

UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:



Doc#: 0810531102 Fee: \$70.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 04/14/2008 04:05 PM Pg: 1 of 18

Meltzer, Purtil & Stelle LLC
300 South Wacker Drive
Suite 3500
Chicago, Illinois 60606
Attn: Allen C. Balk, Esq.

This space reserved for Recorder's use only

THIRD MODIFICATION TO LOAN DOCUMENTS WITH ASSIGNMENT AND ASSUMPTION

THIS THIRD MODIFICATION TO LOAN DOCUMENTS WITH ASSIGNMENT AND ASSUMPTION ("Amendment") is entered into as of the 9th day of April, 2008, and effective as of October 19, 2007 ("Effective Date"), by and among SMITHFIELD PROPERTIES XX, L.L.C., an Illinois limited liability company ("Borrower"), SMITHFIELD PROPERTIES XL, L.L.C., an Illinois limited liability company ("Co-Borrower"), W. HARRIS SMITH and ROBERT BUONO (individually and collectively, as the context shall require, "Guarantor"), and GENEVA LEASING ASSOCIATES, INC., an Illinois corporation, its participants, successors and assigns ("Lender").

RECITALS:

A. Borrower, each Guarantor and Lender entered into a certain Acquisition and Construction Loan Agreement dated September 29, 2005 ("Loan Agreement"), pursuant to which Lender agreed to loan to Borrower an amount not to exceed Seventy Million and No/100 Dollars (\$70,000,000.00) ("Loan") in order to finance (i) the acquisition of a certain parcel of improved land located at 151 North State Street, Chicago, Cook County, Illinois, as legally described in **Exhibit A** attached hereto (the "Real Estate") and (ii) the construction of a thirty-two (32) story mixed-use building on the Real Estate.

B. The Loan is evidenced by a certain revolving promissory note dated September 29, 2005 in the principal amount of \$70,000,000.00 ("Promissory Note"), made payable by Borrower to the order of Lender.

C. The Promissory Note is secured by, among other things, (i) that certain Mortgage and Security Agreement dated as of September 29, 2005 and recorded by the Cook County Recorder of Deeds ("Recorder's Office") on October 28, 2005, as Document No. 0530103116 ("Mortgage") which Mortgage encumbers the Real Estate, (ii) that certain Assignment of Rents and Leases dates as of September 29, 2005 and recorded by the Recorder's Office on October 28, 2005, as Document No. 0530103117 ("Assignment"), which encumbers the rents, issues and

{31262: 016: 00327045.DOC :2 }

Near North National Title
222 N. LaSalle
Chicago, IL 60601

MAIL TO
1001 - JL
761944
NO1041944

UNOFFICIAL COPY

profits from the Real Estate and the Borrower's interest in any leases on the Real Estate, (iii) that certain Environmental Indemnity Agreement dated September 29, 2005 from Borrower and each Guarantor to Lender ("Environmental Indemnity"), and (iv) certain other loan documents (the Promissory Note, the Mortgage, the Assignment, the Environmental Indemnity, the Guaranty (as defined below), the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as "Loan Documents").

D. The Loan is further secured by a Guaranty dated September 29, 2005 ("Guaranty") from each Guarantor to Lender.

E. Pursuant to that certain First Modification to Loan Documents dated as of January 16, 2007 (the "First Amendment"), the Loan Documents were amended to increase the amount of aggregate cumulative disbursements that are permitted under the Loan from Eighty Million One Hundred Sixty-Nine Thousand Three Hundred Twenty-Nine and No/100 Dollars (\$80,169,329.00) to Eighty-Seven Million Eight Hundred Nineteen Thousand Three Hundred Twenty-Nine and No/100 Dollars (\$87,819,329.00) in order (i) to pay off the Mezzanine Loan (as defined in the Loan Agreement), (ii) to increase the Interest Reserve (as defined in the Loan Agreement) by One Million Three Hundred Fifty Thousand and No/100 Dollars (\$1,350,000.00), and (iii) for other permitted expenses as shown on the revised Project Budget attached to the First Amendment. The Loan, as amended by the First Amendment, is evidenced by that certain Amended and Restated Promissory Note dated January 16, 2007 (the "First Amended Note") in the principal amount of Seventy Million and No/100 Dollars (\$70,000,000.00), which amended and restated the Promissory Note.

