

# UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:

Courtney E. Mayster  
Schain, Burney, Ross & Citron, Ltd.  
222 North LaSalle Street  
Suite 1910  
Chicago, Illinois 60601



Doc#: 0900918018 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/09/2009 12:05 PM Pg: 1 of 9



## MODIFICATION OF CONSTRUCTION MORTGAGE AND OTHER SECURITY DOCUMENTS

THIS MODIFICATION OF CONSTRUCTION MORTGAGE AND OTHER SECURITY DOCUMENTS ("Modification") is made effective as of the 31<sup>st</sup> day of October, 2008 by FURNITURE L.L.C., an Illinois limited liability company, with a mailing address at 400 West Huron Street, Chicago, Illinois 60654, Attn: W. Harris Smith ("Mortgagor") to and for the benefit of MB FINANCIAL BANK, N.A. ("Mortgagee"), with a mailing address of 6111 North River Road, Rosemont, Illinois 60018, Attention: Vincent G. Laughlin.

### RECITALS:

WHEREAS, Mortgagee has heretofore made a revolving construction mortgage loan (the "Loan") to Mortgagor in the original principal amount of **FIFTY SIX MILLION AND 00/100 DOLLARS (\$56,000,000.00)**; and

WHEREAS, the Loan is evidenced by a Revolving Construction Mortgage Note dated as of June 14, 2007 (the "Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Mortgagee the principal sum of **FIFTY SIX MILLION AND 00/100 DOLLARS (\$56,000,000.00)**, all as more specifically set forth in said Note; and

WHEREAS, the Note is secured by, among other things, a Construction Mortgage, Assignment of Leases and Rents, and Security Agreement dated as of the 14<sup>th</sup> day of June, 2007 by Mortgagor in favor of Mortgagee, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on June 25, 2007 as Document No. 0717622047 (the "Mortgage") and a Guaranty of Payment dated as of the 14<sup>th</sup> day of June, 2007 (the "Guaranty") by **W. Harris Smith** ("Guarantor") in favor of Mortgagee; and any and all other instruments and documents executed by or on behalf of Mortgagor and delivered to Mortgagee in connection with the Loan, which are hereinafter collectively referred to as the "Other Security Documents"; and

WHEREAS, on or about October 31, 2008, Mortgagor conveyed the Property (as defined in the Mortgage) to **Sono West LLC**, an Illinois limited liability company and **Fremont Commercial LLC**, an Illinois limited liability company;

**Near North National Title**  
222 N. LaSalle  
Chicago, IL 60601

NO1060282

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WHEREAS, Mortgagee and Mortgagor desire that the Loan be modified to change the definition of "Mortgagor"; and

WHEREAS, the parties desire to modify and amend the terms of the Loan as provided herein and as a condition to such modification, Mortgagee is requiring: (i) this Modification; (ii) an Amendment to Revolving Construction Mortgage Note dated of even date herewith executed by Mortgagor (the "Note Amendment"), whereby the Note is modified as provided above; and (iii) a Consent and Reaffirmation of Guarantor and Modification of Guaranty of Payment executed by Guarantor ("Guaranty Modification") whereby the Guaranty is modified to secure the Note as modified by the Note Amendment.

NOW, THEREFORE, for and in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid, the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Incorporation of Recitals.** The aforesaid recitals are hereby incorporated into this Modification by reference as if fully set forth in this Paragraph 1. Wherever the terms and conditions of this Modification conflict with the terms and conditions of the Mortgage, the terms and conditions of this Modification shall control. In all other respects the parties do hereby ratify and declare to be in full force and effect the terms and conditions of the Mortgage and the Other Security Documents.
2. **Modification of Mortgage and Other Security Documents.** The Mortgage and Other Security Documents are hereby modified to provide that (1) all references to "Mortgagor" or "Borrower" contained in the Mortgage and Other Security Documents are hereby deemed, for all purposes, to refer only to "Sono West LLC, an Illinois limited liability company and Fremont Commercial LLC, an Illinois limited liability company, collectively and jointly and severally", and (2) Furniture L.L.C., an Illinois limited liability company, shall not be a Mortgagor or Borrower in connection with the Loan and shall have no obligations under the Note, Mortgage or Other Security Documents.
3. **References to Note.** From and after the date hereof (i) the Mortgage, the Assignment and the Other Security Documents shall be deemed to secure the Note as modified by the Note Amendment; and (ii) any and all references in the Mortgage or the Other Security Documents to the "Note" shall be deemed to refer to the Note as modified by the Note Amendment.
4. **References to Loan Documents and Guaranty.** Any and all references in the Note, the Mortgage and the Other Security Documents to the "Loan Documents" shall from and after the date hereof be deemed to refer to such Loan Documents as modified by this Modification; and any and all references in the Note, the Mortgage and the Other Security Documents to the "Guaranty" shall from and after the date hereof be deemed to refer to the Guaranty as modified by the Guaranty Modification.

