

# UNOFFICIAL COPY



This document was prepared by,  
and after recording, return to:

Doc#: 0815435229 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 06/02/2008 02:09 PM Pg: 1 of 9

James E. Adkins, Esq.  
10 S. Broadway, Suite 2000  
St. Louis, Missouri 63102

Permanent Tax Index Numbers:

17-10-219-018-0000 (DIV),  
17-10-219-019-0000,  
17-10-219-020-0000,  
and 17-10-219-021-0000

Property Address:

*This space reserved for Recorders use only.*

319 E. Illinois  
Chicago, Illinois

## MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (this "Agreement") is made and entered into as of the 29 day of May, 2008, by and between TFC PARK STREET LLC, a Delaware limited liability company (the "Mortgagor"), and 717 HB MINNEAPOLIS, INC., a Minnesota corporation, its successors and assigns (the "Lender").

### RECITALS:

A. Lender has made two (2) loans to the Mortgagor, one in the principal amount of Thirty Million One Hundred Sixty Thousand and 00/100 Dollars (\$30,160,000.00) and the other in the principal amount of Eight Million and 00/100 Dollars (\$8,000,000.00) (individually, a "Loan" and, collectively, the "Loans"), respectively. The Loans are evidenced by that certain Promissory Note, dated July 3, 2007, from Mortgagor to Lender in the amount of \$30,160,000.00 and having a maturity date of November 3, 2008 (as amended, restated, extended or replaced from time to time, the "First Note"), and that certain Promissory Note, dated July 3, 2007, from Mortgagor to Lender in the amount of \$8,000,000.00 and having a maturity date of October 3, 2008 (Mortgagor having the right to extend such maturity date to January 3, 2009 as provided therein) (as amended, restated, extended or replaced from time to time, the "Second Note"; the First Note and Second Note shall be individually referred to herein as a "Note" and collectively as the "Notes").

B. The Notes are secured by, among other things, a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated July 3, 2007 and recorded in the Recorder of Deed's Office of Cook County, Illinois on July 16, 2007 as Document No. 0719733073 (the "Mortgage"), and an Assignment of Rents and Leases, dated July 3, 2007 and recorded in the Recorder of Deed's Office of Cook County, Illinois on July 16, 2007 as Document No. 0719733074 (the "Assignment"), which covers the real estate legally described on the attached Exhibit A which is made a part hereof by this reference ("Real Estate").

1051337

Box 400-CTCC

844 2439

Jyok CTI D1

3 of 4

ghc

# UNOFFICIAL COPY

C. Mortgagor and Cityfront Hotel Associates Limited Partnership ("Cityfront") have entered into that certain Agreement Regarding Site Development dated as of May 29, 2008 ("SDA"), a memorandum of which was recorded with the Recorder of Deeds of Cook County, Illinois on June 2, 2008 as Document No. 0815435229, which contains certain payment obligations from Mortgagor to Cityfront and which payment obligations are further evidenced by a promissory note from Mortgagor to Cityfront dated May 29, 2008 ("Cityfront Note") and are secured by that certain mortgage which was recorded with the Recorder of Deeds of Cook County, Illinois on June 2, 2008 as Document No. 0815435228 against the Real Estate ("Cityfront Mortgage").

D. Mortgagor has requested that Lender subordinate the Mortgage to the SDA and Cityfront Mortgage. In consideration of Mortgagor agreeing to make an additional \$500,000.00 payment to Lender as provided in the First Note Amendment (as hereinafter defined), Lender has agreed to subordinate the Mortgage to the SDA and Cityfront Mortgage as expressly provided in that certain Subordination Agreement between Cityfront and Lender, dated May 29, 2008 and recorded with the Recorder of Deeds of Cook County, Illinois immediately following the recording of this Agreement ("Subordination Agreement").

