

# UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN  
TO:

Christyl Marsh, Esq.  
Cohen, Salk & Huvard, P.C.  
630 Dundee Road, Suite 120  
Northbrook, Illinois 60062



Doc#: 1219450013 Fee: \$56.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 07/12/2012 11:28 AM Pg: 1 of 10

*This space reserved for Recorder's use only*

## MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 1st day of May, 2012, by and among MICHAEL P. GOLDEN (the "Borrower"), AT WORLD PROPERTIES, LLC, an Illinois limited liability company (the "Guarantor"), KELLY GOLDEN ("Kelly") (Borrower, Guarantor and Kelly are hereinafter collectively referred to as the "Obligors") and NORTH SHORE COMMUNITY BANK & TRUST COMPANY, its successors and assigns (the "Lender").

### RECITALS:

A. Lender has heretofore made a loan (as modified, restated or replaced from time to time, the "Loan") to Borrower in the principal amount of One Million and 00/100 Dollars (\$1,000,000.00) as evidenced by a Promissory Note dated January 28, 2011, in the principal amount of the Loan made payable by Borrower to the order of Lender (as modified, restated or replaced from time to time, the "Note"). All defined terms used herein and not otherwise defined shall have the meanings ascribed to such terms as set forth in the Note.

B. The Note is secured by, among other things, (i) that certain Junior Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of January 28, 2011, made by Borrower and Kelly in favor of Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on February 18, 2011, as Document No. 1104911072 (the "Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on **Exhibit A** hereto (the "Property"); and (ii) certain other loan documents (the Note, the Mortgage and the other documents evidencing, securing and guarantying the Loan, in their original form and as amended from time to time, are sometimes collectively referred to herein as the "Loan Documents").

C. The Loan is further secured by a Guaranty of Payment dated as of January 28, 2011, from Guarantor to Lender (the "Guaranty").

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D. The Loan was previously modified pursuant to that certain Change in Terms Agreement dated as of February 1, 2012, made by Borrower in favor of Lender, whereby the Maturity Date of the Loan was extended from February 1, 2012 to May 1, 2012.

E. Borrower desires to amend the Loan Documents in order to extend the Maturity Date of the Note from May 1, 2012 to May 1, 2013, and to make such other changes set forth 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) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Maturity Date.** The Maturity Date of the Note is hereby extended to May 1, 2013. Accordingly, any references in the Note, the Mortgage and any other Loan Document to the Maturity Date are amended to be "May 1, 2013".

2. **Interest Rate.** The second sentence of Recitals Paragraph A of the Mortgage is hereby amended and restated in its entirety read as follows: "The Loan shall be evidenced by a certain Promissory Note dated as of January 28, 2011 (as amended, modified, restated or replaced from time to time, "Note") made by Borrower payable to Mortgagee in the principal amount of the Loan, with interest at an annual rate equal to one percent (1.0%) plus the Prime Rate (as such term is defined in the Note), and due on May 1, 2013 ("Maturity Date"), except as may be accelerated pursuant to the terms hereof or of the Note or any other Loan Document (as defined in the Note, the terms of which are incorporated herein by reference)."

3. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Note, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor, Kelly or any other party whose financial statement has been delivered

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to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Guarantor is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Guarantor. This Agreement has been duly executed and delivered on behalf of Guarantor.

4. **Reaffirmation of Guaranty.** The Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder.

Without limiting the generality of the foregoing paragraph, the Guarantor hereby further represents and warrants to the Lender with the intent that the Lender rely thereon, as follows with regard to his respective Guaranty, as hereby modified: (a) the Guaranty is in full force and effect and is binding and enforceable against the Guarantor in accordance with its terms; (b) the Guarantor irrevocably consents and agrees to the Borrower's and Kelly's execution and delivery of this Modification Agreement; (c) the liability of the Guarantor to the Lender under the Guaranty shall in no way be affected, modified, altered, or discharged in any fashion by the Borrower's or Kelly's execution, delivery or performance of this Modification Agreement; (d) the Guarantor hereby restates and reaffirms to Lender all terms and provisions of the Guaranty as set forth in full herein; and (e) the Guarantor does not possess any claims, defenses, offsets, or counterclaims against the enforcement of the Guaranty as of the date hereof, and any and all such claims, defenses, offsets and counterclaims, whether known or unknown, are forever waived and released, and the Guarantor is unconditionally liable under the Guaranty, for the payment and performance of all present and future indebtedness and all other obligations described therein.

5. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay to Lender all out-of-pocket 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.

6. **Additional Requirements.** The obligations of Lender to enter into this Agreement and extend the Maturity Date shall be subject to Borrower having delivered, or having caused to be delivered, to Lender, or the occurrence of the following items and conditions, all of which shall be in form and substance acceptable to Lender:

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- (a) This Agreement, executed by Borrower, Guarantor and Kelly, which shall be recorded with the Recorder of Deeds of Cook County, Illinois with respect to the Illinois Property;
- (b) A certificate of good standing with respect to Guarantor, issued by the Illinois Secretary of State;
- (c) Resolutions of the members of Guarantor with respect to the transactions contemplated hereby; and
- (d) Such other documents as Lender may reasonably require.

7. **Release of Claims.** Obligors hereby fully and forever remise, release and discharge the Lender from any and all claims, demands, agreements, contracts, covenants, actions, suits, causes of action, obligations, controversies, debts, costs, expenses, accounts, damages, judgments, losses and liabilities of whatever kind or nature in law, equity or otherwise, whether known or unknown, existing as of the date hereof or arising at any time in the future, which the Obligors had, may have had, now has, or can, shall or may have, for or by any reason of any and all matters, causes or things whatsoever from the beginning of time to and including the day the Note is repaid in full.

8. **Covenant Not to Sue.** Obligors covenant that they will never institute any suit or action at law or equity against the Lender, nor institute, prosecute or in any way aid in the institution or prosecution of any claim, demand, action, or cause of action for damages, costs, loss of services, expenses, or compensation for or on account of any damage, loss or injury either to person or property, or both, whether developed or undeveloped, resulting or to result, known or unknown, past, present, or future which are, were, might, or could have been asserted against the Lender in connection with any of the claims released pursuant to Section 7 above.

9. **Bankruptcy Provisions.** Obligors hereby acknowledge and agree that, if a petition under any section, chapter or provision of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as amended (the "**Bankruptcy Code**") or similar law or statute is filed by or against any Obligor, (i) they shall not contest, and they shall consent to, the relief requested in any motion or application of Lender made in any court of competent jurisdiction seeking sale pursuant to 11 U.S.C. § 363, or a modification or termination of any automatic stay or other injunction against the Lender resulting from such filing, and (ii) they shall execute any order or other document necessary to effectuate such modification or termination. If at any time any Obligor seeks relief under the Bankruptcy Code, including, without limitation, the filing of a petition under Chapter 7 or 11 thereof, such Obligor shall be deemed to have taken such action in bad faith. Furthermore, if such action is taken against any Obligor by a third party, Obligors shall take all action necessary to have (A) the petition filed by such third party dismissed, including consenting to the immediate dismissal thereof, and (B) any additional relief requested by such third party denied, unless instructed in writing to the contrary by Lender. Lender is specifically relying upon the representations, warranties, covenants and agreements contained in this Agreement and such representations, warranties, covenants and agreements constitute a material inducement to accept the terms and conditions set forth in this Agreement and, but for the receipt of the benefit of such representations, warranties, covenants and agreements, the Lender would not have agreed to such terms and conditions.

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10. **Waiver of Defenses.** As of the date of this Agreement, Obligors acknowledge that they have no defense, offset, or counterclaim to any of Obligors obligations under the Loan Documents. Obligors hereby irrevocably waive and release any and all claims, actions, causes of action, suits and defenses which such party might hereafter have against Lender for or by reason of any matter, cause, or thing whatsoever which relates to the Loan, this Agreement, or any discussion between the Borrower, each Guarantor and the Lender.

11. **No Course of Dealing.** Obligors acknowledge and agree that this Agreement is limited to the terms outlined herein, and shall not be construed as an amendment of any other terms or provisions of the Loan Documents. This Agreement shall not establish a course of dealing or be construed as evidence of any willingness on the Lender's part to grant other or future amendments, should any be requested.

12. **No Joint Venture.** Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower, Guarantor or Kelly nor shall privity of contract be presumed to have been established with any third party.

13. **Binding Agreement.** This Agreement shall not be construed more strictly against Lender than against Borrower, Guarantor or Kelly merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor, Kelly and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor, Kelly 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 in 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.

14. **Entire Agreement.** Borrower, Guarantor, Kelly and Lender each acknowledge 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 integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor, Kelly 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.

