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THIS DOCUMENT PREPARED BY:

Crowley & Lamb, P.C.
221 North LaSalle Street
Suite 1550
Chicago, Illinois 60601

Doc#: 1130133030 Fee: \$60.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 10/28/2011 09:22 AM Pg: 1 of 13

AFTER RECORDING RETURN TO:

Diamond Bank, FSB
1051 Perimeter Drive
Schaumburg, IL 60173
Attn: Loan Operations

C.T.I./W

8340406
10F1

This space reserved for Recorder's use only

THIRD MODIFICATION OF LOAN DOCUMENTS

THIS THIRD MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 1st day of October, 2011, by and among **TG REAL ESTATE LLC**, an Illinois limited liability company, having an address at 380 South Hill Avenue, Evanston, Illinois 60126 ("Borrower"), **DAVID D. DUXBURY, and BARTLETT Q. JOHNSON** ("Guarantors") and **DIAMOND BANK, FSB**, its successors and assigns, having an address as set forth above, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Original Loan") to Borrower in the principal amount of SIX HUNDRED TWENTY THOUSAND AND NO/100THS DOLLARS U.S. (\$620,000.00), as evidenced by an Promissory Note ("Original Note") dated October 24, 2006, in the principal amount of the Original Loan made payable by Borrower to the order of Lender. The Original Note was replaced by that certain Non Revolving Line of Credit Note dated October 23, 2007 in the principal amount of \$620,000.00 executed by Borrower in favor of Lender pursuant to that certain Modification of Loan Documents dated October 23, 2007 among the parties hereto (the "Modification"). The Original Note was further replaced by that certain Amended and Restated Note (the "Note") dated September 6, 2008 in the original principal amount of \$613,809.00 executed by Borrower in favor of Lender pursuant to that certain Second Modification of Loan Documents dated September 6, 2008 among the parties hereto (the "Second Modification").

B. The Note is secured in part by (i) that certain Mortgage and Security Agreement dated October 24, 2006, from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on November 6, 2006, as Document No. 0631001254 ("Mortgage"), which Mortgage encumbers the real property and all, improvements thereon legally described on Exhibit A hereto ("Property"), and (ii) that certain Assignment of Rents and Leases dated October 24, 2006, from Borrower to Lender and recorded with the Recorder of Deeds in Cook County, Illinois on November 6, 2006, as Document No. 0631001255 (the "Assignment of Leases"), (iii) those certain Guaranties from David D. Duxbury, and Bartlett Q. Johnson (together, the "Guaranties") in favor of the Lender guaranteeing the

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obligations of Borrower to Lender, and (iv) certain other loan documents (the Note, the Mortgage, the Guaranty, the Assignment of Leases, the Modification, Second Modification and any other document evidencing, securing and guarantying the Original Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents").

C. Guarantors, in their individual capacities, took a loan from Lender as evidenced by that certain Promissory Note ("Individual Note") dated November 1, 2010 in the original principal amount of \$82,000.00 executed by DAVID D. DUXBURY and BARTLETT Q. JOHNSON (in such capacity, together, the "Assignor") in favor of Lender.

D. The current outstanding principal amount of the Original Loan is \$576,809.65. The current outstanding principal amount of the Individual Note is \$71,000.00.

E. Borrower and Assignor now desire to amend the Loan Documents in order to, among other things, extend the maturity date of the Note until October 1, 2014 and Lender is willing to so extend the maturity date of the Note on the terms and conditions more fully set forth hereinafter and in the Amended Note (defined below).

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement) (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Assumption of Individual Note and Combination With the Original Loan /Extend Maturity Date / Other Modifications.** (a) Upon and subject to the terms, provisions and conditions set forth in this Agreement, the Assignor hereby assigns, delegates and transfers to the Borrower (in such capacity, "Assignee") all of the rights, obligations and duties of the Assignor under the Individual Note. The Assignee accepts such assignment, delegation and transfer and agrees to comply with and be bound by all of the terms, provisions and conditions contained in the Individual Note and to assume and perform all of the obligations and duties of the Assignor thereunder. This assignment and assumption is subject to Exhibit B hereto, the provisions of which Exhibit B are incorporated herein by reference.

