



Doc#: 1101131043 Fee: \$62.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/11/2011 12:01 PM Pg: 1 of 14

After recording, return to:
Francis X. Buckley, Jr.
Thompson Coburn LLP
55 E. Monroe, 37th Floor
Chicago, Illinois 60603

TWELFTH INTERIM MODIFICATION AGREEMENT

This TWELFTH INTERIM MODIFICATION AGREEMENT (this "Twelfth Interim Modification Agreement") dated as of December 29, 2010, with an effective date of November 15, 2010, is made and entered into by and between FROZEN ASSETS PROPERTIES, LLC, an Illinois limited liability company, whose address is c/o Urban Investment Research Corp., 4201 West 36th Street, Suite 230, Chicago, IL 60632 ("Borrower"), and S. BISMARCK BRACKETT ("Guarantor") and U.S. BANK NATIONAL ASSOCIATION, whose address is 209 South LaSalle Street, Suite 210, Chicago, IL 60604 ("Lender"). This Twelfth Interim Modification Agreement is based upon the following recitals which are made a material part of this Twelfth Interim Modification Agreement.

A. Borrower is indebted to Bank under that certain Secured Promissory Note made by Borrower in favor of Bank dated December 20, 2007 (the "Note"), in the original principal amount of THIRTY MILLION DOLLARS (\$30,000,000.00) (the "Loan Amount").

B. The Loan, as hereinafter defined, evidenced by the Note was made to Borrower pursuant to a certain Loan Agreement, dated December 20, 2007 (the "Loan Agreement").

C. The Note is secured and guaranteed by the following documents and instruments:

(1) That certain first priority Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing granted by Borrower for the benefit of Lender, dated as of December 20, 2007, and recorded on December 26, 2007, as Document No. 0736034089, with the Cook County Recorder of Deeds (as otherwise amended, modified, restated or renewed heretofore, in connection herewith, or from time to time hereafter, the "Mortgage") and covering the real estate legally described in Exhibit A attached hereto (the "Land") and the Property, as defined in the Mortgage;

UNOFFICIAL COPY

(2) That certain Guaranty of Payment, Performance, Carry and Completion, dated as of December 20, 2007 (the "Guaranty"), given to Lender by Guarantor;

(3) That certain Hazardous Materials Indemnity Agreement, dated as of December 20, 2007 (the "Environmental Indemnity"), given to Lender by Borrower and Guarantor;

(4) That certain Assignment of Plans and Specifications, Permits, Contracts and Development Rights, dated as of December 20, 2007 (the "Assignment of Plans"), given to Lender by Borrower;

(5) That certain Assignment and Subordination of Management Agreement, dated as of December 20, 2007 (the "Assignment of Management Agreement"), given to Lender by Borrower and Management Agent (as defined in the Loan Agreement);

(6) Certain UCC-1 Financing Statements and other loan documents as defined in the Loan Agreement.

D. Pursuant to a certain First Modification Agreement by and among Borrower, Guarantor and Lender dated as of February 1, 2008, and recorded on May 8, 2008 as Document No. 0812909082 with the Cook County Recorder of Deeds (the "First Modification"), Lender agreed to amend certain terms of the Loan Documents (as defined below).

E. The Note, the Loan Agreement, the Mortgage, the Guaranty, the Environmental Indemnity, the Assignment of Plans, the Assignment of Management Agreement, the First Modification, and the UCC-1 Financing Statements along with the other Security Documents, as defined in the Loan Agreement, are hereinafter referred to as the "Loan Documents."

F. Borrower and NAREP II US TRS Assets Holdings, LLC, a Delaware limited liability company ("Original Mezzanine Lender") entered into that certain Loan Agreement, dated as of December 20, 2007 (as same may be hereafter amended, the "Mezzanine Loan Agreement"), wherein Mezzanine Lender made a loan to Borrower in the maximum principal amount of \$8,000,000.00 (the "Mezzanine Loan") upon the terms and conditions set forth in the Mezzanine Loan Agreement, for the purpose of developing the Property.

