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THIS INSTRUMENT
PREPARED BY AND AFTER
RECORDING RETURN TO:

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Chicago, Illinois 60601-1293



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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/13/2006 03:47 PM Pg: 1 of 8

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AMENDMENT TO LEASE

This AMENDMENT TO LEASE (this "**Amendment**") is made and entered into as of September 27, 2006, by and between BREF OF RIVERSIDE REO, LLC, a Delaware limited liability ("**Lessor**"), and BREF OF BNK CHICAGO LLC, a Delaware limited liability company ("**Lessee**").

RECITALS:

WHEREAS, Lessor and Lessee are parties to that certain air rights Lease dated April 8, 1980 described in Exhibit A attached hereto with respect to the property commonly known as 420 S. Van Buren or 300 South Riverside in Chicago, Illinois and legally described on Exhibit B attached hereto (such Lease, as assigned and amended and described in Exhibit A, the "Lease"); and

WHEREAS, Lessor and Lessee desire to amend the Lease to provide for, among other things, certain leasehold mortgagee protective protections, all upon and subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants, contained herein, and of the sum of Ten Dollars (\$10.00) paid by Lessee to Lessor, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby, acknowledged, the parties hereto, for themselves, their legal representatives, successors and assigns, hereby agree as follows:

1. **Definitions.** All capitalized terms used herein shall have the meaning ascribed to them in the Lease, unless otherwise defined herein.

2. **Amendments.** The Lease is hereby amended by supplementing the existing Section 41 of the Lease with the following additional provisions (it being understood

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that the following provisions are in addition to all of the terms and provisions otherwise set forth in Section 41 of the Lease as of the date of this Amendment):

A. Termination of Lease by Lessee/Lease Amendments. Notwithstanding any provisions of the Lease to the contrary, so long as a mortgage on the leasehold estate of the Lessee under the Lease (a "Leasehold Mortgage") is in effect, the Lessee shall not have the right to terminate or surrender the Lease with respect to any event or at any time unless the written approval of the Leasehold Mortgagee holding such Leasehold Mortgage on the leasehold estate is obtained. Nothing herein shall limit any rights of the Lessor to exercise its default remedies under the Lease (including, without limitation, its right to terminate the Lease) following a default by Lessee thereunder beyond applicable cure periods under the Lease, all subject to the terms and conditions set forth in the Lease (including all rights of a Leasehold Mortgagee as expressly provided under Section 41 of the Lease, as such Section 41 is being supplemented by this Amendment). Further, if a Leasehold Mortgage is in effect and Lessor has received notice thereof in accordance with the notice provisions of the Lease, the Lease shall not be modified or amended by the parties thereto, without the prior written consent of the Leasehold Mortgagee in each case. In the event that a Leasehold Mortgagee shall become the owner of such leasehold estate, such Leasehold Mortgagee shall not be bound by any modification or amendment of the Lease made subsequent to the date of the Leasehold Mortgage and delivery to Lessor of notice (in accordance with the notice provisions of the Lease) of the existence of such Leasehold Mortgage and of the identity of such Leasehold Mortgagee, and prior to the Leasehold Mortgagee's acquisition of such interest, unless the Leasehold Mortgagee shall have consented to such modification or amendment at the time it was made or at the time of such acquisition of the leasehold estate by the Leasehold Mortgagee.

