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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/12/2007 12:11 PM Pg: 1 of 11

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Amendment

Property of Cook County Clerk's Office

SECOND MODIFICATION AGREEMENT

THIS SECOND MODIFICATION AGREEMENT dated as of February 21, 2007, by and among KIMCO SELECT CHICAGO 694, L.L.C., a Delaware limited liability company (the "Mortgagor"), LAURANCE H. FREED (the "Guarantor") (the Mortgagor and the Guarantor being sometimes referred to herein collectively as the "Borrower/Guarantor Parties"), and LASALLE BANK NATIONAL ASSOCIATION, a national banking association (the "Bank");

WITNESSETH:

WHEREAS, the Borrower/Guarantor Parties and the Bank heretofore entered into the following documents (collectively, the "Documents");

- (i) Amended and Restated Loan Agreement dated as of February 21, 2005 (the "Loan Agreement"), by and between the Mortgagor and the Bank;
- (ii) Mortgage Note dated August 1, 2003 (the "Note"), from the Mortgagor to the Bank in the principal amount of \$6,228,670 (being reduced from \$6,851,500);
- (iii) Mortgage and Security Agreement dated as of August 1, 2003, from the Mortgagor to the Bank, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on August 27, 2003, as Document No. 0323932014;

Permanent Tax Index Numbers and Address:

See Exhibit A

This Instrument Prepared by and to be Returned After Recording to:

Elizabeth Pfeiler Foley
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603

Box 400-CTCC

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(iv) Assignment of Rents and Leases dated as of August 1, 2003, from the Mortgagor to the Bank, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on August 27, 2003, as Document No. 0323932015;

(v) Indemnity Agreement dated as of August 1, 2003, from the Mortgagor and the Guarantor to the Bank; and

(vi) Guaranty of Payment and Performance dated as of August 1, 2003, from the Guarantor to the Bank; and

WHEREAS, the Loan Agreement was executed and delivered pursuant to, and the other Documents were previously modified and amended by, the Modification Agreement dated as of February 21, 2005 (the "Previous Modification"), by and among the Borrower/Guarantor Parties and the Bank, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on July 27, 2005, as Document No. 0520802178; and

WHEREAS, the Documents, as executed and delivered pursuant to or as modified and amended by the Previous Modification, encumber the real estate described in Exhibit A attached hereto and the personal property located thereon; and

WHEREAS, the parties desire to make certain modifications and amendments to the Documents, as executed and delivered pursuant to or as modified and amended by the Previous Modification, as more fully provided for herein, all as modifications, amendments and continuations of, but not as novations of, the Documents;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Recitals Part of Agreement; Defined Terms, References to Documents. (a) The foregoing recitals are hereby incorporated into and made a part of this Agreement.

(b) All capitalized terms used and not otherwise defined in this Agreement shall have the meanings set forth in the Loan Agreement.

(c) Except as otherwise stated herein, all references in this Agreement to any one or more of the Documents shall be deemed to include the previous modifications and amendments to the Documents provided for in the Previous Modification, whether or not express reference is made to such previous modifications and amendments.

Section 2. Extension of Maturity Date. The maturity date of the Loan and the Note, as previously extended by the Previous Modification, is hereby extended from February 21, 2007, to May 22, 2007, and all of the Documents, as executed and delivered pursuant to or as modified and amended by the Previous Modification, are hereby modified and amended accordingly. Without limitation on the generality of the foregoing, the date "February 21, 2007" is hereby changed to "May 22, 2007" each time it appears in the Documents, as executed and delivered pursuant to or as modified and amended by the Previous Modification, in reference to the maturity date of the Loan and the Note.

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Section 3. Reduction in Loan Amount. The amount of the Loan is hereby reduced from \$6,851,500, to \$6,228,670 and all of the Documents are hereby modified and amended accordingly. Without limitation on the generality of the foregoing provisions of this Section, the figure "\$6,851,500" is hereby changed to "6,228,670" each time it appears in the Documents.

Section 4. Extension Fee. As a condition to agreements of the Bank provided for in this Agreement, on the date of the execution and delivery of this Agreement, the Mortgagor shall pay to the Bank a non-refundable extension fee in the amount of \$7,786.

Section 5. Attachment to Note. The Bank may, and prior to any transfer by it of the Note shall, attach a copy of this Agreement to the original Note and place an endorsement on the original Note making reference to the fact that such attachment has been made.

Section 6. Representations and Warranties. In order to induce the Bank to enter into this Agreement, the Borrower/Guarantor Parties hereby represent and warrant to the Bank as follows as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement.

(a) The Mortgagor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and duly qualified to transact business in the State of Illinois, has all necessary power and authority to carry on its present business, and has full right, power and authority to enter into this Agreement and each of the Documents and the Previous Modification to which it is a party and to perform and consummate the transactions contemplated hereby and thereby.