F. Pursuant to that certain Second Modification to Loan Documents dated as of August 23, 2007 (the "Second Amendment"), the Loan Documents were amended to increase the amount of the Loan by Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00). The Loan, as amended by the Second Amendment, is evidenced by that certain Second Amended and Restated Promissory Note dated August 23, 2007 (the "Second Amended Note") in the principal amount of Seventy-Two Million Five Hundred Thousand and No/100 Dollars (\$72,500,000.00), which amended and restated the First Amended Note.

The Promissory Note, the First Amended Note, and the Second Amended Note are hereinafter referred to as the "Note".

G. Borrower has transferred fee simple title to the Real Estate to Co-Borrower (the "Transfer") pursuant to a quitclaim deed dated October 5, 2007 and recorded in the Recorder's Office on October 19, 2007 as Document No. 0729260066 without first obtaining the consent of the Lender as required under the Loan Documents. Borrower now wishes to add Co-Borrower as an additional obligor under the Loan Documents so that the Transfer shall not be deemed an Event of Default under the Loan Documents.

H. Borrower has requested that Lender amend the Loan Documents in order to, among other things, (i) extend the Maturity Date from March 31, 2008 to September 30, 2008, (ii) increase the amount of aggregate cumulative disbursements that are permitted under the

UNOFFICIAL COPY

Loan from Eighty-Seven Million Eight Hundred Nineteen Thousand Three Hundred Twenty-Nine and No/100 Dollars (\$87,819,329.00) to Ninety Three Million Three Hundred Sixty Nine Thousand Three Hundred Twenty Nine and No/100 Dollars (\$93,369,329.00) to be disbursed as shown on the revised Project Budget as **Exhibit B** attached hereto, (iii) increase the Loan Rate (as defined in the Note); (iv) add Co-Borrower to the Loan and the Loan Documents as a co-borrower thereunder, and accordingly, the Borrower and Co-Borrower shall jointly and severally become the "Borrower" under the Loan, each as a co-borrower thereunder, and (v) provide that the Transfer shall not be deemed an Event of Default under the terms of the Loan Documents.

1. Lender requires in connection with its agreement to the foregoing that the Loan Documents be amended on the terms and upon the conditions contained in this Amendment to reflect the addition of Co-Borrower as an obligor of the Loan and the terms upon which the Lender shall consent to the Transfer, and to provide for such other revisions as are set forth herein.

ACCORDINGLY, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged Borrower, each Guarantor and Lender hereby agree as follows:

1. **Recitals.** The recitals set forth above are hereby incorporated herein and made a part hereof. Except as otherwise expressly indicated, all capitalized terms used herein or in any of the Recitals shall have the same meanings as ascribed to them in the Loan Agreement.

2. **Confirmation.** Borrower and each Guarantor hereby confirms and certifies to Lender that each representation and warranty contained in the Loan Agreement, as amended hereby, is true, complete and correct in all respects as of the date hereof.

3. **Extension of Maturity Date.** The Maturity Date is hereby extended from March 31, 2008, to September 30, 2008, or such earlier date when all indebtedness under the Loan shall be due and payable. Any reference in the Loan Agreement, the Note, the Mortgage, or any of the other Loan Documents to the Maturity Date shall mean and refer to September 30, 2008.

4. **Interest.** The Loan Rate is hereby increased from a floating rate equal to the Prime Rate (as defined in the Note) PLUS one quarter of one percent (0.25%) to a rate that shall in no event be less than the Prime Rate PLUS one half of one percent (0.50%). Any reference in the Loan Agreement or any other Loan Document to the Loan Rate shall mean and refer to the Prime Rate PLUS one half of one percent (0.50%).

5. **Increase of Cumulative Aggregate Loan Amount.** The cumulative aggregate principal amount of the Loan shall be increased by Five Million Five Hundred Fifty Thousand and No/100 Dollars (\$5,550,000.00), from Eighty-Seven Million Eight Hundred Nineteen Thousand Three Hundred Twenty-Nine and No/100 Dollars (\$87,819,329.00) to Ninety Three Million Three Hundred Sixty Nine Thousand Three Hundred Twenty Nine and No/100 Dollars (\$93,369,329.00). The Loan Agreement, the Note and each of the Loan Documents are hereby modified such that any reference in the Loan Agreement, the Note and each of the other Loan Documents to the cumulative aggregate principal amount of the Loan or the amount of

UNOFFICIAL COPY

\$87,819,329.00 (either in numbers or words, as the case may be) as the cumulative aggregate principal amount of the Loan or otherwise, is hereby amended to be \$93,369,329.00 (either in numbers or words, as the case may be).

