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This instrument was prepared by  
and after recording return to:

Jamie L. Ross  
KALCHEIM HABER, LLP  
134 North LaSalle Street  
Suite 2100  
Chicago, Illinois 60602  
(312) 236-9445



Doc#: 1005618055 Fee: \$56.00  
Eugene "Gene" Moore  
Cook County Recorder of Deeds  
Date: 02/25/2010 02:24 PM Pg: 1 of 11

For Recorder's Office Use Only

## RE RECORDATION OF FIRST MODIFICATION AGREEMENT

Document Number 0809405073 is being re-recorded to correct a scrivener's error in the Permanent Identification Number incorrectly identified on the First Modification Agreement Exhibit "A" Legal Description of 6737 West Irving Park Road as 13-19-200-003-0000. The correct Permanent Index Number is 13-19-200-033-0000.

Exempt under 35 ILCS 200/31-45  
Paragraph d of the Real Estate  
Transfer Tax Act.

2/24/2010 Jamie L. Ross  
Date Buyer, Seller, Representative

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**RECORDATION REQUESTED BY:**

Crowley Barrett & Karaba, Ltd.  
20 S. Clark Street, Suite 2310  
Chicago, IL 60603  
Attention: Bruno W. Tabis, Jr.

Doc#: 0809405073 Fee: \$54.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 04/03/2008 11:01 AM Pg: 1 of 10

**WHEN RECORDED MAIL TO:**

~~Crowley Barrett & Karaba, Ltd. Northside  
20 S. Clark Street, Suite 2310 Community  
Chicago, IL 60603 Bank  
Attention: Bruno W. Tabis, Jr. 205 W. Wacker  
Chicago, IL 60606~~

This Instrument prepared by: *Att: Carla Reisinger*

Crowley Barrett & Karaba, Ltd.  
20 S. Clark Street, Suite 2310  
Chicago, IL 60603  
Attention: Bruno W. Tabis, Jr.

#28120

## FIRST MODIFICATION AGREEMENT

This First Modification Agreement ("Modification Agreement") is made as of the \_\_\_ day of March, 2008, among NORTHSIDE COMMUNITY BANK, an Illinois state bank ("Lender"), 6737 W. IRVING PARK ROAD, LLC, an Illinois limited liability company ("Borrower"), ANTHONY SCHIAVONE, BEVERLY SCHIAVONE, JOSEPH SCHIAVONE and BARBARA SCHIAVONE (each individually, a "Guarantor", and, collectively, "Guarantors") and ALBANY BANK AND TRUST COMPANY, N.A. AS TRUSTEE UNDER THAT CERTAIN TRUST AGREEMENT DATED JUNE 1, 1994 AND KNOWN AS TRUST NUMBER 11-5030 ("Land Trustee").

### WITNESSETH

WHEREAS, Borrower and Lender entered into a Construction Loan Agreement, dated as of September 14, 2006 (the "Loan Agreement");

WHEREAS, Borrower executed a Non-Revolving Promissory Note in the principal amount of ONE MILLION FOUR HUNDRED FIFTEEN THOUSAND AND NO/100 DOLLARS (\$1,415,000.00), dated September 14, 2006 (the "Note") in favor of Lender;

WHEREAS, in connection with the Loan Agreement and the Note:

1. Borrower did execute a Construction Mortgage on real property, commonly known as 6737 W. Irving Park Road, Chicago, Illinois and legally described on Exhibit "A"

**BOX 441**

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attached hereto, dated September 14, 2006 in favor of Lender, which was filed with the Recorder of Deeds of Cook County, Illinois on December 8, 2006 as document number 0634254001 ("Mortgage");

2. Borrower did execute an Assignment of Rents on the real property commonly known as 6737 W. Irving Park Road, Chicago, Illinois, and legally described on Exhibit "A" attached hereto, dated September 14, 2006 in favor of Lender, which was filed with the Recorder of Deeds of Cook County, Illinois on December 8, 2006 as document number 0634254002 ("Assignment of Rents");

3. Land Trustee did execute a Mortgage on the real property, commonly known as 4210 W. Montrose, Chicago, Illinois, and legally described on Exhibit "B" hereto, dated September 14, 2006, which was recorded with the Recorder of Deeds of Cook County, Illinois on September 27, 2006 as document number 0627035041 ("Montrose Mortgage");

4. Land Trustee did execute an Assignment of Rents on the real property, commonly known as 4210 W. Montrose, Chicago, Illinois and legally described on Exhibit "B" hereto, dated September 14, 2006, which was recorded with the Recorder of Deeds of Cook County, Illinois on September 27, 2006 as document number 0627035042 ("Montrose Assignment of Rents");