15. **Construction of Agreement.** Any references to the "Note" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note and the other Loan Documents, as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular. The Borrower, Guarantor, Kelly and their respective legal counsel have participated in the drafting of this Agreement, and

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accordingly, the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Agreement.

16. **Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

17. **Amendments, Changes and Modifications.** This Agreement may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

18. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

19. **Time of the Essence.** Time is of the essence of each of the Obligor's obligations under this Agreement.

20. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

21. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws, and not the laws of conflicts, of the State of Illinois.

22. **Venue.** TO INDUCE LENDER TO ACCEPT THIS AGREEMENT, OBLIGORS IRREVOCABLY AGREE THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER, OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS AGREEMENT SHALL BE LITIGATED IN COURTS WITHIN COOK COUNTY, STATE OF ILLINOIS AND EACH OF THEM HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID COUNTY AND STATE. OBLIGORS EACH HEREBY WAIVE ANY RIGHT THEY MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT OR HIM OR ANY OF THEM BY LENDER IN ACCORDANCE WITH THIS PARAGRAPH OR UNDER THE NOTE AND/OR ANY OTHER LOAN DOCUMENT.


23. **Waiver of Jury Trial.** OBLIGORS IRREVOCABLY WAIVE, TO THE EXTENT APPLICABLE, ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY AMENDMENT, INSTRUMENT, DOCUMENT, OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR WITH THE NOTE OR OTHER LOAN DOCUMENTS, AND/OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR ANY INSTRUMENT, DOCUMENT, OR AGREEMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY, TO THE EXTENT SUCH MATTER IS TRIED AT ALL.

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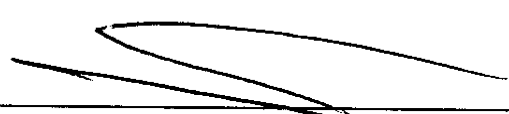
IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

**LENDER:**

**NORTH SHORE COMMUNITY  
BANK & TRUST COMPANY**

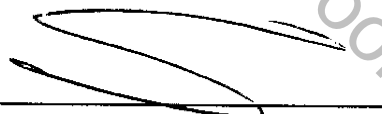
By:   
Name: Aron Weel  
Title: VP

**BORROWER:**

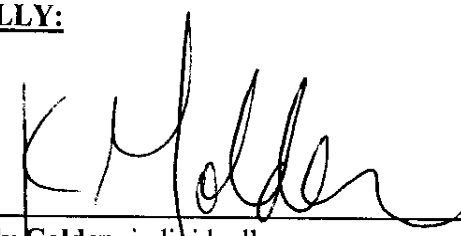
  
Michael P. Golden, individually

**GUARANTOR:**

**AT WORLD PROPERTIES, LLC,**  
an Illinois limited liability company

By:   
Michael P. Golden, Manager

**KELLY:**

  
Kelly Golden, individually

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Alan Weel, SVP of **NORTH SHORE COMMUNITY BANK & TRUST COMPANY**, 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 for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21<sup>st</sup> day of June, 2012.

Angela Olah  
Notary Public

My Commission Expires: 3/11/14



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Michael Golden, personally known to me as the Manager of **AT WORLD PROPERTIES, LLC**, an Illinois limited liability company and 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, sealed and delivered the said instrument as such Manager of said limited liability company, pursuant to authority, given by the members of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21 day of June, 2012.

Kinga Miceusz  
Notary Public

My Commission Expires: 4/18/2013





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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **MICHAEL P. GOLDEN** personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 21 day of June, 2012.

*Kinga Miceusz*  
Notary Public

My Commission Expires: 4/18/2013



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **KELLY GOLDEN** personally appeared before me this day and subscribed her name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 21 day of June, 2012.

*Kinga Miceusz*  
Notary Public

My Commission Expires: 4/18/2013



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## EXHIBIT A

### THE PROPERTY

THE EAST 94 FEET OF THE WEST 100 FEET OF THE EAST 125 FEET OF LOT 12 IN BLOCK 1 IN NELSON'S SUBDIVISION OF LOT 61 AND PART OF LOT 60 IN THE COUNTY CLERK'S DIVISION OF THE SOUTH EAST 1/4 OF SECTION 17, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 05-17-410-039-0000

Address: 675 Pine Street, Winnetka, Illinois