6. Amendment to Loan Agreement.

A. Section 1.14 of the Loan Agreement shall be, and hereby is, deleted in its entirety and is replaced with the following:

“1.14 Maturity Date. September 30, 2008.”

B. Section 3.1 of the Loan Agreement shall be, and hereby is, deleted in its entirety and is replaced with the following:

“3.1 Loan. Subject to the terms and conditions herein contained, Lender shall lend to Borrower on a revolving basis and Borrower may borrow from Lender an amount equal to not more than Seventy-Two Million Five Hundred Thousand and No/100 Dollars (\$72,500,000.00) outstanding at any one time (including, without limitation, the amount of the Letter of Credit), for Project costs set forth in the Project Budget (the “Loan”), which shall be evidenced by the Promissory Note, as amended from time to time. The cumulative aggregate amount of all disbursements of the Loan shall not exceed Ninety Three Million Three Hundred Sixty Nine Thousand Three Hundred Twenty Nine and No/100 Dollars (\$93,369,329.00) (including, without limitation, the amount of the Letter of Credit). Borrower may borrow, repay and re-borrow the amounts set forth herein, on or prior to the Maturity Date, subject to the terms and conditions herein contained, including, without limitation, the limits established with respect to maximum amounts outstanding at any one time and in the aggregate.”

C. Section 7.19(b) of the Loan Agreement shall be, and hereby is, deleted in its entirety and is replaced with the following:

“After the satisfaction of the Subsequent Disbursement Conditions, in no event shall (i) the principal amount outstanding of the Loan at any time exceed Seventy-Two Million Five Hundred Thousand and No/100 Dollars (\$72,500,000.00), and (ii) the cumulative aggregate disbursements of the Loan shall not exceed Ninety Three Million Three Hundred Sixty Nine Thousand Three Hundred Twenty Nine and No/100 Dollars (\$93,369,329.00); and”

7. Amendment to Loan Agreement to Add Co-Borrower. The Loan Agreement is hereby amended to reflect the following:

A. Addition of Co-Borrower as Obligor under the Loan. As of the Effective Date,

UNOFFICIAL COPY

Borrower and Co-Borrower shall jointly and severally become the "Borrower" under the Loan and each of the Loan Documents (including, without limitation, the Loan Agreement).

B. Ownership Structure of the Property. As of the Effective Date, the Co-Borrower is the sole owner of the Real Estate pursuant to the Transfer. Lender hereby consents to the Transfer, and agrees that the Transfer shall not, in and of itself, be deemed an Event of Default under the Loan Documents; provided, however, that Borrower and Co-Borrower shall deliver to Lender:

- (i) all documents and instruments evidencing and/or relating to the Transfer;
- (ii) certified copies of Co-Borrower's Articles of Organization and Operating Agreement and a certificate of good standing of Co-Borrower, together with resolutions of the members of Co-Borrower authorizing the execution of this Amendment by Co-Borrower by its Manager, and the performance by Co-Borrower of its obligations under the Loan Documents; and
- (iii) such other documents as shall be required under the terms of this Agreement.

8. Assumption of Obligations by Co-Borrower. Co-Borrower hereby accepts and absolutely agrees to and assumes each and every one of the obligations and liabilities of the Borrower under the Loan Documents on the same basis as if Co-Borrower had executed such documents on their face when originally delivered to Lender by the Borrower. Co-Borrower shall not hold or acquire, directly or indirectly, any ownership interest (legal or equitable) in any real or personal property other than the Property, or become a shareholder of or a member or partner in any entity which acquires any property other than the Property, until such time as the Loan has been fully repaid.

