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Doc#: 1107444075 Fee: \$64.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 03/15/2011 03:22 PM Pg: 1 of 15

**THIS DOCUMENT WAS PREPARED
BY AND AFTER RECORDING
SHOULD BE RETURNED TO:**

Jay R. Goldberg
Field and Goldberg, LLC
10 South LaSalle Street
Suite 2910
Chicago, IL 60603

ADDRESS OF PROPERTY:
4001 West Fullerton Avenue
Chicago, IL 60639

PERMANENT INDEX NO.:
13-34-208-003-0000
13-34-208-004-0000
13-34-208-005-0000

SECOND LOAN MODIFICATION AGREEMENT

THIS SECOND LOAN MODIFICATION AGREEMENT (the "Agreement") is made and entered into as of the 10th day of December, 2010 by and among **MB FINANCIAL BANK, N.A.**, ("Lender"), **NORTH STAR TRUST COMPANY, as successor trustee to Capital Bank and Trust Company of Chicago, not personally but solely as trustee under trust agreement dated June 6, 1985 and known as Trust No. 883 ("Trust 833"), FRANK TUFANO, JERRY C. TUFANO and SUSAN MICHI** (herein, together with Trust 833, individually and collectively called "Borrower").

WITNESSETH:

WHEREAS, Trust 833 is the owner of certain real estate (the "Premises") commonly known as 4001 West Fullerton Avenue which is located in the City of Chicago, County of Cook, State of Illinois and more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, Lender has heretofore made a mortgage loan (the "Loan") to Borrower in the stated principal sum of Three Hundred Fifty Thousand Dollars and No Cents (\$350,000.00); and

WHEREAS, the Loan is evidenced and secured by the following documents in favor of Lender (hereinafter defined and all other documents evidencing, securing or otherwise governing the Loan are collectively referred to as the "Loan Documents") each of which is dated as of January 7, 2004 unless otherwise stated:

(a) Note (the "Note") made by Borrower in the stated principal sum of Three Hundred Fifty Thousand Dollars (\$350,000.00);

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(b) Mortgage (herein called the "Mortgage") made by Trustee encumbering the Premises and the improvements thereon and all other property, assets and collateral therein described, which Mortgage was recorded in the Office of the Recorder of Deeds of Cook County, Illinois (herein called the "Recorder's Office") as Document No. 0401333061;

(c) Assignment of Rents and Leases made by Trustee, recorded in the Recorder's Office as Document No. 0401333062;

(d) Uniform Commercial Code Financing Statements made by Borrower, as debtor, to Lender, as secured party, recorded in the Recorder's Office as Document No. 0401333063 and filed with the Illinois Secretary of State as Document No. 8101590; and

(e) Loan Modification Agreement dated November 17, 2005 by and among Lender and Borrower, recorded in the Recorder's Office as Document No. 0703942102; and

WHEREAS, as of the date hereof, the current principal balance of the Loan is Two Hundred Ninety Nine Thousand Two Hundred Nine Dollars and Twenty Two Cents (\$299,209.22); and

WHEREAS, Lender and Borrower have agreed to certain modifications to the Loan Documents; and

WHEREAS, the agreements of the parties are set forth herein and limited to this Agreement.

AGREEMENT

NOW, THEREFORE, for valuable considerations, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

1. **Preambles.** The preambles hereto are incorporated herein by reference as fully and with the same force and effect as if each and every term, provision and condition thereof was specifically recited herein at length.

2. **Definitions.** All terms herein not otherwise defined shall have the same meanings as in the Note, Mortgage and in the other Loan Documents.

3. **Amendment to Note.** In addition to any other modifications contained in this Agreement, the terms of the Note are hereby amended as follows:

(a) The Maturity Date of the Note shall be March 10, 2011.

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(b) The following subsection 2.G is hereby added to the Note:

G. "Obligations" shall mean all liabilities, indebtedness and obligations of Borrower to Lender, howsoever created, arising or evidenced, and howsoever owned, held or acquired, whether now or hereafter existing, now due or to become due, direct or indirect, absolute or contingent, primary or secondary or joint or several, including without limitation all principal, accrued interest (including without limitation interest accruing after the filing of any petition in bankruptcy), present and future advances made by or on behalf of Lender, under the Loan Documents to or for the benefit of Borrower, obligations of performance, charges, expenses, attorneys' fees and other sums chargeable to Borrower by Lender, collection and other costs and expenses incurred by or on behalf of Lender, whether incurred before or after judgment, and all other present and future liabilities, indebtedness and obligations of Borrower under the Loan Documents.

