St., Suite 2260
Chicago, IL 60603
Phone: (312) 201-1273

12p8



1549755-1

Debtor: EIGHTH MODIFICATION (FM N) - ("G")
Juris: Recorder of Deeds, Cook County, IL

UNOFFICIAL COPY

99996888

H:\4200\BWM4213ii.wpd

B. The Revolving Note is secured by among other things, (i) a certain Mortgage and Security Agreement with Assignment of Rents dated as of November 19, 1996 by 9611 in favor of the Bank ("9611 Mortgage") and recorded in the Office of the Cook County Recorder of Deeds ("Recorder's Office") on November 27, 1996 as Document No. 96-905771 encumbering the property legally described in Exhibit "A" attached hereto ("9611 Property"); (ii) a Junior Mortgage dated as of November 19, 1996 made by the Dombeks in favor of the bank ("Junior Mortgage") and recorded in Recorder's Office on November 27, 1996 as Document No. 96-05779 encumbering the property legally described in Exhibit "B" attached hereto ("Dombek's Property"); (iii) an Assignment of Leases and Rents dated November 19, 1996 by 9611 in favor of Bank and recorded in Recorder's Office on November 27, 1996 as Document No. 96-905772 encumbering the 9611 Property ("9611 Assignment"); and (iv) by the original Loan Agreement.

C. The maturity date of the Revolving Note was extended from June 30, 1997 to August 30, 1997 by that certain Note Modification Agreement dated as of July 22, 1997 between Borrower and Bank ("First Modification").

D. The maturity date of the Revolving Note was extended from August 30, 1997 to October 31, 1997 by that certain Second Note Modification Agreement dated as of September 12, 1997 between Borrower and the Bank ("Second Modification").

E. The maturity date of the Revolving Note was extended from October 31, 1997 to July 31, 1998 by that certain Second Amendment to Revolving and Term Loan and Security Agreement dated as of October 31, 1997 by and between Borrower and Bank ("Second Amendment").

F. The 9611 Mortgage and 9611 Assignment were modified by a certain Modification of Mortgage and Other Loan Documents dated as of October 31, 1997 between 9611 and the Bank and recorded in Recorder's Office on February 10, 1998, as Document No. 98111946 ("9611 Mortgage and Assignment Modification"). The Junior Mortgage was modified by a certain Modification of Junior Mortgage between the Dombeks and the Bank dated as of October 31, 1997 and recorded in Recorder's Office on February 10, 1998 as Document No. 98111945 ("Modification of Junior Mortgage").

G. The maturity date of the Revolving Note was extended from July 31, 1998 to September 30, 1998 by that certain Third Note Modification agreement dated as of July 31, 1998 by and between Borrower and Bank ("Third Modification").

H. The maturity date of the Revolving Note was extended from September 30, 1998 to May 1, 1999 by that certain Fourth

UNOFFICIAL COPY

99996888

H:\4200\ENM4213ii.wpd

Modification Agreement dated as of September 30, 1998 by and between Borrower, 9611, the Dombeks and the Bank which was recorded in the Recorder's Office on December 11, 1998 as Document No. 08128638 ("Fourth Modification").

I. The maturity date of the Revolving Note was extended from May 1, 1999 to July 1 1999 by that certain Fifth Modification Agreement dated as of May 1, 1999 by and between Borrower, 9611, the Dombeks and the Bank which was recorded in the Recorder's Office on June 9, 1999 as Document No. 99551087 ("Fifth Modification").

J. The Original Loan Agreement was amended by (i) a certain First Amendment of Notes, Loan and Security Agreements and other Security Documents dated as of November 19, 1996 ("First Amendment") and (ii) a certain Second Amendment to Revolving and Term Loan and Security Agreement dated as of October 31, 1997 between Borrower and the Bank ("Second Amendment"). The Original Loan Agreement, as amended by the First Amendment and Second Amendment, is hereinafter referred to as the "Loan Agreement."

K. Pursuant to a certain Sixth Modification Agreement dated as of July 1, 1999 among Borrower, New Borrower, 9611, the Dombeks and the Bank, which was recorded in the Recorder's Office on July 29, 1999 as Document No. 99724227 ("Sixth Modification"), the Bank added New Borrower as a borrower, with respect to the "Revolving Loan" (as defined in the Loan Agreement), on a joint and several basis with Borrower, under the Loan Agreement, the Revolving Note and all of the documents that evidence or secure the Revolving Note (collectively "Revolving Loan Documents"), increased the maximum principal amount of the Revolving Loan to \$1,150,000.00, and extended the maturity date of the Revolving Note to August 1, 1999.