9. Amended and Restated Promissory Note. Borrower, Co-Borrower and Lender agree that the Second Amended Note shall be amended and restated in its entirety and that Borrower and Co-Borrower shall execute and deliver a Third Amended and Restated Note in the principal amount of Seventy-Two Million Five Hundred Thousand and No/100 Dollars (\$72,500,000.00), and in form and substance acceptable to Lender (the "Third Amended Note"). The replacement of the Second Amended Note with the Third Amended Note shall not be deemed and/or construed as a novation of Borrower's or Co-Borrower's obligations evidenced thereby, all of which shall remain in full force and effect as provided in the Third Amended Note. Any references in the Loan Documents to the Second Amended Note shall be deemed to mean and refer collectively to the Third Amended Note.

10. Amendment Fee. Borrower shall pay to Lender an "Amendment Fee" in the amount of Three Hundred Five Thousand and No/100 (\$305,000.00).

11. Amendment to Mortgage and Assignment of Rents. The Mortgage and the Assignment of Rents are hereby amended to reflect that the Co-Borrower is added to (i) the Mortgage as an additional mortgagor thereunder, and (ii) the Assignment of Rents as an

UNOFFICIAL COPY

additional assignor thereunder. Accordingly, the term “Mortgagor” in the Mortgage and “Assignor” in the Assignment of Rents shall be deemed to mean collectively, Borrower and Co-Borrower. Borrower, Co-Borrower and Guarantors each agree that Lender shall have the right to record this Amendment in the Recorder’s Office to reflect the subject matter of this Amendment.

12. Lender’s Consent. Lender hereby (i) consents to the transactions described herein, including, without limitation, the Transfer, and (ii) agrees that the Transfer shall not, in and of itself, constitute a breach, a default, an “Unmatured Event of Default” or an “Event of Default” each as defined in and/or under any of the Loan Agreement, the Note, the Mortgage or any other Loan Document. This Agreement shall not establish a course of dealing or be construed as evidence of any willingness on the Lender’s part to grant other or future amendments, should any be requested.

13. Other Conforming Amendments. The Environmental Indemnity, the Guaranty, and the other Loan Documents all as amended by this Amendment, as the case may be, are hereby amended to reflect and secure the amended obligations and liabilities as set forth herein. All requirements, conditions and obligations under any of the Loan Agreement, Promissory Note, as amended, Mortgage, as amended, and other Loan Documents, as amended, shall apply, govern and control the repayment of the Loan as amended hereby.

14. Additional Requirements. The obligation of Lender to amend the Loan as set forth herein shall be subject to Borrower, Co-Borrower, each Guarantor and others having delivered, or having caused to be delivered to Lender, the following items, all of which shall be in form and substance acceptable to Lender:

- (a) This Third Amendment executed by Borrower, Co-Borrower, each Guarantor and Lender;
- (b) The Third Amended and Restated Promissory Note of even date herewith executed by Borrower and Co-Borrower;
- (c) Payment of the Amendment Fee in the amount of \$305,000.00;
- (d) Payment of \$1,000,000.00 in additional cash equity by Borrower and Co-Borrower;
- (e) an Endorsement to Loan Policy No. N1041944 issued by Near North National Title LLC insuring the Mortgage which (i) reflects the recording of the this Amendment, (ii) extends the effective date of the Loan Policy to the date of recording of this Amendment, (iii) insures the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender, (iv) adds Co-Borrower as an additional party, and (v) insures for all amounts disbursed under the Loan through the date of recording of this Amendment

UNOFFICIAL COPY

- (f) Certified Resolutions of the Managers of Borrower and Co-Borrower, and any other required action in connection with the amendment of the Loan, the execution and delivery of the documents herein required, and the performance of the Loan, as amended; and
- (g) Such other items as Lender may require.

15. Loan Expenses. In addition to the Loan Expenses (as such term is defined in the Loan Agreement), Borrower and Co-Borrower agree to pay all expenses, charges, costs and fees hereby relating to the amendment of the Loan as amended hereby, including Lender's reasonable attorney's fees in connection with the negotiation and documentation of the agreements contained in this Amendment, and other supporting documents, all recording fees and charges, if any, title insurance charges and premiums, and all other expenses, charges, costs and fees referred to in or necessitated by the terms of this Amendment, and other documents (collectively, the "Additional Loan Expenses"). In the event the Additional Loan Expenses are not paid to Lender within five (5) days after the written demand therefor by Lender, the Additional Loan Expenses shall bear interest from the date so incurred until paid at the Default Rate or may be paid by Lender at any time following said five (5) day written demand by disbursement of proceeds of the Loan, as amended by this Amendment.

