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Doc#: 0326034261  
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Cook County Recorder of Deeds  
Date: 09/17/2003 03:43 PM Pg: 1 of 12

## SECOND MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS **SECOND MODIFICATION OF MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT** (the "**Agreement**") is entered into as of the 22nd day of August, 2003, with an effective date of the 1<sup>st</sup> day of May, 2003, by and among **COLE TAYLOR BANK**, as successor to Corus Bank, N.A., formerly known as Commercial National Bank of Chicago, not personally, but as Trustee under Trust Agreement dated November 13, 1995, and known as Trust No. 1265 ("**Original Borrower**"), **WESTERN SPRINGS NATIONAL BANK AND TRUST**, not personally, but as Trustee under Trust Agreement dated January 14, 2003, and known as Trust No. 3985 (the "**New Borrower**"; the Original Borrower and the New Borrower are sometimes hereinafter collectively referred to as "**Borrower**"), and **CORUS BANK, N.A.**, formerly known as Commercial National Bank of Chicago ("**Lender**").

### RECITALS

**WHEREAS**, Original Borrower executed and delivered to Lender that certain Mortgage Note dated December 5, 1995, in the original principal amount of One Million Three Hundred Fifty Thousand and No/100 Dollars (\$1,350,000.00) (the "**Original Commercial Note**"), as modified by that certain First Note and Mortgage Modification Agreement dated as of February 25, 1999, by and between Original Borrower and Lender (the "**First Commercial Modification**"), as assumed by that certain Assumption Agreement dated as of January 20, 2003, among Original Borrower, New Borrower and Lender (the "**Commercial Assumption Agreement**"), as further amended by that certain Mortgage Note Modification Agreement dated as of January 20, 2003, among Original Borrower, New Borrower and Lender (the "**2003 Commercial Note Modification Agreement**"; the Original Commercial Note as modified by the First Commercial Modification, assumed by the Commercial Assumption Agreement and further modified by the 2003 Commercial Note Modification Agreement is hereinafter referred to as the "**Commercial Note**"); and

**WHEREAS**, Original Borrower, **212 HALSTED CORP.**, an Illinois corporation (the "**Corporation**"), **ANDRIYOUS YOUKHANA** ("**Youkhana**") and **JAMES VERROS** ("**Verros**"; Original Borrower, the Corporation, Youkhana and Verros are sometimes hereinafter collectively referred to as the "**Corus Borrower**") executed and delivered to Lender that certain Mortgage Note dated February 25, 1999, in the original principal amount of Three Hundred

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Thousand and No/100 Dollars (\$300,000.00) (the "**Original Corus Note**"), as amended and restated by that certain Amended and Restated Mortgage Note dated as of June 30, 1999, from the Corus Borrower in favor of Lender (the "**Amended and Restated Corus Note**", as assumed by that certain Assumption Agreement dated as of January 20, 2003, among Original Borrower, New Borrower and Lender (the "**Corus Assumption Agreement**"), as further amended by that certain Mortgage Note Modification Agreement dated as of January 20, 2003, among Original Borrower, New Borrower and Lender (the "**2003 Corus Note Modification Agreement**"; the Original Corus Note as amended and restated by the Amended and Restated Corus Note, assumed by the Corus Assumption Agreement and further amended by the 2003 Corus Note Modification Agreement is hereinafter referred to as the "**Corus Note**").

**WHEREAS**, the Commercial Note and the Corus Note are secured by, among other things, a Mortgage, Assignment of Rents, Security Agreement and Fixture Financing Statement dated December 5, 1995, by Borrower in favor of Lender on real estate located in Cook County, Illinois (as modified by the First Commercial Modification recorded as Document No. 99786053, and the Modification of Mortgage, Assignment of Rents, Security Agreement and Fixture Financing Statement recorded as Document No. 0030148205, the "**Mortgage**"), which Mortgage was recorded on December 15, 1995, with the Cook County Recorder as Document No. 95873427, and which encumbers the real property described in **Exhibit A** attached hereto and made a part hereof, and certain other documents related thereto; and

