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Cook County Recorder of Deeds
Date: 01/29/2009 02:21 PM Pg: 1 of 17

Bell, Boyd & Lloyd LLP
70 West Madison
Suite 3100
Chicago, Illinois 60602
Attn: Michael J. Roth, Esq.

order's use only

TENTH MODIFICATION OF LOAN DOCUMENTS

THIS TENTH MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 20th day of October, 2008, by and among **PREFERRED CALUMET LLC**, an Illinois limited liability company ("Borrower"), **THOMAS MORABITO** ("Morabito"), **EVAN OLIFF** ("Oloff", together with Morabito, individually and collectively, "Guarantor"), and **BANK OF AMERICA, N.A.**, a national banking association, successor by merger to LaSalle Bank National Association ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of Five Hundred Fifty-Five Thousand Dollars (\$555,000) evidenced by a Note dated June 20, 2006, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

B. The Note is secured by, among other things, each dated as of June 20, 2006 unless otherwise indicated, (i) that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing from Borrower to Lender recorded with the Cook County, Illinois Recorder's Office (the "Recorder's Office") on June 23, 2006, as Document No. 0617444012 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto (the "Original Land"), (ii) that certain Assignment of Rents and Leases from Borrower to Lender and recorded in the Recorder's Office on June 23, 2006 as Document No. 0617444013 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement from Borrower, Morabito and Oloff to Lender (the "Indemnity Agreement"); (iv) a Guaranty of Payment from Morabito and Oloff to Lender ("Guaranty"); (v) a Certificate of Representations, Warranties and Covenants from Borrower, Morabito and Oloff to Lender (the "Certificate"); and (vi) certain other loan documents (the Loan Agreement, the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Guaranty, the Certificate, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents", all terms not otherwise defined herein shall have the meanings set forth in the Loan Documents).

C. Lender, Borrower and Guarantor entered into a Modification of Loan Documents, dated as of January 5, 2007, and recorded with the Recorder's Office as Document No.

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0702235292 on January 22, 2007, which, among other things, increased the Loan Amount to THREE MILLION SEVEN HUNDRED EIGHTY ONE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$3,781,130) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

D. Lender, Borrower and Guarantor entered into a Second Modification of Loan Documents, dated as of February 7, 2007, and recorded with the Recorder's Office as Document No. 0704433001 on February 13, 2007, which, among other things, increased the Loan Amount to FOUR MILLION THREE HUNDRED SIXTY FIVE THOUSAND SIX HUNDRED THIRTY DOLLARS (\$4,365,630) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

E. Lender, Borrower and Guarantor entered into a Third Modification of Loan Documents, dated as of May 9, 2007, and recorded with the Recorder's Office as Document No. 071352618 on May 9, 2007, which, among other things, increased the Loan Amount to FOUR MILLION FOUR HUNDRED FIFTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$4,451,500) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

F. Lender, Borrower and Guarantor entered into a Fourth Modification of Loan Documents, dated as of July 19, 2007, and recorded with the Recorder's Office as Doc. No. 0722133094 on August 9, 2007, which, among other things, increased the Loan Amount to FOUR MILLION SEVEN HUNDRED FOURTEEN THOUSAND FOUR HUNDRED THIRTY DOLLARS (\$4,714,430) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

G. Lender, Borrower and Guarantor entered into a Fifth Modification of Loan Documents, dated as of August 2, 2007, and recorded with the Recorder's Office as Doc. No. 0721942002 on August 7, 2007, which, among other things, increased the Loan Amount to FOUR MILLION EIGHT HUNDRED TWENTY-EIGHT THOUSAND TWO HUNDRED DOLLARS (\$4,828,200) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

H. Lender, Borrower and Guarantor entered into a Sixth Modification of Loan Documents, dated as of October 20, 2007, and recorded with the Recorder's Office as Doc. No. 0803834115 on February 7, 2008 which, among other things, reduced the Loan Amount to THREE MILLION EIGHT HUNDRED TWENTY-EIGHT THOUSAND TWO HUNDRED DOLLARS (\$3,828,200) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land.