(b) After giving effect to the foregoing assignment and assumption, the loan under the Individual Note shall hereby be combined into the Original Loan. The loan under the Individual Note and the Original Loan shall be outstanding as one loan from Lender to Borrower effected by increasing the current outstanding principal amount of the Original Loan by the current outstanding principal amount of the Individual Note in the amount of \$71,000.00 (the "Loan"). A portion of the Loan in the amount of \$71,000.00 shall then be used to pay in full the principal amount currently outstanding under the Individual Note. Any and all references in any and all Loan Documents, including this Agreement, to "Loan", "Original Loan" or words of similar import shall now mean the Loan.

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(c) Any and all references to the original principal amount of the Loan in the Mortgage and the other Loan Documents or principal indebtedness secured by said Mortgage or other Loan Documents shall now mean \$647,809.65.

(d) The Maturity Date of the Loan is extended from October 1, 2011 until October 1, 2014. Any reference in the Note and any and all other Loan Documents, including this Agreement, to the "Maturity Date" of the Loan or words of similar import shall now mean October 1, 2014.

(e) Borrower shall pay to Lender, in addition to the monthly payments required under the Note and concurrently therewith in a single payment monthly until the Note is fully paid, a sum equal to annual real estate taxes, general and special assessments on the Property (all as estimated by Lender) less all sums previously paid therefor, divided by the number of full calendar months to elapse before the date which is one (1) month prior to the date when such taxes and assessments and insurance premiums will become due. Such sums shall be held by Lender for payment of such taxes as and when due and Borrower shall not have the right to withdraw, pledge, alienate, assign, or otherwise dispose of such sums. Lender shall have the right to commingle and hold such sums with its general funds, and no interest shall accrue thereon in favor of Borrower. In case of a default or at the Maturity Date, Lender may use and apply such sums or any other monies deposited by Borrower with Lender, regardless of the purpose for which deposited (i) to cure such default, (ii) as a prepayment of the Loan or (iii) apply on account of the Loan in the sole discretion of the Lender.

(f) A default under any Loan Document, including this Agreement, shall, at the option of Lender, also constitute a default under any or all of the other Loan Documents, including this Agreement.

2. **Amendment of Note.** The Note shall be amended and restated by that certain Amended and Restated Promissory Note of even date herewith executed by Borrower in favor of Lender (the "Amended Note") in the original principal amount of \$647,809.65. As of the date hereof, the Amended Note shall be substituted for and replace in its entirety the existing Note as evidence of the amounts due and owing to Lender under the Loan. Notwithstanding any other provisions of the Loan Documents to the contrary, the interest rate and principal and interest payments applicable to the Loan shall be as set forth in the Amended Note.

3. **Reaffirmation of Guaranties.** Guarantors ratify and affirm the Guaranties and agree that each of their Guaranties are in full force and effect following the execution and delivery of this Agreement and the Amended Note and that the Guarantors remain liable to Lender for all amounts due in connection with the Amended Note. The representations and warranties of Guarantors in the Guaranties are, as of the date hereof, true and correct and Guarantors do not know of any default thereunder. The Guaranties continue to be the valid and binding obligations of Guarantors, enforceable in accordance with their terms and Guarantors have no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranties.

4. **Continuing Validity.** Except as expressly modified above, the terms of the original Mortgage and other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of the Mortgage or any other Loan Document as amended above nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the promissory note or other credit agreement secured by the

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Mortgage or other Loan Documents. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Amended Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement. If any person who signed the original Mortgages does not sign this Agreement, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

5. **Borrower's and Guarantors' Representations and Stipulations.** Borrower and Guarantors acknowledge, represent and warrant as follows:

- (a) The Amended Note and all other Loan Documents constitute valid and legally binding obligations of Borrower and/or Guarantors and are enforceable to their full extent against Borrower and/or Guarantors and the collateral granted therein in accordance with the terms thereof without defense, affirmative defense or counterclaim of any kind.
- (b) Borrower and Guarantors do hereby waive and release any and all claims and defenses, whether legal or equitable, or by way of offset, recoupment or counterclaim that the Borrower and/or Guarantors hereto have, or may have against Lender, relating in any way to Note, the Loan Agreement, the Mortgage, or any other documents securing or relating to the Loan, by reason of any matter, cause or thing whatsoever occurring, including breach of good faith and fair dealing by Lender.
- (c) The party or parties who execute this Agreement on behalf of the Borrower and/or Guarantors have the authority to do so and that the same is the legally binding act of the Borrower and each of them.
- (d) There exists no defenses, whether at law or equity to the repayment of the Amended Note, or any of Borrower's and/or Guarantors' obligations under any of the other Loan Documents.
- (e) The execution, delivery and performance of this Agreement and related documents has been duly authorized by all requisite action by or on behalf of Borrower and this Agreement and related documents have been duly executed and delivered on behalf of Borrower.

6. **Borrower's, Assignee's, Assignor's and Guarantors' Releases.** Borrower, Assignee, Assignor and Guarantors, in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby remise, release and forever discharge, and by these presents, do for their successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and its respective successors, assigns, heirs, administrators, officers, personal representatives, attorneys, agents and successors in interest, from all actions, suits, causes of action, damages, expenses, liabilities, claims, accounts and demands, whatsoever, whether or not well-founded in fact or in law which they have, have had, or at any time may have, could have, or might have but for the execution of this Agreement, asserted against Lender, for or by reason of or in respect of any matter, cause or thing whatsoever, whether known or unknown, developed or undeveloped, past, present or future or whether permanent, continuing or otherwise, arising out

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of or connected with the Loan, the Amended Note, the Individual Note, the Loan Documents or this Agreement.

7. **Waiver.** Nothing in this Agreement shall be construed as a waiver of or acquiescence to any Events of Default (as defined in the Loan Documents), which shall continue in existence subject only to Lender's agreement, as set forth herein, not to enforce its remedies for a limited period of time. Except as expressly provided herein, the execution and delivery of this Agreement shall not: (a) constitute an extension, modification, or waiver of any other aspect of the Amended Note or the Loan Documents; (b) extend the terms of the Note or the Loan Documents or the due date of any of the Note; (c) give rise to any obligation on the part of Lender to extend, modify or waive any term or condition of the Loan Documents; or (d) give rise to any defenses or counterclaims to Lender's right to compel payment of the Loan or to otherwise enforce its rights and remedies under the Amended Note, and any other Loan Documents. Except as expressly limited herein, Lender hereby expressly reserves all of its rights and remedies under the Note, as amended, and the Loan Documents and under applicable law with respect to such defaults.

8. **Conditions Precedent / Title Policy.** As conditions precedent to the effectiveness of Lender's agreements contained herein, Borrower shall (i) pay (A) all out-of-pocket recording costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses and (B) a non-refundable extension fee in the amount of \$500.00, (ii) execute and deliver to Lender and cause all other parties to execute and deliver this Agreement, the Amended Note and all documents required by Lender in connection herewith in the form presented by Lender, and (iii) cause the managers and members of the Borrower to execute resolutions authorizing this Agreement and related matters in the form presented by Lender. At Lender's request and at Borrower's sole expense, Borrower shall cause the title company insuring the Mortgage to issue and endorsement to Lender's title policy ("Title Policy") as of the date this Agreement is recorded reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of the date of its issuance and any other encumbrances agreed to in writing by Lender.

9. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower and/or Guarantors merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantors and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantors and Lender each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, 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.

(c) Borrower, Guarantors and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete

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integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantors and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(d) This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives, except to the extent of any contrary provision in this Agreement. Each party intends that this Agreement, in all respects, shall be deemed and construed to have been prepared mutually by all parties, and it is expressly agreed that any uncertainty and ambiguity existing herein shall not be construed more strictly against one party or the other against the other party. If any part or any provision of this Agreement shall be determined to be invalid under any applicable law or the regulation, the remaining part of this Agreement, that can be separated from the invalid, unenforceable provisions, shall be in full force and effect.

(e) As used herein, Borrower and Guarantor shall be deemed, whenever appropriate in the context, to include the singular and plural. If this Agreement is executed by more than one party as Borrower or Guarantors, the liability of such parties shall be joint and several. As used herein, Borrower and Guarantors shall be deemed, whenever appropriate in the context, to include their capacities as Assignee and Assignor, respectively.

