

# UNOFFICIAL COPY

This instrument prepared by  
and please return to:

Polsinelli Shughart PC  
180 North Stetson Avenue, Suite 4525  
Chicago, Illinois 60601-6733  
Attention: Kimberly K. Enders, Esq.  
Loan #112009131-1



Doc#: 0930031068 Fee: \$90.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/27/2009 12:06 PM Pg: 1 of 28

Parcel No. 1:

P.I.N.: 17-07-327-038-0000, 17-07-327-039-0000 and  
17-07-327-040-0000

COMMONLY KNOWN AS: 2000-2006 W. Warren, Chicago, Illinois 60612

Parcel No. 2:

P.I.N.: 16-14-306-041

COMMONLY KNOWN AS: 714 S. Independence, Chicago, Illinois 60624

Parcel No. 3:

P.I.N.: 20-31-223-016

COMMONLY KNOWN AS: 8149-8151 S. Marshfield Avenue, Chicago, Illinois 60620

Parcel No. 4:

P.I.N.: 17-32-205-007

COMMONLY KNOWN AS: 3147 S. May Street, Chicago, Illinois 60603

## FIFTH LOAN MODIFICATION AGREEMENT

This instrument is a Fifth Loan Modification Agreement ("**Fifth Modification**") among First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation ("**Lender**"), 2000-2006 W. Warren, LLC, an Illinois limited liability company ("**Borrower**"), Edward Gobbo ("**Guarantor**"), 713 S Independence Blvd. LLC, an Illinois limited liability company (with regard to Parcel No. 2); 8149-51 S Marshfield, LLC, an Illinois limited liability

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company (with regard to Parcel No. 3); and 3147 S. May, LLC, an Illinois limited liability company (with regard to Parcel No. 4) (collectively, “**Mortgagors**”).

## RECITALS:

A. Borrower holds fee simple title to the real estate commonly known as 2000-2006 W. Warren, Chicago, Illinois, which is legally described on Exhibit A attached hereto (the “**Real Estate**”). Guarantor is the sole member and managing member of Borrower.

B. Mortgagors hold fee simple title to the real estate commonly known as 714 S. Independence, Chicago, Illinois (“**Parcel No. 2**”), 8149-8151 S. Marshfield Avenue, Chicago, Illinois (“**Parcel No. 3**”) and 3147 S. May Street, Chicago, Illinois (“**Parcel No. 4**”) (collectively, the “**Additional Real Estate**”), which is legally described on Exhibit A attached hereto.

C. On May 4, 2006, Borrower, Guarantor and Lender entered into a Construction Loan Agreement pursuant to which Lender granted a loan to Borrower in the amount of Four Million Five Hundred Seventy-Five Thousand Dollars (\$4,575,000.00) (“**Loan**”), which is evidenced by a Promissory Note in the principal amount of Four Million Five Hundred Seventy-Five Thousand Dollars (\$4,575,000.00) (“**Note**”). Concurrently therewith, Borrower and Guarantor executed and delivered to Lender the following documents (collectively “**Security Documents**”):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing, which was recorded with the Cook County Recorder of Deeds on May 12, 2006 as Document No. 0613235057 (“**Mortgage**”);

2. a Guaranty of Note, Mortgage and Other Undertakings executed by Guarantor (“**Guaranty**”);

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3. a UCC Financing Statement filed with the Secretary of State of Illinois and authorized by Borrower;
4. an Environmental, ADA and ERISA Indemnification Agreement executed by Borrower and Guarantor;
5. an Assignment of Project Documents executed by Borrower;
6. an Assignment of Real Estate Sale Contracts executed by Borrower;
7. a Certification of No Management Agreement executed by Borrower;
8. a General Contractor's Lien Subordination Agreement executed by Borrower's general contractor; and
9. a Letter of Credit in the amount of \$300,000.00 ("**Letter of Credit**").

D. On May 23, 2007, to take effect as of May 1, 2007, Borrower, Guarantor and Lender entered into a Loan Modification Agreement ("**Modification**"), pursuant to which Lender extended the maturity date of the Loan from May 1, 2007 until May 1, 2008. The Modification was recorded with the Cook County, Illinois Recorder of Deeds on June 6, 2007 as Document No. 0715718040.

E. As of May 1, 2008, Borrower, Guarantor and Lender entered into a Second Loan Modification Agreement ("**Second Modification**"), pursuant to which Lender extended the maturity date of the Loan from May 1, 2008 until November 5, 2008 and increased the amount of the Loan by One Million Forty-Five Thousand Dollars (\$1,045,000.00) ("**Additional Loan**") to provide for increased construction costs and an additional \$192,000.00 for the interest reserve. The Second Modification was recorded with the Cook County, Illinois Recorder of Deeds on May 27, 2008 as Document No. 0814840094. Pursuant to the Second Modification, Borrower executed and delivered to Lender a Revised Promissory Note in the amount of \$5,620,000.00

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("Revised Note") and Guarantor executed and delivered to Lender a Revised Guaranty of Second Modification, Revised Note, Mortgages, Loan Agreement and Other Undertakings. Under the provisions of the Second Modification, Mortgagors granted a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing ("**Mortgage No. 2**") covering the Additional Real Estate as additional collateral for the Loan. Mortgage No. 2 was recorded on May 27, 2008 as Document No. 0814840093.

