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Doc#: 0920111025 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/20/2009 10:06 AM Pg: 1 of 9

This document was prepared by
and after recording should be
returned to:

First Eagle Bank
1040 E. Lake Street
Hanover Park, IL 60133

Address of Property:
Unit Nos 304, GU-3, GU12
GU-19, GU-36, GU37, GU39
PU-27 and PU-28 and Commercial Space
4418-24 North Clark Street
Chicago, IL 60640

Permanent index Nos.:
14-17-120-021-0000
14-17-120-022-0000

FOURTH LOAN MODIFICATION AGREEMENT

THIS FOURTH LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 18th day of June, 2009 by and among FIRST EAGLE BANK ("Lender"), 4418-24 NORTH CLARK STREET, LLC, an Illinois limited liability company ("Borrower"), 4420 CLARK COMMERCIAL, LLC, an Illinois limited liability company (herein, together with Borrower, individually and collectively called "Mortgagor"), and DAVID BERGR ("Guarantor").

WITNESSETH:

WHEREAS, Mortgagor is the owner of certain real estate commonly known as residential condominium unit Nos. 304, Parking Space nos. GU-3, GU-12, GU-19, GU-36, GU-37, GU-39, PU-27 and PU-28 (individually and collectively called "Condominium Units") legally described as Parcel 1 on Exhibit A attached hereto and made a part hereof, and the commercial space (the "Commercial Space") legally described as Parcel 2 on Exhibit A attached hereto and made a part hereof, all located at 4418-24 North Clark Street, Chicago, IL 60640 (herein individually and collectively called the "Premises"); and

WHEREAS, Lender has heretofore made a non-revolving line of credit construction loan (the "Loan") in the originally stated principal sum of Two Million Four Hundred Twenty Thousand Dollars and 00/100 Cents (\$2,420,000.00) and increased by \$35,281.67 to Two Million Four Hundred Fifty Five Thousand Two Hundred Eighty One and 67/100 Dollars (\$2,455,281.67);

Officer Review

Initial Review  Date 6/22/09

Final Review  Date 6/26/09

Loan No. 72001

Box 400-CTCC

8389625 DZ KARSA

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WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter, 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 September 28, 2007 unless otherwise stated:

Note (the "Note") made by Borrower to Lender in the stated principal sum of Two Million Four Hundred Twenty Thousand Dollars and No Cents (\$2,420,000.00);

Guaranty of Completion (the "Completion Guaranty") made by Guarantor in favor of Lender;

Guaranty (herein, together with the Completion Guaranty, individually and collectively called "Guaranty") made by Guarantor in favor of Lender:

Mortgage (herein called the "Mortgage") made by Mortgagor, as mortgagor, to Lender, as mortgagee, 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") on October 3, 2007 as Document No. 0727635248;

Assignment of Rents and Leases (herein called "Assignment") made by Mortgagor, as assignor, to Lender, as assignee, which was recorded in the Recorder's Office on October 3, 2007 as Document No. 0727635249;

Security Agreement (herein called the "Security Agreement") made by Mortgagor and Guarantor, as debtors, to Lender, as secured party;

Undated Uniform Commercial Code Financing Statements made by Mortgagor and Guarantor, as debtors, to Lender, as secured party, which were recorded in the Recorder's Office on October 3, 2007 as Document No. 0727635250 and filed with the Illinois Secretary of State on November 13, 2007 as Document No. 12682182;

Environmental Indemnity Agreement (herein called "EIA") made by Mortgagor and Guarantor, as indemnitors, to Lender; and

First Amendment to Loan Documents dated March 24, 2008 made by and between Borrower, Guarantor and Lender;

Second Loan Modification Agreement dated September 28, 2008 made by and between Borrower, Guarantor and Lender that, among others, increased the amount of the loan by \$35,281.67 and extended the Maturity Date to March 28, 2009;

Third Loan Modification Agreement dated March 28, 2009 made by and between Borrower, Guarantor and Lender that, among others, extended the Maturity Date to March 28, 2009;

WHEREAS, the current outstanding principal balance of the Loan is Five Hundred Eighty Nine Thousand Six Hundred Sixty Eight and 42/100 Dollars (\$589,668.42) with an undisbursed amount \$1,193.18; and

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WHEREAS, Borrower and Lender 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 of the date hereof, 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. Increase in Loan Amount. Notwithstanding anything to the contrary contained in the Loan Documents, the stated principal amount of the Note is hereby increased by Twenty Thousand and 00/100 Dollars (\$20,000.00) (the "Increased Amount") to Six Hundred Ten Thousand Eight Hundred Sixty One & 60/100 (\$610,861.60). The Increased Amount shall be disbursed as of the date hereof into an additional interest reserve for the Loan as more fully described in Section 5 of this Agreement. Any reference to the Loan, the Loan Amount or to the Note in any of the Loan Documents shall be a reference to the Loan, the Loan Amount and/or the Note in the stated principal amount of to Six Hundred Ten Thousand Eight Hundred Sixty One & 60/100 (\$610,861.60).

