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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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This document was prepared by,
and after recording, return to:

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Permanent Tax Index Numbers:

20-10-204-004
20-10-205-039

Property Address:

715 East 47th Street
Chicago, Illinois 60653

**LOAN, MORTGAGE AND ASSIGNMENT OF RENTS
MODIFICATION AGREEMENT**

This Loan, Mortgage and Assignment of Rents Modification Agreement ("Agreement") is dated as of September 9, 2010 but shall be effective as of July 9, 2010 by and among 715 EAST 47th STREET, LLC, an Illinois limited liability company (the "Borrower"), whose address is 150 North Wacker Drive, Suite 600, Chicago, Illinois 60606, ASCENDANCE CAPITAL PARTNERS I, LLC, a Delaware limited liability company, whose address is 150 North Wacker Drive, Suite 600, Chicago, Illinois 60606 ("Guarantor") and PNC BANK, NATIONAL ASSOCIATION, successor to NATIONAL CITY BANK, a national banking association, its successors and assigns (the "Lender"), whose address is One North Franklin Street, Suite 3600, Chicago, Illinois 60606.

RECITALS:

WHEREAS, the Lender has extended a loan to Borrower in the original principal amount of TWO MILLION FOUR HUNDRED THOUSAND AND NO/100 (\$2,400,000.00) DOLLARS (the "Loan") which is evidenced by that certain Promissory Note dated as of July 9, 2007 (as the same may be amended, modified, replaced or restated from time to time, the "Note"), executed by the Borrower and made payable to the order of the Lender in the principal amount of \$2,400,000.00 and due on July 9, 2010 (the "Maturity Date"), except as may be accelerated pursuant to the terms of the Note or of any of the other "Related Writings" (as such

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term is defined in the Note and incorporated herein by this reference thereto as fully and with the same effect as if set forth herein at length);

WHEREAS, the Loan is secured in part by that certain Mortgage dated as of July 9, 2007 executed by the Borrower to and for the benefit of Lender on the improved real property commonly known as 715 East 47th Street, Chicago, Illinois 60653 and as legally described on Exhibit "A" attached hereto (the "**Real Property**"), which was recorded with the Cook County, Illinois Recorder of Deeds Office on July 16, 2007 as Document No. 0719733082 (as the same may be amended, modified, replaced or restated from time to time, the "**Mortgage**") encumbering the Property (as defined in the Mortgage and incorporated herein by this reference);

WHEREAS, the Loan is further secured, *inter alia*, by that certain Assignment of Rents dated as of July 9, 2007 executed by the Borrower to and for the benefit of Lender encumbering the Real Property which was recorded on July 16, 2007 with the Cook County, Illinois Recorder of Deeds Office as Document Number 0719733083 (as the same may be amended, modified, replaced or restated from time to time, the "**Assignment of Rents**");

WHEREAS, the Loan is further secured in part, *inter alia*, by a Commercial Guaranty dated as of July 9, 2007 executed by Guarantor to and for the benefit of Lender (the "**Guaranty**"); and

WHEREAS, Borrower and the Guarantor have requested an extension of the maturity date of the Loan to July 9, 2011 and Lender is willing to agree to such extension subject to amending the Note, the Guaranty, the Mortgage and the other Related Writings and Related Documents in the manner hereinafter set forth; and

WHEREAS, Borrower, Guarantor and Lender now desire to amend the Note, the Guaranty, the Mortgage and the other Related Writings and Related Documents in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein.
2. **Defined Terms.** Except as specifically defined in this Agreement, all capitalized terms used herein and in the foregoing recitals shall have the meanings ascribed therefor in the Note. All references in this Agreement to the term, "Loan Documents" shall mean the "Related Writings" (as such term is defined in the Note and incorporated herein by this reference) and the "Related Documents" (as such term is defined in the Guaranty and in the Mortgage and incorporated herein by this reference).
3. **Status of Loan; No Further Advances.** Borrower and the Guarantor acknowledge and agree as follows:

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(a) As of July 9, 2010, the outstanding principal balance under the Loan is TWO MILLION ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$2,120,000.00);

(b) As of July 9, 2010, there is zero dollars available on a go forward basis on the Loan and the Borrower and Guarantor acknowledge and agree that no further disbursements of the Loan shall be made by Lender except solely for any protective advances which Lender elects to advance under the Loan Documents in its sole discretion; and

(c) As of the date hereof, no Event of Default has occurred and no event has occurred or condition exists that, with notice and/or the passage of time, would constitute an Event of Default.

4. **Amendments to the Note.** The Note is hereby amended as follows:

(a) The first and second paragraphs of the Section of the Note captioned, "Payment" are hereby deleted in their entirety and the following paragraphs are hereby inserted in their place:

"The unpaid principal balance of this Note shall at all times bear interest at a rate equal to the Contract Rate. The "Contract Rate" shall at all times be a fluctuating rate equal to three percent (3.00%) per annum plus the Index. Notwithstanding the foregoing, the applicable "Contract Rate" shall be a fluctuating rate equal to three and one-half of one percent (3.50%) per annum plus the Index if any of the following events occurs: (a) the Illinois Department of Employment Security ("IDES") vacates the Property; (b) the IDES Lease of the Property terminates; or (c) the credit rating of the State of Illinois falls below A-. Provided, however, that in the event the Index is unavailable as a result of Lender's good faith determination of the occurrence of one of the events specified in the Section labeled, "LIBOR Unavailable", the Index shall then be a fluctuating rate equal to the Base Rate.

Notwithstanding the foregoing, provided, that so long as any Event of Default exists, all unpaid principal of this Note and all overdue interest on that principal shall bear interest at a fluctuating rate equal to three percent (3.00%) per annum above the rate that would otherwise be applicable, but in no case less than three percent (3.00%) per annum above the Base Rate; provided further, that in no event shall any principal of or interest on this Note bear interest at any time after Maturity at a lesser rate than the rate applicable thereto immediately after Maturity. In the event the IDES vacates the Property, the IDES Lease of the Property terminates or the credit rating of the State of Illinois falls below A-, then all references to three percent (3.00%) per annum in the foregoing sentence shall be increased to three and one-half of one percent (3.50%) per annum for

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purposes of computing the interest rate in effect under this Note if any principal or accrued interest on this Note is overdue.”

(b) The third and fourth paragraphs of the Section of the Note captioned, “Payment” are hereby deleted in their entirety and the following is hereby inserted in their place:

“Commencing on August 9, 2010 and continuing on the ninth (9th) day of each month thereafter through and including the Maturity Date (each, a “Monthly Payment Date”), Borrower shall make equal monthly payments of principal to Lender in the amount of NINE THOUSAND SEVEN HUNDRED FIFTY AND NO/100 (\$9,750.00) DOLLARS (the “Monthly Principal Payment”) plus accrued interest on the outstanding principal balance hereof computed at the applicable interest rates as provided in this Note. All then outstanding principal indebtedness hereunder, and accrued and unpaid interest, if any, shall be due and payable in full, unless earlier due and payable by reason of the acceleration of the Maturity of this Note, on or before July 9, 2011 (“Maturity Date”).”

(c) The Section of the Note captioned, “Variable Interest Rate” is hereby deleted in its entirety and the following is hereby inserted in its place:

“VARIABLE INTEREST RATE. The interest rate on this Note is subject to change from time to time based on changes in an index which is the “Daily LIBOR Rate” (the “Index”). The “Daily LIBOR Rate” means, for any day, the rate per annum determined by Lender by dividing (x) the Published Rate by (y) a number equal to 1.00 minus the LIBOR Reserve Percentage. The Daily LIBOR Rate shall be adjusted on and as of the effective date of any change in the LIBOR Reserve Percentage and/or the Published Rate. Lender shall not be required to notify Borrower of any adjustment in the Daily LIBOR Rate. Borrower may, however, request a quote of the prevailing Daily LIBOR Rate on any Banking Day. Borrower understands that Lender may make loans based on other rates as well. NOTICE: Under no circumstances will the interest rate on this Note be more than the maximum rate allowed by applicable law. Whenever increases occur in the interest rate, Lender, at its option, may do one or more of the following: (A) increase Borrower’s payments to ensure Borrower’s loan will pay off by its original final maturity date, (B) increase Borrower’s payments to cover accruing interest, (C) increase the number of Borrower’s payments, and (D) continue Borrower’s payments at the same amount and increase Borrower’s final payment.”

(d) In the Section of the Note captioned, “Definitions”, the definition of the term, “Prime Rate” is hereby deleted in its entirety and the following is inserted in its place:

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“Prime Rate” means the rate publicly announced by Lender from time to time by Lender as its prime rate. The Prime Rate is determined from time to time by Lender as a means of pricing some loans to its borrowers. This is not tied to any external rate of interest or index, and does not necessarily reflect the lowest rate of interest actually charged by Lender to any particular class or category of customers.

(e) The Section of the Note captioned, “Definitions” is hereby amended to include the following new defined terms:

“Base Rate” means the highest of (A) the Prime Rate and (B) the sum of the Federal Funds Open Rate plus fifty (50) basis points.;

“Federal Funds Open Rate” means, for any day, the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption “OPEN” (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by Lender (an “Alternate Source”), or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by Lender at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Banking Day, the Federal Funds Open Rate for such day shall be the “open” rate on the immediately preceding Banking Day. The rate of interest charged shall be adjusted as of each Banking Day based on changes in the Federal Funds Open Rate without notice to the Borrower.

“LIBOR Reserve Percentage” means the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities”).

“Published Rate” shall mean the rate of interest published each Banking Day in The Wall Street Journal “Money Rates” listing under the caption “London Interbank Offered Rates” for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the eurodollar rate for a one month period as published in another publication selected by the Lender).”

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(f) The Subsection of the Note captioned, "Other Defaults" contained in the Section of the Note captioned, "Default" is hereby deleted in its entirety and the following is hereby inserted in its place:

"Other Defaults. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note, in any of the related documents or in any of the Related Writings or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower."

5. **Amendment of Guaranty.** As a further condition precedent to Lender's agreement to enter into this Agreement to extend the Maturity Date of the Loan and to amend the Loan as set forth herein, the Guarantor hereby agrees that the Guaranty is hereby amended as follows:

(a) The Section of the Guaranty captioned, "Guarantor Liability Cap" is hereby deleted in its entirety and the following is hereby inserted in its place:

"GUARANTOR LIABILITY CAP. Notwithstanding any provision hereof to the contrary, during any period prior to the release or termination hereof that the Debt Service Coverage Ratio is 1.2:1 or higher, Guarantor's liability hereunder shall be limited to an amount equal to (i) fifty percent (50%) of all of the principal amount outstanding from time to time and at any one or more times, plus (ii) one hundred percent (100%) of (a) accrued unpaid interest on all of the principal amount outstanding from time to time and at any one or more times, (b) any amounts due and owing under the hazardous substances indemnity set forth in the Related Documents, and plus (iii) all collection costs and legal expenses related to any of the foregoing permitted by law. For any period prior to the release or termination hereof that the Debt Service Coverage Ratio is less than 1.2:1, then Guarantor's liability hereunder shall be unlimited and shall be equal to (i) one hundred percent (100%) of all of the principal amount outstanding from time to time and at any one or more times, plus (ii) one hundred percent (100%) of (a) accrued unpaid interest thereon, (b) any amounts due and owing under the hazardous substances indemnity set forth in the Related Documents, and plus (iii) all collection costs and legal expenses related to any of the foregoing permitted by law, until such time (if at all) as the Debt Service Coverage Ratio reaches 1.2:1 or higher, at which point, the provisions of the first sentence of this section shall apply to the Guarantor's liability hereunder."