(c) The following Subsections (D) through (I) are hereby added to Section 4 of the Note:

(D) If Borrower fails to perform and comply, in a timely manner, with all terms, conditions and provisions set forth in the Note, in the Loan Documents, and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any default in connection with any agreement; or

(E) If Borrower (i) fails to comply in all respects with any and all environmental laws, or (ii) causes or permits to exist, as a result of an intentional or unintentional action or omission on Borrower's part or on the part of any third party, on property owned and/or occupied by Borrower, any environmental activity where damage may result to the environment, unless such environmental activity is pursuant to and in compliance with the conditions of a permit issued by the appropriate federal, state or local governmental authorities, or (iii) fails to furnish to Lender promptly and in any event within thirty (30) days after receipt thereof a copy of any notice, summons, lien, citation, directive, letter or other communication from any governmental agency or instrumentality concerning any intentional or unintentional action or omission on Borrower's part in connection with any environmental activity whether or not there is damage to the environmental and/or other natural resources; or

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(F) The insolvency of any of Borrower, the appointment of a receiver for any part of Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws or by or against any of Borrower; or

(G) If the Note or any of the Loan Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason; or

(H) If a material adverse change occurs in any of Borrower's financial condition, or Lender believes the prospect of payment or performance of the Loan is impaired; or

(I) In the event that any of Borrower makes any principal payment at any time during the term of the Loan on any loans with any of Borrower as a borrower and any entity other than Lender as lender, as determined by Lender in Lender's sole discretion,

(d) The following Sections 22, 23, 24 and 25 are hereby added to the Note:

22. Bank Accounts. All deposit accounts and operating accounts of Borrower are located at Lender and Borrower has no other deposit accounts except those listed on Schedule 1 attached to the Loan Modification Agreement dated December 10, 2010 by and between Borrower and Lender.

23. Confession of Judgment. Borrower hereby irrevocably authorizes and empowers any attorney-at-law to appear in any court of record and to confess a joint and several judgment against Borrower for the unpaid amount of this Note as evidenced by an affidavit signed by an officer of Lender setting forth the amount then due, attorneys' fees plus costs of suit, and to release all errors, and waive all rights of appeal. If a copy of this Note, verified by an affidavit, shall have been filed in the proceeding, it will not be necessary to file the original as a warrant of attorney. Borrower waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to confess judgment will be deemed to exhaust the power, whether or not any such exercise shall be held by any court to be invalid, voidable, or void; but the power will continue undiminished and may be exercised from time to time as Lender may

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elect until all amounts owing on this Note have been paid in full. Borrower hereby jointly and severally waives and releases any and all claims or causes of action which Borrower might have against any attorney acting under the terms of authority which Borrower has granted herein arising out of or connected with the confession of judgment hereunder.

24. **Right of Setoff.** To the extent permitted by applicable law, Lender reserves a right of setoff in all Borrower's accounts with Lender (whether checking, savings, merchant card or some other account). This includes all accounts Borrower holds jointly and with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the indebtedness against any and all such accounts, and at Lender's option, to administratively freeze all accounts to allow Lender to protect Lender's charge and setoff rights provided in this section.

25. **Indemnity.** Borrower shall jointly and severally indemnify and hold Lender harmless from and against all claims, costs, expenses, actions, suits, proceedings, losses, damages and liabilities of any kind whatsoever, including but not limited to attorneys' fees and expenses, arising out of any matter relating, directly or indirectly, to the Loan, to the ownership, development, construction, or sale of any property securing the Loan, whether resulting from internal disputes of Borrower, disputes between Borrower and any guarantor, or whether involving other third persons or entities, or out of any other matter whatsoever related to any of the Loan Documents, or any property encumbered thereby, but excluding any claim or liability which arises as the direct result of the gross negligence or willful misconduct of Lender. This indemnity provision shall continue in full force and effect and shall survive not only the making of the Loan and the advances but shall also survive the repayment of the Loan and the performance of all of Borrower's other obligations hereunder.

