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FILED
OTOE COUNTY, NE
FEE \$69.00

ENTERED
VERIFIED
SCANNED

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PREPARED BY AND WHEN RECORDED,
PLEASE RETURN TO:

Janet P. Pardo
REGISTER OF DEEDS

H. Daniel Smith
Smith, Gardner, Shusky,
Lazer, Pohren & Rogers, LLP
8712 West Dodge Road
Suite 400
Omaha, NE 68114
(402) 392-0101
(402) 392-1011
dsmith@smithgardenerslusky.com

AMENDMENT TO LOAN AGREEMENT, AND
DEED OF TRUST

48419

This Agreement is made and entered into this 1st day of August, 2008, by and between AVM REAL ESTATE INVESTMENTS, LLC, a Nebraska limited liability company, 515 North 87th Street, Omaha, Nebraska 68114, formerly known as SEC Accommodator LVIII, LLC, ("AVM"), MONTEITH BROTHERS, INC., a Nebraska corporation ("Monteith"), c/o 515 North 87th Street, Omaha, Nebraska 68114, FRANCIS V. BISKUP, an individual residing at 402 Ridgewood Drive, Bellevue, NE 68005, and RITA L. BISKUP, an individual residing at 402 Ridgewood Drive, Bellevue, NE 68005, (herein, "Borrower" or "Borrowers"), and American National Bank, a national banking association, and its successors and/or assigns whose mailing address is P.O. Box 2139, Omaha, Nebraska, 68103-2139, Attn: Edward J. Kelleher (the "Lender").

PRELIMINARY STATEMENT

WHEREAS, on the 7th day of July, 2006, Lender, AVM, Monteith, and Francis V. Biskup made and entered into certain Loan Documents as defined in the Business Loan Agreement ("Loan Agreement"), including but not limited to the Loan Agreement, Promissory Note, and a Deed of Trust (the "Mortgage") dated July 7, 2006 and recorded July 11, 2006, at Record 200602106 in the office of the Clerk of Otoe County, Nebraska together with certain other agreements under which Lender was granted a first lien security interest in and to the Real Property as described in the Mortgage and as also described on the attached and incorporated Exhibit A hereto, the purpose of which was to secure the indebtedness of the Promissory Note in the face amount of Nine Hundred Fifty Thousand and No/100ths Dollars (\$950,000.00); and

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WHEREAS, the Lender has agreed to consent to the following requested actions (the "Requested Actions"): To correct legal description and amend the name of one of the Trustors.

NOW THEREFORE, the parties agree:

ARTICLE 1
ACKNOWLEDGMENTS, WARRANTIES AND REPRESENTATIONS

As a material inducement to Lender to enter into this Agreement and to consent to the Requested Actions, Borrower acknowledges, warrants, represents and agrees to and with Lender as follows:

1.1 **Incorporation of Recitals.** All of the facts set forth in the Preliminary Statement of this Agreement are true and correct and incorporated into this Agreement by reference.

1.2 **Authority of Borrower AVM.** AVM Real Estate Investments, LLC is duly organized and validly existing limited liability company in good standing under the laws of the State of Nebraska, and authorized to do business in Nebraska. The execution and delivery of, and performance under, this Agreement by AVM Real Estate Investments, LLC has been duly and properly authorized pursuant to all requisite company action and will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to AVM Real Estate Investments, LLC or the Articles of Organization or Operating Agreement or any other organizational document of AVM Real Estate Investments, LLC or (ii) result in a breach of or constitute or cause a default under any indenture, agreement, lease or instrument to which AVM Real Estate Investments, LLC is a party or by which the Real Property may be bound or affected.

1.3 **Authority of Borrower Francis v. Biskup.** Francis v. Biskup is an individual residing in Sarpy County Nebraska. The execution and delivery of, and performance under, this Agreement by Francis v. Biskup will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to Francis v. Biskup or (ii) result in a breach of or constitute or cause a default under any indenture, agreement, lease or instrument to which Francis v. Biskup is a party or by which the Real Property may be bound or affected.

1.4 **Authority of Borrower Rita L. Biskup.** Rita L. Biskup is an individual residing in Sarpy County Nebraska. The execution and delivery of, and performance under, this Agreement by Rita L. Biskup will not (i) violate any provision of any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to Rita L. Biskup or (ii) result in a breach of or constitute or cause a default under any indenture, agreement, lease or instrument to which Rita L. Biskup is a party or by which the Real Property may be bound or affected.