G. The Mezzanine Loan is evidenced by, among other things, that certain Secured Promissory Note, dated as of December 20, 2007, in the maximum principal amount of \$8,000,000.00, made by Borrower and payable to Original Mezzanine Lender (as same may be hereafter amended, the "Mezzanine Note"). The maturity date set forth in the Mezzanine Note was December 19, 2008 (the "Mezzanine Loan Original Maturity Date").

H. The Mezzanine Note and the other obligations and liabilities under the terms of the Mezzanine Loan Agreement are secured by: (i) that certain Mortgage, Security Agreement, Assignment of Rents and Fixture Filing granted by Borrower, dated as of December 20, 2007, and recorded on December 26, 2007, as Document No. 0736034091 with the Cook County Recorder of Deeds, which is a lien upon Borrower's right, title and interest in the Property to secure the obligations and liabilities of Borrower to Mezzanine Lender (as same may be hereafter amended, the "Mezzanine Mortgage") (the Mezzanine Loan Agreement, the Mezzanine Note, the

UNOFFICIAL COPY

Mezzanine Mortgage and the other documents, instruments, certificates and agreements entered into by Borrower, Guarantor or their affiliates to evidence and/or secure the Mezzanine Loan are collectively referred to herein as the "Mezzanine Loan Documents") and (ii) the other Mezzanine Loan Documents.

I. Lender and Original Mezzanine Lender entered into that certain Subordination and Intercreditor Agreement, dated as of December 20, 2007 and recorded on December 26, 2007, as Document No. 0736034092, with the Cook County Recorder of Deeds (the "Intercreditor Agreement"), by which the relative rights and obligations of Lender and Mezzanine Lender and the relative priority of the Mezzanine Loan Documents and the Loan Documents were established.

J. Subsequent to December 20, 2007, Original Mezzanine Lender assigned all of its right, title and interest under the Mezzanine Note and Mezzanine Loan Documents to NAREP II US REIT Assets Holdings, LLC, a Delaware limited liability company (the "Mezzanine Lender").

K. Pursuant to a certain First Modification of Subordination and Intercreditor Agreement by and between Lender and Mezzanine Lender dated as of February 1, 2008, and recorded on May 8, 2008 as Document No. 0812909083 with the Cook County Recorder of Deeds (the "First Modification of Subordination and Intercreditor Agreement"), Mezzanine Lender consented to the terms of the First Modification between Borrower and Lender.

L. The Maturity Date of the Loan occurred on December 19, 2008 (the "Original Maturity Date"), and Borrower failed to repay the Loan Amount on the Original Maturity Date.

M. The Maturity Date of the Mezzanine Note also occurred on December 19, 2008, and Borrower failed to repay the Mezzanine Loan Amount on the Maturity Date.

N. Pursuant to a certain Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of March 10, 2009 (the "First Interim Modification"), Lender agreed to extend the Original Maturity Date until March 19, 2009 (the "First Extended Maturity Date"), subject to the terms and conditions set forth in the First Interim Modification.

O. Borrower failed to repay the Mezzanine Loan Amount on the First Extended Maturity Date. Accordingly, an Event of Default exists under the Note and Loan Agreement, and as a further consequence of said Event of Default, interest is currently accruing on the Loan Amount at the Default Rate set forth in the Note and Loan Agreement.

P. Lender and Borrower desired to extend the First Extended Maturity Date of the Loan for a further interim period up to May 15, 2009 (the "Second Extended Maturity Date").

Q. Pursuant to a certain Second Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of May 15, 2009 (the "Second Interim Modification"), Lender agreed to extend the Original Maturity Date until May 15, 2009 (the "Second Extended Maturity Date"), subject to the terms and conditions set forth in the Second Interim Modification.