B. Right to New Lease. In the event the Lease is rejected or disaffirmed pursuant to any bankruptcy or insolvency of Lessee, or pursuant to any other law affecting creditor's rights relating to Lessee, then, upon the request of the Leasehold Mortgagee, Lessor will enter into a new ground lease with the Leasehold Mortgagee for the remainder of the term of the Lease, upon all the covenants, conditions, limitations and agreements contained in the Lease, all in accordance with the following terms and conditions. In the event the Lease is rejected or disaffirmed pursuant to any bankruptcy, insolvency or other law affecting creditor's rights as described in the preceding sentence, Lessor shall give prompt notice thereof to a Leasehold Mortgagee whose name and address Lessor has received pursuant to notice made in compliance with the provisions of the Lease, at the address of such Leasehold Mortgagee set forth in such notice. Lessor, on written request of such Leasehold Mortgagee made any time within thirty (30) days after the giving of such notice by Lessor, shall promptly execute and deliver a new lease of the demised area and improvements to the Leasehold Mortgagee, for the remainder of the term of the Lease upon all the covenants, conditions, limitations and agreements therein contained (including, without limitation, any then existing options to extend the term of the Lease) except for such provisions which must be modified to reflect such rejection or disaffirmance and the passage of time, provided that such Leasehold Mortgagee (i) shall pay to Lessor, simultaneously with the delivery of such new lease, all unpaid rent due under the Lease up to and including the date of the commencement of the term of such new lease and all reasonable expenses, including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Lessor in connection with the default by Lessee, the termination of this Lease and the preparation of the new lease, and (ii) shall cure all defaults existing under the Lease which are susceptible of

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being cured by such Leasehold Mortgagee promptly and with due diligence after the delivery of such new lease.

3. Miscellaneous.

(a) To the extent any of the provisions of the Lease are inconsistent with the provisions of this Amendment, the provisions of this Amendment shall control and shall be read in a manner to give the ultimate protection of the provisions hereof to the holder of a Leasehold Mortgage on the leasehold estate of the Lessee under the Lease. Except as set forth in this Amendment, all of the terms and provisions of the Lease shall remain unmodified and in full force and effect.

(b) The provisions of Section 41 of the Lease, as supplemented hereby, shall survive the termination, rejection or disaffirmance of this Lease and shall continue in full force and effect thereafter to the same extent as if said Section 41 were a separate and independent contract made by the Lessor, the Lessee and the Leasehold Mortgagee.

(c) This Amendment may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original and all such counterparts together, shall constitute one and the same instrument. The execution of facsimiles of this Amendment shall be binding on the parties hereto. The validity and effect of this Amendment shall be governed by and construed in accordance with the laws of the State of Illinois. Time is of the essence under this Amendment.

(d) The provisions of Section 41 of the Lease (as supplemented hereby) are for the benefit of any Leasehold Mortgagee permitted under the Lease and may be relied upon and shall be enforceable by the Leasehold Mortgagee as if the Leasehold Mortgagee were a party to the Lease. Under no circumstances shall the Lessor's fee estate and the leasehold estate created by the Lease merge, even though owned by the same party, without the written consent of each Leasehold Mortgagee.

(e) There are and were no oral or written representation, warranties, understandings, stipulations, agreements, or promises made by either party, or by any agent, employee, or other representative of either party, pertaining to the subject matter of this Amendment which have not been incorporated into this Amendment. This Amendment shall not be modified, changed, terminated, amended, superseded, waived, or extended except by a written instrument executed by the parties hereto.

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IN WITNESS WHEREOF, Lessor and Lessee respectively have executed this Amendment as of the day and year first above written.

LESSOR:

BREOF Riverside REO, LLC, a Delaware limited liability company

By: BREOF Riverside LLC, a Delaware limited liability company, its sole member

By: _____
Name: Steven Banerjee
Title: President

LESSEE:

BREOF BNK Chicago LLC, a Delaware limited liability company

By: BREOF BNK LLC, a Delaware limited liability company, its manager

By: _____
Name: Steven Banerjee
Title: President

Property of Cook County Clerk's Office

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STATE OF

COUNTY OF

I, Kathleen Sullivan, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Steven Ganeless, as President of BREOF Riverside LLC, a Delaware limited liability company, which is the sole member of BREOF Riverside REO, LLC, a Delaware limited liability company, 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 signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Kathleen Sullivan

Notary Public

My Commission expires:

1/22/10

KATHLEEN SULLIVAN
Notary Public, State of New York
No. 01SU6069138
Qualified in Kings County
Commission Expires January 22, 2010

