

THIS INSTRUMENT WAS PREPARED BY

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Doc#: 0702344078 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/23/2007 04:34 PM Pg: 1 of 10

TCOR 534264 Dall

AND AFTER RECORDING SHOULD BE RETURNED TO:

LaSalle Bank National Association
1000 S. York Road
Elmhurst, Illinois 60126
Attn: James McGrath

SECOND MODIFICATION OF MORTGAGE, SECURITY AGREEMENT AND UCC FIXTURE FILING AND ASSIGNMENT OF RENTS AND LEASES

THIS SECOND MODIFICATION OF MORTGAGE, SECURITY AGREEMENT AND UCC FIXTURE FILING AND ASSIGNMENT OF RENTS AND LEASES (this "Modification") is made and entered into effective as of October 20, 2006, by and between Chicago Title Land Trust Company, solely as successor trustee to LaSalle Bank National Association, not personally, but as Trustee under Trust Agreement dated January 3, 2002 and known as Trust No. 128660 (the "Mortgagor"), to and for the benefit of LaSalle Bank National Association, having a place of business at 135 S. LaSalle Street, Chicago, Illinois 60603 ("Mortgagee").

WITNESSETH:

WHEREAS, to evidence two loans made by Mortgagee to Mortgagor, Mortgagor or the prior trustee, executed and delivered to Mortgagee the following described promissory notes: (i) that certain Amended and Restated Mortgage Note dated June 3, 2005 in the original principal amount of \$689,884 in favor of Mortgagee (as the same may be amended, restated, extended and/or modified from time to time, hereinafter referred to as "Note 1"), and (ii) that certain Mortgage Note dated May 23, 2002 in the original principal amount of \$1,090,000 in favor of Mortgagee (as the same may be amended, restated, extended and/or modified from time to time, hereinafter referred to as "Note 2"); and

WHEREAS to secure Note 1 and Note 2, Mortgagor, or the prior trustee, previously entered into that certain Mortgage, Security Agreement and UCC Fixture Filing dated January 27, 2004 in favor of Mortgagee as recorded in the office of the Cook County Recorder of Deeds (the "Recorder's Office") on May 26, 2004 as document number 0414704259 (the "Mortgage") and that certain Assignment of Rents and Lessor's Interest in

Box 15

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Leases dated January 27, 2004 and recorded in the Recorder's Office on May 26, 2004 as document number 0414704260 (the "Assignment"), mortgaging, granting and conveying to Mortgagee the Premises (as defined in the Mortgage), including the real estate described on Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, the Mortgage and Assignment were modified by that certain First Modification Agreement dated June 3, 2005 and recorded in the Recorder's Office on June 29, 2005 as document number 0518032160; and

WHEREAS, Mortgagor has requested that Mortgagee extend additional credit to Mortgagor and Jorge Arteaga Corp., an Illinois corporation ("Arteaga Corp.") in the amount of \$450,000 and Mortgagee has agreed to do so, provided, among other things, that Mortgagor and Arteaga Corp. execute that certain Mortgage Note F1 in the principal amount of \$450,000 and this Modification.

NOW THEREFORE, the parties hereto agree as follows:

AMENDMENT TO MORTGAGE

1. Recitals. The recitals set forth above shall be incorporated herein as if set forth in their entirety.

2. (a) The following paragraph is inserted between the second and third "WHEREAS" clauses in the Mortgage as follows:

"WHEREAS, Mortgagor and Jorge Arteaga Corp., an Illinois corporation have executed and delivered to Mortgagee that certain Mortgage Note F1 in the original principal amount of Four Hundred Fifty Thousand Dollars (\$450,000) in favor of Mortgagee (together with any and all extensions and renewals thereof, amendments thereto and substitutions or replacements therefore, is hereinafter referred to as the "Note 3"), the terms and provisions of which are incorporated herein by this reference; and"

(b) The original third and fourth "WHEREAS" clauses are hereby amended and restated as follows:

"WHEREAS, as a condition to Mortgagee's making the loan evidenced by the Third Note to Mortgagor and Jorge Arteaga Corp., an Illinois corporation, Mortgagee requires that this Mortgage secure each of the First Note, Second Note and Third Note and all other Indebtedness Hereby Secured (as hereinafter defined); and

WHEREAS, the indebtedness evidenced by the First Note, Second Note and Third Note (hereinafter, collectively, the "Notes" and individually, a "Note"), including any and all extensions, amendments, renewals, modifications, restatements or consolidations thereof or thereto, in whole or in part, and any and all other sums which may be at any time

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due or owing or required to be paid as herein or in the Notes provided, are herein collectively called the "Indebtedness Hereby Secured".

