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THIS INSTRUMENT WAS  
PREPARED BY AND MAIL  
AFTER RECORDING TO:

Donald A. Ensing  
McGuireWoods LLP  
77 West Wacker Drive  
Suite 4300  
Chicago, Illinois 60601



Doc#: 0405833097  
Eugene "Gene" Moore Fee: \$36.00  
Cook County Recorder of Deeds  
Date: 02/27/2004 09:57 AM Pg: 1 of 7

Above Space for Recorders Use Only

**THIRD AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES  
AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT**  
(308 W. Randolph Street -- Cook County) 7

This THIRD AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT ("*Amendment*") is made and entered into as of the 31<sup>st</sup> day of December, 2003, by Randolph Partners, L.P., having its principal office at 308 West Randolph Street, Chicago, Illinois 60606 ("*Randolph Partners*"), 308, LLC, an Illinois limited liability company, having its business address at c/o Randolph Partners, L.P., 308 West Randolph Street, Chicago, Illinois, 60606 ("*308*"; herein, Randolph Partners and 308, are referred to individually and collectively as the "*Mortgagor*"), and LASALLE BANK NATIONAL ASSOCIATION, a national banking association, having an office at 135 South LaSalle Street, Chicago, Illinois 60603, together with its successors and assigns (the "*Bank*"). Unless otherwise defined herein, all capitalized terms shall have meanings given to them in the Mortgage and the New Loan Agreement (all as defined below).

### RECITALS:

A. Mortgagor has executed in favor of the Bank that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement dated November 13, 2000, and recorded on June 21, 2000 with the Cook County, Illinois Recorder as Document No. 00912051 (as heretofore amended or modified, the "*Mortgage*") covering the property described on *Exhibit A* hereto (the "*Property*"), securing, among other things, the indebtedness and predecessor indebtedness to the Bank under and as contemplated by the Loan Agreement dated November 13, 2000, between Randolph Partners, 308, 740, LLC, an Illinois limited liability company and the Bank (as amended and supplemented from time to time including on even date herewith, the "*Original Loan Agreement*"), which includes, without limitation, a term loan to Randolph Partners and 308 in the original principal amount of Three Million Six Hundred Five Thousand Four Hundred Fifty Eight and 00/100 Dollars (\$3,605,458.00) ("*Existing Randolph Loan*"), which is evidenced by a Term Note dated as of April 9, 2003, executed by Randolph Partners and 308 and made payable to the order of the Bank (the "*Existing Randolph Note*").

B. Mortgagors have requested that the Bank (i) consent to the transfer of title to the Property to Randolph Partners, LLC,-308 Series, a Delaware limited liability company ("*308 Randolph*") and (ii) amend and restate the Original Loan Agreement by entering into a new

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Loan Agreement dated as of December 31, 2003 (the "**New Loan Agreement**") with Randolph Partners, 308 Randolph and Randolph Partners, LLC,-740 Series, a Delaware limited liability company ("**740 Rush**") pursuant to which (a) Randolph Partners and 308 Randolph will execute and deliver to the Bank a replacement term note in the amount of Three Million Four Hundred Eighty Five and 00/100 Dollars (\$3,485,000.00) (the "**New Randolph Note**") in substitution for the Existing Randolph Note and (b) the Bank will make a new term loan to Randolph Partners and 740 Rush in an original principal amount of Five Million and 00/100 Dollars (\$5,000,000.00) (the "**Rush Loan**") and Randolph Partners and 740 Rush will execute and deliver to the Bank a new term note in such amount (the "**Rush Note**") pursuant to the terms and conditions set forth in the New Loan Agreement.

C. Mortgagors' affiliate, Giordano's Enterprises, Inc., an Illinois corporation, and its subsidiaries (the "**Giordano's Borrowers**"), contemporaneously herewith are entering into a Loan and Security Agreement with the Bank (the "**Giordano's Loan Agreement**") pursuant to which the Bank will make (i) a term loan to the Giordano's Borrowers in an amount of \$10,000,000 evidenced by a term note executed and delivered by the Giordano's Borrowers to the Bank (the "**Giordano's Term Note**") and (ii) a revolving loan to the Giordano's Borrowers in an amount of \$3,000,000 evidenced by a revolving note executed and delivered by the Giordano's Borrowers to the Bank (the "**Giordano's Revolving Note**").

D. The parties hereto are executing this Amendment for the purpose of, among other things, (i) substituting 308 Randolph as a Mortgagor and party to the Mortgage for 308 and (ii) confirming that (a) the obligations and liabilities of the Giordano's Borrowers to the Bank under the Giordano's Loan Agreement, the Giordano's Term Note and the Giordano's Revolving Note and (b) the obligations and liabilities of the Mortgagors and 740 Rush to the Bank under the New Loan Agreement, the New Randolph Note and the Rush Note each constitute a part of Mortgagor's Liabilities to the same extent as any amounts initially advanced to Mortgagor or already secured by the Mortgage.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Mortgagor and the Bank agree as follows:

1. Incorporation by Reference. The Recitals are hereby incorporated by reference into this Amendment.

2. Amendment of Mortgage.

2.1 308 Randolph shall be substituted for 308 as a Mortgagor under the Mortgage and the term "Mortgagor" whenever used in the Mortgage shall mean and be read as Randolph Partners and 308 Randolph, individually, jointly and severally.