E. Borrower and Lender have amended the First Note pursuant to that certain First Amendment to Promissory Note (First Note) of even date herewith ("First Note Amendment"), which amendment, among other things, obligates Mortgagor to make the aforementioned \$500,000.00 payment to Lender, and have amended the Second Note pursuant to that certain First Amendment to Promissory Note (Second Note) of even date herewith ("Second Note Amendment").

F. In connection with said amendment, Borrower and Lender desire to amend the Mortgage and Assignment on the terms and conditions hereinafter contained.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree to modify the Mortgage and Assignment as follows:

1. Capitalized terms used in this Agreement, to the extent not otherwise defined herein, shall have the same meaning as in the Mortgage. The Recitals to this Agreement are incorporated herein as if fully set forth herein.

2. The definition of First Note, as used herein and in the Mortgage and Assignment, is hereby amended to include the First Note Amendment.

3. The definition of Second Note, as used herein and in the Mortgage and Assignment, is hereby amended to include the Second Note Amendment.

4. In addition to the Events of Default currently provided in the Mortgage, the following shall also constitute an Event of Default under the Mortgage:

The occurrence of any default or event of default, after the expiration of any applicable periods of notice or cure, under the SDA, Cityfront Note

# UNOFFICIAL COPY

or Cityfront Mortgage or any other document or agreement between Mortgagor and Cityfront relating thereto.

5. Nothing herein contained shall in any way impair the Mortgage, the Assignment, any guarantees, or other security now held to secure repayment of the Notes or alter, waive, annul, vary, or affect any provisions, conditions, or covenants therein except as specifically provided herein, nor affect or impair any rights, powers, or remedies, under the Notes, Mortgage or Assignment; it being the intent of the parties hereto that the terms and provisions of the Notes, Mortgage, and Assignment shall continue in full force and effect as modified hereby.

6. Mortgagor hereby warrants and represents that the execution of this Agreement does not affect the priority of the Mortgage or Assignment as modified hereby, except as may be expressly provided in the Subordination Agreement.

7. Each of the Loan Documents and any and all other agreements, documents, or instruments now or hereafter executed and delivered pursuant to the terms of the Notes, are hereby amended so that any reference in such Loan Documents to the Mortgage or Assignment shall mean a reference to the Mortgage or Assignment, as applicable, as amended hereby.

8. Mortgagor and Lender agree that this Agreement modifies the Mortgage, but in no way acts as a release or relinquishment of liens, security interest, and rights (collectively called the "Liens") securing payment of the obligations evidenced by the Mortgage and the Notes referenced therein. The Liens, to the extent necessary, are hereby renewed, extended, ratified and confirmed by Mortgagor in all respects, and Mortgagor confirms and agrees that such Liens, including the liens created by the Mortgage, secure the Notes and other obligations under the Loan Documents.

9. Lender shall have the right, as a condition to its obligations hereunder, to require that any existing loan policies of title insurance held by Lender with respect to the Mortgage be endorsed, in form, substance and content reasonably satisfactory to Lender, which endorsement shall, among other things required by Lender, (a) include this Agreement among the insured loan documents, (b) state affirmatively that the execution, delivery and recording of this Agreement does not adversely affect the lien of the insured loan, except as expressly provided in the Subordination Agreement, and (c) indicate that there are no other liens, encumbrances or exceptions except as may be permitted by Lender which shall include, without limitation, the Cityfront Mortgage and any documents executed by Mortgagor in connection therewith. All costs and expenses (including, but not limited to, Lender's reasonable attorneys fees) incurred in connection with the issuance of said title insurance endorsement or endorsements and the negotiation, review and preparation of all documents, including but not limited to the Mortgage, First Note, Second Note, Cityfront Mortgage, Subordination Agreement, Agreement Regarding Site Development and such other documents as Lender deems reasonably necessary in connection herewith shall be paid by Mortgagor upon demand.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

11. This Agreement may be executed in multiple counterparts, each of which constitutes an original and all of which together shall constitute one and the same instrument.