16. Representations and Warranties. Borrower, Co-Borrower and each Guarantor represent and warrant to Lender that: (i) each has full power and authority to execute and deliver this Amendment, and other documents, where applicable, and to perform their respective obligations hereunder and thereunder; (ii) upon the execution and delivery of this Amendment, and other Loan Documents, each as amended hereby, shall be valid, binding and enforceable upon Borrower, Co-Borrower and each Guarantor as the case may be, in accordance with its terms; (iii) execution and delivery of this Amendment, and other documents, as the case may be, does not and will not contravene, conflict with, violate or constitute a default under any agreement or any applicable law, rule, regulation, judgment, decree or order, or any agreement, indenture or instrument to which Borrower, Co-Borrower or any Guarantor is bound or which is binding upon or applicable to the Real Estate, or any portion thereof; (iv) no default or event or condition which would become a default with the giving of notice and/or the passage of time, exists under the Loan Documents, as amended by this Amendment; (v) there is not any condition, event, or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or to the best of their knowledge threatened, affecting Borrower, Co-Borrower any Guarantor or the Real Estate, or which would prevent Borrower, Co-Borrower and any Guarantor from complying with or performing his or its respective obligations under the Loan Documents, as amended by this Amendment, within the time limits set forth therein for such compliance or performance, and the undersigned knows of no basis for any such matter.

17. Guarantors' Consent, Ratification and Extension of Guaranty. Each Guarantor hereby consents to the execution and delivery of this Amendment, the Third Amended and Restated Note, and other Loan Documents, as amended hereby. Each Guarantor hereby ratifies and confirms his liabilities and obligations under the Guaranty and with respect to the Loan Documents, as amended by this Amendment and acknowledge that they have no defenses,

UNOFFICIAL COPY

claims, or set-offs to the enforcement by Lender of the liabilities and obligations under the Guaranty and/or the Environmental Indemnity, as the case may be, as of the date of the execution and delivery of this Amendment. Each Guarantor hereby fully, unconditionally, irrevocably, agrees to be bound by the terms of the Guaranty, as amended, as applicable, with respect to each and every one of the obligations and liabilities under the Loan, as amended hereby.

18. Absence of Claim. To further induce the Lender to enter into this Amendment, Borrower, Co-Borrower and each Guarantor hereby acknowledges and agrees that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of Borrower, Co-Borrower and each Guarantor as against the Lender with respect to the their liabilities and obligations under the Loan Documents and Guaranty.

19. Miscellaneous.

(a) Except as expressly amended herein, the Loan Agreement, the Third Amended Note, the Mortgage, the Assignment, the Guaranty and the other Loan Documents shall remain in full force and effect in accordance with their respective terms.

(b) This Amendment shall be binding on Borrower, Co-Borrower and each Guarantor and their respective heirs, legatees, administrators, personal representatives, successors and permitted assigns, and shall inure to the benefit of Lender, its successors and assigns.

(c) This Amendment may be executed in any number of counterparts, each of which when executed and delivered, shall be an original, but all counterparts shall together constitute one and the same instrument.

[Signature page to follow]

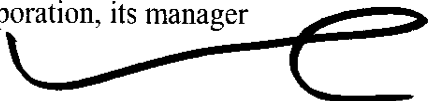
UNOFFICIAL COPY

This Amendment has been entered into as of the date first above written.

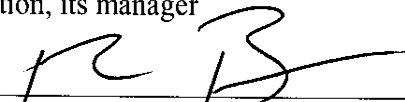
BORROWER:

SMITHFIELD PROPERTIES XX, L.L.C., an Illinois limited liability company

By: Harris Management, Ltd., an Illinois corporation, its manager

By: 
W. Harris Smith, President

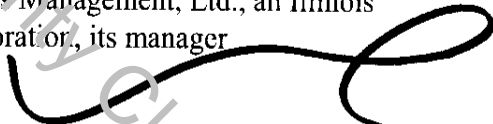
By: NorWol Corporation, an Illinois corporation, its manager

