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Doc#: 0828434078 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/10/2008 03:01 PM Pg: 1 of 8

Prepared by and
When recorded Mail To:

DUANE MORRIS LLP
190 South LaSalle Street
Suite 3700
Chicago, Illinois 60603
Attention: Daniel Kohn, Esq.

SECOND AMENDMENT TO LOAN DOCUMENTS

THIS SECOND AMENDMENT TO LOAN DOCUMENTS (the "Amendment") dated as of June 25, 2008, by and between **GENEVA TERRACE ESTATES LLC**, an Illinois limited liability company ("**Borrower**") and **NEW CENTURY BANK**, an Illinois banking corporation, its successors and its assigns ("**Lender**").

WITNESSETH:

WHEREAS, Borrower has executed and delivered to Lender a Mortgage Note dated September 30, 2005, payable to Lender in the maximum stated principal amount of Four Million Eight Hundred Thousand and No/100 Dollars (\$4,800,000.00) (and any and all extensions and renewals thereof and substitutions or replacements therefor, sometimes hereinafter collectively referred to herein as the "**Original Note**"), pursuant to which Borrower promised to pay the principal sum thereof (or so much thereof as may be outstanding at the Maturity Date (as such term is defined the Original Note), or such earlier date as the Original Note may be accelerated in accordance with the terms of the Original Note), together with interest on the balance of principal from time to time outstanding and unpaid thereon at the rate and at the times specified in the Original Note.

WHEREAS, the Original Note as been replaced by that certain Amended and Restated Mortgage Note dated as of January 22, 2007, from Borrower payable to Lender in the maximum stated principal amount of Four Million Thirty-Eight Thousand One Hundred Sixty and No/100 Dollars (\$4,038,160.00)(as modified, amended and/or restated from time to time, the "**Note**"), pursuant to which Borrower promised to pay the principal sum thereof (or so much thereof as may be outstanding at the Maturity Date (as such term is defined the Note), or such earlier date as the Note may be accelerated in accordance with the terms of the Note), together with interest

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on the balance of principal from time to time outstanding and unpaid thereon at the rate and at the times specified in the Note.

WHEREAS, the loan described in the Note (the "**Loan**") and Borrower's obligations thereunder are secured by, among other things, (i) that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Financing Statement dated September 30, 2005, from Borrower in favor of Lender, recorded with the Cook County Recorder (the "**Recorder**") on October 5, 2005, as Document No. 0527841240 (the "**Mortgage**"), encumbering the real property described in **Exhibit A** attached hereto (Borrower and Lender acknowledge that the Mortgage originally encumbered more real property however such excess property has been released from the lien of the Mortgage at this time), (ii) that certain Security Agreement and Assignment of Contractual Agreements affecting Real Estate dated September 30, 2005, from Borrower in favor of Lender (the "**Security Agreement**"), and (iii) that certain Environmental Indemnity Agreement dated September 30, 2005, from Borrower and Stuart Rose, in favor of Lender (the "**Environmental Indemnity**"); the Mortgage, the Security Agreement and the Environmental Indemnity, as such documents may be or have been modified, amended or replaced from time to time (including without limitation that certain First Amendment to Loan Documents dated as of January 22, 2007, by and between Borrower and Lender, the "**Loan Documents**").

WHEREAS, Borrower has requested, among other things, that Lender amend and restate the Note to (a) modify the maximum stated principal amount of the Note to Three Million One Hundred Forty-One Thousand and No/100 Dollars (\$3,141,000.00), (b) extend the Maturity Date of the Note to January 5, 2009, and (c) cause the Note to be secured by additional collateral owned by an affiliate of Borrower.

WHEREAS, Lender has agreed to so amend and restate the Note as aforesaid provided, among other things, that Borrower executes this Amendment whereby the Loan Documents are modified (a) to reflect that the maximum stated principal amount of the Note has been so modified, and (b) to reflect the extension of the Maturity Date of the Note.

