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This Document Prepared By

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Return to
Freedom Title Corporation
2240 Hicks Road
Suite 240
Rolling Meadows, IL 60008



Doc#: 0625549076 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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CL # 231

SECOND MODIFICATION AND EXTENSION AGREEMENT

THIS SECOND MODIFICATION AND EXTENSION AGREEMENT is made as of the 2nd day of July, 2006, by and between CHICAGO TITLE LAND TRUST COMPANY, not personally, but as Successor Trustee to LASALLE BANK NATIONAL ASSOCIATION, as Trustee under Trust Agreement dated August 3, 2001 and known as Trust No. 127980 (the "**Drexel Trust**"), LE-NA ENTERPRISES, an Illinois general partnership ("**Le-Na**") (the Drexel Trust and Le-Na are sometimes hereinafter jointly and severally referred to as "**Borrower**"), EKEH LEWIS, individually ("**Lewis**"), PHYLLIS NASH, individually ("**Nash**"), and FIFTH THIRD BANK (CHICAGO), a Michigan banking corporation ("**Lender**");

WITNESSETH:

WHEREAS, the Drexel Trust owns fee simple title to the parcel of real estate commonly known as 3967-69 South Drexel Avenue, Chicago, Illinois, as legally described in Exhibit A attached hereto ("**Drexel Property**");

WHEREAS, Lewis and Nash, as joint tenants, own fee simple title to the parcel of real estate commonly known as 2223 West Washburne Avenue, Chicago, Illinois, as legally described on Exhibit B attached hereto (the "**Washburne Property**");

WHEREAS, on July 2, 2004, CHICAGO TITLE LAND TRUST COMPANY, not personally, but as Successor Trustee to LASALLE BANK NATIONAL ASSOCIATION, as Successor Trustee to American National Bank and Trust Company, not personally, but as Trustee under Trust Agreement dated November 24, 1998 and known as Trust No. 124683-02 (the "**King Drive Trust**") owned fee simple title to the parcel of real estate commonly known as 4934-36 South King Drive, Chicago, Illinois, as legally described on Exhibit C attached hereto (the "**King Drive Property**");

WHEREAS, on or about July 2, 2004, Lender made a construction loan ("**Loan**") to Borrower in the amount of ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,325,000.00) (the "**Loan Amount**") to finance the development and condominium conversion of a 16-unit residential apartment building on the Drexel Property into a five (5) unit residential condominium building (the "**Project**");

WHEREAS, the Loan is evidenced and secured by the following instruments, each dated as of July 2, 2004, unless otherwise noted ("**Loan Documents**");

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1. Construction Loan Agreement executed by and between Borrower and Lender (the "**Loan Agreement**").
2. Construction Note made by Borrower payable to Lender in the amount of ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$1,325,000.00) (the "**Note**").
3. Construction Mortgage from the Drexel Trust to Lender encumbering the Drexel Property, and recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542043 ("**Drexel Mortgage**").
4. Assignment of Rents and Leases from Borrower to Lender affecting the Drexel Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542044.
5. Mortgage, Security Agreement and Financing Statement executed by Lewis and Nash encumbering the Washburne Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542049 ("**Washburne Mortgage**").
6. Assignment of Rents executed by Lewis and Nash affecting the Washburne Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542050.
7. Second Mortgage executed by the King Drive Trust encumbering the King Drive Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542042 ("**King Drive Mortgage**").
8. Guaranty of payment made by Lewis to and for the benefit of Lender.
9. Guaranty of Completion and Performance made by Lewis to and for the benefit of Lender.
10. Security Agreement (Assignment of Beneficial Interest) made by Le-Na, collaterally assigning one hundred percent (100%) of the beneficial interest in and to the Drexel Trust to Lender.
11. Environmental Indemnity Agreement from Le-Na and Lewis to Lender covering the Drexel Property.
12. Collateral Assignment of Architect's Contract from Borrower to Lender.
13. Collateral Assignment of Construction Contracts from Borrower to Lender.
14. Hypothecation Agreement from Lewis and Nash to Lender affecting the Washburne Property.
15. UCC Financing Statement filed with the Illinois Secretary of State on July 27, 2004 as Document No. 8931100.
16. UCC Financing Statement affecting the Drexel Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542045.