STATE OF

COUNTY OF

I, Kathleen Sullivan, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Steven Ganeless, as President of BREOF BNK LLC, a Delaware limited liability company, which is the manager of BREOF BNK Chicago LLC, a Delaware limited liability company, 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 signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Kathleen Sullivan

Notary Public

My Commission expires:

1/22/10

KATHLEEN SULLIVAN
Notary Public, State of New York
No. 01SU6069138
Qualified in Kings County
Commission Expires January 22, 2010

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EXHIBIT A

Schedule of Lease Documents

Lease dated as of April 8, 1980 between Chicago Union Station Company (“Original Lessor”) and TJC Associates, Inc. (“Original Lessee”), recorded as Document No. 25607453, as amended by:

- (i) Assignment of Lease effective as of July 1, 1980, recorded as part of Document No. 25607453 between Original Lessee as assignor and TJC Associates, an Illinois limited partnership (“First Assignee”);
- (ii) Assignment of Lease dated as of October 9, 1980, recorded as Document No. 25641901 between First Assignee and Gateway IV Joint Venture, an Illinois general partnership (“Second Assignee”);
- (iii) Amendment of Lease dated as of December 24, 1980 between Original Lessor and Second Assignee recorded in the Recorder’s Office as Document No. 25767019;
- (iv) Second Amendment to Lease dated as of April 7, 1988 between Original Lessor and Second Assignee, recorded as Document No. 88200211;
- (v) Third Amendment to Lease dated as of September 14, 1990 between Original Lessor and Second Assignee, recorded as Document No. 90483165;
- (vi) Assignment of Ground Lease dated as of September 30, 1992 between Second Assignee, as assignor and Harris Trust and Savings Bank Trust, not personally but as Trustee under Trust Agreement dated September 14, 1992 and known as No. 95044 (“Third Assignee”), as assignee, recorded as Document No. 92723834;
- (vii) Fourth Amendment to Lease dated as of December 1, 1994 between Original Lessor and Cole Taylor Bank as Successor Trustee to Third Assignee, recorded as Document No. 95012641;
- (viii) Assignment and Assumption of Air Rights Lease dated as of September 28, 1995 between Third Assignee and American National Bank and Trust Company of Chicago, not personally but as trustee under Trust Agreement dated June 15, 1995 and known as Trust No. 120500-01 (“Fourth Assignee”), recorded as Document No. 95669326;
- (ix) Fifth Amendment to Lease dated as of September 25, 1995 between Original Lessor and Fourth Assignee, recorded as Document No. 95669327;
- (x) Assignment of Lessor’s Interest in Lease dated as of May 29, 2001 between Original Lessor, as assignor, and CUSCO No. 1 LLC, an Illinois limited liability company (“Second Lessor”), as assignee, recorded as Document No. 0010466783;

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(xi) Trustee's Deed dated September 15, 2005 and recorded as Document No. 0527935451 pursuant to which the Fourth Assignee's leasehold interest in the Air Rights Parcel and fee interest in the improvements located in the Air Rights Parcel was transferred and conveyed to Lessee; and

(xii) Assignment and Assumption of Air Rights Lease dated as of September 15, 2005 between Fourth Assignee, as assignor and Banc One Building Corporation, an Illinois corporation ("**Fifth Assignee**"), as assignee, recorded as Document No. 0609015164.

(xiii) Assignment and Assumption of Lease dated May 11, 2006 between Second Lessor, as assignor, and Lessor, as assignee, recorded as Document No. 0613645178.

(xiv) Illinois Ground Lease Assignment dated September 27, 2006 between Fifth Assignee and JPMorgan Chase Bank, National Association, a national banking association, as assignor, and Lessee, as assignee.