1.5 **Compliance with Laws.** To Borrowers' knowledge, all permits, licenses, franchises or other evidences of authority to use and operate the Real Property as it is presently being operated and as contemplated by the Loan Documents are current, valid and in full force and effect. Borrower has not received any written notice from any governmental entity claiming that Borrower or the Real Property is not presently in compliance with any laws, ordinances, rules and regulations bearing upon the use and operation of the Real Property, including, without limitation, any notice relating to any violations of zoning, building, environmental, fire, health, or other laws, ordinances, rules, codes or regulations.

1.6 **Title to Real Property and Legal Proceedings.** Borrowers AVM, Francis V. Biskup, and Rita L. Biskup, are the current owners as tenants in common of fee title in the Real Property. There are no pending or threatened suits, judgments, arbitration proceedings, administrative claims, executions or other legal or equitable actions or proceedings against Borrower or the Real Property, or any pending or threatened condemnation proceedings or annexation proceedings affecting the Real Property, or any agreements to convey any portion of the Real Property, or any rights thereto to any person, entity, or government body or agency not disclosed in this Agreement.

1.7 **Loan Documents.** The Loan Documents constitute valid and legally binding obligations of Borrowers enforceable against Borrowers, as limited herein, and the Real Property in accordance with their terms. Borrowers acknowledge and agree that nothing contained in this Agreement, nor the Requested Actions, shall release or relieve Borrowers from their obligations, agreements, duties, liabilities, covenants and undertakings under the Loan Documents arising prior to the date hereof. Borrowers have no defenses, setoffs, claims, counterclaims or causes of action of any kind or nature whatsoever against Lender or any of Lender's predecessors in interest, and any subsidiary or affiliate of Lender and all of the past, present and future officers, directors, contractors, employees, agents, attorneys, representatives, participants, successors and assigns of Lender and Lender's predecessors in interest (collectively, "**Lender Parties**") or with respect to (i) the Loan, (ii) the Loan Documents, or (iii) the Real Property. To the extent Borrowers would be deemed to have any such defenses, setoffs, claims, counterclaims or causes of action as of the date hereof, Borrowers knowingly waive and relinquishes them.

1.8 **Bankruptcy.** No Borrower has any intent to (i) file any voluntary petition under any Chapter of the Bankruptcy Code, Title 11, U.S.C.A. ("**Bankruptcy Code**"), or in any manner to seek any proceeding for relief, protection, reorganization, liquidation, dissolution or similar relief for debtors ("**Debtor Proceeding**") under any local, state, federal or other insolvency law or laws providing relief for debtors, (ii) directly or indirectly to cause any involuntary petition under any Chapter of the Bankruptcy Code to be filed against Borrowers or any of them or any partners thereof or (iii) directly or indirectly to cause the Real Property or any portion or any interest of Borrowers in the Real Property to become the property of any bankrupt estate or the subject of any Debtor Proceeding.

1.9 **No Default.** To Borrowers' knowledge, no event, fact or circumstance has occurred or failed to occur which constitutes, or with the lapse or passage of time, giving of notice or both, could constitute a default or Event of Default under the Loan Documents.

1.10 **Reaffirmation.** Borrowers reaffirm and confirm the truth and accuracy of all representations and warranties set forth in the Loan Documents, in all material respects, as if made on the date hereof.

ARTICLE 2 ADDITIONAL PROVISIONS

2.1 **Consent of Lender.** Subject to the terms of this Agreement, Lender hereby consents to the Requested Actions, as follows:

(a) **Amendment to the Loan Agreement.** The Loan Agreement is hereby amended as follows: The parties acknowledge and agree that SEC Accommodator LVIII, LLC has changed its name to AVM Real Estate Investments, LLC.

All other provisions of the Loan Agreement are ratified and confirmed hereby and shall remain in full force and effect.

(b) **Amendment to the Mortgage.** The Mortgage is hereby amended as follows:

(i) AVM hereby ratifies the Mortgage as Trustor and by this action binds itself to the performance of the Mortgage, and represents and warrants that it is an undivided $\frac{1}{2}$ interest tenant in common owner of the real property described therein.

(ii) The definition of "Real Property" is hereby amended to the description set forth on the attached and incorporated Exhibit B hereto.

All other provisions of the Mortgage are ratified and confirmed hereby and shall remain in full force and effect.

2.2 **No Consent To Other Modifications.** Borrowers agree that this Agreement shall not be deemed an agreement by Lender to consent to any other modification of the Loan Documents, or a consent to any additional financing, secondary financing or secondary encumbrance on the Real Property, or financing of any kind on any future phases of the Real Property or any other Real Property.

2.3 **References to Loan Documents.** All references to the term Loan Documents in the Mortgage and the other Loan Documents shall hereinafter be modified

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to include this Agreement and all documents executed and/or required in connection with the Requested Actions.