UNOFFICIAL COPY

- R. Lender and Borrower desired to extend the Second Extended Maturity Date of the Loan for a further interim period up to July 15, 2009 (the "Third Extended Maturity Date").
- S. Pursuant to a certain Third Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of July 15, 2009 (the "Third Interim Modification"), Lender agreed to extend the Original Maturity Date until the Third Extended Maturity Date, subject to the terms and conditions set forth in the Third Interim Modification.
- T. Lender and Borrower desired to extend the Third Extended Maturity Date of the Loan for a further interim period up to September 15, 2009 (the "Fourth Extended Maturity Date").
- U. Pursuant to a certain Fourth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of September 15, 2009 (the "Fourth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Fourth Extended Maturity Date, subject to the terms and conditions set forth in the Fourth Interim Modification.
- V. Lender and Borrower desired to extend the Fourth Extended Maturity Date of the Loan for a further interim period up to November 15, 2009 (the "Fifth Extended Maturity Date").
- W. Pursuant to a certain Fifth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of November 24, 2009, with an effective date of September 15, 2009 (the "Fifth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Fifth Extended Maturity Date, subject to the terms and conditions set forth in the Fifth Interim Modification.
- X. Lender and Borrower desired to extend the Fifth Extended Maturity Date of the Loan for a further interim period up to January 15, 2010 (the "Sixth Extended Maturity Date").
- Y. Pursuant to a certain Sixth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of January 7, 2010, with an effective date of November 15, 2009 (the "Sixth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Sixth Extended Maturity Date, subject to the terms and conditions set forth in the Sixth Interim Modification.
- Z. Lender and Borrower desired to extend the Sixth Extended Maturity Date of the Loan for a further interim period up to March 15, 2010 (the "Seventh Extended Maturity Date").
- AA. Pursuant to a certain Seventh Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of March 9, 2010, with an effective date of January 15, 2010 (the "Seventh Interim Modification"), Lender agreed to extend the Original Maturity Date until the Seventh Extended Maturity Date, subject to the terms and conditions set forth in the Seventh Interim Modification.
- BB. Lender and Borrower desired to extend the Seventh Extended Maturity Date of the Loan for a further interim period up to May 15, 2010 (the "Eighth Extended Maturity Date").

UNOFFICIAL COPY

CC. Pursuant to a certain Eighth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of May 18, 2010, with an effective date of March 15, 2010 (the "Eighth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Eighth Extended Maturity Date, subject to the terms and conditions set forth in the Eighth Interim Modification.

DD. Lender and Borrower desired to extend the Eighth Extended Maturity Date of the Loan for a further interim period up to July 15, 2010 (the "Ninth Extended Maturity Date").

EE. Pursuant to a certain Ninth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of July 9, 2010, with an effective date of May 15, 2010 (the "Ninth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Ninth Extended Maturity Date, subject to the terms and conditions set forth in the Ninth Interim Modification.

FF. Lender and Borrower desired to extend the Ninth Extended Maturity Date of the Loan for a further interim period up to September 15, 2010 (the "Tenth Extended Maturity Date").

GG. Pursuant to a certain Tenth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of September 7, 2010, with an effective date of July 15, 2010 (the "Tenth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Tenth Extended Maturity Date, subject to the terms and conditions set forth in the Tenth Interim Modification.

HH. Lender and Borrower desired to extend the Tenth Extended Maturity Date of the Loan for a further interim period up to November 15, 2010 (the "Eleventh Extended Maturity Date").

II. Pursuant to a certain Eleventh Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of November 24, 2010, with an effective date of September 15, 2010 (the "Eleventh Interim Modification"), Lender agreed to extend the Original Maturity Date until the Eleventh Extended Maturity Date, subject to the terms and conditions set forth in the Eleventh Interim Modification.

JJ. Lender and Borrower desire to extend the Eleventh Extended Maturity Date of the Loan for a further interim period up to December 30, 2010 (the "Twelfth Extended Maturity Date"), as more fully provided herein. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Agreement.

KK. Pursuant to this Twelfth Interim Modification Agreement by and among Borrower, Guarantor and Lender dated as of December 29, 2010, with an effective date of November 15, 2010 (the "Twelfth Interim Modification"), Lender agreed to extend the Original Maturity Date until the Twelfth Extended Maturity Date, subject to the terms and conditions set forth in this Twelfth Interim Modification.