L. The maturity date of the Revolving Note was extended to October 1, 1999 pursuant to a certain Seventh Modification Agreement dated as of August 1, 1999 among Borrower, New Borrower, 9611, the Dombeks and the Bank which was recorded in the Recorder's Office on Sept 22, 1999 as Document No. 99893838 ("Seventh Modification").

M. The parties desire to further modify the terms of the Revolving Loan as more fully set forth herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties agrees as follows:

1. The foregoing recitals are hereby incorporated by this reference into this Agreement. All defined terms used herein and

UNOFFICIAL COPY

99996888

H:\4200\ENM4213ii.wpd

not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement, as amended.

2. The maturity date of the Revolving Note is hereby extended to May 1, 2000. The Loan Agreement and all of the documents given to Lender in connection with the Loan Agreement, as amended, are modified to reflect such new maturity date.

3. The principal amount of the Revolving Note is hereby increased from "1,150,00.00" to "1,500,000.00." The Loan Agreement as amended, and all of the documents given to Lender in connection with the Loan Agreement are hereby modified, where appropriate, to reflect the increased principal amount of the Revolving Note.

4. The amount of Revolving Loans that may be advanced under the Loan Agreement with respect to Borrower is as stated in Section 2(a) of the Loan Agreement. The amount of Revolving Loans that may be advanced under the Loan Agreement with respect to New Borrower is the lesser of (i) \$300,000.00, and (ii) sixty percent (60%) of New Borrower's then "Eligible Receivables" (as defined in the Borrowing Base Certificate attached to the Loan Agreement). No Revolving Loans shall be made with respect to New Borrower against any of New Borrower's Inventory. In the event that the outstanding Revolving Loans made with respect to New Borrower at any time exceeds the lesser of (i) and (ii) as calculated above in this Section 4, Borrower and New Borrower shall immediately pay to Bank the amount of such excess.

5. Section 8(j) of the Loan Agreement shall be amended to read as follows:

"(j) Allow quarterly field audits at Borrower's expense."

6. Section 8(t) of the Loan Agreement shall be amended effective as of the August 31, 1999 monthly financial statement to read as follows:

"(t) Maintain Tangible Net Worth of not less than Three Hundred and Fifty Thousand and no/100 Dollars (\$350,000.00) during each month of Borrower's current fiscal year, and not less than Three Hundred Fifty Thousand and no/100 Dollars (\$350,000.00) for each month of each subsequent fiscal year of Borrower."

7. Borrower agrees that it will pay Bank \$3,500.00 on or before April 1, 2000 unless Borrower completes on or before February 29, 2000 the inventory portion of Borrower's Computer Implementation Plan. Compliance with the foregoing covenant shall

UNOFFICIAL COPY

99996888

H:\4200\BMM421311.wpd

be determined by the Bank in a field audit to be performed by Bank during March of 2000.

8. Borrower and New Borrower shall pay Lender a commitment fee of \$1,750.00 upon execution and delivery of this Eighth Modification.

9. 9611 and the Dombeks each acknowledges and consents to the modifications of the documents as described herein including the modifications of the Loan Agreement, Revolving Note, Revolving Loan Documents, 9611 Mortgage, 9611 Assignment and Junior Mortgage, as such documents have been previously been modified.

10. Borrower and New Borrower represents and warrants that as of the date hereof, there exists no default or Event of Default hereunder or under the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended nor, to the best of Borrower's and New Borrower's knowledge, any condition that with the passing of time or giving of notice or both without cure by Borrower and New Borrower within the applicable notice and cure or grace periods provided in the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended, would constitute an Event of Default hereunder or under the Loan Agreement, Revolving Note, or other Revolving Loan Documents.

11. Contemporaneously with the execution and delivery hereof, Borrower and New Borrower shall pay or cause to be paid all closing costs and expenses, including the fees of Bank's attorneys, incurred in connection with the transactions contemplated herein.

12. Borrower and New Borrower hereby acknowledge that (i) as of the date hereof Borrower and New Borrower have no defense, offset or counterclaim with respect to the payment of any sum owed to Bank, or with respect to any covenant in the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended; (ii) Borrower and New Borrower hereby remake and ratify all representations, warranties, and agreements made by them in and upon the execution and delivery of the Loan Agreement, Revolving Note, or other Revolving Loan Documents, and in other documents delivered in connection with this Agreement; (iii) Bank, on and as of the date whereof, has fully performed all obligations to Borrower and New Borrower which it may have had or has on and as of the date hereof; (iv) by entering into this Agreement, Bank does not waive any condition or obligation in the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended.

