

UNOFFICIAL COPY

DRAFTED BY, RECORDING
REQUESTED BY AND AFTER
RECORDING RETURN TO:



Doc#: 0615933212 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/08/2006 01:11 PM Pg: 1 of 10

MAYER, BROWN, ROWE & MAW LLP
71 S. Wacker Dr.
Chicago, Illinois 60606
Attn: Rex A. Palmer, Esq.

Property of Cook County Clerk's Office

FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

Dated as of June 5, 2006

Among

CHICAGO TITLE LAND TRUST COMPANY, not personally but solely as trustee
under Trust Agreement dated April 23, 1998 and known as Trust No. 1105116,
as Mortgagor

and

THE NORTHERN TRUST COMPANY, as Agent, as Mortgagee

Box 400-CTCC

10/9

8238906 D1MN

UNOFFICIAL COPY

FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

This FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Amendment"), is made as of June 5, 2006 by and among CHICAGO TITLE LAND TRUST COMPANY, not personally but solely as trustee (herein in such capacity, together with its successors in trust and assigns, the "Mortgagor"), under Trust Agreement dated April 23, 1998 and known as Trust No. 1105116 (the "Trust") having its offices at 171 North Clark Street, Chicago, Illinois 60601 (herein, together with its successors and assigns, the "Mortgagor"), having its office at 2011 North Southport Ave., Chicago, Illinois 60614, and THE NORTHERN TRUST COMPANY, as collateral agent, (herein in such capacity, together with its successors and assigns in such capacity, called the "Agent"), for itself and the other Lenders (defined below), located at 50 South LaSalle Street, Chicago, Illinois 60675.

RECITALS:

A. Original Credit Agreement and Amended and Restated Credit Agreement. A. Finkl & Sons Co. (the "Company"), the Agent, and certain financial institutions, as lenders, entered into a Credit Agreement dated as of October 18, 2004 (the "Original Credit Agreement"), pursuant to which the lenders agreed to make loans (the "Restated Loans") to and issue letters of credit for the account of the Company in the aggregate amount of up to \$24,000,000. The Original Credit Agreement was amended, restated and replaced by that certain Amended and Restated Credit Agreement (the "Amended and Restated Credit Agreement"), dated as of June 5, 2006, pursuant to which the lenders agreed to make loans to and issue letters of credit for the account of the Company in the aggregate amount of up to \$37,000,000. The Restated Loans are due and payable no later than October 16, 2006, and shall be evidenced by notes (collectively, the "Restated Notes" and individually a "Restated Note"), made by the Company in favor of the Lenders in the aggregate amount of \$37,000,000. The rate of interest payable on the Restated Loans varies from time to time as provided in the Amended and Restated Credit Agreement.

B. Original Mortgage. The Mortgagor executed and delivered to the Agent that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (as heretofore the "Original Mortgage"), dated as of October 18, 2004. The Original Mortgage was recorded on October 28, 2004 with the Cook County, Illinois Register of Deeds as Document No. 0430235243. The Original Mortgage encumbers the real estate described on Exhibit A hereto.

C. This Amendment. The Mortgagor and the Agent have agreed to enter into this Amendment so that the Original Mortgage will reflect the changes effected by the Amended and Restated Credit Agreement.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Mortgagor and the Agent agree as follows:

UNOFFICIAL COPY

1. The term "Credit Agreement" as used in the Original Mortgage shall mean the Amended and Restated Credit Agreement.
2. The term "Notes" as used in the Original Mortgage shall mean the Restated Notes, and the term "Note" shall mean a Restated Note.
3. The term "Loans" as used in the Original Mortgage shall mean the Restated Loans.
4. The term "Loan Amount" as used in the Original Mortgage shall mean \$37,000,000.00.
5. All references in the Original Mortgage to the "Mortgage" shall be deemed to mean and include the Original Mortgage as amended hereby.
6. The obligations serviced by the Original Mortgage as amended hereby shall include all obligations of the Mortgagor to the Lenders with respect to the Amended and Restated Credit Agreement, Restated Loans, and Restated Notes.
7. Any capitalized terms not defined herein shall have the meaning ascribed to such terms in the Original Mortgage.
8. The Mortgagor expressly agrees and understands that this Amendment shall not be construed as a novation of the Original Mortgage.
9. The Original Mortgage, as supplemented and amended hereby, is ratified and confirmed in its entirety by the Mortgagor.
10. Except as and to the extent amended by this Amendment, the Original Mortgage and all of the terms, conditions and provisions thereof shall, in all respects, remain unmodified and unchanged and are hereby reaffirmed, ratified and confirmed and shall remain in full force and effect.
11. This Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.
12. This Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment.
12. This Amendment is executed by CHICAGO TITLE LAND TRUST COMPANY, not personally, but 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 the said trustee personally to pay any indebtedness under the Original Credit Agreement, the Amended and Restated Credit Agreement, the Restated Notes, the Original Mortgage and this Amendment (collectively, the "Loan Documents") or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained by and between