4. **Amendment to Mortgage.** The Mortgage is modified to secure the Note as hereby modified and is deemed amended to conform to the terms and provisions hereof and the amendments and modifications to the Loan and Loan Documents effected hereby.

5. **Continued Priority.** In the event that, by virtue of any of the terms, conditions and provisions of this Agreement, a lien or other property interest in the Premises otherwise junior in priority to the liens created by the Loan Documents shall gain

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superiority over the liens created by the Loan Documents, this Agreement shall, nunc pro tunc, be null and void without further action of the parties hereto to the fullest extent as if it had never been executed, to the end that the priority of the Loan Documents shall not be impaired.

6. **Title Insurance.** Concurrent with the execution and delivery hereof by Borrower, Borrower agrees to provide Lender with an endorsement to its mortgagee's policy of title insurance ("Title Policy"), which endorsement shall be acceptable to Lender and shall guarantee as of the date hereof that:

- (a) there are no objections to title except (a) the objections to title other than real estate taxes reflected on the Title Policy, and (b) general real estate taxes for the year 2010 and subsequent years;
- (b) reflects the recording of this Agreement; and
- (c) re-dates the effective date of the Title Policy to the date of recording of this Agreement;

together with such other endorsements as may be required by Lender.

7. **Lender Expenses.** Borrower agrees to pay all costs, fees and expenses (including but not limited to legal fees) incurred by Lender in connection with the preparation of this Agreement. Such of the foregoing as are incurred prior to the execution and delivery of this Agreement shall be paid concurrent with such execution and delivery. All other fees, costs and expenses shall be paid within five (5) business days after notice from Lender of the amount due and the reason therefor.

8. **Non-Waiver.** In the event Lender shall at any time or from time to time disburse portions of the Loan without Borrower first satisfying all conditions precedent set forth herein or in the Loan Documents, Lender shall not thereby be deemed to have waived its right to require such satisfaction of the same or other condition as a condition precedent to its obligations to make further disbursement of the Loan.

9. **Ratification.** The Loan Documents are hereby ratified, confirmed and approved and are and shall remain in full force and effect pursuant to the terms and conditions set forth therein, except to the extent otherwise expressly modified hereby. Each of the Loan Documents is hereby modified and amended so that all reference to such documents shall be deemed to be a reference to the Loan Documents as hereby modified and amended.

10. **Patriot Act.** Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (the "Patriot Act"), Lender is

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required to obtain, verify and record information that identifies Borrower and the other credit parties. Borrower agrees to provide to Lender, promptly upon Lender's request, such information as Lender shall require for purposes of complying with the requirements of the Patriot Act, the federal regulations issued pursuant to the Patriot Act and any customer identification program established by Lender in accordance therewith.

11. **Release.** Borrower and any other obligor under the Loan, on behalf of themselves and their respective successors and assigns (collectively and individually, the "Mortgagor Parties"), hereby fully, finally and completely release, remise, acquit and forever discharge and agree to hold harmless Lender and its respective successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, fiduciaries, attorneys, agents and properties, past, present and future, and their respective heirs, successors and assigns (collectively and individually, the "Mortgagee Parties"), of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, debts, liens, actions, and causes of action of any and every nature whatsoever, known or unknown, direct or indirect, whether at law, by statute or in equity, in contract or in tort, under state or federal jurisdiction, and whether or not the economic effects of such alleged matters arise or are discovered in the future (collectively, the "claims"), which the Mortgagor Parties have as of the date of this agreement or may claim to have against the Mortgagee Parties, including but not limited to, any claims arising out of or with respect to any and all transactions relating to the Loan or the Loan Documents occurring on or before the date of this Agreement, including but not limited to, any loss, cost or damage of any kind or character arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of the Mortgagee Parties occurring on or before the date of this Agreement. The foregoing release is intended to be, and is, a full, complete and general release in favor of the Mortgagee Parties with respect to all claims, demands, actions, causes of action and other matters described therein, or any other theory, cause of action, occurrence, matter or thing which might result in liability upon the Mortgagee Parties arising or occurring on or before the date of this Agreement. The Mortgagor Parties understand and agree that the foregoing general release is in consideration for the agreements of Lender contained herein and that they will receive no further consideration for such release. Furthermore, each of the Mortgagor Parties represents and warrants to Lender that she, he or it: (i) read this agreement, including without limitation, the release set forth in this section (the "Release Provision"), and understands all of the terms and conditions hereof, and (ii) executes this Agreement voluntarily with full knowledge of the significance of this Release Provision and the releases contained herein and execution hereof. The Mortgagor Parties agree to assume the risk of any and all unknown, unanticipated, or misunderstood claims that are released by this Agreement.

