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Doc#: 0327903149
Eugene "Gene" Moore Fee: \$44.50
Cook County Recorder of Deeds
Date: 10/06/2003 12:32 PM Pg: 1 of 11

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

COMMONLY KNOWN AS: 812-818 Harrison, Oak Park, Illinois
P.I.N.: 16-18-135-011

CHICAGO TITLE LAND TRUST COMPANY
AS SUCCESSOR TRUSTEE TO

FIFTH LOAN MODIFICATION AGREEMENT

CTLTC

This instrument is a Fifth Loan Modification Agreement ("Fifth Modification") among The PrivateBank and Trust Company, an Illinois banking corporation ("Lender"), Fifth Third Bank, formerly known as Old Kent Bank, successor to Pinnacle Bank, as successor to Suburban Trust and Savings Bank, Trustee under Trust Agreement No. 4093 ("Trust"), dated December 18, 1987 ("Trustee"), and Louis B. Scannicchio, Louis Scannicchio, Sr and Linda A. Scannicchio (collectively "Beneficiaries"). Trustee and Beneficiaries are collectively referred to herein as "Borrowers."

RECITALS:

A. Trustee holds fee simple title to certain real estate ("Real Estate") commonly known as 812-818 Harrison, Oak Park, Illinois, which is legally described on Exhibit A attached hereto. Beneficiaries are the sole beneficiaries of the Trust.

B. On May 22, 1992, Trustee executed and delivered to Lender a Promissory Note in the amount of \$200,000 ("Note No. 1") which evidenced a loan in the amount of \$200,000 ("Loan No.

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1"). To secure Note No. 1, Trustee, Louis B. Scannicchio and Linda A. Scannicchio executed and delivered to Lender the following documents ("Security Documents No. 1"):

1. a Real Estate Mortgage and Assignment of Rents ("Mortgage No. 1") executed by Trustee, Louis B. Scannicchio and Linda A. Scannicchio covering the Real Estate, which Mortgage No. 1 was recorded with the Cook County Recorder of Deeds on June 1, 1992 as Document No. 929377802;
2. an Assignment of Rents and Lessor's Interest in Leases executed by Trustee, Louis B. Scannicchio and Linda A. Scannicchio, which was recorded with the Cook County Recorder of Deeds on June 1, 1992 as Document No. 92377803 and was re-recorded on July 22, 1992 as Document No. 92536212;
3. a Collateral Assignment of Beneficial Interest in Land Trust ("Collateral Assignment No. 1") executed by Louis B. Scannicchio and Linda A. Scannicchio and accepted by Trustee;
4. an Environmental Indemnity Agreement executed by Louis B. Scannicchio and Linda A. Scannicchio; and
5. UCC-1 Financing Statements executed by Trustee, Louis B. Scannicchio and Linda A. Scannicchio.

C. On September 1, 1995, Trustee, Louis B. Scannicchio and Linda A. Scannicchio entered into a Loan Modification Agreement ("Modification"), pursuant to which Lender agreed to reduce the interest rate applicable to Loan No. 1 and established a prepayment premium for prepayments on Loan No. 1. The Modification was recorded with the Cook County Recorder of Deeds on October 24, 1995 as Document No. 95725811.

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D. On March 1, 1998, Borrowers entered into a Second Loan Modification Agreement (“Second Modification”) pursuant to which Lender agreed to reduce the interest rate applicable to Loan No. 1. The Second Modification was recorded with the Cook County Recorder of Deeds on March 11, 1998 as Document No. 98194211.

E. On June 30, 2000, Trustee, Louis B. Scannicchio and Louis B. Scannicchio, Sr., entered into a Loan Agreement (“Loan Agreement”) with Lender pursuant to which Lender extended to them a revolving line of credit loan in the amount of \$350,000 (“Loan No. 2”). Loan No. 2 is evidenced by a Promissory Note Evidencing a Revolving Line of Credit in the amount of \$350,000 (“Note No. 2”) and is secured by the following documents (“Security Documents No. 2”):

1. a Real Estate Mortgage, Assignment of Rents and Leases, Security Agreement and UCC-2 Financing Statement of even date therewith (“Mortgage No. 2”), which Mortgage was recorded with the Cook County Recorder of Deeds on July 20, 2000 as Document No. 00543741;
2. A Collateral Assignment of Beneficial Interest in Land Trust accepted by Trustee (“Collateral Assignment No. 2”);
3. a UCC Financing Statement executed by Trustee, Louis B. Scannicchio and Louis B. Scannicchio, Sr.; and
4. other documents of a security, evidentiary and collateral nature requested by Lender.