(b) The Guarantor is under no legal disability and has full right, power and authority to enter into this Agreement and each of the Documents and the Previous Modification to which he is a party and to perform and consummate the transactions contemplated hereby and thereby.

(c) This Agreement and each of the Documents and the Previous Modification have been duly authorized, executed and delivered by such of the Borrower/Guarantor Parties as are parties thereto and this Agreement and each of the Documents and the Previous Modification constitute valid and legally binding obligations enforceable against such of the Borrower/Guarantor Parties as are parties thereto. The execution and delivery of this Agreement, the Documents and the Previous Modification and compliance with the provisions thereof under the circumstances contemplated therein do not and will not conflict with or constitute a breach or violation of or default under the certificate of formation or limited liability company agreement of the Mortgagor, or any agreement or other instrument to which either of the Borrower/Guarantor Parties are a party, or by which either of them is bound, or to which any of their respective properties are subject, or any existing law, administrative regulation, court order or consent decree to which either of them is subject.

(d) The Borrower/Guarantor Parties are in full compliance with all of the terms and conditions of the Documents and the Previous Modification to which they are a party, and no Default or Event of Default has occurred and is continuing with respect to any of the Documents or the Previous Modification.

(e) There is no litigation or administrative proceeding pending or threatened to restrain or enjoin the transactions contemplated by this Agreement or any of the Documents or

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the Previous Modification, or questioning the validity thereof, or in any way contesting the existence or powers of either of the Borrower/Guarantor Parties, or in which an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Agreement or any of the Documents or the Previous Modification, or would result in any material adverse change in the financial condition, properties, business or operations of either of the Borrower/Guarantor Parties.

(f) The statements contained in the recitals to this Agreement are true and correct.

Section 7. Documents to Remain in Effect; Confirmation of Obligations; References. The Documents shall remain in full force and effect as originally executed and delivered by the parties, except as previously modified and amended by the Previous Modification and as expressly modified and amended herein. The Borrower/Guarantor Parties hereby (i) confirm and reaffirm all of their obligations under the Documents, as previously modified and amended by the Previous Modification and as modified and amended herein; (ii) acknowledge and agree that the Bank, by entering into this Agreement, does not waive any existing or future default or event of default under any of the Documents, or any rights or remedies under any of the Documents, except as expressly provided herein; (iii) acknowledge and agree that the Bank has not heretofore waived any default or event of default under any of the Documents, or any rights or remedies under any of the Documents; and (iv) acknowledge that they do not have any defense, set-off or counterclaim to the payment or performance of any of their obligations under the Documents, as previously modified and amended by the Previous Modification and as modified and amended herein. All references in the Documents to any one or more of the Documents, or to the "Loan Documents," shall be deemed to refer to such Document, Documents or Loan Documents, as the case may be, as previously modified and amended by the Previous Modification and as modified and amended by this Agreement.

Section 8. Certifications, Representations and Warranties. In order to induce the Bank to enter into this Agreement, the Borrower/Guarantor Parties hereby certify, represent and warrant to the Bank that all certifications, representations and warranties contained in the Documents and the Previous Modification and in all certificates heretofore delivered to the Bank are true and correct as of the date as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement, and all such certifications, representations and warranties are hereby remade and made to speak as of the date of this Agreement and if different, as of the date of the execution and delivery of this Agreement.

Section 9. Entire Agreement; No Reliance. This Agreement sets forth all of the covenants, promises, agreements, conditions and understandings of the parties relating to the subject matter of this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this Agreement other than as are herein set forth. The Borrower/Guarantor Parties acknowledge that they are executing this Agreement without relying on any statements, representations or warranties, either oral or written, that are not expressly set forth herein.

Section 10. Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors, assigns and legal representatives.

Section 11. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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Section 12. Amendments, Changes and Modifications. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

Section 13. Construction. (a) The words "hereof," "herein," and "hereunder," and other words of a similar import refer to this Agreement as a whole and not to the individual Sections in which such terms are used.

(b) References to Sections and other subdivisions of this Agreement are to the designated Sections and other subdivisions of this Agreement as originally executed.

(c) The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

(d) Where the context so requires, words used in singular shall include the plural and vice versa, and words of one gender shall include all other genders.

(e) The Borrower/Guarantor Parties and the Bank, and their respective legal counsel, have participated in the drafting of this Agreement, and accordingly the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Agreement.

Section 14. Execution of Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 15. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of Illinois shall govern its construction and enforcement.