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17. UCC Financing Statement affecting the Washburne Property, recorded in the Cook County Recorder's Office, Cook County, Illinois on July 23, 2004 as Document No. 0420542046.
18. Collateral Assignment of Sale Contracts executed by Borrower;
19. Collateral Assignment of Construction Contracts executed by Borrower;
20. Collateral Assignment of Architect's Contract executed by Borrower; and
21. Disbursement Authorization.

WHEREAS, fee simple title to the King Drive Property was conveyed by the King Drive Trust to Nash by a Trustee's Deed dated November 4, 2005, recorded in the Cook County Recorder's Office, Cook County, Illinois on December 7, 2005 as Document No. 0534104159;

WHEREAS, Lender entered into a Subordination Agreement dated October 28, 2005, recorded in the Cook County Recorder's Office, Cook County, Illinois on December 7, 2005 as Document No. 0534104162 (the "**Subordination Agreement**"), whereby Lender's security interest in the King Drive Property was subordinated to the security interest of First Midwest Bank, an Illinois banking corporation;

WHEREAS, the parties hereto executed that certain Modification and Extension Agreement dated January 2, 2006, recorded in the Cook County Recorder's Office, Cook County, Illinois on February 23, 2006 as Document No. 0605449112 (the "**First Modification Agreement**"), whereby, among other things, the Maturity Date was extended to July 2, 2006;

WHEREAS, as of the date hereof, there is a principal balance outstanding on the Note in the approximate amount of NINE HUNDRED SIXTY THOUSAND FIVE HUNDRED THIRTY AND NO/100 DOLLARS (\$960,530.00) and there remains an available balance in the Interest Reserve Account (as defined in Section 3.1(c) of the Loan Agreement) in the approximate amount of SEVEN THOUSAND AND NO/100 DOLLARS (\$7,000.00);

WHEREAS, Borrower, Lewis and Nash, as applicable, have requested Lender to modify and amend certain terms and provisions of the Loan Documents in order to, among other things, extend the Maturity Date of the Loan to October 2, 2006;

WHEREAS, Lender is willing to grant Borrower's, Lewis' and Nash's requests on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. **Extension Fee.** Simultaneously with the execution of this Agreement, Borrower shall pay to Lender the a non-refundable extension fee in the amount of NINE-HUNDRED AND NO/100 DOLLARS (\$900.00), plus any and all third party costs incurred by Lender in connection with the preparation, negotiation and perfection of this Agreement, including recording and title charges.

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2. **Modification of Loan Documents.** Subject to the terms and provisions herein contained, and subject to the payment of the Extension Fee described in Paragraph 1 hereof, the Loan Agreement and the corresponding provisions of the other Loan Documents shall be modified and amended, effective as of the date hereof, so as to provide that the Maturity Date of the Loan is hereby extended to October 2, 2006; provided, however, that Borrower shall have the option (the "**Extension Option**"), so long as no Event of Default or Unmatured Default shall exist or have occurred under the Loan Documents, to further extend the Maturity Date to January 2, 2007. Borrower may exercise the Extension Option by delivering written request to Lender not more than thirty (30) nor less than fourteen (14) days prior to the Maturity Date.

3. **Interest Reserve.** Borrower hereby acknowledges and agrees that simultaneously with the execution of this Agreement, and as a condition precedent to the extension of the Maturity Date of the Loan as herein provided, Borrower shall deposit into the Interest Reserve Account (as defined in the Loan Agreement) an amount not less than TWENTY-THREE THOUSAND AND NO/100 DOLLARS (\$23,000.00), which amount shall be held as additional collateral for the Loan and disbursed by Lender from time to time to pay accrued interest on the Loan in accordance with the terms of the Loan Agreement.

