

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY:
Christyl Marsh
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:
Oxford Bank & Trust
1111 West 22nd Street, Suite 800
Oak Brook, Illinois 60523
Attn: Marc Gryzlo



Doc#: 0815635129 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/04/2008 10:30 AM Pg: 1 of 10

SECOND MODIFICATION AGREEMENT

THIS SECOND MODIFICATION AGREEMENT (hereinafter referred to as this "Modification Agreement") made as of this 1st day of May, 2008, by and among GVP FLETCHER, LLC, an Illinois limited liability company ("Borrower"), GVP HOLDINGS VIII, LLC, an Illinois limited liability company ("Holdings"), PETER M. GRAHN ("Peter"), MARVIN G. GRAHN ("Marvin"), ERICK V. GRAHN ("Erick") (Holdings, Peter, Marvin and Erick hereinafter shall be collectively referred to as the "Guarantors") (Borrower and Guarantors are hereinafter collectively referred to as the "Obligors") and OXFORD BANK & TRUST ("Lender").

WITNESSETH:

WHEREAS, Borrower has executed and delivered to Lender that certain mortgage note dated as of April 28, 2006 in the original principal sum of Four Hundred Eighteen Thousand and 00/100 Dollars (\$418,000.00) (as modified, restated or replaced from time to time, the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as modified, restated or replaced from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage and security agreement of even date therewith, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 0612435634 (the "Mortgage") on property commonly known as 2013 W. Fletcher, Chicago, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents and of lessor's interest in leases dated of even date with the Note made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0612435635 (the "Assignment of Rents");
- (iii) guaranty dated of even date with the Note made by Guarantors in favor of Lender;
- (iv) environmental indemnity agreement dated of even date with the Note made by Obligors in favor of Lender;

1000

D114691

Property of Cook County Official

UNOFFICIAL COPY

WHEREAS, Borrower properly exercised its right to extend the maturity date of the Note from May 1, 2007 to November 1, 2007.

WHEREAS, the Note and Loan Documents were previously modified pursuant to that certain modification agreement dated November 1, 2007, by and among Borrower, Guarantors, and Lender, recorded in the Recorder's Office as Document No. 0801446022, whereby among other modifications, (i) the maturity date of the Note was extended to May 1, 2008, and (ii) the interest rate charged on the Note was decreased to 1/4% above the base rate of interest charged from time to time by Lender.

WHEREAS, Obligors are desirous of (i) extending the maturity date of the Note to November 1, 2008, (ii) adding one 6-month option to extend the maturity date of the Note, and (iii) making certain other changes thereto, and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises (as defined in the Mortgage) and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.
2. The Note is hereby modified as follows:
 - a. The date "May 1, 2008" as it appears in the first paragraph on page 1 is deleted and replaced with the phrase "November 1, 2008 (subject to one six (6) month extension as hereinafter provided)".
 - b. The second paragraph on page 1 is deleted and replaced with the following:

"Accrued interest shall be payable monthly commencing on June 1, 2006, and continuing on the 1st day of each month thereafter to and including October 1, 2008, with a final payment of all principal and interest due, if not sooner paid, on November 1, 2008 (the "Maturity Date"). Provided no Event of Default has then occurred, Borrower may elect to extend the Maturity Date from November 1, 2008 to May 1, 2009 upon providing written notice thereof to Lender no later than September 1, 2008 and upon payment to Lender at the time of such notice of an extension fee in an amount equal to the product of (i) the then current outstanding principal balance of the loan plus the available undisbursed loan proceeds, multiplied by (ii) one quarter percent (.25%). After the Maturity Date, whether by acceleration or otherwise, interest shall accrue on the balance of principal remaining from time to time outstanding at the rate of four percent (4%) above the Prime Rate (the "Default Rate")."

UNOFFICIAL COPY

3. The Mortgage is hereby modified by deleting the date "May 1, 2008" as it appears in the first "Whereas" paragraph on page 1 and replacing it with the phrase "November 1, 2008 (subject to one six month extension)".

4. The Loan Documents are hereby amended to provide that Borrower's address for notices is hereby amended to be: "GVP Fletcher, LLC, 2211 North Elston Avenue, Suite 303, Chicago, Illinois 60614".

5. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified. Each reference in the Note and the Loan Documents to the term "Maturity Date" shall hereafter mean November 1, 2008 (subject to one six month extension).

6. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

7. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender a non-refundable modification fee in the amount of \$1,045.00, plus all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

8. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Mortgage and/or the Assignment of Rents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

9. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

UNOFFICIAL COPY

10. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

Without limiting the generality of the foregoing paragraph, each Guarantor hereby further represents and warrants to the Lender with the intent that the Lender rely thereon, as follows with regard to the Guaranty, as hereby modified: (a) the Guaranty is in full force and effect and is binding and enforceable against the Guarantor in accordance with its terms; (b) the Guarantor irrevocably consents and agrees to the Borrower's execution and delivery of this Modification Agreement; (c) the liability of the Guarantor to the Lender under the Guaranty shall in no way be affected, modified, altered, or discharged in any fashion by the Borrower's execution, delivery or performance of this Modification Agreement; (d) the Guarantor hereby restates and reaffirms to Lender all terms and provisions of the Guaranty as if set forth in full herein; and (e) the Guarantor does not possess any claims, defenses, offsets, or counterclaims against the enforcement of the Guaranty as of the date hereof, and any and all such claims, defenses, offsets and counterclaims, whether known or unknown, are forever waived and released, and the Guarantor is unconditionally liable under the Guaranty, for the payment and performance of all present and future indebtedness and all other obligations described therein.

11. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principals), including all matters of construction, validity and performance.

12. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

13. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

14. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COCK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER

UNOFFICIAL COPY

WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

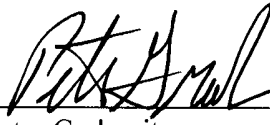
Property of Cook County Clerk's Office

UNOFFICIAL COPY

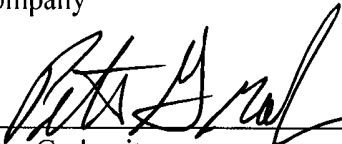
IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

GVP FLETCHER, LLC, an Illinois limited liability company

By: GVP Holdings VIII, LLC, an Illinois limited liability company, its manager

By: 
Peter Grahn, its manager

GVP HOLDINGS VIII, LLC, an Illinois limited liability company

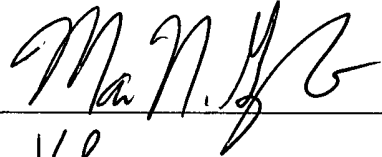
By: 
Peter Grahn, its manager


PETER M. GRAHN


MARVIN G. GRAHN


ERICK V. GRAHN

OXFORD BANK & TRUST

By: 
Its: V.P.

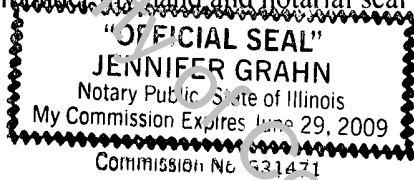
Property of Cook County Clerk's Office

UNOFFICIAL COPY

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 PETER GRAHN, personally known to me as the manager of GVP HOLDINGS VIII, LLC, an Illinois limited liability company, the manager of GVP FLETCHER, LLC, an Illinois limited liability company, and 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, sealed and delivered the said instrument as such manager of GVP HOLDINGS VIII, LLC, on behalf of GVP FLETCHER, LLC, pursuant to authority, given by the members of GVP HOLDINGS VIII, LLC, as his own and free and voluntary act and as the free and voluntary act of GVP HOLDINGS VIII, LLC, on behalf of GVP FLETCHER, LLC, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 22 day of May, 2008.



Jennifer Grahn
Notary Public

My Commission Expires: 6/29/09

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 PETER GRAHN personally known to me as manager of GVP HOLDINGS VIII, LLC, an Illinois limited liability company, and 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, sealed and delivered the said instrument as such manager of said limited liability company, pursuant to authority, given by the members of said limited liability company, as his/her own and 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 22 day of May, 2008.



Jennifer Grahn
Notary Public

My Commission Expires: 6/29/09

UNOFFICIAL COPY

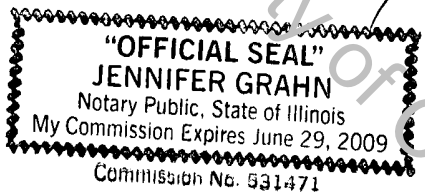
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that PETER M. GRAHN, personally known to me to be the same person whose name is subscribed to the foregoing instrument, personally appeared before me this day and of his own free will, subscribed his name to the foregoing instrument for the uses and purposes therein contained.

Given under my hand and notarial seal this 20 day of May, 2008.


Notary Public

My Commission Expires: 6/29/09



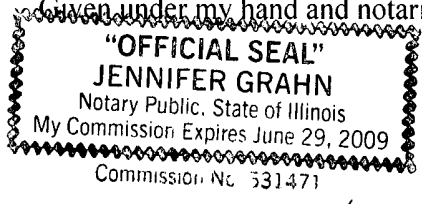
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that MARVIN G. GRAHN, personally known to me to be the same person whose name is subscribed to the foregoing instrument, personally appeared before me this day and of his own free will, subscribed his name to the foregoing instrument for the uses and purposes therein contained.

Given under my hand and notarial seal this 20 day of May, 2008.


Notary Public

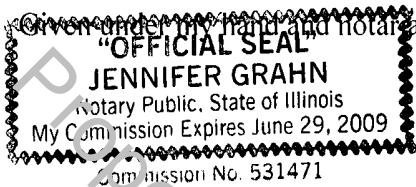
My Commission Expires: 6/29/09



UNOFFICIAL COPY

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 ERICK V. GRAHN, personally known to me to be the same person whose name is subscribed to the foregoing instrument, personally appeared before me this day and of his own free will, subscribed his name to the foregoing instrument for the uses and purposes therein contained.



Given under my hand and notarial seal this 22 day of May, 2008.

Jennifer Grahn
Notary Public

My Commission Expires: 6/29/09

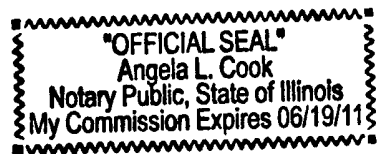
STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that MARC GRYZLO of OXFORD BANK & TRUST, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such V.P., 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 bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 23 day of May, 2008.

Angela L. Cook
Notary Public

My Commission Expires: 6-19-11



UNOFFICIAL COPY

EXHIBIT "A"

PIN: 14-30-106-063-0000

ADDRESS: 2013 W. Fletcher, Chicago, Illinois 60618

LOT 48 IN OWNER'S SUBDIVISION OF PART OF THE EAST 1/2 OF LOT 17 OF SNOW ESTATE SUBDIVISION IN SECTION 30, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.