F. On August 31, 2001, to be effective as of August 1, 2001, Borrowers entered into a Third Loan Modification Agreement (“Third Modification”) pursuant to which Lender agreed to increase the amount of Loan No. 1 and to extend the maturity date and interest rate applicable to Loan No. 1. Pursuant to the Third Modification, Borrowers executed a Promissory Note in the

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amount of \$146,812.39 ("Revised Note No. 1"). The Third Modification was recorded with the Cook County Recorder of Deeds on January 15, 2002 as Document No. 0020058260.

G. On January 1, 2003, Trustee, Beneficiaries and Lender entered into a Fourth Loan Modification Agreement ("Fourth Modification") pursuant to which Lender agreed to adjust the interest rate applicable to Revised Note No. 1. Pursuant to the Fourth Modification, Borrowers executed and delivered a revised Promissory Note in the amount of \$133,654 ("Second Revised Note No. 1"). The Fourth Modification was recorded with the Cook County Recorder of Deeds on February 7, 2003 as Document No. 0030189677.

H. The current outstanding balance of the Second Revised Note No. 1 is \$128,113, and the current outstanding balance of Note No. 2 is \$227,137. Borrowers have now requested Lender to extend the maturity date of Note No. 2 from June 1, 2003 to June 1, 2004. 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. Note No. 2 is hereby modified and amended as follows:
 - (a) Subparagraph (a) is amended to read as follows: "Notwithstanding the foregoing, in no event shall the interest rate applicable to this Note be less than four (4.0%) percent ("Interest Rate Floor")."
 - (b) The date of June 1, 2003 in subparagraph (b) is changed to June 1, 2004; and
 - (c) The following paragraph is added to Note No. 2:

The Prime Rate is four (4.0%) percent as of the date hereof. The Interest Rate Floor set forth in Subparagraph (a) hereof and applicable to this Note is also four (4.0%) percent. Borrower acknowledges and

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agrees that regardless of whether the prime rate is less than the Interest Rate Floor, the rate applicable to this Note will never be less than four (4.0%) percent per annum.

The Security Documents are hereby modified and amended to secure Note No. 2 as hereby revised and all references to the Note No. 2 in Security Documents No. 1 or Security Documents No. 2 (collectively "Security Documents") are modified and amended to refer to Note No. 2 as hereby revised.

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

(a) a title insurance policy or endorsement to Lender's current loan title insurance policy which insures Mortgage No. 2 as modified by this Fifth Modification as a first lien on the Real Estate subject only to such exceptions as Lender shall permit and which reflects and insures that Trustee is the holder and owner of fee simple interest in the Real Estate;

(c) updated certificates of insurance as required by Section 4 of Mortgage No. 2;

(d) a certified copy of the letter of direction to Trustee authorizing the execution of this Fifth Modification;

(e) a certified copy of the Trust Agreement;

(f) an updated rent roll; and

(g) payment of Lender's expenses as described in Section 6 hereof.

3. This Fifth 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 Note No. 1, Note No. 2, Revised Note No. 1 or Second Revised Note No. 1 ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed

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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 Mortgage No. 1, Mortgage No. 2, Collateral Assignment No. 1, Collateral Assignment No. 2, the Loan Agreement or the covenants, conditions and agreements therein contained or contained in Note No. 1, Revised Note No. 1, Second Revised Note No. 1, Note No. 2, the Modification, Second Modification, Third Modification or Fourth Modification.

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. Borrowers hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

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

7. Borrowers 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 Note No. 1, Revised Note No. 1, Second Revised Note No. 1, Note No. 2, the Modification, Second Modification, Third Modification, Fourth Modification, Mortgage No. 1, Mortgage No. 2, Collateral Assignment No. 1, Collateral Assignment No. 2, the Loan Agreement, 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 Borrowers are adverse parties. This provision is a material inducement for Lender in granting any financial accommodation to Borrowers, or any of them.

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8. Borrowers hereby irrevocably submit to the jurisdiction of any state or federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrowers hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrowers 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. Borrowers 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 Borrowers at their addresses as specified in the records of Lender. Borrowers 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.

