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This Document Prepared By :

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Doc#: 0628655095 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/13/2006 12:15 PM Pg: 1 of 10

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

For Recorder's Use Only

MODIFICATION AND EXTENSION AGREEMENT

6881648-1916
CC 2311
(70 Harbor Street, Glencoe, Illinois)

THIS MODIFICATION AND EXTENSION AGREEMENT is made as of the 27th day of October, 2005, by and between FAINA LOYFMAN, not personally, but as Trustee under the FAINA LOYFMAN REVOCABLE TRUST AGREEMENT dated August 30, 1999 ("**Borrower**") MICHAEL LOYFMAN, also known as MIKHAIL LOYFMAN and FAINA LOYFMAN, individually, (hereinafter jointly and severally referred to as the "**Guarantors**"), and FIFTH THIRD BANK (CHICAGO), a Michigan banking corporation ("**Lender**").

WITNESSETH:

WHEREAS, on or about August 31, 2005, Lender made a construction loan ("**Loan**") to Borrower in the amount of THREE MILLION EIGHT HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$3,840,000.00) (the "**Loan Amount**") to finance the construction and development of a speculative 11,560 square foot custom single family home upon the parcel of real estate commonly known as 70 Harbor Street, Glencoe, Illinois, as legally described in Exhibit A attached hereto ("**Property**");

WHEREAS, the Loan is evidenced and secured by the following instruments, each dated as of August 31, 2005, unless otherwise noted ("**Loan Instruments**");

1. Construction Loan Agreement executed by and between Borrower, Guarantors and Lender (the "**Loan Agreement**");
2. Construction Note made by Borrower payable to Lender in the amount of THREE MILLION EIGHT HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$3,840,000.00) (the "**Note**");
3. Construction Mortgage from Borrower to Lender covering the Property, and recorded in the Cook County Recorder's Office, Cook County, Illinois on 10/4, 2005 as Document No. 057742143 ("**Mortgage**");
4. Assignment of Rents and Leases from Borrower to Lender, recorded in the Cook County Recorder's Office, Cook County, Illinois on 10/4, 2005 as Document No. 057742144 ("**Assignment of Rents**");
5. Guaranty of payment and performance made by the Guarantors to Lender;

FREEDOM TITLE CORP.

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6. Commercial Security Agreement executed by Borrower;
7. UCC Financing Statements;
8. Environmental Indemnity Agreement from Borrower and Guarantors to Lender covering the Property;
9. Collateral Assignment of Sale Contracts executed by Borrower;
10. Collateral Assignment of Construction Contracts executed by Borrower;
11. Collateral Assignment of Architect's Contract executed by Borrower; and
12. Disbursement Authorization.

WHEREAS, as of the date hereof, there is a principal balance outstanding on the Loan in the amount of THREE MILLION EIGHT HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$3,840,000.00);

WHEREAS, Lender, Borrower and Guarantors have agreed to modify the terms and provisions of the Loan Instruments as hereinafter provided, so as to increase the amount of the Loan;

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. **Modification of Loan Instruments**. Subject to the terms and provisions herein contained, the terms and provisions of the Loan Agreement, and the corresponding provisions of the other Loan Instruments, are hereby modified and amended effective as of the date hereof, so as to provide as follows:

(a) **Definitions**. The following definition in Section 1.1 of the Loan Agreement is hereby modified and amended as follows:

“Loan Amount: FOUR MILLION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,350,000.00).”

(b) **Loan Amount**. Section 3.1 of the Loan Agreement is hereby modified and amended, in its entirety, so as to provide as follows:

“3.1 **Agreement to Borrow and Lend**. Subject to the terms and provisions, and relying upon the representations and warranties herein contained, and provided that no Default has occurred hereunder (whether or not notice of such Default has been given to Borrower and whether or not any lapse or cure period has expired with respect thereto), Lender agrees to lend and Borrower agrees to borrow an amount not to exceed FOUR MILLION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,350,000.00), which shall be disbursed for the development of the Project pursuant to the Project Budget attached hereto as Exhibit C, and in accordance with the terms of this Agreement as follows:

(a) **Refinance of Land Acquisition and Construction**.
An amount not to exceed TWO MILLION FIVE HUNDRED FIFTY

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THOUSAND AND NO/100 DOLLARS (\$2,550,000.00), shall be disbursed at the Loan Opening to finance the payoff of an acquisition and site improvement loan on the Land previously funded by American Enterprise Bank;

(b) **Construction Costs.** An amount not to exceed ONE MILLION FIVE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$1,550,000.00), in the aggregate, shall be disbursed by Lender in periodic installments after the Loan Opening to pay for the actual costs of constructing the Project; and

(c) **Interest Reserve.** An amount not to exceed TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$250,000.00), in the aggregate, may, in the discretion of Lender, be disbursed to pay accrued interest on the Note as and when the same shall become due. Any such disbursements shall be capitalized and added to the principal balance of the Note at the time of such disbursement.

