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Cook County Recorder of Deeds  
Date: 02/23/2009 01:53 PM Pg: 1 of 9

ILLINOIS

PINS: 17 09 211 007 0000  
17 09 211 008 0000  
17 09 211 009 0000  
17 09 211 010 0000

Address: 100 W. Huron,  
Chicago, Illinois

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**LOAN MODIFICATION AND EXTENSION AGREEMENT**

by

**Affinity/Huron, LLC,**

**an Illinois limited liability company, and  
Dawn Loughlin**

**to and for the benefit of**

**BANK OF AMERICA, N.A., a national banking association, as successor by merger to  
LASALLE BANK NATIONAL ASSOCIATION,  
a national banking association**

**THIS DOCUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:**

Aaron B. Zarkowsky  
Deutsch, Levy & Engel, Chartered  
225 W. Washington Street, Suite 1700  
Chicago, Illinois 60606

**Bank of America**

**Box 400-CTCC**

1061 C7E D1 540.4 828 5073

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## LOAN MODIFICATION AND EXTENSION AGREEMENT

THIS **LOAN MODIFICATION AND EXTENSION AGREEMENT** (this "Modification") is made as of the 16<sup>th</sup> day of December, 2008, by and among **Affinity/Huron, LLC**, an Illinois limited liability company ("Borrower"), Dawn Loughlin ("Guarantor") and **BANK OF AMERICA, N.A.**, a national banking association, as successor by merger to **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

### RECITALS:

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of Two Million and 00/100 DOLLARS (\$2,000,000) as evidenced by a Promissory Note dated June 16, 2005, 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 documents dated as of June 16, 2005, including, (i) that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on June 20, 2005, as Document No. 0517102167 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto ("Property"), (ii) that certain Assignment of Rents and Leases, from Borrower to Lender and recorded in the Recorder's Office on June 20, 2005, as Document No. 051702168 (the "Assignment of Leases"); (iii) that certain First Amended and Restated-Environmental Indemnity Agreement from Borrower, and Guarantor to Lender (the "Indemnity Agreement"); and (iv) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, 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").

C. The Loan is further secured by a First Amended and Restated Guaranty dated as of January 16, 2006 from Guarantor (the "Guaranty").

D. The Loan Documents have been amended from time to time, including but not limited to that certain (i) First Modification of Loan Documents dated as of January 16, 2006, a memorandum of which was recorded on March 13, 2006 as document 0607243152, (ii) Second Modification of Loan Documents dated as of June 16, 2006 and recorded on September 8, 2006 as Document No. 0625133156, which, among other things, extended the Maturity Date of the Note; (iii) Third Modification of Loan Documents dated as of June 16, 2007 and recorded August 3, 2007 as Document No. 0721518000, which, among other things, extended the Maturity Date of the Note; and (iv) Loan Extension and Modification Agreement dated as of August 14, 2008 (the "Loan Extension"), which among other things, extended the Maturity Date of the Note, and restated the interest rate provisions.

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E. Borrower desires to further amend the Loan Documents in order to extend the Maturity Date, further modify the interest rate provisions, and for the other purposes hereinafter set forth.

## AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove, (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. **Incorporation and Definitions.** The foregoing recitals and all exhibits hereto are hereby made a part of this Modification. The capitalized terms contained herein shall have the following meanings as used in the Mortgage, as amended.

2. **Maturity Date.** The Maturity Date of the Note is hereby extended to December 1, 2009. Any reference in the Note, Mortgage or any other Loan Document to the Maturity Date shall mean December 1, 2009.

3. **Interest Rate.** Sections 2.1 (a) and (b) of the Note, as modified by the Loan Extension, are hereby further modified by (i) deleting the number "three hundred (300)" in each subpart and (ii) replacing therefore the number "four hundred (400)."

4. **Minimum Balance Requirement.**

(a) Guarantor has established account number            <sup>#8603743504</sup> with the Lender (the "**Subject Account**") and shall deposit therein an amount not less than \$90,000 (the "**Initial Deposit**"). The funds in the Subject Account may be used by the Guarantor from time to time at her discretion, but the Lender shall monitor the available funds in the Subject Account from time to time, but not less than monthly. The Subject Account shall at all times have "Free Balances" sufficient to approximately satisfy interest that will accrue on the Loan through and including the Maturity Date. "Free Balances" are defined as available demand deposit balances over and above those sufficient to cover the service costs on all of the Guarantor's accounts at the Lender.

