

UNOFFICIAL COPY



1127318063

*This Instrument prepared by
and after recording should be
returned to:*

Doc#: 1127318063 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/30/2011 12:59 PM Pg: 1 of 8

*Drew J. Scott, Esq.
Scott & Kraus, LLC
150 S. Wacker, Suite 2900
Chicago, Illinois 60606*

Permanent Tax Index Numbers:

*01-01-303-002-0000;
01-01-402-002-0000*

Property Address:

*99 Brinker Rd
Barrington, IL 60010*

SECOND MODIFICATION OF MORTGAGE

THIS SECOND MODIFICATION OF MORTGAGE (this "Modification") is entered into effective as of September 28, 2011, by ROBERT J. MCMURTRY and JENNIFER MCMURTRY (together, the "Mortgagor") to and for the benefit of THE LEADERS BANK, an Illinois state banking corporation, its successors and assigns ("Lender").

WITNESSETH:

A. Lender has made available to Mortgagor credit in the form of a term loan in the amount of \$2,700,000 (the "Home Loan") evidenced by that certain Balloon Note dated as of September 30, 2003 made by Mortgagor in the original principal amount of \$2,700,000; as modified by that certain Modification of Balloon Note and Mortgage dated as of October 1, 2006 and recorded in the office of the Cook County Recorder of Deeds on December 12, 2007 as document no 0734649100; and as further modified by that certain Change in Terms Agreement dated as of September 25, 2009 (together with all amendments, restatements, renewals and replacements, the "Home Note").

B. Mortgagor has executed and delivered to Lender that certain Mortgage dated as of September 30, 2003 (the "Home Mortgage") made by Mortgagor in favor of Lender on that certain real property commonly known as 99 Brinker Rd, Barrington, IL (the "Brinker Property"), and recorded in the office of the Cook County Recorder of Deeds on November 18, 2003 as document no. 0332202142; as modified by that certain Modification of Balloon Note and Mortgage dated October 1, 2006 and recorded in the office of the Cook County Recorder of Deeds on December 12, 2007 as document no 0734649100; and as further modified by that certain Modification of Mortgage dated September 25, 2009 and recorded in the office of the Cook County Recorder of Deeds on January 6, 2010 as document no. 1000640176; whereby Mortgagor mortgaged and warranted unto Lender, its successors and assigns, among

UNOFFICIAL COPY

other things, the real estate described on Exhibit A attached hereto and all of its estate, right, title and interest therein situated. The parties now desire to amend the Mortgage pursuant to this Modification.

C. Mortgagor has requested that Lender enter into that certain Forbearance Agreement of even date herewith (the "Forbearance Agreement"), pursuant to which, Lender has agreed to, among other things, forbear on certain defaults by Mortgagor under the Home Note, and Lender is unwilling to do so, unless Mortgagor agrees to make certain modifications to the Mortgage.

D. A condition precedent of the Lender to enter into the Forbearance Agreement, continue to make the Home Loan to Mortgagor and/or continuing to make the Home Loan to Mortgagor and to extend credit under the Home Note is the execution and delivery by the Mortgagor of this Modification.

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 Modification, the parties, intending to be bound, hereby agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in this Modification and made a part hereof.

2. Incorporation of the Mortgage. All capitalized terms which are not defined hereunder shall have the same meanings as set forth in the Mortgage, and the Mortgage to the extent not inconsistent with this Modification 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 Mortgage are inconsistent with the amendments set forth in Paragraph 3 below, such terms and provisions shall be deemed superseded hereby. As amended hereby, the Mortgage shall remain in full force and effect and its provisions shall be binding on the parties hereto.

3. Modification of the Mortgage. Mortgagor hereby acknowledges and agrees that any default, Event of Default or Unmatured Event of Default (however those terms are defined in any of the Tec Air Notes, the Horse Note or any other documents delivered to Lender evidencing the same) by Tec Air, Trust, Holdings or Robert J. McMurtry under any of the Tec Air Notes, the Horse Note or any other documents delivered to Lender evidencing the same shall be a default under the Home Note, the Home Mortgage and all other documents evidencing the same.

