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Cook County Recorder 44.50

This instrument prepared by  
and please return to:  
Jennifer L. Worstell, Esq.  
100 West Monroe Street #1500  
Chicago, Illinois 60603



P.I.N.: 17-08-254-004-0000; 17-08-254-011-0000;  
17-08-254-012-0000; 17-08-254-014-0000;  
17-08-254-017-0000; 17-08-254-018-0000  
COMMONLY KNOWN AS: 400-420 N. May Street, Chicago, Illinois

**THIRD LOAN MODIFICATION AND ASSUMPTION AGREEMENT**

This instrument is a Third Loan Modification and Assumption Agreement ("Third Modification") among The PrivateBank and Trust Company, an Illinois banking corporation ("Lender"), 420 May Street, L.L.C., an Illinois limited liability company ("Borrower"), and James L. Gaza and Lynnette A. Gaza (collectively "Guarantors").

**RECITALS:**

- A. Borrower holds fee simple title to certain real estate ("Real Estate") commonly known as 400-420 N. May Street, Chicago, Illinois, which is legally described on Exhibit A attached hereto.
- B. On February 28, 1996, LaSalle Bank National Association, successor to American National Bank and Trust company of Chicago, Trustee ("Trustee") under Trust Agreement No. 10071900 dated December 9, 1986 ("Trust"), executed and delivered to Lender a Promissory Note in the amount of \$2,300,000 ("Note") which evidenced a loan in the amount of \$2,300,000 ("Loan").

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Borrower is the beneficiary of the Trust. To secure the Note, Trustee, Borrower and Guarantors executed and delivered to Lender the following documents ("Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage") executed by Trustee and Borrower and covering the Real Estate, which Mortgage was recorded with the Cook County Recorder of Deeds on March 5, 1996 as Document No. 96165657;

2. an Environmental Indemnity Agreement executed by Trustee and Borrower;

3. UCC-1 Financing Statements (2) executed by Trustee and Borrower;

4. Guaranties of Note, Mortgage, and Other Undertakings ("Guaranties") executed by Guarantors (the "Original Guaranties");

5. a Collateral Assignment of Beneficial Interest in Land Trust executed by Borrower, consented to by Lender and accepted by Trustee; and

6. a Management Services Subordination Agreement executed by May Street Management Company, Inc., the manager of the Real Estate.

C. On March 26, 2002, Borrower and Lender entered into a Loan Modification Agreement ("Modification"), pursuant to which Lender agreed to extend the date for payment of the Loan from March 1, 2002 to May 1, 2002.

D. On May 21, 2002, Trustee executed a Trustee's Deed from Trustee to Borrower for the Real Estate. The Trustee's Deed was recorded on May 13, 2002 with the Cook County Recorder of Deeds as Document No. 20546281.

E. On May 29, 2002, Borrower, Guarantors and Lender entered into a Second Loan Modification and Assumption Agreement ("Second Modification"), pursuant to which Lender agreed

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to: (1) extend the date for payment of the Loan to March 1, 2008, (2) adjust the interest rate applicable to the Loan, (3) acknowledge and consent to the title transfer, and (4) reduce the amount covered by the Original Guaranties to \$500,000. In connection therewith, Borrower executed a Promissory Note in the principal amount of \$2,096,300 ("Revised Note") and Guarantors executed a Limited Guaranty of Revised Note, Second Modification and Other Undertakings ("Revised Guaranty"). The Second Modification was recorded with the Cook County Recorder of Deeds on June 6, 2002 as Document No. 0020632225 and re-recorded on August 9, 2002 as Document No. 0020876513.

F. As of October 1, 2002, the outstanding principal balance of the Loan was \$2,065,649.16. Borrower has now requested Lender to revise the interest rate applicable to the Loan from seven (7.0%) percent to six and one-quarter (6.25%) percent. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein.

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

1. The Note is hereby modified and amended by replacing the interest rate in subparagraph (a) of the Revised Note from seven (7.0%) percent to six and one quarter (6.25%) percent and by changing the monthly payment from \$16,772.11 to \$15,865.83, beginning October 1, 2002.

2. The ninth paragraph in the Revised Note regarding the prepayment premium is hereby replaced with the following provision:

This Note may be prepaid, in whole or in part, on fifteen (15) days' written notice, which notice shall be irrevocable. In the event a prepayment is made on account of this Note in excess of the monthly

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payment because this Note is repaid by placing a lien on the Premises covered by the Mortgage (as hereafter described), there shall be paid on the prepayment date the principal payment ("Prepayment Amount"), accrued interest and all other sums due hereunder, and if prepayment is made at any time during the period from October 1, 2002 until September 30, 2003 or during the period from October 1, 2005 until September 30, 2006, there shall also be paid a prepayment premium in an amount equal to two (2.0%) percent of the Prepayment Amount, or if prepayment is made at any time during the period from October 1, 2003 to September 30, 2004 or during the period from October 1, 2006 to September 30, 2007, there shall also be paid a prepayment premium in an amount equal to one (1.0%) percent of the Prepayment Amount, or if prepayment is made at any time during the period from October 1, 2004 to March 31, 2005 or during the period from October 1, 2007 until March 31, 2008, there shall also be paid a prepayment premium in an amount equal to one-half (0.5%) percent of the Prepayment Amount. On and after April 1, 2008, the balance due on account of this Note may be prepaid, without premium or penalty, in whole or in part, and all accrued interest hereon shall be payable and shall be paid on the date of prepayment. In the event of any other prepayment, this Note may be prepaid, without premium or penalty, in whole or in part, and all accrued interest hereon shall be payable and shall be paid on the date of prepayment.

