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Cook County Recorder of Deeds  
Date: 01/05/2009 02:16 PM Pg: 1 of 10

Harold S. Dembo  
Much Shelist  
191 North Wacker Drive, Suite 1800  
Chicago, Illinois 60606

Property Address:  
6800-6816 North Sheridan Road  
Chicago, Illinois  
and  
6414-6424 North Ridge Boulevard  
Chicago, Illinois

File No. 2710776.0008

Recorder's Box

**SECOND MODIFICATION OF PROMISSORY NOTE, MORTGAGE AND  
SECURITY AGREEMENT AND OTHER LOAN DOCUMENTS  
AND HYPOTHECATION AGREEMENT**

**THIS SECOND MODIFICATION OF PROMISSORY NOTE, MORTGAGE AND SECURITY AGREEMENT AND OTHER LOAN DOCUMENTS AND HYPOTHECATION AGREEMENT** (the "**Modification**") is dated as of the 1st day of October, 2008, by and among FIFTH THIRD BANK (CHICAGO), a Michigan banking corporation ("**Lender**"), SHERIDAN/PRATT LLC, an Illinois limited liability company ("**Sheridan/Pratt**"), RIDGE/DEVON LLC, an Illinois limited liability company ("**Ridge/Devon**"), LAURENCE H. WEINER and GERALD NUDO (collectively, the "**Guarantors**"). Sheridan/Pratt and Ridge/Devon are collectively the "**Borrower**".

**RECYALS:**

**WHEREAS**, Lender made a loan to Sheridan/Pratt in the original amount of Eight Million Fifty-Seven Thousand Six Hundred and no/100 Dollars (\$8,057,500.00) (the "**Sheridan/Pratt Loan**") pursuant to a certain Construction Loan Agreement dated June 22, 2006 ("**Sheridan/Pratt Loan Agreement**");

**WHEREAS**, to evidence the Sheridan/Pratt Loan, Sheridan/Pratt executed and delivered to Lender a certain Promissory Note dated June 22, 2006 in the original principal amount of Eight Million Fifty-Seven Thousand Six Hundred and no/100 Dollars (\$8,057,600.00) (the "**Sheridan/Pratt Note**");

**WHEREAS**, the Sheridan/Pratt Note was secured by a certain (i) Mortgage Security Agreement and UCC Fixture Filing dated June 22, 2006 ("**Sheridan/Pratt Mortgage**") executed by Borrower encumbering, *inter alia*, the real estate located at 6800-6816 North Sheridan Avenue, Chicago, Illinois, as legally described on Exhibit "A" attached hereto and made a part hereof (the "**Sheridan/Pratt Property**"), which Mortgage was recorded on June 28, 2006 in the Office of the Recorder of Cook County, Illinois as Document No. 0617933200; and (ii) Assignment of Rents and of Lessor's Interest in Leases dated June 22, 2006, executed by Sheridan/Pratt ("**Sheridan/Pratt Assignment of Rents**"), which Assignment of Rents was recorded on June 28, 2006 in the Office of the Recorder of Cook County, Illinois as Document No. 0617933201 (the Sheridan/Pratt Loan Agreement, Sheridan/Pratt Note, Sheridan/Pratt Mortgage, Sheridan/Pratt Assignment of Rents and all other loan documents are collectively referred to as the "**Original Sheridan/Pratt Loan Documents**");

**WHEREAS**, each Guarantor is a member of Sheridan/Pratt, and each Guarantor guaranteed a portion of the Sheridan/Pratt Loan pursuant to the terms and provisions of a Guaranty of Payment dated June 22, 2006;

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**WHEREAS**, Lender made a loan to Ridge/Devon in the original amount of Seven Million Three Hundred Forty-Eight Thousand and no/100 Dollars (\$7,348,000.00) (the "**Ridge/Devon Loan**") pursuant to a certain Construction Loan Agreement dated June 22, 2006 ("**Ridge/Devon Loan Agreement**");

**WHEREAS**, to evidence the Loan, Ridge/Devon executed and delivered to Lender a certain Promissory Note dated June 22, 2006 in the original principal amount of Seven Million Three Hundred Forty-Eight Thousand and no/100 Dollars (\$7,348,000.00) (the "**Ridge/Devon Note**");

