



Doc#: 1026049044 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 09/17/2010 03:05 PM Pg: 1 of 10

This document was prepared by,
and after recording, return to:

Joseph Q. McCoy, Esq.
Perkins Coie LLP
131 S. Dearborn, Suite 1700
Chicago, Illinois 60603

Permanent Tax Index Number[s]:

See Exhibit "A"

This space reserved for Recorders use only.

Property Address:

See Exhibit "A"

FR 6706945

FREEDOM TITLE CORP. FIRST MODIFICATION OF LOAN DOCUMENTS

THIS FIRST MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 20th day of May, 2010, but effective as of 20th day of May, 2010, by and between **MCGLYNN ENTERPRISES, LLC**, an Illinois limited liability company (the "Borrower"), and **FIFTH THIRD BANK**, an Ohio banking corporation, successor by merger with Fifth Third Bank, a Michigan banking corporation, its successor and assigns (the "Lender"); and **JAMES J. MCGLYNN SR.** ("Guarantor").

RECITALS:

A. Lender made a loan to Borrower in the original principal amount of Five Hundred Twenty-Five Thousand and 00/100 Dollars (\$525,000.00) (the "Loan"). The Loan is evidenced by that certain Term Note, dated May 20, 2005, in the principal amount of the Loan made payable by Borrower to the order of Lender (the "Note"), which Note was to mature on May 20, 2010 (the "Maturity Date").

B. The Note is secured by (i) that certain Mortgage, Security Agreement and Financing Statement dated as of May 20, 2005 (as amended, restated, modified or supplemented and in effect from time to time, the "Mortgage") made by Borrower in favor of Lender, which Mortgage was recorded in the Cook County Recorder of Deeds on May 26, 2005 as Document No. 0514649022 and which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A attached hereto (the "Property"); (ii) that certain Assignment of

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Rents dated as of May 20, 2005 (as amended and restated, modified or supplemented and in effect from time to time, the "Assignment of Rents"), which Assignment of Rents was recorded in the Cook County Recorder of Deeds on May 26, 2005 as Document No. 0514649023; and (iii) such other documents delivered or executed in connection with the Loan, as amended, restated or replaced from time to time, being collectively referred to herein as the "Loan Documents").

C. Guarantor guaranteed the Loan pursuant to that certain Continuing Guaranty Agreement dated as of May 20, 2005 (the "Guaranty").

D. Borrower desires to, among other things, amend the Loan Documents to extend the Maturity Date and Lender agrees to amend the same based upon the terms set forth herein.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions. All terms not otherwise defined herein shall have the meaning ascribed to such term in the Mortgage.

2. Principal Balance of the Loan. As of the date hereof, the principal balance of the Loan is Three Hundred Ninety-Three Thousand Seven Hundred Forty-Nine and 30/100 Dollars (\$393,749.30). All references to the Loan in the Loan Documents shall mean Three Hundred Ninety-Three Thousand Seven Hundred Forty-Nine and 30/100 Dollars (\$393,749.30).

3. Maturity Date of the Loan. The Maturity Date of the Loan is hereby extended to May 20, 2015. Any reference in the Note, Mortgage or any of the other Loan Documents to the "Maturity Date" of the Loan shall mean May 20, 2015.

4. Amended and Restated Term Note. Concurrent with the delivery of this Agreement, Borrower will deliver to Lender an Amended and Restated Term Note in the original principal amount of Three Hundred Ninety-Three Thousand Seven Hundred Forty-Nine and 30/100 Dollars (\$393,749.30).

5. Representations and Warranties of Borrower. Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default or Unmatured Default under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any

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event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

6. Reaffirmation of Guaranty. Guarantor hereby ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder.

7. Expenses. As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

8. Title Policy. As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Freedom Title Co., agent for Chicago Title Insurance Company to issue an endorsement to Lender's Title Insurance Policy No. 72107-2676398 (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

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9. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

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(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

10. Customer Identification - USA Patriot Act Notice; OFAC and Bank Secrecy Act. Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Lender to identify Borrower in accordance with the Act. In addition, Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls Borrower or any subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

[Remainder of page intentionally left blank; signature pages follow]

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IN WITNESS WHEREOF, the parties hereto have executed this First Modification of Loan Documents dated as of the day and year first above written.