Borrowers 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 Borrowers or their property in the courts of any other jurisdictions.

9. This Fifth Modification is executed by Fifth Third Bank, formerly known as Old Kent Bank, as successor to Pinnacle Bank, as successor to Suburban Trust and Savings Bank, as Trustee, not individually or 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 herein contained shall be construed as creating any liability on Trustee personally to pay any indebtedness arising or accruing under or pursuant to this Fifth Modification, or to perform any covenant, undertaking, representation or agreement, either express or implied, contained in this Fifth

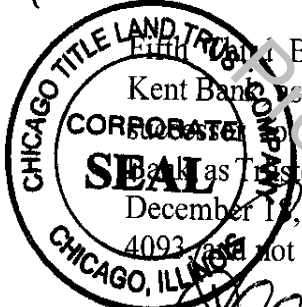
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Modification, all such personal liability of Trustee, if any, being expressly waived by each and every person now or hereafter claiming any right under this Fifth Modification.

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

CTLTC 8-1, 2003 to be effective as of June 1, 2003.

TRUSTEE: CHICAGO TITLE LAND TRUST COMPANY LENDER:
AS SUCCESSOR TRUSTEE TO



Bank, formerly known as Old Kent Bank, successor to Pinnacle Bank, as Suburban Trust and Savings Bank as Trustee under Trust Agreement dated December 17, 1987 and known as Trust No. 4093-1084 not individually

The Private Bank and Trust Company, an Illinois banking corporation

By: [Signature]
Its MANAGING DIRECTOR

By: [Signature]
Its ASST VP

BENEFICIARIES:

[Signature]
Louis B. Scannicchio

[Signature]
Louis Scannicchio, Sr.

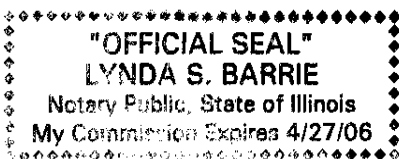
[Signature]
Linda A. Scannicchio

Attest Attestation not required
Its pursuant to corporate by-laws.

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that ARON MICHEL and ASS VICE President and [Signature] Secretary, respectively, of Fifth Third Bank, formerly known as Old Kent Bank, successor to Pinnacle Bank, as successor to Suburban Trust and Savings Bank, as Trustee as aforesaid, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal AUG 01, 2003.



[Signature]
Notary Public

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

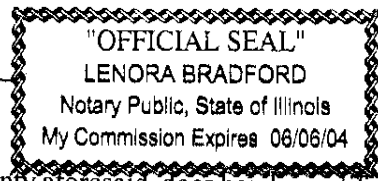
The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Louis B. Scannicchio, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered 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 1st August, 2003.

Lenora Bradford

Notary Public

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



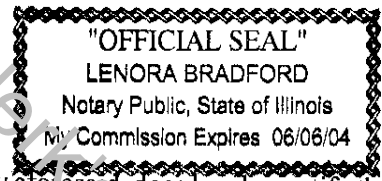
The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Louis Scannicchio, Sr., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered 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 1st August, 2003.

Lenora Bradford

Notary Public

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

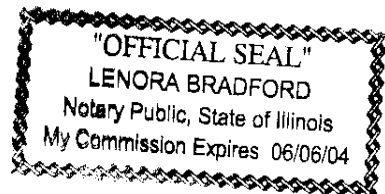


The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Linda A. Scannicchio, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered 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 1st August, 2003.

Lenora Bradford

Notary Public



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EXHIBIT A

LEGAL DESCRIPTION:

LOTS 11 AND 12 (EXCEPT THAT PART THEREOF LYING SOUTH OF A LINE 33 FEET NORTH OF AND EXTENDING PARALLEL WITH THE SOUTH LINE OF SAID LOT 11) IN BLOCK 4 IN OAK PARK SUBDIVISION, BEING A SUBDIVISION OF LOTS 2 AND 3 AND PART OF LOT 1 LYING WEST OF OAK PARK AVENUE, IN THAT PARTITION OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, OF THE EAST $\frac{1}{2}$ OF LOT 2 IN SUBDIVISION OF SECTION 18, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE WEST $\frac{1}{2}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SAID SECTION), IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS:

812-818 Harrison, Oak Park, Illinois

P.I.N.:

16-18-135-011

Property of Cook County Clerk's Office