

This instrument was prepared by and should be mailed to:



0020138053

Francis L. Keldermans
McBride Baker & Coles
500 West Madison Street
40th Floor
Chicago, Illinois 60661

FIFTH AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT,
ASSIGNMENT OF RENTS AND LEASES, AND SECURITY AGREEMENT

This Fifth Amendment to Mortgage and Security Agreement, Assignment of Rents and Leases, and Security Agreement ("Fifth Amendment to Mortgage") is made as of December 4, 2001 between LaSalle Bank National Association as successor Trustee to LaSalle National Bank, not personally, but solely as Trustee ("Trustee") under Trust Agreement dated January 11, 1999 and known as Trust No. 122242 ("Trust") and by 1122 North Clark, L.L.C., an Illinois limited liability company ("Beneficiary"), as owner of the entire beneficial interest in the Trust (hereinafter the Trust and the Beneficiary are referred to jointly as "Mortgagor"), and CIB Bank, an Illinois banking corporation, as assignee of LaSalle Bank National Association, located at 900 E. Higgins Boulevard, Elk Grove Village, Illinois ("Mortgagee").

Article 1

DEFINITIONS

1.1 Definitions

As used herein, the following terms shall have the following meanings:

"Assignment": The Assignment of Mortgage dated February 3, 2000 and recorded in the Office of the Cook County, Illinois Recorder of Deeds on February 14, 2000 as document number 00108592 whereby LaSalle Bank National Association assigned to Mortgagee all of its right, title and interest in and to the Original Note, the Loan Agreement, the Mortgage, the Assignment of Rents and all of the other Loan Documents.

"Assignment of Rents": The Assignment of Rents and Leases dated February 11, 1999 and recorded in the Office of the Cook County, Illinois Recorder of Deeds on February 18, 1999 as document number 99164975 whereby Mortgagor assigned to LaSalle Bank National Association all of Mortgagor's right, title and interest in and to the rents and leases.

"First Amendment": The First Amendment to Bridge and Conversion Loan Agreement dated May 10, 2000 by and between Mortgagor and Mortgagee.

"Indebtedness": The principal balance of the Note and all accrued and unpaid interest thereon and all other sums due to Mortgagee pursuant to the Loan Agreement, the Mortgage, the First Amendment, the First Amendment to Mortgage, the Second Amendment, the Second Amendment to Loan Documents, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, the Modification Documents and all of the other Loan Documents the Modification Documents and any of the other Loan Documents.

"Land": The real estate described in Exhibit A attached hereto.

"Loan Agreement": The Bridge and Conversion Loan Agreement dated February 11, 1999 by and between Mortgagor and Mortgagee.

"Loan Documents": The Loan Documents identified in the Loan Agreement and the Notes, the First Amendment, the First Amendment to Mortgage, the Second Amendment, the Second Amendment to Loan Documents, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, the Modification Documents and all of the other Loan Documents.

"Modification Documents": This Fifth Amendment to Mortgage and each of the following documents dated as of even date herewith: The Fifth Amendment to Bridge and Conversion Loan Agreement ("Fifth Amendment"), the Note, and all other agreements, certificates or documents executed by Mortgagor or other parties which evidence, secure or collateralize the Note.

"Mortgage": The Mortgage and Security Agreement made by the Trust in favor of LaSalle Bank National Association to secure certain indebtedness, as defined in the Mortgage, which Mortgage is dated February 11, 1999 and was recorded in the Office of the Cook County, Illinois Recorder of Deeds on February 18, 1999 as document number 99164974 whereby the Trust granted a first mortgage lien to Mortgagee with respect to the Premises.

"Fourth Amendment": The Fourth Amendment to Bridge and Conversion Loan Agreement dated as of June 4, 2001 by and between Trustee, Beneficiary and Lender.

"Fourth Amendment to Mortgage": The Fourth Amendment to Mortgage and Security Agreement, Assignment of Rents and Leases, and Security Agreement dated June 4, 2001 by and between Trustee, Beneficiary, and Lender.

