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**THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN
TO:**

Phyllis K. Franklin
Chuhak & Tecson, P.C.
30 South Wacker Drive
Suite 2600
Chicago, Illinois 60606

Property: 657 Fulton Place, Chicago,
Illinois, 60661



Doc#: 1119644017 Fee: \$46.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/15/2011 10:47 AM Pg: 1 of 6

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MODIFICATION OF MORTGAGE AND ASSIGNMENT OF RENTS

THIS MODIFICATION OF MORTGAGE AND ASSIGNMENT OF RENTS ("Modification") is made as of June 30, 2011 by FULTON PLACE, INC., an Illinois corporation ("Mortgagor") to and for the benefit of NORTH SHORE COMMUNITY BANK & TRUST COMPANY, a state banking association, together with its successors and assigns ("Lender").

RECITALS

A. The Loan. Mortgagor is liable to Lender on certain loans, extensions of credit and other financial accommodations initially entered into on or about November 28, 2008 in the original principal amount of \$2,608,000.00, as subsequently renewed, extended, modified or otherwise amended from time to time (collectively, "Loan"). The Loan is now evidenced by Promissory Note dated as of November 28, 2008, as subsequently renewed, extended, modified or otherwise amended from time to time (collectively "Original Note").

B. The Mortgage. Mortgagor is the title holder of record of certain real property commonly known as 657 Fulton Place, Chicago, Illinois which is legally described as set forth in Exhibit A attached hereto and incorporated herein by reference ("Mortgaged Property", which term shall include within its meaning "Real Estate", "Premises", "Real Property" or similar references to collateral set forth in the Loan Agreement and other Loan Documents). To secure Mortgagor's liabilities to Lender, Mortgagor has granted a Mortgage in and to the Mortgaged Property in favor of Lender, which Mortgage is dated as of February 10, 2009, which was recorded by the Cook County Recorder of Deeds on April 6, 2009 as Document Number 0909633111 ("Mortgage"). Pursuant to the Mortgage and the other Loan Documents, Lender has a valid, perfected mortgage lien of first priority upon the Mortgaged Property (other than for any permitted liens or encumbrances, if any, described in the Loan Documents). As further security for the Loan, Borrower granted Lender an Assignment of Rents dated as of February 10,

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2009, which was recorded by the Cook County Recorder of Deeds on April 6, 2009 as Document Number 0909633112 ("**Assignment**").

C. Forbearance, Loan Modification and Partial Release of Collateral Agreement. The Loan is presently in default. Mortgagor and Lender have entered into that certain Forbearance, Loan Modification and Partial Release of Collateral Agreement of even date herewith ("**Agreement**") which modifies the documents evidencing and securing the Loan (collectively, "**Loan Documents**") to, among other matters, replace the Original Note and creates one replacement note in substitution for the Original Note. As part of such Agreement affecting the Loan, the Mortgagor and Lender have determined that the Mortgage and Assignment shall be modified to conform to the Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the Mortgagor acknowledges, the Mortgagor hereby modifies the Mortgage and Assignment.

MODIFICATIONS AND AGREEMENTS

1. Modifications. Mortgagor hereby modifies the Mortgage and Assignment as follows:
 - a. The legal description of the Real Estate set forth in the Mortgage is hereby deleted and replaced with the legal description described on Exhibit A attached hereto and incorporated herein.
 - b. The definition of "**Note**" set forth in the Mortgage is hereby deleted and the following definition of "**Note**" is added in its place:

"The word "**Note**" also shall mean the Amended and Restated Promissory Note dated June 30, 2011, which replaces the Original Note (a Promissory Note dated November 28, 2008 in the original principal amount of \$2,608,000.00). The Amended and Restated Promissory Note, and all subsequent amendments, supplements, modifications, renewals, extensions, restatements, substitutions and replacements (if any) of such Amended and Restated Promissory Note, is sometimes collectively referred to herein as the "**New Note**"."
 - c. Herein and hereafter, all references in the Mortgage or Assignment to the " Note " shall be deemed to refer instead to the New Note. For clarity of purpose, the parties acknowledge that from and after the date of this Modification, the Mortgage and Assignment shall secure the New Note.
 - d. The definition of "**Borrower**" set forth in the Mortgage is hereby deleted and the following definition of "**Borrower**" is added in its place:

"The word "**Borrower**" means 1001 Chicago Avenue Corp. and Fulton Place, Inc., together with all co-signors and co-makers signing the Note, including the New Note, and all their successors and assigns."