By: 
Robert Buono, President

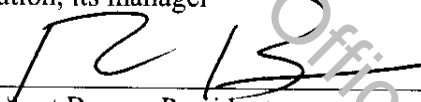
CO-BORROWER:

SMITHFIELD PROPERTIES XL, L.L.C., an Illinois limited liability company

By: Harris Management, Ltd., an Illinois corporation, its manager

By: 
W. Harris Smith, President

By: NorWol Corporation, an Illinois corporation, its manager

By: 
Robert Buono, President

[Signature page continues]

UNOFFICIAL COPY

GUARANTORS:



W. Harris Smith



Robert Buono

LENDER:

GENEVA LEASING ASSOCIATES, INC.,
an Illinois corporation

By: _____
A. Wayne Massey, its President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

GUARANTORS:

W. Harris Smith

Robert Buono

LENDER:

GENEVA LEASING ASSOCIATES, INC.,
an Illinois corporation

By: A. Wayne Massey
A. Wayne Massey, its President

Property of Cook County Clerk's Office

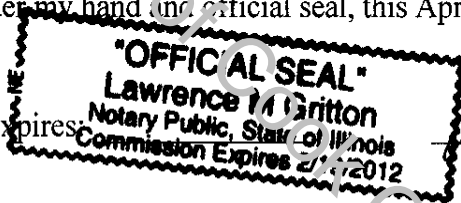
UNOFFICIAL COPY

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

I, the undersigned, a Notary Public do hereby certify that W. Harris Smith, personally known to me as the President of Harris Management, Ltd., an Illinois corporation, a Manager of SMITHFIELD PROPERTIES XX, L.L.C. and SMITHFIELD PROPERTIES XL, L.L.C, Illinois limited liability companies, appeared before me this day in person, and for and on behalf of Harris Management, Ltd., in its capacity as a Manager of SMITHFIELD PROPERTIES XX, L.L.C. and SMITHFIELD PROPERTIES XL, L.L.C, acknowledged that he signed and delivered the said instrument as his free and voluntary act, and the free and voluntary act of Harris Management, Ltd., for the uses and purposes therein set forth.

Given under my hand and official seal, this April 3, 2008.

My commission expires:



Lawrence M Gritton

Notary Public

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

I, the undersigned, a Notary Public do hereby certify that Robert Buono, personally known to me as the President of NorWol Corporation, an Illinois corporation, a Manager of SMITHFIELD PROPERTIES XX, L.L.C. and SMITHFIELD PROPERTIES XL, L.L.C, Illinois limited liability companies, appeared before me this day in person, and for and on behalf of Harris Management, Ltd., in its capacity as a Manager of SMITHFIELD PROPERTIES XX, L.L.C. and SMITHFIELD PROPERTIES XL, L.L.C, acknowledged that he signed and delivered the said instrument as his free and voluntary act, and the free and voluntary act of NorWol Corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this April 3, 2008.

My commission expires:



Lawrence M Gritton

Notary Public

Printed Name

UNOFFICIAL COPY

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

I, the undersigned, a Notary Public do hereby certify that W. Harris Smith appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this April 3, 2008.

My commission expires:





Notary Public


PROPERTY OF COOK COUNTY CLERK'S OFFICE

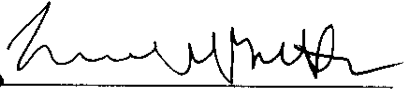
UNOFFICIAL COPY

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

I, the undersigned, a Notary Public do hereby certify that Robert Buono appeared before me this day in person, and acknowledged that he signed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this April 3, 2008.

My commission expires: 



Notary Public

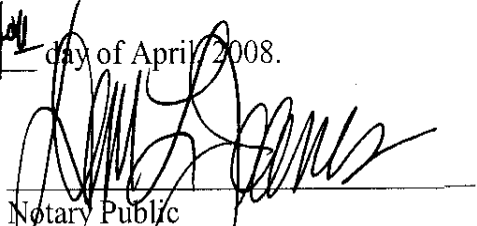
Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF DuPage) SS.

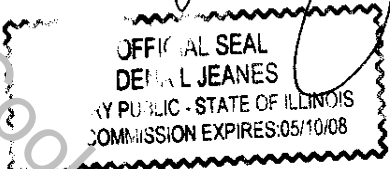
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that A. Wayne Massey, the President of Geneva Leasing Associates, Inc., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared 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 the Bank, for the uses and purposes therein set forth.