Section 16. Customer Identification - USA Patriot Act Notice; OFAC and Bank Secrecy Act. The Bank hereby notifies the Mortgagor 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 the Bank's policies and practices, the Bank is required to obtain, verify and record certain information and documentation that identifies the Mortgagor, which information includes the name and address of the Mortgagor and such other information that will allow the Bank to identify the Mortgagor in accordance with the Act. In addition, the Mortgagor shall (i) ensure that no person who owns a controlling interest in or otherwise controls the Mortgagor or any subsidiary of the Mortgagor 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, (ii) 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 (iii) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act laws and regulations, as amended. The Documents are hereby modified and amended to incorporate the foregoing provisions of this Section.

[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]


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IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

KIMCO SELECT CHICAGO 694, L.L.C.

By Kimco Select Chicago, L.L.C., Sole Member and Manager

By JFA Management LLC, Manager

By 
Printed Name: AL O'DONNELL
Duly Authorized Manager



Laurance H. Freed

LASALLE BANK NATIONAL ASSOCIATION

By _____
Title: _____

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IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

KIMCO SELECT CHICAGO 694, L.L.C.

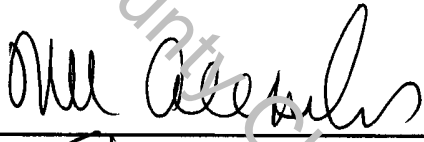
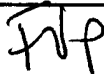
By Kimco Select Chicago, L.L.C., Sole Member and Manager

By JFA Management LLC, Manager

By _____
Printed Name: _____
Duly Authorized Manager

Laurance H. Freed

LASALLE BANK NATIONAL ASSOCIATION

By  _____
Title: 

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by _____, duly authorized Manager of JFA Management LLC, an Illinois limited liability company, the Manager of Kimco Select Chicago, L.L.C., a Delaware limited liability company, the sole Member and Manager of Kimco Select Chicago 694, L.L.C., a Delaware limited liability company, on behalf of said limited liability companies.

Notary Public

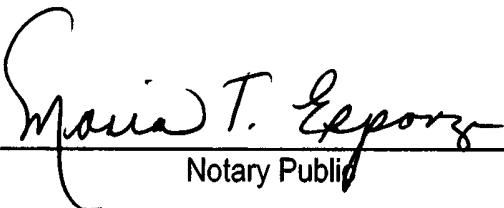
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this _____ day of _____, 2007, by Laurance H. Freed.

Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 13th day of March, 2007, by Maria Alexakis FRP of LaSalle Bank National Association, a national banking association, on behalf of the association.



Notary Public



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EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES



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UNOFFICIAL COPY**CHICAGO TITLE INSURANCE COMPANY**

ORDER NUMBER: 1401 008151965 D2
 STREET ADDRESS: 1733 EAST WOODFIELD
 CITY: SCHAUMBURG COUNTY: COOK
 TAX NUMBER:

LEGAL DESCRIPTION:**PARCEL 1:**

THAT PART OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF WOODFIELD ROAD AS DEDICATED PER DOCUMENT 20944554 WITH THE EAST LINE OF SAID WEST 1/2 OF THE SOUTH EAST 1/4; THENCE SOUTH 0 DEGREES 33 MINUTES 31.5 SECONDS WEST ALONG SAID EAST LINE 700 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 28.5 SECONDS WEST 450 FEET ALONG A LINE DRAWN PERPENDICULARLY TO SAID EAST LINE; THENCE NORTH 0 DEGREES 33 MINUTES 31.5 SECOND EAST 604.283 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE TO A POINT IN SAID SOUTH LINE OF WOODFIELD ROAD, THENCE EASTERLY 445.846 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD BEING THE ARC OF A CIRCLE OF 1859.86 FEET RADIUS CONVEX TO THE NORTH WHOSE CHORD BEARS NORTH 89 DEGREES 45 MINUTES 1 SECONDS EAST TO A POINT OF TANGENCY, THENCE SOUTH 83 DEGREES 22 MINUTES 56 SECONDS EAST 5.294 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD TO HEREIN DESIGNATED POINT OF BEGINNING IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY AGREEMENT RECORDED JULY 1, 1971 AS DOCUMENT 21532098 MADE BY LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 1, 1971 AND KNOWN AS TRUST NUMBER 42050 TO LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 25, 1964 AND KNOWN AS TRUST NUMBER 33071 OVER THE WEST 20 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND 40 FEET WIDE IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF WOODFIELD ROAD PER DOCUMENT 20944554 AND NORTH OF A LINE DRAWN PERPENDICULARLY TO THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4 SAID LINE BEING 700 FEET (AS MEASURED ALONG SAID EAST LINE); THE CENTER LINE OF SAID STRIP OF LAND BEING A LINE 450 FEET (MEASURED PERPENDICULARLY) WEST OF AND PARALLEL WITH SAID EAST LINE, (EXCEPT THE SOUTH 105.89 FEET THEREOF), IN COOK COUNTY, ILLINOIS

PIN# 07-13-400-004