



Doc#: 1303854003 Fee: \$50.00
Karen A. Yarbrough RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/07/2013 08:53 AM Pg: 1 of 7

**FORBEARANCE
AND LOAN MODIFICATION
AGREEMENT**

PREPARED BY AND AFTER RECORDING MAIL TO:
RICHARD L. DINARDO
REPUBLIC BANK OF CHICAGO
2221 Camden Court
Oak Brook, IL 60523

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FORBEARANCE AND LOAN MODIFICATION AGREEMENT

This FORBEARANCE AND LOAN MODIFICATION AGREEMENT ("Agreement") is made as of November 1, 2012 (the "Effective Date") by and between Frank Urso Russo (hereinafter referred to as "Borrower"), and Republic Bank of Chicago, an Illinois banking corporation, with an office located at 2221 Camden Court, Oak Brook, IL 60523 (hereinafter referred to as "Bank").

RECITALS

1. Description of the Loan.

Borrower is indebted to Bank in the outstanding principal balance as of November 1, 2012 in the amount of One Hundred Ninety Six Thousand Seven Hundred Ninety-Five and 57/100 Dollars (\$196,795.57) (the "Loan") plus accrued and unpaid interest thereon as of November 1, 2012 in the amount of Twenty-One and 87/100 Dollars (\$21.87) (the "Interest Amount"), with a per diem rate of Twenty-One and 87/100 Dollars (\$21.87) for each and every day thereafter (the "Per Diem Rate") as evidenced by that certain Promissory Note dated March 7, 2008 in the principal amount of One Hundred Ninety Six Thousand and 00/100 Dollars (\$196,000.00), as modified by that certain Modification and Extension Agreement dated March 27, 2009 and recorded with the Cook County Recorder of Deeds on April 15, 2009 as Document No. 0910508271, by that certain Modification and Extension Agreement dated May 21, 2009 and recorded with the Cook County Recorder of Deeds on June 23, 2009 as Document No. 0917408021, by that certain Modification and Extension Agreement dated June 25, 2010 and recorded with the Cook County Recorder of Deeds on July 19, 2010 as Document No. 1020008024, and by that certain Forbearance and Loan Modification Agreement dated May 1, 2011 and recorded with the Cook County Recorder of Deeds on June 22, 2011 as Document No. 1117346023 (the "First Forbearance Agreement") (collectively with the First Forbearance Agreement, the "Note"), executed and delivered by Borrower to Bank.

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2. Security for the Loan.

The Loan as evidenced by the Note is further evidenced or secured, in part, by that certain (i) Mortgage dated March 7, 2007, executed and delivered by Borrower to Bank and recorded with the Cook County Recorder of Deeds on April 18, 2007 as Document No. 0710810118 (the "**Mortgage**") and relating to and encumbering the property legally described on Exhibit A attached hereto and made a part hereof (the "**Premises**"); and (ii) Assignment of Rents dated March 7, 2007, executed and delivered by Borrowers to Bank and recorded with the Cook County Recorder of Deeds on April 18, 2007 as Document No. 0710810119 (the "**Assignment**"), which Mortgage and Assignment, together with all other documents or instruments evidencing or securing the Loan indebtedness evidenced by the Note, as modified, amended or renewed, are sometimes hereinafter collectively referred to as the "**Loan Documents**".

3. Default of the Loan. Borrower acknowledges and agrees that Borrower is in material default under the Loan in that Borrower failed to make all monthly payments of principal and interest when due as required under the Note (the "**Indebtedness**") in accordance with the terms of and as required by the Note and other Loan Documents, which failure constitutes a default under the Note and other Loan Documents.

4. Collateral Enforcement. Because Borrower has failed to repay the Loan as evidenced by the Note, Bank is legally entitled to enforce the terms of the Note against Borrower and to enforce said Loan Documents against the parties who have executed the same.