**WHEREAS**, the Ridge/Devon Note was secured by a certain (i) Mortgage, Security Agreement and UCC Fixture Filing dated June 22, 2006 ("**Ridge/Devon Mortgage**") executed by Borrower encumbering, inter alia, the real estate located at 6414-6424 North Ridge Boulevard, Chicago, Illinois, as legally described on Exhibit "B" attached hereto and made a part hereof (the "**Ridge/Devon Property**"), which Mortgage was recorded on June 28, 2006 in the Office of the Recorder of Cook County, Illinois as Document No. 0617933197; and (ii) Assignment of Rents and of Lessor's Interest in Leases dated June 22, 2006, executed by Ridge/Devon ("**Ridge/Devon Assignment of Rents**"), which Ridge/Devon Assignment of Rents was recorded on June 28, 2006 in the Office of the Recorder of Cook County, Illinois as Document No. 0617933198 (the Ridge/Devon Loan Agreement, Ridge/Devon Note, Ridge/Devon Mortgage, Ridge/Devon Assignment of Rents and all other loan documents are collectively referred to as the "**Original Ridge/Devon Loan Documents**"), which together with the Original Sheridan/Pratt Loan Documents are collectively referred to as the "**Original Loan Documents**";

**WHEREAS**, each Guarantor is a member of Ridge/Devon, and each Guarantor guaranteed a portion of the Ridge/Devon Loan pursuant to the terms and provisions of a Guaranty of Payment dated June 22, 2006;

**WHEREAS**, the parties amended the Original Ridge/Devon Loan Documents pursuant to that certain First Modification of Promissory Note, Mortgage and Security Agreement and Other Loan Documents and Hypothecation Agreement dated February 28, 2008, recorded on March 21, 2008 in the Office of the Recorder of Cook County, Illinois as Document No. 0808134079 in order to, inter alia, cross-collateralize and cross-default the Sheridan/Pratt Loan and Ridge/Devon Loan ("**Ridge/Devon First Modification**");

**WHEREAS**, the parties amended the Original Sheridan/Pratt Loan Documents pursuant to that certain First Modification of Promissory Note, Mortgage and Security Agreement and Other Loan Documents and Hypothecation Agreement dated February 28, 2008, recorded on March 21, 2008 in the Office of the Recorder of Cook County, Illinois as Document No. 0808134080 in order to, inter alia, cross-collateralize and cross-default the Sheridan/Pratt Loan and Ridge/Devon Loan ("**Sheridan/Pratt First Modification**", which together with the Ridge/Devon First Modification and Original Loan Documents are collectively the "**Loan Documents**");

**NOW THEREFORE**, in consideration of the premises and the mutual promises of the parties, the receipt and sufficiency of which are hereby acknowledged by Borrower, it is hereby agreed as follows:

1. **Loan Amount.** Borrower hereby acknowledges that (i) the Sheridan/Pratt Loan is fully disbursed and outstanding in the amount of Seven Million Nine Hundred Sixty Thousand Three Hundred and no/100 Dollars (\$7,960,300.00) and the Sheridan/Pratt Loan amount is amended accordingly, and (ii) the Ridge/Devon Loan is fully disbursed and outstanding in the amount of Seven Million Two Hundred Twenty Thousand Four Hundred Eleven and 50/100 Dollars (\$7,220,411.50) and the Ridge/Devon Loan amount is amended accordingly. Lender shall have no further obligation to make any additional draws to the Borrower under either the Sheridan/Pratt Loan Documents or Ridge/Devon Loan Documents.

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2. **Maturity Date.** It is hereby agreed that the Maturity Date of the Sheridan/Pratt Note shall be October 5, 2009, and the Maturity Date of the Ridge/Devon Note shall be October 5, 2009.

3. **Interest Rate.**

a. Sections 2.4 of the Sheridan/Pratt Note is hereby amended to provide that the Applicable Margin under the Sheridan/Pratt Note shall be increased from two hundred twenty-five basis points in excess of the LIBOR Rate to three hundred fifty (350) basis points in excess of the LIBOR Rate.

b. Sections 2.4 of the Ridge/Devon Note is hereby amended to provide that the Applicable Margin under the Ridge/Devon Note shall be increased from two hundred twenty-five basis points in excess of the LIBOR Rate to three hundred fifty (350) basis points in excess of the LIBOR Rate.

4. **Cross Default.** It is agreed and understood that an event of default under the Sheridan/Pratt Loan shall constitute an event of default under the Ridge/Devon Loan, and Lender shall have the right to exercise all of its remedies under the Ridge/Devon Loan upon the occurrence of an event of default under the Sheridan/Pratt Loan. In addition, an event of default under the Ridge/Devon Loan shall constitute an event of default, after all applicable notice and cure periods, under the Sheridan/Pratt Loan, and Lender shall have the right to exercise all of its remedies under the Sheridan/Pratt Loan upon the occurrence of an event of default, after all applicable notice and cure periods, under the Ridge/Devon Loan.

