

# UNOFFICIAL COPY



Doc#: 0520934038  
Eugene "Gene" Moore Fee: \$40.00  
Cook County Recorder of Deeds  
Date: 07/28/2005 01:28 PM Pg: 1 of 9

**THIS DOCUMENT WAS PREPARED  
BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:**

Jay R. Goldberg  
Field and Goldberg, LLC  
10 South LaSalle Street  
Suite 2910  
Chicago, IL 60603

**ADDRESS OF PROPERTY:**

2636-2638 North Orchard Street  
Chicago, IL 60614

**PERMANENT INDEX NO.:**

14-28-303-048-0000

## SECOND LOAN MODIFICATION AGREEMENT

THIS SECOND LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 26<sup>th</sup> day of July, 2005 by and among **MB FINANCIAL BANK, N.A.** ("Lender"), **147TH-KEDZIE, L.L.C.**, an Illinois limited liability company ("Original Borrower"), **2636 ORCHARD LLC**, an Illinois limited liability company ("New Borrower"), and **EVAN OLIFF** ("Guarantor").

### WITNESSETH:

WHEREAS, Original Borrower is the owner of certain real estate commonly known as 2636-2638 North Orchard Street which is located in the City of Chicago, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto and made a part hereof (the "Premises"); and

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to Original Borrower in the stated principal sum of Three Million Three Hundred Thousand Dollars (\$3,300,000.00); and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter defined and all other documents evidencing, securing or otherwise governing the Loan are collectively referred to as the "Loan Documents") each of which is dated as of September 27, 2002 unless otherwise stated:

- (a) Promissory Note (the "Note") made by Original Borrower to Lender in the stated principal sum of Three Million Three Hundred Thousand Dollars (\$3,300,000.00);
- (b) Guaranty (the "Guaranty") made by Guarantor to Lender;
- (c) Mortgage (the "Mortgage") made by Original Borrower to Lender encumbering the Premises and the improvements thereon and all other property, assets and

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collateral therein described, which Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") as Document No. 0021070153;

- (d) Assignment of Rents ( the "Assignment") made by Original Borrower, as assignor, to Lender, as assignee, which was recorded in the Recorder's Office as Document No. 0021070154;
- (e) Business Loan Agreement by and between Original Borrower and Lender; and
- (f) Loan Modification Agreement dated May 20, 2005 by and among Lender, Original Borrower and Guarantor, which was recorded in the Recorder's Office as Document No. 0515439092; and

WHEREAS, Original Borrower has advised Lender of Original Borrower's intent to convey title to the Premises to New Borrower; and

WHEREAS, New Borrower has advised Lender that New Borrower intends to accept title to the Premises and all of Original Borrower's liabilities, responsibilities and obligations under the Loan and the Loan Documents; and

WHEREAS, Original Borrower and New Borrower have requested that Lender release Original Borrower from Original Borrower's obligations under the Loan and the Loan Documents; and

WHEREAS, Original Borrower, New Borrower, Guarantor and Lender have agreed to certain modifications to the Loan Documents; and

WHEREAS, the agreements of the parties are set forth herein and limited to this Agreement.

## AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed, as of the date hereof, which date shall be inserted by the last of the parties to execute this Agreement, which party shall be Lender, as follows:

1. **Preambles.** The preambles hereto are incorporated herein by reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.

2. **Definitions.** All capitalized terms herein not otherwise defined shall have the same meanings as in the Note, Mortgage and other Loan Documents.

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3. **Acceptance and Release.** New Borrower hereby accepts all of Original Borrower's liabilities, responsibilities and obligations under the Loan and the Loan Documents and Original Borrower's liabilities, responsibilities and obligations under the Loan and the Loan Documents are hereby released. All references in the Loan Documents to Original Borrower shall mean and refer to New Borrower and the Loan Documents shall be deemed amended to conform to the terms and provisions hereof. New Borrower's execution of this Agreement shall be deemed as New Borrower's execution of the Loan Documents.

4. **Amendment to Note.** The Note is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

5. **Amendment to Mortgage.** The Mortgage is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and the Loan Documents effected hereby. Exhibit A to the Mortgage, being a copy of the Note, is hereby deemed amended to conform to the foregoing amendment to the Note.

6. **Amendment to Assignment.** The Assignment is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan documents effected hereby.

7. **Amendment to Guaranty.** The Guaranty is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

8. **Continued Priority.** In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest in the Premises otherwise junior in priority to the liens created by the Loan Documents shall gain superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.