(b) The following is hereby added at the end of the Guaranty as a new Section under the Guaranty captioned, "Financial Covenants":

"FINANCIAL COVENANTS. So long as this Guaranty remains in effect, the Guarantor will comply with all of the following financial covenants:

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(A) **TANGIBLE NET WORTH COVENANT.** So long as this Guaranty remains in effect, the Guarantor will maintain at all times a minimum "Tangible Net Worth" (as hereinafter defined) of TEN MILLION DOLLARS (\$10,000,000.00). As used herein, "Tangible Net Worth" means, at any time the stockholders' equity in the Guarantor including "Subscription Receivables" (as such term is hereinafter defined in Paragraph (B) below captioned, "Minimum Liquidity Covenant") less any advances to affiliated parties less all items properly classified as intangibles. The foregoing covenant shall be measured on an annual basis. Further, within one hundred twenty (120) days after the end of each of Guarantor's fiscal year end, Guarantor shall provide to Lender, together with copies of its financial statements as required under the Note, a compliance certificate showing compliance by Guarantor with the foregoing Tangible Net Worth covenant and certified as accurate by Guarantor. The foregoing compliance certificate shall be in form and substance satisfactory to Lender.

(B) **MINIMUM LIQUIDITY COVENANT.** So long as this Guaranty remains in effect, Guarantor covenants and agrees at all times to maintain ownership of not less than ONE MILLION DOLLARS (\$1,000,000.00) in unencumbered Liquid Assets (as hereinafter defined). As used herein, "Liquid Assets" means Subscription Receivables (as such term is hereinafter defined), unencumbered cash and cash equivalents only. The foregoing covenant shall be measured on an annual basis. Further, within thirty (30) days after the end of each of Guarantor's fiscal year end, Guarantor shall provide to Lender copies of all statements verifying such unencumbered Liquid Assets together with a compliance certificate showing compliance by Guarantor with the foregoing liquidity covenant and certified as accurate by Guarantor. The foregoing statements and compliance certificate shall be in form and substance satisfactory to Lender and shall be identified as owned by Guarantor individually and not jointly with any other person or entity, and shall not be subject to any security interest, lien, right of setoff or any other encumbrance. "Subscription Receivables" shall mean irrevocable agreements by a person or entity to fund, upon demand, capital contributions in Guarantor for an amount specified in such agreement."

All of the above financial covenants shall be computed and determined in accordance with generally accepted accounting principles ("GAAP") applied on a consistent basis (subject to normal year-end adjustments).

6. **Amendments to the Mortgage and the Assignment of Rents.** The Mortgage and the Assignment of Rents are hereby each amended as follows:

(a) The payment schedule contained in the first paragraph of the definition of the term, "Note", which is contained in the Sections of the Mortgage and the Assignment

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of Rents captioned, "Definitions", are hereby each deleted in its entirety and the following is substituted therefore:

"The unpaid principal balance of the Note shall at all times bear interest at a rate equal to the Contract Rate. The "Contract Rate" shall at all times be a fluctuating rate equal to three percent (3.00%) per annum plus the Index (as such term is defined in the Note and incorporated herein by this reference). Notwithstanding the foregoing, the applicable "Contract Rate" shall be a fluctuating rate equal to three and one-half of one percent (3.50%) per annum plus the Index if any of the following events occurs: (a) the Illinois Department of Employment Security ("IDES") vacates the Property; (b) the IDES Lease of the Property terminates; or (c) the credit rating of the State of Illinois falls below A-. Provided, however, that in the event the Index is unavailable as a result of Lender's good faith determination of the occurrence of one of the events specified in the Section labeled, "LIBOR Unavailable", the Index shall then be a fluctuating rate equal to the Base Rate.

