



MISC 2003119426

RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE



JUN 20 2003 14:11 P 6

RECEIVED

Attn: Credit Administration Dept.
1235 "N" Street
Lincoln, NE 68508

Misc 3300
See Attached
FEE _____ FB _____
EXP 11.5.11 1000 _____
DATE _____ SCAN OR

SECOND LOAN MODIFICATION AGREEMENT

Loan No. 01-10167089

This Second Loan Modification Agreement made as of May 30, 2003, is by and between **144-Maple, L.L.C., an Iowa limited liability company, f/k/a 144-Maple, LLC, a Nebraska limited liability company**, herein referred to as "Borrower", whose mailing address is 16820 Frances Street, Suite 102, Omaha, Nebraska 68130, and **TierOne Bank f/k/a First Federal Lincoln Bank**, a corporation organized and existing under the laws of the United States of America, herein referred to as ("Noteholder/Lender"), whose mailing address is P.O. Box 83009, Lincoln, Nebraska 68501-3009 (Collectively the "Parties").

WITNESSETH

WHEREAS, Borrower is indebted to Noteholder/Lender upon that certain Note Secured by Construction Security Agreement dated July 19, 2001, made by Borrower in the original amount of \$8,300,000.00 (the "Note") secured among other things, by a Deed of Trust with Assignment of Rents and Security Agreement (Construction Security Agreement) of the same date (the "Deed of Trust") which was recorded July 24, 2001, as Instrument Number 2001 21241, in Book 6588, at Page 623 of the Register of Deeds Office of Douglas County, Nebraska, encumbering the real property described as follows (the "Property"):

See Exhibit "A" attached hereto

WHEREAS, the Note is also secured by an Assignment of Leases and Rents dated July 19, 2001, recorded July 24, 2001, as Instrument Number 2001 11005, in Book 1391, at Page 218 of the Register of Deeds Office of Douglas County, Nebraska, UCC-1 Financing Statements and other security instruments. Kevin D. Irish and Jeffrey W. Johnson (herein "Guarantors") executed Guaranty agreements dated July 19, 2001, guaranteeing Borrower's full and punctual performance under the Note and Deed of Trust.

WHEREAS, the Note and Deed of Trust were amended by that Loan Modification Agreement dated August 23, 2002 (the "First Modification Agreement") which was recorded August 28, 2002, as Instrument No. 2002 20392, in Book 1458, at Page 306 of the Register of Deeds Office of Douglas County, Nebraska.

WHEREAS, Noteholder/Lender and Borrower hereby agree to modify certain terms of the Note as amended and Deed of Trust as amended as set forth below.

NOW, THEREFORE, in consideration of Ten Dollars and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower hereto agrees, represents and consents to and with Noteholder/Lender as follows:

- A. Borrower shall pay to Noteholder/Lender a loan modification fee of \$10,000.00.