NOW, THEREFORE, in consideration of the recitals and the mutual covenants contained in this Twelfth Interim Modification Agreement, and for other good and valuable consideration,

UNOFFICIAL COPY

the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree to modify the Note, Mortgage, and other Loan Documents as follows:

1. Amendment to Maturity Date.

- (a) All references in the Note, Loan Agreement and other Loan Documents to the "Maturity Date" of "December 19, 2008" or "March 19, 2009" or "May 15, 2009", "July 15, 2009," "September 15, 2009," "November 15, 2009," "January 15, 2010," "March 15, 2010," "May 15, 2010," "July 15, 2010," "September 15, 2010" or "November 15, 2010" are hereby deleted and the date of "December 30, 2010" is substituted in their place.
- (b) Any reference in the Mortgage and other Loan Documents to the "Maturity Date" or the date on which the final installment shall be due and payable under the Note shall be deemed to refer to substituted definition of Maturity Date set forth above.
- (c) The period of time from December 19, 2008, to March 19, 2009, provided for above is hereinafter referred to as the "First Interim Extension Period."
- (d) The period of time from March 19, 2009, to May 15, 2009, provided for above is hereinafter referred to as the "Second Interim Extension Period."
- (e) The period of time from May 15, 2009, to July 15, 2009, provided for above is hereinafter referred to as the "Third Interim Extension Period."
- (f) The period of time from July 15, 2009, to September 15, 2009, provided for above is hereinafter referred to as the "Fourth Interim Extension Period."
- (g) The period of time from September 15, 2009, to November 15, 2009, provided for above is hereinafter referred to as the "Fifth Interim Extension Period."
- (h) The period of time from November 15, 2009, to January 15, 2010, provided for above is hereinafter referred to as the "Sixth Interim Extension Period."
- (i) The period of time from January 15, 2010, to March 15, 2010, provided for above is hereinafter referred to as the "Seventh Interim Extension Period."
- (j) The period of time from March 15, 2010, to May 15, 2010, provided for above is hereinafter referred to as the "Eighth Interim Extension Period."
- (k) The period of time from May 15, 2010, to July 15, 2010, provided for above is hereinafter referred to as the "Ninth Interim Extension Period."
- (l) The period of time from July 15, 2010, to September 15, 2010, provided for above is hereinafter referred to as the "Tenth Interim Extension Period."
- (m) The period of time from September 15, 2010, to November 15, 2010, provided for above is hereinafter referred to as the "Eleventh Interim Extension Period."

UNOFFICIAL COPY

(n) The period of time from November 15, 2010, to December 30, 2010, provided for above is hereinafter referred to as the "Twelfth Interim Extension Period."

2. Interest During First Interim Extension Period. Pursuant to the First Interim Modification, Lender agreed that it would collect interest at the Interest Rate for the First Interim Extension Period, but reserved the right and option to collect retroactively to the Original Maturity Date the difference between any interest actually collected by Lender at the Interest Rate and interest at the Default Rate for the First Interim Extension Period, unless on or before the expiration of the First Interim Extension Period either: (i) the entire principal balance, accrued interest and all other costs and expenses of Lender that are payable by Borrower to Lender pursuant to the Note and Loan Documents was repaid in full; or (ii) Borrower, Lender and Mezzanine Lender entered into loan modification documents for a further extension of the maturity dates of the Loan and the Mezzanine Loan containing terms and conditions in all respects acceptable to Lender in its sole and absolute discretion. Borrower acknowledges and agrees that neither of the two foregoing conditions occurred and that therefore an Event of Default exists and Lender has the right and option, among its other rights and remedies, to collect retroactively to the Original Maturity Date the difference between any interest actually collected by Lender at the Interest Rate and interest at the Default Rate for the First Interim Extension Period. Borrower further acknowledges and agrees that by entering into this Twelfth Interim Extension Agreement Lender does not waive its right to collect the foregoing Default Interest for the First Interim Extension Period and that Lender retains the right and option to collect such Default Interest at such time as Lender determines in its sole discretion.

