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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/06/2006 03:24 PM Pg: 1 of 11

This Document Prepared by and
After Recording Return To:

Thomas G. Jaros
Levenfeld Pearlstein, LLC
2 North LaSalle Street
Suite 1300
Chicago, Illinois 60602

FIFTH MODIFICATION OF LOAN DOCUMENTS

THIS FIFTH MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 1st day of September, 2006, by and among **PFC VENTURE II, L.L.C.**, an Illinois limited liability company ("Borrower"), **GEORGE J. CIBULA** ("Guarantor") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan (the "1999 Loan") to Borrower in the original principal amount of One Million Eight Hundred Twenty-Five Thousand and no/100ths Dollars (\$1,825,000.00) which is evidenced by that certain Mortgage Note dated July 15, 1999 from Borrower to Lender (the "1999 Note"). Pursuant to that certain Guaranty dated July 15, 1999 from Guarantor to Lender (the "1999 Guaranty"), Guarantor has guaranteed the repayment of a portion of the 1999 Loan.

B. The 1999 Loan is also secured by the mortgages, liens and security interests created by, arising under or relating to:

- (i) that certain Mortgage made by Borrower in favor of Lender dated July 15, 1999 and recorded with the Cook County Recorder on July 20, 1999 as document number 99689180 (the "1999 Mortgage") relating to the properties commonly known as 1025 Lunt, Schaumburg, Illinois and 706-712 Morse, Schaumburg, Illinois (the "1999 Properties") legally described on EXHIBIT A hereto;
- (ii) that certain Assignment of Rents and Leases made by Borrower in favor of Lender dated July 15, 1999 and recorded with the Cook County Recorder on July 20, 1999 as document number 99689181 (the "1999 Assignment") relating to the 1999 Properties;
- (iii) any of the other "1999 Loan Documents" (as defined below).

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The term "1999 Loan Documents" as used herein shall mean a collective reference to the 1999 Note, the 1999 Guaranty, the 1999 Mortgage, the 1999 Assignment and all indemnities, guarantees, certificates, security agreements, assignments and other documents or agreements delivered in connection with the 1999 Note or the 1999 Properties, and all replacements, renewals, amendments, modifications or substitutions thereto. Notwithstanding the foregoing, Lender acknowledges that it has previously released the properties commonly known as 736-800 Estes Avenue, Schaumburg, Illinois and 1343-45 Lakeside, Romeoville, Illinois from the liens created by the 1999 Loan Documents and such properties do not serve as collateral for the 1999 Loan evidenced thereby.

C. Prior to the date hereof, Borrower, Lender and Guarantor have executed the following agreements which modified the terms of the 1999 Loan Documents:

- (i) that certain Modification of Loan Documents dated July 11, 2002 which was recorded with the Cook County Recorder against the 1999 Properties on July 26, 2002 as document number 0020821786 (the "First Modification")
- (ii) that certain Second Modification of Loan Documents dated July 10, 2005 which was recorded with the Cook County Recorder against the 1999 Properties on October 4, 2005 as document 0527710102 (the "Second Modification");
- (iii) that certain Third Modification of Loan Documents dated October 10, 2005 which was not recorded against the 1999 Properties (the "Third Modification"); and
- (iv) that certain Fourth Modification of Loan Documents dated January 10, 2006 which will be recorded against the 1999 Properties immediately prior to the recording of this Agreement (the "Fourth Modification")

D. Pursuant to the terms of the First Modification, Lender made an additional loan to Borrower referred to in the First Modification as the "2002 Loan". Prior to the date hereof, the 2002 Loan has been repaid to Lender in full. Concurrent with such repayment, the "2002 Property" (as defined in the First Modification) was released from the liens created by the "2002 Loan Documents" (also as defined in the First Modification).

E. Notwithstanding the repayment of the 2002 Loan, the 1999 Loan remains outstanding and continues to be secured by the terms and provisions of the 1999 Loan Documents.