(c) All references to "Mortgagor" shall mean Chicago Title Land Trust Company, solely as successor trustee to LaSalle Bank National Association, not personally, but as Trustee under Trust Agreement dated January 3, 2002 and known as Trust No. 128660.

AMENDMENT TO ASSIGNMENT OF RENTS

3. Recitals. The recitals set forth above shall be incorporated herein as if set forth in their entirety.

4. (a) The first and second "WHEREAS" clauses of the Assignment of Rents are hereby amended and restated as follows:

"**WHEREAS**, Assignor has executed (i) that certain Amended and Restated Mortgage Note (hereinafter referred to as "Note 1") dated June 3, 2005, payable to the order of LaSalle Bank National Association (hereinafter referred to as "Assignee") in the original principal amount of \$689,884, (ii) that certain Mortgage Note (hereinafter referred to as the "Second Note") dated May 23, 2002, payable to the order of Assignee in the original principal amount of \$1,090,000, and (iii) together with Jorge Arteaga Corp. an Illinois corporation, that certain Mortgage Note F1 (hereinafter referred to as the "Third Note") dated October 20, 2006, payable to the order of Assignee; and

WHEREAS, to secure the payment of the First Note, Second Note and Third Note (individually, a "Note" and collectively, the "Notes"), Assignor has executed that certain Mortgage, Security Agreement and UCC Fixture Filing dated January 27, 2004, as amended from time to time (the "Mortgage") conveying to Assignee the real estate legally described in Exhibit "A" attached hereto and made a part hereof (hereinafter, the "Premises"); and"

(b) All references to "Assignor" shall mean Chicago Title Land Trust Company, solely as successor trustee to LaSalle Bank National Association, not personally, but as Trustee under Trust Agreement dated January 3, 2002 and known as Trust No. 128660.

AMENDMENT DOCUMENTS

5. New Mortgage Note F 1. In order to evidence the new loan to Mortgagor and Arteaga Corp. referenced above, Mortgagor agrees to execute and cause Arteaga Corp. to execute and deliver to Mortgagee (in a form acceptable to Mortgagee) that certain Mortgage Note F1 in the original principal amount of \$450,000.00.

6. Amended and Restated Guaranty. Contemporaneously herewith, the guarantors of the Indebtedness Hereby Secured (as defined in the Mortgage) shall execute

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an Amended and Restated Guaranty (in a form acceptable to Mortgagee)(the "Amended Guaranty"). The Amended Guaranty will amend, restate and replace the existing guaranties of the guarantors as set forth in the Amended Guaranty.

7. Additional Mortgage Modifications. Contemporaneously herewith Mortgagor shall execute, or cause to be executed and delivered to Mortgagee the following:

(a) that certain Third Modification of Mortgage, Security Agreement and UCC Fixture Filing and Assignment of Rents and Leases dated as of even date herewith, executed by Mortgagor and Mortgagee amending that certain Mortgage, Security Agreement and UCC Fixture Filing and that certain Assignment of Rents and Lessor's Interest in Leases dated May 23, 2002 pertaining to the real property, improvements and personalty described therein; and

(b) that certain Second Modification of Mortgage, Security Agreement and UCC Fixture Filing and Assignment of Rents and Leases dated as of even date herewith, executed by Chicago Title Land Trust Company as successor trustee to Fifth Third Bank, Chicago, as successor trustee to Old Kent Bank, as successor trustee to First National Bank of Cicero, as Trustee under Trust Agreement dated November 9, 1990 and known as Trust Number 10110 and Mortgagee amending that certain Mortgage, Security Agreement and UCC Fixture Filing and that certain Assignment of Rents and Lessor's Interest in Leases dated January 27, 2004 pertaining to the real property, improvements and personalty described therein.

MISCELLANEOUS PROVISIONS

8. Continuing Effect. All of the terms of the Mortgage and Assignment are hereby incorporated by reference herein, and the Mortgage and Assignment, except as hereby modified and amended, shall remain in full force and effect in all respects. Mortgagor, by execution of this Modification, hereby reaffirms, assumes and binds itself to all of the obligations, duties, rights, covenants, terms and conditions that are contained in the Mortgage and the Assignment.

9. The liens of the Mortgage and Assignment are legal, valid and binding liens, currently subsisting on the Premises (as defined in the Mortgage) and made a part hereof and secure all of the obligations of Mortgagor under the Loan Documents (as defined in Note 3).