4. **Reaffirmation of Loan Documents.** Except as expressly herein provided, Borrower, Lewis, Nash and Lender hereby reaffirm and incorporate herein by reference each and every term, provision, representation and warranty contained in the Loan Documents, and Borrower, Lewis, Nash and Lender agree that said terms, provisions, representations and warranties shall remain in full force and effect.

5. **Reaffirmation of Guaranty.** Lewis hereby consents to the terms and conditions of this Agreement, and further reaffirms the Guaranty and agrees that it shall continue to secure the Loan, as modified hereby.

6. **Reaffirmation of Subordination of King Drive Mortgage.** Lender hereby acknowledges and agrees that the King Drive Mortgage remains subject and subordinate to the interests of First Midwest Bank pursuant to the terms and conditions of the Subordination Agreement.

7. **Conditions Precedent.** The parties agree that Lender's obligations under this Agreement shall be subject to the Lender's receipt of the following:

- (a) This fully executed Agreement.
- (b) Borrower's payment of the Extension Fee and the costs and expenses of this Agreement.
- (c) Evidence satisfactory to Lender of satisfaction and release of the judgment entered in favor of the City of Chicago in the amount of \$10,600.00 against Le-Na, a memorandum of which was recorded in the Cook County Recorder's Office, Cook County, Illinois on June 23, 2006 as Document No. 0617441093.
- (d) Borrower's deposit of the sum of \$23,000.00 into the Interest Reserve Account pursuant to Paragraph 3 hereof.

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8. **No Defenses.** Borrower, Lewis and Nash, as applicable, represent to Lender that they have no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever against Lender in connection with the Loan Documents or any amendments to said documents or any action taken or not taken by the Lender with respect thereto or with respect to the collateral. Without limiting the generality of the foregoing, Borrower, Lewis and Nash, as applicable, hereby release and forever discharge Lender, its affiliates, and each of its officers, agents, employees, attorneys, insurers, successors and assigns, from any and all liabilities, or causes of action, known or unknown, arising out of any action or inaction with respect to the Loan Documents.

9. **Disclaimer.** Borrower, Lewis and Nash expressly disclaim any reliance on any oral representation made by Lender with respect to the subject matter of this Agreement. Borrower, Lewis and Nash acknowledge and agree that Lender is specifically relying upon the representations, warranties, releases and agreements contained herein, and that this Agreement is executed by Borrower, Lewis and Nash and delivered to Lender as an inducement to extend the Maturity Date of the Loan to Borrower.

10. **Costs.** Borrower agrees to pay upon demand all of Lender's out-of-pocket expenses, including attorneys' fees, incurred in connection with this Agreement. Lender may pay someone else to help collect the loans secured by the Loan Documents and to enforce the Loan Documents and the Borrower will pay that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and legal expenses, whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also will pay any court costs, in addition to all other sums provided by law.

11. **Jurisdiction, Jury Waiver.** This Agreement has been delivered to Lender and accepted by Lender in the State of Illinois. If there is a lawsuit, under the Loan Documents, this Agreement, Borrower, Lewis and Nash agree upon Lender's request to submit to the jurisdiction of the courts of Cook County, the State of Illinois. **LENDER, BORROWER, LEWIS AND NASH HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER LENDER, BORROWER, LEWIS OR NASH AGAINST THE OTHERS.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

12. **Successors and Assigns.** All covenants and agreements contained by or on behalf of Borrower, Lewis and Nash, as applicable, shall bind their respective successors and assigns and shall inure to the benefit of Lender, its successors and assigns. Borrower, Lewis and Nash, as applicable, shall not, however, have the right to assign their rights under this Agreement or the Loan Documents or any interest therein, without the prior written consent of Lender.

13. **Counterparts.** This Agreement may be executed by the parties hereto in any number of counterparts, each of which shall constitute an original document, and all of which when taken together shall constitute one and the same agreement.