2.4 **Filing for Record.** This document may be filed for record in Otoe County, State of Nebraska by Lender.

ARTICLE 3 MISCELLANEOUS PROVISIONS

3.1 **Defined Terms.** All capitalized or defined terms shall have the meaning as set forth in the Loan Agreement unless the context of this Agreement clearly requires otherwise.

3.2 **No Limitation of Remedies.** No right, power or remedy conferred upon or reserved to or by Lender in this Agreement is intended to be exclusive of any other right, power or remedy conferred upon or reserved to or by Lender under this Agreement, the Loan Documents or at law, but each and every remedy shall be cumulative and concurrent, and shall be in addition to each and every other right, power and remedy given under this Agreement, the Loan Documents or now or subsequently existing at law.

3.3 **No Waivers.** Except as otherwise expressly set forth in this Agreement, nothing contained in this Agreement shall constitute a waiver of any rights or remedies of Lender under the Loan Documents or at law. No delay or failure on the part of any party hereto in the exercise of any right or remedy under this Agreement shall operate as a waiver, and no single or partial exercise of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. No action or forbearance by any party hereto contrary to the provisions of this Agreement shall be construed to constitute a waiver of any of the express provisions. Any party hereto may in writing expressly waive any of such party's rights under this Agreement without invalidating this Agreement.

3.4 **Successors or Assigns.** Whenever any party is named or referred to in this Agreement, the heirs, executors, legal representatives, successors, successors-in-title and assigns of such party shall be included. All covenants and agreements in this Agreement shall bind and inure to the benefit of the heirs, executors, legal representatives, successors, successors-in-title and assigns of the parties, whether so expressed or not.

3.5 **Construction of Agreement.** Each party hereto acknowledges that it has participated in the negotiation of this Agreement and no provision shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured, dictated or drafted such provision. Borrowers at all times have had access to an attorney in the negotiation of the terms of and in the preparation and execution of this Agreement and has had the opportunity to review and analyze this Agreement for a sufficient period of time prior to execution and delivery. No representations or warranties have been made by or on behalf of Lender, or relied upon

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by Borrowers pertaining to the subject matter of this Agreement, other than those set forth in this Agreement. All prior statements, representations and warranties, if any, are totally superseded and merged into this Agreement, which represent the final and sole agreement of the parties with respect to the subject matters. All of the terms of this Agreement were negotiated at arm's length, and this Agreement was prepared and executed without fraud, duress, undue influence or coercion of any kind exerted by any of the parties upon the others. The execution and delivery of this Agreement is the free and voluntary act of Borrowers.

3.6 **Invalid Provision to Affect No Others.** If, from any circumstances whatsoever, fulfillment of any provision of this Agreement or any related transaction at the time performance of such provision shall be due, shall involve transcending the limit of validity presently prescribed by any applicable usury statute or any other applicable law, with regard to obligations of like character and amount, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity. If any clause or provision operates or would prospectively operate to invalidate this Agreement, in whole or in part, then such clause or provision only shall be deemed deleted, as though not contained herein, and the remainder of this Agreement shall remain operative and in full force and effect.

3.7 **Notices.** Except as otherwise specifically provided to the contrary, any and all notices, elections, approvals, consents, demands, requests and responses ("Notices") permitted or required to be given under this Agreement and the Loan Documents shall not be effective unless in writing, signed by or on behalf of the party giving the same, and sent by certified or registered mail, postage prepaid, return receipt requested, or by hand delivery or overnight courier service (such as Federal Express), to the party to be notified at the address of such party set forth below or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance with this Section. Any Notices shall be effective upon the date sent in the manner indicated in this Section. Notices shall be deemed effective and received notwithstanding that attempted delivery is refused or rejected, the date of rejection shall be deemed the date of receipt. Notices must be addressed as follows, subject to change as provided above:

If to Borrower:

AVM Real Estate Investments, LLC
515 North 87th Street
Omaha, Nebraska 68114
Attn: Thomas J. Monteith

with copy to:

Woods & Aitken, LLP
10250 Regency Circle
Suite 525
Omaha NE 68154
Attn: Michael Matejka

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If to Borrower: Francis v. Biskup
402 Ridgewood Drive
Bellevue, NE 68005

If to Borrower: Rita L. Biskup
402 Ridgewood Drive
Bellevue, NE 68005

If to Lender: American National Bank
P.O. Box 2139
Omaha, NE 68103-2139
Attn: Edward J. Kelleher

with copy to: Smith, Gardner, Slusky,
Lazer, Pohren & Rogers, LLP
8712 West Dodge Road
Suite 400
Omaha, NE 68114
Attn: H. Daniel Smith

3.8 **Governing Law.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Nebraska.