5. The Guarantors did execute a Commercial Guaranty dated September 14, 2006 in favor of Lender ("Guaranty,"); and

6. Borrower and the Guarantors did execute various other documents ("Other Documents");

WHEREAS, Borrower and the Guarantors have requested Lender to modify and amend certain provisions of the Loan Agreement, the Mortgage, the Assignment of Rents, the Montrose Mortgage, the Montrose Assignment of Rents and the Other Documents to, among other things, extend the Maturity Date of the Note; and

WHEREAS, Lender is willing to grant Borrower's and Guarantors' requests on the terms and condition hereinafter set forth.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any amendments or modifications heretofore, now or hereafter made by Lender to Borrower and the Guarantors, the parties hereto hereby agree as follows:

All capitalized terms used herein without definition shall have the meaning as set forth in the Loan Agreement.

1. Amendment to Loan Agreement. The Loan Agreement is hereby amended as follows:

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(a) By extending the "Maturity Date" set forth in Section 1.1(b) thereof from "March 14, 2008" to "September 14, 2008;"

(b) By adding the following provision to Section 1.1(b)(i) thereof:

"The Borrower and Lender acknowledge and agree that as of March \_\_\_\_\_, 2008, the remaining undisbursed principal of Eighty Two Thousand Four-Hundred Sixty Five and 00/100 Dollars (\$82,465.00) shall be borrowed by Borrower and allocated and applied to the Interest Reserve as permitted by Section 1.1(b)(i)(D) hereof."

(c) By replacing the phrase "nine and one-half percent (9.50%)" appearing in Section 1.2(a) thereof with the phrase "nine and 00/100 percent (9.00%)."

(d) By adding the following provisions at the end of Section 3.1 thereof:

**(ee) Monthly Marketing Reports.** No later than the \_\_\_\_ day of each month, Borrower shall deliver to Lender a marketing report describing all marketing activities and efforts for the immediate prior month, including offers and prospects.

**(ff) Sales Contracts and Earnest Money.** In addition to the requirements of Section 3.1(aa) above, Borrower shall promptly deposit with Lender all earnest monies it receives in connection with executed sales contracts for Units.

**(gg) Adjustment to Offering Price.** On May 15, 2008, Borrower shall lower the listing price of each of its then unsold Units by 10% below the current listing price as reported to Lender, unless prior to said date, either (a) sales have closed on at least 2 of Units 1A, 2A, 3A, 2B, 3B, 2C or 3C (the "Unsold Units") and Lender has received the Net Proceeds thereof or (b) at least 3 of the Unsold Units are either under bona fide contracts for sale to third parties unrelated to Borrower or sold.

**(hh) Broker's Commissions.** No broker's fee or commission may be paid out of the proceeds of the sale of a Unit or reduce the amount of the Net Proceeds from the sale of a Unit to be paid in reduction of the outstanding principal as required under Section 1.2(f) hereof, unless approved in advanced by Lender.

2. Amendment to Mortgage, Assignment of Rents, Montrose Mortgage, Montrose Assignment of Rents and Other Documents. The "Maturity Date" referred to in the definition of "Note" in Section 7.1 of the Mortgage and the Montrose Mortgage and in the definition of "Note" in Section 5.1 of the Assignment of Rents and the Montrose Assignment of Rents and

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wherever else it may appear in said documents and the Other Documents is changed from March 14, 2008 to September 14, 2008.

3. ✓ Modification Fee. Upon execution and delivery of this Agreement, and as a condition precedent to the terms hereof, Borrower shall pay to Lender a non-refundable Modification Fee in the amount of \$4,022.07.

4. Conditions Precedent. The parties agree that Lender's obligations under this Loan Modification Agreement shall be subject to the Lender's receipt of the following:

(a) A date down endorsement to Lender's title insurance policies:

(i) insuring the Mortgage and the Assignment of Rents, as hereby modified, to be a valid and first lien, clear of all defects and encumbrances, except such defects and encumbrances that the Lender shall approve;

(ii) insuring the Montrose Mortgage and the Montrose Assignment of Rents, as hereby modified, to be a valid and second lien, clear of all defects and encumbrances, except such defects and encumbrances (including such first mortgage lien) that the Lender shall approve.

(b) Beverly Schiavone and Barbara Schiavone shall have completed, signed and delivered to Lender full and accurate current personal financial statements on Lender approved forms.

(c) Borrower's payment of the Modification Fee and all other costs in connection with this Modification Agreement.

