

# UNOFFICIAL COPY

## LOAN MODIFICATION AGREEMENT



Doc#: 0800234100 Fee: \$34.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/02/2008 02:32 PM Pg: 1 of 6

THIS LOAN MODIFICATION AGREEMENT (this "Agreement") is made as of the 11<sup>th</sup> day of December, 2007, to be effective as of October 31, 2007, by **OSLO DEVELOPMENT LIMITED PARTNERSHIP**, an Illinois limited partnership ("Mortgagor"), **ROBERT WARDANIAN** ("Guarantor") and **AMERICAN CHARTERED BANK** ("Mortgagee").

### RECITALS:

A. Mortgagee previously made a loan (the "Loan") to Mortgagor in the maximum principal amount of \$2,170,000.00 as evidenced by a Promissory Note in such amount dated March 17, 2006 (the "Original Note") made by Mortgagor in favor of Mortgagee. The Original Note is secured by (i) that certain Mortgage dated March 17, 2006 and recorded on March 23, 2006 as document No. 5966353 (the "Mortgage") made by Mortgagor in favor of Mortgagee and encumbering certain real property (the "Mortgaged Property") described therein, (ii) that certain Assignment of Leases dated March 17, 2006 and recorded on March 23, 2006 as document No. 5966354 (the "Assignment") made by Mortgagor to Mortgagee, (iii) that certain Environmental Indemnity Agreement dated March 17, 2006 (the "Indemnity") made by Mortgagor and Guarantor, in favor of Mortgagee, and (iv) that certain Guaranty of Payment and Performance dated March 17, 2006 (the "Guaranty") made by Guarantor in favor of Mortgagee. All capitalized terms not otherwise defined herein shall have the meaning ascribed thereto in the Original Note.

B. The principal amount of the Loan was subsequently increased to a total of \$3,129,000.00 pursuant to that certain Loan Modification Agreement dated November 22, 2006 (the "First Modification") by and among Mortgagee, Guarantor and Mortgagor and that certain Amended and Restated Promissory Note dated November 10, 2006 (the "First Amended Note") in the maximum principal amount of \$3,129,000.00.

C. The Original Note, the Mortgage, the Assignment, the Indemnity, the Guaranty, the First Modification, the First Amended Note, this Agreement and the Amended Note (defined below) together with all the other documents evidencing and securing the documents evidencing and/or securing the Loan are herein called the "Loan Documents."

D. The Maturity Date of the Loan is October 31, 2007.

E. Subsequent to the initial extension of the Loan, the Mortgaged Property was subdivided, a portion thereof was sold, and the Mortgage was released as to such sold portion.

F. Mortgagor, as "Applicant", entered into that certain Application and Agreement for Irrevocable Letter of Credit dated June 20, 2006 (the "LC Agreement") with Lender by which Lender issued an irrevocable letter of credit (the "LC") in the face amount of \$448,204.00 in favor of the Village of Lake Zurich as "Beneficiary".

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G. Mortgagor has requested, and Mortgagee has agreed to (i) extend the Maturity Date of the Loan to October 31, 2008, (ii) decrease the principal amount of the Loan by \$1,133,000.00 to a total of \$1,996,000.00, and (iii) extend the expiration date of the LC Agreement and LC to June 20, 2008.

H. A condition precedent to Mortgagee's extension of the Maturity Date of the Loan and decrease of the Loan to Mortgagor is the execution and delivery by Mortgagor of this Agreement and that certain Amended and Restated Promissory Note in the maximum principal amount of \$1,996,000.00 and dated this date (the "Amended Note").

I. Capitalized terms not defined herein shall have the meaning ascribed to them in the Note.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor agrees as follows:

1. **Modification of Loan Documents.**

- a. Any and all references in the Loan Documents to the "Note" shall mean the Amended Note.
- b. Any and all references in the Loan Documents to the "Loan" shall mean the Loan as increased hereby.
- c. Any and all references to the "Loan Documents" shall mean the Loan Documents as modified hereby, and shall include the LC Agreement, the LC and any and all other documents evidencing or relating to the LC.
- d. Any and all references to the Mortgaged Property shall mean the Mortgaged Property as legally described on and on Exhibit A attached hereto and made a part hereof.
- e. The Mortgage is revised to provide that in addition to securing repayment of the Loan, the Mortgaged Property and Mortgage shall also serve to secure: (i) the payment of the any and all sums due under the LC Agreement and the LC, including without limitation, all interest, late charges and other indebtedness evidenced by or owing under the LC Agreement, the LC or any of the other Loan Documents, and by any extensions, modifications, renewals or refinancings thereof; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the LC Agreement, the LC or any of the other Loan Documents; and (iii) the reimbursement of Mortgagee for any and all sums expended or advanced by Mortgagee pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage or any of the other Loan Documents, with interest thereon as provided herein or therein.
- f. The face amount of the LC shall not be credited against the outstanding principal, or available outstanding principal of the Loan.