10. Mortgagor hereby agrees to reimburse Mortgagee upon demand for all out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by Mortgagee in the participation, negotiation and execution of this Modification and all other agreements, documents, instruments and certificates relating to this Modification. Mortgagor further agrees to pay or reimburse Mortgagee for (a) any stamp or other taxes (excluding income or gross receipts taxes) which may be payable with respect to the execution, delivery or recording of this Modification or any other writing

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executed or delivered in connection herewith, and (b) the cost of any filings and searches. All of the obligations of Mortgagor under this paragraph shall survive the termination of the Mortgage. In connection with the recording of the Modification, Mortgagor shall obtain for Mortgagee (at Mortgagor's expense and in a form acceptable to Mortgagee in its discretion) a date down endorsement to each lender's title insurance policy which Mortgagee has obtained for the Mortgage which shall increase the amount of coverage to an amount of not less than \$1,125,000.

11. EACH OF MORTGAGOR AND MORTGAGEE HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHT UNDER THIS MODIFICATION, THE MORTGAGE, THE ASSIGNMENT OR ANY OF THE BALANCE OF THE LOAN DOCUMENTS OR ARISING FROM THE LENDING RELATIONSHIP WHICH IS THE SUBJECT OF THE MORTGAGE OR THE ASSIGNMENT, INCLUDING THIS MODIFICATION, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

12. To induce Mortgagee to enter into this Modification, Mortgagor irrevocably agrees that, subject to Mortgagee's sole and absolute election, all actions or proceedings in any way, manner or respect arising out of or from or related to this Modification, the Mortgage, the Assignment or the balance of the Loan Documents or the Premises shall be litigated only in courts having situs within the City of Chicago, State of Illinois. Mortgagor hereby consents and submits to the jurisdiction of any local, state or federal court located within said city and state. Mortgagor hereby waives any rights it may have to transfer or change the venue of any litigation brought in accordance with this paragraph.

13. This Modification shall be binding upon and inure to the benefit of Mortgagor and Mortgagee and their respective successors and assigns, except that Mortgagor may not assign, transfer or delegate any of their rights or obligations hereunder.

14. Mortgagor hereby represents and warrants to, and covenants with, Mortgagee that:

(a) the execution, delivery and performance by Mortgagor of this Modification is within the powers of Mortgagor, has been duly authorized by all necessary Mortgagor actions and require no action by or in respect of, or filing with, any governmental or regulatory body, agency or official or any other person;

(b) the execution, delivery and performance by Mortgagor of this Modification does not conflict with, or result in a breach of the terms, conditions or provisions of, or constitute a default under or result in any violation of, the terms of the organizational documents (including, as applicable, articles, by-laws, operating or shareholder agreements and the like) of Mortgagor, any applicable law, rule, regulation, order, writ, judgment or decree of any court or governmental or regulatory agency or instrumentality or any agreement, document or instrument to which Mortgagor is a party or

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by which Mortgagor or any of its property or assets is bound or to which Mortgagor or any of its property or assets is subject;

(c) this Modification has been duly executed and delivered by Mortgagor and constitutes the legal, valid and binding obligation of Mortgagor, enforceable against Mortgagor in accordance with its terms, except as such enforceability may be limited by (i) applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

(d) as of the date of this Modification, all of the representations and warranties of Mortgagor set forth in the Mortgage and the balance of the Loan Documents are true and correct in all material respects and no default or Event of Default under or within the meaning of the Mortgage has occurred and is occurring, except as expressly described herein.

15. Except to the extent specifically amended hereby, all of the terms, provisions, conditions, covenants, representations and warranties contained in the Mortgage and balance of the Loan Documents shall be and remain in full force and effect and the same are hereby ratified and confirmed.

16. The Mortgage, including this Modification, and the rights and obligations of the parties hereunder and thereunder shall be construed in accordance with and governed by the laws of the State of Illinois without regard to principles of conflicts of laws.

17. All references in the Mortgage to "this Agreement" and any other references of similar import shall henceforth mean the Mortgage as amended by this Modification.

18. In the event of any inconsistency or conflict between this Modification and the Mortgage, the terms, provisions and conditions contained in this Modification shall govern and control.

19. This Modification may be executed in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of such counterparts taken together shall be deemed to constitute but one and the same instrument.

20. If any provision in this Modification requires judicial interpretation, the judicial body interpreting or construing such provision shall not apply the assumption that the terms hereof shall be more strictly construed against one party because of the rule that an instrument must be construed more strictly against the party which itself or through its agents prepared the same; the parties hereby agreeing that all parties and their agents have participated in the preparation hereof equally.