WHEREAS, as a further condition precedent to the amendment and restatement of the Note, Borrower and Lender wish to amend the Mortgage to reflect that (i) the Mortgage shall now secure, in addition to all obligations under the Loan, all obligations under that certain loan from Lender in favor of Clybourn Building Company II LLC, an Illinois limited liability company, Estate Homes of Wellington Park on George St. LLC, an Illinois limited liability company, and Stuart R. Rose (collectively, "**Related Borrower**"), in the original principal amount of Six Million Seven Hundred Fifty Thousand and No/100 Dollars (\$6,750,000.00)(the "**Related Loan**"), which Related Loan is in the process of being modified (the "**Related Loan Modification**"), and (ii) the occurrence of any default, event of default or other similar condition or event (however described) under any of the documents evidencing the Related Loan shall be deemed to be an Event of Default (as defined in the Mortgage) under the Mortgage.

WHEREAS, Borrower acknowledges and agrees that (i) each of Related Borrower is an affiliate of Borrower, (ii) it is in the best interest of Borrower to obtain the amendment and restatement of the Note, and (iii) Borrower will receive benefit for the Related Loan Modification.

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NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties, and for other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated by this reference into this Amendment.

2. **Modification of Loan Amount.** Borrower and Lender agree that the maximum principal amount under the Loan and Note has been modified to be Three Million One Hundred Forty-One Thousand and No/100 Dollars (\$3,141,000.00). As such, any and all references contained in the Loan Documents to the amount of "Four Million Thirty-Eight Thousand One Hundred Sixty and No/100 Dollars (\$4,038,160.00)" are hereby deleted and replaced with the amount of "Three Million One Hundred Forty-One Thousand and No/100 Dollars (\$3,141,000.00)."

3. **Extension of Maturity Date.** Borrower and Lender agree that the Maturity Date of the Note has been extended to January 5, 2009. As such, any and all references in the Loan Documents to the Maturity Date are hereby revised to refer to the date "January 5, 2009." Borrower and Lender agree that notwithstanding anything to the contrary contained in the Loan Documents, Borrower shall have no right to extend the Maturity Date of the Note.

4. **Cross Collateralization and Cross Default with Related Loan.** Borrower and Lender acknowledge and agree that from and after the day hereof, the Loan shall be cross defaulted and cross collateralized with the Related Loan. To reflect such modification:

- (a) Article II of the Mortgage is modified to include the following after the word "Note" contained in the seventh (7th) line thereof:

"and to secure the payment of the principal amount of the Note (as such term is expressly defined in the Construction Loan Agreement dated August 24, 2004, among Clybourn Building Co. II, LLC, an Illinois limited liability company, Estate Homes of Wellington Park on George St. LLC, an Illinois limited liability company, Stuart R. Rose, and Lender, as amended from time to time (the "**Related Loan**"), which Related Loan is in the original principal amount of Six Million Seven Hundred Fifty Thousand and No/100 Dollars (\$6,750,000.00) (which maximum principal amount has been decreased to Two Million Seven Hundred Eighty-Three Thousand Three Hundred Forty-One and No/100 Dollars (\$2,783,341.00)), and interest thereon (at variable rates and as otherwise provided therein) and all fees and premiums, if any, thereon, and all other sums due thereunder or advanced by Lender in accordance with the loan documents evidencing the Related Loan; and

- (b) Section 4.1 of the Mortgage is modified to insert the following new Section 4.1(l):

"(l) The occurrence of any default or event of default under the terms of any of the loan documents evidencing the Related Loan

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after the expiration of the applicable notice and grace period, if any.”

5. Nothing herein contained shall impair the Loan Documents in any way, nor alter, waive, annul, vary nor affect any provision, condition or covenant therein contained except as expressly herein provided nor affect or impair any right, power or remedy of Lender, it being the intention of the parties hereto that the terms and provisions of the Loan Documents shall continue in full force and effect except as expressly modified in connection herewith.

6. This Amendment shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

7. No extension, change, modification or amendment of any kind or nature whatsoever, to or of this Amendment shall be made or claimed by Borrower, and no notice of any extension, change, modification or amendment, made or claimed by Borrower shall have any force or effect whatsoever unless the same shall be reduced to writing and signed by the parties.

8. This Amendment may be executed in one or more counterpart signature pages, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(signature page follows)

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IN WITNESS WHEREOF, the undersigned have caused these presents to be signed as of the day and year first above written.

