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Doc#: 1224345039 Fee: \$76.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/30/2012 10:01 AM Pg: 1 of 6

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(Space Above This Line for Use by Recorder of Deeds)

MORTGAGE LOAN MODIFICATION AND ASSUMPTION AGREEMENT

THIS MORTGAGE LOAN MODIFICATION AND ASSUMPTION AGREEMENT (the "Agreement" or "Modification Agreement") is made and entered into effective as of the 13th day of July, 2012, by and between **ELCO, L.L.C.**, an Illinois Limited Liability Company ("**Original Borrower**"), **GORDON A. LEFFLER**, personally ("**Gordon**"), **GORDON'S TIRE COMPANY (d/b/a Suburban Tire Auto Care Centers)**, an Illinois Corporation ("**Gordon's Tire**") (Gordon and Gordon's Tire sometimes being collectively or alternatively referred to herein as "**Guarantor**"), **WEST SUBURBAN BANK**, an Illinois Banking Corporation ("**Lender**"), and **6631 OGDEN, LLC**, an Illinois Limited Liability Company ("**New Borrower**").

RECITALS:

A. Original Borrower, **ELCO, L.L.C.**, has previously executed and delivered to Lender a certain Fixed Rate Mortgage Note dated on or about April 25, 2012 (the "**Note**") evidencing a certain commercial real estate loan in the original principal sum of **SEVEN HUNDRED SIXTY FIVE THOUSAND AND NO/100 (\$765,000.00) DOLLARS** (the "**Loan**").

B. Such Note and Loan are secured by various "**Loan Documents**" including, but not limited to:

(i) a certain Fixed Rate Mortgage, Security Agreement and Financing Statement executed and given by Original Borrower and recorded in Cook County, Illinois on May 1, 2012 as **Document No. 1212212011** (the "**Mortgage**") and an accompanying Fixed Rate Assignment of Rents recorded as **Document No. 1212212012** (the "**Assignment of Rents**") with respect to certain commercial real estate commonly known as **6631 West Ogden Avenue, Berwyn, Cook County, Illinois**, and legally described on **Exhibit "A"** attached hereto and made a part hereof (the "**Premises**" or "**Mortgaged Premises**"); and

.....
This Instrument Prepared By:
f. Steven Butkus, Esq.
GUERARD, KALINA & BUTKUS
310 S. County Farm Road, Suite H
Wheaton, IL 60187

P.I.N(S): *SEE EXHIBIT "A" ATTACHED
HERETO

Common Address:
6631 West Ogden Avenue
Berwyn (Cook County), Illinois

After Recording Return To:
WEST SUBURBAN BANK
Attn: Mr. David B. Lahl, Vice President
3000 East Main Street
St. Charles, IL 60174

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- (ii) the joint and several Commercial Guaranty(s) ("**Guaranty[s]**") of **Guarantor(s), Gordon A. Leffler**, personally, and by **Gordon's Tire Company**; and
- (iii) a Business Loan Agreement (the "**Loan Agreement**"); and
- (iv) various other related Loan Documents or Related Documents.

C. Original Borrower, Guarantor and New Borrower are affiliated with one another and have common underlying ownership.

D. Original Borrower, as well as Guarantor and New Borrower, believe it is in their best interests to effectuate a change in the form of ownership of the Mortgaged Premises to a single purpose limited liability company and cease further use of the Original Borrower as the title holder and accordingly, they have previously arranged to transfer title to the Mortgaged Premises to such New Borrower by a certain Deed (Doc. No. _____) and relative thereto, each of them request Lender's consent to such transfer of title from Original Borrower to such New Borrower.

E. Lender is willing to so consent to the transfer of title to the New Borrower (based upon New Borrower's assumption of all liabilities and indebtedness of the Note, Mortgage, Assignment of Rents, Loan Agreement and other Loan Documents as a continuing joint and several Borrower and obligor with Original Borrower and Guarantor and also modify and extend the Note and Loan and payment terms subject to and upon the terms, conditions and requirements set forth herein.

NOW, THEREFORE, for good and valuable consideration, the mutual sufficiency and receipt of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Incorporation of Recitals.** The foregoing Recitals are true and correct in substance and in fact and are hereby incorporated herein by reference as if the same were fully set forth herein.
2. **Lender's Consent to Transfer of Title from Original Borrower to New Borrower/Assumption of Liabilities by New Borrower.** Lender hereby consents to the conveyance and transfer of fee title to the Mortgaged Premises from the aforementioned Original Borrower to New Borrower, **6631 OGDEN, LLC, SUBJECT TO**, the continuing indebtedness, liens and security interests of Lender as evidenced by and provided in the Note, Mortgage, Assignment of Rents, Guaranty, Loan Agreement and each and every other Loan Document. Such consent is "one (1) time only" only and applies solely to the above-referenced transaction. All "due-on-sale" clauses and prohibitions or restrictions against transfer set forth in the Mortgage and other Loan Documents otherwise continue to be in full force and effect and are hereby reaffirmed.