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21. Mortgagee is hereby authorized to rely upon and accept as an original of this Modification, any of the Other Agreements or any other communication which is sent to Mortgagee by facsimile, telegraphic or other electronic transmission (each, a "Communication") which Mortgagee in good faith believes has been signed by Mortgagor and has been delivered to Mortgagee by a properly authorized representative of Mortgagor, whether or not that is in fact the case. Notwithstanding the foregoing, Mortgagee shall not be obligated to accept any such Communication as an original and may in any instance require that an original document be submitted to Mortgagee in lieu of, or in addition to, any such Communication.

22. This Modification is executed by Mortgagor, not in its individual capacity, but solely as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee. It is expressly understood and agreed that nothing contained herein or in the Loan Documents shall be construed as creating any liability on Mortgagor, in its individual capacity to pay the Notes or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability in its individual capacity, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder.

SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, the undersigned has executed this Modification as of the day and year first written above.

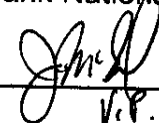
MORTGAGOR:

Chicago Title Land Trust Company, solely as successor trustee to LaSalle Bank National Association, not personally but solely as trustee as aforesaid

By: 
Its: TRUST OFFICER

MORTGAGEE:

LaSalle Bank National Association

By: 
Its: J.M.P.

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such trustee. It is expressly understood and agreed that all the warranties, covenants, representations, conditions, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

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STATE OF ILLINOIS)
)
COUNTY OF DuPage) SS

I, the undersigned, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT EVA HIGI a ~~TRUST OFFICER~~ of Chicago Title Land Trust Company, solely as successor trustee to LaSalle Bank National Association, as trustee, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such ~~TRUST OFFICER~~ appeared before me this day in person and acknowledged that s/he signed and delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of said bank for the purposes set forth therein.

GIVEN under my hand and Notarial Seal this 7th day of September, 2006.

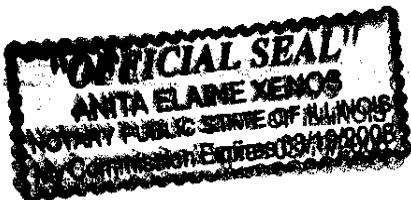


Lois Nugent
Notary Public

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

I, ANITA E. XENOS, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Jim McGrail a Vice President of LaSalle Bank National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President 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 bank for the purposes set forth therein.

GIVEN under my hand and Notarial Seal this 7th day of September, 2006.



Anita Elaine Xenos
Notary Public

UNOFFICIAL COPY**EXHIBIT A****Legal Description****PARCEL 1:**

LOT 10 IN GEORGE TALAFOU'S RESUBDIVISION OF LOTS 1 TO 18 AND VACATED STREETS AND ALLEYS IN BLOCK 2 AND LOTS 1 TO 11 AND VACATED STREETS AND ALLEYS IN BLOCK 1, ALL IN GEORGE TALAFOU'S SUBDIVISION OF BLOCK 39 IN CIRCUIT COURT PARTITION OF PART OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF LOT 10 DESCRIBED AS FOLLOWS: BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF HARLEM AVENUE WITH THE SOUTHEASTERLY LINE OF OGDEN AVENUE SAID POINT ALSO THE NORTHWEST CORNER OF SAID LOT 10; THENCE NORTHEASTERLY ALONG SAID SOUTHEASTERLY LINE OF OGDEN AVENUE BEING ALSO THE NORTHWESTERLY LINE OF SAID LOT 10, A DISTANCE OF 100.0 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 10; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 10, A DISTANCE OF 20.0 FEET TO A POINT DISTANT 70.0 FEET SOUTHEASTERLY MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF OGDEN AVENUE; THENCE SOUTHWESTERLY IN A STRAIGHT LINE PARALLEL WITH SAID CENTER LINE OF OGDEN AVENUE A DISTANCE OF 36.28 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVED LINE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 91.00 FEET, A DISTANCE OF 78.50 FEET TO A POINT FOR A DISTANCE OF 65.59 FEET EAST, MEASURED AT RIGHT ANGLES FROM THE WEST LINE OF SAID SECTION 31; THENCE SOUTHWESTERLY IN A STRAIGHT LINE A DISTANCE OF 52.69 FEET TO THE SOUTHWEST CORNER OF SAID LOT 10; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 10, BEING ALSO THE EAST LINE OF HARLEM AVENUE, A DISTANCE OF 100.0 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 7, 8 AND 9 IN GEORGE TALAFOU'S RESUBDIVISION OF LOTS 1 TO 18 AND VACATED ALLEYS IN BLOCK 2 AND LOTS 1 TO 11 IN BLOCK 1 ALL IN GEORGE TALAFOUS SUBDIVISION OF BLOCK 39 IN CIRCUIT COURT PARTITION OF PARTS OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Numbers:

16-31-316-002

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7144 Ogden Ave.
Berwyn, IL / property address