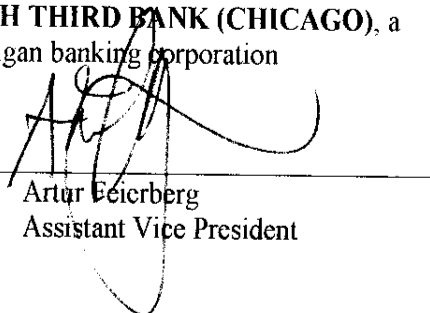
[signature page follows]

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IN WITNESS WHEREOF, Lender has caused these presents to be executed the day and year first above written.

FIFTH THIRD BANK (CHICAGO), a
Michigan banking corporation

By: _____

A handwritten signature in black ink, appearing to read 'Artur Eieberg', is written over a horizontal line. The signature is stylized and somewhat cursive.

Artur Eieberg
Assistant Vice President

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STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that GLENN J. RICHTER TRUST OFFICER, ~~and~~ _____, ~~as~~ _____, of CHICAGO TITLE LAND TRUST COMPANY, is the same persons whose names are subscribed to the foregoing instrument as such TRUST OFFICER and _____, appeared before me this day in person and acknowledged to me that they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth; and the said TRUST OFFICER then and there acknowledged that the custodian of the corporate seal of said Trustee, did affix the seal of said Trustee to said instrument as the free and voluntary act of said TRUST OFFICER and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of July, 2006



Natalie Foster
NOTARY PUBLIC

My Commission Expires:
4/26/09

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STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that PHYLLIS NASH, as Partner of **LE-NA ENTERPRISES**, an Illinois general partnership, is personally known to me to be a Partner as aforesaid, and is the same person whose name is subscribed to the foregoing instrument as such Partner, appeared before me this day in person and acknowledged to me that she signed and delivered the said instrument as her own free and voluntary act and the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of July, 2006

Beverly Haynes-Silas

NOTARY PUBLIC



My Commission Expires:
4/15/09

County Clerk's Office

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STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **PHYLLIS NASH**, being the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of July, 2006

Beverly Haynes-Silas
 NOTARY PUBLIC

My Commission Expires:
4/15/08



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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that ARTUR FEIERBERG, personally known to me to be the Assistant Vice President of **FIFTH THIRD BANK (CHICAGO)**, a Michigan banking corporation, personally appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of July, 2006.

Beverly Haynes-Silas
NOTARY PUBLIC

My Commission Expires:
4/15/06



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EXHIBIT A

LEGAL DESCRIPTION – DREXEL PROPERTY

LOTS 3 AND 4 IN CLEAVER'S SUBDIVISION OF LOTS 5, 6, 7 AND 8 (EXCEPT THE NORTH 10 FEET OF SAID LOT 8) IN C.C.P. FREER'S SUBDIVISION OF BLOCK 6 IN CLEAVERVILLE IN SECTION 2, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 3967-69 South Drexel Avenue
Chicago, Illinois 60653

Permanent Index No.: 20-02-102-007
20-02-102-006

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EXHIBIT B

LEGAL DESCRIPTION - WASHBURNE PROPERTY

LOTS 59 AND 60 IN CROZIER'S SUBDIVISION OF BLOCK 7 IN SECTION 19, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common address: 2223 West Washburne Avenue
Chicago, Illinois 60608

Permanent Index Nos.: 17-09-105-014-0000
17-09-105-015-0000

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EXHIBIT C

LEGAL DESCRIPTION – KING DRIVE PROPERTY

THE NORTH 37-1/2 FEET OF LOT 2 IN BLOCK 1 IN HARDIN'S SUBDIVISION OF THE EAST 1/2 OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common address: 4934-4936 South King Drive
Chicago, Illinois 60615

Permanent Index No.: 20-10-117-017-0000

G:\CLIENTS\FIFTH THIRD BANK (1996)\LE-NA ENTERPRISES - 3927 N. DREXEL (305) SECOND MODIFICATION AND EXTENSION AGREEMENT.DOC

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