3.9 **Headings; Exhibits.** The headings of the articles, sections and subsections of this Agreement are for the convenience of reference only, are not to be considered a part of this Agreement and shall not be used to construe, limit or otherwise affect this Agreement.

3.10 **Modifications.** The terms of this Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument or instruments in writing, signed by the Party against whom the enforcement of the change, modification, waiver, discharge or termination is asserted. Lender's consent to the Requested Actions shall not be deemed to constitute Lender's consent to any provisions of the organizational documents that would be in violation of the terms and conditions of any of the Loan Documents.

3.11 **Time of Essence; Consents.** Time is of the essence of this Agreement and the Loan Documents. Any provisions for consents or approvals in this Agreement shall mean that such consents or approvals shall not be effective unless in writing and executed by Lender.

3.12 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which will constitute the same agreement. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

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

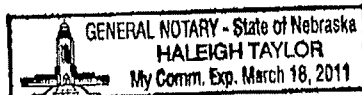
AMERICAN NATIONAL BANK, a national banking association:

By J. Kelleher
Edward J. Kelleher, Senior Vice President

STATE OF NEBRASKA)
)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12th day of November, 2008, by Edward J. Kelleher, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted, executed the instrument. He is the Senior Vice President of American National Bank, a national banking association, for and on behalf of said American National Bank, and he acknowledged, signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Haleigh Taylor
Notary Public



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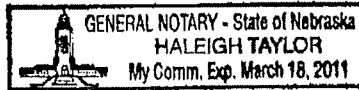
AVM REAL ESTATE INVESTMENTS, LLC, a
Nebraska limited liability company:

By *Thomas J. Monteith*
Thomas J. Monteith, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12th day of November, 2008, by Thomas J. Monteith, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted, executed the instrument. He is the Manager of AVM Real Estate Investments, LLC, a Nebraska limited liability company, for and on behalf of said AVM Real Estate Investments, LLC, and he acknowledged, signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Haleigh Taylor
Notary Public



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Francis V. Biskup
Francis V. Biskup

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12th day of November, 2008, by Francis V. Biskup, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same and he acknowledged, signed and delivered the instrument as his free and voluntary act, for the uses and purposes therein set forth.

Haleigh Taylor
Notary Public



Rita L. Biskup
Rita L. Biskup

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12th day of November, 2008, by Rita L. Biskup, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same, and she acknowledged, signed and delivered the instrument as her free and voluntary act, for the uses and purposes therein set forth.

Haleigh Taylor
Notary Public

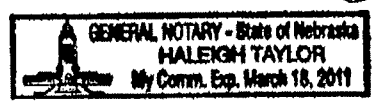


EXHIBIT "A"

All of Block Sixty-eight (68); Lots 1, 2, 3, 4, 5, 6, 7, 8 and 9, Block Seventy-one (71); the East Half of Lot Thirteen (13) and all of Lots 14, 15, 16, 17 and 18, Block Seventy-One (71), Kearney Addition to Nebraska City, now known as Lot Two (2), Eacret's Subdivision; and the street lying between said blocks and the alleys through said blocks, in Kearney Addition to Nebraska City; all in Otoe County, Nebraska, EXCEPT the following-described property:

Part of Lots 1, 2, 3 and 18, Block 68, Kearney Addition to the City of Nebraska City, Otoe County, Nebraska, more particularly described as follows:

TRACT 1: Beginning at the Northeast corner of said Block 68, thence Southerly to the Southeast corner of Lot 1, Block 68, thence Westerly a distance of 40.0 feet along the South line of said Lot 1, thence Northwesterly to a point on the North line of Block 68, said point being a distance of 10.0 feet West of the Northeast corner of Lot 3, thence Easterly to the Point of Beginning, containing 0.24 acres, more or less, and

TRACT 2: Beginning at the Northeast corner of Lot 18, said Block 68, thence Southerly a distance of 50.0 feet along the East line of said Lot 18, thence Northwesterly to a point a distance of 30.0 feet West to the Northeast corner of said Lot 18, thence Easterly a distance of 30.0 feet to the Point of Beginning, containing 0.02 acres, more or less, EXCEPT also Lots 10, 11, 12 and the West 1/2 of Lot 13, Block 71, Kearney Addition to Nebraska City, Otoe County, Nebraska, now known as Lot 1, Eacret Subdivision of the South 1/2 of Block 71, Kearney Addition to Nebraska City, Otoe County, Nebraska.

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