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Doc#: 0835849032 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/23/2008 03:15 PM Pg: 1 of 8

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FREEDOM TITLE CORP.

THIS INSTRUMENT PREPARED BY: ) David H. Hight, Esq.  
) Ice Miller LLP  
) 2300 Cabot Drive  
) Suite 455  
MAIL TO: ) Lisle, Illinois 60532

FTC# 6703988

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## SECOND MORTGAGE MODIFICATION AGREEMENT

This Second Mortgage Modification Agreement (the "Agreement"), made, as of the 5<sup>th</sup> day of November, 2008, by and between FIFTH THIRD BANK, a Michigan banking corporation (the "Mortgagee"), and THIRD MILLENNIUM REAL ESTATE L.L.C., an Illinois limited liability company (together with its successor and assigns, the "Mortgagor");

### WITNESSETH:

A. The Mortgagee made a loan to Mortgagor pursuant to a Business Loan Agreement (the "Loan Agreement"), and a Promissory Note, each dated as of April 1, 2003, from Mortgagor in favor of the Mortgagee in the original principal amount of \$5,060,000, (as amended or restated from time to time, the "Note");

B. The obligations under the Note are secured pursuant to the Mortgage dated as of April 1, 2003 from Mortgagor to the Mortgagee covering the Real Property described in Exhibit A hereto, as amended by the First Mortgage Modification Agreement dated as of January 31, 2007 (as further amended or modified, the "Mortgage");

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C. The parties agree that the Mortgage was intended to secure all obligations of the Mortgagee to Mortgagor, including without limitation, obligations arising under any interest rate swap entered into between Mortgagee, or any affiliate of Mortgagee, and Mortgagor; and

D. Mortgagor has requested, and Mortgagee has agreed, subject to the modification of the Mortgage as provided herein, to extend the maturity of the Note.

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings herein set forth, the parties hereto agree as follows:

## I. RECITALS

The foregoing recitals are hereby adopted by the parties hereto and made a part hereof and are binding upon the parties.

## II. DEFINITIONS

All capitalized terms used in this Agreement, unless otherwise defined in this Agreement, shall have the meanings given them in the Note and in the Mortgage.

## III. AMENDMENTS TO MORTGAGE

The parties agree that the Mortgage shall be amended as set forth in this Section III.

The "Cross Collateralization" Section on page 2 of the Mortgage is amended to provide that the Mortgage secures, in addition to and not in substitution of the obligations, debts and liabilities described in such section, all obligations of the Mortgagor under the Third Amendment to Loan Documents dated as of November 5, 2008.

## IV. WAIVER AND DISCLAIMER

A. Waiver and Release of Claims. The Mortgagor represents to the Mortgagee that it has no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever directly against the Mortgagee in connection with the Mortgage, the Note or any extensions or modifications thereof. Without limiting the generality of the foregoing, and in consideration of Mortgagee's agreements hereunder, and to the extent permitted by law, the Mortgagor hereby releases and forever discharges the Mortgagee, its affiliates and each of their officers, agents, employees, attorneys, insurers, successors and assigns (collectively the "Released Parties"), from and against any and all liabilities, rights, claims, losses, expenses, or causes of action, known or unknown, arising out of any action or inaction by any of the Released Parties to the date hereof with respect to the Mortgage, the Note, any Rate Management Agreements or any extensions or modifications thereof, or any such matter in any way related thereto or arising in conjunction therewith. The Mortgagor also waives, releases, and forever discharges the Released Parties and each of them from and against any and all known or unknown rights to setoff, defenses, claims, counterclaims, causes of action or any other bar to the enforcement of this Agreement, the

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Mortgage, the Note, any Rate Management Agreements or any extensions or modifications thereof, to the extent permitted by law.

B. Disclaimer of Reliance. The Mortgagor expressly disclaims any reliance on any oral representation made by the Mortgagee with respect to the subject matter of this Agreement.

## V. MISCELLANEOUS

A. Counterparts. This Agreement may be executed in as many counterparts as may be deemed necessary or convenient, each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement.

B. Date of Mortgage. The Mortgage was inadvertently dated April 1, 2003, but was actually signed and was intended by the parties to be dated April 30, 2003.

B. Original Documents. Except as otherwise specifically modified or amended by the terms of this the Mortgage and the Note as amended from time to time, and all provisions contained therein, respectively, shall continue in full force and effect.

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IN WITNESS WHEREOF, each of Mortgagor, and Mortgagee has caused these presents to be signed as of the day and year first above written.

MORTGAGOR:

THIRD MILLENNIUM REAL ESTATE L.L.C.