All disbursements of Loan Proceeds shall be subject to the prior approval of Lender as to the amount and purpose of such disbursements, and Borrower shall furnish such documents and information as shall be reasonably required by Lender in connection with each such disbursement.”

2. **Replacement Note.** Simultaneously with the execution and delivery of this Agreement, Borrower shall execute and deliver to Lender a replacement Construction Note payable to Lender in the amount of FOUR MILLION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,350,000.00) (the “**Replacement Note**”), in a form prepared by Lender’s legal counsel, which Replacement Note shall replace and be substituted, in its entirety, for the Note (as defined herein).

3. **Title Insurance.** Simultaneously with the execution of this Agreement, Lender shall, at Borrower’s sole cost and expense, obtain a Date Down Endorsement to Loan Policy No. 1409-ST5079810 issued by Chicago Title Insurance Company (the “**Loan Policy**”), increasing the aggregate coverage of the Loan Policy to FOUR MILLION THREE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$4,350,000.00), extending the coverage of the Loan Policy through and including the recording of this Agreement, and showing no new exceptions on Schedule B of said Loan Policy.

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

5. **Reaffirmation of Guaranty.** Guarantors hereby consent to the terms and conditions of this Agreement, and further reaffirm the Guaranty and agree that it shall continue to secure the Non-Revolver Note and the Revolver Note, as modified hereby.

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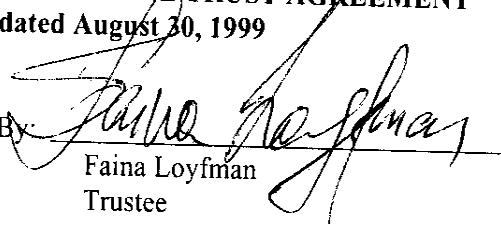
6. **Attorneys' Fees and Costs.** Borrower shall pay any and all attorneys' fees and costs incurred by Lender in connection with the preparation, negotiation and perfection of this Agreement, including recording and title charges.

7. **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.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and acknowledged as of the day and year first above written.

**FAINA LOYFMAN, not personally, but as
Trustee under the FAINA LOYFMAN
REVOCABLE TRUST AGREEMENT
dated August 30, 1999**

By


Faina Loyfman
Trustee


MICHAEL LOYFMAN, also known as
MIKHAIL LOYFMAN, Individually


FAINA LOYFMAN, individually

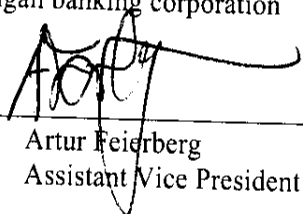
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IN WITNESS WHEREOF, Lender has caused these presents to be executed the day and year first above written.

FIFTH THIRD BANK (CHICAGO), a
Michigan banking corporation

By: _____


Artur Feierberg
Assistant Vice President

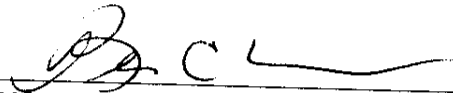
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STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that FAINA LOYFMAN, not personally, but as Trustee under the **FAINA LOYFMAN REVOCABLE TRUST AGREEMENT dated August 30, 1999**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trustee, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said LLC as aforesaid, for the uses and purposes therein set forth.