# UNOFFICIAL COPY

This document shall be recorded in the real estate records of the County of Cook, State of Illinois.

[Remainder of page is intentionally left blank – Signatures on next page.]

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor and Lender have caused this Agreement to be duly executed in their behalf by a fully authorized officer as of the date of this Agreement.

MORTGAGOR:

TFC PARK STREET LLC,  
a Delaware limited liability company

By: *Christopher T. Carley*  
Christopher T. Carley, Manager

LENDER:

717 HB MINNEAPOLIS, INC.,  
a Minnesota corporation

By: \_\_\_\_\_  
Fred S. Kummer, President

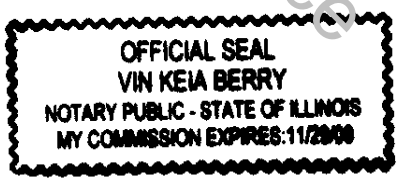
STATE OF ILLINOIS    )  
                                  ) SS.  
COUNTY OF COOK     )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher T. Carley, the Manager of TFC Park Street LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this *29<sup>th</sup>* day of *May*, 2008.

*Vin Keia Berry*  
Notary Public

My Commission Expires: *11/29/09*



# UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor and Lender have caused this Agreement to be duly executed in their behalf by a fully authorized officer as of the date of this Agreement.

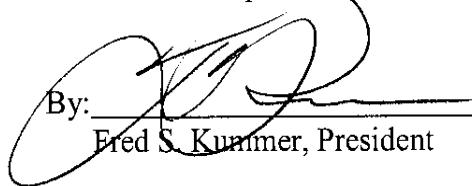
MORTGAGOR:

LENDER:

TFC PARK STREET LLC,  
a Delaware limited liability company

717 HB MINNEAPOLIS, INC.,  
a Minnesota corporation

By: \_\_\_\_\_  
Christopher T. Carley, Manager

By:  \_\_\_\_\_  
Fred S. Kummer, President

STATE OF ILLINOIS )  
                                  ) SS.  
COUNTY OF COOK    )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher T. Carley, the Manager of TFC Park Street LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public


My Commission Expires:

# UNOFFICIAL COPY

STATE OF MISSOURI     )  
                                          ) ss.  
COUNTY OF ST. LOUIS    )

On this 23<sup>rd</sup> day of May, 2008, before me appeared Fred S. Kummer, to me personally known, who, being by me duly sworn, did say that he is the President of 717 HB Minneapolis, Inc., a Minnesota corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors and said person acknowledged the instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

  
Notary Public Dana L. Brackeen

My Commission Expires: April 14, 2011



DANA L. BRACKEEN  
My Commission Expires  
April 14, 2011  
St. Louis City  
Commission #07426531

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

### REAL ESTATE

#### PARCEL 1:

THAT PART OF LOTS 1 AND 2 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24, 1987 AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 175.00 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 115.00 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOTS 1 AND 2; THENCE NORTHWARDLY ALONG SAID WEST LINE OF LOTS 1 AND 2, A DISTANCE OF 115.00 FEET, THENCE EASTWARDLY ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.

#### PARCEL 2:

THAT PART OF LOT 2 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24, 1987 AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT AT THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 290.00 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 38.25 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOT 2; THENCE NORTHWARDLY ALONG SAID WEST LINE OF LOT 2, A DISTANCE OF 38.25 FEET; THENCE EASTWARDLY ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.

#### PARCEL 3:

THAT PART OF LOT 1 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24, 1987



# UNOFFICIAL COPY

AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 160.00 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 15 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOT 1; THENCE NORTHWARDLY ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 15 FEET; THENCE EASTWARDLY ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING

PARCEL 4:

LOT 2 IN BLOCK 8 (EXCEPT THE NORTH 91.75 FEET THEREOF) IN CITYFRONT CENTER, BEING A RESUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 24, 1987 AS DOCUMENT 87106320 COOK COUNTY, ILLINOIS.