Given under my hand and official seal, this 4th day of April 2008.



Notary Public

My commission expires: 5.10.08



UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

LOTS 25 TO 31, INCLUSIVE, IN BLOCK 9 IN FORT DEARBORN ADDITION TO CHICAGO IN SOUTH WEST FRACTIONAL 1/4 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LESS AND EXCEPT THE FOLLOWING:

RETAIL

PARCEL 1-LOWER LEVEL

THAT PART OF LOTS 25 TO 31, INCLUSIVE, IN BLOCK 9 IN FORT DEARBORN ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +14.75 CHICAGO CITY DATUM, AND LYING WITHIN ITS HORIZONTAL BOUNDARIES PROJECTED VERTICALLY, DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG THE EAST LINE OF SAID TRACT 18.86 FEET; THENCE SOUTH 89° 59' 24" WEST 42.61 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 12' 02" WEST 20.39 FEET; THENCE NORTH 89° 47' 58" WEST 9.20 FEET; THENCE SOUTH 00° 12' 02" WEST 1.38 FEET; THENCE NORTH 89° 47' 58" WEST 16.83 FEET; THENCE NORTH 00° 12' 02" EAST 22.43 FEET; THENCE SOUTH 89° 47' 58" EAST 16.83 FEET; THENCE SOUTH 00° 12' 02" WEST 0.66 FEET; THENCE SOUTH 89° 47' 58" EAST 9.20 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

RETAIL

PARCEL 2-LOWER LEVEL

THAT PART OF LOTS 25 TO 31, INCLUSIVE, IN BLOCK 9 IN FORT DEARBORN ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +14.75 CHICAGO CITY DATUM, AND LYING WITHIN ITS HORIZONTAL BOUNDARIES PROJECTED VERTICALLY, DESCRIBED AS FOLLOWS; COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 00° 00' 36" WEST ALONG THE EAST LINE OF SAID TRACT 42.74 FEET; THENCE SOUTH 89° 59' 24" WEST 25.09 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 38' 16" WEST 9.21 FEET; THENCE NORTH 00° 21' 44" EAST 9.08 FEET; THENCE SOUTH 89° 38' 16" EAST 9.21 FEET; THENCE SOUTH 00° 21' 44" WEST 9.08 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

RETAIL

PARCEL 3-FIRST FLOOR

THAT PART OF LOTS 25 TO 31, INCLUSIVE, IN BLOCK 9 IN FORT DEARBORN ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +35.92 CHICAGO CITY DATUM AND LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +14.75 CHICAGO CITY DATUM, (EXCEPT THAT PART DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG THE EAST LINE OF SAID TRACT 3.94 FEET; THENCE SOUTH 89° 59' 24" WEST 42.48 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 24' 39" WEST 14.85 FEET; THENCE NORTH 89° 27' 22" WEST 9.14 FEET; THENCE NORTH 00° 24' 39" EAST 14.85 FEET; THENCE SOUTH 89° 27' 22" EAST 9.14 FEET TO THE POINT OF BEGINNING,

UNOFFICIAL COPY

ALSO EXCEPTING

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG THE EAST LINE OF SAID TRACT 18.97 FEET; THENCE SOUTH 89° 59' 24" WEST 23.97 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 23' 58" WEST 20.43 FEET; THENCE NORTH 89° 36' 02" WEST 10.74 FEET; THENCE NORTH 00° 23' 58" EAST 20.43 FEET; THENCE SOUTH 89° 36' 02" EAST 10.74 FEET TO THE POINT OF BEGINNING,

ALSO EXCEPTING

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 89° 02' 58" WEST ALONG THE SOUTH LINE OF SAID TRACT 24.13 FEET TO THE POINT OF BEGINNING, THENCE NORTH 00° 39' 27" EAST 32.36 FEET; THENCE SOUTH 89° 30' 21" EAST 0.54 FEET; THENCE NORTH 00° 51' 55" EAST 10.05 FEET; THENCE NORTH 89° 29' 18" WEST 30.36 FEET; THENCE SOUTH 00° 18' 34" WEST 42.19 FEET TO A POINT ON THE SOUTH LINE OF SAID TRACT; THENCE SOUTH 89° 02' 58" EAST ALONG SAID SOUTH LINE 29.52 FEET TO THE POINT OF BEGINNING,

