



Doc#: 1023955037 Fee: \$44.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 08/27/2010 11:06 AM Pg: 1 of 5

*This Instrument Was Prepared By
And When Recorded Please Return To:*

John E. O'Connor, Esq.
Drost, Kivlahan, McMahon & O'Connor LLC
11 S. Dunton Ave.
Arlington Heights, Illinois 60005

**FIRST AMENDMENT
TO
MORTGAGE AND ASSIGNMENT OF LEASES AND RENTS AND SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO MORTGAGE AND ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT (this "Amendment"), dated as of June 3, 2010 is entered into by and between **FIRST MERIT BANK, AS SUCCESSOR TRUSTEE TO MIDWEST BANK AND TRUST COMPANY, SUCCESSOR TRUSTEE TO ROYAL AMERICAN BANK UNDER TRUST AGREEMENT DATED MAY 8, 2003 AND KNOWN AS TRUST NO. 101055 ("Mortgagor")**, and **FIRSTMERIT BANK, N.A.** successor in interest to ROYAL AMERICAN BANK, having its principal address of One Tiffany Point, Suite 106, Bloomingdale, IL. 60108-2915, its successors and/or assigns (the "Mortgagee").

WITNESSETH

WHEREAS, the Mortgagor and Mortgagee executed a certain Mortgage and Assignment of Leases and Rents and Security Agreement (the "Mortgage") dated June 3, 2003 and recorded as document number 0326642333 on September 23, 2003 in Cook County, Illinois, encumbering the real estate described in Exhibit A attached hereto and incorporated herein, securing certain Indebtedness of the Borrower;

WHEREAS, the Mortgagor has previously executed and delivered to the Mortgagee that certain Note dated June 3, 2003 in favor of the Mortgagee in the original principal amount of \$1,420,000.00 (together with all extensions, renewals, modifications and substitutions from time to time, the "Original Mortgage Note");

WHEREAS, the Mortgagor has requested, and the Mortgagee has agreed, to amend and restate the Original Mortgage Note and the Mortgagor has executed an Amended and Restated Mortgage Note of even date herewith in the principal amount of \$1,205,493.12 (together with all extensions, renewals, modifications and substitutions from time to time, the "Amended and Restated Mortgage Note") that, among other things, extends the maturity date of the Original Mortgage Note from June 3, 2010 to June 3, 2015; and

WHEREAS, the Mortgagor and the Mortgagee desire to modify the Mortgage and the Loan Documents to reflect the modified terms as set forth in this Amendment.

NOW, THEREFORE, in consideration of the premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

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1. **Incorporation of Recitals.** The above and foregoing recitals are incorporated into and made a part of this Amendment. All capitalized terms used herein, if not otherwise specifically defined, shall have the meanings and definitions prescribed in the Mortgage, Amended and Restated Mortgage Note and the Loan Documents and Other Loan Documents referred to therein.
2. **Mortgage Modification.** The definition of "Note" in the Mortgage is hereby amended and restated to include the Amended and Restated Mortgage Note and Original Mortgage Note and all references to "Note" in the Mortgage is amended and restated to mean, individually and collectively, the Amended and Restated Mortgage Note and Original Mortgage Note together with any and all extensions, renewals, modifications, refinancings or substitutions thereof from time to time. In addition, The definition of "Indebtedness" in the Mortgage is hereby amended to include, but is not limited to, the Amended and Restated Mortgage Note and all references to "Indebtedness" in the Mortgage is amended to include, individually and collectively, the Amended and Restated Mortgage Note and Original Mortgage Note together with any and all extensions, renewals, modifications, refinancings or substitutions thereof from time to time.
3. **Definition of Other Loan Documents.** The Mortgage is hereby amended so that the definition of Other Loan Documents in the Mortgage and all references in the Mortgage to the Other Loan Documents shall be amended to include the Amended and Restated Mortgage Note.
4. **Reaffirmation.** To the extent any term(s) or condition(s) in the Mortgage or any of the Loan Documents or Other Loan Documents shall contradict or be in conflict with the amended terms of the Loan and Mortgage as set forth herein, such terms and conditions are hereby deemed modified and amended accordingly, upon the effective date hereof, to reflect the terms of the Mortgage and Loan as so amended herein. All terms of the Mortgage and Loan Documents and Other Loan Documents, as amended hereby, shall be and remain in full force and effect and shall constitute the legal, valid, binding and enforceable obligations of Mortgagor to the Mortgagee. As of the date of this Amendment, Mortgagor herein restate, ratifies and reaffirms each and every term and condition set forth in the Mortgage, Loan Documents and Other Loan Documents as amended herein. There are no other changes to the Mortgage, Loan Documents and Other Loan Documents except for the changes specifically set forth herein.
5. **Certification.** To further induce the Mortgagee to enter into this Amendment, Mortgagor represents and warrants to the Mortgagee as follows: (a) Mortgagor is empowered to perform all acts and things undertaken and done pursuant to this Amendment and has taken all action necessary to authorize the execution, delivery and performance of the of this Amendment; and (b); this Amendment, when executed and delivered, will be the legal, valid and binding obligation of Mortgagor, enforceable against it in accordance with its respective terms.
6. **Absence Of Claim.** To further induce the Mortgagee to enter into this Amendment, Mortgagor hereby acknowledges and agrees that, as of the date hereof, there exists no right of offset, defense, counterclaim or objection in favor of Mortgagor as against the Mortgagee with respect to the Indebtedness due to the Mortgagee.
7. **No Waiver.** No failure or delay on the part of the Mortgagee in exercising any right, power or remedy hereunder or under the Mortgage or any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or under the Mortgage, Loan Document or any other Other Loan Document. The remedies herein provided and under any other Loan Document or Other Loan Documents are cumulative and not exclusive of any remedies provided by law.
8. **Illinois Law To Govern.** This Amendment and each transaction contemplated hereunder shall be deemed to be made under and shall be construed and interpreted in accordance with the laws of the State of Illinois.

UNOFFICIAL COPYMy Commission Expires: 2-6-2011

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. It is further understood and agreed that the Trustee merely holds title to the property herein described and has no agents, employees or control over the management of the property and no knowledge of other factual matters except as represented to it by the beneficiary(ies) of the Trust. No personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument, all such liability being expressly waived by every person now or hereafter claiming any right or security hereunder; and the owner of any indebtedness or cause of action for breach of any warranty, indemnity, representation, covenant, undertaking or agreement accruing hereunder shall look solely to the Trustee estate for the payment hereof.

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EXHIBIT A

Legal Description

Lots 9, 10 and 11 in Block 15 in Newberry's Addition to Chicago in the East ½ of the West ½ of the Northeast ¼ of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 17-09-223-014-0000

COMMON ADDRESS: 219 West Erie, Chicago, IL 60610-3610

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