

UNOFFICIAL COPY

**THIS DOCUMENT WAS PREPARED
BY AND AFTER RECORDING
SHOULD BE RETURNED TO:**

Jay R. Goldberg
Field and Goldberg, LLC
10 South LaSalle Street
Suite 2910
Chicago, IL 60603



Doc#: 0908339045 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/24/2009 03:05 PM Pg: 1 of 9

ADDRESS OF PROPERTY:

3415-21 North Southport Avenue
Chicago, IL 60657

PERMANENT INDEX NO.:

14-20-313-075-0000

LOAN MODIFICATION AGREEMENT

THIS LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 10th day of March, 2009 by and among **MB FINANCIAL BANK, N.A.** ("Lender"), **3415 N. SOUTHPORT LLC**, an Illinois limited liability company ("Borrower"), and **EVAN OLIFF and THOMAS MORABITO** (herein individually and collectively called "Guarantors").

WITNESSETH:

WHEREAS, Borrower is the owner of certain real estate (the "Premises") commonly known as 3415-21 North Southport Avenue, which is located in the City of Chicago, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to Borrower in the stated principal sum of Two Million Seven Hundred Seventy Five Thousand Dollars and No Cents (\$2,775,000.00); and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter defined and, together with all other documents evidencing, securing or otherwise governing the Loan, collectively referred to as the "Loan Documents") each of which is dated as of June 10, 2008 unless otherwise stated:

(a) Note (the "Note") made by Borrower in the stated principal sum of Two Million Seven Hundred Seventy Five Thousand Dollars and No Cents (\$2,775,000.00);

(b) Guaranty (the "Guaranty") made by Guarantors in favor of Lender;

UNOFFICIAL COPY

(c) Mortgage (the "Mortgage") made by Borrower to Lender encumbering the Premises and the improvements thereon and all other property, assets and collateral therein described, which Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") as Document No. 0816533252;

(d) Assignment of Rents and Leases made by Borrower to Lender, which was recorded in the Recorder's Office as Document No. 0816533253;

(e) Security Agreement made by Borrower, as debtor, to Lender, as secured party;

(f) Undated Uniform Commercial Code Financing Statements made by Borrower, as debtor, to Lender, as secured party, which were recorded in the Recorder's Office as Document No. 0816533255 and filed with the Illinois Secretary of State as Document No. 13347948; and

(g) Environmental Indemnity Agreement made by Borrower and Guarantors, as indemnitors, to Lender; and

WHEREAS, Lender and Borrower have agreed to certain modifications to the Loan Documents; and

WHEREAS, the agreements of the parties are set forth herein and limited to this Agreement.

AGREEMENT

NOW, THEREFORE, for valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. **Preambles.** The preambles hereto are incorporated herein by reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.
2. **Definitions.** All capitalized terms herein not otherwise defined shall have the same meanings as in the Note, Mortgage and in the other Loan Documents.
3. **Payment of Fee.** For and as additional consideration of Lender agreeing to enter into this Agreement, Borrower shall pay Lender a fee of Two Thousand Four Hundred Dollars and No Cents (\$2,400.00).
4. **Amendment to Note.** In addition to any other modifications contained in this Agreement, the terms of the Note are hereby amended as follows:

UNOFFICIAL COPY

a. The definition of "Regular Rate" in Section 2.E is hereby deleted in its entirety and is replaced with the following:

"Regular Rate" shall mean interest payable at the rate equal to the **greater of:** (i) LIBOR plus Three Hundred Fifty (350) Basis Points (see Rider attached hereto and incorporated herein by reference), or (ii) Five and One-Half Percent (5.5%) per annum.

b. The Maturity Date of the Note shall be May 10, 2009.

c. The first sentence of the first paragraph of the Rider to the Note shall be deleted in its entirety and is hereby replaced with the following:

Prior to the Maturity Date, or the Loan otherwise becoming due, interest shall accrue on the outstanding principal balance of the Loan from time to time, at an annual interest rate ("Interest Rate") equal to Three Hundred Fifty (350) Basis Points in excess of the ninety (90) day London InterBank Offered Rate ("LIBOR"), the sum of which is named "Adjusted LIBOR" and is defined below.

d. The first sentence of the second paragraph of the Rider to the Note shall be deleted in its entirety and is hereby replaced with the following:

For purposes hereof, Adjusted LIBOR shall mean a rate of interest equal to Three Hundred Fifty (350) Basis Points in excess of the per annum rate of interest at which U.S. dollar deposits in an amount comparable to the outstanding principal amount of the Loan and for a ninety (90) day period on the first business day of March, June, September and December are offered generally to Lender (rounded upward to the nearest 1/16th of 1.00%) in the London InterBank Market at 11:00 a.m. (London Time) one (1) banking day prior to the commencement of each Interest Period, such rate to remain fixed until the next interest reset date (approximately one calendar quarter later).

e. The final paragraph of the Rider to the Note is deleted in its entirety and is hereby replaced with the following:

Interest after maturity (whether by reason of acceleration or otherwise) shall be paid on the unpaid balance at the rate of LIBOR plus Eight Hundred Fifty (850) Basis Points.