3. Interest During Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Interim Extension Period. Borrower acknowledges and agrees that interest is currently accruing on the Loan Amount at the Default Rate provided for in the Note and Loan Agreement and that Lender has the right and option to collect interest at the Default Rate. Borrower acknowledges and agrees that the Loan Agreement grants to Lender the right and option to use funds currently on deposit with Lender in the Interest Reserve and/or any other deposit account(s) with Lender for the payment to Lender of interest on the Note and/or to pay Lender any other costs and expenses of Lender that are payable by Borrower to Lender pursuant to the Note and Loan Documents. Borrower hereby irrevocably authorizes and directs Lender to disburse funds from the Interest Reserve and/or from any other account(s) held by Lender to pay itself any and all interest that is currently accrued and unpaid under the Note and to pay any interest that accrues and becomes payable in the future and to pay Lender any other costs and expenses that are payable to Lender under the Note and Loan Documents, including interest at the Default Rate, if and when Lender decides to collect interest at the Default Rate either prospectively or retroactively to the Original Maturity Date, Lender does not agree that it shall collect interest at only the Interest Rate for the Twelfth Interim Extension Period, but reserves the right and option to collect interest at the Default Rate, starting at any time during the Twelfth Interim Extension Period. In addition, even if for any period of time Lender initially collects interest only at the Interest Rate, Lender reserves the right and option to collect interest at the Default Rate either retroactively to the Original Maturity Date or retroactively to the First Extended Maturity Date, the Second Extended Maturity Date, the Third Extended Maturity Date, the Fourth Extended Maturity Date, the Fifth Extended Maturity Date, the Sixth Extended Maturity Date, the Seventh Extended Maturity Date, the Eighth Extended Maturity Date, Ninth Extended Maturity Date, Tenth Extended Maturity Date or the Eleventh Extended Maturity Date.

UNOFFICIAL COPY

Borrower hereby acknowledges and agrees that Lender does not, by entering into this Twelfth Interim Modification Agreement, waive any existing Event of Default. Borrower hereby further acknowledges and agrees that Lender does not, by entering into this Twelfth Interim Modification Agreement, waive its right under the Loan Documents to apply any funds collected from Borrower in such order and for such purposes as Lender is allowed to in its discretion under the Loan Documents when an Event of Default exists.

4. Mezzanine Lender Actions Under Intercreditor Agreement. In the opinion of Lender the Intercreditor Agreement does not require Mezzanine Lender's consent to an amendment or modification such as the First Interim Modification, the Second Interim Modification Agreement, the Third Interim Modification Agreement, the Fourth Interim Modification Agreement, the Fifth Interim Modification Agreement, Sixth Interim Modification Agreement, Seventh Interim Modification Agreement, Eighth Interim Modification Agreement, Ninth Interim Modification Agreement, Tenth Interim Modification Agreement, Eleventh Interim Modification Agreement or this Twelfth Interim Modification Agreement because each merely extends the Original Maturity Date and does not increase the interest rate(s) provided for under the Loan Documents. Nevertheless, Borrower and Lender agree that in the event Mezzanine Lender at any time claims or asserts that the First Interim Modification, the Second Interim Modification Agreement, the Third Interim Modification Agreement, the Fourth Interim Modification Agreement, the Fifth Interim Modification Agreement, Sixth Interim Modification Agreement, Seventh Interim Modification Agreement, Eighth Interim Modification Agreement, Ninth Interim Modification Agreement, Tenth Interim Modification Agreement, Eleventh Interim Modification Agreement or this Twelfth Interim Modification Agreement was entered into by Borrower and Lender in violation of the terms and conditions of the Intercreditor Agreement that govern the amendment of the Loan Documents or in violation of any other provision(s) of the Intercreditor Agreement, Lender shall have and reserve the right to declare the First Interim Modification, the Second Interim Modification Agreement, the Third Interim Modification Agreement, the Fourth Interim Modification Agreement, the Fifth Interim Modification Agreement, Sixth Interim Modification Agreement, Seventh Interim Modification Agreement, Eighth Interim Modification Agreement, Ninth Interim Modification Agreement, Tenth Interim Modification Agreement, Eleventh Interim Modification Agreement or this Twelfth Interim Modification Agreement revoked, null and void ab initio and shall have and reserve the right to restore the circumstances surrounding the Note, Loan Agreement, Mortgage and other Loan Documents, the accounting for interest and/or any other costs or charges paid from the Interest Reserve and other account(s) held by Lender, and the recordkeeping and accounting otherwise for the Loan and Loan Documents to their status quo ante as of the date hereof.

