

# UNOFFICIAL COPY



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Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 01/27/2010 01:38 PM Pg: 1 of 10

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**PREPARED BY AND WHEN  
RECORDED RETURN TO:**  
BINGHAM McCUTCHEN LLP  
ONE STATE STREET  
HARTFORD, CONNECTICUT 06103  
ATTENTION: H. SCOTT MILLER, ESQ.

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NCS-424364  
181 C21483

## FIRST AMENDMENT TO MORTGAGE

Between

**TIMEMED LABELING SYSTEMS, INC.**  
as Mortgagor

and

**WELLS FARGO BANK, NATIONAL ASSOCIATION**  
as Mortgagee

**Dated: December 23, 2009**

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## FIRST AMENDMENT TO MORTGAGE

This **FIRST AMENDMENT TO MORTGAGE** (this "**Amendment**") is executed as of December 23, 2009, by and between **TIMEMED LABELING SYSTEMS, INC.**, an Illinois corporation ("**Mortgagor**"), and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association ("**Mortgagee**").

### RECITALS

A. Mortgagee previously made several loans (collectively, the "**Loans**") to Precision Dynamics Corporation, a California corporation ("**Precision**"). In connection therewith, Precision executed and delivered, among other things: (i) that certain promissory note dated as of November 3, 2008 in the original principal amount of \$15,000,000 (the "**Original Acquisition Note**"), payable to Mortgagee, (ii) that certain promissory note dated as of November 3, 2008 in the original principal amount of \$2,286,700 (the "**Original Bridge Loan No. 1 Note**"), payable to Mortgagee, and (iii) that certain promissory note dated as of November 3, 2008 in the original principal amount of \$286,000 (the "**Original Bridge Loan No. 2 Note**"), payable to Mortgagee.

B. Pursuant to that certain Subsidiary Guaranty dated November 3, 2008 (the "**Subsidiary Guaranty**") from Mortgagor to and in favor of Mortgagee, Mortgagee guaranteed, among other things, Precision's payment and performance of the Loans.

C. Precision's payment and performance of all obligations under the Original Acquisition Note, the Original Bridge Loan No. 1 Note, and the Original Bridge Loan No. 2 Note, and Mortgagor's payment and performance of all obligations under the Subsidiary Guaranty, together with certain other obligations relating thereto, were secured by that certain Mortgage and Assignment of Rents and Leases, Security Agreement and Fixture Filing dated November 3, 2008 (the "**Original Mortgage**") from Mortgagor to and in favor of Mortgagee, such Original Mortgage having been recorded on November 7, 2008 with the Cook County Recorder of Deeds as Instrument No. 0831229052, and which Mortgage secures, among other things, real property with improvements thereon known as 144 Tower Drive, Burr Ridge, Illinois, and more particularly described on Exhibit A attached hereto and made a part hereof.

D. As of the date hereof, the Loans are being modified, pursuant to, among other things, that certain Amendment No. 1 to Amended and Restated Credit Agreement and other documents. In connection therewith, Mortgagor and Mortgagee desire to amend and modify the Original Mortgage in accordance with the provisions of this Agreement.

### AGREEMENT

As an inducement to Mortgagee to modify the Loans, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, Mortgagor and Mortgagee hereby agree as follows:

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1. **Defined Terms.** Capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to such terms as in the Credit Agreement, as such term is defined in Section 2(c) below.

2. **Modification of the Original Mortgage.** As of the date hereof, the Original Mortgage is amended as follows:

(a) Section 2.1 of the Original Mortgage is hereby amended and restated to read in its entirety as follows:

“2.1 **Obligations Secured.** Mortgagor makes this grant and assignment for the purpose of securing the following obligations (each, a “Secured Obligation” and collectively, the “Secured Obligations”):

(a) payment to Mortgagee of all sums at any time owing and performance of all other obligations arising under or in connection with that certain promissory note dated as of November 3, 2008, in the maximum principal amount of Fifteen Million Dollars (\$15,000,000), executed by Precision Dynamics Corporation, a California corporation (“Precision”), and payable to Mortgagee or its order, as amended and restated as of December 23, 2009 pursuant to that certain Amended and Restated Term Note (TimeMed Acquisition) (the “TimeMed Acquisition Note”) in the maximum principal amount of Eight Million Five Hundred Twenty-Five Thousand Four Hundred Eighty-Four Dollars (\$8,525,484), with interest as provided therein, executed by Precision and payable to Mortgagee or its order, and maturing on August 31, 2012, or such earlier date as provided in the TimeMed Acquisition Note, together with the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by the TimeMed Acquisition Note, whether or not specifically referenced therein; and

