

# UNOFFICIAL COPY



Doc#: 1029533016 Fee: \$50.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/22/2010 08:38 AM Pg: 1 of 8

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8488741028

THIS INSTRUMENT PREPARED BY AND  
AFTER RECORDING MAIL TO:

Vedder Price P.C.  
Attn: Matthew T. O'Connor, Esq.  
222 North LaSalle Street  
Chicago, Illinois 60601

## FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING STATEMENT

THIS FIRST AMENDMENT TO MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING STATEMENT (this "Amendment") is entered into as of the 19th day of October, 2010 by GOLD STANDARD ENTERPRISES, INC., an Illinois corporation ("Mortgagor"), in favor of US BANK NATIONAL ASSOCIATION, as successor in interest to Associated Bank, National Association ("Mortgagee").

### WITNESSETH:

WHEREAS, Mortgagor previously entered into an Amended and Restated Loan Agreement dated as of October 20, 2009 (the "Original Loan Agreement") with Associated Bank, National Association ("Associated Bank"), in its capacity as administrative agent, and the lenders party thereto, pursuant to which such lenders agreed to make loans to Mortgagor which were guaranteed by Drew Developments LLC, an Illinois limited liability company ("Drew Developments");

WHEREAS, Associated Bank assigned its duties as administrative agent under the Original Loan Agreement to US Bank National Association (in its capacity as administrative agent, together with any successors and assigns in such capacity, the "Administrative Agent");

WHEREAS, in connection with the Original Loan Agreement, Mortgagee and Mortgagor entered into a Mortgage, Assignment of Leases and Rents and Fixture Filing Statement dated as of October 20, 2009, which was recorded with the Recorder of Deeds of Cook County, Illinois on October 22, 2009 as Document Number 0929533045 (the "Agreement"), whereby Mortgagor mortgaged and warranted unto Mortgagee, its successors and assigns, among other things, the

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**Box 400-CTCC**

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real estate located at 213 West Grand Avenue, Chicago, Illinois, as legally described on Exhibit A attached hereto (the "Premises"), and all of its estate, right, title and interest therein situated, lying and being in the County of Cook and State of Illinois;

WHEREAS, Mortgagor and Drew Developments (collectively, the "Borrowers") have agreed to enter into a Second Amended and Restated Loan Agreement of even date herewith (as amended, restated or otherwise modified from time to time, the "Loan Agreement") with various financial institutions (the "Lenders") and the Administrative Agent, which serves to amend and restate the Original Loan Agreement pursuant to which the Lenders have agreed to, among other items, to refinance a term loan facility in the amount of \$20,064,000 and continue the existing revolving line of credit in the amount of \$40,000,000 under the Original Loan Agreement; and

WHEREAS, as a condition to entering into the Loan Agreement, the Mortgagee requires and Mortgagor has agreed to enter into this Amendment to account for the execution of the new Loan Agreement and the assignment of the administrative agent's role under the Original Loan Agreement from Associated Bank to US Bank National Association.

NOW, THEREFORE, for and in consideration of the premises and mutual agreements herein contained and for the purposes of setting forth the terms and conditions of this Amendment, the parties, intending to be bound, hereby agree as follows:

1. Incorporation of the Agreement. All capitalized terms which are not defined hereunder shall have the same meanings as set forth in the Agreement, and the Agreement to the extent not inconsistent with this Amendment is incorporated herein by this reference as though the same were set forth in its entirety. To the extent any terms and provisions of the Agreement are inconsistent with the amendments set forth in paragraph 2 below, such terms and provisions shall be deemed superseded hereby. Except as specifically set forth herein, the Agreement shall remain in full force and effect and its provisions shall be binding on the parties hereto.

2. Amendment of the Agreement.

(a) The Preamble and the recitals to the Agreement are hereby amended and restated to read as follows:

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING STATEMENT (this "Mortgage") dated October 20, 2009 is granted by Gold Standard Enterprises, Inc., an Illinois corporation (hereinafter called the "Mortgagor"), having its principal place of business at 5100 Dempster Street, Skokie, IL, to US Bank National Association, having an office at 209 South LaSalle Street, Chicago, Illinois 60604 (in its individual capacity as a lender, "US Bank"), and in its capacity as administrative agent for the Lenders (as defined below) (and in such capacity, "Mortgagee"), under the Second Amended and Restated Loan Agreement (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement") dated as of October 19, 2010 among Drew

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Developments LLC, an Illinois limited liability company, and Mortgagor (collectively, the "Borrower" or the "Borrowers"), various financial institutions (together with their respective successors and assigns, the "Lenders") and the Mortgagee, in its capacity as agent for the Lenders, which amends and restates that certain Amended and Restated Loan Agreement dated as of October 20, 2009 among the Borrowers, the Lenders and Associated Bank, National Association as agent thereunder. Except as otherwise provided herein, all capitalized terms used but not defined herein shall have the respective meanings given to them in the Loan Agreement. The Mortgagee and the Lenders, and any affiliate of a Lender party to a Hedging Agreement with the Borrower are referred to herein collectively as the "Secured Parties."