F. As of November 5, 2008, Borrower, Guarantor and Lender entered into a Third Loan Modification Agreement ("**Third Modification**"), pursuant to which Lender extended the maturity date of the Loan from November 5, 2008 until February 5, 2009. Pursuant to the Third Modification, Borrower executed and delivered to Lender a Second Revised Promissory Note in the amount of \$5,620,000 ("**Second Revised Note**") and Guarantor executed and delivered to Lender his Second Revised Guaranty of Third Modification, Second Revised Note, Mortgages, Loan Agreement and Other Undertakings. The Third Modification was recorded with the Cook County Recorder of Deeds on February 13, 2009 as Document No. 0904419041.

G. On March 26, 2009, Borrower, Guarantor and Lender entered into a Fourth Loan Modification Agreement ("**Fourth Modification**"), pursuant to which Lender extended the maturity date of Loan until August 1, 2009 and revised the interest rate charged on the Loan. Pursuant to the Fourth Modification, Borrower executed and delivered to Lender a Third Revised Promissory Note in the amount of \$5,646,679.00 ("**Third Revised Note**") and Guarantor executed and delivered to Lender his Third Revised Guaranty of Fourth Modification, Third Revised Note, Mortgages, Loan Agreement and Other Undertakings. The Fourth Modification was recorded on April 9, 2009 as Document No. 0909929046.

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H. The Letter of Credit was subsequently increased to \$600,000.00. In June, 2009, Lender drew on the Letter of Credit and used the funds to pay \$400,000.00 to the principal balance of the Loan, \$90,000.00 to accrued, past due interest and \$17,000.00 to Lender's costs. Lender is currently holding approximately \$88,000 in an account ("Letter of Credit Proceeds").

I. The Loan matured on August 1, 2009. The current outstanding balance of the Loan is now \$5,246,679.00. Borrower has now requested Lender to extend the maturity date of the Loan from August 1, 2009 until August 1, 2011 ("**Maturity Date**"). Lender is agreeable to this request subject to the covenants, conditions and restrictions contained herein, including but not limited to an increase in the rate of interest applicable to the Loan and the separation of the Loan into two promissory notes, on which one will require interest to be paid monthly and one will accrue interest.

**NOW, THEREFORE**, in consideration of good and valuable consideration, the parties agree as follows:

1. Borrower and Guarantor hereby acknowledge that the Loan is in default because payments have not been made as agreed, liens have been placed against the Real Estate and Additional Real Estate and taxes have not been paid by the date due. The enumeration of the foregoing defaults does not constitute a waiver by Lender of any other defaults of the Loan Documents, hereinafter defined, which may exist now or in the future.

2. Borrower and Guarantor hereby acknowledge that the amount of the Loan is Five Million Two Hundred Forty-Six Thousand Six Hundred Seventy-Nine Dollars (\$5,246,679.00). The Note is hereby modified and amended in its entirety by the Fourth Revised Promissory Note No. 1 in the amount of Three Million Two Hundred Seventy-Six Thousand Dollars (\$3,276,000.00) executed concurrently herewith, a copy of which is attached hereto as **Exhibit B**

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("Fourth Revised Note No. 1") and the Fourth Revised Promissory Note No. 2 in the amount of One Million Nine Hundred Seventy Thousand Six Hundred Seventy-Nine Dollars (\$1,970,679.00) executed concurrently herewith, a copy of which is attached hereto as Exhibit C ("Fourth Revised Note No. 2"). Fourth Revised Note No. 1 and Fourth Revised Note No. 2 are collectively referred to as "Fourth Revised Notes." The Fourth Revised Notes evidence the outstanding balance of the Loan as of August 1, 2009.

3. The Security Documents are hereby modified and amended to secure the Fourth Revised Notes as hereby modified and all references to the Note, the Revised Note, the Second Revised Note and the Third Revised Notes in the Security Documents are modified and amended to refer to the Fourth Revised Notes as hereby modified. All interest charged on and all payments made on the Note, the Revised Note, the Second Revised Note and the Third Revised Note previously are unchanged.