G. Concurrent with the execution of this Agreement, Lender has agreed to modify certain terms and provisions of the 1999 Loan and Borrower and Lender desire to modify the 1999 Loan Documents to provide for such on the terms set forth herein.

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AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreement by Lender to modify the terms of the 1999 Loan as set forth herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Modifications to 1999 Loan and 1999 Loan First Renewal Note. Upon satisfaction of all conditions precedent set forth herein, Lender hereby agrees that the interest rate to be charged on amounts outstanding under the 1999 Loan shall begin to bear interest at the rate(s) set forth in that certain First Renewal Mortgage Note dated September 1, 2006 made by Borrower in favor of Lender in the original principal amount of \$700,000.00 (the '1999 Loan First Renewal Note'). Additionally, as set forth in the 1999 Loan First Renewal Note, the amortization period for the repayment of the outstanding principal balance of the 1999 Loan shall be recalculated on a 25 year basis. The maturity date of the 1999 Loan, however, shall remain July 1, 2009. The 1999 Loan First Renewal Note is being executed and delivered in substitution, renewal, amendment and replacement of (but not in payment of) the 1999 Note. All amounts outstanding under the 1999 Note as of the date hereof shall be deemed outstanding under the 1999 Loan First Renewal Note. The term "Note" as used in the 1999 Loan Documents shall be redefined to refer to the 1999 Loan First Renewal Note executed in connection herewith (and any amendments, renewals, substitutions or replacements thereto).

2. Conditions Precedent. The terms and provisions of this Agreement shall be subject to the continued satisfaction of the following conditions precedent:

- (a) There shall be no Event of Default under the Loan Documents.
- (b) Borrower (and Guarantors, where applicable) shall execute and deliver this Agreement and the 1999 Loan First Renewal Note to be delivered hereunder.
- (c) Borrower shall pay to Lender: (i) a payment of principal on the 1999 Loan sufficient to reduce the outstanding principal balance of the 1999 Loan to an amount equal to the face amount of the 1999 Loan First Renewal Note (the 'Required Principal Paydown'); and (ii) all accrued and unpaid interest owed to Lender under the Loan as of the date of the funding of the 1999 Loan First Renewal Note.
- (d) Borrower shall (at its expense) cause a date down endorsement to be issued to Lender with respect to its title insurance policy insuring the 1999 Mortgage, as amended, in form and substance acceptable to Lender.

3. Release of Cross-Default/Cross-Collateralization

- (a) By virtue of the repayment of the 2002 Loan, Borrower, Guarantor and Lender hereby agree that the cross-default and cross-collateralization provisions set forth in the First Modification shall be terminated and released. Nothing herein, however, shall be construed as

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releasing the 1999 Mortgage or any of the security interests created by the 1999 Loan Documents.

(b) Borrower authorizes and directs Lender to withdraw the Required Principal Paydown from the amounts on deposit in that certain cash collateral account owned by Borrower and held by Lender known as account number #8601443156 (the "Pledged Account") which is being held as additional collateral for the 1999 Loan. Upon application of the Required Principal Paydown against the outstanding balance of the 1999 Loan as set forth in Section 2(c), above, Lender hereby releases its pledge against the Pledge Account. Any additional proceeds available in the Pledged Account shall be disbursed to Borrower after the making of the Required Principal Paydown.

4. 1999 Guaranty Amendment. Guarantor and Lender agree that, effective with the execution of this Agreement:

(a) the term "Note" as used in the 1999 Guaranty shall mean and refer to the 1999 Loan First Renewal Note; and

(b) the first sentence of Section 1 of the 1999 Guaranty is hereby amended in its entirety to now read as follows:

"1. Guaranty of Payment. Guarantor hereby unconditionally and irrevocably guaranties to Lender the punctual payment and performance, whether at stated maturity or by acceleration or otherwise, of the indebtedness and other obligations of Borrower to Lender evidenced by the Note and any other amounts that may become owing by Borrower under the Loan Documents, up to a maximum of \$210,000, subject to paragraph 2 below (such indebtedness, obligations and other amounts are hereinafter referred to as "Borrower's Obligations)."

and the balance of said Section 1 shall remain unmodified.

