



Doc#: 1006729099 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 03/08/2010 04:38 PM Pg: 1 of 8

RECORDATION REQUESTED BY:

Gilmartin & Cowen, LLC
55 East Monroe Street
Suite 2910
Chicago, Illinois 60603

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gilmartin & Cowen, LLC
55 East Monroe Street
Suite 2910
Chicago, Illinois 60603
Attention: Wayne S. Gilmartin

LOAN MODIFICATION AND EXTENSION AGREEMENT

THIS LOAN MODIFICATION AND EXTENSION AGREEMENT (this "Agreement") is made and entered into effective as of the 5th day of January, 2010, by and between TRINITY MANAGEMENT ASSOCIATES, LP, an Illinois limited partnership ("Borrower") and FIFTH THIRD BANK, an Ohio banking corporation, successor by merger with Fifth Third Bank, a Michigan banking corporation ("Lender").

- A. Borrower executed and delivered a Draw Note, dated January 31, 2006 (the "Original Draw Note"), evidencing a loan from Lender (the "Loan") in the original principal amount of Six Hundred Forty Thousand and 00/100 Dollars (\$640,000.00), which Draw Note was subsequently continued, renewed, extended and modified by various instruments and agreements, including without limitation a Draw Note, dated April 30, 2007, a Draw Note, dated October 31, 2007, a Draw Note, dated April 30, 2008, an Amendment to Draw Note, dated as of April 30, 2008 and Loan Modification and Extension Agreement, dated as of December 15, 2008 (the "December 2008 Modification"; the Original Note as continued, renewed, extended and modified being referred to herein as the "Draw Note").
- B. The Draw Note and the Loan are secured by a certain Mortgage, Security Agreement and Financing Statement, made as of January 31, 2006, by Borrower in favor of Lender encumbering the real property described on Exhibit A hereto (the "Property") which Mortgage was (i) recorded with the Cook County Recorder of Deeds on March 7, 2006 as

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Document No. 0606643053 and (ii) amended by the December 2008 Modification (as amended, the "Mortgage"). In addition, the Draw Note and Loan are guaranteed by joint and several continuing guaranties made by Daniel A. Kinnare ("Kinnare") and S. Thomas Clements ("Clements") in favor of Lender on January 31, 2006, and by William Sievers ("Sievers") in favor of Lender as of December 15, 2008; (individually, a "Guaranty" and collectively, the "Guaranties").

- C. Borrower and Lender desire to amend the Draw Note and Mortgage on the terms provided below.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth in this Agreement, the parties agree as follows:

1. The Maturity Date of the Draw Note shall be extended from January 5, 2010 to January 5, 2011, provided the following conditions are fully and timely satisfied by Borrower (the "Extension Conditions"):

- (a) On or before February 5, 2010, Borrower shall have (i) delivered to Lender four (4) counterparts of this Agreement, dated as of the date of delivery, duly and properly executed by Borrower and Kinnare, Clements and Sievers as guarantors of the Loan, together with Partnership Resolutions adopted by Borrower's general partner and its limited partners in form and substance acceptable to Lender in its sole and unfettered discretion, (ii) paid to Lender interest accrued under the Loan through January 5, 2010, in the amount of Four Hundred Forty-Two and 74/100 Dollars (\$442.74), (iii) paid to Lender an extension fee in the amount of Two Thousand Five Hundred and 00/100 Dollars (\$2,500.00), (iv) delivered to Lender evidence satisfactory to Lender that the real estate taxes (including any penalties and interest) assessed against the Property for calendar year 2008 and due and payable in 2009 have been paid in full, and (v) delivered to Lender current insurance certificates evidencing the insurance required under paragraph 3.6 of the Mortgage and in the form required under said paragraph 3.6;
- (b) As of the date of this Agreement, no Event of Default shall have occurred and no fact or circumstance shall exist or event have occurred which, with the passage of time, or giving of notice, or both, will constitute an Event of Default; provided that, so long as Borrower timely and fully satisfies all of the other Extension Conditions, Borrower's failure to repay the Loan in full on or before January 5, 2010 shall not be deemed a failure of the Condition set forth in this Paragraph 1 (b); and
- (c) Borrower shall have delivered to Lender such additional documents and information as Lender shall reasonably request.

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2. Commencing January 6, 2010, the principal balance of the Loan outstanding from time to time shall bear interest at a floating rate per annum (the "Interest Rate") equal to 425 basis points in excess of the thirty (30) day LIBOR rate (as published in the Wall Street Journal or if there is no such thirty (30) day LIBOR rate, or the Wall Street Journal ceases to publish such rate, then the rate substituted or determined by Lender in its sole and unfettered discretion). In the event of changes from time to time in the thirty (30) day LIBOR rate, the Interest Rate shall be changed immediately to 425 basis points in excess of the new thirty (30) day LIBOR rate.

3. On or before the fifteenth (15th) day of each calendar month commencing February 15, 2010 (each a "Payment Date"), Borrower shall pay Lender all unpaid interest accrued on the Loan at the Interest Rate through the fifth (5th) day of such calendar month. In addition, on each Payment Date, Borrower shall make a principal payment to Lender in the amount of Two Thousand and 00/100 Dollars (\$2,000.00). Interest shall be calculated based upon a 360-day year and charged for the actual number of days elapsed.