4. This Fifth Modification shall be effective upon Lender's receipt of this Fifth Modification executed by the parties hereto and the following documents and items:

- (a) the Fourth Revised Note No. 1 in the amount of Three Million Two Hundred Seventy-Six Thousand Dollars (\$3,276,000.00) executed by Borrower;
- (b) the Fourth Revised Note No. 2 in the amount of One Million Nine Hundred Seventy Thousand Six Hundred Seventy-Nine Dollars (\$1,970,679.00) executed by Borrower;
- (c) a Fourth Revised Guaranty of Fifth Modification, Fourth Revised Note No. 1, Fourth Revised Note No. 2, Mortgages, Loan Agreement and Other Undertakings executed by Guarantor;
- (d) an Organizational Resolution of Borrower;
- (e) a Certification of No Change to organizational documents of Borrower;
- (f) a LLC File Detail Report of Borrower from Secretary of State of Illinois Website;
- (g) an Organizational Resolution of 713 S Independence Blvd. LLC;

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(h) a Certification of No Change to organizational documents of 713 S Independence Blvd. LLC;

(i) Organizational Resolution of 8149-51 S Marshfield, LLC;

(j) a Certification of No Change to organizational documents of 8149-51 S Marshfield, LLC;

(k) Organizational Resolution of 3147 S. May, LLC;

(l) a Certification of No Change to organizational documents of 3147 S. May, LLC;

(m) evidence of payment of all outstanding real estate taxes on the Real Estate;

(n) a date down endorsement covering this Fifth Modification and Mortgage No. 2; and

(o) payment of the fees and costs set forth in Section 9 hereof.

5. As an inducement to Lender to enter in this Fifth Modification, Borrower, Guarantor and each of Mortgagors acknowledge and agree that:

(a) the Lender has fully performed all of its obligations under the Loan Documents recited herein and otherwise between the parties hereto;

(b) each of Borrower, Guarantor and Mortgagors waives and affirmatively agrees not to allege, assert or otherwise pursue any claim, defense, affirmative defense, counterclaim, cause of action, setoff or other right which any of them may have, or claim to have, as of the date hereof, against Lender, whether known or unknown, including, but not limited to, any contest of:

i) the existence and materiality of the defaults stated herein;

ii) the enforceability, applicability or validity of any provision of any of the

Loan Documents, except as modified by this Fifth Modification, or the enforcement or validity of the terms and provisions of this Fifth Modification;

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iii) the right of Lender to demand immediate payment and performance of the obligations of Borrower, Guarantor and Mortgagors pursuant to any of the Loan Documents or this Fifth Modification;

iv) the existence, validity, enforceability or perfection of security interests granted to Lender in any of the collateral securing any of the obligations under the Loan Documents or this Fifth Modification, whether real or personal property, tangible or intangible, or any right or other interest, now or hereafter arising;

v) the conduct of the Lender in administering the financial arrangements between Lender and Borrower, Guarantor and Mortgagors under any of the Loan Documents or this Fifth Modification; and

vi) any legal fees and expenses incurred by Lender and charged to Borrower, Guarantor and Mortgagors pursuant to any of the Loan Documents.

6. This Fifth Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note ("**Loan Documents**") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage and Mortgage No. 2, as revised by this Fifth Modification, or the covenants, conditions and agreements therein contained or contained in the Note, the Revised Note, the Second Revised Note or the Third Revised Note.

7. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.



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8. Borrower, Guarantor and Mortgagors hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

9. Borrower hereby agrees to pay Lender a fee in the amount of \$10,000.00 (“**Loan Fee**”) for the Fourth Modification, which Loan Fee must be paid on the date on which the Fourth Revised Note No. 1 is paid in full, but in no event later than the Maturity Date. Borrower hereby agrees to pay Lender all of Lender’s expenses arising out of and in connection with this Fifth Modification including, but not limited to, attorneys’ fees, title insurance premiums recording fees, appraisal fees and Lender’s attorneys’ fees performed in the preparation of necessary documentation.

10. The Letter of Credit Proceeds to be used to pay real estate taxes and other fees and costs associated with the Real Estate and the Loan, including the costs set forth in Section 10 hereof, which will be disbursed at Lender’s sole discretion.

11. Lender acknowledges that 713 S Independence Blvd. LLC, 8149-51 S Marshfield, LLC and 3147 S. May, LLC are not currently in good standing and consents to the execution of this Fifth Modification by all of the members of those entities.

12. Guarantor hereby expressly acknowledges and confirms that by executing this Fifth Modification, Lender has not waived, altered or modified Lender’s rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantor and without such action releasing, modifying, or affecting the obligations of Guarantor or affecting the security heretofore granted to Lender.