5. Borrower's Promises. To induce Bank to further forbear from enforcement of its collateral security and enforcement of the Note and Loan Documents and agree to further modify the Loan and extend the October 31, 2012 maturity date (the "**Maturity Date**") as set forth in the First Forbearance Agreement, Borrower has offered to pay to Bank (A) on the first day of each month during the "**Forbearance Period**" (as defined in section 9 below) a fixed principal and interest payment in the amount of Seven Hundred and 00/100 Dollars (\$700.00), with interest calculated at four percent (4.0%) per annum (the "**Revised Interest Rate**"); and (B) upon the execution and delivery of this Agreement, the sum of Two Hundred Fifty and 00/100 Dollars (\$250.00) as a "**Documentary Fee**". In reliance on said agreements of Borrower, Bank has agreed to further forbear from enforcement of its collateral security and enforcement of the Note and Loan Documents and to modify the Loan, upon the terms and conditions herein contained.

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, Borrowers hereby agree with Bank as follows:

6. Incorporation of Recitals. The Recitals contained in Paragraphs 1 through 5, inclusive, of this Agreement are true and correct and are herewith incorporated by reference, as if fully set forth herein.

7. Validity of Loan Documents. Borrower acknowledges and agrees with Bank that the Note is a valid obligation of Borrower and enforceable in accordance with the terms and

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provisions thereof; that the security interests granted under any of the Mortgage or other Loan Documents by Borrower or any other parties executing any of such Loan Documents and all such security interests heretofore extended by Borrower or any other parties to Bank to secure the Loan, as well as all security interests granted to Bank pursuant to this Agreement, are valid and enforceable against Borrower and such other parties, as the case may be, and enforceable liens and security interests against the collateral described therein.

8. Modification of Loan. Borrower and Bank hereby agree to modify the Loan to provide that:

- (a) The Maturity Date of the Note is hereby further extended for a period of fifteen (15) months commencing on the Effective Date through and including January 31, 2014 (the "**Extended Maturity Date**").
- (b) The Note is hereby further modified to provide that effective as of the Effective Date and continuing thereafter through and including the Extended Maturity Date, the monthly principal and interest payments due Bank under the Note shall be in the amount of Seven Hundred and 00/100 Dollars (\$700.00) (the "**Revised Monthly Payment Amount**"), with interest calculated at the Revised Interest Rate.
- (c) The Note is hereby further modified to provide that the entire outstanding principal balance of the Note, including all accrued interest thereon and all other sums due under the Note, if not sooner paid, shall be due and payable by Borrower to Bank on the Extended Maturity Date.
- (d) All rental income received by Borrower from the rental of the Premises shall be forwarded to and deposited into a lock box established and maintained at Bank, with such monies used to pay the Revised Monthly Payment Amount and the balance of any monies used, at Bank's sole discretion, to fund a "**Real Estate Tax Escrow**" and/or an "**Insurance Escrow**".
- (e) Upon Bank's request, Borrower shall deliver to Bank (i) copies of all new leases or modifications to existing leases for spaces within the Premises; and (ii) expenses reports or statements for Borrower and the Premises.

9. Forbearance. In reliance upon Borrower's promises, acknowledgments and agreements herein and so long as no default has occurred and is continuing under this Agreement or any additional default has occurred and is continuing under either the Note or Loan Documents, Bank agrees to further forbear enforcement of the Note or Loan Documents and of its collateral due to any breach which may have occurred prior to the date of this Agreement and the default in the repayment of the Loan evidenced by the Note from the Effective Date through and including the Extended Maturity Date (the "**Forbearance Period**"). This limited

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Forbearance shall be narrowly construed. Bank's forbearance from exercising any rights or remedies shall not be considered a waiver of the default in repayment of the Loan as evidenced by the Note or any other Defaults or a waiver of non-compliance for any other period or a waiver of any term or condition of any of the Loan Documents.