UNOFFICIAL COPY

the parties hereto. Anything herein to the contrary notwithstanding, each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the trustee, while in form purporting to be warranties, indemnities, representations, covenants, undertakings and agreements of said trustee, are nevertheless each and every one of them made and intended, not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the trustee or for the purpose or with the intention of binding said trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said trustee not in its own right, but solely in the exercise of the powers conferred upon it as such trustee. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, the trustee on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of said trustee in this instrument contained, either expressly or implied, all such personal liability, if any, being expressly waived and released by any holder and by every person now or hereafter claiming any right or security hereunder, and that so far as trustee is personally concerned, the legal holder or holders of the Obligations and the owner or owners of any indebtedness accruing hereunder or thereunder shall look to the Collateral and to any other security given for the indebtedness evidenced by the Guaranty and the Loan Documents.


UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned have executed this Mortgage on the day and year first above written.

CHICAGO TITLE LAND TRUST COMPANY,
not personally but solely as trustee under Trust
Agreement dated April 23, 1998 and known as
Trust No. 1105116

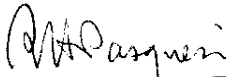
By: *Lynda S. Barrie*
Name: LYNDA S. BARRIE
Title: ASST. VICE PRESIDENT

Property of Cook County Clerk's Office



UNOFFICIAL COPY

THE NORTHERN TRUST COMPANY, as
Collateral Agent

By: 
Name: Rebecca H. Pasquesi
Title: Vice President

This instrument was prepared
by and after recordation should
be returned to:

Rex A. Palmer, Esq.
Mayer, Brown, Rowe & Maw LLP
71 S. Wacker Dr.
Chicago, Illinois 60606

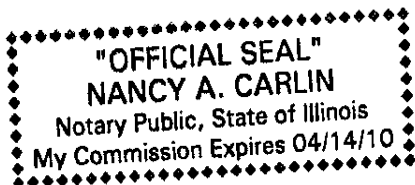


UNOFFICIAL COPY

STATE OF IL)
) SS.
COUNTY OF Cook)

I, the undersigned, a Notary Public, do hereby certify that LYNDA S. BARRIE, personally known to me to be the ASST. VICE PRESIDENT of CHICAGO TITLE LAND TRUST COMPANY, a ASST. VICE PRESIDENT, and personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day in person and acknowledged that as such _____ he signed and delivered the said document as _____ of said _____, pursuant to authority given by the Board of Directors of said _____ as his free and voluntary act, and as the free and voluntary act and deed of said _____, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 2nd day of June, 2006.



Nancy A Carlin

Notary Public

Type or Print Name: _____

My commission expires:

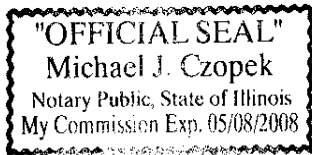
UNOFFICIAL COPY

STATE OF Illinois)
) SS.
COUNTY OF DeWage)

I, Michael J. Czopek, a Notary Public, do hereby certify that Rebecca H. Pasquesi, personally known to me to be the Vice-President of THE NORTHERN TRUST COMPANY and personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day in person and acknowledged that as such Vice-President she signed and delivered the said document as Vice-President of said association pursuant to authority given by the Board of Directors of said association as her free and voluntary act, and as the free and voluntary act and deed of said association, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 15 day of June, 2006.

Michael J. Czopek
Notary Public



Type or
Print Name: Michael J. Czopek

My commission expires:

5/8/2008

UNOFFICIAL COPY

EXHIBIT A

LAND



UNOFFICIAL COPY

EXHIBIT-A

LEGAL DESCRIPTION

(Chicago Title Land Trust Number 1105116)

LOTS 3 TO 10 AND LOT 40 IN BLOCK 3 IN W. F. DOMINICK'S SUBDIVISION OF LOTS 1, 2 AND 3 OF BLOCK 14 OF SHEFFIELD'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN SECTIONS 29, 31, 32 AND 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

14-32-123-032

14-32-123-033

14-32-123-034

14-32-123-035

14-32-123-029

Cook County Clerk's Office