13. **BORROWER, GUARANTOR AND MORTGAGORS KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY THE RIGHT**

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THEY MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THE REVISED NOTE, THE SECOND REVISED NOTE, THE THIRD REVISED NOTE, THE FOURTH REVISED NOTE NO. 1, THE FOURTH REVISED NOTE NO. 2, THE MODIFICATION, THE SECOND MODIFICATION, THE THIRD MODIFICATION, THE FOURTH MODIFICATION THIS FIFTH MODIFICATION, THE MORTGAGE, MORTGAGE NO. 2, THE LOAN AGREEMENT, THE SECURITY DOCUMENTS, OR ANY OF THE DOCUMENTS EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH LENDER, BORROWER AND/OR GUARANTOR ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER, GUARANTOR, OR MORTGAGORS ANY OF THEM.

14. BORROWER, GUARANTOR AND MORTGAGORS HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY STATE COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER, GUARANTOR AND MORTGAGORS HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER, GUARANTOR AND MORTGAGORS HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE

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DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE AND OF SUCH ACTION OR PROCEEDING. BORROWER, GUARANTOR AND MORTGAGORS IRREVOCABLY CONSENT TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO BORROWER, GUARANTOR AND MORTGAGORS AT THEIR ADDRESSES AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF LENDER. BORROWER, GUARANTOR AND MORTGAGORS AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING, AFTER ALL APPEAL RIGHTS ARE EXHAUSTED, SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

BORROWER, GUARANTOR AND MORTGAGORS AGREE NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST LENDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF LENDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER, GUARANTOR AND MORTGAGORS OR THEIR PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS; PROVIDED, HOWEVER, UNLESS LENDER IS REQUIRED BY LAW TO INSTITUTE PROCEEDINGS IN ANY OTHER JURISDICTION, LENDER SHALL FIRST INSTITUTE PROCEEDINGS IN A STATE

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## COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS.

15. Borrower, Guarantor and Mortgagors warrant to Lender that neither Borrower nor Guarantor nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the “**Blocked Persons Lists**”) including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower, Guarantor and Mortgagors covenant to Lender that if they become aware that they or any affiliate are identified on any Blocked Persons List, Borrower, Guarantor and Mortgagors shall immediately notify Lender in writing of such information. Borrower, Guarantor and Mortgagors further agree that in the event they or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person (“**Person**”) identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person’s inclusion in a Blocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of Lender and encumbering, any part of the Premises (as defined in the Mortgage and Mortgage

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No. 2) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

*Signature Page Follows*

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IN WITNESS WHEREOF, the parties hereto have executed this Fifth Modification on

October 9, 2009, to take effect as of August 1, 2009.

**LENDER:**

First Chicago Bank & Trust, as successor to  
Labe Bank, an Illinois banking corporation

By: [Signature]  
Its: [Signature]

**BORROWER:**

2000-2006 W. Warren, LLC,  
an Illinois limited liability company

[Signature]  
Edward Gobbo, Managing Member

**MORTGAGORS:**

713 S Independence Blvd. LLC,  
an Illinois limited liability company

[Signature]  
Edward Gobbo, Manager

**GUARANTOR:**

[Signature]  
Edward Gobbo

8149-51 S Marshfield, LLC,  
an Illinois limited liability company

[Signature]  
Edward Gobbo, Manager

3147 S. May, LLC,  
an Illinois limited liability company

[Signature]  
Edward Gobbo, Manager

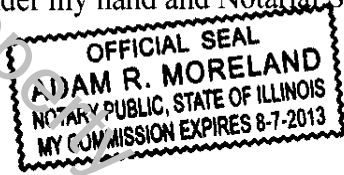
Property of Cook County Clerk's Office

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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Edward Gobbo, Managing Member of 2000-2006 W. Warren, LLC, an Illinois limited liability 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 the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal October 9, 2009.



*Adam R. Moreland*

Notary Public

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that Lauretta Burke, Sr. V.P. of First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation, 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 (s)he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal October 9th, 2009.

*Sonia Rodriguez*

Notary Public

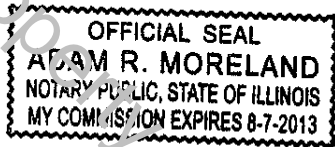


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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Edward Gobbo, the Manager of 713 S Independence Blvd, LLC, an Illinois limited liability 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 the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal October 9, 2009.

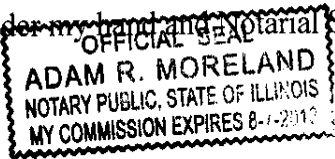


Adam R. Moreland  
Notary Public

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Edward Gobbo, the Manager of 8149 51 S Marshfield, LLC, an Illinois limited liability 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 the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal October 9, 2009.



Adam R. Moreland  
Notary Public



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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Edward Gobbo, the Manager of 3147 S. May, LLC, an Illinois limited liability 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 the said instrument as his own free and voluntary act, and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal October 9, 2009.