10. Enforcement of Collateral or Loan Documents upon the Occurrence of a Default. Upon the occurrence of a monetary default under this Agreement which remains uncured for thirty (30) days, any failure by Borrower to observe or perform any of the terms, covenants or conditions of this Agreement, or occurrence of any further default under either the Note or the Loan Documents, Bank shall be entitled and able to avail itself immediately of all legal and equitable remedies then available to Bank, including without limitation (i) the initiation and prosecution of foreclosure proceedings; (ii) the set off of any amounts of Borrower on deposit with Bank to the Loan; (iii) the filing and prosecution of such actions and proceedings as Bank may determine are required to collect the amounts due Bank under any or all of the Loan, the Note, or any of the Loan Documents; and/or (iv) foreclosure of the Mortgage, and other security interests described in the Loan Documents.

11. No Defenses Borrower hereby represents, covenants and warrants to Bank that Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or any of the terms, covenants or conditions of the Note or Loan Documents, as modified herein.

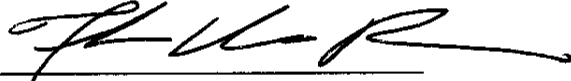
12. Entire Agreement as to Forbearance and Confirmation of Loan Documents. This Agreement constitutes the complete understanding among the parties on the issue of forbearance only, and supersedes any and all prior agreements, promises, representations, or inducements, no matter its or their form, concerning the subject matter of forbearance by Bank. No promises or agreements concerning or relating to forbearance by Bank made subsequent to the execution of this Agreement by these parties shall be binding unless reduced to writing and signed by an authorized representative of each of the parties hereto. This Agreement shall not be construed as a novation of either the Note or Loan Documents. In all respects, other than as expressly amended or supplemented hereby, Borrower does hereby ratify and confirm the provisions, terms and conditions of the Note and Loan Documents.

(Signature page follows)

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed the day and year above written.

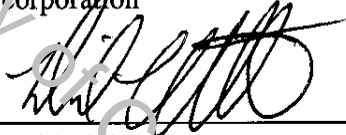
BORROWER:



Frank Urso Russo

BANK:

Republic Bank of Chicago, an Illinois
banking corporation



By: _____

Name: David Livingston

Title: Executive Vice President

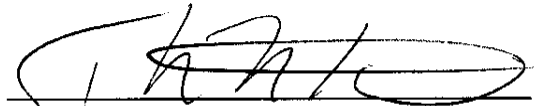
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STATE OF ILLINOIS)
) SS
COUNTY OF DuPage)

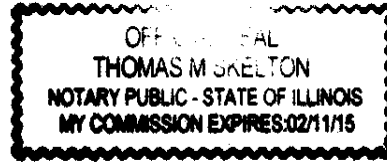
I, the undersigned, a Notary Public in and for said county, in the State aforesaid, do hereby certify that Frank Urso Russo, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he signed and 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 7th day of January, 2013.



Notary Public

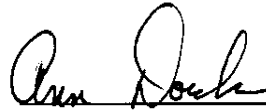
My Commission Expires: 2/11/15



STATE OF ILLINOIS)
) SS
COUNTY OF COOK)
~~DUPAGE~~

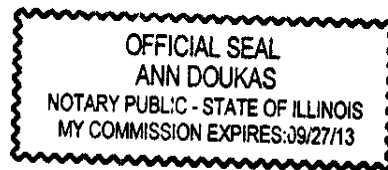
I, the undersigned, a Notary Public in and for said county, in the State aforesaid, DO HEREBY CERTIFY that David Livingston, Executive Vice President of Republic Bank of Chicago, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Executive Vice President of Republic Bank of Chicago, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Republic Bank of Chicago, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 17th day of January, 2013.



Notary Public

My Commission Expires: 9-27-13



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EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

Lot 1 in Vendley Construction Company's Resubdivision of Lots 1, 2, 3 and 4 in Block 5 also Lots 7, 8, 9 and 10 in Block 4 in Vendley and Company's Berkeley Gardens, being a subdivision of Lot 2 in subdivision of the Northeast ¼ lying North of the center line of St. Charles Road of Section 7, Township 39 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N.: 15-07-201-031-0000

Commonly known as: 1200 Howard Avenue, Berkeley, Illinois 60163

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