**WHEREAS**, Borrower now desires to modify the Mortgage to, among other things, reflect the extension of the maturity date of each of the Commercial Note and the Corus Note to May 1, 2004; and

**WHEREAS**, Lender, the legal owner of the Commercial Note and the Corus Note and of the liens securing the same, at the request of Borrower has agreed to modify the Mortgage as hereinafter provided.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Lender hereby agree to modify and renew the Mortgage as follows:

1. **Acknowledgment of Balance of the Commercial Note and the Corus Note.** Borrower and Lender hereby acknowledge and agree that as of August 18, 2003, the aggregate outstanding principal balance of the Commercial Note and the Corus Note was One Million Five Hundred Twenty-One Thousand Six Hundred Twenty and 13/100 Dollars (\$1,521,620.13).

2. **Renewal of Liens.** Borrower and Lender hereby renew the lien of the Mortgage against all of the property encumbered thereby and described therein until all amounts evidenced by the Commercial Note, the Corus Note and/or due under the Mortgage have been fully paid. Borrower agrees that such renewal shall in no manner affect or impair the Commercial Note, the Corus Note or the liens securing the same and that said liens shall not in any manner be waived.

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### 3. Representations and Warranties.

(a) Financial Statements. Borrower represents and warrants that all financial statements of Borrower heretofore delivered to Lender are true and correct representations of the financial condition of Borrower as of the date thereof, and there has been no material adverse change thereto except as indicated by financial statements subsequently delivered to Lender.

(b) Violation of Laws. Borrower represents and warrants to its actual knowledge that Borrower is not in violation of any laws (including, without limitation, environmental laws and regulations) which could have any effect whatsoever upon the validity, performance or enforceability of any of the terms, covenants and conditions of the Commercial Note, the Corus Note, the Mortgage, this Agreement, or any instrument executed in connection herewith or therewith. As used in this Agreement, the term "laws" shall include any and all laws, statutes, ordinances rules, regulations, orders, writs, injunctions and decrees.

(c) Taxes. Borrower represents and warrants that Borrower has paid any and all federal, state, local and other taxes, assessments, fees and other governmental charges imposed upon Borrower or Borrower's assets which are due and payable.

(d) Disclosure of Adverse Facts. Borrower represents and warrants that there are no material adverse facts or conditions relating to the finances and business of Borrower which have not been related in writing to Lender.

(e) Lawful Authority. Borrower represents and warrants that Borrower possesses all necessary and lawful authority and power to carry on his business and comply with the terms, covenants and conditions of the Commercial Note, the Corus Note, the Mortgage, this Agreement, and any other instrument executed in connection herewith or therewith.

(f) No Defaults, Offsets, etc. Borrower represents and warrants that: (i) to its actual knowledge after diligent inquiry there are no events or circumstances currently existing which constitute a default under the Mortgage or which would, upon the giving of notice and expiration of any applicable cure period, constitute a default under the Mortgage; and (ii) there are no offsets, counterclaims or defenses with respect to the Mortgage, as modified hereby.

(g) Commercial Note Valid. Borrower represents and warrants that the Commercial Note, as modified by that certain Mortgage Note Modification Agreement of even date herewith between Borrower and Lender, is a valid and binding promise to pay in accordance with the terms contained therein, as so modified, and that the Mortgage represents a first, valid and existing lien against the property securing the Commercial Note and enforceable in accordance with its terms and provisions, subject to bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws

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affecting creditor's right generally and to the exercise of judicial discretion in accordance with equitable principles.

(h) **Corus Note Valid.** Borrower represents and warrants that the Corus Note, as modified by that certain Mortgage Note Modification Agreement of even date herewith between Borrower and Lender, is a valid and binding promise to pay in accordance with the terms contained therein, as so modified, and that the Mortgage represents a first, valid and existing lien against the property securing the Corus Note and enforceable in accordance with its terms and provisions, subject to bankruptcy, insolvency, fraudulent conveyance, moratorium, reorganization and other similar laws affecting creditor's right generally and to the exercise of judicial discretion in accordance with equitable principles.