(f) Each party to this Agreement agrees to perform any further acts and execute any documents that may be reasonably necessary to effect the purposes of this Agreement.

(g) Time is of the essence of Borrower's and/or Guarantors' obligations under this Agreement.

10. **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors, assigns, and personal representatives, except to the extent of any contrary provision in this Agreement. Each party intends that this Agreement, in all respects, shall be deemed and construed to have been prepared mutually by all parties, and it is expressly agreed that any uncertainty and ambiguity existing herein shall not be construed more strictly against one party or the other against the other party. If any part or any provision of this Agreement shall be determined to be invalid under any applicable law or the regulation, the remaining part of this Agreement, that can be separated from the invalid, unenforceable provisions, shall be in full force and effect.

11. **No Novation.** This Agreement shall not be deemed or construed to be a satisfaction, reinstatement, novation, or release of the Loan or of any of the other Loan Documents, or, except as expressly provided herein, nor shall it be deemed a waiver by Lender of any of the rights of Lender under the Note (or the Amended Note) or any of the other Loan Documents, or at law or in equity, and shall not be construed as a repayment or novation of the Note.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so executed and delivered (whether by facsimile transmission or otherwise) shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[signature page attached]

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

LENDER:

BORROWER/ASSIGNEE:

DIAMOND BANK, FSB

TG REAL ESTATE LLC, an Illinois limited liability company

By: Frank O. Pantano
Its: VP

By: [Signature]
David D. Duxbury, One of its Managing Members

By: [Signature]
Bartlett Q. Johnson, One of its Managing Members

GUARANTOR/ASSIGNOR:

[Signature]
DAVID D. DUXBURY, Individually

[Signature]
BARTLETT Q. JOHNSON, Individually

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

THAT PART OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SAID SOUTHWEST 1/4 WITH THE CENTER LINE OF IRVING PARK ROAD AS CONSTRUCTED, SAID POINT BEING 907.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG IN THE WEST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 230.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 157.34 FEET; THENCE SOUTH 78 DEGREES 42 MINUTES 05 SECONDS EAST, A DISTANCE OF 241.744 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 125.11 FEET TO A POINT, LYING 249.873 FEET SOUTH 71 DEGREES 34 MINUTES 16 SECONDS EAST FROM THE POINT OF BEGINNING; THENCE NORTH 71 DEGREES 34 MINUTES 16 SECONDS WEST, A DISTANCE OF 249.873 FEET TO THE POINT OF BEGINNING; (EXCEPT THAT PART THEREOF LYING WEST OF THE EAST LINE OF BARRINGTON ROAD, AS PER PLAT OF DEDICATION RECORDED JULY 11, 1952 AS DOCUMENT NO. 11114250), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR INGRESS AND EGRESS AND DESIGNATED WENDY'S EMPLOYEE PARKING, AS CREATED BY INSTRUMENT RECORDED SEPTEMBER 17, 1985 AS DOCUMENT NO. 85186912 OVER THE FOLLOWING DESCRIBED REAL ESTATE:

THAT PART OF THE FRACTIONAL SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SAID SOUTHWEST 1/4 WITH THE CENTER LINE OF IRVING PARK ROAD AS CONSTRUCTED, SAID POINT BEING 907.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4 THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 230.00 FEET; THENCE SOUTH 71 DEGREES 34 MINUTES 16 SECONDS EAST, A DISTANCE OF 249.873 FEET TO THE POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 173.56 FEET TO THE INTERSECTION WITH THE SOUTHERLY LINE OF IRVING PARK ROAD, AS DEDICATED PER DOCUMENT NO. 11203459; THENCE EASTERLY ALONG SAID SOUTHERLY LINE, BEING ALONG AN ARC OF A CIRCLE, BEING CONVEX TO THE SOUTH HAVING A RADIUS OF 2198.79 FEET, THE CHORD THEREOF HAVING A BEARING OF SOUTH 78 DEGREES 15 MINUTES 58 SECONDS EAST, A CHORD AND ARC DISTANCE OF 33.41 FEET TO A POINT OF TANGENCY; THENCE CONTINUING SOUTH 78 DEGREES 42 MINUTES 05 SECONDS EAST ALONG SAID SOUTHERLY LINE OF IRVING PARK ROAD, A DISTANCE OF 96.36 FEET; THENCE SOUTH 11 DEGREES 17 MINUTES 55 SECONDS WEST ALONG A LINE PERPENDICULAR THE LAST DESCRIBED COURSE, A DISTANCE OF 293.217 FEET TO A POINT ON THE MOST SOUTHERLY LINE OF LANDS DESCRIBED AS

