

# UNOFFICIAL COPY



This instrument prepared by  
and please return to:  
Polsinelli Shalton Flanigan Suelthaus PC  
180 N. Stetson, Suite 4525  
Chicago, Illinois 60601  
Attention: Jennifer L. Worstell, Esq.

Doc#: 0822503048 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 08/12/2008 12:11 PM Pg: 1 of 9

COMMONLY KNOWN AS: 925-31 Forest, Evanston, Illinois  
P.I.N.: 11-19-223-003-0000

## SECOND LOAN MODIFICATION AGREEMENT

This instrument is a Second Loan Modification Agreement ("Second Modification") among The PrivateBank and Trust Company, an Illinois banking corporation ("Lender"), Forest Court Homes, LLC, an Illinois limited liability company ("Borrower"), and Vladimir Novakovic and Manoocher M. Niazmand (collectively "Guarantors").

### RECITALS:

A. Borrower holds fee simple title to certain real estate commonly known as 925-31 Forest, Evanston, Illinois (the "Real Estate"), which is improved with a residential apartment building (the "Building"). The Real Estate is legally described on Exhibit A attached hereto.

B. On September 7, 2005, Borrower and Guarantors executed and delivered to Lender a Construction Loan Agreement ("Loan Agreement") pursuant to which Borrower executed and delivered to Lender a Promissory Note in the amount of \$4,450,000.00 ("Note"), which evidences a loan in the amount of \$4,450,000.00 ("Loan"). The proceeds of the Loan were to be used to submit the Real Estate to the Illinois Condominium Act, convert the apartment

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units on the Real Estate to condominiums, and sell the condominium units to third-party purchasers. To secure the Note, Borrower and Guarantors 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 ("Mortgage") executed by Borrower and covering the Real Estate, which Mortgage was recorded with the Cook County Recorder of Deeds on September 9, 2005 as Document No. 0525203056;

2. a Guaranty of Note, Mortgage, Loan Agreement and Other Undertakings of Guarantors ("Guaranty");

3. an Environmental, ADA and ERISA Indemnification Agreement executed by Borrower and Guarantors;

4. a UCC Financing Statement and a UCC Authorization executed by Borrower; and

5. other documents of a security, collateral and evidentiary nature.

C. On or about December 18, 2007 Borrower and Guarantors entered into a Loan Modification Agreement ("Modification"), pursuant to which Lender extended the maturity date of the loan to March 1, 2008. The Modification was recorded with the Cook County Recorder of Deeds on January 14, 2008 as Document No. 0861431093.

D. The outstanding balance of the Loan is \$3,178,889.00. Borrower has requested Lender to extend the maturity date of the Loan until September 1, 2008. Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein.

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

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1. Subparagraph (a) of the Note is hereby modified and amended to revise the interest rate applicable to the Note from the prime rate of interest to the prime rate of interest plus one (1.0%) percent. The maturity date in subparagraph (b) of the Note is hereby changed to September 1, 2008. The Security Documents are hereby modified to secure the Note as hereby modified, and all references to the Note in the Security Documents are hereby amended to refer to the Note as hereby revised. All amounts presently outstanding on the Note continue to be outstanding on the Note as revised hereby. All interest charged on and all payments made on the Note previously are unchanged.

2. 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 date down endorsement to Lender's existing loan title insurance policy which insures the Mortgage as modified by this Second Modification as a first lien on the Real Estate subject only to such exceptions as Lender shall permit;

(b) an updated and certified rent roll and operating statements for the Real Estate;

(c) updated certificates of insurance for the Real Estate as are required by the Mortgage;

(d) a Borrowing Resolution of Borrower;

(e) a printout from the Secretary of State of Illinois' website of the LLC File Detail Report showing that Borrower is in good standing; and

(f) a loan settlement statement showing payment of Lender's fee in the amount of \$1,000.00 plus expenses as set forth in Section 6 hereof.

