

# UNOFFICIAL COPY

This instrument prepared by  
and please return to:



Doc#: 0728234116 Fee: \$40.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 10/09/2007 03:08 PM Pg: 1 of 9

Polsinelli Shalton Flanigan Suelthaus PC  
180 N. Stetson Ave., Suite 4525  
Chicago, Illinois 60601  
Attention: Kimberly K. Enders, Esq.

P.I.N.: 17-17-212-014-0000  
COMMONLY KNOWN AS: 103 S. Morgan Street, Chicago, Illinois

## SECOND LOAN MODIFICATION AGREEMENT

This instrument is a Second Loan Modification Agreement ("Second Modification") among First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation ("Lender"), Mae Development Group Inc., an Illinois corporation ("Borrower"), and Steven Ciaccio ("Guarantor").

### RECITALS:

- A. Borrower holds fee simple title to the real estate commonly known as 103 S. Morgan Street, Chicago, Illinois, which is legally described on Exhibit A attached hereto ("Real Estate"). Guarantor is the President and a shareholder of Borrower.
- B. On September 25, 2005, Borrower, Guarantor and Lender entered into a Construction Loan Agreement pursuant to which Lender granted a loan to Borrower in the amount of \$4,050,000 ("Loan"), which is evidenced by a Promissory Note in the principal

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amount of \$4,050,000 ("Note"). Concurrently therewith, Borrower and Guarantor executed and delivered to Lender the following documents (collectively "Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing, which was recorded with the Cook County Recorder of Deeds on September 27, 2005 as Document No. 0527033148 ("Mortgage");
2. a Guaranty of Note, Mortgage and Other Undertakings executed by Guarantor ("Original Guaranty");
3. a UCC Financing Statement filed with the Secretary of State of Illinois;
4. an Environmental, ADA and ERISA Indemnification Agreement executed by Borrower and Guarantor;
5. a General Contractor's Lien Subordination Agreement executed by Borrower's general contractor;
6. an Assignment and Pledge of Earnest Money and Real Estate Sale Contracts executed by Borrower; and
7. a UCC Financing Statement.

C. On October 27, 2006, Borrower, Lender and Guarantor entered into a Loan Modification Agreement ("Modification"), pursuant to which Lender extended the maturity date of the Loan from September 20, 2006 until September 20, 2007. The Modification was recorded with the Cook County, Illinois Recorder of Deeds on November 22, 2006 as Document No. 0632644015.

D. Borrower has now requested Lender to extend the maturity date of the Loan from September 20, 2007 until March 20, 2008. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein.

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**NOW, THEREFORE**, in consideration of good and valuable consideration, the parties agree as follows:

1. The Maturity Date set forth in paragraph (b) of the Note is hereby modified and amended from September 20, 2007 until March 20, 2008. Interest payments must be made on the twentieth day of each month until the Loan is paid in full.
2. The Security Documents are hereby modified and amended to secure the Note as hereby modified and all references to the Note in the Security Documents are modified and amended to refer to the Note as hereby modified. All interest charged on and all payments made on the Note previously are unchanged.
3. This Second Modification shall be effective upon Lender's receipt of this Second Modification executed by the parties hereto and the following documents and items:
  - (a) a Resolution of Borrower;
  - (b) a LLC File Detail Report printout from the Illinois Secretary of State's website showing the good standing status of Borrower;
  - (c) a Certification of No Change to Borrower's organizational documents;
  - (d) updated certificates of insurance as required;
  - (e) payment of the expenses set forth in Section 7 hereof; and
  - (f) a date down endorsement to Lender's loan title insurance policy.
4. This Second Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage as

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revised by this Second Modification, or the covenants, conditions and agreements therein contained or contained in the Note.

5. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

6. Borrower and Guarantor hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

7. Borrower hereby agrees to pay all of Lender's expenses arising out of and in connection with this Second Modification including, but not limited to, attorneys' fees, title insurance premiums and recording fees.