"Fourth Note": The Amended and Restated Mortgage Note dated September 4, 2001 made by Borrower in favor of Lender in the original principal amount of SIX MILLION AND N0/100 DOLLARS (\$6,000,000.00).

"Third Note": The Mortgage Note dated August 30, 2000 made by Borrower in favor of Lender in the original principal amount of THREE MILLION AND N0/100 DOLLARS (\$3,000,000.00).

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“Original Note”: The Mortgage Note dated February 11, 1999 from Borrower to LaSalle Bank National Association in the original principal amount of THIRTY NINE MILLION AND NO/100 DOLLARS (\$39,000,000.00) which Original Note was assigned to Lender by the Assignment.

“Second Note”: The Term Note dated February 3, 2000 from Beneficiary to Mortgagee in the original principal amount of THREE MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,900,000.00).

“Security Agreement”: The Security Agreement dated February 11, 1999 made by Mortgagor whereby Mortgagor granted to LaSalle Bank National Association a first and prior security interest in and to all tangible and intangible personal property owned by Mortgagor.

“Second Amendment”: The Second Amendment to Bridge and Conversion Loan Agreement dated August 30, 2000 by and between Trustee, Beneficiary and Lender.

“Second Amendment to Mortgage”: The Second Amendment to Mortgage and Security Agreement, Assignment of Rents and Leases, and Security Agreement dated August 30, 2000 by and between Trustee, Beneficiary and Lender.

“Third Amendment”: The Third Amendment to Bridge and Conversion Loan Agreement dated February 26, 2001 by and between Trustee, Beneficiary and Lender.

“Third Amendment to Mortgage”: The Third Amendment to Mortgage and Security Agreement, Assignment of Rents and Leases, and Security Agreement dated February 26, 2001 by and between Trustee, Beneficiary and Lender.

All capitalized terms used in this Fifth Amendment to Mortgage which are not specifically defined herein shall have the meaning set forth in the Loan Agreement as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and the Fifth Amendment.

Article 2

RECITALS

2.1 On February 11, 1999 Mortgagor and LaSalle Bank National Association entered into the Loan Agreement.

2.2 On February 11, 1999 the Trust entered into a Mortgage and Security Agreement in favor of the Mortgagee to secure the Original Note, which Mortgage was recorded in the Office of the Cook County, Illinois Recorder of Deeds on February 18, 1999 as document number 99164974 whereby the Trust granted a first mortgage lien to Mortgagee with respect to the Premises. The Mortgage (along with other collateral) secures the Indebtedness and all of

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obligations of Mortgagor to Mortgagee.

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2.3 On February 11, 1999 the Trust entered into an Assignment of Rents and Leases in favor of LaSalle Bank National Association to secure certain indebtedness, as defined in the Mortgage, which Assignment of Rents was recorded in the Office of the Cook County, Illinois Recorder of Deeds on February 18, 1999 as document number 99164975.

2.4 On February 11, 1999 the Mortgagor entered in to a Security Agreement whereby Mortgagor granted to LaSalle Bank National Association a first and prior security interest in and to all tangible and intangible personal property owned by Mortgagor.

2.5 On February 3, 2000 LaSalle Bank National Association assigned all of its right, title and interest in and to the Original Note, the Loan Agreement, the Mortgage, the Assignment, and all of the other Loan Documents to the Mortgagee pursuant to the Assignment.

2.6 On February 3, 2000 Beneficiary executed the First Note in favor of the Mortgagee.

2.7 On May 10, 2000 Mortgagor entered into the First Amendment, First Amendment to Mortgage and other loan modification documents as set forth in the First Amendment.

2.8 On May 10, 2000 the Mortgagor executed the Second Note in favor of Mortgagee.

2.9 On August 30, 2000 the Mortgagor executed the Third Mortgage Note, the Second Amendment, the Second Amendment to Mortgage, and other modification documents.

