

UNOFFICIAL COPY

TCF NATIONAL BANK

**FIFTH AMENDMENT TO
COMMERCIAL MORTGAGE,
ASSIGNMENT OF RENTS, SECURITY
AGREEMENT AND FINANCING
STATEMENT AND LOAN
EXTENSION AGREEMENT**

This document prepared by and mail to:

Timothy S. Breen, Sr.

Ruff, Weidenaar & Reidy, Ltd.

222 N. LaSalle Street, Suite 700

Chicago, IL 60601



Doc#: 1230046118 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/26/2012 03:56 PM Pg: 1 of 7

This Box For Recorder's Use Only

This FIFTH AMENDMENT TO COMMERCIAL MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT AND LOAN EXTENSION AGREEMENT ("Agreement") is made as of July 10, 2012, by 2059 Pulaski, LLC, an Illinois limited liability company ("Borrower"), and Zafar Hussain ("Guarantor") to TCF National Bank, a national banking association, with an office located at 800 Burr Ridge Parkway, Burr Ridge, Illinois 60527 ("Mortgagee").

RECITALS

WHEREAS, Borrower is indebted to Mortgagee in the principal amount not to exceed \$686,000.00 (the "Loan") as evidenced by a promissory note dated June 26, 2002 as made by Borrower to Mortgagee and as modified from time to time (the "Note");

WHEREAS, the Loan as evidenced by the Note is further evidenced or secured in part by that certain Commercial Mortgage, Assignment of Rents, Security Agreement and Financing Statement dated June 26, 2002, executed and delivered by Borrower to Mortgagee and recorded with the Cook County Recorder of Deeds on July 1, 2002 as Document No. 0020726767, as amended by that certain Loan Assumption and Extension Agreement dated July 10, 2007 and recorded with the Cook County Recorder of Deeds on August 20, 2007 as Document No. 0723242088, First Amendment thereto dated January 31, 2008 and recorded with the Cook County Recorder of Deeds on February 13, 2008 as Document No. 0804433224, that certain Second Amendment thereto dated February 10, 2009 and recorded with the Cook County Recorder of Deeds on March 3, 2009 as Document No. 0906233054, that certain Third Amendment thereto dated April 28, 2011 and recorded with the Cook County Recorder of Deeds on May 31, 2011 as Document No. 1115146006 and that certain Fourth Amendment thereto dated as of September 10, 2011 (the "Mortgage"), relating to and encumbering the property legally described on Exhibit A attached hereto and made a part hereof (the "Premises"), which

UNOFFICIAL COPY

Mortgage and the Note together with all other documents or instruments evidencing or securing the loan indebtedness evidenced by the Note, as the same may be modified, are sometimes hereinafter collectively referred to as the "Loan Documents"; and

WHEREAS, Guarantor owns and controls Borrower and has unconditionally guaranteed the repayment of the Loan and the performance and observance of all the terms, covenants, and conditions of the Loan Documents pursuant to that certain Unlimited Continuing Guarantee dated June 26, 2002 executed and delivered by Guarantor to the Mortgagee as reaffirmed (the "Guaranty"); and

WHEREAS, Borrower desires to extend the maturity date of the Loan pursuant to the terms, covenants and conditions of this Agreement and the makers of each of the Revolving Note, Letter of Credit Note, Non-Revolving Note and MonAmi Note referenced in the Mortgage desire to extend the maturity date of the respective loans evidenced by said notes; and

WHEREAS, to induce the Bank to extend the maturity date of the Loan, Borrower and Guarantor have offered to enter into this agreement. The Bank has accepted such offer.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties hereto, Borrower and Guarantor hereby agree with the Bank as follows:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference as if fully set forth in this Paragraph 1 of the Agreement.

2. The Maturity Date of the Loan evidenced by the Note is extended to October 1, 2012. Any reference in the Note, Mortgage, or any other of the Loan Documents to the maturity date of the Loan evidenced by the Note or any of those loans evidenced by each of the Revolving Note, Letter of Credit Note, Non-Revolving Note and MonAmi Note referenced in the Mortgage shall mean October 1, 2012.

3. Guarantor hereby acknowledges and agrees that the Guaranty signed by him shall include, without limitation, an unconditional, irrevocable and absolute guaranty, as principal obligor and not as surety, of the full and prompt payment when due, whether by acceleration or otherwise, and at all times thereafter, of all obligations of Borrower under the Note as extended and modified herein and the full and prompt performance and observance of all of the warranties, covenants and agreements provided by each of the Loan Documents, as extended and modified herein, and all other documents (as such documents are or may be modified) evidencing or securing any indebtedness evidenced by said Note as extended and modified herein to be performed and observed by the parties who executed said documents. Guarantor reaffirms his obligations stated in the Guaranty, consents to the matters affected by this Agreement and agrees that his liabilities as guarantor shall not be diminished by this Agreement.

