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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/12/2010 09:08 AM Pg: 1 of 6

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FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

This FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Agreement") is effective as of September 11, 2010 (the "Effective Date") and is dated as of September 24, 2010, and is by and between 216 JAX LLC, a Michigan limited liability company, having an office at c/o The Farberman Group, 28400 Northwestern Highway, 4th Floor, Southfield, Michigan 48034 ("Mortgagor" or "Borrower"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, having an office at 123 N. Wacker Drive, Suite 1900, Chicago, Cook County, Illinois 60606 ("Lender"). Initially capitalized terms used herein but not defined herein shall have the meanings ascribed to them in the Loan Agreement (as defined below).

RECITALS

- A. Lender and Borrower are parties to that certain Loan Agreement dated as of September 11, 2007 (as may be amended, restated, extended, supplemented or modified from time to time, the "Loan Agreement"), whereby Lender made a loan to Borrower in the principal amount of up to \$19,250,000.00 (the "Loan"). The Property referred to in the Loan Agreement is described on Exhibit A attached hereto and made a part hereof.
- B. In connection with the transactions contemplated by the Loan Agreement, Borrower executed and delivered, or caused to be executed and delivered, to Lender certain other documents and instruments defined therein as, along with the Loan Agreement, the "Loan Documents", which Loan Documents include, without limitation, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of September 11, 2007, executed by Borrower, in favor of Lender and recorded with the Cook County Recorder of Deeds, Cook County, Illinois on September 14, 2007 as Document Number 0725710106 (as may be amended, restated, extended, supplemented or modified from time to time, the "Mortgage").
- C. Lender and Borrower desire to (i) extend the Maturity Date of the Loan and eliminate the existing options to extend the Maturity Date, and (ii) make certain other modifications to the Loan Documents and Other Related Documents, all as more particularly described in (a) that certain First Amendment to Loan Documents of even date herewith being concurrently entered into by Borrower and Lender and acknowledged and consented to by the guarantors party thereto (as may be amended, restated, extended, supplemented or modified from time to time the "First Amendment to Loan Documents"), and (b) that certain Amended and Restated Promissory Note Secured by Mortgage dated the Effective Date made by Borrower to the order of Lender (as may be amended, restated, extended, supplemented, modified or replaced from time to time, the "Amended and Restated Note").

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Loan No. 104995

NOW, THEREFORE, Borrower and Lender agree as follows:

1. **Maturity Date.** Pursuant to and as more particularly set forth in the First Amendment to Loan Documents, the Maturity Date of the Loan is extended from September 11, 2010 to November 30, 2012. Therefore, any and all references in the Loan Documents and Other Related Documents to the Maturity Date or the term or maturity of the Loan or the Note, including, without limitation, the first "WHEREAS" clause of the Mortgage, shall be deemed to mean November 30, 2012. Without limiting the foregoing and notwithstanding anything which might be construed to the contrary contained in the Loan Documents or Other Related Documents, Mortgagor has no right or option to extend the Maturity Date or the term or maturity of the Loan or the Note beyond November 30, 2012, whether pursuant to the Loan Documents and Other Related Documents or otherwise.

2. **Loan Amount; Note.** Pursuant to and as more particularly set forth in the First Amendment to Loan Documents, notwithstanding anything which might be construed to the contrary contained in the Loan Documents and Other Related Documents, from and after the Effective Date hereof (i) all references in any of the Loan Documents and Other Related Documents to the "Note" or to the promissory note evidencing the Loan, including, without limitation, the first "WHEREAS" clause of the Mortgage, shall be deemed to mean the Amended and Restated Note, (ii) no portion of the Loan that has been or is repaid may be re-borrowed, and (iii) Lender shall have no obligation whatsoever to disburse any additional amounts on the Loan, at the request of Borrower or otherwise; provided, however, that the principal balance of the Loan, and the total indebtedness evidenced and secured by the Loan Documents and Other Related Documents, may be increased in excess of such principal balance as of Effective Date hereof on account of protective advances or otherwise by Lender pursuant to the terms of the Loan Documents and Other Related Documents. Mortgagor acknowledges and agrees that (a) the Amended and Restated Note amends, restates and replaces, and represents a continuation, extension and re-pricing of the indebtedness evidenced by, that certain Promissory Note Secured by Mortgage dated as of September 11, 2007 made by Borrower payable to the order of the Lender in the stated principal amount of \$19,250,000.00 (as amended and modified from time to time, the "Prior Note"), and (b) the Amended and Restated Note does not constitute a payment, satisfaction, discharge or novation of such Prior Note or the indebtedness evidenced thereby.