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5. **Reaffirmation of Representations and Warranties.** Mortgagor hereby reaffirms as true and correct in all respects, as of the date hereof, any and all representations and warranties contained in the Mortgage and the Other Security Documents.

6. **Reaffirmation of Covenants.** Mortgagor does hereby reaffirm and agree to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the Mortgage and the Other Security Documents as herein modified.

7. **Laws of Illinois.** This Modification shall be covered and construed under the laws of the State of Illinois.

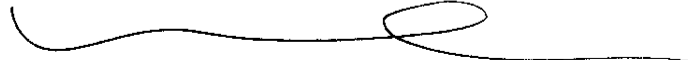
[SIGNATURES APPEAR ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, the parties have caused this Modification to be executed pursuant to authority duly granted as of the date and year first written above.

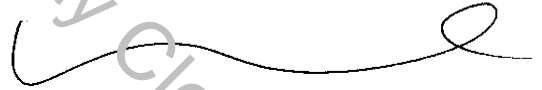
**FURNITURE L.L.C.**, an Illinois limited liability company

By:   
\_\_\_\_\_  
**W. Harris Smith, Manager**

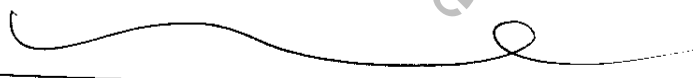
CONSENT AND AGREEMENT  
BY SONO WEST LLC AND FREMONT COMMERCIAL LLC

The undersigned hereby agree to comply with all of the terms, undertakings and conditions of the Loan, Note, Mortgage, Guaranty and Other Security Documents as if they were original signatories thereto and hereby reaffirm and agree to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the foregoing documents as herein modified.

**SONO WEST LLC**, an Illinois limited liability company

By:   
\_\_\_\_\_  
Name: W. Harris Smith  
Its: Manager

**FREMONT COMMERCIAL LLC**, an Illinois limited liability company

By:   
\_\_\_\_\_  
Name: W. Harris Smith  
Its: Manager

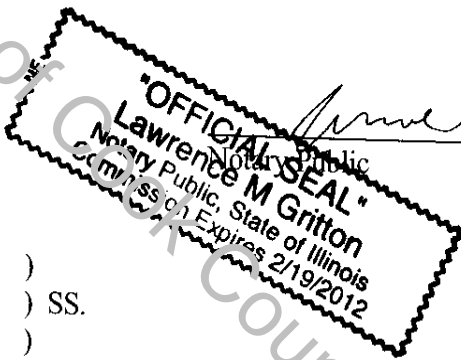
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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

LAWRENCE M. GRITTON

I, \_\_\_\_\_, a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that **W. Harris Smith**, Manager of **Furniture L.L.C.**, an Illinois limited liability company, 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 free and voluntary act, and as the duly authorized and free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 22<sup>nd</sup> day of March, 2008.

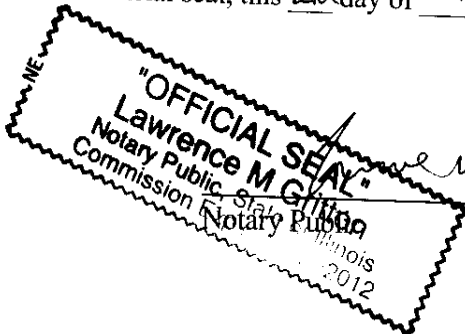


STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

LAWRENCE M. GRITTON

I, \_\_\_\_\_, a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that W. Harris Smith, a Manager of **Sono West, LLC**, an Illinois limited liability company, 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 free and voluntary act, and as the duly authorized and free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 22<sup>nd</sup> day of March, 2008.