4. **Default.** Any default under or breach of the terms and provisions of this Agreement shall also constitute a default under the Commercial Note and Corus Note, as modified, and the Mortgage, and any other security instrument executed in connection therewith or herewith.

5. **Maturity Date.** Borrower and Lender agree that the maturity date (under the Commercial Note and the Corus Note) has been modified to be May 1, 2004.

6. **Conditions Precedent.** Notwithstanding anything to the contrary contained herein, Lender's consent to the execution of this Agreement is conditioned upon Lender's verification of the satisfaction, in Lender's sole and absolute discretion, of the following conditions:

(a) Lender has received executed an original reaffirmation of guaranty from each of Andriyous Youkhana and James Verros, in form and substance acceptable to Lender.

(b) Lender has received evidence of insurance on the property securing by the Mortgage, as the Mortgage has been modified from time to time in form and amount reasonably acceptable to Lender.

(c) Lender has received evidence that the execution of this Agreement and all documents related thereto were properly authorized by the Corporation, including without limitation, a copy of the by-laws for the Corporation.

(d) Lender has received a date-down to its existing title policy in form and substance acceptable to Lender.

(e) Lender has received such other documents as reasonably required by Lender.

7. **Continuing Effect, Ratification.** Except as expressly modified herein, Borrower expressly ratifies the terms and provisions of the Mortgage and acknowledges and agrees that

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such terms and provisions shall continue in full force and effect and shall be binding on Borrower and Borrower's successors and assigns.

8. **Costs and Expenses.** Borrower shall pay any and all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees and title charges, incurred by Lender in connection with or arising as a result of this Agreement.

9. **Final Agreement.** THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

10. **Conflicts.** In the event of any conflict between the terms of this Agreement and the Mortgage, the terms of this Agreement shall control.

11. **Trustee Exculpation.** This Agreement is executed by Cole Taylor Bank., not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested as such Trustee (and Cole Taylor Bank hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein shall be construed as creating any liability on said Trustee or on said Cole Taylor Bank personally to pay the Commercial Note or the Corus Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder and that so far as said Trustee and said Cole Taylor Bank personally are concerned, the legal holder or holders of said Commercial Note or the Corus Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises conveyed by the Mortgage, as hereby amended, for the payment thereof, by enforcement of the lien hereby created, in the manner herein and in said Commercial Note or the Corus Note provided, by action against any other security given to secure the payment of said Commercial Note or the Corus Note and by action to enforce the personal liability of the co-makers or guarantors of said Commercial Note or the Corus Note, if any.