5. Reaffirmation of Loan Instruments. Except as expressly herein provided, Borrower, Guarantors, Land Trustee and Lender, as applicable, hereby reaffirm and incorporate herein by reference each and every term, provision, representation and warranty contained in the Loan Agreement, Note, Mortgage, Assignment of Rents, Montrose Mortgage, Montrose Assignment of Rents, Guaranty and Other Documents (the "Loan Instruments") and Borrower, Guarantors, Land Trustee and Lender agree that said terms, provisions, representations and warranties shall remain in full force and effect.

6. Guarantors. Each Guarantor expressly agrees to the terms, provisions and conditions of this Modification Agreement. Each Guarantor hereby reaffirms each and every obligation for payment and performance as set forth in the Guaranty made and delivered by him or her as of September 14, 2006. Each Guarantor acknowledges that he or she remains unconditionally and absolutely liable for the due and punctual payment of the amounts set forth in the Guaranty.

7. Costs. Borrower agrees to pay upon demand all of Lender's out-of-pocket expenses, including attorneys' fees and the costs incurred in connection with this Modification Agreement.

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Lender may pay someone else to help collect the loans secured by the Loan Documents and to enforce the Loan Documents, and the Borrower will pay that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and legal expenses, whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower also will pay any court costs, in addition to all other sums provided by law.

8. No Defenses. Borrower, Land Trustee, and Guarantors each represent to Lender that they have no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever against Lender in connection with the Loan Instruments, this Modification Agreement, or any amendments to said documents or any action taken or not taken by the Lender with respect thereto or with respect to the collateral. Without limiting the generality of the foregoing, Borrower, Land Trustee and Guarantors each hereby release and forever discharge Lender, its affiliates, and each of its officers, agents, employees, attorneys, insurers, successors and assigns, from any and all liabilities, or causes of action, known or unknown, arising out of any action or inaction with respect to the Loan Instruments.

9. Disclaimer. Borrower, Land Trustee and Guarantors expressly disclaim any reliance on any oral representation made by Lender with respect to the subject matter of this Modification Agreement. Borrower and Guarantors acknowledge and agree that Lender is specifically relying upon the representations, warranties, releases and agreements contained herein, and that this Modification Agreement is executed by Borrower and Guarantors and delivered to Lender as an inducement to extend the Maturity Date of the Note.

10. Jurisdiction, Jury Waiver. This Modification Agreement has been delivered to Lender and accepted by Lender in the State of Illinois. If there is a lawsuit, under the Loan Documents or this Modification Agreement, Borrower, and the Guarantors agree upon Lender's request to submit to the jurisdiction of the courts of Cook County, the State of Illinois. LENDER, BORROWER, LAND TRUSTEE AND THE GUARANTORS HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER LENDER, LAND TRUSTEE, BORROWER OR THE GUARANTORS AGAINST ANY OF THE OTHERS. This Modification Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

11. Successors and Assigns. All covenants and agreements contained herein by or on behalf of Borrower, Land Trustee or the Guarantors, as applicable, shall bind their respective successors and assigns and shall inure to the benefit of Lender, its successors and assigns. Borrower, Land Trustee and the Guarantors, as applicable, shall not, however, have the right to assign their rights under this Modification Agreement or the Loan Documents or any interest therein, without the prior written consent of Lender.

12. Land Trustee's Liability. This Modification Agreement is executed by Land Trustee, not personally but as Trustee as provided above in the exercise of the power and the authority conferred upon and vested in it as such Trustee (and Land Trustee thereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that with the exception of the foregoing warranty, notwithstanding anything to the contrary

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contained herein, that each and all of the warranties, indemnities, representations, covenants, undertakings, and agreements made in this Modification Agreement on the part of Land Trustee, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of Land Trustee, are nevertheless each and every one of them made and intended not as personal warranties, indemnities, representations, covenants, undertakings, and agreements by Land Trustee or for the purpose or with the intention of binding Land Trustee personally, and nothing in this Modification Agreement or in the Loan Instruments shall be construed as creating any liability on the part of Land Trustee personally to pay the Note or any interest that may accrue thereon, or any other Indebtedness under this Modification Agreement, or to perform any covenant, undertaking, or agreement, either express or implied, contained in this Modification Agreement, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under this Modification Agreement, and that so far as Land Trustee and its successors personally are concerned, the legal holder or holders of the Note and the owner or owners of any Indebtedness shall look solely to the Property described in Exhibit B hereto and Pents for the payment of the Note and Indebtedness, by the enforcement of the lien created by this Modification Agreement in the manner provided in the Loan Agreement and herein or by action to enforce the personal liability of any Borrower or Guarantor.