I. Lender, Borrower and Guarantor entered into a Seventh Modification of Loan Documents, dated as of February 11, 2008, and recorded with the Recorder's Office, which, among other things, increased the Loan Amount to FOUR MILLION ONE HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED EIGHT-FOUR DOLLARS (\$4,133,384) and spread the lien of the Mortgage and other Loan Documents over new portions of the Original Land. In connection with the Seventh Modification of Loan Documents, the Lender released the

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lien of the Mortgage and other Loan Documents as to a portion of the Original Land commonly known as the "Hernandez Parcel".

J. Lender, Borrower and Guarantor entered into an Eighth Modification of Loan Documents, dated as of April 30, 2008, and recorded with the Recorder's Office as Doc. No. 0817233011 on June 20, 2008 which, among other things, reduced the Loan Amount to THREE MILLION NINE HUNDRED FORTY-SIX THOUSAND ONE HUNDRED TWENTY-FOUR AND 96/100 DOLLARS (\$3,946,124.96).

K. Lender, Borrower and Guarantor entered into a Ninth Modification of Loan Documents, dated as of July 30, 2008, and recorded with the Recorder's Office as Doc. No. _____ or August _____, 2008 which, among other things, extended the maturity date of the Loan to October 20, 2008.

L. Borrower, Lender and Guarantor desire to extend the maturity date of the Loan and to make certain other amendments to the Mortgage, the Note, the Assignment of Rents and Leases and certain of the other Loan Documents, on the terms and conditions set forth in this Agreement.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Extension of Maturity Date.** The Maturity Date is hereby extended to January 20, 2009. All references in this Agreement, the Note and the other Loan Documents to the Maturity Date shall be deemed references to January 20, 2009.

2. **Amendment to Note.** The Note is amended as follows:

a. Paragraph 2.1 is deleted in its entirety and the following substituted in its place:

"2.1 Interest Prior to Default.

(a) Interest shall accrue on the principal balance of this Note outstanding from the date hereof through the Maturity Date at a floating per annum rate of interest (the "Floating Rate" or the "LIBOR Rate") equal to LIBOR (as hereinafter defined) for the relevant Interest Period (as hereinafter defined), plus Three percent (3.0%) (the "Applicable Margin"), such LIBOR Rate to remain fixed for such Interest Period. Any portion of the principal amount of this Note bearing interest at the LIBOR Rate is referred to herein as a "LIBOR Loan".

(b) Any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial

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banking business in Chicago, Illinois is referred to herein as a "Business Day". As used herein, "Prime Rate" shall mean the floating per annum rate of interest most recently announced by the Lender at Chicago, Illinois as its prime or base rate, plus Three percent (3.0%). A certificate made by an officer of the Lender stating the prime or base rate in effect on any given day, for the purposes hereof plus three percent (3.0%), shall be conclusive evidence of the Prime Rate in effect on such day. The Prime Rate is a base reference rate of interest adopted by the Lender as a general benchmark from which the Lender determines the floating interest rates chargeable on various loans to borrowers with varying degrees of creditworthiness and the Borrower acknowledges and agrees that the Lender has made no representations whatsoever that the Prime Rate is the interest rate actually offered by the Lender to borrowers of any particular creditworthiness. Any portion of the principal amount of this Note bearing interest at the Prime Rate is referred to herein as a "Prime Loan".

(c) LIBOR Rate. The designation of a LIBOR Loan by the Borrower is subject to the following requirements:

(i) A request for a LIBOR Loan (a "LIBOR Loan Request") must be received by the Lender no later than 2:00 p.m. Chicago, Illinois time two Business Days prior to the first day of the Interest Period on which such LIBOR Loan shall be advanced, shall be irrevocable, and shall state the initial Interest Period and amount of such LIBOR Loan. Each LIBOR Loan will be in an amount not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) and in increments in excess thereof of \$100,000. No more than four (4) separate LIBOR Loans may be outstanding at any time. A request for a LIBOR Loan received by the Lender after 2:00 p.m. Chicago, Illinois on any Business Day time will be processed and funded by the Lender on the third Business Day thereafter.