(b) payment to Mortgagee of all sums at any time owing and performance of all other obligations arising under or in connection with that certain promissory note dated as of November 3, 2008, in the maximum principal amount of Two Million Two Hundred Eighty-Six Thousand Seven Hundred Dollars (\$2,286,700) executed by Precision and payable to Mortgagee, as amended and restated as of December 23, 2009 pursuant to that certain Amended and Restated Promissory Note (Bridge Loan No. 1) (the “Bridge Loan No. 1 Note”) in the maximum principal amount of Two Million Dollars (\$2,000,000), with interest as provided therein, executed by Precision and payable to Mortgagee or its order, and maturing on March 31, 2011, or such earlier date as provided in such Bridge Loan No. 1 Note, together with the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by the Bridge Loan No. 1 Note, whether or not specifically referenced therein; and

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(c) payment and performance of all obligations of Mortgagor under that certain Subsidiary Guaranty, dated as of November 3, 2008, executed by Mortgagor for the benefit of Mortgagee, as the same may be from time to time amended, modified, restated, renewed or extended (the "Subsidiary Guaranty"); and

(d) payment and performance of all obligations of Mortgagor under this Mortgage, together with all advances, payments or other expenditures made by Mortgagee as or for the payment or performance of any such obligations of Mortgagor; and

(e) payment and performance of all obligations, if any, and the contracts under which they arise, which any rider attached to and recorded with this Mortgage recites are secured hereby; and

(f) payment to Mortgagee of all liability, whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, arising under any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement howsoever described or defined) at any time entered into with Mortgagee in connection with any Secured Obligation; and

(g) payment and performance of all future advances and other obligations that the then record owner of the Subject Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when any such advance or other obligation is evidenced by a writing which recites that it is secured by this Mortgage (collectively, the "Additional Secured Contracts"); and

(h) all modifications, extensions, restatements and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes."

(b) Section 2.2 of the Original Mortgage is hereby amended such that the phrase "the Bridge Loan No. 2 Note," shall be deleted in its entirety.

(c) All references in the Original Mortgage, as amended hereby, to the "Credit Agreement" shall mean and refer to that certain Amended and Restated Credit Agreement dated as of November 3, 2008 by and between Precision and Mortgagee, as amended by that certain Amendment No. 1 to Amended and Restated Credit Agreement dated as of the date hereof, as the same may be further amended, restated, supplemented or otherwise modified from time to time (hereinafter, the "Credit Agreement").

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(d) All capitalized terms used but not otherwise defined in the Original Mortgage, as amended hereby, shall have the same meanings ascribed to such terms as in the Credit Agreement, as such term is defined in Section 2(c) above.

3. **Grant of Security Interest.** To secure the full and timely payment and performance of the Obligations (as defined in the Original Security Instrument, as modified hereby), Grantor has previously MORTGAGED, GRANTED, CONVEYED, ASSIGNED, BARGAINED, SOLD, RELEASED, ALIENATED, TRANSFERRED AND REMISED unto Mortgagee, and HEREBY MORTGAGES, GRANTS, CONVEYS, ASSIGNS, BARGAINS, SELLS, RELEASES, ALIENS, TRANSFERS AND REMISES unto Mortgagee, the Subject Property (as defined in the Original Mortgage), TO HAVE AND TO HOLD, and Mortgagor has previously bound itself and does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Subject Property unto Mortgagee.

4. **Ratification of Original Mortgage.** Each of the Loan Documents and the obligations, indebtedness and liabilities of Mortgagor are hereby ratified, reaffirmed and confirmed. The Subject Property (as defined in the Original Mortgage) shall remain in all respects subject to the lien, charge and encumbrance of the Original Mortgage, as modified hereby. To Mortgagor's knowledge, nothing herein contained and nothing done pursuant hereto shall affect or be construed to affect the lien, charge or encumbrance of the Original Mortgage, as modified hereby or the priority thereof over all liens, charges or encumbrances.

5. **Representations and Warranties.** Mortgagor hereby represents and warrants to Mortgagee that Mortgagor has adequate power and authority to execute and deliver this Amendment and each other document to which it is party in connection herewith and perform its obligations hereunder and thereunder. This Amendment and each other document executed in connection herewith do not contravene the organic documents of Mortgagor or any law, rule or regulation applicable to Mortgagor or any of the terms of any other indenture, agreement or undertaking to which any of them are a party. The execution and delivery of this Amendment by Mortgagor and the performance of all of the obligations by Mortgagor contemplated hereby and by the Loan Documents have been duly authorized by all appropriate action on the part of Mortgagor.

6. **Miscellaneous Provisions.**

(a) The captions and Section headings in this Amendment are for convenience only and are not intended to define, alter, limit or enlarge in any way the scope or meaning of this Amendment or any term or provision set forth in this Amendment.

(b) The Recitals set forth at the beginning of this Amendment are incorporated in and made a part of this Amendment by this reference.

(c) This Amendment is, and shall be deemed to be, the product of joint drafting by the parties hereto and shall not be construed against any of them as the drafter hereof.

(d) This Amendment may be executed in one or more identical counterparts, each of which shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same Amendment.

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(e) From and after the date hereof, all references in the Credit Agreement and the other Loan Documents to the Original Mortgage shall hereafter be deemed to refer to the Original Mortgage, as modified hereby.

