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Doc#: 0905818101 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 02/27/2009 03:41 PM Pg: 1 of 8

**FIRST MODIFICATION TO JUNIOR REAL ESTATE MORTGAGE  
AND JUNIOR ASSIGNMENT OF LEASES AND RENTS**

**THIS FIRST MODIFICATION TO JUNIOR REAL ESTATE MORTGAGE AND JUNIOR ASSIGNMENT OF LEASES AND RENTS (the "First Modification") is executed as of this 19th day of February, 2008, by and between CHICAGO TITLE LAND TRUST COMPANY, successor trustee to LaSalle Bank National Association, not personally, but as Trustee under a Trust Agreement dated October 22, 1999 and known as Trust No. 122797 ("Mortgagor") and MIDWEST BANK AND TRUST COMPANY ("Mortgagee").**

**WITNESSETH:**

**WHEREAS**, the Company, as defined in the Mortgage referenced herein, is indebted to Mortgagee as of the date of this Modification as evidenced by the Company's Revolving Credit Note dated March 5, 2007, in the original principal amount of \$3,000,000.00 (the "Revolving Note"); and

**WHEREAS**, the Revolving Note is secured by that certain Junior Mortgage Real Estate dated as of March 5, 2007 (the "Mortgage") and recorded with the Recorder of Deeds of Cook County, Illinois as Document No. 0707342231 on March 14, 2007; and

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**WHEREAS**, the Revolving Note is further secured by that certain Junior Assignment of Rents and Leases dated as of March 5, 2007 (the "Assignment") and recorded with the Recorder of Deeds of Cook County, Illinois as Document No. 0707342232 on March 14, 2007; and

**WHEREAS**, the Company has contemporaneously herewith executed Term Credit Notes of even date herewith in the original principal amounts of \$850,000.00 and \$500,000.00, respectively (the "Term Notes"); and

**WHEREAS**, Mortgagor recognizes and confirms that the lien of the aforesaid Mortgage held by Mortgagee is a valid and subsisting lien on the real property located at 550 South Milwaukee Avenue, Wheeling, Cook County, State of Illinois as described in **Exhibit "A"** attached hereto and incorporated herein;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and upon the express condition that the lien of the aforesaid Mortgage held by Mortgagee is a valid and subsisting prior lien on the premises described in **Exhibit "A"** and on the further condition that the execution of this First Modification will not impair the lien of the Mortgage and further upon the express condition that in the event of a breach of either of the above expressed conditions this First Modification will not take effect and will be null and void;

**IT IS HEREBY** agreed to by the parties as follows:

1. The foregoing recitals are hereby adopted by the parties hereto and made a part hereof and are binding upon the parties.
2. Mortgagor hereby covenants, promises and agrees to perform each and all of the covenants and agreements contained in the Mortgage and the Assignment to be performed by the Mortgagor at the time and in the manner in all respects provided therein and to be bound by all the terms and provisions of said Mortgage and Assignment.

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3. It is further agreed, however, that the Mortgage and Assignment are hereby modified to provide that they shall secure the payment of the Revolving Note and the Term Notes and any renewals, substitutions and extensions thereof, and the payment of any and all sums heretofore or hereafter loaned and advanced by Mortgagee to Mortgagor, all of which sums together with the amount owing on the Revolving Note and the Term Notes shall not exceed Six Million Five Hundred Twenty Five Thousand and No/100 Dollars (\$6,525,000.00), and the performance and observance by the Mortgagor and any guarantors of any indebtedness secured by the Mortgage, of all of the covenants, agreements, and conditions contained in the Revolving Note, the Term Notes, the Mortgage, the Assignment, and in all other instruments pertaining to the repayment of any indebtedness secured by the Mortgage (including any guaranty thereof) and in any other security agreement relating to the sums secured by the Mortgage.

4. The Mortgage as modified herein is subject to all the provisions contained in the Mortgage and all other documents executed in connection therewith. Mortgagor hereby agrees, recognizes and confirms that the Mortgage as modified secures the performance of all those covenants, agreements and conditions contained in all the instruments pertaining to the repayment of the Revolving Note and the Term Notes.

5. The Mortgagor hereby agrees that if a default is made in the payment of any principal or interest due under the Revolving Note or the Term Notes, or if there shall be any other breach or default of the terms, conditions or covenants of the Mortgage, the Assignment, the Revolving Note, the Term Notes or any other document executed in connection with the indebtedness secured by the Mortgage, then the entire principal balance of the Revolving Note or the Term Notes, together with all accrued interest and any other sums provided for in the Revolving Note or the Term Notes shall at the option of Mortgagee, become due and payable without further notice.

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6. All the real property described in Exhibit "A" herein shall remain in all respects subject to the lien, charge and encumbrance of the Mortgage and the Revolving Note or the Term Notes, and nothing contained herein and nothing done pursuant hereto shall affect or be construed to affect the lien, charge, encumbrance or the conveyance created by the Mortgage, except as expressly provided herein.

7. The original executed copy of this First Modification shall be duly recorded with the Recorder of Deeds of Cook County, Illinois. This First Modification, together with the Revolving Note, the Term Notes, the Mortgage, the Assignment, and any other documents executed by the Mortgagor in connection with the indebtedness secured by the Mortgage as modified hereby shall be binding upon the Mortgagor and its successors and assigns.