5. Outstanding Balance. Borrower acknowledges and agrees that the principal balance outstanding under the Note as of the date hereof is \$30,000,000.00.

6. Representations and Warranties. Borrower and Guarantors hereby represent and warrant to, and covenant and agree for the benefit of, Lender as follows:

(a) This Twelfth Interim Modification Agreement has been duly executed and delivered and constitutes the legal, valid and binding obligation of Borrower enforceable in

UNOFFICIAL COPY

accordance with its terms, subject to applicable bankruptcy and insolvency laws, and general principles of equity.

(b) As of the date hereof all of the representations, warranties and covenants of Borrower and Guarantors set forth in the Note, the Mortgage and other Loan Documents are true and correct as if made on the date hereof, and no default or event of default under or within the meaning of the Note, the Mortgage or other Loan Documents has occurred and is continuing thereunder.

7. Ratification of Loan Documents. Except as expressly modified herein, the Note, the Mortgage and the other Loan Documents, are hereby ratified and confirmed, and shall remain in full force and effect, and the Note shall continue to be secured by the Mortgage, and the Loan and the Note shall continue to be guaranteed by the Guaranty, and nothing herein contained and nothing done pursuant hereto, shall affect the lien, charge or encumbrance of the Mortgage, or the priority thereof with respect to other liens, charges, encumbrances or conveyances, or release or affect the liability of any party or parties whomsoever who may now or hereafter be liable under or on account of the Loan Documents. Any reference to the Mortgage in any of the Loan Documents is hereby deemed to be a reference to such instrument as hereby modified.

8. Authorizations. Borrower and Guarantor hereby represent and warrant to Lender that all resolutions, authorizations or consents necessary for Borrower and Guarantor to execute, deliver and perform this Twelfth Interim Modification Agreement have been obtained and are in full force and effect on the date hereof. Borrower and Guarantor authorize Lender to record this Twelfth Interim Modification Agreement.

9. Successors and Assigns. This Twelfth Interim Modification Agreement shall be binding on Borrower, Guarantor and Lender, and their respective successors and assigns. "Borrower", "Guarantor" and "Lender," as used herein, shall be deemed to include Borrower's, Guarantor's and Lender's successors, assigns, authorized agents, designees, transferees, and purchasers of such entity's interests, respectively.

10. No Waiver. No waiver of any breach or default hereunder shall constitute or be construed as a waiver by Lender of any subsequent breach or default or of any breach or default of any other provisions of this Twelfth Interim Modification Agreement. Any waiver by Lender must be in writing and will not be construed as a continuing waiver. No waiver will be implied from delay or failure to take action on account of any default of Borrower.

11. Counterparts. This Twelfth Interim Modification Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Interim Modification Agreement.

12. Amendment. This Twelfth Interim Modification Agreement may not be modified or amended except by written agreement of the parties hereto. The headings in this Twelfth Interim Modification Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of and provisions hereof. If any term, covenant or condition, agreement, or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Twelfth Interim Modification Agreement, or

UNOFFICIAL COPY

the application of such term, covenant or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each covenant and condition of this Twelfth Interim Modification Agreement shall be valid and enforceable to the fullest extent permitted by law. This Twelfth Interim Modification Agreement represents the entire agreement between the parties and all prior negotiations and oral or written communications between the parties concerning the subject loan are superseded hereby.

13. Consent of Guarantor. Guarantor expressly consents to the terms, provisions and conditions of this Twelfth Interim Modification Agreement and acknowledges and ratifies all terms of the Note, the Mortgage and other Loan Documents, as modified by this Twelfth Interim Modification Agreement.