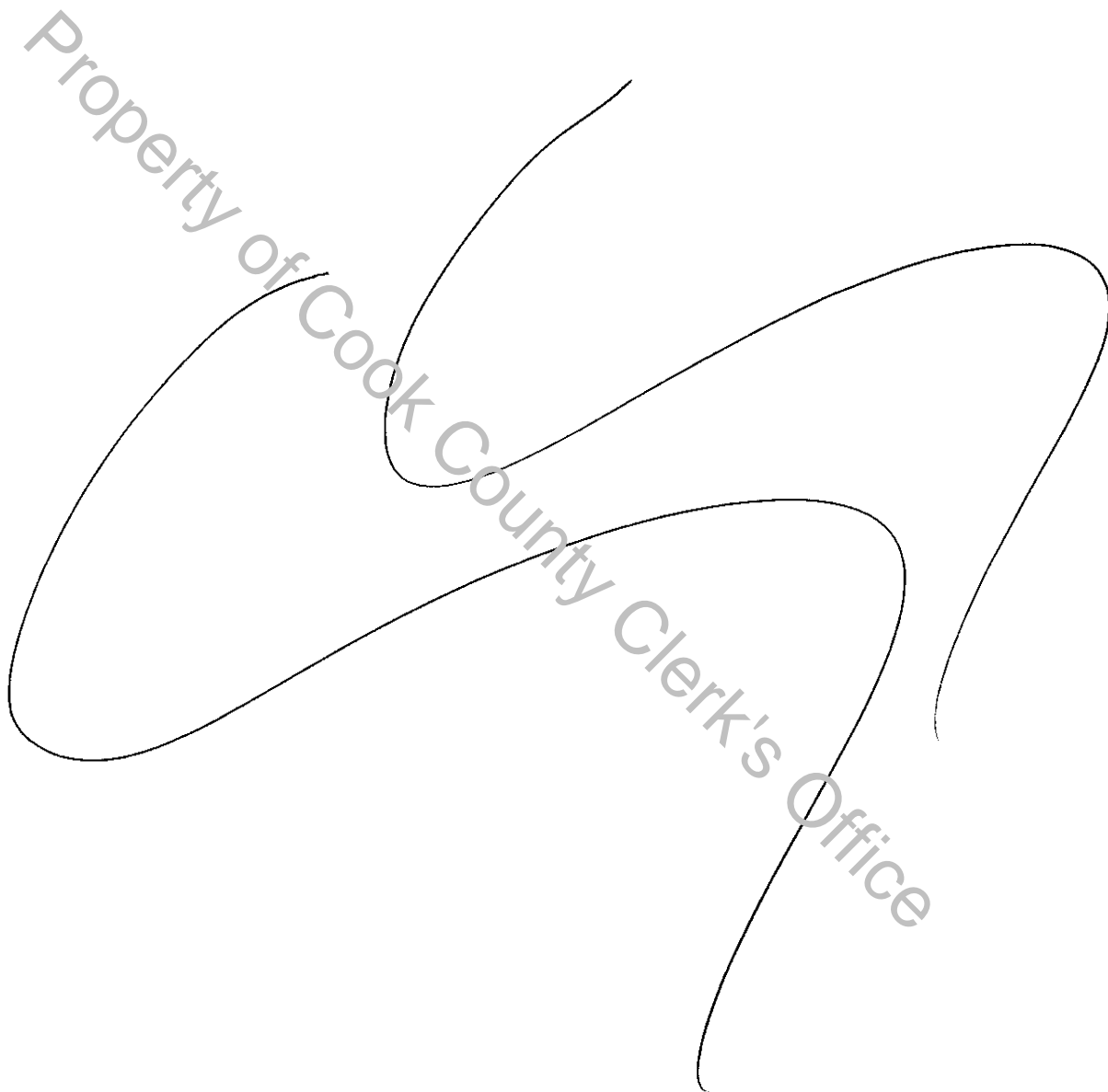
12. **Trustee Exculpation.** This Agreement is executed by Western Springs National Bank and Trust, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested as such Trustee (and Western Springs National Bank and Trust hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein shall be construed as creating any liability on said Trustee or on said Western Springs National Bank and Trust personally to pay the Commercial Note or the Corus Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder and that so far as said Trustee and said Western Springs National Bank and Trust personally are concerned, the legal holder or holders of said

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Commercial Note or the Corus Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises conveyed by the Mortgage, as hereby amended, for the payment thereof, by enforcement of the lien hereby created, in the manner herein and in said Commercial Note or the Corus Note provided, by action against any other security given to secure the payment of said Commercial Note or the Corus Note and by action to enforce the personal liability of the co-makers or guarantors of said Commercial Note or the Corus Note, if any.