4. Each of Borrower and Guarantor acknowledges and agrees with the Bank that the Note as extended and modified herein is a valid obligation of Borrower and enforceable in

UNOFFICIAL COPY

accordance with the terms and provisions thereof; that the security interests granted under any of the Mortgage or other Loan Documents to secure the Loan evidenced by the Note as modified and extended herein and all such security interests heretofore extended by Borrower or others to the Bank to secure such Loan are valid and enforceable against the Borrower or others and enforceable liens and security interests against the collateral described therein. Each of Borrower and Guarantor hereby represents, covenants and warrants to the Bank that as of the date hereof, Borrower and Guarantor have no claims, counterclaims, defenses, or set-offs with respect to the Loan evidenced by the Note or any of the terms, covenants or conditions of the Note or the Loan Documents, as modified herein, any such claims, counterclaims, defenses, or set-offs being hereby fully waived.

Borrower, Guarantor and each of them, for themselves and their respective successors and assigns, forever release the Bank and its agents, attorneys, servants, employees, officers, successors and assigns (hereinafter collectively "Releasees"), from any and all claims, demands, actions or causes of action, of whatever kind or nature, in law or equity, from the beginning of the world to the date of these presents, including but not limited to, all matters and consequences arising out of the transactions evidenced by the Note, the Loan Documents, or this Agreement. It is further expressly understood and agreed that the Release contained in this Paragraph 4 is intended to cover, and does cover, not only all known losses or damages which Borrower or Guarantor claims or may claim to have sustained, but also includes any and all future losses or damages, not now known or anticipated, but which may later develop or be or become discovered, and including all effects and consequences thereof, and shall further include and cover any and all further or additional facts or circumstances whether known or unknown, now or in the future, to Borrower, Guarantor or to Releasees or to their respective personal representatives, successors or assigns.

5. As a condition precedent to the agreements contained herein, Borrower shall pay to the Bank all out-of-pocket costs and expenses incurred by the Bank in connection with this Agreement, including, without limitation, title charges, recording fees, and attorneys' fees and expenses.

6. In all respects, other than those expressly amended, modified, or supplemented hereby, Borrower and Guarantor do hereby ratify and confirm the provisions, terms and conditions of the Mortgage and Loan Documents as modified herein.

[SIGNATURE PAGE FOLLOWS]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Borrower has caused these presents to be signed the day and year above written.

BORROWER:

2059 Pulaski, LLC,
an Illinois limited liability company,

By: Zafar Hussain

Name: Zafar Hussain

Title: Managing Member

By: Elsy Lemma

Name: Elsy Lemma

Title: Managing Member

GUARANTOR:

Zafar Hussain

Name: Zafar Hussain

BANK:

TCF National Bank,
a national banking association,

By: William B. Weall

Name: WILLIAM B. WEALL

Title: _____

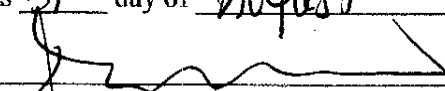
Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Zafar Hussain and Etsy Lemma, personally known to me to be the same persons whose names as Managing Members of 2059 Pulaski, LLC, an Illinois limited liability company, is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that they, being thereunto duly authorized, signed and delivered said instrument as their own free and voluntary acts and as the free and voluntary act of said 2059 Pulaski, LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 31st day of August, 2012.



Notary Public

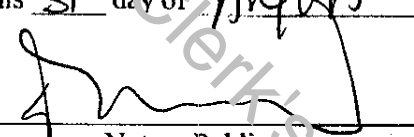
My Commission Expires: 8/26/12

STATE OF ILLINOIS)
) SS
COUNTY OF _____)



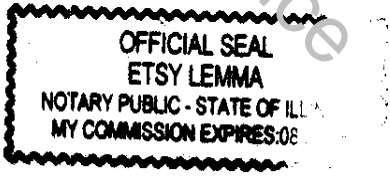
I, the undersigned, a Notary Public in and for said county, in the State aforesaid, do hereby certify that Zafar Hussain, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he signed and 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 31st day of August, 2012.



Notary Public

My Commission Expires: 8/26/12



UNOFFICIAL COPY

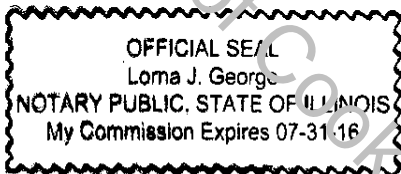
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY that WILLIAM B. WEALL, VICE PRESIDENT of TCF National Bank, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VICE PRESIDENT of TCF National Bank, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said TCF National Bank, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7TH day of SEPTEMBER, 2012.

Lorna J. George
Notary Public

My Commission Expires. _____



Property of COA County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

LOTS 13 TO 19 INCLUSIVE IN PRICE AND MOSS SUBDIVISION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 13-35-123-001-0000, 13-35-123-002-0000
13-35-123-003-0000, 13-35-123-004-0000
13-35-123-005-0000, 13-35-123-006-0000
13-35-123-007-0000

Address: 2053-2059 N. Pulaski Road, Chicago, IL 60639

Property of Cook County Clerk's Office