

# UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY:

Crowley & Lamb, P.C.  
350 North LaSalle Street, Suite 900  
Chicago, Illinois 60610

AFTER RECORDING RETURN TO:

Diamond Bank, FSB  
1051 Perimeter Drive  
Schaumburg, IL 60173  
Attn: Kariann B. Braga  
Senior Vice President



Doc#: 0915318080 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/02/2009 03:50 PM Pg: 1 of 8

This space reserved for Recorder's use only

## SECOND MODIFICATION OF LOAN DOCUMENTS

**THIS SECOND MODIFICATION OF LOAN DOCUMENTS** (this "Agreement") is made effective as of the 1st day of May, 2009, by and among **MICHAEL KEELEY, ALLISON KEELEY, RUSSELL BENKO and MAUREEN BENKO** (jointly and severally, "Borrower"), having an address of 1701 South Vine Avenue, Park Ridge, Illinois 60068, and **DIAMOND BANK, FSB**, its successors and assigns, having an address of 1051 Perimeter Drive, Schaumburg, IL 60173 Attn: Kariann B. Braga, Senior Vice President ("Lender").

### RECITALS:

A. Lender has heretofore made a loan (the "Loan") to Borrower in the principal amount of **FOUR HUNDRED THOUSAND AND 00/100THS DOLLARS U.S. (\$400,000.00)**, as evidenced by a Revolving Line of Credit Note dated January 19, 2007, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Original Note"). The Original Note was replaced by that certain Revolving Line of Credit Note dated February 1, 2008, in the principal amount of the Loan made payable by Borrower to the order of Lender. The Original Note was further replaced by that certain Amended and Restated Revolving Line of Credit Note dated February 1, 2009, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note") under the terms of that certain Modification of Loan Documents ("Modification") dated February 1, 2009. Capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Note.

B. The Note is secured by, among other things: (i) that certain Junior Mortgage dated January 19, 2007, from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on February 22, 2007 as Document No. 0705355113 (the "Mortgage"), which Mortgage encumbers the real property and all improvements thereon

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legally described on Exhibit A hereto ("Property"), and (ii) certain other loan documents (the Note, the Mortgage, Modification and any other document evidencing, securing and guarantying the Loan, in their original form and as amended from time to time, are collectively referred to herein as the "Loan Documents").

C. The Note matures by its terms on May 1, 2009. The Borrower requested that Lender extend the maturity date of the Note until August 1, 2009 and Lender is willing to so extend the maturity date of the Note on the terms and conditions more fully set forth hereinafter and in the Amended Note (defined below).

## 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 and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) 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 the Maturity Date.** Lender and Borrower agree that the Maturity Date for the Loan shall hereby be amended and extended from May 1, 2009 until August 1, 2009. All references in any and all Loan Documents to "Maturity Date" or words of similar import shall now mean August 1, 2009.
2. **Amendment of the Note.** The Note shall be amended and restated by that certain Second Amended and Restated Revolving Line of Credit Note of even date herewith executed by Borrower in favor of Lender (the "Amended Note") in the principal amount of \$400,000.00. As of the date hereof, the Amended Note amends, restates and replaces the Note and is not a repayment or novation of the Note. All references in any and all Loan Documents to "Note" or words of similar import shall now mean the Amended Note. Notwithstanding any other provision of the Loan Documents, the interest rate applicable to the Loan shall be as set forth in the Amended Note.
3. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:
  - (a) The representations and warranties in the Amended Note, the Loan Agreement, 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 Loan Documents) under the Amended Note, Mortgage, or the other Loan Documents and the Borrower knows of no event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Amended 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

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imposed by general principles of equity. In the event of any inconsistency or conflict between this Agreement and the Amended Note and the Loan Documents, the terms, provisions and conditions contained in this Agreement and the Amended Note shall govern and control.

(d) There has been no material adverse change in the financial condition of Borrower, 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, the Borrower does not have any claims, counterclaims, defenses, or set-offs with respect to the Loans, the Mortgage, or the other Loan Documents, as modified herein.

(f) The execution and delivery of this Agreement and the performance of the Mortgage and the other Loan Documents, as modified herein, have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower and is the legal, valid and binding obligation of Borrower enforceable in accordance with its terms.

