



Doc#: 1125619114 Fee: \$48.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 09/13/2011 03:15 PM Pg: 1 of 7

Prepared by and return to:  
Old Second National Bank  
37 South River Street  
Aurora, IL 60507  
Attn: Loan Servicing Dept.

LOAN ASSUMPTION AND MORTGAGE MODIFICATION AGREEMENT

RECITALS

Whereas, Old Second National Bank ("Lender") previously loaned Spy Glass Properties, LLC, an Illinois limited liability company (the "Borrower") the principal sum of Four Million Nine Hundred Seventy-Eight Thousand One Hundred Sixty and 63/100ths Dollars (\$4,978,160.63), as evidenced by a Promissory Note dated September 28, 2007, including any and all amendments, modifications, extensions, renewals, replacements and/or substitutions thereto (the "Note") under Loan No. 60101002040 (the "Loan"); and

Whereas, to secure said Note, Borrower pledged to Lender certain real estate located at 9501 West Southview Avenue, Brookfield, Illinois 60513, as legally described on Exhibit A attached hereto and made a part hereof (the "Property") under that certain Real Estate Mortgage and Assignment of Rents dated September 28, 2007 and recorded October 9, 2007 as Document Nos. 0728203047 and 0728203048, respectively, with the Cook County Recorder's Office in Illinois (collectively, the "Mortgage"); and

Whereas, the Note, Mortgage and all other related loan documents identified under the Loan, including any and all amendments, modifications, extensions, renewals, replacements and/or substitutions thereto, unless otherwise specified, are collectively known as the "Loan Documents"; and

Whereas, Borrower, as mortgagor, will convey, or has conveyed, ownership of the Property to Spy Glass Illinois, LLC, an Illinois limited liability company, which is a wholly owned subsidiary of Borrower (the "Company"); and

Whereas, the principal sum of indebtedness due and owing under the Loan Documents as of the date of this Agreement is \$2,899,208.32, plus any accrued and unpaid interest, and any other fees or charges due Lender; and

Whereas, the Company has reviewed the Note, Mortgage and the other Loan Documents and desires to assume and pay said indebtedness and to adhere to and perform any and all obligations, terms, conditions and covenants thereunder, the same as if the Company had signed the Note, Mortgage and the Loan Documents as a borrower, mortgagor, grantor or obligor; and

S Y  
P Y  
S N  
M N  
SC Y  
E Y  
INT Y

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Whereas, rather than executing a new mortgage and assignment of rents, the parties desire to execute this Loan Assumption and Mortgage Modification Agreement (the "Agreement") to amend the existing Mortgage and all other Loan Documents in favor of Lender.

Now, Therefore, in consideration of the mutual covenants and agreements herein contained, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. The recitals above are hereby made a part of this Agreement as if fully set forth herein.
2. Lender consents to the transfer of ownership of the Property to the Company.
3. The Company hereby assumes and agrees to pay said indebtedness and to perform any and all of Borrower's obligations, terms, conditions and covenants provided for in the Note, Mortgage and the other Loan Documents, the same as if Company had executed or signed the Note, Mortgage and Loan Documents as borrower, mortgagor, grantor or other obligor.
4. As of the date of this Agreement, Borrower is released from any and all obligations, duties and/or liabilities under the Note, Mortgage and Loan Documents arising hereafter and any reference to "Borrower", "Mortgagor" or "Grantor" in the Note, Mortgage and Loan Documents shall be interpreted to mean the Company as the sole "Borrower", "Mortgagor" and "Grantor" in the Note, Mortgage and Loan Documents. The Company's assumption hereunder releases, extinguishes and/or waives the Borrower's performance under the Note, Mortgage and Loan Documents. Further, the Company affirms and ratifies the terms and provisions of the Note, Mortgage and Loan Documents in favor of Lender and states that it has no claims or defenses to them. Notwithstanding anything to the contrary stated herein, Borrower hereby acknowledges and agrees to maintain its primary depository relationship with Lender and further acknowledges and agrees that Lender shall retain all rights, interests, obligations and duties with respect to any and all depository accounts held by Borrower with Lender, including Lender's right to set off any sums due by the Company in regard to said Loan or otherwise.
5. The Mortgage is a valid and enforceable lien against the Property and this Agreement shall not be interpreted as releasing, extinguishing, limiting or waiving it. The Note shall continue to be secured by the Mortgage.
6. Contemporaneously with the execution of this Agreement, the Company shall execute and deliver to Lender a certain Commercial Debt Modification Agreement for the Loan to evidence the assumption of the original Note by the Company.
7. Unless specifically modified by this Agreement or otherwise, the terms and provisions of the Note, Mortgage and Loan Documents remain the same and are in full force and effect. Additionally, Borrower and the Company waive any and all

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claims and/or defenses either has or may have had relating to the Note, Mortgage and Loan Documents and represents and warrants that each has no claims or defenses to their performance thereunder.