IN WITNESS WHEREOF, the parties named below have caused this First Modification Agreement to be executed and delivered personally or by their respective duly authorized officers as of the day and year specified at the beginning hereof.

**BORROWER:**

6737 W. IRVING PARK ROAD, LLC,  
an Illinois Limited liability company

By: *Anthony Schiavone*  
Anthony Schiavone  
Its Manager

By: *Joseph Schiavone*  
Joseph Schiavone  
Its Manager

**GUARANTORS:**

*Anthony Schiavone*  
ANTHONY SCHIAVONE

*Beverly Schiavone*  
BEVERLY SCHIAVONE

*Joseph Schiavone*  
JOSEPH SCHIAVONE

*Barbara Schiavone*  
BARBARA SCHIAVONE

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### LAND TRUSTEE:

Albany Bank and Trust Company, N.A.,  
as Trustee under that certain Trust Agreement  
dated June 1, 1994  
and known as Trust Number 11-5030

By: [Signature]  
Name: Brenda Helms  
Its: Trust Officer

### LENDER:

NORTHSIDE COMMUNITY BANK,  
an Illinois state bank

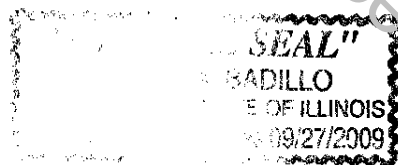
By: [Signature]  
William J. Frank, Jr.  
Its: Commercial Loan Officer

### LAND TRUSTEE ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the County of Cook in the State of Illinois, DO HEREBY CERTIFY that Brenda Helms, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer of Land Trustee appeared before me this day in person and acknowledged that they signed and delivered this instrument as their free and voluntary act, and as the free and voluntary act of Land Trustee for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17 day of March, 2008.

[Signature]  
Notary Public



### BORROWER ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the County of Cook in the State of Illinois, DO HEREBY CERTIFY that ANTHONY SCHIAVONE and JOSEPH SCHIAVONE, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as the Managers of 6737 W. Irving Park Road, LLC, an Illinois limited liability

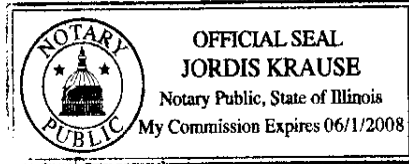
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company, appeared before me this day in person and acknowledged that they signed and delivered this instrument as their free and voluntary act, and as the free and voluntary act of Borrower for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17 day of March, 2008.

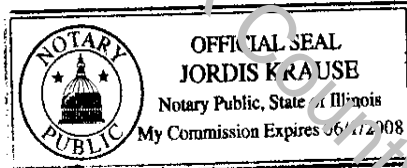


Jordis Krause  
Notary Public

### GUARANTORS' ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the County of Cook in the State of Illinois, DO HEREBY CERTIFY that ANTHONY SCHIAVONE, BEVERLY SCHIAVONE, JOSEPH SCHIAVONE and BAKPAPA SCHIAVONE, personally known to me to be the same persons whose names are subscribed to the foregoing instrument collectively as Guarantors appeared before me this day in person and acknowledged that they signed and delivered this instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17 day of March, 2008.



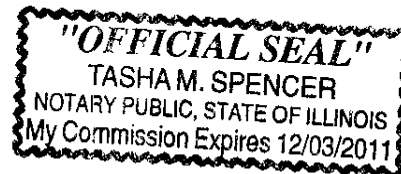
Jordis Krause  
Notary Public

### LENDER ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the County of Cook in the State of Illinois, DO HEREBY CERTIFY that William J. Frank, Jr., personally known to me to be the same person whose name is subscribed to the foregoing instrument individually and as such officer of the NORTHSIDE COMMUNITY BANK appeared before me this day in person and acknowledged that he signed and delivered this instrument as his free and voluntary act, and as the free and voluntary act of NORTHSIDE COMMUNITY BANK for the uses and purposes therein set forth.

Given under my hand and notarial seal this 19<sup>th</sup> day of March, 2008.

Tasha M. Spencer  
Notary Public



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## Exhibit "A" Legal Description of 6737 W. Irving Park Road

LOT 14 IN BLOCK 2 IN D. S. DUNNING'S SUBDIVISION OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SECTION 19, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PIN 13-19-200-~~003~~-0000  
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## Exhibit "B" Legal Description of 4210 W. Montrose

LOT 40 IN BLOCK 21 IN IRVING PARK ADDITION, A SUBDIVISION OF LOTS 2, 3, 4, 5, 6, 16, 17, 18, 19, 20 AND PART OF LOT 21 IN FITCH AND HEACOX SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 13-15-234-035-0000

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