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DOCUMENT NO. 21030230; THENCE NORTH 78 DEGREES 42 MINUTES 05 SECONDS WEST ALONG SAID SOUTHERLY LINE, A DISTANCE OF 71.14 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 125.711 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 3:

PROPOSED EASEMENT FOR HIGHRISE PYLON SIGN FOR "WENDY'S" AND "TRUE VALUE HARDWARE" AND WENDY'S DIRECTIONAL SIGN AND ELECTRICAL CABLES SERVING SIGNS, AS CREATED BY INSTRUMENT RECORDED SEPTEMBER 12, 1985 AS DOCUMENT NO. 85186912 OVER THE FOLLOWING DESCRIBED REAL ESTATE:

THAT PART OF FRACTIONAL SOUTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE WEST LINE OF SAID SOUTHWEST 1/4 WITH THE CENTER LINE OF IRVING PARK ROAD, AS CONSTRUCTED, SAID POINT BEING 907.88 FEET NORTH OF THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 230.00 FEET; THENCE SOUTH 71 DEGREES 34 MINUTES 16 SECONDS EAST, A DISTANCE OF 249.873 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 163.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 10.23 FEET TO THE INTERSECTION WITH THE SOUTHERLY LINE OF IRVING PARK ROAD, AS DEDICATED PER DOCUMENT NO. 11203459; THENCE EASTERLY ALONG SAID SOUTHERLY LINE, BEING ALONG AN ARC OF A CIRCLE, BEING CONVEX TO THE SOUTH, HAVING A RADIUS OF 2198.79 FEET, THE CHORD THEREOF HAVING A BEARING OF SOUTH 78 DEGREES 15 MINUTES 58 SECONDS EAST, A CHORD AND ARC DISTANCE OF 33.41 FEET TO A POINT OF TANGENCY; THENCE CONTINUING SOUTH 78 DEGREES 42 MINUTES 05 SECONDS EAST ALONG THE SOUTHERLY LINE OF IRVING PARK ROAD, A DISTANCE OF 266.59 FEET TO A POINT ON THE MOST EASTERLY LINE OF DESCRIBED IN DOCUMENT NO. 21030230; THENCE SOUTH 11 DEGREES 17 MINUTES 55 SECONDS WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 10.00 FEET; THENCE NORTH 78 DEGREES 42 MINUTES 05 SECONDS WEST AND PARALLEL WITH SAID SOUTHERLY LINE OF IRVING PARK ROAD, A DISTANCE OF 266.59 FEET TO A POINT OF CURVATURE; THENCE WESTERLY ALONG AN ARC OF A CIRCLE, BEING CONVEX TO THE SOUTH, HAVING A RADIUS OF 2208.79 FEET, THE CHORD THEREOF HAVING A BEARING OF NORTH 78 DEGREES 17 MINUTES 38 SECONDS WEST, A CHORD AND ARC DISTANCE OF 31.41 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

P.I.N. 07-30-301-023-0000

COMMONLY KNOWN AS: 7310 BARRINGTON ROAD, HANOVER PARK, ILLINOIS 60133

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EXHIBIT B

FURTHER PROVISIONS FOR ASSIGNMENT AND ASSUMPTION

SECTION 1. Representations and Warranties.