(c) the opening clause of Section 2 of the 1999 Guaranty is hereby amended in its entirety to now read as follows:

"2. Limitation on Liability. Notwithstanding anything hereinabove set forth to the contrary, the aggregate liability of Guarantor under this Guaranty shall be limited to \$210,000, provided that at all times prior to the payment in full of the Borrower's Obligations, Guarantor shall have:"

and the balance of said Section 2 (including subsections (a) and (b) thereof) shall remain unmodified.

5. Amendments. In order to effectuate the terms of this Agreement, Borrower and Lender hereby agree that the 1999 Loan Documents shall hereby be amended consistent with the terms of this Agreement. Borrower acknowledges that no separate amendment to each shall be

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necessary to effectuate the amendments provided for herein. Except as modified by or as otherwise expressly provided for in this Agreement, the 1999 Loan Documents shall remain in full force and effect, will remain binding and enforceable, against Borrower and Guarantor in accordance with their respective terms and shall be unaffected and in no way be released, mitigated, or discharged as a result of this Agreement. In the event of a conflict between the terms of the 1999 Loan Documents and the terms of this Agreement, the terms of this Agreement shall control.

6. Representations and Warranties of Borrower. Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the 1999 Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default under any of the 1999 Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under any of the 1999 Loan Documents.

(c) The 1999 Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) Borrower does not possess any claims, defenses, offsets or counterclaims against the Lender (or its officers, directors, shareholders, agents or employees) relating to the 1999 Loan Documents or any security interest granted by Borrower in favor of Lender with respect thereto. Further, Borrower does not have any knowledge of any facts that would give rise to any such claims, defenses, offsets or counterclaims against the Lender (or its officers, directors, shareholders, agents or employees). In the event there exists any facts that would give rise to any claim, defense, offset or counterclaim against or with respect to the 1999 Loan Documents or any security interest granted by Borrower in favor of Lender with respect thereto, Borrower hereby unconditionally, irrevocably, and unequivocally waives and fully releases Lender (and its officers, directors, shareholders, agents or employees) of any such claim, defense, offset or counterclaim to the same extent as if such claims were the subject of a lawsuit adjudicated to conclusion and dismissed with prejudice.

(e) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and the 1999 Loan First Renewal Note.

(f) The face amount of the 1999 Loan First Renewal Note is equal to the principal amount outstanding under the 1999 Loan as of the date hereof (excluding accrued interest and charges) and such amount is absolutely owed by Borrower without any counter-claim, defense or set-off.

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7. Reaffirmation of Guaranty. Guarantor ratifies and affirms that the 1999 Guaranty (as amended hereby) is in full force and effect following the execution and delivery of this Agreement. Guarantor consents and agrees to the terms of this Agreement. Guarantor consents, acknowledges and agrees that all obligations of the Borrower under the 1999 Loan First Renewal Note shall be deemed to be included within the term "Borrower's Obligations" as such term is used and defined in the 1999 Guaranty (as amended hereby). The representations and warranties of Guarantor in the 1999 Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The 1999 Guaranty (as amended hereby) continues to be the valid and binding obligation of Guarantor, enforceable in accordance with their respective terms, as amended hereby. Guarantor has no knowledge of any claims, defenses, offsets or counterclaims against Lender relating to the 1999 Guaranty (as amended hereby) and, to the extent such exists, Guarantor hereby unconditionally, irrevocably and unequivocally waives and fully releases Lender (and its officers, directors, shareholders, employees and agents) of any such claim, defense, offset or counterclaim.