4. **Mortgage / Continuing Validity.** Except as expressly modified herein, the Amended Note and the Note, the terms of the original Mortgage and the other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of the Mortgage (as amended above) nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the promissory notes or other credit agreement secured by the Mortgage. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Amended Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement. If any person who signed the original Mortgage does not sign this Agreement, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

5. **Borrower's Releases.** Borrower in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby remise, release and forever discharge, and by these presents, do for their successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and its respective successors, assigns, heirs, administrators, officers, personal representatives, attorneys, agents and successors in interest, from all actions, suits, causes of action, damages, expenses, liabilities, claims, accounts and demands, whatsoever, whether or not well-founded in fact or in law which they have, have had, or at any time may have, could have, or might have but for the execution of this Agreement, asserted against Lender, for or by reason of or in respect of any matter, cause or thing whatsoever, whether known or unknown, developed or undeveloped, past,

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present or future or whether permanent, continuing or otherwise, arising out of or connected with the Loan, the Amended Note, the other Loan Documents or this Agreement.

6. **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, filing fees and attorneys' fees and expenses.

7. **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 merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower and Lender each acknowledge and waive 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 and 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 nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower 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 Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower 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 Amended 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

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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 Borrower's obligations under this Agreement.

**[SIGNATURE PAGE ATTACHED]**

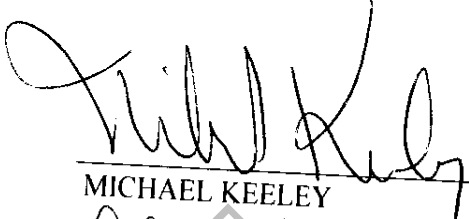
Property of Cook County Clerk's Office

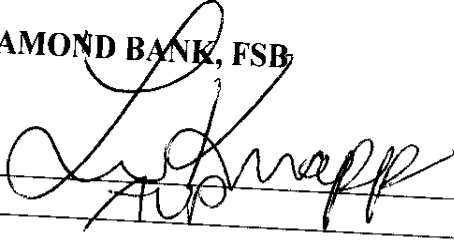
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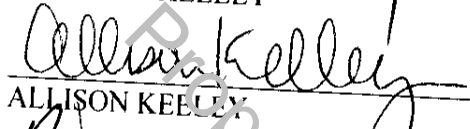
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement dated as of the day and year first above written.

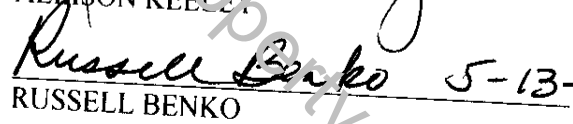
**BORROWER:**

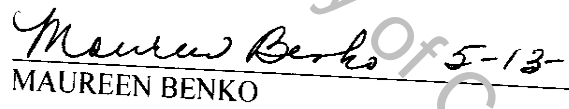
**LENDER:**

  
\_\_\_\_\_  
MICHAEL KEELEY

**DIAMOND BANK, FSB**  
By   
Its: \_\_\_\_\_

  
\_\_\_\_\_  
ALLISON KEELEY

 5-13-09  
\_\_\_\_\_  
RUSSELL BENKO

 5-13-09  
\_\_\_\_\_  
MAUREEN BENKO

Cook County Clerk's Office

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, BRIGID T. MULLEN, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that LISA KNAPP, AV president of Diamond Bank, FSB, known to me to be the same person whose name is subscribed to the foregoing instrument as such AV President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of Diamond Bank, FSB, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of May, 2009.

Brigid T. Mullen  
Notary Public

My Commission Expires:

2/27/2011



STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Waukegan )

I, LISA KNAPP, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that, **MICHAEL KEELEY, ALLISON KEELEY, RUSSELL BENKO and MAUREEN BENKO** individually and 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 the 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 1st day of May, 2009.

Lisa Knapp  
Notary Public

My Commission Expires:

07/01/12



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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 23 AND 24 IN AMBERG AND SHORT'S SUBDIVISION OF LOTS 121 TO 173 INCLUSIVE, IN THE CIRCUIT COURT PARTITION OF THAT PART OF LOT 1 OF EAST OF LINCOLN AVENUE, IN THE PARTITION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 14-18-106-032

COMMONLY KNOWN AS: 2266 W. LELAND, CHICAGO, ILLINOIS 60625

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