[Signatures and Acknowledgments on Following Pages]

Property of Cook County Clerk's Office


UNOFFICIAL COPY

COUNTERPART SIGNATURE PAGE TO INTERIM MODIFICATION AGREEMENT

IN WITNESS WHEREOF, Borrower has caused this Twelfth Interim Modification Agreement to be signed and sealed by its duly authorized representative as of the day and year first above written.

FROZEN ASSETS PROPERTIES, LLC,
an Illinois limited liability company

By: Frozen Assets Properties Manager, LLC,
An Illinois limited liability company,
Its Manager

By: 
S. Bismarck Brackett
Manager

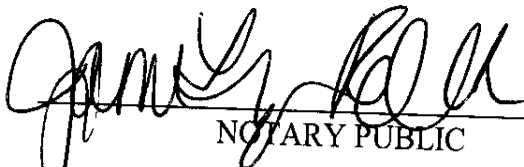
Property of Cook County Clerk's Office

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that S. BISMARCK BRACKETT, the Manager of Borrower, personally known to me to be the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of December, 2010




NOTARY PUBLIC
My Commission Expires: 2/16/11

UNOFFICIAL COPY

COUNTERPART SIGNATURE PAGE TO INTERIM MODIFICATION AGREEMENT
CONSENT OF GUARANTOR

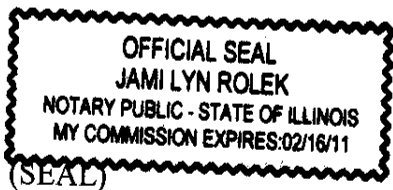
IN WITNESS WHEREOF, Guarantor has caused this Twelfth Interim Modification Agreement to be signed and sealed as of the day and year first above written.



S. Bismarck Brackett

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that S. BISMARCK BRACKETT, personally known to me to be the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of December, 2010.




NOTARY PUBLIC
My Commission Expires: 2/16/11

UNOFFICIAL COPY

COUNTERPART SIGNATURE PAGE TO INTERIM MODIFICATION AGREEMENT

IN WITNESS WHEREOF, Lender has caused this Twelfth Interim Modification Agreement to be signed and sealed by its duly authorized representative as of the day and year first above written.

U.S. BANK NATIONAL ASSOCIATION

By: Jessica Parks
Its: Commercial Banking Officer

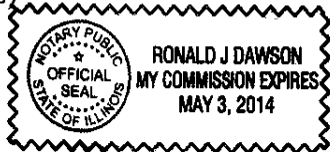
STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jessica Parks, the Commercial Banking Officer of Lender, personally known to me to be the same person whose name is subscribed in the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of December, 2010.

Ronald J. Dawson
NOTARY PUBLIC

(SEAL)



My Commission Expires: May 3, 2014

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST LINE OF SOUTH WESTERN AVENUE AS WIDENED BY AN ORDINANCE OF THE CITY OF CHICAGO PASSED OCTOBER 28, 1925, SAID POINT BEING 110.06 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 30 AND 53.29 FEET EAST OF AND AT RIGHT ANGLES TO THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE SOUTHERLY ALONG THE AFORESAID EAST LINE OF SOUTH WESTERN AVENUE, A DISTANCE OF 347.15 FEET TO A POINT 63.64 FEET EAST OF AND AT RIGHT ANGLES TO THE AFORESAID WEST LINE OF THE SOUTHWEST 1/4; THENCE EAST ALONG A LINE DRAWN AT RIGHT ANGLES TO THE SAID WEST LINE, A DISTANCE OF 1236.93 FEET TO A POINT ON THE WEST LINE OF SOUTH LEAVITT STREET; THENCE NORTH ALONG THE WEST LINE OF SOUTH LEAVITT STREET, A DISTANCE OF 347 FEET TO A POINT ON A LINE WHICH INTERSECTS THE AFORESAID WEST LINE OF THE SOUTHWEST 1/4 AT RIGHT ANGLES THERETO; THENCE WEST ALONG SAID LINE, A DISTANCE OF 1247.57 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

P.I.N. #: 17-30-300-013-0000

Address: 2635 South Western Avenue, Chicago, Illinois