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Exhibit B

Legal Description

420 West Van Buren
Chicago, IL

PARCEL 1:

LOT 7 (EXCEPT THAT WEST 122.53 FEET THEREOF) IN RAILROAD COMPANIES RESUBDIVISION OF BLOCKS 62 TO 76, BOTH INCLUSIVE, BLOCK 78, PARTS OF BLOCKS 61 AND 77 AND CERTAIN VACATED STREETS AND ALLEYS IN SCHOOL SECTION ADDITION TO CHICAGO, A SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 29, 1924 IN BOOK 548 ON PAGES 11 TO 28, BOTH INCLUSIVE, AS DOCUMENT NUMBER 8339751 (EXCEPT THEREFROM THAT PART THEREOF LYING BELOW OR BENEATH THE AIR RIGHTS LIMITING PLANE OR ELEVATION SET FORTH IN APPENDIX "B" TO LEASE RECORDED OCTOBER 2, 1990 AS DOCUMENT 25607453 AND WHICH IS INDICATED IN SAID APPENDIX "B" TO BE 32 FEET 10 INCHES ABOVE CHICAGO CITY DATUM), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

ALL LAND AND SPACES BELOW THE AIR RIGHTS LIMITING PLANE DESCRIBED IN PARCEL 1 ABOVE AS ARE OCCUPIED BY COLUMNS, TRUSSES, HORIZONTAL STRUCTURAL MEMBERS, INCLUDING THE FINISHED MEZZANINE FLOOR, FOUNDATIONS AND OTHER SUPPORTS FOR THE BUILDING CONTEMPLATED BY THE LEASE DESCRIBED IN PARCEL 1 ABOVE AND SMOKE EXHAUST PLENUMS, ELEVATOR PITTS, FUEL TANKS, PUMPING STATIONS AND MECHANICAL EQUIPMENT LOCATED BELOW SAID AIR RIGHTS LIMITING PLANE FOR THE PURPOSE OF SAID CONTEMPLATED BUILDING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 ABOVE FOR THE CONSTRUCTION, USE, MAINTENANCE, REPAIR, REPLACEMENT OR RENEWAL FROM TIME TO TIME OF ABOVE COLUMNS, TRUSSES, HORIZONTAL STRUCTURAL MEMBERS, INCLUDING THE FINISHED MEZZANINE FLOOR, FOUNDATIONS AND OTHER SUPPORTS FOR THE BUILDING CONTEMPLATED UNDER THE LEASE DESCRIBED IN PARCEL 1 ABOVE AND SMOKE EXHAUST PLENUMS, ELEVATOR PITTS, FUEL TANKS, PUMPING STATIONS AND MECHANICAL EQUIPMENT, IN THE LAND AND SPACE BELOW THE AIR RIGHTS LIMITING PLANE DESCRIBED IN PARCEL 1 ABOVE, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

A NON-EXCLUSIVE APURTENANT EASEMENT IN FAVOR OF PARCELS 1, 2 AND 3 AS CREATED BY DEED OF EASEMENT RECORDED JANUARY 31, 1990 AS DOCUMENT NO. 90047309 AND AS AMENDED BY FIRST AMENDMENT TO DEED OF EASEMENT RECORDED OCTOBER 19, 1990 AS DOCUMENT NO. 90491486, MADE BY LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 17, 1989 AND KNOWN AS TRUST NO. 187292 TO GATEWAY BY JOINT VENTURE AND OTHERS, FOR THE USE OF 1,100 PUBLIC PARKING SPACES IN THE GARAGE, AS DEFINED THEREIN, WITH RIGHTS OF INGRESS AND EGRESS AND AN EASEMENT FOR THE PURPOSE OF CONSTRUCTION OF SUCH REPAIRS OR RESTORATION FOR THE PERIOD REQUIRED TO COMPLETE SUCH REPAIRS OR RESTORATION ON, OVER AND ACROSS THE FOLLOWING DESCRIBED LEGAL DESCRIPTION:

LOTS 5, 6, 7 AND 8 (EXCEPT FROM SAID LOTS THAT PART FALLING IN ALLEY) IN BLOCK 49 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINs: 17-16-121-003-6002
17-16-121-003-6001