13. Nothing herein contained shall impair the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended, in any way not alter, waive, annual, vary nor affect any provision, condition or covenant herein contained except as expressly herein

UNOFFICIAL COPY

99996888

H:\4200\EWM4213ii.wpd

provided nor affect or impair any right, power or remedy of Bank, it being the intention of the parties hereto that the terms and provisions of the Loan Agreement, Revolving Note, or other Revolving Loan Documents, as amended, shall continue in full force and effect except as expressly modified in connection herewith.

14. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

15. No extension, change, modification or amendment of any kind or nature whatsoever, to or of this Agreement shall be made or claimed by Borrower and New Borrower, and no notice of any extension, change, modification or amendment, made or claimed by Borrower and New Borrower shall have any force or effect whatsoever unless the same shall be reduced to writing and signed by the parties.

16. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, the undersigned has caused these presents to be signed as of the day and year first above written.

FRACAR SHEET METAL MFG. CO., INC.,
an Illinois corporation

By: *John J. [Signature]*
Its: V-P

ILLINOIS RANGE COMPANY (formerly
known as IR ACQUISITION CORP.), an
Illinois corporation

By: *John J. [Signature]*
Its: V-P

LASALLE BANK NATIONAL ASSOCIATION,
Successor to LASALLE NATIONAL BANK,
formerly known as LASALLE BANK NI

By: *[Signature]*
Its: V P

UNOFFICIAL COPY

99996888

H:\4200\BWM421311.wpd

9611 ASSOCIATES, L.P., an Illinois limited partnership

By: 9611 Company, an Illinois corporation

Its: General Partner

By: John J. Dombek, Jr.

Its: V-P

John J. Dombek, Jr.
John J. Dombek, Jr.

Priscilla W. Dombek
Priscilla W. Dombek

Property of Cook County Clerk's Office

UNOFFICIAL COPY

H:\4200\EMK4213ii.wpd

STATE OF Illinois)
) S.S.
COUNTY OF COOK)

99996888

I HEREBY CERTIFY that on this 12 day of October, 1999, before me personally appeared JOHN DOMBEK of FRACAR SHEET METAL MFG. CO., an Illinois corporation to me known to be the same person who signed the foregoing instrument as his free act and deed as such person for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at SKOKIE in the County of COOK and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

"OFFICIAL SEAL"
SLAWA D. WRONA
NOTARY PUBLIC STATE OF ILLINOIS
My Commission Expires 08-31-03

Slawa D. Wrona
Notary Public

My Commission Expires: _____

STATE OF Illinois)
) S.S.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 12 day of October, 1999, before me personally appeared JOHN DOMBEK of ILLINOIS RANGE COMPANY (formerly known as IR Acquisition Corp.), an Illinois corporation to me known to be the same person who signed the foregoing instrument as his free act and deed as such person for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at SKOKIE in the County of COOK and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

"OFFICIAL SEAL"
SLAWA D. WRONA
NOTARY PUBLIC STATE OF ILLINOIS
My Commission Expires 08-31-03

Slawa D. Wrona
Notary Public

My Commission Expires: _____

UNOFFICIAL COPY

99996888

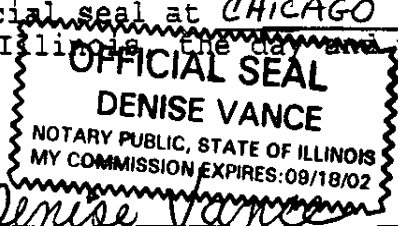
H:\4200\EFM4213ii.wpd

STATE OF ILLINOIS)
) S.S.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 18th day of OCTOBER, 1999, before me personally appeared MICHAEL WHITESIDE the V.P. of LASALLE BANK NATIONAL ASSOCIATION, successor to LASALLE NATIONAL BANK, formerly known as LASALLE Bank NI, to me known to be the same person who signed the foregoing instrument as his free act and deed as such person for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at CHICAGO in the County of COOK and State of Illinois, the 18th day and year last aforesaid.

(NOTARY SEAL)



Denise Vance
Notary Public

My Commission Expires: 09/18/02

STATE OF ILLINOIS)
) S.S.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 12 day of October, 1999, before me personally appeared John J. Dombek Jr. the V-P of 9611 Company, an Illinois corporation and the General Partner of 9611 ASSOCIATES, L.P., an Illinois limited partnership, to me known to be the same person who signed the foregoing instrument as his free act and deed as such person for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at SKOKIE in the County of COOK and State of Illinois, the 12th day and year last aforesaid.