(ii) If pursuant to the LIBOR Loan Request, the initial Interest Period of any LIBOR Loan commences on any day other than the first Business Day of any month, then the initial Interest Period of such LIBOR Loan shall end on the first day of the following calendar month, notwithstanding the Interest Period specified in the LIBOR Loan Request, and the LIBOR Rate for such LIBOR Loan shall be equal to the LIBOR Rate for an interest period equal to the length of such partial month, plus the Applicable Margin. Thereafter, each LIBOR Loan shall automatically renew (a "LIBOR Rollover") for the Interest Period specified in the LIBOR Loan Request at the then current LIBOR Rate unless the Borrower, in a subsequent LIBOR Loan Request received by the Lender no later than 2:00 p.m. Chicago, Illinois time on the second (2nd) Business Day before the expiration of the existing Interest Period, shall elect a different Interest Period. The Borrower may not elect a LIBOR Rate, and an Interest Period for a LIBOR Loan shall not automatically renew, with respect to any principal amount which is scheduled to be repaid before the last day of the applicable Interest Period, and any such amounts shall bear interest at the Prime Rate, until repaid.

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(iii) "LIBOR" shall mean a rate of interest equal to (A) the per annum rate of interest at which United States dollar deposits in an amount comparable to the amount of the relevant LIBOR Loan and for a period equal to the relevant Interest Period are offered in the London Interbank Eurodollar market at 11:00 a.m. (London time) two Business Days prior to the commencement of such Interest Period (or three Business Days prior to the commencement of such Interest Period if banks in London, England were not open and dealing in offshore United States dollars on such second preceding Business Day), as displayed in the Bloomberg Financial Markets system (or other authoritative source selected by the Lender in its sole discretion), divided by (B) a number determined by subtracting from 1.00 the then stated maximum reserve percentage for determining reserves to be maintained by member banks of the Federal Reserve System for Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D), such rate to remain fixed for such Interest Period, or as LIBOR is otherwise determined by the Lender in its sole and absolute discretion. The Lender's determination of LIBOR shall be conclusive, absent manifest error.

(iv) "Interest Period" shall mean, with regard to any LIBOR Loan, successive one, two or three month periods, as selected by the Borrower in its LIBOR Loan Request; provided, however, that: (A) each Interest Period occurring after the initial Interest Period of any LIBOR Loan shall commence on the day on which the preceding Interest Period for such LIBOR Loan expires; (B) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day; (C) whenever the first day of any Interest Period occurs on a date for which there is no numerically corresponding date in the month in which such Interest Period terminates, such Interest Period shall end on the last day of such month, unless such day is not a Business Day, in which case the Interest Period shall terminate on the first Business Day of the following month, provided, however, that so long as the LIBOR Rollover remains in effect, all subsequent Interest Periods shall terminate on the date of the month numerically corresponding to the date on which the initial Interest Period commenced; and (D) the final Interest Period for any LIBOR Loan must be such that its expiration occurs on or before the Maturity Date. If at any time an Interest Period expires less than one month before the Maturity Date, such LIBOR Loan shall automatically convert to a Prime Loan on the last day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(v) Notwithstanding anything to the contrary contained herein, the principal balance of any LIBOR Loan may not be prepaid in whole or in part at any time. If, for any reason, a LIBOR Loan is paid prior to the last Business Day of any Interest Period, whether voluntary, involuntary, by reason of acceleration or otherwise, each such prepayment of a LIBOR Loan will be accompanied by the amount of accrued interest on the amount prepaid and any