4. Financial Statements. Borrower, Mortgagor, and Guarantor shall submit to Lender annually beginning June 30, 2009 and on that day every year thereafter the Business Financial Statements and Business Federal Income Tax Returns of Borrower and Mortgagor and the Personal Financial Statements and Personal Federal Income Tax Returns of Guarantor.

5. Amendment to Note. In addition to any other modifications contained in this Agreement, the Note is hereby modified as follows:

The following sentence is hereby added to the end of the first paragraph of Section 7 of the Note:

It is the intention of the parties that interest will be paid from an additional interest reserve (the "Additional Interest Reserve") established at Lender in the amount of Twenty Thousand Dollars (\$20,000.00) and funded from the proceeds of the Loan; provided, however, the exhaustion of funds established in the Additional Interest Reserve or the unavailability for disbursement of the Additional Interest Reserve pursuant to the Loan Documents shall not abrogate or otherwise affect the obligation of Borrower to pay interest due hereunder.

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6. Amendment to Guaranty. The Guaranty 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.

7. 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.

8. Amendment to Loan Documents. The Loan Documents are hereby modified and are deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

9. 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.

10. Title Insurance. Upon request by Lender, Borrower agrees to provide Lender with endorsements to its mortgagee's policies of title insurance ("Title Policies"), which endorsement shall be acceptable to Lender and shall guarantee as of the date hereof that: there are no objections to title except (a) the objections to title other than real estate taxes reflected on the Title Policies, and (b) general real estate taxes for the year 2008 and subsequent years; reflects the recording of this Agreement; re-dates the effective date of the Title Policies to the date of recording of this Agreement; and together with other endorsements required by Lender.

11. 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.

12. 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.

13. Joinder of Guarantor. Notwithstanding anything to the contrary contained herein Guarantor has entered into this Agreement for the purpose of ratifying and confirming Guarantor's 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.

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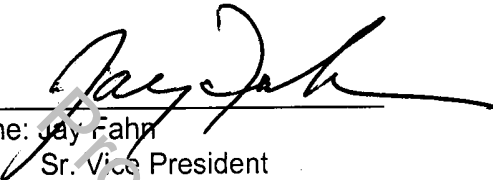
IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the day, month and year first written above.

LENDER:

BORROWER/MORTGAGOR:

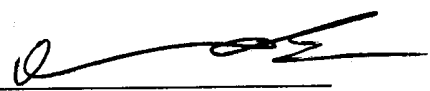
FIRST EAGLE BANK

4418-24 NORTH CLARK STREET, LLC,
an Illinois limited liability company

By: 
Name: Jay Fahr
Its: Sr. Vice President

By: BERGER DEVELOPMENT, LTD.,
its Manager

GUARANTOR:

By: 
Name: David Berger
Its: President


David Berger

MORTGAGOR:

4420 CLARK COMMERCIAL, LLC, an
Illinois limited liability company

By: BERGER DEVELOPMENT, LTD.,
its Manager

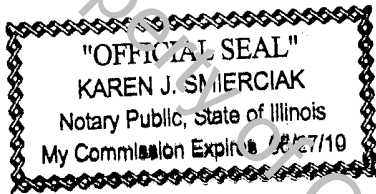
By: 
Name: David Berger
Its: President

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STATE OF ILLINOIS)
COUNTY OF Cook) SS

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Jay Fahn, the Sr. Vice President of FIRST EAGLE BANK, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Sr. Vice President, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of FIRST EAGLE BANK, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26th day of June, 2009

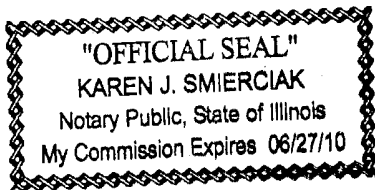


Karen J. Smierciak
Notary Public

STATE OF ILLINOIS)
COUNTY OF Cook) SS

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that David Berger, the President of Berger Development, Ltd., the Manager of 4418-24 NORTH CLARK STREET, 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 President, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of 4418-24 NORTH CLARK STREET, LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26th day of June, 2009



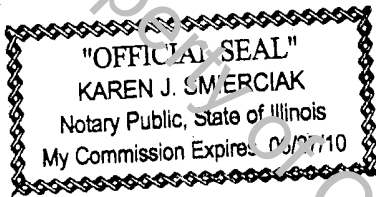
Karen J. Smierciak
Notary Public

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STATE OF ILLINOIS)
COUNTY OF *Cook*) SS

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that David Berger, the President of Berger Development, Ltd., the Manger of 4420 CLARK COMMERCIAL, 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, President, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of 4420 CLARK COMMERCIAL, LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this *26th* day of *June*, 2009

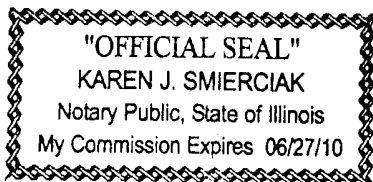


Karen J. Smierciak
Notary Public

STATE OF ILLINOIS)
COUNTY OF *Cook*) SS

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that David Berger, 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 free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this *26th* day of *June*, 2009



Karen J. Smierciak
Notary Public

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Exhibit A

Parcel 1:

Unit Nos. 304, GU-3, GU-12, GU-19, GU-36, GU-37, GU-39, PU-27, and PU-28 in 4420 Clark Condominiums as delineated on a survey of the following described real estate:

Lots 7 and 8 in Block 23 in Ravenswood in Sections 17 and 18, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, except that part described as follows:

That part lying above a horizontal plane of 24.07 feet (Chicago City Datum) and lying below a horizontal plane of 37.59 feet (Chicago City Datum) and being bounded and described as commencing at the Northeast corner of Lot 7; thence South 89 degrees 58 minutes 56 seconds West, 0.51 feet along the North line of Lot 7; thence South 00 degrees 01 minutes 04 seconds East, 1.06 feet to a point for a place of beginning; thence North 89 degrees 59 minutes 32 seconds East, 43.54 feet; thence South 30 degrees 00 minutes 28 seconds West 1.16 feet; thence North 89 degrees 59 minutes 32 seconds West, 11.02 feet; thence South 00 degrees 00 minutes 28 seconds West, 3.50 feet; thence South 89 degrees 59 minutes 32 seconds East, 8.41 feet; thence South 00 degrees 00 minutes 28 seconds West, 12.42 feet; thence South 89 degrees 59 minutes 32 seconds East, 7.83 feet; thence South 00 degrees 00 minutes 28 seconds West, 11.92 feet; thence South 89 degrees 59 minutes 32 seconds East, 14.75 feet; thence South 00 degrees 00 minutes 28 seconds West, 19.52 feet; thence North 89 degrees 59 minutes 32 seconds West, 7.20 feet; thence South 00 degrees 00 minutes 28 seconds West, 27.53 feet; thence North 89 degrees 59 minutes 32 seconds West, 5.93 feet; thence South 00 degrees 00 minutes 28 seconds West 16.58 feet; thence South 89 degrees 59 minutes 32 seconds West, 32.32 feet; thence North 00 degrees 00 minutes 28 seconds East, 6.50 feet; thence South 89 degrees 59 minutes 32 seconds East, 11.26 feet; thence South 00 degrees 00 minutes 28 seconds West, 1.92 feet; thence South 89 degrees 59 minutes 32 seconds East, 6.07 feet; thence North 00 degrees 00 minutes 52 seconds West, 88.75 feet to the point of beginning in Cook County, Illinois; which survey is attached as Exhibit 'A' to the Declaration of Condominium recorded as Document 0625845052, together with its undivided percentage interest in the common elements.

Parcel 2:

That part lying above a horizontal plane of 24.07 feet (Chicago City Datum) and lying below a horizontal plane of 37.59 feet (Chicago City Datum) and being bounded and described as commencing at the Northeast corner of Lot 7; thence South 89 degrees 58 minutes 56 seconds West, 0.51 feet along the North line of Lot 7; thence South 00 degrees 01 minutes 04 seconds East, 1.06 feet to a point for a place of beginning; thence North 89 degrees 59

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minutes 32 seconds East, 43.54 feet; thence South 30 degrees 00 minutes 28 seconds West 1.16 feet; thence North 89 degrees 59 minutes 32 seconds West, 11.02 feet; thence South 00 degrees 00 minutes 28 seconds West, 3.50 feet; thence South 89 degrees 59 minutes 32 seconds East, 8.41 feet; thence South 00 degrees 00 minutes 28 seconds West, 12.42 feet; thence South 89 degrees 59 minutes 32 seconds East, 7.83 feet; thence South 00 degrees 00 minutes 28 seconds West, 11.92 feet; thence South 89 degrees 59 minutes 32 seconds East, 14.75 feet; thence South 00 degrees 00 minutes 28 seconds West, 19.52 feet; thence North 89 degrees 59 minutes 32 seconds West, 7.20 feet; thence South 00 degrees 00 minutes 28 seconds West, 27.53 feet; thence North 89 degrees 59 minutes 32 seconds West, 5.93 feet; thence South 00 degrees 00 minutes 28 seconds West 16.58 feet; thence South 89 degrees 59 minutes 32 seconds West, 32.32 feet; thence North 00 degrees 00 minutes 28 seconds East, 6.50 feet; thence 89 degrees 59 minutes 32 seconds East, 11.23 feet; thence South 00 degrees 00 minutes 28 seconds West, 1.92 feet; South 89 degrees 59 minutes 32 seconds East, 6.07 feet; thence North 08 degrees 00 minutes 52 seconds West, 88.75 feet to the point of beginning.

Address of Property: Unit Nos 304, GU-3, GU-12, GU-19, GU-36, GU-37,
GU-39, PU-27, and PU-28
4418-24 North Clark Street
Chicago, IL 60640

Commercial Space
4420 N. Clark Street
Chicago, IL 60640

Permanent Index Nos.: 14-17-120-040-1012; 14-17-120-040-1033; 14-17-120-040-1042; 14-17-120-040-1049; 14-17-120-040-1064; 14-17-120-040-1065; 14-17-120-040-1067; 14-17-120-040-1070; 14-17-120-040-1071; 14-17-120-039-0000