8. Lender and the Company hereby agree that the Borrower is hereby released from any and all obligations and liabilities under the Note, Mortgage and Loan Documents, except for those obligations and liabilities that survive repayment of the Loan. As a material inducement for Lender to execute this Agreement, Borrower and the Company do hereby release, waive, discharge, covenant not to sue, acquit, satisfy and forever discharge Lender, its officers, directors, employees, and agents, and its parent, affiliates and assigns from any and all liability, claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises and demands whatsoever in law or in equity which the Borrower or the Company ever had, now have, or which any personal representative, successor, heir or assign of Borrower or the Company hereafter can, shall or may have against Lender, its officers, directors, employees, and agents, and its parent, affiliates and assigns, for, upon or by reason of any matter, cause or thing whatsoever through the date hereof (other than the obligations of the Lender under the Loan Documents to be performed after the date hereof). The Borrower and the Company further expressly agree that the foregoing release and waiver agreement is intended to be as broad and inclusive as permitted by the laws of the State of Illinois. Further, Borrower and the Company covenant with and warrant unto Lender, and its parent, affiliates and assigns, that there exist no claims, counterclaims, defenses, objections, offsets or claims of offsets against Lender or the obligation of Borrower or the Company to pay the Loan to Lender when and as the same becomes due and payable, recognizing the Borrower is being released of any obligations under the Loan Documents.
9. The undersigned and Lender waive the right to a trial by jury in any action or proceeding based upon, or related to, any aspect of the transaction in connection with which this document is being given or any document executed or delivered in connection with such transaction. This waiver is knowingly, intentionally and voluntarily made by the undersigned and the undersigned acknowledge that no one has made any representations of fact to induce this waiver or trial by jury or in any way to modify or nullify its effect. The undersigned and Lender further acknowledge having been represented in connection with the transaction with respect to which this document is being given and in the making of this waiver by independent legal counsel, selected by the undersigned's own free will, and that the undersigned have had the opportunity to discuss this waiver with such counsel. The undersigned and Lender further acknowledge having read and understood the meaning and ramifications of this waiver provision.
10. The parties hereby agree that this Agreement shall bind them, their representatives, trustees, heirs, successors and assigns.

[signature page follows]

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In Witness Whereof, the parties have hereunto executed this Loan Assumption and Mortgage Modification Agreement this 1<sup>st</sup> day of August, 2011.

**BORROWER:**

SPY GLASS PROPERTIES, LLC,  
an Illinois limited liability company

By:   
Name: Joseph P. Gardella  
Its: Manager

**COMPANY:**


SPY GLASS ILLINOIS, LLC,  
an Illinois limited liability company

By: SPY GLASS PROPERTIES, LLC,  
an Illinois limited liability company, its manager

By:   
Name: Joseph P. Gardella  
Its: Manager

**LENDER:**

OLD SECOND NATIONAL BANK,  
a national banking association

By:   
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Property of Cook County Clerk's Office

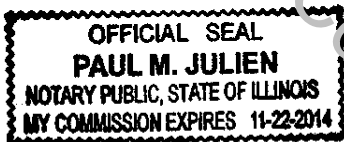
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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF Cook        )

I, Paul M Julien, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY THAT Joseph P. Gardella, as Manager of Spy Glass Properties, LLC and as Manager of Spy Glass Illinois, LLC, has provided acceptable identification or is 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 he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of both companies for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 4 day of August, 2011.

*Paul M Julien*  
Notary Public



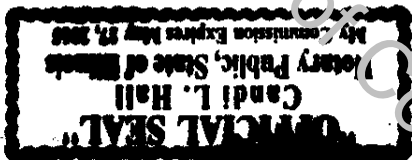
Property of Cook County Clerk's Office

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STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF KANE     )

I, Candi Hall, a Notary Public in and for and residing in said County and State,  
DO HEREBY CERTIFY THAT James Lecher a \_\_\_\_\_ of Old Second National  
Bank, 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 he/she signed and  
delivered said instrument as his/her own free and voluntary act and as the free and voluntary act of  
said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2011.



Candi L. Hall  
Notary Public

Cook County Clerk's Office

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**EXHIBIT A**  
(Legal Description)

THAT PORTION OF THE NORTHWEST ¼ OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 3, THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 275.00 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED:

THENCE SOUTHERLY AT RIGHT ANGLES TO SAID NORTH LINE OF SECTION 3, A DISTANCE OF 246.34 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 320.00 FEET SOUTHERLY OF SAID NORTHWEST CORNER; THENCE SOUTHERLY ALONG SAID WEST LINE OF SECTION 3 TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 105.00 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, BURLINGTON NORTHERN RAILROAD CO'S (FORMERLY CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY'S) MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED; THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 600.00 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT 160.0 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE; THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT OF 5.0 FEET WESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE SOUTHERLY EXTENSION OF THE CENTERLINE OF MORTON AVENUE, ACCORDING TO THE RECORDED PLAT OF THE TOWN OF BROOKFIELD, ILLINOIS; THENCE NORTHERLY ALONG SAID PARALLEL LINE TO THE POINT OF INTERSECTION WITH SAID NORTH LINE OF SECTION 3; THENCE WESTERLY ALONG SAID NORTH LINE OF THE TRUE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Property Address: 9501 West Southview Avenue, Brookfield (Cook County), Illinois 60513  
Permanent Index No.: 18-03-100-011