(b) The Lender shall monitor the Subject Account from time to time, but not less once each month on or about the first day of such month. In the event that the Subject Account does not, or will not have sufficient "Free Balances" to approximately satisfy interest that will accrue on the Loan through the Maturity Date, an Event of Default shall be deemed to exist five (5) days after Guarantor's receipt of written notice of such deficiency from the Lender unless Guarantor, within such five (5) day period deposits funds sufficient to increase Free Balances to an amount that will approximately satisfy interest that will accrue on the Loan through the Maturity Date.

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(c) Upon the happening or occurrence of an Event of Default as set forth in the Mortgage, and at any time thereafter and from time to time, the Lender may exercise all the rights and remedies of a secured party under applicable law, including, but not limited to, the Code, in effect from time to time. The Subject Account may, in the sole discretion of the Lender, be applied by the Lender against all or any part of the Loan. The rights and remedies provided herein and in any other agreements between the Borrower and the Lender are cumulative and are in addition to and not exclusive of the rights and remedies of a secured party under the Code and any other rights or remedies provided by applicable law.

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

(a) The representations and warranties in 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 Modification, 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 Modification and to perform the Loan Documents as modified herein. The execution and delivery of this Modification and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Modification has been duly executed and delivered on behalf of Borrower.

6. **Conditions Precedent.** The agreement of Lender to amend the Note and Loan Documents is subject to the following conditions precedent:

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(a) Lender shall have received this Modification duly executed by an authorized individual for each entity that is a party hereto.

(b) Lender shall have received resolutions of Borrower approving the execution of this Modification in form and content acceptable to Lender.

(c) Title Policy. Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender's title insurance policy No. 08285073 (the "Title Policy"), as of the date this Modification is recorded, reflecting the recording of this Modification and insuring the first priority of the lien of the Mortgage, 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.

(d) Expenses. Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Modification, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

(e) Extension Fees. Borrower shall pay to the Lender a non-refundable fee in the amount of Ten Thousand and 00/100 Dollars (\$10,000), which shall be due and payable in full as a condition precedent to the Lender's agreement to extend the Maturity Date as provided for herein.

(f) The Borrower shall have opened the Subject Account with the Lender and made the Initial Deposit therein.

(g) Lender shall have received such other documents as may be reasonably requested by Lender or its counsel.

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 Modification. 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. Miscellaneous.

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

(b) This Modification 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 Modification, and

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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 Modification. Each of the parties to this Modification represents that it has been advised by its respective counsel of the legal and practical effect of this Modification, and recognizes that it is executing and delivering this Modification, 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 Modification, 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 Modification 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, that are not embodied in the Loan Documents and this Modification, 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 Modification. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

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

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

(Signature Page Follows)



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

**LENDER:**

**BANK OF AMERICA, N.A.**, a national banking association, as successor by merger to **LASALLE BANK NATIONAL ASSOCIATION**

By: *Michelle B. Fries*  
Name: MICHELLE B. FRIES  
Title: ASSISTANT VICE PRESIDENT

**BORROWER:**

Affinity/Huron, LLC, an Illinois limited liability company

By: *Dawn Loughlin*  
Name: Dawn Loughlin  
Title: Manager

**GUARANTOR:**

*Dawn Loughlin*  
Dawn Loughlin

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STATE OF ILLINOIS )  
 ) .ss  
COUNTY OF COOK )

I Preeti Saini, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michelle B. Fries, AVP of BANK OF AMERICA, N.A., as successor by merger to LaSalle Bank National Association, 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 9<sup>th</sup> day of February, 2009.



Preeti Saini  
Notary Public

My Commission Expires: 5-20-12

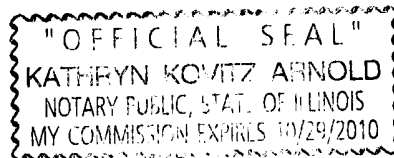
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I Kathryn Kovitz Arnold, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Dawn Loughlin, individually and as Manager of Affinity/Huron, LLC, an Illinois limited liability company, 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 4 day of February, 2009.

Kathryn Kovitz Arnold  
Notary Public

My Commission Expires: \_\_\_\_\_





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## EXHIBIT A

### THE PROPERTY

PARCEL 1: LOT 26 (EXCEPT THE NORTH 20 FEET) AND LOT 27 IN BUTLER'S SUBDIVISION OF BLOCK 30 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THE NORTH 20 FEET OF LOT 26 IN BLOCK 30 IN WOLCOTT'S ADDITION IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3: LOT 25 IN BUTLER'S SUBDIVISION OF BLOCK 30 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4: LOT 24 IN CHARLES BUTLER'S SUBDIVISION OF BLOCK 30 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS: 17 09 211 007 0000  
17 09 211 008 0000  
17 09 211 009 0000  
17 09 211 010 0000

Commonly known as: 100 W. Huron, Chicago, Illinois