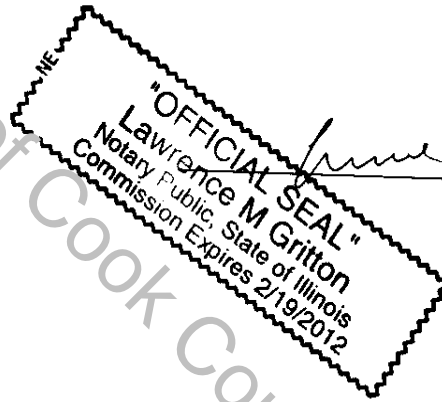
# UNOFFICIAL COPY

STATE OF ILLINOIS        )  
   ) SS.  
 COUNTY OF COOK         )

LAWRENCE M. GRITTON

I, \_\_\_\_\_, a Notary Public in and for said County and State, **DO HEREBY CERTIFY** that W. Harris Smith, a Manager of **Fremont Commercial LLC**, an Illinois limited liability company, 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 free and voluntary act, and as the duly authorized and free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 22nd day of October, 2008.



Lawrence M Gritton

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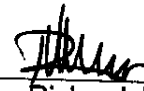
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## CONSENT OF MORTGAGEE

The undersigned Mortgagee hereby consents to and hereby approves the foregoing Modification of Construction Mortgage and Other Security Documents.

Dated effective as of October 31, 2008.

MB FINANCIAL BANK, N.A.

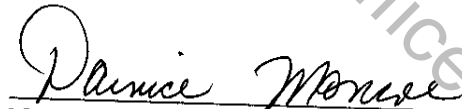
By:   
 Name: Richard J. Chang  
 Title: First Vice President

STATE OF ILLINOIS     )  
   ) SS.  
 COUNTY OF COOK        )

I, Darnice Monroe, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Richard J. Chang, First Vice President of MB FINANCIAL BANK, N.A., personally known to me to be the same person whose name is subscribed to the foregoing **CONSENT OF MORTGAGEE**, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument, on behalf of said Bank and as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this day of January 2, 2008.



  
 Notary Public

**UNOFFICIAL COPY****EXHIBIT "A"****LEGAL DESCRIPTION**

## PARCEL 1

LOTS 16 THROUGH 25, BOTH INCLUSIVE, (EXCEPT THE NORTH 14.00 FEET OF THE EAST 31.08 FEET OF LOT 16) ALL IN BLOCK 44 IN JOHN YALES RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61, AND 72 IN ELSTON ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AND ALSO

THE WEST 9.50 FEET (EXCEPT THE NORTH 14.00 FEET THEREOF) OF THE NORTH-SOUTH VACATED ALLEY IN BLOCK 44 LYING EAST OF THE LINE OF LOTS 16 THROUGH 25, BOTH INCLUSIVE, AND LYING WEST OF THE WEST LINE OF LOTS 26 THROUGH 35, BOTH INCLUSIVE, ALL IN JOHN YALES RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61, AND 72 IN ELSTON ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AND ALSO

THE WEST 145.22 FEET OF THE SOUTH HALF OF THE EAST-WEST VACATED ALLEY IN BLOCK 44, LYING SOUTH OF THE SOUTH LINE OF LOTS 1 THROUGH 15, BOTH INCLUSIVE, AND LYING NORTH OF THE NORTH LINE OF LOTS 16 THROUGH 26 AND THE NORTH LINE OF LOT 16 PROLONGATED EASTERLY TO THE NORTHWEST CORNER OF LOT 26 ALL IN BLOCK 44 IN JOHN YALES RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61, AND 72 IN ELSTON ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AND ALSO

THE WEST 185.51 FEET OF THE VACATED NORTH 0.50 FEET OF WEST BLACKHAWK STREET SOUTH OF AND ADJOINING THE SOUTH LINE OF LOT 25 AND LOT 35 AND THE SOUTH LINE OF LOT 25 PROLONGATED EASTERLY TO THE SOUTHWEST CORNER OF LOT 35, ALL IN BLOCK 44 IN JOHN YALES RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN ELSTON ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS:           17-05-214-010  
                   17-05-214-011 (AFFECTS THE LAND AND OTHER PROPERTY)  
                   17-05-214-012 (AFFECTS THE LAND AND OTHER PROPERTY)



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ADDRESS: 860 WEST BLACKHAWK STREET  
CHICAGO, ILLINOIS 60622

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