(NOTARY SEAL)



Slawa D. Wrona
Notary Public
My Commission Expires: _____

UNOFFICIAL COPY

H:\4200\BWM4213ii.wpd

EXHIBIT "A"

99996888

LEGAL DESCRIPTION

"9611 PROPERTY"

LOTS 1 THROUGH 14, INCLUSIVE, IN BLOCK 1 IN FAIRVIEW HEIGHTS, BEING A SUBDIVISION OF THAT PART OF THE EAST HALF OF THE SOUTH EAST FRACTIONAL QUARTER OF SECTION 9, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE RIGHT-OF-WAY OF WISCONSIN CENTRAL RAILROAD IN COOK COUNTY, ILLINOIS.

Permanent Index Nos

12-09-409-011, 12-09-409-012
12-09-409-013, 12-09-409-014
12-09-409-020, 12-09-409-021

ADDRESS OF PROPERTY:

9611 West Foster Avenue
Schiller Park, Illinois 60176

Cook County Clerk's Office

UNOFFICIAL COPY

H:\4200\EXM421311.wpd

EXHIBIT "B"

99996888

LEGAL DESCRIPTION"DOMBEK'S PROPERTY"

UNIT NUMBER 13-C-N AS DELINEATED ON SURVEY OF THE FOLLOWING DESCRIBED PARCEL OF REAL ESTATE (HEREINAFTER REFERRED TO AS "PARCEL") BEGINNING FOR THE SAME AT THE POINT WHERE THE WEST LINE OF LAKE SHORE DRIVE (200 FEET WIDE), AND RUNNING THENCE ALONG THE WEST LINE OF LAKE SHORE DRIVE SOUTH 192 FEET 2/18TH INCHES; THENCE NORTH AT AN ANGLE OF 88 DEGREES 17 MINUTES WEST 122 FEET 9-1/2 INCHES TO THE EAST LINE OF STONE STREET (66 FEET WIDE); THENCE ALONG THE EAST LINE OF STONE STREET, NORTH 192 FEET 1 3/4THS INCHES, TO THE SOUTH LINE OF SCOTT STREET AFORESAID; AND THENCE ALONG THE SOUTH LINE OF SCOTT STREET EAST 117 FEET 1 3/4THS INCHES TO THE POINT OF BEGINNING BEING ALL OF LOTS NUMBERED 1 AND 2 IN LAWRENCE AND SYMONDS' SUBDIVISIONS OF LOTS 1 AND 2 AND THE NORTH 15 FEET OF LOT 3 IN BLOCK 8 IN H.O. STONE'S SUBDIVISION OF ASTOR'S ADDITION TO CHICAGO THE SOUTH 25 FEET OF LOT 3 ALL OF LOT 4 AND THE NORTH 32 FEET OF LOT 5 ALL IN BLOCK 8 IN H.O. STONE'S SUBDIVISION OF ASTOR'S ADDITION TO CHICAGO AFORESAID AND ALL LAND DERIVED BY WAY OF ACCRETION OR OTHERWISE LYING EAST TO THE EAST LINES OF SAID LOTS AS ORIGINALLY SUBDIVIDED AND WEST OF THE WEST LINE OF LAKE SHORE DRIVE AS NOW ESTABLISHED ALL SITUATED IN THE CITY OF CHICAGO, COOK COUNTY, ILLINOIS IN SECTION 3, TOWNSHIP 29 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO DECLARATION MADE BY LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST NUMBER 36853 RECORDED IN THE OFFICE OF THE RECORDER OF COOK COUNTY, ILLINOIS AS DOCUMENT NUMBER 20892901 AND AMENDED BY DOCUMENT 20946638 RECORDED SEPTEMBER 1, 1969 AND AS FURTHER AMENDED BY DOCUMENT 21011644 RECORDED NOVEMBER 13, 1969, TOGETHER WITH AN UNDIVIDED 05101 INTEREST IN SAID PARCEL (EXCEPTING FROM SAID PARCEL ALL THE PROPERTY AND SPACE COMPRISING ALL THE UNITS AS DEFINED AND SET FORTH IN SAID DECLARATION AND SURVEY) ALL IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO.

17-03-114-003-1051

ADDRESS OF REAL ESTATE:

1212 NORTH LAKE SHORE DRIVE,
UNIT 13CN
CHICAGO, ILLINOIS 60610