

UNOFFICIAL COPY

DL



Doc#: 1307734070 Fee: \$56.00
RHSP Fee: \$10.00 Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 03/18/2013 01:51 PM Pg: 1 of 10

FIRST MODIFICATION OF LOAN DOCUMENTS AND EXTENSION AGREEMENT

THIS FIRST MODIFICATION OF LOAN DOCUMENTS AND EXTENSION AGREEMENT (this "Agreement") is made as of the 25TH day of April, 2012, by and among **MIDWEST ELMWOOD DEVELOPMENT, LLC**, an Illinois limited liability company ("Borrower"), **THOMAS HATZ(S)**, an individual, **CHRISOULA KOZONIS**, an individual, and **DEMETRIOS KOZONIS**, an individual (each a "Guarantor" and collectively "Guarantors") and **FIRST BANK AND TRUST COMPANY OF ILLINOIS**, an Illinois state commercial bank, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to Borrower in the original principal amount of Eight Hundred and 00/100 Dollars (\$800,000.00) pursuant to the terms and conditions of a Loan Agreement dated as of April 25, 2011, between Borrower and Lender, (the "Loan Agreement", all terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement), and as evidenced by a Note dated April 25, 2011, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

This document prepared by :

Dennis R. Ainger
First Bank/Illinois
300 East Northwest Highway
Palatine, Illinois 60067

After recording return to:

Nicolette Sonntag, Esq.
Shefsky & Froelich Ltd.
111 East Wacker Drive, #2800
Chicago, Illinois 60601-3713

UNOFFICIAL COPY

B. The Loan is secured by a (i) Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated April 25, 2011, from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on May 10, 2011, as Document No. 1113026103 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto and commonly known as 1610 North Harlem Avenue, Chicago, Illinois ("Property"), (ii) that certain Hazardous Materials Indemnity Agreement dated April 25, 2011, from Borrower and Guarantors to Lender (the "Indemnity Agreement"); and (iii) certain other loan documents [the Note, the Mortgage, the Indemnity Agreement, the Guaranty (as hereinafter defined), 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, Performance, and Ownership Obligations, dated April 25, 2011, from Guarantors to Lender (the "Guaranty").

D. Borrower desires to amend the Loan Documents in order to extend the Maturity Date and other terms, as more particularly set forth herein.

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 Loan is extended to October 25, 2012. Any reference in the Note, the Loan Agreement or any other Loan Document to the Maturity Date shall mean October 25, 2012.

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

(a) The representations and warranties in the Loan Agreement, 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.

UNOFFICIAL COPY

(d) There has been no material adverse change in the financial condition of Borrower, Guarantors or any other party whose financial statement has been delivered 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, neither Borrower nor Guarantors have any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Borrower 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 Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

3. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender's Title Insurance Policy No. 1401 ST5113775 (the "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 its date of issuance and any other encumbrances expressly agreed to by Lender.

4. **Reaffirmation of Guaranty.** Each 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 each Guarantor in the Guaranty are, as of the date hereof, true and correct and each Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of each Guarantor, enforceable in accordance with its terms, and each Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

5. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay 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. **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 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 acknowledges and waives 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

UNOFFICIAL COPY

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) 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 or Guarantors nor shall privity of contract be presumed to have been established with any third party.

(d) 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 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.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage 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.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

7. **Customer Identification - USA Patriot Act Notice; OFAC and Bank Secrecy Act.** Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Lender to identify Borrower in accordance with the Act. In addition, Borrower shall (a) ensure that no person who owns a controlling

UNOFFICIAL COPY

interest in or otherwise controls Borrower or any subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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

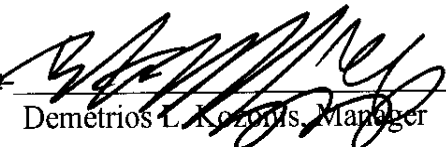
LENDER:

FIRST BANK AND TRUST COMPANY OF ILLINOIS, an Illinois state commercial bank

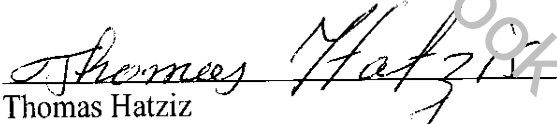
By: 
Alan Reasoner
President/CEO

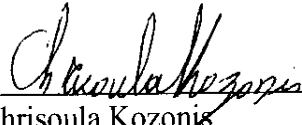
BORROWER:

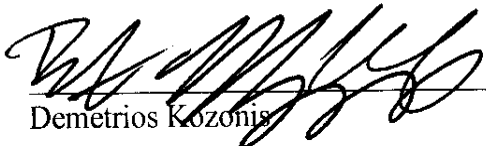
MIDWEST ELMWOOD DEVELOPMENT, LLC, an Illinois limited liability company

By: 
Demetrios L. Kozonis, Manager

GUARANTOR:


Thomas Hatziz


Chrisoula Kozonis


Demetrios Kozonis

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I James Lerch, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Alan Reasoner**, President/CEO of **First Bank and Trust Company of Illinois**, an Illinois state commercial bank, 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 2 day of ^{May}~~April~~, 2012.

James Lerch
Notary Public

My Commission Expires: 5-24-14



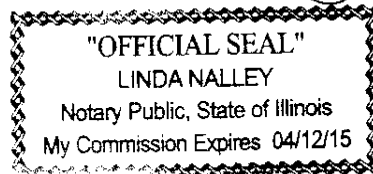
STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I Linda Nalley, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Demetrios L. Kozonis, Manager of **MIDWEST ELMWOOD DEVELOPMENT, LLC**, an Illinois limited liability 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 30 day of April, 2012.

Linda Nalley
Notary Public

My Commission Expires: 4-12-15



UNOFFICIAL COPY

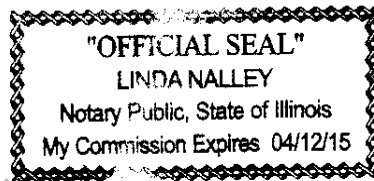
STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I Linda Nalley, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Thomas Hatziz**, 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 30 day of April, 2012.

Linda Nalley
Notary Public

My Commission Expires: 4-12-15



UNOFFICIAL COPY

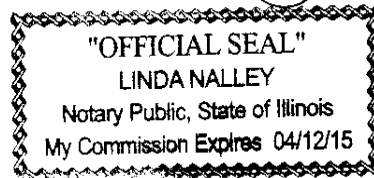
STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I Linda Nalley, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Chrisoula Kozonis**, 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 30 day of April, 2012.

Linda Nalley
Notary Public

My Commission Expires 4-12-15



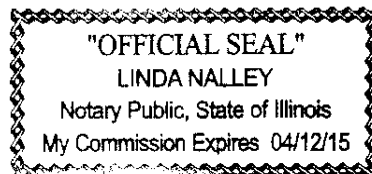
STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I Linda Nalley, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Demetrios Kozonis**, 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 30 day of April, 2012.

Linda Nalley
Notary Public

My Commission Expires: 4-12-15



UNOFFICIAL COPY

EXHIBIT A

THE PROPERTY

LOT 4 (EXCEPT THE EAST 10 FEET THEREOF) IN BLOCK 25 IN MILLS AND SONS GREEN FIELDS SUBDIVISION OF THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ AND THE SOUTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ AND OF THE SOUTH $\frac{1}{2}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ AND OF THE SOUTH $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER: 12-36-431-012-0000

PROPERTY ADDRESS: 1610 N. HARLEM AVENUE, ELMWOOD PARK, IL

Property of Cook County Clerk's Office