(f) This Amendment shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. This Amendment and the obligations of such parties hereunder are and at all times shall be deemed to be for the exclusive benefit of such parties and their respective successors and assigns, and nothing set forth herein shall be deemed to be for the benefit of any other person.

(g) This Amendment shall be governed by, and enforced in accordance with, the internal laws of the State of Illinois, but giving effect to federal laws applicable to national banks.

*[Remainder of page intentionally left blank; signature page to follow]*



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IN WITNESS WHEREOF, the undersigned has executed and delivered this First Amendment to Mortgage as of the date first set forth above.

## MORTGAGOR

**TIMEMED LABELING SYSTEMS, INC.**, an Illinois corporation

By: Mark Segal

Name: **MARK SEGAL**

Title: **VICE PRESIDENT - FINANCE**

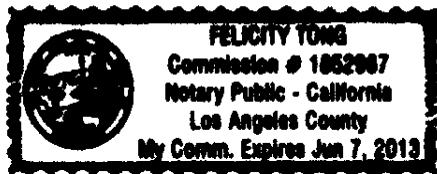
STATE OF California )  
  ) SS  
COUNTY OF Los Angeles )

On this 3 day of December, 2009, before me, the undersigned, a Notary Public in and for the State of California, personally appeared Mark Segal, to me known, who, being by me duly sworn, did depose and say that he or she is the Vice President, Finance of **TIMEMED LABELING SYSTEMS, INC.**, an Illinois corporation, that the instrument was signed and sealed on behalf of the corporation, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

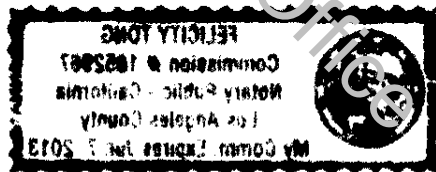
Felicity Tong  
Notary Public

My Commission Expires: June 7, 2013



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IN WITNESS WHEREOF, the undersigned has executed and delivered this First Amendment to Mortgage as of the date first set forth above.

## MORTGAGEE

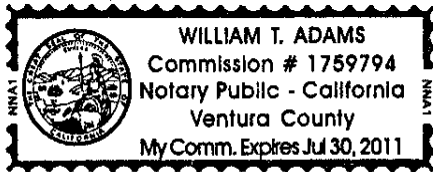
WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: [Signature]  
Name: MATTHEW J. SWEETMAN  
Title: VICE PRESIDENT.

STATE OF CALIFORNIA)  
) SS  
COUNTY OF VENTURA)

On this 14 day of ~~December, 2009~~ JANUARY 2010, before me, the undersigned, a Notary Public in and for the State of CALIFORNIA, personally appeared MATTHEW J. SWEETMAN, to me known, who, being by me duly sworn, did depose and say that he or she is the VICE PRESIDENT of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, that the instrument was signed and sealed on behalf of the national banking association, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said national banking association.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



[Signature]  
Notary Public  
My Commission Expires: JULY 30, 2011

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## CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of VENTURA

On 1/14/2010 before me, WILLIAM T. ADAMS, Notary Public  
(Here insert name and title of the officer)

personally appeared MATTHEW J. SWEETMAN

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

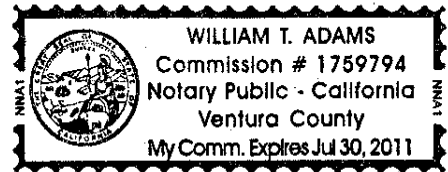
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

William T Adams

Signature of Notary Public

(Notary Seal)



### ADDITIONAL OPTIONAL INFORMATION

#### INSTRUCTIONS FOR COMPLETING THIS FORM

*Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording, and attach this form if required.*

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/~~they~~, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

#### DESCRIPTION OF THE ATTACHED DOCUMENT

\_\_\_\_\_  
(Title or description of attached document)

\_\_\_\_\_  
(Title or description of attached document continued)

Number of Pages \_\_\_\_\_ Document Date \_\_\_\_\_

\_\_\_\_\_  
(Additional information)

#### CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer  
\_\_\_\_\_  
(Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other \_\_\_\_\_

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## EXHIBIT A

### LEGAL DESCRIPTION OF THE PROPERTY

Street Address of Subject Property: 144 Tower Drive, Burr Ridge, Illinois, 60527-5785  
Permanent Real Estate Index Number: 18-19-300-026-0000 & 18-19-300-029-0000.

#### Description of Property

LOT 8 (EXCEPT THE WEST 175.6 FEET THEREOF) AND THE WEST 230.6 FEET OF LOT 7 IN BURR RIDGE PARK, BEING A SUBDIVISION OF PART OF THE WEST HALF OF THE SOUTHWEST QUARTER AND PART OF THE WEST THREE-QUARTERS OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 13, 1967 AS DOCUMENT 20195595 IN COOK COUNTY, ILLINOIS.