Adam R. Moreland  
Notary Public

**UNOFFICIAL COPY****EXHIBIT A****LEGAL DESCRIPTION****Parcel No. 1:**

LOTS 1, 2 AND 3 IN SCOTT AND GAGE'S SUBDIVISION, A RESUBDIVISION IN SECTION 7, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 2000-2006 W. WARREN, CHICAGO, ILLINOIS 60612  
 P.I.N.: 17-07-327-038-0000, 17-07-327-039-0000 AND  
 17-07-327-040-0000

**Parcel No. 2:**

LOT 6 IN HARSHAW AND PRICE'S SUBDIVISION OF LOT 2 IN BLOCK 2 IN CIRCUIT COURT PARTITION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 714 S. Independence, Chicago, IL 60624  
 P.I.N.: 16-14-306-041

**Parcel No. 3:**

LOTS 85 AND 86 IN BRITIGAN'S WESTFIELD SUBDIVISION, BEING A SUBDIVISION OF BLOCKS 5 TO 12 AND 15, LOTS 1 TO 28, IN BLOCK 2, LOTS 11 TO 46, IN BLOCK 3, LOTS 1 TO 18, IN BLOCK 14, LOTS 1 TO 14, AND 25 TO 47 IN BLOCK 16 IN AUBURN HEIGHTS, SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 8149-8151 S. Marshfield Avenue, Chicago, IL 60620  
 P.I.N.: 20-31-223-016

**Parcel No. 4:**

LOT 7 IN BLOCK "C" IN THE SUBDIVISION BY WALL, BARNES AND CLARK OF BLOCKS 2 AND 3 IN THE ASSESSORS DIVISION OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 3147 S. May Street, Chicago, IL 60608  
 P.I.N.: 17-32-205-007

**UNOFFICIAL COPY****PROMISSORY NOTE**  
**("Fourth Revised Note No. 1")**

\$3,276,000.00

As of August 1, 2009

**FOR VALUE RECEIVED** the undersigned, 2000-2006 W. Warren, LLC, an Illinois limited liability company ("**Borrower**"), promises to pay to the order of First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "**Holder**"), the principal sum of Three Million Two Hundred Seventy-Six Thousand Dollars (\$3,276,000.00), or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

Payments on account of this Note shall be made as follows:

(a) On September 5, 2009 and on the fifth (5<sup>th</sup>) day of each succeeding month thereafter until all amounts due hereunder are paid, there shall be paid on account of this Note interest for the preceding month at a rate equal to five (5.00%) percent per annum ("**Interest Rate**"). Provided, however, in the event both of the commercial units of the Property hereinafter described are rented, then the Interest Rate charged on this Note shall change to five and three-quarters (5.75%) percent per annum effective on the first day of the month following the month in which the tenant of the second commercial unit commences to pay rent.

(b) On August 1, 2011 ("**Maturity Date**"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

(c) On the Maturity Date or the date of final payment of all amounts due on this Note, whichever first occurs, there shall also be paid the amount of \$10,000.00, as and for Holder's fee for executing the Fifth Modification hereinafter described.

Interest shall be calculated on the basis of a year having 360 days and paid based on the actual days outstanding.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of First Chicago Bank & Trust, 1145 North Arlington Heights Road, Itasca, Illinois 60143.

This Note may be prepaid, without premium or penalty, in whole or in part, and all accrued interest hereon shall be payable and shall be paid on the date of prepayment.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within ten (10) days after the date the same is due, the undersigned promises to pay a "**Late Charge**" of five (5%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

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~~EXHIBIT B~~

This Note is executed pursuant to a Fifth Loan Modification Agreement (“**Fifth Modification**”) executed concurrently herewith, which modifies a Construction Loan Agreement dated May 4, 2006 and executed by Holder and Borrower (“**Loan Agreement**”). This Note replaces that certain Third Revised Promissory Note in the amount of Five Million Six Hundred Forty-Six Thousand Six Hundred Seventy-Nine Dollars (\$5,646,679.00) (“**Third Revised Note**”), which replaced that certain Second Revised Promissory Note in the amount of Five Million Six Hundred Twenty Thousand Dollars (\$5,620,000.00) (“**Second Revised Note**”) made by Borrower as of November 5, 2008, which replaced that certain Revised Promissory Note in the amount of Five Million Six Hundred Twenty Thousand Dollars (\$5,620,000.00) (“**Revised Note**”) dated as of May 1, 2008 which replaced that certain Promissory Note in the amount of Four Million Five Hundred Seventy-Five Thousand Dollars (\$4,575,000.00) (“**Original Note**”) made by Borrower on May 4, 2006. The Original Note, Revised Note, Second Revised Note and Third Revised Note are secured by an instrument entitled “Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing” covering real estate commonly known as 2000-2006 W. Warren, Chicago, Illinois (“**Property**”) executed on May 4, 2006 and recorded on May 12, 2006 with the Cook County, Illinois Recorder of Deeds as Document No. 0613235057 (“**Mortgage**”), by a Loan Modification Agreement (“**Modification**”) executed on May 23, 2007 and recorded with the Cook County, Illinois Recorder of Deeds on June 6, 2007 as Document No. 0715718040, by a Second Loan Modification Agreement (“**Second Modification**”) dated as of May 1, 2008 and recorded on May 27, 2008 as Document No. 0814840094 and by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing (“**Additional Mortgage**”) covering real estate commonly known as 714 S. Independence, 8149-51 S Marshfield and 3147 S. May, Chicago, Illinois which was recorded on May 27, 2008 as Document No. 0814840093, by a Third Loan Modification Agreement (“**Third Modification**”) dated as of November 5, 2008 and recorded on February 13, 2009 as Document No. 0904419041 and other security documents, and by a Fourth Loan Modification (“**Fourth Modification**”) dated March 26, 2009 and recorded April 9, 2009 as Document No. 0909929046. All interest rates applicable to and charged on the Third Revised Note, the Second Revised Note, the Revised Note and the Original Note and all payments made on the Third Revised Note, the Second Revised Note, the Revised Note and the Original Note are unchanged. Pursuant to the Fifth Modification, the Mortgage, the Additional Mortgage, the Loan Agreement, the Modification, the Second Modification, the Third Modification, the Fourth Modification and other security documents (“**Security Documents**”) are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued interest, shall be and become at once due and payable in the case of default in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any “**Event of Default**” under the Mortgages or the Loan Agreement.