As used herein, "Tec Air Notes" means, collectively, (a) that certain Air/Tenn Term Note A dated August 24, 2007 from Tec-Air, Inc. ("Tec Air") and Tec Air Tennessee, Inc. ("Air Tenn") in the original principal amount of \$1,600,000 (together with all amendments, restatements, renewals and replacements, the "Air/Tenn Note A"), (b) that certain Air/Tenn Term Note B dated September 30, 2008 from Tec Air and Air Tenn in the original principal amount of \$250,000 (together with all amendments, restatements, renewals and replacements, the "Air/Tenn Note B"), (c) that certain Amended and

UNOFFICIAL COPY

Restated Air/Tenn Revolving Note dated June 22, 2009 from Tec Air and Air Tenn in the original principal amount of \$4,150,000 (together with all amendments, restatements, renewals and replacements, the "Air/Tenn Revolving Note"), (d) that certain Tec Air Term Note dated August 24, 2007 from Tec Air and Chicago Title Land Trust Company, successor trustee to LaSalle Bank National Association, formerly known as LaSalle National Bank, successor trustee to LaSalle National Trust, N.A., successor trustee to LaSalle National Bank, successor trustee to Exchange National Bank of Chicago, successor trustee to Central National Bank in Chicago, as Trustee under Trust Agreement No. 10-23324-08 ("Trust") in the original principal amount of \$750,000 (together with all amendments, restatements, renewals and replacements, the "Tec Air Term Note"), (e) that certain Tec Air Revolving Note dated August 24, 2007 from Tec Air in the original principal amount of \$750,000 (together with all amendments, restatements, renewals and replacements, the "Tec Air Revolving Note"), (f) that certain Holdings Term Note dated August 24, 2007 from TATN Real Estate Holdings, LLC ("Holdings") in the original principal amount of \$750,000 (together with all amendments, restatements, renewals and replacements, the "Holdings Term Note"), and (g) that certain Tec Air Capex Note dated May 14, 2008 from Tec Air in the original principal amount of \$800,000 (together with all amendments, restatements, renewals and replacements, the "Capex Note"), evidencing those certain loans made variously by Lender to Tec Air, Trust, Air Tenn and Holdings.

As used herein, "Horse Note" means that certain Promissory Note dated as of May 11, 2010 made by Robert J. McMurtry in the original principal amount of \$199,986; as modified by that certain Change in Terms Agreement dated November 11, 2010; and as further modified by that certain Change in Terms Agreement dated January 1, 2011, evidencing a loan made by Lender to Robert J. McMurtry.

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

5. Effectuation. The amendments to the Home Mortgage contemplated by this Modification shall be deemed effective immediately upon the full execution of this Modification and without any further action required by the parties hereto. There are no conditions precedent or subsequent to the effectiveness of this Modification.

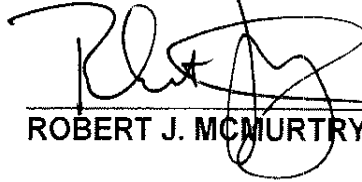
SIGNATURE PAGE FOLLOWS

UNOFFICIAL COPY

Second Modification of Mortgage

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

MORTGAGOR:



ROBERT J. MCMURTRY

JENNIFER MCMURTRY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Second Modification of Mortgage

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

MORTGAGOR:

ROBERT J. MCMURTRY



JENNIFER MCMURTRY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

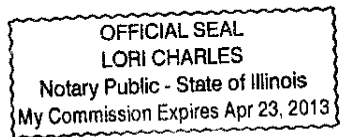
STATE OF ILLINOIS)
COUNTY OF Cook) SS.

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert J. McMurtry, who 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 the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of September, 2011.

Lori Charles
Notary Public

My Commission Expires:
4/23/13



UNOFFICIAL COPY

Jennifer J. Strippoli
THE STATE OF ILLINOIS)
COUNTY OF McCook)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Jennifer McMurtry, who 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 she signed and delivered the said instrument as her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 28th day of September, 2011.

Jeannette P. Strippoli
Notary Public

My Commission Expires:

9-20-2014

JEANNETTE P STRIPPOLI
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Sept. 20, 2014

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Robert J. McMurtry, who 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 the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of September, 2011.

Notary Public

My Commission Expires:

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE NORTH ½ (EXCEPT WEST 25 FEET WHICH HAS BEEN PLATTED FOR A HIGHWAY AS DISCLOSED BY PLAT RECORDED SEPTEMBER 10, 1905 IN BOOK 90 OF PLATS PAGE 29 AS DOCUMENT 3746842) OF SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTHWEST OF WAUKEGAN AND SOUTHWESTERN RAILWAY COMPANY RIGHT OF WAY IN COOK COUNTY, ILLINOIS.

PARCEL 2:

ALL THAT PART OF SOUTH ½ OF THE WEST ½ OF THE SOUTHEAST ¼ OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH AND WESTERLY OF THE NORTHWESTERLY LINE OF RIGHT OF WAY OF RAILROAD, IN COOK COUNTY, ILLINOIS.

Permanent Index Number:

01-01-303-002-0000;
01-01-402-002-0000

Property Address:

99 Brinker Rd
Barrington, IL 60010