Further, New Borrower, **6631 OGDEN, LLC**, does hereby assume, as a joint and several Note and Loan obligor with the aforementioned Original Borrower, as well as any Guarantors, liability for all Note and Loan indebtedness, obligations, covenants and liabilities as if such New Borrower were an original party to such Note, Mortgage, Assignment of Rents, Loan Agreement and other Loan Documents.

Such permitted one (1) time transfer of title and Loan assumption, however, is **WITHOUT RELEASE** of the continuing unconditional joint and several liability and obligations of the Original Borrower as well as any other Guarantor or obligor with respect to such Note, Loan and Loan Documents, as modified, extended and/or renewed and their respective Guarantys.

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3. **Waivers/Reaffirmation.** New Borrower and Original Borrower, as well as any Guarantor(s) and other Loan obligor, as an express inducement to Lender to enter into this Modification Agreement, waive any and all errors, imperfections, set offs and defenses that in any manner may exist as of this date with respect to the aforementioned Loan, the obligation to repay such Loan, and any of the collateral for the Loan including such Mortgage. New Borrower and such Original Borrower and any Guarantor(s) or obligor, each hereby affirm and reaffirm the terms, conditions and provisions of the Note, Mortgage, Assignment of Rents, Loan Agreement and the Guaranty, and each and every other Loan Document(s) to which any of them is/are a party, and New Borrower and such Original Borrower and any Guarantor or obligor, hereby covenant and agree to hereafter execute such instruments and take such actions as may from time to time be required by Lender to further evidence, effectuate or perfect the intents and purposes hereof and/or any security interests of Lender with respect to any of the collateral for the Loan. All Guaranty(s) of the Note and Loan, including the aforementioned Guaranty of Guarantors, **Gordon A. Leffler**, personally, and **Gordon's Tire Company**, and each of them, continue to be in full force and effect, jointly and severally.
4. **Authority, Etc.** New Borrower and Original Borrower, as well as any Guarantor and other Loan obligor, hereby warrant and represent that each has full power and authority to execute, enter into, abide by, and perform the terms, provisions, conditions and undertakings set forth in this Modification Agreement (and the Note, Mortgage, Assignment of Rents, Loan Agreement and all other Loan Documents modified hereby) and that all requisite resolutions or authorizations for their respective execution and delivery of this Modification Agreement to Lender and performance thereof have been duly adopted or given. Neither New Borrower nor such Original Borrower nor any Guarantor or other Loan obligor is under or subject to any restriction which would limit or restrict its, his or her respective execution, delivery and performance of this Modification Agreement.
5. **Loan Assumption Conditions.** All parties hereby further acknowledge, confirm and agree that Lender's aforementioned consent to transfer and conveyance of fee title from Original Borrower to New Borrower is also subject to satisfaction of the following conditions:
- (i) **New Borrower's Organizational Documents.** Lender shall be furnished with certified copies of New Borrower's **6631 OGDEN, LLC's** Articles of Organization, Operating Agreement and a current Certificate of Good Standing, as well as an LLC consent or authorization to have so acquired title to the Mortgaged Premises and to assume such Note and Loan obligations.
 - (ii) **Conveyance Document.** Lender shall also have been furnished with a copy of the recorded Deed or other instrument of conveyance that effectuates the transfer of title from Original Borrower to New Borrower.
 - (iii) **Title Insurance Endorsement.** If Lender should ever request, the parties agree to furnish Lender a reasonable form of endorsement to Lender's Title Insurance Policy covering the transfer of title from Original Borrower to New Borrower, in form and substance reasonably satisfactory to Lender.
 - (iv) **Loan Expenses.** New Borrower and Original Borrower, as well as any Guarantor, jointly and severally, covenant and promise to pay and/or reimburse Lender for all title insurance premiums, recording fees and Lender's reasonable attorney's fees incurred in connection with this Modification Agreement and the transaction(s) contemplated hereby.

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(v) **Future Cooperation.** All other parties agree to hereafter execute such additional reasonable instruments and take such additional reasonable actions as may from time to time be requested by Lender to further evidence, effectuate and carry out the intents and purposes of this Agreement.

6. **Miscellaneous.** All parties acknowledge, confirm and agree that this instrument is a "Loan Document." Each party acknowledges, confirms and agrees that it has full power and authority to enter into this Agreement and perform each and every obligation and condition hereof. Except to the extent expressly set forth herein, the terms, conditions and provisions of the Note, Mortgage, Assignment of Rents, Loan Agreement, any Guarantys and all other Loan Documents (as the same may have been previously modified, extended or renewed) remain unaltered and intact and are hereby affirmed and reaffirmed. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns. This Agreement may be executed and notarized in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed a single instrument.

