

UNOFFICIAL COPY



Doc#: 0425704233  
Eugene "Gene" Moore Fee: \$34.00  
Cook County Recorder of Deeds  
Date: 09/13/2004 12:30 PM Pg: 1 of 6

WHEN RECORDED MAIL TO:  
SEYFARTH SHAW  
ONE PEACHTREE POINTE, SUITE 700  
1545 PEACHTREE STREET, N.E.  
ATLANTA, GEORGIA 30309-2401  
Attention: N. J. Wardlaw, IV, Esq.

PERMANENT INDEX No.: 18-19-300-034-000

Cross Reference:

"Mortgage and Security Agreement"  
recorded on December 5, 2003 as  
Document No. 0333942229

"Assignment of Leases and Rents"  
recorded on December 5, 2003 as  
Document No. 0333942230

ACS  
1409-8170743

CONSOLIDATED AMENDATORY AGREEMENT

This Consolidated Amendatory Agreement (the "Agreement") is made and entered into as of the 1<sup>st</sup> day of June, 2004, by and between 161 TOWER ROAD LLC, an Illinois limited liability company ("Borrower") and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation ("Lender").

WITNESSETH.

WHEREAS, Lender is the owner and holder of, *inter alia*, (i) that certain Mortgage and Security Agreement, made by Borrower in favor of Lender, dated November 20, 2003, and recorded on December 5, 2003, as Document No. 0333942229 in the Office of the Recorder of Deeds for Cook County, Illinois (the "Mortgage"), encumbering the property described therein (the "Property"), (ii) that certain Promissory Note in the original principal amount of Four Million Two Hundred Seventy-Five Thousand and No/100 Dollars (\$4,275,000.00), dated as of November 20, 2003 (the "Note") (the Mortgage, the Note and any and all documents and agreements executed or given in connection therewith; and any modifications, extensions, renewals, refinancings, amendments, substitutions and consolidations thereof, now or in the future or to or for the benefit of Lender, shall be referred to herein as the "Documents"); and

WHEREAS, Borrower and Lender desire to amend the Mortgage, Note and the other Documents to reflect certain other agreements between Borrower and Lender.

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100ths Dollars (\$10.00) in hand paid, the premises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. MODIFICATION OF NOTE. Borrower and Lender do hereby agree to amend and modify the Note as follows:

lev

# UNOFFICIAL COPY

- 1.1 All references in the Note to "Cohen Financial, L.P." are hereby modified to mean and refer to "Cohen Capital LLC".
- 1.2 Except as herein specifically modified, all of the terms, conditions and provisions of the Note shall remain in full force and effect.
2. MODIFICATION OF MORTGAGE. The Mortgage is hereby modified and amended as follows:
- 2.1 All references in the Mortgage to "Cohen Financial, L.P." are hereby deemed modified to mean and refer to "Cohen Capital LLC".
- 2.2 Except as herein specifically modified and amended, all of the terms, conditions and provisions of the Mortgage shall remain in full force and effect.
3. MODIFICATION OF ALL DOCUMENTS. The Documents are hereby modified and amended as follows:
- 3.1 All references to the "Note" in the Documents shall mean the Note as modified and amended hereby. All references to the "Instrument" or "Mortgage" in the Documents shall mean the Mortgage as modified and amended hereby.
- 3.2 Except as specifically modified and amended, all of the terms, conditions and provisions of the Documents shall remain in full force and effect.
4. RATIFICATION AND CONSENT BY BORROWER. Borrower hereby (i) ratifies and affirms all of its obligations under the Note, the Mortgage and the other Documents, as modified and amended hereby; (ii) acknowledges, represents and warrants that the Note, the Mortgage, and the other Documents constitute valid and enforceable obligations, as of this date, free from any defenses, setoffs, claims, counterclaims or causes of action of any kind or nature whatsoever by Borrower against Lender or any of Lender's directors, officers, employees, agents or attorneys; (iii) consents to the modification and amendment of the Note, the Mortgage and the other Documents as set forth herein; and (iv) acknowledges that this Agreement does not constitute and shall not be construed as a novation or release of the Note, the Mortgage, or the other Documents.
5. BINDING AGREEMENT. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.
6. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to the modification of the Note, the Mortgage and the other Documents and supersedes all prior agreements, understandings, or negotiations regarding said modification.
7. TIME. Time is of the essence of this Agreement and Borrower hereby acknowledges that all time periods contained in the Note, the Mortgage and the other Documents shall be strictly construed.
8. APPLICABLE LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Illinois.