**[SIGNATURES ON FOLLOWING PAGE]**

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

**BORROWER:**

~~COLE TAYLOR BANK, as trustee aforesaid~~

~~By: \_\_\_\_\_  
Its: \_\_\_\_\_~~


**WESTERN SPRINGS NATIONAL BANK  
AND TRUST, as Trustee aforesaid**

By:   
Its: **DANIEL N. WLODEK**  
TRUST OFFICER



**LENDER:**

**CORUS BANK, N.A., formerly known as  
Commercial National Bank of Chicago**


By:   
Its: *Vice President*

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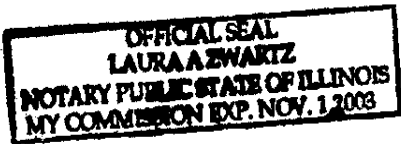
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that DANIEL N. WLODEK, the Trust Ofcr. of **WESTERN SPRINGS NATIONAL BANK AND TRUST**, not personally, but as Trustee under Trust Agreement dated January 14, 2003, and known as Trust No. 3985, and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trust Officer 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 bank as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal as of the 22<sup>nd</sup> day of August, 2003.

  
\_\_\_\_\_  
Notary Public

My commission expires: November 1 2003



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STATE OF Illinois )  
 ) SS.  
COUNTY OF Cook )

I, Susan W. Delisle, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Paul Carlson, personally known to me to be the Vice President of **CORUS BANK, N.A.**, f/k/a Commercial National Bank of Chicago, is 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/her free and voluntary act as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal as of the 9<sup>th</sup> day of September, 2003.