2.10 On September 4, 2001, Mortgagor executed the Fourth Note dated as of June 4, 2001 in favor of Mortgagee in the original principal amount of SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00).

2.11 Mortgagor has requested that the Mortgagee increase the principal amount of the loan from SIX MILLION AND NO/100 DOLLARS (\$6,000,000.00) to SIX MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$6,250,000.00). In conjunction with this Fifth Amendment, Mortgagor has executed the Amended and Restated Note dated of even date herewith in favor of Mortgagee in the principal amount of SIX MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$6,250,000.00) ("Note").

Article 3

AMENDMENT

3.1 The foregoing Definitions and Recitals are incorporated in this Article 3 as if set out in full in this Article. All references in any of the other Loan Documents to any other Loan Document(s) shall be deemed to be to such documents as modified by this Fifth Amendment to Mortgage. Except as modified by this Fifth Amendment to Mortgage, the Mortgage, the Assignment of Rents, and the Security Agreement remain unmodified, and, as modified hereby,

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are hereby affirmed and ratified by the parties hereto. The Mortgage, the Assignment of Rents, and Security Agreement are hereby amended to incorporate the provisions of this Fifth Amendment to Mortgage as set forth herein.

3.2 To secure the payment of the Note and the performance and discharge of all obligations of Mortgagor to Mortgagee, Mortgagor by these presents hereby grants, bargains, sells, assigns, mortgages, conveys and warrants unto Mortgagee the Premises, to have and to hold the Premises unto Mortgagee, its successors and assigns forever, all in accordance with the terms and conditions of the Mortgage.

3.3 The execution and delivery of this Fifth Amendment to Mortgage no way modifies, limits, impairs or releases either the Mortgagor from its obligations or liabilities under the Loan Documents. The Mortgagor hereby acknowledges that its obligations under the Loan Agreement, the Modification Documents and all of the other Loan Documents shall continue in full force and effect and extend to all Indebtedness and obligations of the Mortgagor arising pursuant to the Note, the Mortgage, the Loan Agreement, the Modification Documents, and this Fifth Amendment to Mortgage and the other Loan Documents as amended by the First Amendment to Mortgage, the First Amendment, the Second Amendment, the Second Amendment to Mortgage, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, and the Modification Documents.

3.4 The Mortgagor hereby covenants, represents and warrants to Mortgagee that:

(a) No Event of Default now exists under the Loan Agreement, the Mortgage, the Assignment of Rents, the Security Agreement, the Original Note, the Second Term Note, the Third Amended Note, the Fourth Note, the Note or any of the other Loan Documents and no event has occurred that would constitute an Event of Default with the mere passage of time of the giving of notice, or both;

(b) The Loan Agreement, the Mortgage, the Assignment of Rents, the Security Agreement, the First Amendment, the First Amendment to Mortgage, the Second Amendment, the Second Amendment to Mortgage, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, the Modification Documents and all of the other Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense, either at law or in equity, nor will the operation of any of the terms of the Mortgage, the Assignment of Rents, the Security Agreement, or any of the other Loan Documents render the Mortgage, the Assignment of Rents, the Security Agreement, or any of the other Loan Documents unenforceable, in whole or in part;

(c) Mortgagee, by entering into this Fifth Amendment to Mortgage, does not waive any existing default or Event of Default under the Note, the Mortgage, the Assignment of Rents, the Security Agreement, any of the other Loan Documents, the First Amendment, the First Amendment to Mortgage, the Second Amendment, the Second Amendment to Mortgage, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, the Modification Documents or any rights or remedies under any of the Loan Documents;

(d) Mortgagee has not heretofore waived any default or Event of Default under the Note, the Loan Agreement, the Mortgage, the Assignment of Rents, the Security Agreement, the First Amendment, the First Amendment to Mortgage, the Second Amendment, the Second Amendment to Mortgage, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, or any of the other Loan Documents.

