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Cook County Recorder 45.50



0020370421

This instrument prepared by
and please return to:
Kimberly K. Enders, Esq.
100 West Monroe Street #1500
Chicago, Illinois 60603

Parcel No. 1:

P.I.N.: 16-13-410-001
COMMONLY KNOWN AS: 2540 West Polk Street, Chicago, Illinois 60610

Parcel No. 2:

P.I.N.: 16-13-414-025
COMMONLY KNOWN AS: 2545 West Polk Street, Chicago, Illinois 60610

LOAN MODIFICATION AGREEMENT

This instrument is a Loan Modification Agreement ("Modification") among The PrivateBank and Trust Company, an Illinois banking corporation ("Lender"), and Polk Street Properties, LLC, an Illinois limited liability company ("Borrower"), Roseanne M. Pileggi, Alex Brusha, Michael DeVito and Dennis DeVito (collectively "Guarantors").

RECITALS:

A. Borrower holds fee simple title to certain real estate ("Real Estate") commonly known as 2540 and 2545 West Polk Street, Chicago, Illinois, which is legally described on Exhibit A attached hereto.

B. On August 21, 2001, Borrower executed and delivered to Lender a Promissory Note in the amount of \$5,900,000 ("Note") which evidenced a loan in the amount of \$5,900,000 ("Loan").

To secure the Note, Borrower executed and delivered to Lender the following documents (collectively "Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statements ("Mortgage") covering the Real Estate and executed by Borrower, which Mortgage was recorded with the Cook County Recorder of Deeds on August 23, 2001 as Document No. 0010779380;

2. an Environmental, ADA and ERISA Indemnification Agreement;

3. a UCC-1 Financing Statement;

4. a Subordination, Non-Disturbance and Attornment Agreement with Pace Industries, Inc. ("Pace"), the seller of the Real Estate and a tenant leasing the Real Estate, which document was recorded on August 23, 2001 as Document No. 0010779382;

5. a Guaranty of Note, Mortgage and Other Undertakings executed by Guarantors; and

6. a Tri-Party Agreement executed by Borrower, Lender and Pace.

C. Pace has also loaned to Borrower the amount of \$2,400,000 ("Junior Loan"), which is evidenced by a Promissory Note in the amount of \$2,400,000 ("Junior Note") and secured by a Junior Mortgage covering the Real Estate and recorded on August 23, 2001 as Document No. 0010779383 ("Junior Mortgage") and other documents securing the Junior Loan (collectively "Junior Loan Documents").

D. The outstanding principal balance of the Note is \$5,801,666.65. Borrower has now requested Lender to revise the interest rate applicable to the Note from its prime rate of interest plus .25% but no less than seven (7%) percent per annum to its prime rate of interest plus .25% but no

less than six (6%) percent per annum. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein. The monthly payment shall be changed to amortize the Loan at the revised interest rate.

NOW, THEREFORE, in consideration of good and valuable consideration, the parties agree as follows:

1. The Note is hereby modified and amended in its entirety by the Promissory Note in the amount of \$5,301,666.65 ("Revised Note"), a copy of which is attached hereto as Exhibit B. The Security Documents are hereby modified and amended to secure the Revised Note and all references to the Note in the Security Documents are modified and amended to refer to the Revised Note in place of the Note.

2. This Modification shall be effective upon Lender's receipt of this Modification executed by the parties hereto and the following documents and items:

- (a) the Revised Note executed by Borrower;
- (b) a title insurance policy or endorsement to Lender's current loan title insurance policy which insures the Mortgage as modified by this Modification as a first lien on the Real Estate subject only to such exceptions as Lender shall permit and which reflects and insures that Borrower is the holder and owner of fee simple interest in the Real Estate;
- (c) a Subordination Agreement executed by Pace subordinating the Junior Loan Documents to this Modification;
- (d) an estoppel certificate executed by Pace;
- (e) updated certificates of insurance as required by the Mortgage; and
- (f) payment of Lender's expenses as described in Section 6 hereof.

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3. This Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Revised Note ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage, or the covenants, conditions and agreements therein contained or contained in the Note.

4. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

5. Borrower hereby renews, remakes and affirms the representations and warranties contained in the Loan Documents.

6. Borrower hereby agrees to pay all of Lender's expenses arising out of and in connection with this Modification including, but not limited to, attorneys' fees, title insurance premiums and recording fees.

7. Borrower and Guarantors knowingly, voluntarily and intentionally waive irrevocably the right they may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with the Revised Note, the Note, the Modification, the Mortgage or any of the documents executed or contemplated to be executed in conjunction herewith or any course of conduct or course of dealing, in which Lender and Borrower and Guarantors are adverse parties. This provision is a material inducement for Lender in granting any financial accommodation to Borrower and Guarantors.

8. Borrower and Guarantors hereby irrevocably submit to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrower and Guarantors hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower and Guarantors hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower and Guarantors irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower and Guarantors at their addresses as specified in the records of Lender. Borrower and Guarantors agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

Borrower and Guarantors agree not to institute any legal action or proceeding against Lender or the directors, officers, employees, agents or property thereof, in any court other than the one herein above specified. Nothing in this Section shall affect the right of Lender to serve legal process in any other manner permitted by law or affect the right of Lender to bring any action or proceeding against Borrower and Guarantors or their property in the courts of any other jurisdictions.