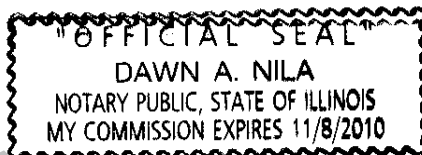
By: *[Signature]*  
Name: JOSEPH OBERWETS  
Title: MANAGER

MORTGAGEE:

FIFTH THIRD BANK

By: *[Signature]*  
Name: Daniel J. McHugh  
Title: Vice President

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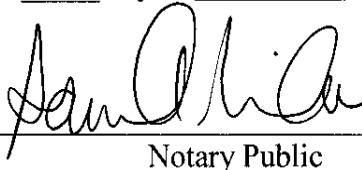
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## ACKNOWLEDGEMENT

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF KENDALL    )

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby certify that JOSEPH OBELWOS, MANAGER of THIRD MILLENNIUM REAL ESTATE L.L.C., 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 his/her free and voluntary act and as the free and voluntary act of said person for the uses and purposes therein set forth.

Given under my hand and notary seal this 2nd day of DECEMBER, 2008.

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

My Commission Expires:

11/8/2010



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## ACKNOWLEDGEMENT

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

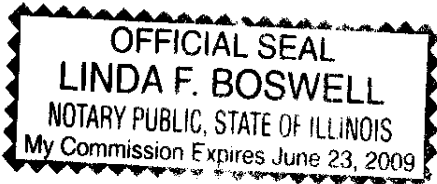
The undersigned, a Notary Public in and for the County and State aforesaid, does hereby certify that DANIEL J MCHUGH VICE PRESIDENT of FIFTH THIRD BANK, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his/her 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 notary seal this 2<sup>ND</sup> day of DECEMBER 2008.

Linda F Boswell  
Notary Public

My Commission Expires:

JUNE 23, 2009



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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1

COMMERCIAL SUITES H AND K IN THE CLOISTERS CONDOMINIUM, AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT NO. 00875071 AS AMENDED FROM TIME TO TIME TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN SECTION 35, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Commonly known as: 975 Waukegan Road, Glenview, Illinois  
Tax Identification No.: 04-35-401-012-1071 and 04-35-401-012-1072

#### PARCEL 4

LOT 3 IN M-R LOWES THEATER COMPLEX SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 31, 1991 AS DOCUMENT 91693565, BEING A SUBDIVISION OF PART OF LOT 4 IN 58-62 VENTURE SUBDIVISION OF PART OF SECTIONS 8 AND 9, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 21, 1970 AS DOCUMENT 21092384, ALL IN COOK COUNTY, ILLINOIS.

Commonly known as: 1735 Algonquin Road, Rolling Meadows, Illinois  
Tax Identification No.: 08-08-403-029

#### PARCEL 5

LOT 8 IN FREEDOM SMALL FARMERS, BEING A SUBDIVISION OF THE NORTH 485.60 FEET (EXCEPT THE EAST 307.95 FEET THEREOF) TOGETHER WITH THE EAST 433.50 FEET (EXCEPT THE NORTH 485.60 FEET THEREOF) OF THE NORTH WEST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO THE EAST 433.50 FEET OF THE NORTH  $\frac{1}{2}$  OF THE SOUTHWEST QUARTER OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION, IN COOK COUNTY, ILLINOIS.

Commonly known as: 9 E. Dundee Road, Arlington Heights, Illinois  
Tax Identification No.: 03-08-100-009

#### PARCEL 6

THAT PART OF THE SOUTH  $\frac{1}{3}$  OF THE SOUTHEAST  $\frac{1}{6}$  OF SECTION 13, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE

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WESTERLY RIGHT OF WAY LINE OF HARLEM AVENUE 150.00 FEET NORTH OF THE SOUTH LINE OF THE SAID SOUTH  $\frac{1}{2}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 13, THENCE SOUTH 00 DEGREES 14 MINUTES 28 SECONDS WEST ALONG THE SAID WESTERLY RIGHT OF WAY LINE OF HARLEM AVENUE FOR A DISTANCE OF 100.00 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVED LINE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 50.00 FEET, FOR A DISTANCE OF 78.54 FEET TO A POINT OF TANGENCY AT THE SAID SOUTH LINE OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 13, THENCE SOUTH 89 DEGREES 27 MINUTES 41 SECONDS WEST ALONG SAID SOUTH LINE OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 13 FOR A DISTANCE OF 100.00 FEET; THENCE NORTH 00 DEGREES 14 MINUTES 28 SECONDS WEST ALONG A LINE PARALLEL TO THE WESTERLY RIGHT OF WAY LINE OF HARLEM AVENUE FOR A DISTANCE OF 150.00 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 41 SECONDS EAST ALONG A LINE PARALLEL TO THE SAID SOUTH LINE OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 13, FOR A DISTANCE OF 150.00 FEET OF THE POINT OF BEGINNING (EXCEPT THEREOF THAT PART TAKEN BY CONDEMNATION IN CASE 93L971023 AND THAT PART TAKEN BY CONDEMNATION IN CASE 93L50949), IN COOK COUNTY, ILLINOIS.

Commonly known as: the northwest corner 159<sup>th</sup> & Harlem, Orland Park, Illinois  
Tax Identification No.: 27-13-402-008