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g. The expiration date of the LC, as provided therein and in the LC Agreement, is extended to June 20, 2008.

2. **Representations and Warranties.**

- a. Mortgagor and Guarantor hereby restate all representations and warranties made by both of them and contained in any of the Loan Documents as if fully set forth herein.
- b. Mortgagor has full power and authority to execute this Agreement and to perform all of its duties and obligations under this Agreement and under the Loan Documents, as amended hereby; such execution and performance have been duly authorized by all necessary corporate, shareholder or partnership approval.
- c. Mortgagor shall perform, or cause to be performed, all work in compliance with any and all applicable laws, rules, regulations, ordinances and statutes, free and clear of any liens, and in a good and workmanlike manner. Mortgagor has obtained all required permits, licenses and authorizations required in connection with any work on or at the Mortgaged Property.
- d. Mortgagor shall not suffer or permit any breach or default to occur in any of Mortgagor's obligations under any of the Construction Contracts.

3. **Restatement of Guaranty.** Guarantor hereby restates all of its covenants and obligations under the Guaranty, which shall remain in full force and effect pursuant to its terms and the terms contained herein.

4. **Miscellaneous.**

- a. In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Agreement and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.
- b. This Agreement is to be construed in accordance with and governed by the laws of the State of Illinois.

*[Signatures on following page.]*

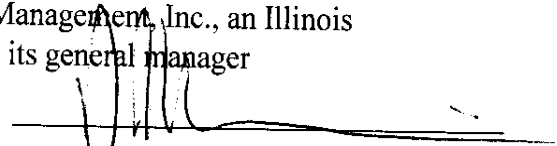
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IN WITNESS WHEREOF, Mortgagor, Guarantor and Mortgagee have executed this Loan Modification Agreement the day and year first above written.

**MORTGAGOR:**

**OSLO DEVELOPMENT LIMITED PARTNERSHIP**, an Illinois limited partnership

By: Flex Management, Inc., an Illinois corporation, its general manager



Name: Robert Wardanian

Title: President

**GUARANTOR:**

Robert Wardanian, Individually

**MORTGAGEE:**

**AMERICAN CHARTERED BANK**

By: 

Name: Ronella A. Ziebart

Title: Group Vice P.

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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 Robert Wardanian, both individually and as President of Flex Management, Inc., the general partner of OSLO Development Limited Partnership who is personally known to me to be the same person whose name is subscribed to the foregoing instrument both individually and as such general partner, appeared before me this day in person and acknowledged 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 2<sup>nd</sup> day of December, 2007.



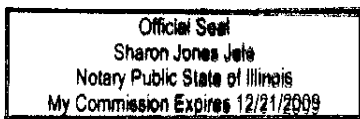
*Kelly Ann Sheehan*  
\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)

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 Ronella Zieba the Group SVP of American Chartered Bank who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Ronella Zieba appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as her/his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 28 day of December, 2007.



*Sharon Jones Jelle*  
\_\_\_\_\_  
NOTARY PUBLIC

(SEAL)

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## EXHIBIT A Legal Description of Premises

LOTS 1, 2, 6, 7 AND 8 IN DONATA SUBDIVISION, BEING A SUBDIVISION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED July 18, 2006 AS DOCUMENT 6029161, IN LAKE COUNTY, ILLINOIS,

AND

LOT 2 IN DONATA SUBDIVISION II, BEING A RESUBDIVISION OF LOTS 3, 4 AND 5 IN DONATA SUBDIVISION, BEING A SUBDIVISION IN THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 16, TOWNSHIP 43 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 18, 2007 AS DOCUMENT 6243301, IN LAKE COUNTY, ILLINOIS.

<p><b>This instrument was prepared by and after recording return to:</b>  Bronson &amp; Kahn, LLC  150 North Wacker Drive, Suite 1400  Chicago, Illinois 60606  Attn: Harlan D. Kahn, Esq.</p>	<p><b>Permanent Real Estate Tax No.:</b>  14-16-302-002-8900  <b>Common Address:</b>  Lake Zurich, Illinois 60047</p>
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