8. Guarantor hereby expressly acknowledges and confirms that by executing this Second Modification, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantor and without such action releasing, modifying, or affecting the obligations of Guarantor or affecting the security heretofore granted to Lender.

9. BORROWER AND GUARANTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY THE RIGHT THEY MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THE MODIFICATION, THIS SECOND MODIFICATION, THE MORTGAGE, THE LOAN AGREEMENT, THE SECURITY DOCUMENTS, OR ANY OF THE DOCUMENTS EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH LENDER,

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BORROWER AND/OR GUARANTOR ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER OR GUARANTOR, OR ANY OF THEM.

10. Borrower and Guarantor hereby irrevocably submit to the jurisdiction of any state court sitting in Cook County, Illinois or any federal court sitting in Chicago, Illinois over any action or proceeding based hereon and Borrower and Guarantor hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower and Guarantor hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding. Borrower and Guarantor irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower and Guarantor at their addresses as specified herein or otherwise in the records of Lender. Borrower and Guarantor agree that a final judgment in any such action or proceeding, after all appeal rights are exhausted, shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

Borrower and Guarantor agree not to institute any legal action or proceeding against Lender or the directors, officers, employees, agents or property thereof, in any court other than the one hereinabove specified. Nothing in this Section shall affect the right of Lender to serve legal process in any other manner permitted by law or affect the right of Lender to bring any action or proceeding against Borrower and Guarantor or their property in the courts of any other jurisdictions; provided, however, unless Lender is required by law to institute proceedings in any other jurisdiction, Lender shall first institute proceedings in a state court sitting in Cook County, Illinois or any federal court sitting in Chicago, Illinois.

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11. Borrower and Guarantor warrant to Lender that neither Borrower nor Guarantor nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "Blocked Persons Lists") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower and Guarantor covenant to Lender that if they become aware that they or any affiliate are identified on any Blocked Persons List, Borrower and Guarantor shall immediately notify Lender in writing of such information. Borrower and Guarantor further agree that in the event they or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person ("Person") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of Lender and encumbering, any part of the Premises (as defined in the Mortgage) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Modification  
on September 28, 2007.

**LENDER:**

First Chicago Bank & Trust, as successor to  
Labe Bank, an Illinois banking corporation

By: [Signature]  
Its ASSISTANT Vice President

**BORROWER:**

Mae Development Group, Inc., an Illinois  
corporation

By: [Signature]  
Steven Ciaccio, President

**GUARANTOR:**

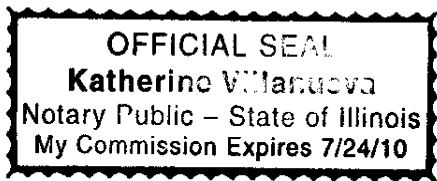
[Signature]  
Steven Ciaccio

STATE OF ILLINOIS     )  
                                  )  
COUNTY OF COOK     )

SS

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Steven Ciaccio, individually and as President of Mae Development Group, Inc., an Illinois corporation, 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 the said instrument as his own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal Sept 28, 2007.



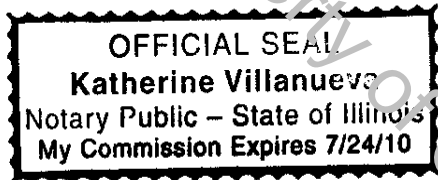
[Signature]  
Notary Public

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STATE OF ILLINOIS     )  
  )     SS  
COUNTY OF COOK     )

The undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that Dan Robinson, Assistant Vice Pres of First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation, 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 (s)he signed and delivered the said instrument as his/her 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 Sept 28, 2007.



K Villanueva  
Notary Public

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## EXHIBIT A

### LEGAL DESCRIPTION:

LOT 16 AND THE NORTH 1/2 OF LOT 15 IN BLOCK 7 IN DUNCAN'S ADDITION TO CHICAGO, A SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 103 S. Morgan Street, Chicago, Illinois  
P.L.N.: 17-17-212-014-0000

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