Notwithstanding the foregoing, provided, that so long as any Event of Default exists, all unpaid principal of the Note and all overdue interest on that principal shall bear interest at a fluctuating rate equal to three percent (3.00%) per annum above the rate that would otherwise be applicable, but in no case less than three percent (3.00%) per annum above the Base Rate; provided further, that in no event shall any principal of or interest on this Note bear interest at any time after Maturity at a lesser rate than the rate applicable thereto immediately after Maturity. In the event the IDES vacates the Property, the IDES Lease of the Property terminates or the credit rating of the State of Illinois falls below A-, then all references to three percent (3.00%) per annum in the foregoing sentence shall be increased to three and one-half of one percent (3.50%) per annum for purposes of computing the interest rate in effect under the Note if any principal or accrued interest on the Note is overdue."

(b) The second and third paragraphs of the definition of the term, "Note", which is contained in the Sections of the Mortgage and the Assignment of Rents captioned, "Definitions", are hereby each deleted in its entirety and the following is substituted therefore:

"The Index rate shall be adjusted by Lender, as necessary at the end of each Banking Day during the term hereof.

Commencing on August 9, 2010 and continuing on the ninth (9th) day of each month thereafter through and including the Maturity Date (each, a "Monthly Payment Date"), Borrower shall make equal monthly payments of principal to Lender in the amount of NINE THOUSAND SEVEN HUNDRED FIFTY AND NO/100 (\$9,750.00) DOLLARS (the "Monthly Principal Payment") plus accrued interest on the outstanding principal

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balance of the Note computed at the applicable interest rates as provided in the Note. All then outstanding principal indebtedness hereunder, and accrued and unpaid interest, if any, shall be due and payable in full, unless earlier due and payable by reason of the acceleration of the Maturity of the Note, on or before July 9, 2011 ("Maturity Date")."

7. **Loan Extension Fee.** In consideration of the extension of the Maturity Date of the Loan, Borrower shall pay to Lender a non-refundable loan extension fee of FIVE THOUSAND THREE HUNDRED AND NO/100 DOLLARS (\$5,300.00) ("Loan Extension Fee"). The unpaid balance of the Loan Extension Fee shall be due and payable to Lender concurrently with the execution of this Agreement.

8. **Conditions Precedent.** Lender's execution of this Agreement and consent to extend the Maturity Date of the Loan to July 9, 2011 and to amend the Loan as set forth in this Agreement are expressly conditioned upon receipt by Lender of all of the following documents in a form and content acceptable to Lender and the Loan Extension Fee (collectively, the "Lender's Conditions Precedent"):

(a) The full execution and delivery of this Agreement by Borrower and Guarantor to Lender;

(b) The Borrower's payment of the Loan Extension Fee to Lender concurrently with the execution of this Agreement;

(c) Delivery to Lender of a current title date down endorsement to Lender's Loan Title Insurance Policy insuring the Mortgage on the Property showing no exceptions other than exceptions which are acceptable to Lender, which shall be obtained at Borrower's expense; and

(d) The execution and delivery to Lender of such other documents as Lender shall reasonably require in connection with this Agreement.

9. **Additional Loan Expenses.** Borrower hereby agrees to pay all expenses, charges, costs and fees relating to this Agreement, including, without limitation, Lender's reasonable attorney's fees in connection with the negotiation and documentation of this Agreement and all other expenses, charges, costs and fees referred to or necessitated by the terms of this Agreement (collectively, the "Additional Loan Expenses"). In the event the Additional Loan Expenses are not paid to Lender within five (5) days after written demand by Lender, the Additional Loan Expenses shall bear interest from the date so incurred until paid at the interest rate applicable upon default under the Note.