9. **Title Insurance.** Concurrent with the execution and delivery hereof by Original Borrower, New Borrower and Guarantor, New Borrower agrees to provide Lender with an endorsement to its mortgagee's policy of title insurance (the "Title Policy"), which endorsement shall be acceptable to Lender and shall guarantee as of the date hereof that:

a. title to the Premises as referenced in Section 3 of Schedule A to the Title Policy shall reflect New Borrower;

b. there are no objections to title except (a) the objections to title other than real estate taxes reflected on the Title Policy, and (b) general real estate taxes for the year 2004 second installment and subsequent years;

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- c. reflects the recording of this Agreement;
- d. re-dates the effective date of the Title Policy to the date of recording of this Agreement; and
- e. together with other endorsements required by Lender.

10. **Lender Expenses.** New Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.


11. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

12. **Joinder of Guarantor.** Notwithstanding anything to the contrary contained herein, Guarantor has entered into this Agreement for the limited purpose of ratifying and confirming Guarantor's obligations under the Guaranty, as amended hereby, and to acknowledge that such document, as amended hereby remains in full force and effect.

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

**LENDER:**

**MB FINANCIAL BANK, N.A.**

By:   
 Name: Burt Off Johnson  
 Title: FIRST VICE PRESIDENT

**ORIGINAL BORROWER:**

**147TH-KEDZIE, L.L.C., an Illinois limited liability company**

By: \_\_\_\_\_  
 Evan Oliff, Manager

**NEW BORROWER:**

**2636 ORCHARD LLC, an Illinois limited liability company**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Its: \_\_\_\_\_

**GUARANTOR:**

\_\_\_\_\_  
**EVAN OLIFF**

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- c. reflects the recording of this Agreement;
- d. re-dates the effective date of the Title Policy to the date of recording of this Agreement; and
- e. together with other endorsements required by Lender.

10. **Lender Expenses.** New Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

11. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

12. **Joinder of Guarantor.** Notwithstanding anything to the contrary contained herein, Guarantor has entered into this Agreement for the limited purpose of ratifying and confirming Guarantor's obligations under the Guaranty, as amended hereby, and to acknowledge that such document, as amended hereby remains in full force and effect.

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

**LENDER:**

**MB FINANCIAL BANK, N.A.**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_


**ORIGINAL BORROWER:**

**147TH-KEDZIE, L.L.C., an Illinois limited liability company**

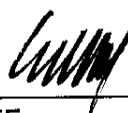
By:  \_\_\_\_\_  
 Evan Oliff, Manager

**NEW BORROWER:**

**2636 ORCHARD LLC, an Illinois limited liability company**

  
 By: \_\_\_\_\_  
 Name: THOMAS MORAN  
 Its: MARLEY

**GUARANTOR:**

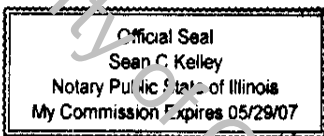
  
 \_\_\_\_\_  
 EVAN OLIFF

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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Bartlett Johnson, the First Vice President of **MB Financial Bank, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Bartlett Johnson, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of the **MB Financial Bank, N.A.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24 day of July, 2005.



Sean C. Kelley  
Notary Public

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Evan Oliff**, the Manager of **147th-Kedzie, 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 as such Manager, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said **147th-Kedzie, L.L.C.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

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STATE OF ILLINOIS     )  
   ) SS  
 COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that \_\_\_\_\_, the \_\_\_\_\_ of **MB Financial Bank, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of the **MB Financial Bank, N.A.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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

STATE OF ILLINOIS     )  
   ) SS  
 COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Evan Oliff**, the Manager of **147th-Kedzie, 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 as such Manager, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said **147th-Kedzie, L.L.C.**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 2nd day of July, 2005.

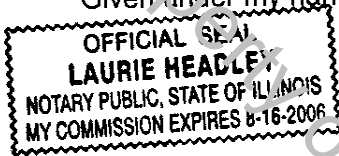
\_\_\_\_\_  
 Notary Public SEAL  
 Debra M. Woodrum  
 Notary Public, State of Illinois  
 My Commission Expires 10/30/07

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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thomas Morabito, the Manager of **2636 Orchard LLC**, an **Illinois limited liability company**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of said **2636 Orchard LLC**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26<sup>th</sup> day of July, 2005.

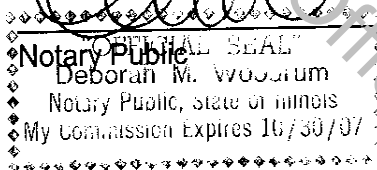


Laurie Headley  
Notary Public

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Evan Oliff**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20<sup>th</sup> day of July, 2005.



Evan Oliff  
Notary Public



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## EXHIBIT A

### LEGAL DESCRIPTION

Lot 45 and 46 in Block 3 in the subdivision of Out Lot "E" in Wrightwood, said Wrightwood being a Subdivision of the Southwest 1/4 of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

**Address of Property:** 2636-2638 North Orchard Street  
Chicago, IL 60614

**Permanent Index No.:** 14-28-303-048-0000

Property of Cook County Clerk's Office