- (1) The Assignor hereby represents and warrants to the Assignee and Lender that:
- (a) the Assignor has not heretofore assigned or otherwise transferred to any person or entity any of its rights or interest in or to the loan under the Individual Note;
 - (b) the Assignor has full power and authority and has taken all necessary action to execute deliver and perform its obligations under this Agreement and this Agreement has been duly executed and delivered by the Assignor, and (assuming due execution and delivery by the other parties) constitutes the legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (whether considered at law or in equity).;
 - (c) the Assignor has delivered to the Assignee on the date hereof a copies of the Individual Note which is the sole document related to the loan thereunder; and
 - (d) that as of the date hereof, there exists no defaults or Events of Defaults under the Individual Note.
- (2) Assignee and Assignor hereby represent and warrant to Lender that:
- (a) the Individual Note remains in full force and effect and Assignee is liable for all amounts due under the Individual Note; and
 - (b) The execution, delivery and performance by Assignee of this Agreement, Individual Note and the other documents contemplated hereby, and the consummation of the transactions contemplated hereby and thereby have been duly and validly authorized by the Assignee. This Agreement, the Loan Documents and the other documents contemplated hereby have been duly executed and delivered by the Assignee, where applicable, and (assuming due execution and delivery by the other parties) constitute the legal, valid and binding obligations of Assignee, enforceable against Assignee in accordance with the terms hereof and thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium or similar laws affecting creditors' rights generally and by general principles of equity (whether considered at law or in equity).

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SECTION 2. Indemnification; Estoppel and Release.

(a) The Assignee and Assignor hereby agree to defend and indemnify the Lender, and to hold the Lender harmless from and against any and all losses, liabilities, claims, suits, demands, damages, costs and/or expenses whatsoever, including, without limitation, attorneys' fees and expenses, which may arise in connection with this Agreement.

(b) Assignee and Assignor each represents and warrants that Lender has duly performed or otherwise met all its duties and obligations under the Individual Note or otherwise owed to Assignee and Assignor, and that there are no claims, causes of action, suits, debts, liens, obligations, liabilities, demands, losses, defenses, offsets, costs or expenses (including attorneys' fees) of any kind, character or nature whatsoever, vested or contingent, at law, in equity or otherwise (collectively, "Claims"), which Assignee and Assignor, or any of them have or claim to have against Lender, arising out of or connected with any act or omission of Lender existing or occurring on or prior to the date of this Agreement, including without limitation, any claims, liabilities or undischarged obligations of Lender with respect to the indebtedness evidenced by the Individual Note. Assignee and Assignor release, waive and forever discharge and relieve Lender and all its parents, subsidiaries and affiliates and the officers, directors, agents, attorneys and employees of each (hereinafter "Releasees") from any and all Claims, which Assignee and Assignor, or any of them, ever had, now has, or which may result from the past or present state of things, against or related to Releasees or any of them. Assignee and Assignor agree to assume the risk of releasing any and all unknown, unanticipated or misunderstood claims hereby.

SECTION 3. Independent Examination. At the time of this Agreement and as of the date hereof, the Assignee hereby acknowledges and agrees that:

(a) the Assignee has had the opportunity to review and inspect the Individual Note and to ask any questions and to obtain any information available to the Assignor relating to the Individual Note which may be disclosed by the Assignor to the Assignee under applicable law, rule or regulation;

(b) the Assignee has had the opportunity to make its own independent investigation and appraise all of the facts and circumstances relevant to determine whether to accept the assignment of the Individual Note and the financial and operating prospects of the collateral encumbered in connection with the Individual Note; and

(c) the Assignee expressly agrees that, except as set forth in Section 1 above, it is not relying on any oral or written representation or warranty, express or implied, relating to the collateral encumbered by the Individual Note and the terms and conditions of the Individual Note

SECTION 4. Further Assurances.

The Assignor agrees that it will, at the expense of the Assignee, execute and deliver to the Assignee and/or Lender as required and at any time or from time to time, any and all further agreements, documents and instruments, and take any and all further actions which may be required under applicable law or which the Assignee or Lender may from time to time reasonably request, in order to effectuate the assignment, assumption and transactions contemplated by this Agreement and each of the other documents executed contemporaneously herewith for purposes of Assignee assuming the Individual Note. The Assignee hereby irrevocably authorizes the Lender at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto without the signature of the Assignee to cover any collateral securing the loan under the

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Individual Note. In addition, the Assignee shall make appropriate entries on its books and records disclosing the Lender's security interests in any such collateral.

**COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____**

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