10. **Representations and Warranties.** Each of the Borrower and the Guarantor represents and warrants to Lender that:

(a) Each has full power and authority to execute and deliver this Agreement and to perform their respective obligations hereunder;

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(b) Upon the execution and delivery of this Agreement, it shall be valid, binding and enforceable upon Borrower and the Guarantor in accordance with its terms;

(c) The execution, delivery and performance of this Agreement have been duly authorized by all necessary limited liability company action for and on behalf of Borrower. All entities and persons signing this Agreement and all related documents have the appropriate legal authority for the Borrower and its Sole Member to sign said documents for and on behalf of the Sole Member of the Borrower and the Borrower as the legal, valid and binding obligations of each of the Borrower's Sole Member and the Borrower respectively.

(d) The execution, delivery and performance of this Agreement have been duly authorized by all necessary limited liability company action for and on behalf of Guarantor. All entities and persons signing this Agreement and all related documents have the appropriate legal authority for the Guarantor and its Manager to sign said documents for and on behalf of the Manager of the Guarantor and the Guarantor as the legal, valid and binding obligations of each of the Guarantor's Manager and the Guarantor respectively.

(e) The execution, delivery and performance of this Agreement does not and will not contravene, conflict with, violate or constitute a default under any agreement or any applicable law, rule, regulation, judgment, decree or order, or any agreement, indenture or instrument to which any of the Borrower or the Guarantor is a party or by which any of the Borrower or the Guarantor is bound;

(f) There is not any condition, event or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or to Borrower's or Guarantor's knowledge threatened, affecting Borrower or the Guarantor, which could prevent them from complying with or performing their respective obligations under the Loan Documents, as amended by this Agreement, within the time limits set forth herein for such compliance or performance;

(g) There have been no changes to the Operating Agreement or the Articles of Organization of the Borrower, since they were last delivered and/or certified to Lender in connection with the extension and closing of the Loan as of July 9, 2007 and the Operating Agreement and the Articles of Organization of the Borrower as so last delivered and/or certified to Lender remain in full force and effect as of the date of this Agreement;

(h) There have been no changes to the Operating Agreement or the Articles of Organization of Ascendance Capital Partners I, LLC, a Delaware limited liability company, which is the Sole Member of the Borrower and the Guarantor, since they were last delivered and/or certified to Lender in connection with the extension and closing of the Loan as of July 9, 2007 and the Operating Agreement and the Articles of Organization of such Ascendance Capital Partners I, LLC as so last delivered and/or certified to Lender remain in full force and effect as of the date of this Agreement; and

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(i) There have been no changes to the Operating Agreement or the Articles of Organization of Ascendance Manager I, LLC, a Delaware limited liability company, which is the Manager of the Guarantor, since they were last delivered and/or certified to Lender in connection with the extension and closing of the Loan as of July 9, 2007 and the Operating Agreement and the Articles of Organization of such Ascendance Manager I, LLC as so last delivered and/or certified to Lender remain in full force and effect as of the date of this Agreement.

11. **Amendment/Reaffirmation of Loan Documents.** Except as specifically modified by the terms of this Agreement, the terms and conditions of the Note and the other Loan Documents shall be and remain in full force and effect and shall continue to govern the rights and obligations of the parties. Borrower and Guarantor hereby restate, remake and reaffirm any and all covenants, representations and warranties contained in the Note, the Mortgage, the Guaranty and any of the Loan Documents, as if all such instruments had been executed as of the date hereof.

12. **Guarantor's Affirmation.** The Guarantor by its execution of this Agreement reaffirms all of its obligations and liabilities to Lender under the Guaranty, as amended by this Agreement, including, but not limited to, the repayment in full of all principal and interest due Lender under the Note, as amended by this Agreement.

13. **References.** All references herein to any of the Loan Documents shall be understood to be to the Loan Documents as previously amended and as further amended hereby. All references in any of the Loan Documents to any other one or more of the Loan Documents shall hereafter be deemed to be such document(s) as previously amended and as further amended hereby.