Susan W. Delisle  
Notary Public

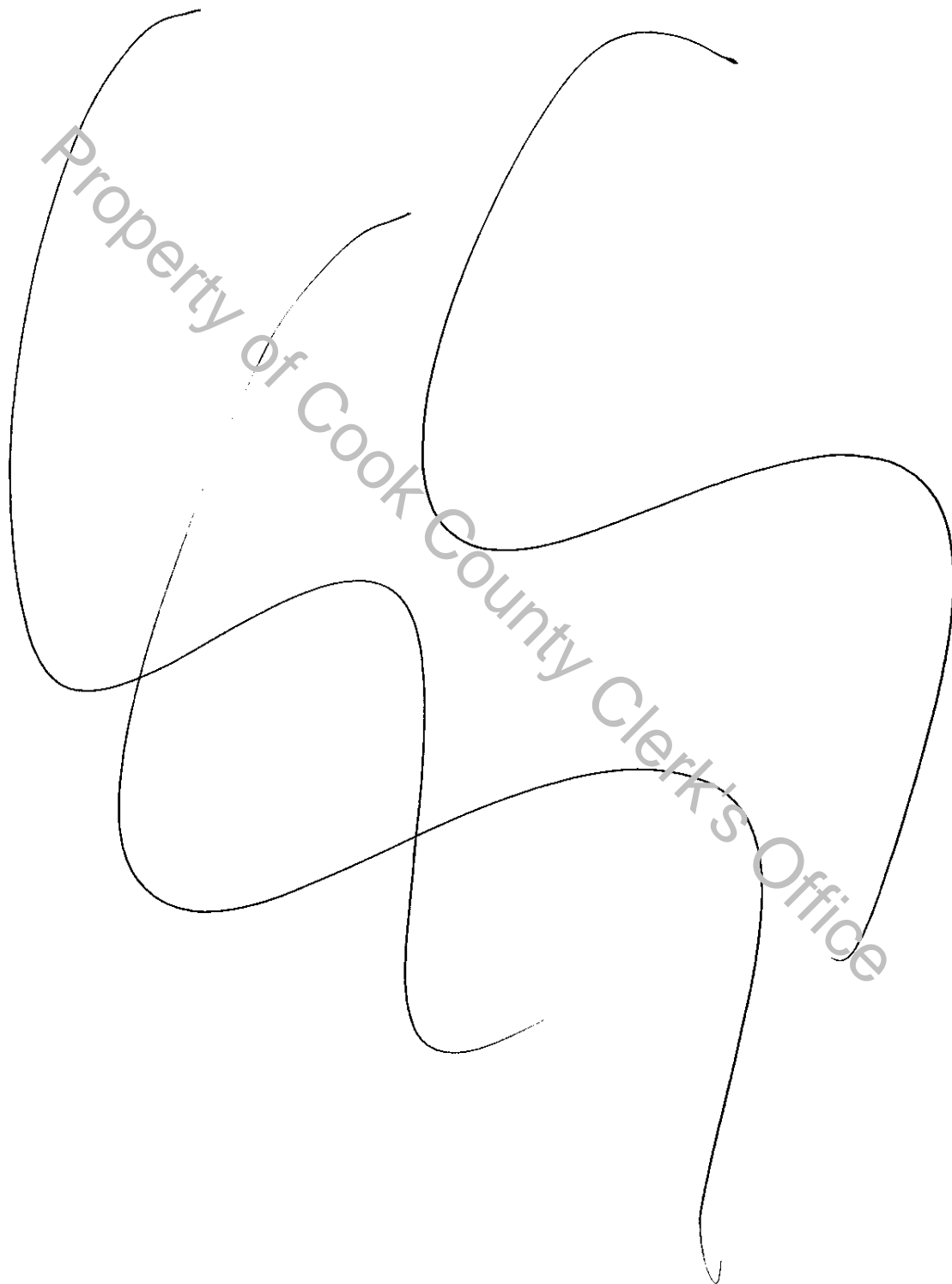


My commission expires: 5-12-04

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## EXHIBIT A

### LEGAL DESCRIPTION



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## EXHIBIT A

### PARCEL 1:

LOTS 1 TO 8 (EXCEPT THE SOUTH 12 FEET OF LOT 8) IN WILSEY'S SUBDIVISION OF LOT 1 IN G. A. BANCHARD'S SUBDIVISION OF BLOCK 3 IN SCHOOL TRUSTEES' SUBDIVISION OF CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 2:

LOT 2 IN BLANCHARD SUBDIVISION OF BLOCK 3 OF SCHOOL SECTION ADDITION TO CHICAGO (EXCEPT THAT PART TAKEN FOR QUINCY STREET) IN THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 3:

THE EAST 95.85 FEET OF THE NORTH 1/2 OF LOT 3 AND THE SOUTH 1/2 OF LOT 3 AND ALL OF LOT 4 IN BLOCK 11 IN DUNCAN'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE EAST 3/4 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PARCEL 4:

EASEMENT FOR INGRESS AND EGRESS FOR TRUCK USE ONLY (NO PARKING EXCEPT FOR LOADING AND UNLOADING) FOR THE BENEFIT OF PARCEL 1, OVER, UPON AND ACROSS THE FOLLOWING DESCRIBED LAND:

THE SOUTH 12 FEET OF THE NORTH 25.09 FEET OF THE NORTH 1/2 OF LOT 14 AND THE WEST 12 FEET OF THE NORTH 25.13 FEET OF THE NORTH 1/2 OF LOT 3 (EXCEPT THE EAST 95.85 FEET THEREOF) AND THE NORTH 13.13 FEET OF THE NORTH 25.13 FEET OF THE NORTH 1/2 LOT 3 (EXCEPT THE EAST 95.85 FEET THEREOF) IN BLOCK 11 IN DUNCAN'S ADDITION TO CHICAGO AFORESAID;

ALSO

EASEMENT FOR INGRESS AND EGRESS FOR TRUCK USE ONLY (NO PARKING EXCEPT FOR LOADING AND UNLOADING) FOR THE BENEFIT OF PARCEL 1, OVER, UPON AND ACROSS THE NORTH 13.09 FEET OF THE NORTH 25.09 FEET OF THE NORTH 1/2 OF LOT 14 IN BLOCK 11 IN DUNCAN'S ADDITION TO CHICAGO AFORESAID, AS CREATED BY EASEMENT AGREEMENT MADE BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 1, 1977 AND KNOWN AS TRUST NUMBER 39982, AND PETROS N. KOGIONES, DATED NOVEMBER 15, 1978 AND RECORDED DECEMBER 20, 1978 AS DOCUMENT 24772832, IN COOK COUNTY, ILLINOIS.

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PARCEL 5:

ALL OF THE NORTH SOUTH 10 FOOT WIDE ALLEY LYING EAST OF AND ADJOINING PARCEL 1 AFORESAID.