5. **Conditions Precedent.** The modifications provided for in this Modification shall be effective only upon the following conditions being complied with by Borrower:

(a) That each Borrower is and always has been maintained in good standing, and there is no default or Event of Default under either Note or any of the other Loan Documents, as such documents have heretofore been amended, as of the date hereof;

(b) Delivery to Lender of the following, each in form and content satisfactory to Lender:

(i) A date down endorsement to Chicago Title Insurance Company Policy Nos. 8331697 and 8331698 reflecting the recordation of this Modification, and no unpermitted title exceptions (which date down endorsement shall be delivered no later than the next construction draw and date down to the title policy);

(ii) Corporate resolutions by Sheridan/Pratt authorizing the execution of this Modification;

(iii) Corporate resolutions by Ridge/Devon authorizing the execution of this Modification; and

(iv) An ALTA Statement, Gap Undertaking and any other documents required by the title company to issue the date down endorsement.

(c) Payment of all costs, expenses and fees incurred by Lender, including Lender's legal counsel's fees.

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(d) A loan fee to modify the Sheridan/Pratt Loan in the amount of \$39,600.00 shall be payable to Lender in twelve (12) equal installments of \$3,300.00 each, and a loan fee to modify the Ridge/Devon Loan in the amount of \$36,000.00 shall be payable in twelve (12) equal monthly installments of \$3,000.00. Each installment of the loan fees shall be due and payable with each payment of debt service under each Loan commencing with the next payment due and owing under each Loan.

6. **Full Force and Effect.** Nothing herein contained shall impair the Loan Documents, as heretofore modified in any way, nor alter, waive, annul, vary, nor affect any provision, condition 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 provision of the Loan Agreement, Note and other Loan Documents, as heretofore modified, shall continue in full force and effect except as expressly modified in connection herewith.

7. **Reaffirmation of Representations and Warranties.**

(a) Borrower hereby reaffirms as true and correct in all respects, all representations and warranties made by such party as contained in the Loan Documents.

(b) Borrower does hereby further warrant and represent to Lender as follows:

(i) To the best knowledge, information and belief of Borrower: (a) neither Lender nor Borrower is in default under any Loan Document, as modified by the Modification, and (b) there exists no event which, with the giving of notice or lapse of time, or both, would be considered or would become a default under the Loan Documents, as modified by the Modification.

(ii) No lien or judgment has been filed against Borrower (or any one of them) that would materially adversely affect repayment of the Loan or the performance by the Borrower (or any one of them) of its obligations under the Loan Documents, and no bankruptcy, insolvency or other similar proceeding or action has been filed by or against Borrower (or any one of them), nor, to the best knowledge, information and belief of the undersigned, has any such proceeding or action been threatened.

8. **Reaffirmation of Covenants.** Borrower does hereby reaffirm and agree to perform each and every covenant, condition, obligation and provision of such party set forth in the Loan Documents, as herein modified, executed by the respective parties.

9. **Offsets and Defenses.** Borrower hereby acknowledges that (i) Borrower has no defense, offset or counterclaim with respect to the payment of any sum owed to Lender, with respect to the Note or any other Loan Documents; (ii) Lender, on as of the date hereof, has fully performed all obligations to Borrower which may have had or has on and as of the date hereof; (iv) other than as expressly set forth herein, by entering into this Modification, Lender does not waive any condition or obligation in the Loan Documents.

10. **Reaffirmation.** Each Guarantor hereby consents to the execution and delivery of this Modification and reaffirms that each Guaranty of Payment dated as of June 22, 2006 executed by Guarantor, remains in full force and effect.

11. **Governing Law.** This Modification shall be governed by and construed in accordance with the laws of the State of Illinois.

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12. **Multiple Counterparts.** This Modification may be executed in one or more counterparts, which together shall comprise the entire agreement.

13. **Defined Terms.** All terms not otherwise defined herein shall have the same meaning as set forth in the Loan Documents.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the parties hereto have executed this Modification as of the day and year first above written.