4. Borrower by executing this Agreement hereby reaffirms, ratifies and remakes the covenants, warranties and representations contained in the Draw Note and Mortgage. In addition to any such representations, warranties and covenants of Borrower contained in the Draw Note and the Mortgage, Borrower covenants to Lender that Borrower will maintain an operating account with Lender until payment in full of all amounts due under the Draw Note and Mortgage, which operating account shall be its sole operating account.

5. This Agreement is a continuation of the Draw Note and shall not be construed as a novation or extinguishment of the obligations arising under the Draw Note as originally issued, and the execution and delivery shall not affect the priority of any security interest, lien or other encumbrance given as security for the Draw Note. Except as otherwise expressly provided in Paragraph 1 (b) above, the execution and delivery of this Agreement shall not be construed as a waiver of any outstanding default or Event of Default.

6. Except as otherwise expressly provided in this Agreement, the capitalized terms used in this Agreement shall have the meanings assigned to such terms in the Draw Note. Except as expressly modified by this Agreement, the Draw Note, the Mortgage and any other instrument or agreement securing or relating to the Loan shall remain unmodified and shall continue in full force and effect.

7. Borrower warrants and represents to Lender that it has no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever against Lender in connection with the Draw Note, Mortgage or the Loan or as a result of any action which Lender has taken or failed to take with respect thereto or with respect to any collateral for the Loan. Borrower hereby fully releases and discharges Lender and its affiliates and their respective officers, directors, owners, attorneys, employees, successors and assigns from any and all liabilities, claims, actions, damages, and causes of action, whether

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known or unknown, whether arising in contract, tort or otherwise, relating to or arising from the Loan, the Draw Note, the Mortgage or any act or failure to act by Lender with respect thereto or with respect to any collateral for the Loan. Borrower acknowledges and agrees that Lender is relying upon the representations, warranties, covenants and releases from Borrower set forth in this Paragraph 7 and elsewhere in this Agreement in entering into this Agreement and that such representations, warranties, covenants and releases constitute a material inducement for Lender to enter into this Agreement.

8. This Agreement may be executed in one or more counterparts which, taken, together, shall constitute one agreement.

9. Borrower agrees to pay upon demand all of Lender's out-of-pocket expenses, including attorneys' fees, incurred in connection with this Agreement. Lender may pay someone else to help collect the Loan and to enforce the Draw Note, Mortgage and other loan documents and 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.


Signature page follows

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Executed as of the day and year first above written.

TRINITY MANAGEMENT ASSOCIATES, LP
By: Trinity Management Group, Inc., its general partner

By: 
S. Thomas Clements, President

FIFTH THIRD BANK

By: 
Andrew Roberts, Relationship Manager

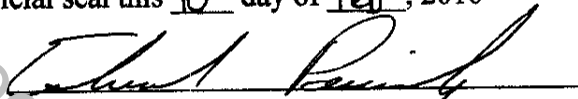
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STATE OF ILLIOIS)
) SS
COUNTY OF COOK)

I the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that S. Thomas Clements, personally known to me to be the President of TRINITY MANAGEMENT GROUP, INC., the general partner of TRINITY MANAGEMENT ASSOCIATES, L.P., and 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 said instrument as his free and voluntary act and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

Given under my hand and official seal this 10th day of Feb, 2010



Notary Public

STATE OF ILLIOIS)
) SS
COUNTY OF COOK)

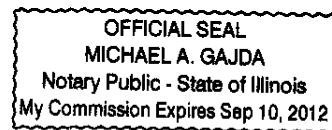


I the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew Roberts, personally known to me to be a relationship manager of FIFTH THIRD BANK, and the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and official seal this 10th day of February, 2010



Notary Public



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ACKNOWLEDGEMENT OF GUARANTORS

To further induce Lender to enter into the Loan Modification and Extension Agreement, each of the undersigned guarantors hereby (a) acknowledges and approves the foregoing Loan Modification and Extension Agreement, (b) ratifies and affirms his obligations under his continuing guaranty delivered to Lender in connection with the Loan and the Draw Note and (c) waives and releases any defenses he may have against a claim by Lender under his continuing guaranty.

Daniel A. Kinare

Daniel A. Kinare

2-6-10

Date

S. Thomas Clements

S. Thomas Clements

02/06/2010

Date

William Sievers

William Sievers

2-6-10

Date

PROCESSED
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EXHIBIT A **REAL PROPERTY**

LEGAL DESCRIPTION

LOT 4 IN LARSEN'S RESUBDIVISION OF LOTS 1 TO 8, BOTH INCLUSIVE, TOGETHER WITH VACATED STREET LYING BETWEEN SAID LOTS 1 TO 8, BOTH INCLUSIVE, IN H.R. JACOBSEN AND CO'S EUCLID AVENUE SUBDIVISION, BEING A SUBDIVISION OF THE SOUTH 660.45 FEET OF THE EAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 28, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index No.: 03-28-105-014-0000 Vol. 0233

Property Address: 621 North Ironwood Drive, Arlington Heights, Illinois 60004

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