WHEREAS, on and subject to the terms of the Loan Agreement, the Lenders have made and will make Revolving Loans from time to time and a Term Loan to the Borrowers, which are secured by, among other things, this Mortgage and the other Collateral Documents (as the same may hereafter be amended, modified, extended, restated and/or renewed);

WHEREAS, Mortgagor will derive substantial benefits from the making of the Revolving Loans and the Term Loan by Mortgagee and Lenders to the Borrowers;

WHEREAS, the Mortgagor has agreed to grant to the Mortgagee, for the benefit of the Secured Parties, the liens and security interests referred to herein to secure (i) the payment and performance by the Borrowers of all their Obligations under and as defined in the Loan Agreement; (ii) the payment and performance by the Borrowers of all of their obligations under and with respect to Hedging Agreements; (iii) all other payment and performance obligations of the Mortgagor under this Mortgage; (iv) any future advances made by any Secured Party in connection with the Mortgaged Property (as defined below), whenever incurred; and (v) all of the Secured Parties' Costs and Expenses (as defined in Section 8(c) herein) (all of the aforesaid obligations of the Borrowers to any of the Secured Parties, together with the other payment and performance obligations and liabilities described herein, being hereinafter referred to collectively as the "Obligations Secured"); and

WHEREAS, the Obligations Secured shall not exceed an aggregate amount, at any one time outstanding, equal to the lesser of (i) One Hundred Twenty Million and 00/100 Dollars (\$120,000,000.00) plus all interest thereon (including, without limitation, all interest

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accruing during the pendency of any bankruptcy or insolvency proceeding with respect to any Borrower, regardless of whether such interest is an allowed claim in such proceeding), all Costs and Expenses and all other advances as provided in Section 8 below and (ii) the maximum amount of the Obligations Secured that any Borrower may incur without violating any fraudulent conveyance or fraudulent transfer law (the "Maximum Amount Secured"); provided that the foregoing limitation in clause (i) above shall apply only to the lien upon the real property created by this Mortgage, and it shall not in any manner limit, affect or impair any grant of a security interest or other right in favor of the Mortgagee under the provisions of the Loan Agreement or under any other mortgage, deed of trust, security agreement, pledge agreement or other document at any time executed by any Borrower.

(b) Any and all references in the Agreement to the Borrower shall be deemed to refer to each of Mortgagor and Drew Developments LLC, an Illinois limited liability company.

(c) Any and all references in the Agreement to Associated Bank, National Association shall refer to US Bank National Association, in its capacity as administrative agent for the Lenders.

3. Representations and Warranties. The representations, warranties and covenants set forth in the Agreement shall be deemed remade and affirmed as of the date hereof by Mortgagor, except that any and all references to the Agreement in such representations, warranties and covenants shall be deemed to include this Amendment.

4. Acknowledgment and Reaffirmation of the Validity and Enforceability of the Agreement. Mortgagor expressly acknowledges and agrees that the Agreement constitutes the legal, valid and binding obligation of Mortgagor enforceable in accordance with its terms by Administrative Agent (for the benefit of the Lenders) against Mortgagor and Mortgagor expressly reaffirms its obligations under the Agreement (as amended by this Amendment). Mortgagor further expressly acknowledges and agrees that Administrative Agent (for the benefit of the Lenders) has a valid, duly perfected, first priority and fully enforceable security interest in and lien against the Mortgaged Property therein as security for all Obligations Secured, as amended hereby. Mortgagor agrees that it shall not dispute the validity or enforceability of the Agreement or any of the other Loan Documents or any of its respective obligations thereunder, or the validity, priority, enforceability or extent of Administrative Agent's security interest in or lien against any item of Mortgaged Property, in any judicial, administrative or other proceeding.

5. Relation Back. It is the intent of Mortgagor and Mortgagee that this Amendment will relate back to and be effective as if adopted on October 20, 2009.

6. Effectuation. The amendments to the Agreement contemplated by this Amendment shall be deemed effective immediately upon the full execution of this Amendment

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and without any further action required by the parties hereto. There are no conditions precedent or subsequent to the effectiveness of this Amendment.

(Signature Page Follows)

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

Property of Cook County Clerk's Office

COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_

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(Signature Page to First Amendment to Mortgage)

IN WITNESS WHEREOF, Mortgagor has duly executed this Amendment as of the date first above written.

MORTGAGOR:

GOLD STANDARD ENTERPRISES, INC., an Illinois corporation

By: MB  
Michael Binstein  
CEO

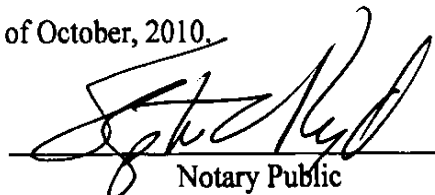
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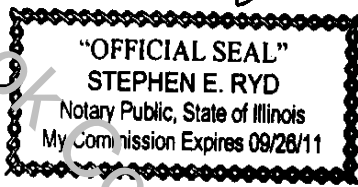
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, STEPHEN E RYD, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Michael Binstein, the CEO of GOLD STANDARD ENTERPRISES, INC., an Illinois corporation, 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 she signed, sealed and delivered the said instrument as her free and voluntary act and as the free and voluntary act of the Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17<sup>th</sup> day of October, 2010.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 9/26/11



*THIS INSTRUMENT WAS PREPARED  
BY AND SHOULD BE RETURNED TO:*

Matthew T. O'Connor, Esq.  
Vedder Price P.C.  
222 North LaSalle Street, Suite 2600  
Chicago, Illinois 60601-1003

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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 9, 10, 11, 12, 13, 14, 15, 16 AND 17 IN BLOCK 12 IN NEWBERRY'S ADDITION TO CHICAGO, A SUBDIVISION OF 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.

Commonly known as: 213 West Grand Avenue, Chicago, Illinois

PIN Nos: 17-09-244-001-0000;  
17-09-244-002-0000; and  
17-09-244-003-0000.