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IN WITNESS WHEREOF, the parties hereto have executed this Modification on 2/21, 2002 to be effective as of February 1, 2002.

LENDER:

The PrivateBank and Trust Company, an Illinois banking corporation

By: [Signature]
Its OFFICER

BORROWER:

Polk Street Properties, LLC, an Illinois limited liability company

By: [Signature]
Its [Signature]

GUARANTORS:

[Signature]
Roseanne M. Pileggi

[Signature]
Alex Brusha

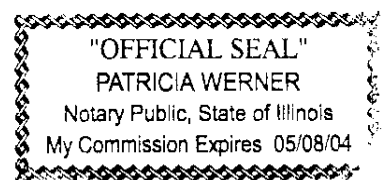
[Signature]
Michael DeVito

[Signature]
Dennis DeVito

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

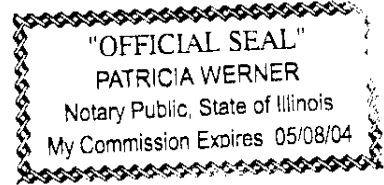
The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Alex Brusha, Manager of Polk Street Properties, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 2-21, 2002.



Patricia Werner
Notary Public

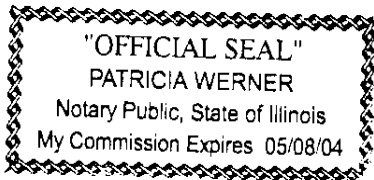
STATE OF ILLINOIS)
)
) SS
COUNTY OF C O O K)



The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that JANE FRID, ~~Managing Director~~ ^{OFFICER} of The Private Bank and Trust Company, 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 s/he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 2-21, 2002.

Patricia Werner
Notary Public

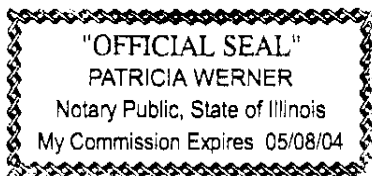


STATE OF ILLINOIS)
)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Alex Brusha, 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 he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 2-21, 2002.

Patricia Werner
Notary Public

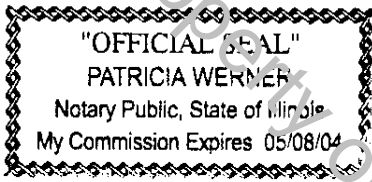


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STATE OF ILLINOIS)
)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Rosanne M. Pileggi, 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 2-21, 2002.

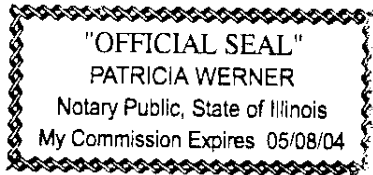


Patricia Werner
Notary Public

STATE OF ILLINOIS)
)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Michael DeVito, 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 he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 2-21, 2002.



Patricia Werner
Notary Public

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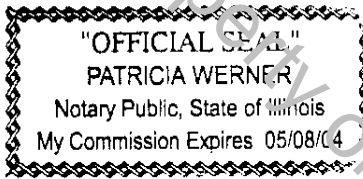
STATE OF ILLINOIS)
)
 COUNTY OF C O O K) SS

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Dennis DeVito, 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 he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 2-21, 2002.

Patricia Werner

 Notary Public



Property of Cook County Clerk's Office

EXHIBIT A

LEGAL DESCRIPTION:

Parcel No. 1:

Lots 16 to 35, both inclusive (except that part of Lots 16 and 35 dedicated for street purposes by instrument dated March 11, 1918 and recorded March 13, 1918 as Document Number 6286127), in Block 5 in Carter H. Harrison's Addition to Chicago, being a Subdivision of the West 1/2 of the Northeast 1/4 of the Southeast 1/4 and the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of Section 13, Township 39 North, Range 13 East of the Third Principal Meridian, also the alley lying South of and adjoining Lot 16 (except the East 24 feet thereof) and lying South of and adjoining Lots 17 to 25, both inclusive, and lying North of and adjoining Lots 26 to 34, both inclusive, and lying North of and adjoining Lot 35 (except the East 24 feet thereof), in Block 5 in Carter H. Harrison's Addition aforesaid, in Cook County, Illinois

COMMONLY KNOWN AS: 2540 West Polk Street, Chicago, Illinois 60610
P.I.N.: 16-13-410-001

Parcel No. 2:

Lot 6 (except the East 2.50 feet thereof), Lots 7 to 25 (both inclusive) and all that part of the vacated East and West 15.5 feet alley lying between the West line of Lot 25 extended South and the West line of the East 2.50 feet of Lot 6 extended South, all in Block 8 in Carter H. Harrison's Addition to Chicago, being a Subdivision of the West 1/2 of the Northeast 1/4 of the Southeast 1/4 and the East 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 13, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois

COMMONLY KNOWN AS: 2545 West Polk Street, Chicago, Illinois 60610
P.I.N.: 16-13-414-025

EXHIBIT B

PROMISSORY NOTE

("Revised Note")

\$5,801,666.65

February 1, 2002

FOR VALUE RECEIVED the undersigned, Polk Street Properties, LLC, an Illinois limited liability company ("Borrower"), promises to pay to the order of The PrivateBank and Trust Company (said Bank and each successive owner and holder of this Note being hereinafter called "Holder"), the principal sum of Five Million Eight Hundred One Thousand Six Hundred Sixty-Six and 65/100 (\$5,801,666.65) Dollars, or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

(a) On March 1, 2002, and continuing on the first day of each succeeding month thereafter until all amounts due hereunder are paid, there shall be paid on account of this Note interest on the outstanding principal balance at a rate equal to the greater of six (6.0%) percent per annum or the prime rate of interest announced and in effect from time to time at The PrivateBank and Trust Company plus a quarter (.25%) percent per annum.

(b) On March 1, 2002, and continuing on the first day of each succeeding month thereafter until all amounts due hereunder are paid, there shall be paid on account of this Note principal, together with the interest payment pursuant to paragraph (a) above, which shall be equal to the payment required by the equal amortization method for monthly payments, at the interest rate for such payment, based upon a 295 month loan term period. Presently, the monthly payment amount is \$37,718.64.

(c) Provided no material event of default exists or is threatened under any of the provisions of this Note or the Loan Documents (defined in the Loan Agreement), the interest rate shall be adjusted to and fixed at a rate equal to the Two Year Interest Rate SWAP (determined by reference to the Federal Reserve Bank Publication HR-10) rate plus 2.75% per annum in effect on the date on which Borrower shall serve written notice on Holder requesting that the interest rate be so fixed, which notice shall be accompanied by a payment in the amount of \$14,750.00. The rate so fixed shall be in effect for a period of two years, and at the end of such two year period may be fixed again upon notice and payment of an additional fee in the amount of \$14,750.00.

(d) On August 31, 2004, the principal balance together with all accrued interest and all other amounts due hereunder shall be paid, unless extended pursuant to the terms of the Loan Agreement, hereafter described.

(e) This Note may be prepaid in whole or in part without penalty or premium of any kind. Releases of the documents securing this Note shall be executed and delivered upon

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EXHIBIT B

payment of the amounts provided in the Loan Agreement ("Loan Agreement") dated the date hereof, among Borrower and Bank, which Loan Agreement is, by this reference, incorporated herein.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of The PrivateBank and Trust Company, 10 North Dearborn, Chicago, Illinois 60602.

Interest shall be computed on a calendar year having 360 days and shall be paid for the actual days outstanding.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of 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 is executed pursuant to a Loan Modification Agreement ("Modification") executed concurrently herewith, which modifies a Loan Agreement dated August 21, 2001 and executed by Bank and Borrower ("Loan Agreement"). This Note replaces that certain Promissory Note in the amount of \$5,900,000 ("Original Note") made by Borrower on August 21, 2001. The Original Note is secured by an instrument entitled "Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement" ("Mortgage") executed on August 21, 2001, and recorded August 23, 2001 with the Cook County, Illinois, Recorder of Deeds as Document No. 0010779380 and other security documents. Amounts outstanding pursuant to the Original Note shall be outstanding under this Note. All interest rates applicable to and charged on the Original Note and all payments made in the Original Note are unchanged. Pursuant to the Modification, the Mortgage, Loan Agreement and other security documents ("Security Documents") are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued interest, shall be and become at once due and payable in the case of default for fifteen (15) days in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "Event of Default" under the Mortgage or Loan Agreement.

Under the provisions of the Loan Agreement and Mortgage the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events as set forth therein. The Loan Agreement and Mortgage are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

The principal hereof, including each installment of principal, shall bear interest after the occurrence of an event of default, not cured within the applicable cure period, at the annual rate

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EXHIBIT B

(herein called the "Default Rate") determined by adding four (4) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

Borrower waives presentment, notice of dishonor, protest and notice of protest.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promise to pay all costs incurred by Bank in connection therewith including, but not limited to, court costs, litigation expense and reasonable attorneys' fees.

Payments received on account of this Note shall be applied first to the payment of any amounts due pursuant to the next preceding paragraph, secondly to interest and Late Charges and the balance to principal.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrower, Escrowees or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by such Escrowees to Borrower.

Borrower knowingly, voluntarily and intentionally waives irrevocably the right it may have to trial by jury with respect to any legal proceeding based hereon, or arising out of, under or in connection with this Note or any of the documents executed or contemplated to be executed in conjunction herewith or with the Loan Agreement or any course of conduct or course of dealing, in which Holder and Borrower are adverse parties. This provision is a material inducement for Holder in granting any financial accommodation to Borrower.

Time is of the essence of this Note and each provision hereof.

COPY
Polk Street Properties, LLC, an Illinois limited liability company

By: _____
Its _____