8. Expenses. As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, all attorneys' fees and expenses.

9. Notice Addresses. The 1999 Loan Documents and, more particularly Section 24 of the 1999 Mortgage, are hereby amended to provide that notices to be delivered upon Lender and Borrower under the 1999 Loan Documents shall be delivered to the following addresses:

If to Lender: LaSalle Bank National Association
135 South LaSalle Street
Chicago, Illinois 60633
Attn: Maria Alexakis

With a copy to: Thomas G. Jaros
Levenfeld Pearlstein, LLC
2 North LaSalle Street
Suite 1300
Chicago, Illinois 60602

If to Borrower: PFC Venture II, L.L.C.
970 N. Oaklawn Avenue
Elmhurst, IL 60126
Attn: George J. Cibula

With a copy to: Thomas G. Moffitt
Stahl Cowen Crowley LLC
55 W. Monroe St.
Suite 1200
Chicago, IL 60603

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10. Miscellaneous.

- (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.
- (b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.
- (c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.
- (d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the 1999 Loan Documents, the 2007 Loan Documents, the First Modification, the Second Modification, the Third Modification, the Fourth Modification and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the 1999 Loan Documents are and remain unmodified and in full force and effect.
- (e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.
- (f) The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.
- (g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.
- (h) Time is of the essence of each of Borrower's obligations under this Agreement.

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(i) Bank hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Bank's policies and practices, Bank is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Bank to identify Borrower in accordance with the Act. In addition, Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls Borrower or any subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

IN WITNESS WHEREOF, this Fifth Modification of Loan Documents has been executed and delivered as of the date first written above.

BORROWER:

PFC VENTURE II, L.L.C., an Illinois limited liability company

By: 

Name: George J. Cibula

Title: Manager



GEORGE J. CIBULA

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By: 

Name: **MARIA ALEXAKIS**

Title: **FVP**

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ACKNOWLEDGEMENT (Borrower)

STATE OF ILLINOIS)
) SS.
COUNTY OF DuPage)

I, Cathy Radek, a Notary Public in and for said County, in the State aforesaid, do hereby certify that George J. Cibula, the Manager of PFC VENTURE II, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Manager, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 31st day of August, 2006.



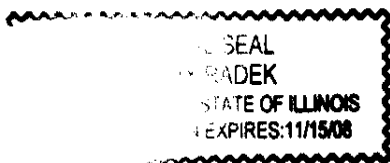
Cathy Radek
Notary Public

ACKNOWLEDGEMENT (Guarantor)

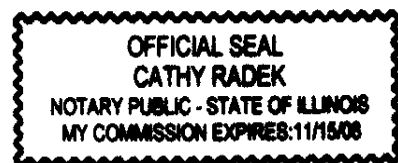
STATE OF ILLINOIS)
) SS.
COUNTY OF DuPage)

I, Cathy Radek, a Notary Public in and for said County, in the State aforesaid, do hereby certify that GEORGE J. CIBULA, who is 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/she signed and delivered the said instrument as his/her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 31st day of August, 2006.



Cathy Ra
Notary Public



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ACKNOWLEDGEMENT (Lender)

STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, Maria T. Esparza, a Notary Public in and for said County in the State aforesaid, do hereby certify that Maria K. Alexais, a First Vice President of **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, who is personally known to be to be the same person whose name is subscribed to the foregoing instrument as such First Vice President, appeared before me this day in person and acknowledged that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes set forth therein.

Given under my hand and notarial seal on the 5th day September, 2006.

Maria T. Esparza

 Notary Public



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EXHIBIT A

Legal Descriptions

(1025 Lunt)

LOTS 8 AND 9 IN BLOCK 7 IN CENTEX-SCHAUMBURG INDUSTRIAL PARK UNIT 39, BEING A SUBDIVISION OF THAT PART OF THE NORTH ½ OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

PIN:

COMMON ADDRESS: 1025 LUNT AVENUE, SCH AUMBURG, IL

(706-712 Morse)

LOT 35 IN BLOCK 3 IN CENTEX-SCHAUMBURG INDUSTRIAL PARK UNIT 116, BEING A SUBDIVISION IN THE NORTH ½ OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON NOVEMBER 13, 1974 AS DOCUMENT NUMBER LR 2783019, IN COOK COUNTY, ILLINOIS

PIN:

COMMON ADDRESS: 706-712 MORSE AVENUE, SCH AUMBURG, IL