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- e. The definition of "Liabilities" set forth in the Mortgage shall be modified by the addition of the following sentence at the end of that definition:

"Specifically, but not by way of limitation, "Liabilities" shall include the Note and all subsequent amendments, supplements, modifications, renewals, extensions, restatements, substitutions and replacements (if any) of such New Note."

- f. The following additional provision is added to the Mortgage, not by way of limitation of Section 6.6, but in addition thereto:

"Mortgagor hereby waives any and all rights of redemption and reinstatement pursuant to Section 15-1601(b) of the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15 1101 *et seq.*, Illinois Compiled Statutes, as amended from time to time), on its own behalf and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property or any portion thereof, it being the intent hereof that such right of reinstatement and redemption be waived to the full extent permitted by applicable law."

2. **Continuing Validity.** Except as expressly modified above and in the Agreement, the terms of the original Mortgage and Assignment shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. This Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the Original Note or other credit agreements secured by the Mortgage. It is the intention of Lender to retain as liable all parties, makers, endorsers and guarantors of the Original Note including accommodation parties, unless a party is expressly released by Lender in writing.
3. **Mortgage Validity.** The Mortgage represents the unconditional, absolute, valid and enforceable obligation of and against Mortgagor in favor of Lender. Mortgagor has no claims, counterclaims or set-offs with respect to the Loan or the Loan Documents as modified herein or in the Agreement.
4. **Time.** Time is of the essence of this Modification and each term hereof.
5. **Waiver.** Any waiver contained in this Modification is singular in nature and should not be construed to represent a waiver of any other term of the Mortgage, this Modification or any Loan Document, nor should any such waiver be considered continuing in nature.
6. **Governing Law.** This Modification and all other Loan Documents and the rights and obligations of the parties hereto shall be governed by the laws of the State of Illinois without regard to principles concerning choice of law.
7. **Authority.** All signatories hereto state that they have read and understand this Modification, 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.

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8. **Waivers.** In any action arising out of the Mortgage or this Modification, Mortgagor hereby expressly consents to the personal jurisdiction of any state or federal court located in the State of Illinois and the to service of process by any means authorized by federal or governing state law. **THE MORTGAGOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES, IRREVOCABLY, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MODIFICATION, THE MORTGAGE OR THE ASSIGNMENT.**

(The remainder of this page is intentionally blank. Signature page follows)

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UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION****PARCEL 1:**

THAT PART OF LOTS 8, 9, 10 IN THE SUBDIVISION OF BLOCK 63 IN CANAL TRUSTEES' SUBDIVISION OF LOTS AND BLOCKS IN THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 8; THENCE SOUTH 89 DEGREES 50 MINUTES 09 SECONDS WEST, 8.81 FEET ALONG THE SOUTH RIGHT OF WAY OF FULTON MARKET AVENUE TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 09 MINUTES 51 SECONDS EAST, 19.65 FEET; THENCE NORTH 89 DEGREES 20 MINUTES 43 SECONDS EAST, 6.58 FEET; THENCE SOUTH 00 DEGREES 39 MINUTES 17 SECONDS EAST, 47.00 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 43 SECONDS WEST, 19.83 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 17 SECONDS WEST, 6.45 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 43 SECONDS WEST, 20.67 FEET; THENCE SOUTH 00 DEGREES 39 MINUTES 17 SECONDS EAST, 8.54 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 43 SECONDS WEST, 24.08 FEET; THENCE NORTH 00 DEGREES 39 MINUTES 17 SECONDS WEST, 8.08 FEET; THENCE SOUTH 89 DEGREES 20 MINUTES 43 SECONDS WEST, 12.22 FEET; THENCE NORTH 12 DEGREES 37 MINUTES 05 SECONDS WEST, 62.73 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF FULTON MARKET AVENUE; THENCE NORTH 89 DEGREES 50 MINUTES 09 SECONDS EAST, 83.39 FEET TO THE POINT OF BEGINNING, LIMITED TO THE AREA BETWEEN FINISHED FLOOR (14.80 CHICAGO DATUM) AND FINISHED CEILING (28.80 CHICAGO DATUM), ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCEL 1 FOR SUPPORT, INGRESS AND EGRESS, AND OTHER PURPOSES AS DESCRIBED AND DEFINED IN THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL EASEMENTS RECORDED DECEMBER 29, 2006 AS DOCUMENT 0636309075, AND SPECIAL AMENDMENT NO. 1 TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL EASEMENTS RECORDED JANUARY 12, 2007 AS DOCUMENT 0701209055

PIN: 17-09-312-009-0000, 17-09-312-002-0000, 17-09-312-006-0000, 17-09-312-007-0000

Common Address: 657 Fulton Place, Chicago, Illinois, 60661