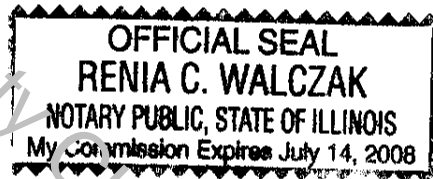
GIVEN under my hand and Notarial Seal this 15th day of December, 2005



NOTARY PUBLIC

My Commission Expires:

07-14-2008



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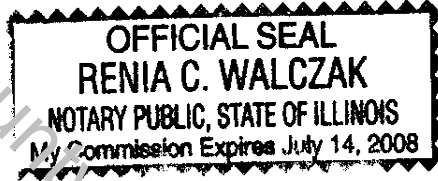
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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

GIVEN under my hand and Notarial Seal this 15th day of December, 2005


NOTARY PUBLIC

My Commission Expires:
07-14-2008



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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

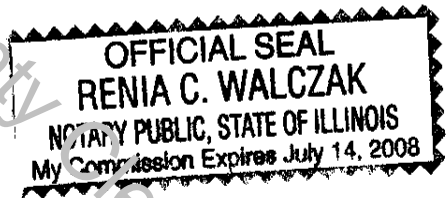
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **FAINA LOYFMAN**, being the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that she signed and delivered the said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

GIVEN under my hand and Notarial Seal this 15 day of December, 20 05



NOTARY PUBLIC

My Commission Expires:
07-14-2008



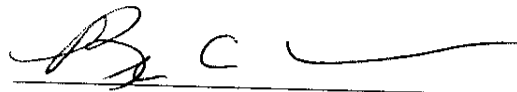
Property of Cook County Clerk's Office

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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 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.

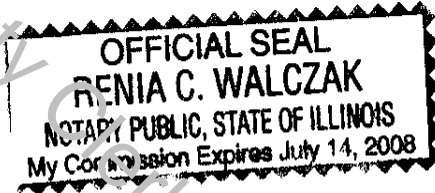
GIVEN under my hand and Notarial Seal this 15th day of December, 2005.



NOTARY PUBLIC

My Commission Expires:

07-14-2008



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EXHIBIT A

THE LAND

PARCEL 1:
 THAT PART OF BLOCK 9 (EXCEPT THE SOUTHWESTERLY 50 FEET THEREOF) AND THE NORTHERLY 1/2 OF THE VACATED 20 FOOT ALLEY SOUTH OF AND ADJOINING SAID PREMISES IN TAYLORSPOINT, A SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 8 TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF BLOCK 9, THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST ALONG THE NORTH LINE OF SAID BLOCK 9, A DISTANCE OF 75.00 FEET, THENCE SOUTH 00 DEGREES 04 MINUTES 27 SECONDS WEST, PARALLEL WITH THE WEST LINE OF SAID BLOCK 9 A DISTANCE OF 109.30 FEET, THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS EAST PARALLEL WITH THE NORTH LINE OF SAID BLOCK 9, A DISTANCE OF 165.42 FEET TO THE EAST LINE OF SAID BLOCK 9, THENCE SOUTH 01 DEGREE 06 MINUTES 31 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK 9, A DISTANCE OF 75.07 FEET, THENCE NORTH 89 DEGREES 58 MINUTES 27 SECONDS WEST, A DISTANCE OF 138.07 FEET TO THE WEST LINE OF SAID BLOCK 9, THENCE NORTH 00 DEGREES 04 MINUTES 27 SECONDS EAST, ALONG THE WEST LINE OF AFORESAID BLOCK 9, A DISTANCE OF 184.31 FEET TO THE POINT OF BEGINNING.

PARCEL 2:
 THAT PART OF THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN WHICH LIES WESTERLY OF LAKE MICHIGAN, EASTERLY OF THE EASTERLY LINE OF BLOCK 9 OF TAYLORSPOINT, BEING A SUBDIVISION OF THE SOUTHWEST FRACTIONAL 1/4 OF THE AFORESAID SECTION 8, LYING NORTHERLY OF A LINE 184.24 FEET NORTHWESTERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF WENTWORTH STREET, EXTENDED EASTERLY TO LAKE MICHIGAN AND LYING SOUTHERLY OF A LINE 109.30 FEET SOUTHERLY AND PARALLEL WITH THE NORTHERLY LINE OF SAID BLOCK 9 EXTENDED EASTERLY TO LAKE MICHIGAN, IN COOK COUNTY, ILLINOIS TOGETHER WITH ALL RIPARIAN RIGHTS THEREUNTO APPERTAINING OR BELONGING.

Common Address: 70 Harbor Street
 Glencoe, Illinois

Permanent Index Nos.: 05-08-314-030-0000
 05-08-400-001-0000
 05-08-400-002-0000