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and all costs, expenses, penalties and charges incurred by the Lender as a result of the early termination or breakage of a LIBOR Loan, plus the amount, if any, by which (A) the additional interest which would have been payable during the Interest Period on the LIBOR Loan prepaid had it not been prepaid, exceeds (B) the interest which would have been recoverable by the Lender by placing the amount prepaid on deposit in the domestic certificate of deposit market, the Eurodollar deposit market, or other appropriate money market selected by the Lender, for a period starting on the date on which it was prepaid and ending on the last day of the Interest Period for such LIBOR Loan (collectively, the "Make Whole Costs"). The amount of any such loss or expense payable by the Borrower to the Lender under this section shall be determined in the Lender's sole discretion based upon the assumption that the Lender funded its loan commitment for LIBOR Loans in the London Interbank Eurodollar market and using any reasonable attribution or averaging methods which the Lender deems appropriate and practical, provided, however, that the Lender is not obligated to accept a deposit in the London Interbank Eurodollar market in order to charge interest on a LIBOR Loan at the LIBOR Rate.

(vi) If the Lender determines in good faith (which determination shall be conclusive, absent manifest error) prior to the commencement of any Interest Period that (A) the making or maintenance of any LIBOR Loan would violate any applicable law, rule, regulation or directive, whether or not having the force of law, (B) United States dollar deposits in the principal amount, and for periods equal to the Interest Period, of any LIBOR Loan are not available in the London Interbank Eurodollar market in the ordinary course of business, (C) by reason of circumstances affecting the London Interbank Eurodollar market, adequate and fair means do not exist for ascertaining the LIBOR Rate to be applicable to the relevant LIBOR Loan, (D) the LIBOR Rate does not accurately reflect the cost to the Lender of a LIBOR Loan or (E) an Event of Default (as hereinafter defined) has occurred and is continuing or any event or circumstance exists which, with the giving of notice or passage of time, would constitute an Event of Default, the Lender shall promptly notify the Borrower thereof and, so long as any of the foregoing conditions continue, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan, and each existing LIBOR Loan, at the Borrower's option, shall be (1) converted to a Prime Loan on the last Business Day of the then existing Interest Period, or (2) due and payable on the last Business Day of the then existing Interest Period, without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower.

(vii) If, after the date hereof, a Regulatory Change (as hereinafter defined) shall, in the reasonable determination of the Lender, make it unlawful for the Lender to make or maintain any LIBOR Loans, the Lender will have no obligation to accept an election by the Borrower for a LIBOR Loan. In addition, at the Borrower's option, each existing LIBOR Loan shall be immediately (A) converted to a Prime Loan on the last Business Day of the then existing Interest Period or on such earlier date as required by law, or (B) due

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and payable on the last Business Day of the then existing Interest Period or on such earlier date as required by law, all without further demand, presentment, protest or notice of any kind, all of which are hereby waived by the Borrower. As used herein, "Regulatory Change" shall mean the introduction of, or any change in any applicable law, treaty, rule, regulation or guideline or in the interpretation or administration thereof by any governmental authority or any central bank or other fiscal, monetary or other authority having jurisdiction over the Lender or its lending office.

(viii) If any Regulatory Change (whether or not having the force of law) shall (a) impose, modify or deem applicable any assessment, reserve, special deposit or similar requirement against assets held by, or deposits in or for the account of, or loans by, or any other acquisition of funds or disbursements by, the Lender; (b) subject the Lender or any LIBOR Loan to any tax, duty, charge, stamp tax or fee, or change the basis of taxation of payments to the Lender of principal or interest due from the Borrower hereunder (other than a change in the taxation of the overall net income of the Lender); or (c) impose on the Lender any other condition regarding any LIBOR Loan or the Lenders' funding thereof, and the Lender shall determine (which determination shall be conclusive, absent manifest error) that the result of the foregoing is to actually increase the cost to the Lender of making or maintaining any LIBOR Loans or to reduce the amount of principal or interest received by the Lender hereunder on any LIBOR Loan, then the Borrower shall pay to the Lender, on demand, such additional amounts as the Lender shall from time to time determine are sufficient to compensate and indemnify the Lender for such increased costs or reduced amounts (the "LIBOR Indemnification Costs")."