BORROWER:

GENEVA TERRACE ESTATES LLC,
an Illinois limited liability company

By: Stuart Rose

Name: Stuart Rose

Its: Sole Manager

LENDER:

NEW CENTURY BANK,
an Illinois banking corporation

By: James McDonald

Name: James McDonald

Its: Vice President

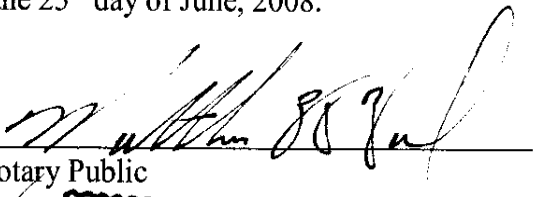
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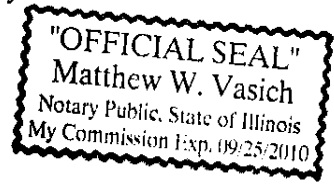
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MATTHEW W. VASICH, a Notary Public in and for said County in the State aforesaid, DO **HEREBY CERTIFY THAT Stuart Rose**, the Sole Manager of **Geneva Terrace Estates LLC**, an Illinois limited liability company, who is 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 limited liability company.

GIVEN under my hand and notarial seal as of the 25th day of June, 2008.



Notary Public

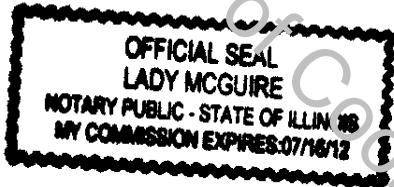


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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, LADY MCGUIRE, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES McDONALD, personally known to me to be the VICE PRESIDENT of **NEW CENTURY BANK**, an Illinois banking corporation, is 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/her free and voluntary act as _____ on of such banking corporation as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal as of the 25th day of June, 2008.



Lady McGuire
Notary Public

My commission expires: 7/16/12

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EXHIBIT A

PARCEL 1:

Lots 4, 5, 10 (EXCEPT THE SOUTH 15 FEET THEREOF), 11, AND 12, IN LINCOLN PARK CLUB SUBDIVISION BEING A RESUBDIVISION OF VARIOUS LOTS, PARTS OF LOTS AND VACATED STREETS AND ALLEYS IN VARIOUS SUBDIVISION ON THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A PERPETUAL ACCESS EASEMENTS FOR THE BENEFIT OF ALL OWNERS OF LOTS 4, 5, 10 (EXCEPT THE SOUTH 15 FEET THEREOF), 11, AND 12, TOGETHER WITH THEIR TENANTS, GUEST, AGENTS AND INVITEES, AS SET FORTH BY THE DECLARATION OF EASEMENTS, COVENANTS, AND RESTRICTIONS FOR THE LINCOLN PARK COMMONS HOMEOWNERS ASSOCIATION DATED JANUARY 10, 2002 AND RECORDED JANUARY 15, 2002 AS DOCUMENT 0020061321, AMENDED BY FIRST AMENDMENT RECORDED 0508434021, SECOND AMENDMENT RECORDED AS DOCUMENT 0508434022 AND THE THIRD AMENDMENT TO BE RECORDED SEPTEMBER 29, 2005 AS DOCUMENT 0527227129, FOR THE PURPOSE OF A PEDESTRIAN COURT EASEMENT FOR INGRESS AND EGRESS ON, OVER AND ALONG THOSE PORTIONS OF THE LAND KNOWN AS LOTS 7, 8, 9, 10, 11, 12, AND 26, AND IDENTIFIED ON THE PLAT OF SUBDIVISION AS "PEDESTRIAN COURT" OR PRIVATE ALLEYWAY EASEMENTS, FOR PUBLIC INGRESS AND EGRESS OF PERSONS AND VEHICLES, ON, OVER AND ALONG THOSE PORTIONS OF THE LAND IDENTIFIED AS "PRIVATE ALLEYS" ON SAID PLAT, RECORDED JULY 9, 2002, AS DOCUMENT 0020749722 AND RE-RECORDED AS DOCUMENT 0020790850.

PERM TAX#

14-28-304-038-0000 LOT 4
14-28-304-039-0000 LOT 5
14-28-304-083-0000 LOT 7
14-28-304-084-0000 LOT 8
14-28-304-085-0000 LOT 10
14-28-304-086-0000 LOT 11