**SHERIDAN/PRATT:**

**SHERIDAN/PRATT LLC**, an Illinois limited liability company

By: Gerald Lee Nudo

Name: Gerald Lee Nudo

Its: Manager

**RIDGE/DEVON LLC:**

**RIDGE/DEVON LLC**, an Illinois limited liability company

By: Gerald Lee Nudo

Name: Gerald Lee Nudo

Its: Manager

**GUARANTORS:**

Gerald Lee Nudo

Gerald Nudo

Laurence H. Weiner

Laurence H. Weiner

**LENDER:**

**FIFTH THIRD BANK (CHICAGO)**, a Michigan banking corporation

By: Mark Paulankis

Name: Mark Paulankis

Title: Officer

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT Gerald Lee Nudo, Manager of SHERIDAN/PRATT LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, 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 this 1 day of OCTOBER, 2008.

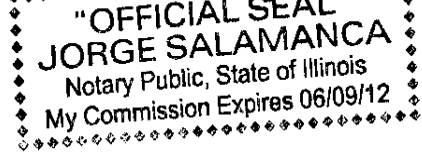


[Signature]  
Notary Public

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Jorge Salamanca, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that GERALD NUDO appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1 day of OCTOBER, 2008.



[Signature]  
Notary Public

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Jorge Salamanca, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that LAURENCE H. WEINER appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1 day of OCTOBER, 2008.



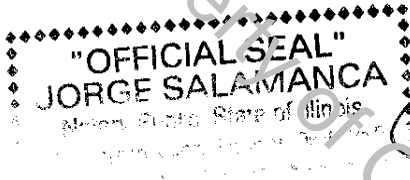
[Signature]  
Notary Public

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT GERALD Lee Nuno, Manager of RIDGE/DEVON LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, 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 this 1 day of OCTOBER, 2008.



[Signature]  
Notary Public

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, Heidi E. Mateo a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Mark Paulauskis, as V.P. of FIFTH THIRD BANK (CHICAGO), a Michigan banking corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ of said Bank, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their 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 9th day of December, 2008.

[Signature]  
Notary Public





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## EXHIBIT "A"

### LEGAL DESCRIPTION – Sheridan/Pratt Property

LOTS 5, 6 AND 7 IN BLOCK 6 IN L.E. INGALL'S SUBDIVISION OF BLOCKS 5 AND 6 IN CIRCUIT COURT PARTITION, BEING A SUBDIVISION OF THE EAST ½ OF THE NORTHWEST ¼ AND THE NORTHEAST FRACTIONAL ¼ OF SECTION 32, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 6800-6816 North Sheridan Road, Chicago, Illinois

P.I.N(s): 11-32-124-021

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## EXHIBIT "B"

### Legal Description – Ridge/Devon Property

COMMENCING AT A POINT IN THE NORTH LINE OF LOT 3, SAID POINT BEING 272.0 FEET EAST OF THE WEST LINE OF LOT 3; THENCE SOUTH PARALLEL WITH THE WEST LINE OF LOT 3, 101.30 FEET TO THE POINT OF BEGINNING OF THE PROPERTY INTENDED TO BE DESCRIBED; THENCE EAST PARALLEL WITH THE NORTH LINE OF LOT 3, 30.40 FEET; THENCE NORTH PARALLEL WITH THE WEST LINE OF LOT 3, 1.26 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF LOT 3, 30.15 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF LOTS 3 AND 4, 36.0 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF LOT 3 TO THE WESTERLY LINE OF NORTH RIDGE BOULEVARD THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE TO THE NORTH LINE OF THE SOUTH 1 ACRE OF THAT PART OF LOT 5 LYING WEST OF THE CENTER LINE OF RIDGE ROAD CONVEYED TO CATHOLIC BISHOP OF CHICAGO BY DEED RECORDED NOVEMBER 10, 1880 IN BOOK 1032, PAGE 534; THENCE WEST ALONG SAID NORTH LINE TO A POINT 302.40 FEET EAST OF THE WEST LINE OF LOT 5; THENCE NORTH PARALLEL WITH THE WEST LINE OF LOTS 4 AND 5 TO THE NORTH LINE OF LOT 4; THENCE WEST ALONG SAID NORTH LINE, 30.40 FEET TO A POINT 272.0 FEET EAST OF THE WEST LINE OF LOT 4; THENCE NORTH PARALLEL WITH THE WEST LINE OF LOT 3, 11.0 FEET TO THE POINT OF BEGINNING, IN CIRCUIT COURT PARTITION OF THE SOUTH ½ OF THE SOUTH ½ OF THE SOUTH EAST ¼ OF SECTION 31, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 6414-6424 North Ridge Boulevard, Chicago, Illinois

P.I.N(s): 11-31-401-095-0000 and 11-31-401-097-0000