5. **Amendment to Mortgage.** The Mortgage is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

UNOFFICIAL COPY

6. **Continued Priority.** In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest in the Premises otherwise junior in priority to the liens created by the Loan Documents shall gain superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.
7. **Lender Expenses.** Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.
8. **Non-Waiver.** In the event Lender shall at any time or from time to time disburse portions of the Loan without Borrower first satisfying all conditions precedent set forth herein or in the Loan Documents, Lender shall not thereby be deemed to have waived its right to require such satisfaction of the same or other condition as a condition precedent to its obligations to make further disbursement of the Loan.
9. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect pursuant to the terms and conditions set forth therein, except to the extent otherwise expressly modified hereby. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.
10. **Joinder of Guarantors.** Notwithstanding anything to the contrary contained herein Guarantors have entered into this Agreement for the limited purpose of ratifying and confirming Guarantors' obligations under the Guaranty, as amended hereby, and to acknowledge that the Guaranty and the other Loan Documents, as amended hereby, remain in full force and effect.

(Signature Page Follows)

UNOFFICIAL COPY

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

MB FINANCIAL BANK, N.A.

3415 N. SOUTHPORT LLC, an Illinois limited liability company

By: Brooke Cullen
Name: Brooke Cullen
Title: Assistant Vice President

By: [Signature]
Thomas Morabito, Manager

[Signature]
EVAN OLIFF

[Signature]
THOMAS MORABITO

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that BROOKE CULLEN, the ASSISTANT VICE PRESIDENT of **MB Financial Bank, N.A.**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of the corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 23RD day of MARCH, 2009.

Cecilia Romanowski
Notary Public



Property of Cook County Clerk's Office

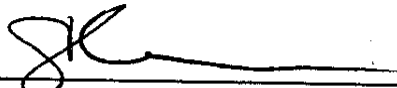
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)



I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Thomas Morabito**, the Manager of **3415 N. Southport 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 Manager, appeared before me in person and acknowledged that he delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said **3415 N. Southport LLC** for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of March, 2009.



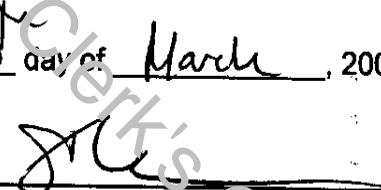
Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)



I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **Evan Oliff**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered 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 20th day of March, 2009.



Notary Public

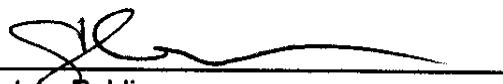
UNOFFICIAL COPY



STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that **Thomas Morabito**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered 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 20th day of Nov, 2009.



 Notary Public

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

Legal Description

Lot 19 (except the North 4.13 feet thereof), all of Lots 20 and 21 and 22 (except the South 11.26 feet thereof) in Block 7 in Oliver's Subdivision of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Also excepting the following described land as acquired by the Chicago Transit Authority by Condemnation Case 04L50862:

Commencing at the Southeast corner of Lot 22 aforesaid; thence North 0 degrees 01 minutes 01 seconds East, along the East line of said lot, 11.26 feet to the point of beginning; thence continuing North 0 degrees 01 minutes 01 seconds East along said East line, 11.50 feet; thence South 89 degrees 59 minutes 37 seconds West, along a line parallel with the South line of said Lot 22, a distance of 36.25 feet; thence North 44 degrees 48 minutes 53 seconds West, 7.63 feet to a line drawn 28.18 feet North of and parallel with the South line of said Lot 22; thence South 89 degrees 59 minutes 37 seconds West, along said parallel line, 17.65 feet; thence South 0 degrees 00 minutes 23 seconds East, along a line perpendicular to said South line of Lot 22 a distance of 16.92 feet to the North line of the South 11.26 feet of said Lot 22; thence North 89 degrees 59 minutes 37 seconds East, along said North line of the South 11.26 feet of Lot 22, a distance of 59.28 feet to the point of beginning, in Cook County, Illinois.

Address of Property: 3415-21 North Southport Avenue
Chicago, IL 60657

Permanent Index No.: 14-20-313-035-0000