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THIS DOCUMENT PREPARED BY:

Crowley & Lamb, P.C.
350 North LaSalle Street, Suite 900
Chicago, Illinois 60610

Doc#: 1029245054 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/19/2010 11:29 AM Pg: 1 of 8

AFTER RECORDING RETURN TO:

Diamond Bank, FSB
1051 Perimeter Drive
Schaumburg, IL 60173
Attn: Vice President-Loan Operations

This space reserved for Recorder's use only

MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made effective as of the 1st day of October, 2010, by and between **ALI MANESH** ("Borrower"), having an address of 1451 West Blackhawk, Second Floor, Chicago, Illinois 60622, and **DIAMOND BANK, FSB**, its successors and assigns, having an address as set forth above ("Lender").

RECITALS:

A. Lender has heretofore made a loan (the "Loan") to original Borrower in the principal amount of \$400,000.00, as evidenced by a Promissory Note dated September 12, 2005, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note"). Capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Note.

B. The Note is secured by, among other things, (i) that certain Mortgage and Security Agreement and UCC Fixture Filing dated September 12, 2005, from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on September 27, 2005 as Document No. 0527055197 (the "Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto ("Property"); (ii) that certain Assignment of Rents and Leases dated September 12, 2005, from Borrower to Lender and recorded with the Recorder's Office on September 27, 2005 as Document No. 0527055199 (the "Assignment of Leases"), and (iii) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, and any other document at any time evidencing, securing and guarantying the Loan, in their original form and as amended from time to time, are sometimes collectively referred to herein as the "Loan Documents").

C. The current outstanding principal balance of the Loan is \$378,402.37. Other amounts, including accrued interest, may be outstanding in connection with the Loan.

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D. Whereas, the Note matures by its terms on October 1, 2010. The Borrower have requested that Lender extend the maturity date of the Note until October 1, 2013 and Lender is willing to so extend the maturity date of the Note, on the terms and conditions more fully set forth hereinafter and in the Amended Note (defined below).

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 and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Extension of the Maturity Date and Other Modifications.** The following modifications are hereby made to the Loan Documents:

(a) **Extend Maturity.** Lender and Borrower agree that the Maturity Date for the Loan shall hereby be amended and extended from October 1, 2010 until October 1, 2013. All references in any and all Loan Documents to "Maturity Date" or words of similar import shall now mean October 1, 2013. Borrower agrees that the Loan, together with all obligations under the Loan Documents, shall be due and payable on October 1, 2013, or such earlier date that the Loan and all other obligations of Borrower to Lender shall be due and payable by acceleration or otherwise.

(b) **Amendments to the Mortgage and Other Loan Documents.** (i) All references in the Mortgage or other Loan Documents as to the Loan Amount or words of similar import secured by said Mortgage or other Loan Documents shall be amended to state Three Hundred Seventy Eight Thousand Four Hundred Two and 37/100THS DOLLARS U.S. (\$378,402.37) and the maximum amount of indebtedness secured by the Mortgage shall not exceed \$756,804.74.

(ii) The phrase "within fourteen (14) days after" in Section 13 (a) of the Mortgage is hereby deleted and the phrase "within five (5) days after" is substituted therefor.

(c) **Escrow.** Borrower shall pay to Lender, in addition to the monthly payments required under the Note and the other Loan Documents and concurrently therewith in a single payment monthly until the Note is paid in full, a sum equal to \$521.29 for real estate taxes on the Property required under the Loan Documents. Such sums shall be held by Lender for payment of such taxes as and when due and Borrower shall not have the right to withdraw, pledge, alienate, assign, or otherwise dispose of such sums. Lender shall have the right to commingle and hold such sums with its general funds, and no interest shall accrue thereon in favor of Borrower

(d) **Debit Account.** In order to effectuate the timely payment of Borrower's obligations under the Loan when due, including monthly escrow payments, the Borrower hereby authorizes and directs Lender, at the Lender's option, to debit any and all amounts of such obligations when due to deposit account #3110000080 ("Deposit Account") of the Borrower with Lender to apply to such obligations and Borrower will take all actions necessary or convenient as determined by Lender to permit and maintain such debits. Borrower shall remain liable for all payments of obligations under the Loan when due not debited to the Deposit Account for any reason.

(e) **Defaults.** Borrower agrees that any violation of the covenants contained in this Section 1 shall be, at Lender's option, an Event of Default under the Loan Documents. A default under any

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Loan Document shall, at the option of Lender, also constitute a default under any or all of the other Loan Documents.