3.5 This Fifth Amendment to Mortgage shall inure to the benefit of and shall be binding upon the parties and the respective successors, assigns, legal representatives, heirs, beneficiaries, executors, members and administrators.

3.6 Submission of this Fifth Amendment to Mortgage for examination shall not bind Mortgagee in any manner, and no obligation of Mortgagee shall arise hereunder until this Fifth Amendment to Mortgage has been executed by Mortgagee.

3.7 Mortgagor hereby acknowledges and agrees that the modifications contained in this Fifth Amendment to Mortgage shall in no manner impair the liens or security interests of the Mortgagee, which liens and security interests are hereby acknowledged by Mortgagor to be valid and subsisting first and prior mortgage or security liens, and all of the terms and provisions of the Mortgage, the Assignment of Rents, the Security Agreement, and all of the other Loan Documents, shall be and remain in full force and effect as therein, except as modified by the First Amendment to Mortgage, the First Amendment, the Second Amendment, the Second Amendment to Mortgage, the Third Amendment, the Third Amendment to Mortgage, the Fourth Amendment, the Fourth Amendment to Mortgage, and the Modification Documents.

3.8 This Fifth Amendment to Mortgage shall be governed by and construed according to the laws of the State of Illinois.

3.9 This Fifth Amendment to Mortgage is executed by the Trustee, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing in This Fifth Amendment to Mortgage shall be construed as creating any liability on such Trustee personally to perform any express or implied covenant, condition or obligation under This Fifth Amendment to Mortgage, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under This Fifth Amendment to Mortgage. Notwithstanding the foregoing, the Mortgagee shall not be precluded from any or all of the following: (a) recovering any condemnation awards or insurance proceeds attributable to the Premises; (b) recovering any tenant security deposits, advance or pre-paid rents; or (c) enforcing the personal liability of all co-makers of the Note, of the payment of the Note and performance of the Loan Documents.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, Mortgagor and Mortgagee have executed this Fifth Amendment to Mortgage as of the date first above written.

MORTGAGOR:

Beneficiary:

1122 North Clark, L.L.C.,
an Illinois limited liability company

By: Its Manager:

1122 North Clark Consultants, Inc.

By:

Name: Stewart Fayette

Title: President

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Trustee:

LaSalle Bank National Association
as Trustee under Trust No. 122242
and not personally

By:

Name: Harriet Denisevicz

Title: Trust Officer

Attest:

Name: Spring Alexander

Title: Assistant Secretary

MORTGAGEE:

CIB Bank

By:

Name: Michael L. Paolotta

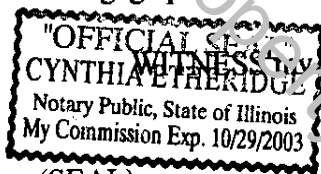
Title: Vice President

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On January 30, 2002, before me, the undersigned, a Notary Public in and for the county and state aforesaid, personally appeared Michael L. Paolitto personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the Fifth Amendment to Mortgage as the Vice President of **CIB Bank** and acknowledged to me that the execution thereof was his free and voluntary act and deed as an officer of CIB Bank for the uses and purposes there mentioned, and acknowledged to me that he executed the Fifth Amendment to Mortgage pursuant to corporate authority vested in him



WITNESS my hand and official seal.

Notary Public, State of Illinois
My Commission Exp. 10/29/2003

(SEAL)

Cynthia Etheridge

Notary Public in and for the State of Illinois

My commission expires: 10-29-03

COOK County Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION OF LAND

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PARCEL 1:

LOTS 8 TO 14, BOTH INCLUSIVE, IN SUBDIVISION OF BLOCK 19 IN BUSHNELL'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 1 TO 3, BOTH INCLUSIVE, AND LOT 8 IN SUBDIVISION OF LOTS 15 TO 17, BOTH INCLUSIVE, IN BLOCK 19 OF BUSHNELL'S ADDITION TO CHICAGO IN SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1122 North Clark Street, Chicago, Illinois

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