2.2 From and after the date hereof, all references in the Mortgage to the "Liabilities" secured by the Collateral shall be deemed to include (a) the New Randolph Note, the Rush Note and the "Obligations" as defined in the New Loan Agreement and (b) the Giordano's Term Note, the Giordano's Revolving Note and the "Obligations" as defined in the Giordano's Loan Agreement.

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2. Further Assurances. Mortgagors agrees to execute and deliver such further and additional documents requested of it by the Bank as may be necessary or appropriate to give effect to this Amendment.

3. General Provisions.

3.1 Except as amended hereby, the terms, provisions, covenants and agreements contained in the Mortgage shall remain unchanged and in full force and effect and are hereby ratified and affirmed by the parties.

3.2 On and of the date hereof, each reference in the Mortgage or other agreements or documents executed in connection herewith to "this Mortgage" or words of like import, shall, unless the context otherwise requires, be deemed to be refer the Mortgage as amended hereby.

3.3 Each Mortgagor hereby reaffirms, certifies, remakes and confirms all representations and warranties set forth in the Mortgage as amended hereby. Nothing herein shall be deemed to constitute or shall be construed as a waiver of any rights, remedies or security of or granted to the Bank hereunder or under the Mortgage or any Related Documents.

3.4 The recitals to this Amendment are incorporated herein in their entirety by this reference thereto and deemed to be a part hereof.

3.5 This Amendment may be executed in any number of counterparts, all of which shall constitute one and the same agreement.

[SIGNATURE PAGES FOLLOW]

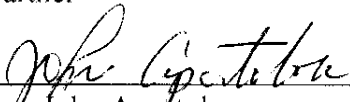
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IN WITNESS WHEREOF, the undersigned have caused this Amendment to be executed and delivered by their respective authorized signatories as of the date first above written.

### 308, LLC

By: Randolph Partners, L.P., its sole member

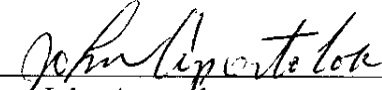
By: Illinois Management Company, Inc.,  
its general partner

By:   
Name: John Apostolou  
Title: President

### RANDOLPH PARTNERS, LLC,-308 SERIES

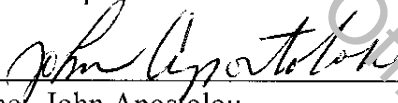
By: Randolph Partners, L.P., its sole member

By: Illinois Management Company, Inc.,  
its general partner

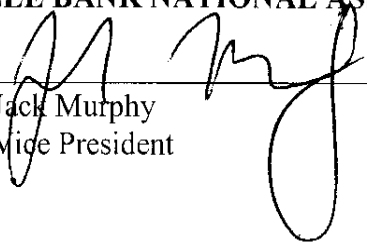
By:   
Name: John Apostolou  
Title: President

### RANDOLPH PARTNERS, L.P.

By: Illinois Management Company, Inc.,  
its general partner

By:   
Name: John Apostolou  
Title: President

### LASALLE BANK NATIONAL ASSOCIATION

By:   
Name: Jack Murphy  
Title: Vice President

Property of Cook County Clerk's Office

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## ACKNOWLEDGMENT

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, Lourdes Coca, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT **John Apostolou** of Illinois Management Company, Inc., the general partner of Randolph Partners, L.P., the sole member of 308, LLC and Randolph Partners, LLC,-308 Series, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such president appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation; and the said John Apostolou acknowledged that he, as custodian of the corporate seal of said corporation, did affix said corporate seal to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for said uses and purposes.

GIVEN under my hand and notarial seal this 15<sup>th</sup> day of January, 2004.

Lourdes Coca  
Notary Public

My Commission Expires:

10/26/07



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## ACKNOWLEDGMENT

STATE OF ILLINOIS     )  
   ) SS  
 COUNTY OF COOK         )

I, Lourdes Coca, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT **Jack Murphy** of LaSalle Bank National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such vice president appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said corporation; and the said Jack Murphy acknowledged that he, as custodian of the corporate seal of said corporation, did affix said corporate seal to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for said uses and purposes.

GIVEN under my hand and notarial seal this 25<sup>th</sup> day of January, 2004.

Lourdes Coca  
 Notary Public

My Commission Expires:

10/26/07



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## EXHIBIT A LEGAL DESCRIPTION

### PARCEL 1:

LOTS 7 AND 8 IN ASSESSOR'S DIVISION OF LOT 8 IN BLOCK 31 ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN

### PARCEL 2:

THE EAST  $\frac{1}{4}$  OF LOT 7 IN BLOCK 31 IN ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Common Address: 308 West Randolph Street, Chicago, Illinois

P.I.N. Nos: 17-09-429-007-0000 and 17-09-429-011-0000