3. The Security Documents are hereby modified and amended to secure the Revised Note as hereby amended and all references to the Note or Revised Note in the Security Documents are modified and amended to refer to the Revised Note as hereby amended. All interest charged on and all payments made on the Revised Note previously are unchanged.

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

- (a) updated evidence of fire, casualty, business interruption, rent loss and commercial general liability insurance coverage;
- (b) a master tract search performed by Real Estate Index;

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(c) a Certificate of Good Standing of May Street Management Company, Inc.,  
the manager of Borrower;

(d) a Certificate of Good Standing of Borrower;

(e) an Organization Resolution/Incumbency Certificate of Borrower;

(f) a Loan Settlement Statement showing Lender's fee in the amount of \$10,180  
plus expenses as set forth in Section 8 hereof.

5. This Third 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 Note or 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 or Revised Note.

6. 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.

7. Borrower and Guarantors hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

8. Borrower hereby agrees to pay all of Lender's expenses arising out of and in connection with this Third Modification including, but not limited to, title insurance premiums, recording fees and attorneys' fees performed in the preparation of necessary documentation.

9. Guarantors hereby agree that the Revised Guaranty, which covers and guaranties the Revised Note, is hereby revised and amended to reflect the terms of this Third Modification.

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Guarantors hereby expressly acknowledge and confirm that by executing this Third Modification, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantors and without such action releasing, modifying, or affecting the obligations of Guarantors or affecting the security heretofore granted to Lender.

10. 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 Third Modification, the Revised Note as hereby amended 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, Borrower and Guarantors are adverse parties. This provision is a material inducement for Lender in granting any financial accommodation to Borrower or Guarantors, or any of them.

11. 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

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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.

**IN WITNESS WHEREOF**, the parties hereto have executed this Third Modification on

12/3, 2002, to be effective as of October 1, 2002

**LENDER:**

The PrivateBank and Trust Company, an Illinois banking corporation

By: Mark L. Kosich  
Its MANAGING DIRECTOR

**BORROWER:**

420 May Street, L.L.C., an Illinois limited liability company

By: May Street Management Company, Inc., an Illinois corporation, its Manager

By: James L. Gaza  
James L. Gaza, its President

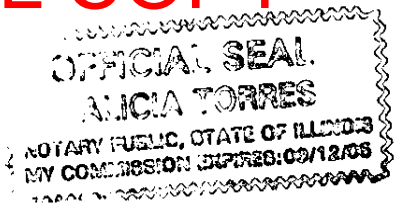
**GUARANTORS:**

James L. Gaza  
James L. Gaza  
Lynnette Gaza  
Lynnette A. Gaza

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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, do hereby certify that Mark L. Kosiek, \_\_\_\_\_ Managing Director of The PrivateBank 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 December 12, 2002  
Anicia Torres  
\_\_\_\_\_  
Notary Public

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

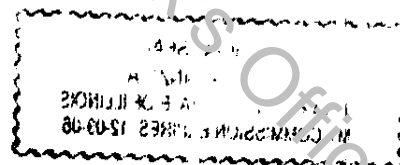
The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that James L. Gaza, individually and as President of May Street Management Company, Inc., an Illinois corporation, the Manager of 420 May Street, L.L.C., an Illinois limited liability company, personally known 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 signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said corporation and limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 12/3/02, 2002.  
Debra A Panzica  
\_\_\_\_\_  
Notary Public



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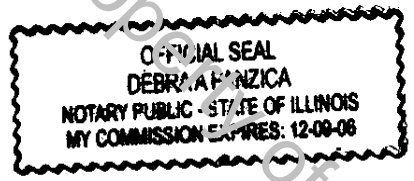
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STATE OF ILLINOIS        )  
                                          )        SS  
COUNTY OF C O O K        )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Lynnette A. Gaza, 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 12/3/02, 2002.

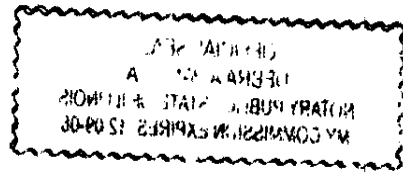
Debra A. Panzica  
Notary Public



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**UNOFFICIAL COPY****EXHIBIT A****LEGAL DESCRIPTION****PARCEL 1:**

SUB-LOTS 1, 2, 3, 4, 5, AND 6 IN C. J. HULLS SUBDIVISION OF LOTS 4 AND 5 IN BLOCK 8 IN OGDEN ADDITION TO CHICAGO, IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOTS 15, 16, 17 AND 18 IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION IN CASE 23474 IN CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST

1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO PRIVATE ALLEY LYING WEST AND ADJOINING SAID LOTS 1 TO 6 INCLUSIVE IN SAID C. J. HULL'S SUBDIVISION AFORESAID ALSO THE SOUTH 1/2 OF THE EAST AND WEST 18 FOOT VACATED PUBLIC ALLEY LYING NORTH OF AND ADJOINING THE NORTH LINE, AND SAID NORTH LINE EXTENDED WEST TO THE WEST LINE OF SAID PRIVATE ALLEY OF AFORESAID LOT 6 IN C. J. HULLS SUBDIVISION AND THE SOUTH 1/2 OF THE EAST AND WEST 19 FEET VACATED PUBLIC ALLEY LYING NORTH OF AND ADJOINING AFORESAID LOTS 15, 16, 17 AND 18 IN THE SUBDIVISION BY COMMISSIONERS IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

ALL THAT PART OF LOTS 1 TO 19 INCLUSIVE IN COLGATE'S RESUBDIVISION OF LOTS 6 TO 14 INCLUSIVE IN THE SUBDIVISION BY THE COMMISSIONERS, IN PARTITION IN CASE 23474 CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN AND ALSO OF THE VACATED ALLEY LYING EAST OF LOTS 9 TO 16 IN THE ABOVE SAID RESUBDIVISION, AND ALSO OF THE SOUTH 1/2 OF THE EAST AND WEST 19 FOOT VACATED PUBLIC ALLEY LYING SOUTH OF AND ADJOINING LOTS 22 AND 23 IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION IN CASE 23474 CIRCUIT COURT OF THE SOUTHWOOD 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF AFORESAID EAST AND WEST 19 FOOT VACATED ALLEY AND THE EAST LINE EXTENDED NORTH OF SAID LOT 17 IN COLGATE'S RESUBDIVISION; THENCE WEST ALONG SAID CENTER LINE, AND SAID CENTER LINE EXTENDED WEST, OF EAST AND WEST 19 FOOT VACATED PUBLIC ALLEY TO A POINT IN THE WEST LINE OF LOT 2 IN SAID COLGATE'S RESUBDIVISION; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 2 IN SAID COLGATE'S RESUBDIVISION TO A POINT 150.5 FEET NORTH FROM THE SOUTH WEST CORNER OF LOT 9 IN SAID COLGATE'S RESUBDIVISION; THENCE SOUTHEASTERLY TO A POINT IN THE SOUTH LINE OF SAID LOT 9, 90 FEET EAST FROM THE SOUTH WEST CORNER THEREOF, THENCE EAST ALONG THE SOUTH LINE

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OF SAID LOT 9, THE VACATED ALLEY AND LOT 19 IN THE SAID COLGATE'S RESUBDIVISION 69.14 FEET MORE OR LESS TO THE SOUTH EAST CORNER OF SAID LOT 19; THENCE NORTH ALONG THE EAST LINE, AND SAID EAST LINE EXTENDS NORTH OF SAID LOTS 19, 18 AND 17 IN SAID RESUBDIVISION TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF LOT 3 IN BLOCK 8 IN OGDENS ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF A STRAIGHT LINE DRAWN BETWEEN A POINT ON THE EAST LINE OF RACINE AVENUE (FORMERLY NORTH CENTER AVENUE) WHICH IS A DISTANCE OF 101.14 FEET SOUTH OF THE SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) AND A POINT ON THE WEST LINE OF MAY STREET WHICH IS A DISTANCE OF 100.97 FEET SOUTH OF THE SAID SOUTH LINE OF HUBBARD STREET, (FORMERLY AUSTIN AVENUE) ALSO THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY ADJACENT TO THE SOUTH LINE OF SAID LOT 3 IN COOK COUNTY, ILLINOIS.

PARCEL 4:

THAT PART OF LOT 5 AND LOTS 19 TO 23 (BOTH INCLUSIVE) AND THE VACATED NORTH AND SOUTH ALLEY ADJACENT TO THE WEST LINE OF SAID LOT 23 AND ADJACENT TO THE SAID WEST LINE OF LOT 23 PRODUCED SOUTH TO THE CENTER LINE OF THE VACATED EAST AND WEST ALLEY IN THE SUBDIVISION BY THE COMMISSIONERS IN PARTITION CASE NO. 23474 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS OF THE 3 ACRES IN THE SOUTH WEST CORNER OF THE NORTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF A STRAIGHT LINE DRAWN BETWEEN A POINT ON THE EAST LINE OF RACINE AVENUE, (FORMERLY NORTH CENTER AVENUE) WHICH IS A DISTANCE OF 101.14 FEET SOUTH OF THE SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) AND A POINT ON THE WEST LINE OF MAY STREET WHICH IS A DISTANCE OF 100.97 FEET SOUTH OF THE SAID SOUTH LINE OF HUBBARD STREET (FORMERLY AUSTIN AVENUE) ALSO ALL OF THE NORTH 1/2 OF VACATED EAST AND WEST ALLEY ADJACENT TO THE SOUTH LINE OF SAID LOTS 19 TO 23 IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 400-420 N. May, Chicago, Illinois  
P.I.N.: 17-08-254-004-0000

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