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3. 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 as hereby revised ("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 or the Security Documents, or the covenants, conditions and agreements therein contained or contained in the Note.

4. 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.

5. Borrower and Guarantors hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

6. 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, title insurance premiums, recording fees and attorneys' fees performed in the preparation of necessary documentation.

7. Guarantors hereby acknowledge that the Guaranty is hereby amended as set forth herein. Guarantors hereby expressly acknowledge and confirm 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 Guarantors and without such action releasing, modifying, or affecting the obligations of Guarantors or affecting the security heretofore granted to Lender.

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8. BORROWER AND GUARANTORS 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 MORTGAGE, THE SECURITY DOCUMENTS, THIS SECOND MODIFICATION, OR ANY AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH LENDER, BORROWER AND GUARANTORS ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER OR GUARANTORS, OR ANY OF THEM.

9. BORROWER AND GUARANTORS HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER AND GUARANTORS 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 GUARANTORS 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 GUARANTORS 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 GUARANTORS AT THEIR ADDRESSES AS SPECIFIED IN THE RECORDS OF LENDER. BORROWER AND GUARANTORS AGREE THAT A FINAL JUDGMENT IN ANY SUCH

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ACTION OR PROCEEDING 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 GUARANTORS 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 HEREINAFOVE 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 OR GUARANTORS OR THEIR PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.

10. Borrower and Guarantors warrant to Lender that neither Borrower nor Guarantors 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 Guarantors covenants to Lender that if they become aware that they or any affiliate is identified on any Blocked Persons List, Borrower and Guarantors shall immediately notify Lender in writing of such information. Borrower and Guarantors further agree that in the event they or any affiliate is 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

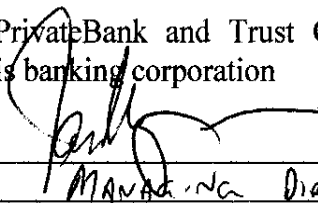
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Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon 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.

**IN WITNESS WHEREOF**, the undersigned have caused this Second Modification to be executed and delivered on \_\_\_\_\_, 2008.

**LENDER:**

The PrivateBank and Trust Company, an Illinois banking corporation

By:   
 Its MANAGING DIRECTOR

**BORROWER:**

Fores' Court Homes, LLC, an Illinois limited liability company

By:   
 Manoocher M. Niazmand, Manager

By:   
 Vladimir Novakovic, Manager

**GUARANTORS:**

  
 Manoocher M. Niazmand

  
 Vladimir Novakovic



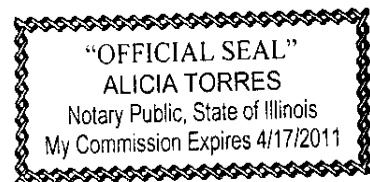
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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that James Wagner, Managing Director of The PrivateBank and Trust Company, 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 July 1, 2008.

Alicia Torres  
Notary Public



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Vladimir Novakovic, individually and as a manager and member of Forest Court Homes, LLC, an Illinois liability company, 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 company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 5.27, 2008.

Mircea D. Han  
Notary Public  
OFFICIAL SEAL  
MIRCEA D HAN  
NOTARY PUBLIC - STATE OF ILLINOIS  
MY COMMISSION EXPIRES:05/10/10

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF C O O K )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Manoocher M. Niazmand, individually and as a manager and member of Forest Court Homes, LLC, an Illinois liability company, 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 company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal 5.27, 2008.

Mircea D. Han  
Notary Public  
OFFICIAL SEAL  
MIRCEA D HAN  
NOTARY PUBLIC - STATE OF ILLINOIS  
MY COMMISSION EXPIRES:05/10/10



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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 4 AND 5 IN BLOCK 2 IN THE RESUBDIVISION OF BLOCKS 4 AND 5 IN GIBBS, LADD AND GEORGE'S ADDITION TO EVANSTON, IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 925-31 FOREST, EVANSTON, ILLINOIS  
P.I.N.: 11-19-223-003-0000

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