12. **Counterparts.** This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement.

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13. **Exculpation.** It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Trustee, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

(Signature Page Follows)

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

MB FINANCIAL BANK, N.A.

By: Besim Lukovic
Name: BESIM LUKOVIC
Title: Commercial Banking Officer

Frank Tufano
FRANK TUFANO

NORTH STAR TRUST COMPANY, not personally but solely as trustee as aforesaid,
AS TRUST NO. 383, Dtd: 6/6/85,

Jerry C. Tufano
JERRY C. TUFANO

By: Silvia Medina and Laurel Thorpe
Name: Silvia Medina Laurel Thorpe
Title: Trust Officer Trust Officer

Susan Michi
SUSAN MICH

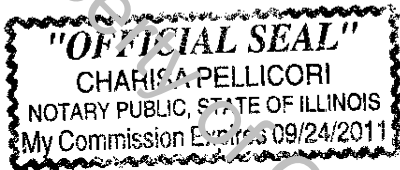
Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the county and state aforesaid, do hereby certify that Besim Luhovic, the Commercial Bank of MB Financial Bank, N.A., personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of the corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of January, 2011.



Charisa Pellicori
Notary Public

Cook County Clerk's Office

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STATE OF ILLINOIS)

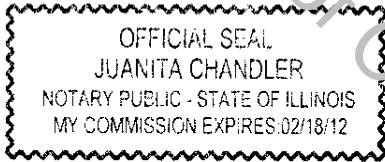
COUNTY OF *Cook*)

) SS
)

* Silvia Medina
* Laurel Thorpe

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that * * _____, the Trust Officer's of **North Star Trust Company**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of said **North Star Trust Company**, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21st day of January, 2011.



[Handwritten Signature]

Notary Public

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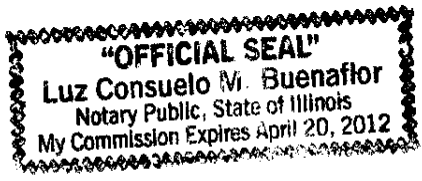
STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Frank Tufano**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of JANUARY, 2011.

Luz Consuelo M. Buenaflores

Notary Public



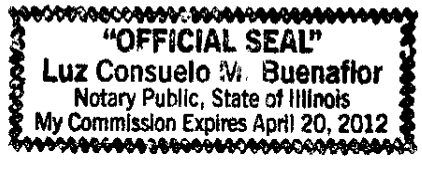
STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Jerry C. Tufano**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of JANUARY, 2011.

Luz Consuelo M. Buenaflores

Notary Public



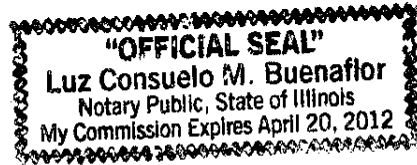
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STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that **Susan Michi**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20th day of JANUARY, 2011.

Luz Consuelo M. Buenaflores
Notary Public



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SCHEDULE 1

Bank Accounts

The bulk of our other accounts are checking accounts for our Currency Exchange locations.

These are held at First Midwest Bank.

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A large, stylized handwritten signature in black ink is written over the diagonal watermark text. The signature is highly cursive and loops around the text.

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EXHIBIT A

Legal Description

Lots 1, 2 and 3 in Turck's Subdivision of that part of Block 40 lying East of the Chicago, Milwaukee and St. Paul Railroad in Pennock Subdivision in the North ½ of the Northeast ¼ of Section 34, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Address of Property: 4001 West Fullerton Avenue
Chicago, IL 60639

Permanent Index Nos.: 13-34-208-003-0000
13-34-208-004-0000
13-34-208-005-0000

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