b. The following is inserted as a new Paragraph 2.4:

"2.4 **Extension Option.** Borrower may at its option ("**Extension Option**") extend the Maturity Date to the date which is six months after the Initial Maturity Date (the "**Extended Maturity Date**"), upon satisfaction of the following conditions precedent (the "**Extension Requirements**"):"

(i) Borrower shall, by written notice to Lender ("**Extension Notice**") given no earlier than sixty (60) days and no later than thirty (30) days prior to the Initial Maturity Date, notify Lender in writing of its irrevocable election to exercise the Extension Option

(ii) Borrower shall pay Lender at the time of delivery of the Extension Notice an extension fee ("**Extension Fee**") in the amount of Nine Thousand Eight Hundred Sixty-Five and 00/100 Dollars (\$9,865.00)

(iii) Prior to the Initial Maturity Date, Borrower shall deposit an amount sufficient to fund six (6) months of interest payments on the

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Loan into the Interest Reserve Pledge Account. Such amount shall be calculated based on the then current outstanding principal balance of the Loan at an interest rate based on the Floating Rate.

(iv) *Borrower shall have delivered to the Lender at the time of delivery of the Extension Notice: (a) executed leases, in form and substance acceptable to Lender in its sole discretion, for: (1) one "big-box" retail space in the Project with annual net rents of no less than \$600,000; and (2) one outlot space in the Project with annual net rents of no less than \$225,000; or (b) a fully executed, binding contract to sell space in the Project to Wal-Mart, in form and substance acceptable to Lender in its sole discretion and containing a minimum purchase price of no less than \$14,000,000.*

(v) *As of the date of Lender's receipt of the Borrower's Extension Notice and as of the Initial Maturity Date, no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, shall have occurred and be continuing.*

Provided all of the foregoing conditions have been satisfied, the Maturity Date shall be extended to the Extended Maturity Date, and all references in this Note and the other Loan Documents to the Maturity Date shall be deemed references to the Extended Maturity Date. The extension of the Maturity Date shall not impair Lender's ability to accelerate the maturity of the Loan in accordance with this Note or any one or more of the other Loan Documents."

c. Paragraph 3.1 is deleted in its entirety and the following substituted in its place:

"3.1 Principal and Interest. Payments of principal and interest due under this Note, if not sooner declared to be due in accordance with the provisions hereof, shall be made as follows:

(a) *Commencing on August 1, 2006, and continuing on the first Business Day of each month thereafter through and including the month in which the Maturity Date occurs, all accrued and unpaid interest on the principal balance of this Note outstanding from time to time shall be due and payable. Interest accrued on any LIBOR Loan as of the date of termination, breakage or other disposition shall be due and payable in full on the date of such termination, breakage or disposition.*

(b) *Commencing on November 1, 2008 and continuing on the first Business Day of each month thereafter through and including the month in which the Initial Maturity Date occurs, principal payments*

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in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) shall be due and payable.

(c) The unpaid principal balance of this Note, if not sooner paid or declared to be due in accordance with the terms hereof, together with all accrued and unpaid interest thereon and any other amounts due and payable hereunder or under any other Loan Document (as hereinafter defined), shall be due and payable in full on the Maturity Date."

3. **Amendment to Mortgage.** The Mortgage is amended as follows:

a. In Recital (A), the phrase "due on October 20, 2008" is deleted, and the phrase "*due on January 20, 2009, subject to extension to July 20, 2009, as provided in the Note*" is inserted in its place.

4. **Deposit of Additional Interest Reserve Pledged Funds.** Borrower shall deposit into the Interest Reserve Pledge Account an amount equal to three (3) months of monthly payments of interest on the principal balance of the Loan, which amount shall be disbursed by Lender pursuant to the terms of the Interest Reserve Pledge Agreement.

5. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Certificate, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly

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authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

6. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue a date down endorsement to Lender's title insurance policy 1401-008352795 (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage on the Original Land, as modified herein, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

7. **Reaffirmation of Guaranty.** Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

8. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, a loan fee of \$9,865, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

9. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied,

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that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

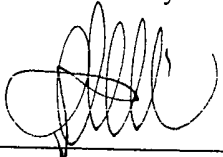
(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

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

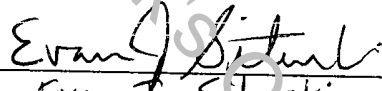
BORROWER:

PREFERRED CALUMET LLC, an Illinois limited liability company

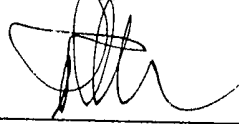
By: 
One of its Managers

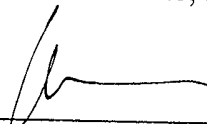
LENDER:

BANK OF AMERICA, N.A., a national banking association

By: 
Name: Evan J. Sitarski
Title: Vice President

GUARANTORS:


Thomas Morabito, individually

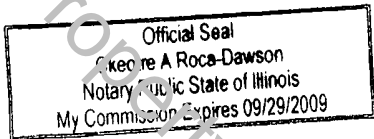

Evan Oliff, individually

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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I GEORGE A. ROCA-DAWSON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that EVAN SITAVSKI, VP of Bank of America, N.A., 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 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 26th day of Nov, 2008.



[Signature]
Notary Public

My Commission Expires: 9/29/09

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STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I Mary Bianco, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas Morabito, Manya of Preferred Calumet LLC, 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 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 24th day of November, 2008.

Mary Bianco
Notary Public

My Commission Expires: _____



STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I Mary Bianco, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas Morabito and Evan Oliff are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of November, 2008.

My Commission Expires: _____

Mary Bianco
Notary Public



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EXHIBIT A

ORIGINAL LAND

PARCEL 1:

LOTS 1 THROUGH 14, BOTH INCLUSIVE, IN BLOCK 8 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 31 TO 34 IN BLOCK 9 IN BUTTERFIELD SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 38 THROUGH 44, BOTH INCLUSIVE, IN BLOCK 9 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 7 (EXCEPT THE NORTH 8 FEET THEREOF) AND ALL OF LOTS 8, 9 AND 10 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOTS 1 THROUGH 9, BOTH INCLUSIVE, AND LOTS 15 THROUGH 22, BOTH INCLUSIVE, IN BRICKMAKER'S SUBDIVISION OF BLOCK 4 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses: 1801 W. 120th Street, 12035 Page Street; 12001 Page Street; SWC of 119th & Paulina; and SEC of 119th & Wood, Calumet Park, Illinois

PINs: 25-30-202-001; 25-30-202-002; 25-30-202-003; 25-30-202-004; 25-30-202-005; 25-30-202-006; 25-30-202-007; 25-30-202-008; 25-30-202-016; 25-30-202-017; 25-30-202-018; 25-30-202-019; 25-30-202-020; 25-30-202-021; 25-30-202-022; 25-30-202-023; 25-30-202-024; 25-30-202-025; 25-30-202-026; 25-30-203-023; 25-30-203-024; 25-30-203-025; 25-30-203-042; 25-30-207-023; 25-30-207-024; 25-30-207-025; 25-30-207-026; 25-30-207-027; 25-30-207-028; 25-30-207-029; 25-30-207-030; 25-30-207-031; 25-30-207-032; 25-30-207-033; 25-30-207-034; 25-30-207-035; 25-30-207-036; 25-30-208-011; 25-30-208-012; 25-30-208-013; 25-30-208-014; 25-30-208-045

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PARCEL 6:

LOTS 1, 2, 3, 4 AND 5 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 OF KRUEGER'S SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

ALSO

THAT PART OF THE NORTH AND SOUTH 15 FOOT WIDE PUBLIC ALLEY AS HERETOFORE DEDICATED IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION AFORESAID LYING NORTH OF THE WESTERLY PROLONGATION OF THE SOUGH LINE OF LOT 5 IN SAID BLOCK 3 AS VACATED BY PLAT OF VACATION RECORDED DECEMBER 15, 1994 AS DOCUMENT 04047724.