# UNOFFICIAL COPY

9. COUNTERPARTS. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Borrower and Lender have duly executed this Agreement the day and year first above written, but effective as of the 20<sup>th</sup> day of November, 2003.

**BORROWER:**

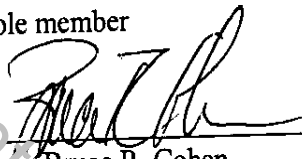
**161 TOWER ROAD LLC,**  
an Illinois limited liability company

By: Cohen Financial Industrial Realty Fund, L.P.,  
a Delaware limited partnership, its sole member

By: Cohen Financial Industrial Realty Management, L.L.C.,  
a Delaware limited liability company, its general partner

By: CFCM Fund Manager LLC,  
a Delaware limited liability company,  
its sole member

By: Cohen Capital LLC,  
a Delaware limited liability company,  
its sole member

By:   
Name: Bruce R. Cohen  
Its: Chief Executive Officer

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

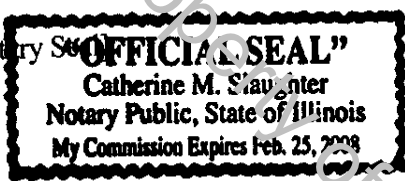
# UNOFFICIAL COPY

STATE OF Illinois  
COUNTY OF Cook

Personally appeared before me, Catherine M. Slaughter, Notary Public, Bruce R. Cohen, with whom I am personally acquainted, and who acknowledged that he/she executed the foregoing instrument for the purposes therein contained and who further acknowledged that he is the Chief Executive Officer of Cohen Capital LLC, a Delaware limited liability company, which is the sole member of CFCM Fund Manager LLC, a Delaware limited liability company, which is the sole member of CFCM Fund Manager LLC, a Delaware limited liability company, which is the sole member of Cohen Financial Industrial Realty Management, L.L.C., a Delaware limited liability company, which is the general partner of Cohen Financial Industrial Realty Fund, L.P., a Delaware limited partnership, which is the sole member of 161 Tower Road LLC, an Illinois limited liability company, and is authorized to execute this instrument on behalf of said company.

WITNESS my hand, at office, this 9<sup>th</sup> day of July, 2004.

[Notary Seal]



Catherine M. Slaughter  
Notary Public  
Serial No.: \_\_\_\_\_  
My Commission Expires: 2/25/2008

918182\_1

COOK COUNTY CLERK'S OFFICE

# UNOFFICIAL COPY

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]  
[SIGNATURE PAGE TO CONSOLIDATED AMENDATORY AGREEMENT BETWEEN  
161 TOWER ROAD LLC AND THE PRUDENTIAL INSURANCE COMPANY OF AMERICA]

LENDER:

**THE PRUDENTIAL INSURANCE COMPANY OF AMERICA**, a New Jersey corporation

By: Christine Haskins  
Name: Christine Haskins  
Title: Vice President

[CORPORATE SEAL]

STATE OF Illinois  
COUNTY OF Cook

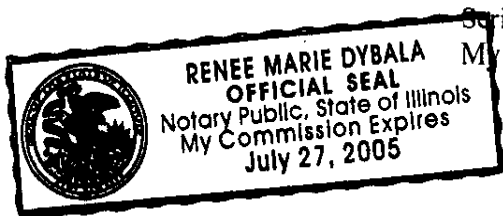
Personally appeared before me, Renee M. Dybala Notary Public, Christine Haskins, with whom I am personally acquainted, and who acknowledged that he/she executed the foregoing instrument for the purposes therein contained and who further acknowledged that he/she is the Vice President of The Prudential Insurance Company of America, a New Jersey corporation, and is authorized to execute this instrument on behalf of said company.

WITNESS my hand, at office, this 2 day of August, 2004.

[Notary Seal]

Renee Marie Dybala  
Notary Public

Serial No.: \_\_\_\_\_  
My Commission Expires July 27, 2005



Property of Cook County Clerk's Office

# UNOFFICIAL COPY



## CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1409 008170743 NSC  
STREET ADDRESS: 161 TOWER ROAD  
CITY: BURR RIDGE COUNTY: COOK  
TAX NUMBER: 18-19-300-034-0000

### LEGAL DESCRIPTION:

LOT 3 IN SHOE'S ADDITION, BEING A SUBDIVISION OF PART OF SECTIONS 19 AND 30, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 2, 1979 AS DOCUMENT NUMBER 25080404, AND CERTIFICATE OF CORRECTION RECORDED DECEMBER 4, 1979 AS DOCUMENT NUMBER 25266456.

Property of Cook County Clerk's Office