14. **No Defenses, Counterclaims.** Each of Borrower and the Guarantor (each individually referred to as a "Borrowing Party" and all collectively referred to as, the "Borrowing Parties") hereby represents and warrants to, and covenants with, Lender that as of the date hereof, (a) each Borrowing Party has no defenses, offsets or counterclaims of any kind or nature whatsoever against Lender with respect to the Loan or any of the Loan Documents, or any action previously taken or not taken by Lender with respect thereto or with respect to any security interest, encumbrance, lien or collateral in connection therewith to secure the liabilities of each Borrowing Party, and (b) that Lender has fully performed all obligations to each Borrowing Party which it may have had or has on and of the date hereof.

15. **General Release.** In consideration of Lender entering into this Agreement, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and the Guarantor for: (i) themselves, (ii) any parent, affiliate or subsidiary thereof, (iii) any partnership or joint venture of which any person or entity comprising such person (or any parent, affiliate or subsidiary thereof) is a partner, and (iv) the respective partners, members, officers, directors, shareholders, heirs, legal representatives, legatees, successors and assigns of all of the foregoing persons and entities, hereby release and forever discharge Lender, its past, present and future shareholders, successors, assigns, officers, directors, agents, attorneys and employees together with their respective heirs, legal representatives, legatees, successors and assigns of and from all actions, claims, demands,

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damages, debts, losses, liabilities, indebtedness, causes of action either at law or in equity and of whatever kind or nature, whether known or unknown, direct or indirect, existing as of the date of this Agreement, by reason of any matter, cause or thing whatsoever arising out of or relating to the transactions which are the subject of this Agreement.

(a) It is acknowledged that Borrower and the Guarantor have read the General Release provisions of this Paragraph 15 and consulted legal counsel before executing same; that Borrower and the Guarantor have relied upon their own judgment and that of their legal counsel in executing the General Release provisions of this Paragraph 15 and have not relied on or been induced by any representation, statement or act by any other party referenced to herein which is not referred to in this instrument; that Borrower and Guarantor enter into the General Release provisions of this Paragraph 15 voluntarily, with full knowledge of its significance; and that the General Release provisions of this Paragraph 15 are in all respects complete and final.

(b) If any term or provision of the General Release contained herein or the application thereof to any person, entity or circumstance shall, to any extent, be held invalid and/or unenforceable by a court of competent jurisdiction, the remainder of the General Release contained herein, or the application of such term or provisions to persons, entities or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of the General Release contained herein shall be valid and be enforced to the fullest extent permitted by law.

16. **No Custom.** This Agreement shall not establish a custom or waive, limit or condition the rights and remedies of Lender under the Loan Documents, all of which rights and remedies are expressly reserved.

17. **Reaffirmation of Loan Documents, No Novation.** Except as may be expressly set forth herein to the contrary, the Loan Documents remain unmodified, and all other terms and conditions thereof remain in full force and effect. Notwithstanding anything to the contrary contained herein, Borrowing Parties and Lender expressly state, declare and acknowledge that this Agreement is intended only to modify each Borrowing Party's continuing obligations in the manner set forth herein, and is not intended as a novation of any and all amounts presently due and owing from any Borrowing Party to Lender.

18. **Event of Default.** Each of the Borrower and the Guarantor, hereby acknowledges and agrees that a breach by any one of them of any term, provision, covenant or condition herein set forth or herein required of any of the Borrower and/or the Guarantor, to be kept or performed, and which is not kept or performed pursuant to the terms hereof, shall constitute an Event of Default under the Loan Documents if said Event of Default is not cured within any applicable cure or grace period provided for in the Loan Documents.

19. **Lender Includes Predecessors.** The term, "Lender" as used in this Agreement and in the Loan Documents shall include all entities which were merged into, or whose name was changed to, PNC Bank, National Association. Lender is the successor to National City Bank and may do business from time to time as National City Bank.