2. **Amendment of the Note.** The Note shall be amended and restated by that certain Amended and Restated Promissory Note of even date herewith executed by Borrower in favor of Lender in the principal amount of \$378,402.37 (the "Amended Note"). As of the date hereof, the Amended Note restates and replaces the Note and is not a repayment or novation of the Note. All references in the Loan Documents, including this Agreement, to "Note" or words of similar import shall now mean the Amended Note. Notwithstanding any provision in the Loan Documents, the interest rate and payments applicable to the Loan shall be as set forth in the Amended Note.

3. **Continuing Validity.** Except as expressly modified above, the terms of the Mortgage and the other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of the Mortgage (as amended above) nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the promissory notes or other credit agreement secured by the Mortgage. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Amended Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement. If any person who signed the Mortgage does not sign this Agreement, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

4. **Representations and Warranties of Borrower.** Borrower hereby represent, covenant and warrant to Lender as follows:

- (a) The representations and warranties in the Amended Note, the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of the date hereof.
- (b) There is currently no Event of Default (as defined in the Loan Documents) under the Amended Note, the Mortgage or the other Loan Documents and none of the Borrower know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Amended 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 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, the Borrower does not have any 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 and the Amended Note have been duly executed and delivered on

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behalf of Borrower and are the legal, valid and binding obligations of Borrower enforceable in accordance with their terms.

5. **Title Policy.** At the request of Lender, Borrower shall, at its sole cost and expense, cause the applicable Title Company ("Title Company") to issue an endorsement to Lender's title insurance policy for the Loan (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.

6. **Conditions Precedent.** As conditions precedent to Lender's agreements contained herein: (a) Borrower shall pay to Lender (i) 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 and (ii) a non-refundable extension fee of \$1,000.00, (b) Borrower shall execute and deliver to Lender this Agreement and Borrower shall execute and deliver to Lender the Amended Note.

7. **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 acknowledge and waive 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 on one hand and Lender on the other hand 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 with respect to the Loan; and that all such prior understandings, agreements and representations with respect to the Loan 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. In the event of any inconsistency or conflict between this Agreement and any other Loan Document, the terms, provisions and conditions contained in this Agreement shall govern and control. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, unenforceable or invalid under any jurisdiction, such provision shall as to such jurisdiction, be severable and be ineffective to the

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extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

- (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 Amended 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.
- (g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.
- (h) Borrower, in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, does hereby remise, release and forever discharge, and by these presents, do for its successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and its respective successors, assigns, heirs, administrators, officers, personal representatives, attorneys, agents and successors in interest, from all actions, suits, causes of action, damages, expenses, liabilities, claims, accounts and demands, whatsoever, whether or not well-founded in fact or in law which its has, has had, or at any time may have, could have, or might have but for the execution of this Agreement, asserted against Lender, for or by reason of or in respect of any matter, cause or thing whatsoever, whether known or unknown, developed or undeveloped, past, present or future or whether permanent, continuing or otherwise, arising out of or connected with the Loan, the Amended Note, the Loan Documents or this Agreement.
- (i) Time is of the essence of Borrower's obligations under this Agreement.

[SIGNATURE PAGE ATTACHED]

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

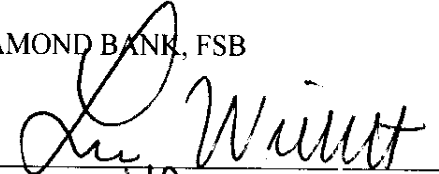
BORROWER:



ALI MANESH

LENDER:

DIAMOND BANK, FSB

By 
Its: VP

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

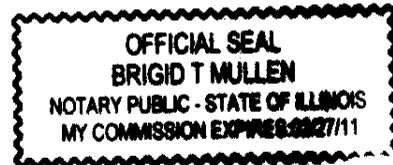
I, Brigid T. Mullen, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Lisa Knapp Vice president of Diamond Bank, FSB, known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of Diamond Bank, FSB, for the uses and purposes therein set forth.

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

Brigid T. Mullen
Notary Public

My Commission Expires:

2/27/2011



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Diana Farlinger, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that ALI MANESH and 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 this 9 day of October, 2010.

Diana Farlinger
Notary Public

My Commission Expires:

11/07/11



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EXHIBIT A

LEGAL DESCRIPTION

LOT 81 IN BLOCK 6 IN SUBDIVISION BY TRUSTEES OF ILLINOIS AND MICHIGAN CANAL OF THE WEST 1/2 OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID 1/4 OF SAID SECTION EXCEPTING FROM LOT 81 THAT PART LYING WEST OF A LINE 50 FEET EAST AND PARALLEL TO THE WEST LINE OF SECTION 5, AFORESAID IN COOK COUNTY, ILLINOIS.

PIN NO.: 17-05-107-015-0000

PROPERTY: 1413 NORTH ASHLAND AVENUE, CHICAGO, ILLINOIS

Property of Cook County Clerk's Office