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12090 4 NLTA 5-30-03

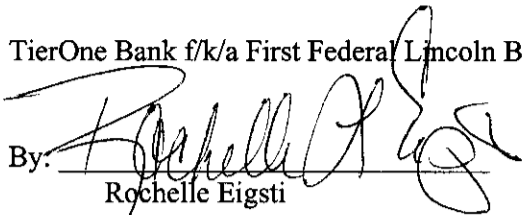
- B. Prior to the date of this Second Loan Modification Agreement, the outstanding Principal balance of the Note was \$3,850,515.73. Upon execution of this Second Loan Modification Agreement, the Noteholder/Lender shall advance to Borrower the additional Principal sum of \$1,846,000.00 and the outstanding Principal balance of the Replacement Note Secured by Construction Security Agreement identified in Paragraph D below shall be \$5,696,515.73 (the "Loan"), and all such Note indebtedness, including the additional Principal advance of \$1,846,000.00, shall be secured by the Deed of Trust and other security instruments as amended herein.
- C. Borrower shall pay any closing and recording costs and shall provide and pay the cost of appropriate title endorsement(s) to the original ALTA Loan Policy to Title Insurance, Policy No. MM 3952386, dated July 24, 2001, issued by Old Republic National Title Insurance Company to Noteholder/Lender, insuring that Noteholder/Lender's Deed of Trust remains, subsequent to the recording of this Second Loan Modification Agreement, a first lien on the Property.
- D. The Deed of Trust as amended, shall be modified as follows:
- (a) The "Note" identified in the Deed of Trust shall be that certain Replacement Note Secured by Construction Security Agreement dated May 30, 2003, in the principal sum of Five Million Six Hundred Ninety Six Thousand Five Hundred Fifteen and 73/100 Dollars (\$5,696,515.73) with a Maturity Date of August 1, 2005, which Replacement Note Secured by Construction Security Agreement is a refinancing of and substitution for the Note Secured by Construction Security Agreement dated July 19, 2001, and identified in the original Deed of Trust. The Replacement Note Secured by Construction Security Agreement dated May 30, 2003, evidences the balance due and owing on the Note Secured by Construction Security Agreement dated July 19, 2001.
 - (b) The "Maturity Date" referenced in the Paragraph No. "1" on Page 2 of the Deed of Trust is hereby changed to **August 1, 2005**.
 - (c) This Deed of Trust shall further secure all renewals, extensions, refinancings, and modifications of the Note, and the additional advance of \$1,846,000.00 and any other future advances, with interest thereon, provided, the Principal amount of the indebtedness secured by this Deed of Trust, not including sums advanced to protect the security of this Deed of Trust, shall not exceed a maximum Principal amount of \$8,300,000.00.
- E. The Assignment of Leases and Rents dated July 19, 2001, and all other security instruments executed in connection with the Loan are also hereby amended and modified to the extent of the foregoing modification of the Note and Deed of Trust set forth in this Second Loan Modification Agreement.
- F. Except as expressly modified by the terms hereof, all of the terms and provisions of the Note and all other loan documents evidencing or securing said indebtedness, including the Deed of Trust, are hereby ratified and shall remain in full force and effect. By execution hereof, Borrower and Noteholder/Lender concur with all provisions contained in this Second Loan Modification Agreement.

A credit agreement must be in writing to be enforceable under Nebraska law. To protect you and us from any misunderstandings or disappointments, any contract, promise, undertaking, or offer to forebear repayment of money or to make any other financial accommodation in connection with this loan of money or grant or extension of credit, or any amendment of, cancellation of, waiver of, or substitution for any or all of the terms or provisions of any instrument or document executed in connection with this loan of money or grant or extension of credit, must be in writing to be effective.

(see next page for signatures)

NOTEHOLDER/LENDER:

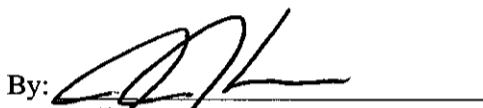
TierOne Bank f/k/a First Federal Lincoln Bank

By: 
Rochelle Eigsti
Vice President
Professional and Executive Banker

BORROWER:

144-Maple, L.L.C.
an Iowa limited liability company,
f/k/a 144-Maple, LLC,
a Nebraska limited liability company

By: 
Kevin Irish, Member

By: 
Jeffrey W. Johnson, Member

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 30 day of May, 2003, by Rochelle Eigsti, Vice President of TierOne Bank f/k/a First Federal Lincoln Bank, a corporation organized and existing under the laws of the United States of America, on behalf of said corporation.

Kristin M. Drain
Notary Public

My Commission Expires:



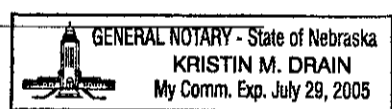
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 30 day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Kevin Irish, a Member of 144-Maple, L.L.C., an Iowa limited liability company, f/k/a 144-Maple, LLC, a Nebraska limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Member.

WITNESS my hand and notarial seal in said county and state, the day and year last above written.

Kristin M. Drain
Notary Public

My Commission Expires:



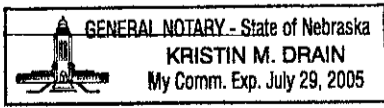
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 30 day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Jeffrey W. Johnson, a Member of 144-Maple, L.L.C., an Iowa limited liability company, f/k/a 144-Maple, LLC, a Nebraska limited liability company, the identical person whose name is subscribed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed as such Member.

WITNESS my hand and notarial seal in said county and state, the day and year last above written.