IN WITNESS WHEREOF, the parties have executed this Modification Agreement as of the date first written above.

NEW BORROWER:

6631 OGDEN, LLC, an Illinois Limited Liability Company

By: [Signature]
Its: PRESIDENT

LENDER:

WEST SUBURBAN BANK, an Illinois Banking Corporation

By: [Signature]
Its: VIC PRESIDENT

ORIGINAL BORROWER:

ELCO, L.L.C., an Illinois Limited Liability Company

By: [Signature]
Its: PRESIDENT

GUARANTOR(S):

GORDON A. LEFFLEZ, personally

GORDON'S TIRE COMPANY (d/b/a Suburban Tire Auto Care Centers), an Illinois Corporation

By: [Signature]
Its: PRESIDENT

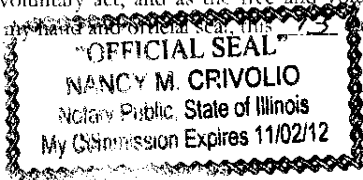
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STATE OF ILLINOIS)
)
COUNTY OF Kane) SS.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that GORDON LEFFLER, personally known to me to be PRESIDENT of 6631 OGDEN, LLC, an Illinois Limited Liability Company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as said HE GORDON appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth. **GIVEN** under my hand and official seal, this 13 day of JULY, 2012.

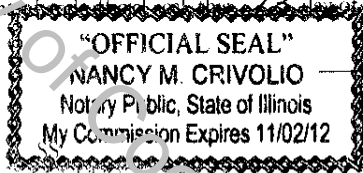
STATE OF ILLINOIS)
)
COUNTY OF Kane)



Nancy M Crivolio
Notary Public

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that GORDON LEFFLER, personally known to me to be PRESIDENT of ELCO, L.L.C., an Illinois Limited Liability Company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as said _____ appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth. **GIVEN** under my hand and official seal, this 13 day of JULY, 2012.

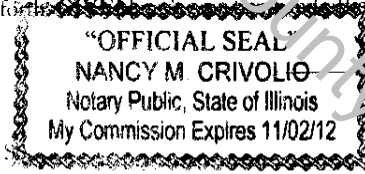
STATE OF ILLINOIS)
)
COUNTY OF Kane)



Nancy M Crivolio
Notary Public

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that GORDON A. LEFFLER, 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 free and voluntary act for the uses and purposes therein set forth. **GIVEN** under my hand and official seal, this 13 day of JULY, 2012.

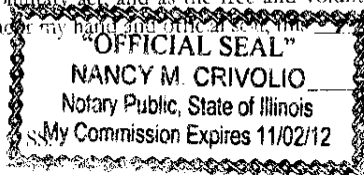
STATE OF ILLINOIS)
)
COUNTY OF Kane)



Nancy M Crivolio
Notary Public

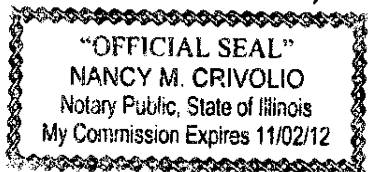
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that GORDON LEFFLER, personally known to me to be PRESIDENT of GORDON'S TIRE COMPANY, an Illinois Corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument as said _____ appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth. **GIVEN** under my hand and official seal, this 13 day of JULY, 2012.

STATE OF ILLINOIS)
)
COUNTY OF Kane)



Nancy M Crivolio
Notary Public

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that DAVID S. LAHL VICE PRESIDENT of WEST SUBURBAN BANK, an Illinois Banking Corporation, 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 as such _____ (he) she signed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth. **GIVEN** under my hand and official seal, this 13 day of JULY, 2012.



Nancy M Crivolio
Notary Public

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EXHIBIT "A"

LEGAL DESCRIPTION OF "MORTGAGED PREMISES"

LOTS 33, 34, 35, 36, 37 AND 38 IN BLOCK 7 IN BALDWIN'S SUBDIVISION OF BLOCKS 3, 14, 19, 30, 31 AND 33, AND PARTS OF CERTAIN STREETS IN LAVERGNE A SUBDIVISION IN SECTION 31, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N(S): 16-31-232-032-0000; 16-31-232-033-0000; 16-31-232-034-0000; 16-31-232-035-0000; AND
16-31-232-036-0000.

COMMONLY KNOWN AS:
6631 W. OGDEN AVENUE
BERWYN (COOK COUNTY), ILLINOIS