3. **Notice Addresses.** The Lender addresses set forth in Section 4.3 of the Mortgage and Section 10.8 of the Loan Agreement are hereby deleted in their entirety and replaced with the following:

in the case of Lender to:	Wells Fargo Bank, National Association Real Estate Banking Group 123 N. Wacker Drive, Suite 1900 Chicago, Illinois 60606 Attn: Brett Hill and Gail Duran
and a copy to:	Barack Ferrazzano Kirschbaum & Nagelberg LLP 200 W. Madison Street, Suite 3900 Chicago, Illinois 60606 Attn: T. Randall Graeb, Esq.

4. **Reference to Loan Documents.** All references in any of the Loan Documents or Other Related Documents to the Mortgage or to any of the other Loan Documents or Other Related Documents shall be deemed to be to such documents as amended hereby and by the First Omnibus Amendment and the Amended and Restated Note.

5. **Authority/Enforceability.** Borrower hereby represents that (x) it is authorized to execute, deliver and perform its obligations under this Agreement and the Loan Documents and Other Related Documents, and all such obligations are and shall remain valid and binding obligations of Borrower; and (y) the entities or persons executing this Agreement on behalf of Borrower are duly authorized to execute and deliver this Agreement.

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6. **Non-Impairment**. Except as expressly provided herein, nothing in this Agreement shall alter or affect any provision, condition, or covenant contained in the Mortgage or any other Loan Document or any Other Related Document, or affect or impair any rights, powers, or remedies of Lender, it being the intent of the parties hereto that the provisions of the Mortgage, the other Loan Documents and Other Related Documents shall continue in full force and effect except as expressly modified hereby and by the First Amendment to Loan Documents and the Amended and Restated Note.

7. **Execution In Counterparts**. To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. The delivery of such counterparts may be accomplished by facsimile or through a PDF transmission, via e-mail (provided that original counterparts are also delivered for recording purposes). Signatures sent by facsimile or e-mail shall be binding to the same extent as original signatures.

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IN WITNESS WHEREOF, the undersigned have caused these presents to be signed by their respective duly authorized representatives as of the date first above written.

MORTGAGOR:

216 JAX LLC, a Michigan limited liability company

By: 216 Jax Manager, Inc., a Michigan corporation, its manager


By: 
Andrew Farbman, its President

STATE OF MI)
COUNTY OF Oakland) SS.

I, JUDITH M. SMITH, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Andrew Farbman, the President of 216 Jax Manager, Inc., a Michigan corporation, the manager of 216 Jax LLC, a Michigan limited liability company, the party to the foregoing instrument, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as his/her own free and voluntary act on behalf of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of September, 2010.

(SEAL)


Notary Public: Judith M. Smith
My Commission Expires: 6-23-11

JUDITH M. SMITH
NOTARY PUBLIC, STATE OF MI
COUNTY OF MACOMB
MY COMMISSION EXPIRES Jun 23, 2011
ACTING IN COUNTY OF Oakland

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Loan No. 104995

"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association

By: *Brett Hill*
Name: BRETT
Title: AVP

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Mary Guz the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Brett Hill, the Assistant Vice President of WELLS FARGO BANK, NATIONAL ASSOCIATION, the party to the foregoing instrument, 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/she signed and delivered said instrument as his/her own free and voluntary act on behalf of said national association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of September, 2010.



Mary Guz
Notary Public Mary Guz
My Commission Expires: 10/4/2012

This instrument prepared by ~~and after~~ ~~recording~~ should be returned to :

T. Randall Graeb, Esq.
Barack Ferrazzano Kirschbaum & Nagelberg LLP
200 West Madison Street, Suite 3900
Chicago, Illinois 60606

~~Return to:
Title Source Inc.
1450 W Long Lake Rd.
Suite 400
Troy, MI 48068~~

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EXHIBIT A

Legal Description

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

Lots 18, 19, 20, 21, 22, 53, 54, 55, 56 and 57 in Block 92, in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Property Address:

PIN No.:



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