Under the provisions of the Fifth Modification, Fourth Modification, the Third Modification, the Second Modification, Modification, the Mortgage, the Additional Mortgage and Loan Agreement, the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events as set forth therein. The Fifth Modification, the Fourth Modification, the Third Modification, the Second Modification, the Modification, the Mortgages and the Loan Agreement are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

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The principal hereof, including each installment of principal, shall bear interest after the occurrence of an event of default, not cured within the applicable cure period, at the annual rate (herein called the “**Default Rate**”) determined by adding three (3.0%) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

No failure on the part of Bank or any holder hereof to exercise any right or remedy hereunder, whether before or after the occurrence of an event of default, shall constitute a waiver thereof, and no waiver of any past default shall constitute a waiver of any future default or of any other default. No failure to accelerate, nor acceptance of a past-due installment, nor indulgence granted shall be construed to be a waiver of the right to insist upon prompt payment and to impose the late payment penalty and the default rate, retroactively or prospectively, or shall be deemed a waiver of any right of acceleration or any other right which Bank may have, whether by law or agreement or otherwise. None of the foregoing shall operate to release, change or effect the liability of Borrower, endorser or guarantor of this Note, and Borrower and each endorser and guarantor hereby expressly waive the benefit of any statute or rule of law or equity which would produce a result contrary to or in conflict with the foregoing.

Borrower waives notice of default, presentment, notice of dishonor, protest and notice of protest.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promise to pay all costs incurred by Holder in connection therewith including, but not limited to, court costs, litigation expense and reasonable attorneys’ fees.

Payments received on account of this Note shall be applied first to the payment of any amounts due pursuant to the next preceding paragraph, secondly to interest and Late Charges and the balance to principal.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrower, Escrowees or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by such Escrowees to the Borrower.

**BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES IRREVOCABLY THE RIGHT IT MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE REVISED NOTE, THE SECOND REVISED NOTE, THE THIRD REVISED NOTE, THE ORIGINAL NOTE, THE FIFTH MODIFICATION, THE FOURTH MODIFICATION, THE THIRD MODIFICATION, THE SECOND MODIFICATION, THE MODIFICATION, THE MORTGAGE, THE ADDITIONAL MORTGAGE, THE LOAN AGREEMENT OR ANY OF THE OTHER OBLIGATIONS, OR THE COLLATERAL SECURED BY THE SECURITY DOCUMENTS, OR ANY AGREEMENT, EXECUTED OR**

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**CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH HOLDER AND BORROWER ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.**

**BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO SUCH BORROWER AT ITS ADDRESS AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF THE HOLDER. BORROWER AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.**

**BORROWER AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST HOLDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF HOLDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF HOLDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.**

Borrower warrants to Holder that neither the Borrower nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "**Blocked Persons Lists**") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower covenants to Holder that if it becomes aware that it or any affiliate is identified on any Blocked Persons List, the Borrower shall immediately notify the Holder in writing of such information. Borrower further agrees that in the event it or any affiliate is at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Holder to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, the Holder may immediately contact the Office of Foreign Assets Control and any other government agency the Holder deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and

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international money laundering. Upon the occurrence of such Event of Default, Holder will forbear enforcement of its rights and remedies during such time as (1) the person ("**Person**") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List and (2) the Holder determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of the Holder and encumbering, any part of the Premises (as defined in the Mortgages) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

Time is of the essence of this Note and each provision hereof.