ALSO EXCEPTING

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 89° 02' 58" WEST ALONG THE SOUTH LINE OF SAID TRACT 24.13 FEET, THENCE NORTH 00° 39' 27" EAST 32.36 FEET; THENCE SOUTH 89° 30' 21" EAST 0.54 FEET; THENCE NORTH 00° 51' 55" EAST 10.05 FEET; THENCE SOUTH 89° 39' 40" EAST 10.57 FEET; THENCE SOUTH 01° 00' 43" WEST 6.44 FEET; THENCE SOUTH 89° 23' 42" EAST 12.60 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG SAID EAST LINE 36.17 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

RETAIL

PARCEL 4-SECOND FLOOR

THAT PART OF LOTS 25 TO 31, INCLUSIVE, IN BLOCK 5 IN FORT DEARBORN ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +57.92 CHICAGO CITY DATUM AND LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +35.92 CHICAGO CITY DATUM, (EXCEPT THAT PART DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG THE EAST LINE OF SAID TRACT 18.97 FEET; THENCE SOUTH 89° 59' 24" WEST 23.97 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 23' 58" WEST 20.43 FEET; THENCE NORTH 89° 36' 02" WEST 10.74 FEET; THENCE NORTH 00° 23' 58" EAST 20.43 FEET; THENCE SOUTH 89° 36' 02" EAST 10.74 FEET TO THE POINT OF BEGINNING,

ALSO EXCEPTING

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 00° 00' 36" WEST ALONG THE EAST LINE OF SAID TRACT 20.62 FEET; THENCE SOUTH 89° 59' 24" WEST 24.86 FEET TO THE POINT OF BEGINNING, THENCE NORTH 89° 36' 02" WEST 10.74 FEET; THENCE NORTH 00° 23' 58" EAST 20.43 FEET; THENCE SOUTH 89° 36' 02" EAST 10.74 FEET THENCE SOUTH 00° 23' 58" WEST 20.43 FEET; TO THE POINT OF BEGINNING,

ALSO EXCEPTING

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 00° 00' 36" WEST ALONG THE EAST LINE OF SAID TRACT 20.62 FEET; THENCE SOUTH 89° 59' 24" WEST 43.52 FEET TO THE POINT OF BEGINNING, THENCE NORTH 89° 36' 02" WEST 9.09 FEET; THENCE NORTH 00° 23' 58" EAST 20.43 FEET; THENCE SOUTH 89° 36' 02" EAST 9.09 FEET THENCE SOUTH 00° 23' 58" WEST 20.43 FEET; TO THE POINT OF BEGINNING,

ALSO EXCEPTING

UNOFFICIAL COPY

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT; THENCE NORTH 00° 00' 36" WEST ALONG THE EAST LINE OF SAID TRACT 18.09 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89° 59' 24" WEST 12.51 FEET; THENCE NORTH 00° 10' 21" EAST 17.95 FEET; THENCE NORTH 89° 59' 24" EAST 12.45 FEET TO A POINT ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG SAID EAST LINE 17.95 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

RETAIL

PARCEL 5-THIRD-FOURTH FLOORS

THAT PART OF LOTS 25 TO 31, INCLUSIVE, IN BLOCK 9 IN FORT DEARBORN ADDITION TO CHICAGO IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +102.92 CHICAGO CITY DATUM AND LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +57.92 CHICAGO CITY DATUM, AND LYING WITHIN ITS HORIZONTAL BOUNDARIES PROJECTED VERTICALLY, DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT; THENCE SOUTH 00° 00' 36" EAST ALONG THE EAST LINE OF SAID TRACT 28.74 FEET; THENCE SOUTH 89° 59' 24" WEST 42.65 FEET TO THE POINT OF BEGINNING, THENCE SOUTH 00° 12' 02" WEST 10.51 FEET; THENCE NORTH 89° 47' 58" WEST 9.20 FEET; THENCE NORTH 00° 12' 02" EAST 10.51 FEET; THENCE SOUTH 89° 47' 58" EAST 9.20 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 17-10-305-007-8001

Street Address: 151 N. State Street, Chicago, Illinois

Cook County Clerk's Office