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20. **Captions/Counterparts.** The captions used herein are for convenience of reference only and shall not be deemed to limit or affect the construction and interpretation of the terms of this Agreement. This Agreement may be executed in any number of counterparts, all of which shall be taken to be one and the same instrument, with the same effect as if all parties had signed the same signature page.

(SIGNATURE PAGE IMMEDIATELY FOLLOWS)

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IN WITNESS WHEREOF, Borrower, Guarantor and Lender have duly authorized and executed this Loan, Mortgage and Assignment of Rents Modification Agreement as of the date first above written.

BORROWER:

715 EAST 47TH STREET, LLC, an Illinois limited liability company

By: Ascendance Capital Partners I, LLC, a Delaware limited liability company
Its: Sole Member

By: Ascendance Manager I, LLC, a Delaware limited liability company
Its: Manager

By: [Signature]
Print Name: John A. Ponzillo
Its: Manager

LENDER:

PNC BANK, NATIONAL ASSOCIATION, a national banking association

By: [Signature]
Print Name: Joel Olson
Its: Vice President

GUARANTOR:

ASCENDANCE CAPITAL PARTNERS I, LLC, a Delaware limited liability company

By: Ascendance Manager I, LLC, a Delaware limited liability company
Its: Manager


By: [Signature]
Print Name: John A. Ponzillo
Its: Manager

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STATE OF ILLINOIS)
) SS.
COUNTY OF Cat)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that John A. Pustillo, the Manager of **Ascendance Manager I, LLC, a Delaware limited liability company**, the Manager of Ascendance Capital Partners I, LLC, a Delaware limited liability company, the Sole Member of 715 East 47th Street, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, 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 ASCENDANCE MANAGER I, LLC, in its capacity as the Manager for and on behalf of and as the free and voluntary act of ASCENDANCE CAPITAL PARTNERS I, LLC, in its capacity as the Sole Member for and on behalf of and as the free and voluntary act of 715 EAST 47TH STREET, LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of September, 2010.



Notary Public

My Commission Expires: 10/27/2013




UNOFFICIAL COPY

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 John A. Pontillo, the Manager of **Ascendance Manager I, LLC a Delaware limited liability company**, the Manager of **Ascendance Capital Partners I, LLC, a Delaware limited liability company**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, 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 **Ascendance Manager I, LLC**, in its capacity as the Manager for and on behalf of and as the free and voluntary act of **ASCENDANCE CAPITAL PARTNERS I, LLC, a Delaware limited liability company** for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of September, 2010.



Notary Public
My Commission Expires: 10/27/2013



Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Rachel Booker, a Notary Public, in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that Joel Dalson, a Vice President of PNC BANK, NATIONAL ASSOCIATION, a national banking association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, 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 Bank for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 10th day of ~~August~~^{Sept.}, 2010.

Rachel M. Booker
NOTARY PUBLIC

My Commission Expires: 5/7/12



UNOFFICIAL COPY

**EXHIBIT "A" TO
LOAN, MORTGAGE AND ASSIGNMENT OF RENTS
MODIFICATION AGREEMENT**

LEGAL DESCRIPTION OF REAL PROPERTY

PARCEL 1:

LOTS 48 THROUGH 57, BOTH INCLUSIVE, IN SUBDIVISION OF LOTS 1 AND 2 OF STONE AND MCGLASHAN'S SUBDIVISION OF THE NORTH ½ OF THE NORTH ½ OF THE NORTHEAST ¼ OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD MERIDIAN, COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 8, 9, 10, AND 11 IN BLOCK 2 IN SUBDIVISION OF LOTS 3, 4 AND 5 IN STONE AND MCGLASHAN'S SUBDIVISION OF THE NORTH ½ OF THE NORTH ½ OF THE NORTHEAST ¼ OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS OF REAL PROPERTY:

715 East 47th Street
Chicago, Illinois 60653

PERMANENT TAX IDENTIFICATION NUMBERS:

20-10-204-004
20-10-205-039