2000-2006 W. Warren, LLC,  
an Illinois limited liability company

By: \_\_\_\_\_

**COPY**  
Edward Gobbo, Managing Member

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## PROMISSORY NOTE ("Fourth Revised Note No. 2")

\$1,970,679.00

As of August 1, 2009

**FOR VALUE RECEIVED** the undersigned, 2000-2006 W. Warren, LLC, an Illinois limited liability company ("**Borrower**"), promises to pay to the order of First Chicago Bank & Trust, as successor to Labe Bank, an Illinois banking corporation (said Bank and each successive owner and holder of this Note being hereinafter called "**Holder**"), the principal sum of One Million Nine Hundred Seventy Thousand Six Hundred Seventy-Nine Dollars (\$1,970,679.00), or so much thereof as may from time to time be outstanding hereunder, together with interest on the balance of principal from time to time remaining unpaid, in the amounts, at the rates and on the dates hereafter set forth.

Payments on account of this Note shall be made as follows:

(a) On September 5, 2009 and on the fifth (5<sup>th</sup>) day of each succeeding month thereafter until all amounts due hereunder are paid, there shall accrue on account of this Note interest for the preceding month at a rate equal to five (5.00%) percent per annum.

(b) On August 1, 2011 ("**Maturity Date**"), the principal balance together with all accrued interest and all other amounts due hereunder shall be paid.

Interest shall be calculated on the basis of a year having 360 days and paid based on the actual days outstanding.

Payment upon this Note shall be made in lawful money of the United States at such place as the Holder of this Note may from time to time in writing appoint and in the absence of such appointment, shall be made at the offices of First Chicago Bank & Trust, 1145 North Arlington Heights Road, Itasca, Illinois 60143.

This Note may be prepaid, without premium or penalty, in whole or in part, and all accrued interest hereon shall be payable and shall be paid on the date of prepayment.

Without limiting the provisions of the succeeding paragraphs, in the event any payment of interest is not paid within ten (10) days after the date the same is due, the undersigned promises to pay a "Late Charge" of five (5%) percent of the amount so overdue to defray the expense incident to handling any such delinquent payment or payments.

This Note is executed pursuant to a Fifth Loan Modification Agreement ("**Fifth Modification**") executed concurrently herewith, which modifies a Construction Loan Agreement dated May 4, 2006 and executed by Holder and Borrower ("**Loan Agreement**"). This Note replaces that certain Third Revised Promissory Note in the amount of Five Million Six Hundred Forty-Six Thousand Six Hundred Seventy-Nine Dollars (\$5,646,679.00) ("**Third Revised Note**"), which replaced that certain Second Revised Promissory Note in the amount of Five Million Six Hundred Twenty Thousand Dollars (\$5,620,000.00) ("**Second Revised Note**") made by Borrower as of November 5, 2008, which replaced that certain Revised Promissory Note in the amount of Five Million Six Hundred Twenty Thousand Dollars (\$5,620,000.00) ("**Revised**



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**Note**) dated as of May 1, 2008 which replaced that certain Promissory Note in the amount of Four Million Five Hundred Seventy-Five Thousand Dollars (\$4,575,000.00) ("**Original Note**") made by Borrower on May 4, 2006. The Original Note, Revised Note, Second Revised Note and Third Revised Note are secured by an instrument entitled "Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing" covering real estate commonly known as 2000-2006 W. Warren, Chicago, Illinois executed on May 4, 2006 and recorded on May 12, 2006 with the Cook County, Illinois Recorder of Deeds as Document No. 0613235057 ("**Mortgage**"), by a Loan Modification Agreement ("**Modification**") executed on May 23, 2007 and recorded with the Cook County, Illinois Recorder of Deeds on June 6, 2007 as Document No. 0715718040, by a Second Loan Modification Agreement ("**Second Modification**") dated as of May 1, 2008 and recorded on May 27, 2008 as Document No. 0814840094 and by a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing ("**Additional Mortgage**") covering real estate commonly known as 714 S. Independence, 8149-51 S. Marshfield and 3147 S. May, Chicago, Illinois which was recorded on May 27, 2008 as Document No. 0814840093, by a Third Loan Modification Agreement ("**Third Modification**") dated as of November 5, 2008 and recorded on February 13, 2009 as Document No. 0904419041 and other security documents, and by a Fourth Loan Modification ("**Fourth Modification**") dated March 26, 2009 and recorded April 9, 2009 as Document No. 0909929046. All interest rates applicable to and charged on the Third Revised Note, the Second Revised Note, the Revised Note and the Original Note and all payments made on the Third Revised Note, the Second Revised Note, the Revised Note and the Original Note are unchanged. Pursuant to the Fifth Modification, the Mortgage, the Additional Mortgage, the Loan Agreement, the Modification, the Second Modification, the Third Modification, the Fourth Modification and other security documents ("**Security Documents**") are modified to secure this Note.