Kristin M. Drain
Notary Public


My Commission Expires:



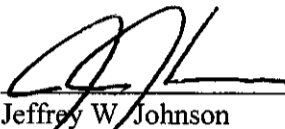
ACKNOWLEDGMENT, CONSENT AND WAIVER OF GUARANTOR

The undersigned hereby acknowledge receipt of a copy of the foregoing Second Loan Modification Agreement, and consent to the modification of the Loan, and the other terms hereof. Further the undersigned reaffirm the terms and conditions of their Guaranty agreements as executed in connection with that Note Secured by Construction Security Agreement dated July 19, 2001 ("Note") and that Deed of Trust with Assignment of Rents and Security Agreement (Construction Security Agreement) dated July 19, 2001 ("Deed of Trust"), and agree to be bound thereby as to the indebtedness thereunder or hereunder or under the Note as amended and Deed of Trust as amended and we hereby waive and release any and all claims and defenses we might otherwise have as to our liability thereunder arising by reason of this Second Loan Modification Agreement or any act or omission occurring prior to the date hereof.

GUARANTORS:



Kevin D. Irish

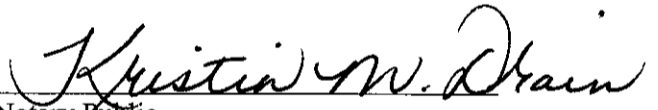


Jeffrey W. Johnson

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

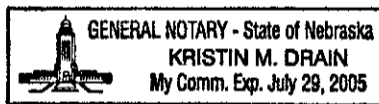
On this 30 day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Kevin D. Irish, an individual known unto me.

WITNESS my hand and notarial seal in said county and state, the day and year last above written.



Notary Public

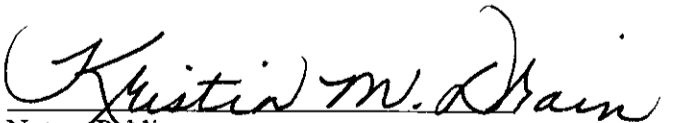
My Commission Expires: _____



STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 30 day of May, 2003, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Jeffrey W. Johnson, an individual known unto me.

WITNESS my hand and notarial seal in said county and state, the day and year last above written.



Notary Public

My Commission Expires: _____

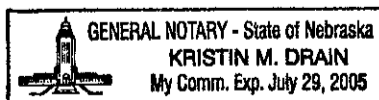


EXHIBIT "A"

(LEGAL DESCRIPTION)

73-14162

Lots 2 and 5, Grayhawk, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

73-14164
Lot 1, Grayhawk Replat 1, being a replat of Lot 6, Grayhawk, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

73-14181
Lots 1 and 2, Grayhawk Replat 2, being a replat of Lots 1 and 3, Grayhawk, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska and a portion of the NE ¼ of Section 11, T15N, R11E, of the 6th P.M. Douglas County, Nebraska except that part described as follows: 01-60000

Referring to the SW corner of Lot 2, Grayhawk, a platted and recorded subdivision in Douglas County, Nebraska: thence S 00°23'29" E (platted bearing), 23.00 ft. on the West line of said Lot 2, Grayhawk Replat 2 to the point of beginning; thence N 89°36'31"E, 266.03 ft.; thence Easterly on a 150.00 ft. radius curve to the left, 112.94 ft. (long chord bears N 68°02'20" E, 110.29 ft.); thence Easterly on a 150.00 ft. radius curve to the right, 101.69 ft. (long chord bears N 65°53'26" E, 99.75 ft.); thence Easterly on a 150.00 ft. radius curve to the left, 84.26 ft. (long chord bears N 69°13'10" E, 83.16 ft.); thence S 36°52'22" E, 15.36 ft.; thence S 00°23'29" E, 277.41 ft.; thence S 45°15'29" E, 141.34 ft.; thence S 44°44'31" W, 38.56 ft.; thence Southerly on a 50.00 foot radius curve to the left, 39.27 ft. (long chord bears S 22°14'25" W, 38.27 ft.); thence S 00°15'41" E, 282.95 ft.; thence S 45°15'29" E, 45.27 ft.; thence S 44°44'31" W, 88.84 ft.; thence S 58°06'05" W, 59.32 ft.; thence S 89°44'31" W, 511.72 ft. on the South line of said Lot 2 and its Easterly extension thereof; thence Northerly on the West line of said Lot 2 for the next 4 courses: 1.) thence N 45°15'29" W, 102.28 ft., 2.) thence N 00°23'29" W, 375.95 ft., 3.) thence Northerly on a 550.00 ft. radius curve to the left, 262.52 ft. (long chord bears N 13°16'56" E, 260.03 ft.), 4.) thence N 00°23'29" W, 49.23 ft. to the point of beginning.