PARCEL 7:

LOTS 1, 2, 3, 4 AND 5, INCLUDING THE PRIVATE ALLEY LYING SOUTH OF AND ADJACENT TO SAID LOTS, IN THE RESUBDIVISION OF LOTS 40 TO 44 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 OF KRUEGER'S SUBDIVISION OF NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AS PER PLAT RECORDED JUNE 27, 1893 AS DOCUMENT NO. 1892784.

Addresses: 11901 S. Page Street, Calumet Park, Illinois

PINs: 25-30-203-001; 25-30-203-002; 25-30-203-003; 25-30-203-004; 25-30-203-005;
25-30-203-016; 25-30-203-017; 25-30-203-018; 25-30-203-019; 25-30-203-020

PARCEL 9:

LOTS 1 THRU 18 BOTH INCLUSIVE, IN BLOCK 5 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 10:

LOTS 35, 36 AND 37 IN BLOCK 9 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 11:

LOTS 10 AND 11 IN BRICKMAKER'S SUBDIVISION OF BLOCK 4 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE

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NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 12:

LOTS 38 AND 39 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 13a:

LOTS 11, 12, 13 AND 14 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 13b:

LOTS 15, 16, 17, 18, 19 AND THE NORTH 7.8 FEET OF LOT 20 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses: 11927 South Wood Street; 12029 South Page Street; 11911 South Page Street; SWC of 119th and Wood; and a Portion of the West Side of Paulina between 119th and 120th Street, Calumet Park, Illinois

PINs: 25-30-201-001-0000; 25-30-201-002-0000; 25-30-201-003-0000; 25-30-201-004-0000
 25-30-201-005-0000; 25-30-201-006-0000; 25-30-201-007-0000; 25-30-201-008-0000
 25-30-201-009-0000; 25-30-201-010-0000; 25-30-201-011-0000; 25-30-201-012-0000
 25-30-201-013-0000; 25-30-201-014-0000; 25-30-201-015-0000; 25-30-201-016-0000
 25-30-201-017-0000; 25-30-201-018-0000; 25-30-208-008-0000; 25-30-208-009-0000
 25-30-208-010-0000; 25-30-202-011-0000; 25-30-202-012-0000; 25-30-203-006-0000
 25-30-203-007-0000; 25-30-203-026-0000; 25-30-203-027-0000; 25-30-203-028-0000
 25-30-203-029-0000; 25-30-203-030-0000; 25-30-203-031-0000; 25-30-203-032-0000
 25-30-203-033-0000; 25-30-203-034-0000; 25-30-203-038-0000.

PARCEL 14:

LOT 12 IN BRICKMAKER'S SUBDIVISION OF BLOCK 4 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PARCEL 15:

LOTS 20 (EXCEPT THE NORTH 8 FEET THEREOF), 21 AND 22 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 17:

LOTS 1 TO 5, INCLUSIVE, IN RESUBDIVISION OF LOTS 23 TO 27 IN BLOCK 3 OF BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 18:

LOTS 28 AND 29 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2 3 AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses: 1750 West 120th Street, 11958 South Paulina and 11929 South Wood Street,
Calumet Park, Illinois

PINs: 25-30-203-037-0000; 25-30-203-043-0000; 25-30-203-044-0000; 25-30-203-011-0000;
25-30-203-012-0000; 25-30-203-013-0000; 25-30-203-014-0000; 25-30-203-015-0000;
25-30-203-045-0000;