At the election of the Holder hereof, without notice, the principal sum remaining unpaid hereon, together with accrued interest, shall be and become at once due and payable in the case of default in the payment of principal or interest when due in accordance with the terms hereof or upon the occurrence of any "**Event of Default**" under the Mortgages or the Loan Agreement.

Under the provisions of the Fifth Modification, the Fourth Modification, the Third Modification, the Second Modification, Modification, the Mortgage, the Additional Mortgage and Loan Agreement, the unpaid balance hereunder may, at the option of the Holder, be accelerated and become due and payable forthwith upon the happening of certain events as set forth therein. The Fifth Modification, the Fourth Modification, the Third Modification, the Second Modification, the Modification, the Mortgages and the Loan Agreement are, by this reference, incorporated herein in their entirety and notice is given of such possibility of acceleration.

The principal hereof, including each installment of principal, shall bear interest after the occurrence of an event of default, not cured within the applicable cure period, at the annual rate (herein called the "**Default Rate**") determined by adding three (3.0%) percentage points to the interest rate then required to be paid, as above provided, on the principal balance.

No failure on the part of Bank or any holder hereof to exercise any right or remedy hereunder, whether before or after the occurrence of an event of default, shall constitute a waiver thereof, and no waiver of any past default shall constitute a waiver of any future default or of any

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EXHIBIT C

other default. No failure to accelerate, nor acceptance of a past-due installment, nor indulgence granted shall be construed to be a waiver of the right to insist upon prompt payment and to impose the late payment penalty and the default rate, retroactively or prospectively, or shall be deemed a waiver of any right of acceleration or any other right which Bank may have, whether by law or agreement or otherwise. None of the foregoing shall operate to release, change or effect the liability of Borrower, endorser or guarantor of this Note, and Borrower and each endorser and guarantor hereby expressly waive the benefit of any statute or rule of law or equity which would produce a result contrary to or in conflict with the foregoing.

Borrower waives notice of default, presentment, notice of dishonor, protest and notice of protest.

If this Note is placed in the hands of an attorney for collection or is collected through any legal proceeding, the undersigned promise to pay all costs incurred by Holder in connection therewith including, but not limited to, court costs, litigation expense and reasonable attorneys' fees.

Payments received on account of this Note shall be applied first to the payment of any amounts due pursuant to the next preceding paragraph, secondly to interest and Late Charges and the balance to principal.

Funds representing the proceeds of the indebtedness evidenced herein which are disbursed by Holder by mail, wire transfer or other delivery to Borrower, Escrowees or otherwise for the benefit of Borrower shall, for all purposes, be deemed outstanding hereunder and received by Borrower as of the date of such mailing, wire transfer or other delivery, and interest shall accrue and be payable upon such funds from and after the date of such mailing, wire transfer or other delivery until repaid to Holder, notwithstanding the fact that such funds may not at any time have been remitted by such Escrowees to the Borrower.

**BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES IRREVOCABLY THE RIGHT IT MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE REVISED NOTE, THE SECOND REVISED NOTE, THE THIRD REVISED NOTE, THE ORIGINAL NOTE, THE FIFTH MODIFICATION, THE FOURTH MODIFICATION, THE THIRD MODIFICATION, THE SECOND MODIFICATION, THE MODIFICATION, THE MORTGAGE, THE ADDITIONAL MORTGAGE, THE LOAN AGREEMENT OR ANY OF THE OTHER OBLIGATIONS, OR THE COLLATERAL SECURED BY THE SECURITY DOCUMENTS, OR ANY AGREEMENT, EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH HOLDER AND BORROWER ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR HOLDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.**

**BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER**

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ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. BORROWER IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO SUCH BORROWER AT ITS ADDRESS AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF THE HOLDER. BORROWER AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

BORROWER AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST HOLDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF HOLDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF HOLDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.

Borrower warrants to Holder that neither the Borrower nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "**Blocked Persons Lists**") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower covenants to Holder that if it becomes aware that it or any affiliate is identified on any Blocked Persons List, the Borrower shall immediately notify the Holder in writing of such information. Borrower further agrees that in the event it or any affiliate is at any time identified on any Blocked Persons List, such event shall be an Event of Default and shall entitle Holder to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, the Holder may immediately contact the Office of Foreign Assets Control and any other government agency the Holder deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Holder will forbear enforcement of its rights and remedies during such time as (1) the person ("**Person**") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List and (2) the Holder determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of the Holder and encumbering, any part of the Premises (as defined in the Mortgages) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

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~~EXHIBIT C~~

Time is of the essence of this Note and each provision hereof.

2000-2006 W. Warren, LLC,  
an Illinois limited liability company

By: COPY  
Edward Gobbo, Managing Member

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