BORROWER:

MCGLYNN ENTERPRISES, LLC, an Illinois limited liability company

By: James J. McGlynn
Name: James J. McGlynn Sr.
Its: Managing Member

GUARANTORS:

James J. McGlynn
JAMES J. MCGLYNN SR., individually

LENDER:

FIFTH THIRD BANK, an Ohio banking corporation successor by merger with Fifth Third Bank, a Michigan banking corporation

By: [Signature]
Name: Ally Roberts
Its: Assistant Vice President

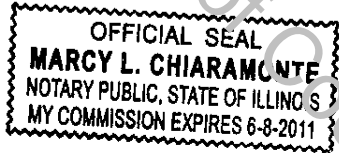
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STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that James J. McGlynn Sr., Managing Member of McGlynn Enterprises, LLC, is 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, this 20th day of May, 2010.



Marcy Chiaramonte
NOTARY PUBLIC
(SEAL)

My Commission Expires:

6-8-2011

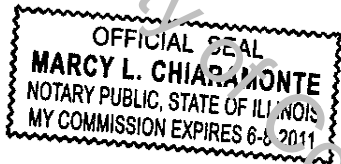
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STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that James J. McGlynn Sr., who is 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, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal as of the 20th day of May, 2010.

Marcy Chiaromonte
NOTARY PUBLIC
(SEAL)



My Commission Expires:

6-8-2011

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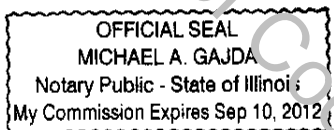
STATE OF ILLINOIS)
) ss.
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Alibe Robertson, a Assistant Vice President of Fifth Third Bank, an Ohio banking corporation successor by merger with Fifth Third Bank, a Michigan banking corporation, is 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/she signed and delivered the said instrument as his/her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 10th day of ~~May~~ ^{June}, 2010.

Michael A. Gajda

NOTARY PUBLIC
(SEAL)



My Commission Expires:

9-10-12

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EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL I: LOT 37 IN BLOCK 7 IN CENTEX-SCHAUMBURG INDUSTRIAL PARK UNIT 122, BEING A SUBDIVISION IN THE NORTH HALF OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL II: LOT 15 IN BLOCK 7 IN CENTEX-SCHAUMBURG INDUSTRIAL PARK UNIT 46, BEING A SUBDIVISION OF PART OF THE NORTH 1/2 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL III: LOT 36 IN BLOCK 7 IN CENTEX-SCHAUMBURG INDUSTRIAL PARK, UNIT 117, BEING A SUBDIVISION OF THAT PART OF THE NORTH 200.00 FEET OF THE SOUTH 1524.96 FEET AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE THEREOF, OF THE NORTH 1/2 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, (SAID NORTH LINE OF THE SOUTH 1524.96 FEET ALSO BEING THE SOUTH LINE OF LUNT AVENUE, AS DEDICATED IN CENTEX-SCHAUMBURG INDUSTRIAL PARK UNIT NO. 1, BEING A SUBDIVISION IN THE NORTH 1/2 OF THE SAID SECTION 33) LYING WEST OF LINE DRAWN AT RIGHT ANGLES TO THE NORTH LINE OF THE SAID SOUTH 1524.96 FEET TO A POINT 5038.78 FEET WEST OF THE EAST LINE OF THE SAID NORTH 1/2 AS MEASURED ON THE SAID NORTH LINE AND LYING EAST OF A LINE DRAWN AT RIGHT ANGLES TO THE NORTH LINE OF THE SAID SOUTH 1524.96 FEET AT A POINT 51.08 FEET WEST OF THE EAST LINE OF THE SAID NORTH 1/2 AS MEASURED ON THE SAID NORTH LINE, ALL IN COOK COUNTY, ILLINOIS.

ADDRESS: 1401 Rodenburg Rd., Schaumburg, IL 60193

TAX IDENTIFICATION NUMBERS:

07-33-102-014

07-33-102-046

07-33-102-049