8. This First Modification is executed by **CHICAGO TITLE LAND TRUST COMPANY**, not personally, but as Trustee as aforesaid in the exercise of the power and authority conferred upon and invested in it as such Trustee and said Trustee hereby warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed that nothing contained herein shall be construed as creating any liability on the part of Trustee individually to pay the New Note or any interest thereon, or any indebtedness accruing thereunder, or to perform any covenant either express or implied herein contained; all such liability, if any, being expressly waived by the Mortgagee and by every person now or hereafter claiming any right of security hereunder and that so far as said Trustee personally is concerned, the legal holder or holders hereof shall look solely to the premises conveyed by the Mortgage and the enforcement of the lien thereby created or to an action to enforce the personal liability of any guarantor hereof.

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IN WITNESS WHEREOF, this First Modification to Junior Real Estate Mortgage is executed as of the day and year first written above.

**MORTGAGOR:**



CHICAGO TITLE LAND TRUST COMPANY,  
successor trustee to LaSalle Bank National  
Association, not personally, but as Trustee under  
Trust Agreement dated October 22, 1999 and  
known as Trust No. 122797 ~~and not personally~~

By: *Loures Martinez*  
Its: LOURDES MARTINEZ  
ASST. VICE PRESIDENT

This instrument is executed by the undersigned Land Trustee not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument

**MORTGAGEE:**

MIDWEST BANK AND TRUST COMPANY

By: *[Signature]*  
Its Vice President

This document prepared by and mail to:

David A. Kallick  
Tishler & Wald, Ltd.  
200 S. Wacker Drive  
Suite 3000  
Chicago, IL 60606  
(312) 876-3800

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## ACKNOWLEDGMENT

STATE OF ILLINOIS        )  
  ) ss.  
COUNTY OF COOK        )

I, Denise M Lawrenz, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY that **Christopher A Ebert, the Senior Vice President of MIDWEST BANK AND TRUST COMPANY**, 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 and as the free and voluntary act of said company for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 9 day of FEB, 2008.

Denise M Lawrenz  
NOTARY PUBLIC



My commission expires: 11.20.09

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## EXHIBIT "A"

### LEGAL DESCRIPTION

**PARCEL 1:**

LOT 1 IN SECOND ADDITION TO ROSEGATE SUBDIVISION, BEING A RESUBDIVISION IN THE NORTHWEST 1/4 OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF REGISTERED IN OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON DECEMBER 16, 1986 AS DOCUMENT LR3575991, IN COOK COUNTY, ILLINOIS EXCEPT THAT PART OF LOT 1 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 23 DEGREES 03 MINUTES 50 SECONDS WEST, ALONG THE NORTHEASTERLY LINE OF SAID LOT, BEING ALSO THE SOUTHWESTERLY LINE OF MILWAUKEE AVENUE, 304.48 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 17 DEGREES 39 MINUTES 10 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 8.55 FEET TO THE POINT OF INTERSECTION WITH A LINE DRAWN 8.00 FEET SOUTHWESTERLY (AS DRAWN PERPENDICULARLY) OF AND PARALLEL WITH THE NORTHEASTERLY LINE OF LOT 1 AFORESAID; THENCE SOUTH 23 DEGREES 03 MINUTES 50 SECONDS EAST, ALONG SAID PARALLEL LINE, 287.80 FEET; THENCE SOUTH 33 DEGREES 28 MINUTES 05 SECONDS WEST 17.98 FEET TO THE POINT OF INTERSECTION WITH THE SOUTH LINE OF LOT 1 AFORESAID; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID SOUTH LINE 25.00 FEET TO THE POINT OF BEGINNING.

**PARCEL 2:**

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR VEHICULAR INGRESS AND EGRESS OVER THAT PART OF LOT 2 IN SECOND ADDITION TO ROSEGATE SUBDIVISION DESCRIBED AS ROAD EASEMENT AREA NUMBER 3 IN EXHIBIT 'C' TO GRANT OF EASEMENT BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 20, 1961 AND KNOWN AS TRUST NUMBER 16433 AND CASA LUPITA RESTAURANTS, INC., DATED DECEMBER 22, 1986 AND FILED DECEMBER 30, 1986 AS DOCUMENT LR3579770

**ADDRESS:** 550 S. Milwaukee Avenue  
Wheeling, IL 60091

**P.I.N.** 03-12-116-028-0000

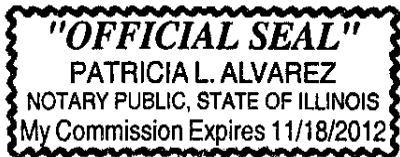
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## ACKNOWLEDGMENT

STATE OF ILLINOIS        )  
   ) ss.  
 COUNTY OF COOK         )

I, The undersigned, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY that Lourdes Martinez, the Assistant Vice President of **CHICAGO TITLE LAND TRUST COMPANY, successor trustee to LaSalle Bank National Association, not personally, but as Trustee under a Trust Agreement dated October 22, 1999 and known as Trust No. 122797**, 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 or she signed and delivered said instrument as his or her own free and voluntary act and the free and voluntary act of the company for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 13th day of February, 2009.



*Patricia L. Alvarez*  
 NOTARY PUBLIC

My commission expires: 11/18/12