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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 07/02/2013 12:19 PM Pg: 1 of 17

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

MELTZER PURTILL & STELLE LLC
300 S. Wacker Drive, Suite 3500
Chicago, Illinois 60606
Attn: Lauren A. Bell

Permanent Real Estate Tax No.:
See Exhibit A-1 and A-2

Property Address:
See Exhibit A-1 and A-2

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FIRST MODIFICATION OF LOAN DOCUMENTS

THIS FIRST MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 22nd day of May, 2013, by and among SWEETENER SUPPLY CORPORATION, an Illinois corporation ("Sweetener"), SPY GLASS ILLINOIS, LLC, an Illinois limited liability company ("Spy Glass Illinois"), SPY GLASS WISCONSIN, LLC, a Wisconsin limited liability company ("Spy Glass Wisconsin") (Spy Glass Illinois, Spy Glass Wisconsin and Sweetener are hereinafter collectively referred to as the "Borrower" or the "Borrowers") and OLD SECOND NATIONAL BANK, its successors and assigns ("Lender").

RECITALS:

A. Pursuant to the terms of that certain Commercial Loan Agreement dated April 19, 2011 between Sweetener and Lender, as amended by that certain Amended and Restated Loan and Security Agreement dated as of June 1, 2012 (as amended, renewed, extended, modified, or restated, the "Revolving Loan Agreement") between Sweetener and Lender, Lender agreed to make (i) certain Revolving Loans to Sweetener in an amount not to exceed Eleven Million Five Hundred Thousand and 00/100 Dollars (\$11,500,000.00) outstanding at any one time (the "Revolving Loan" also known as Loan No. 60101002032), as evidenced by that certain Amended and Restated Revolving Note dated as of June 1, 2012 in the amount of the Revolving Loan made payable by Sweetener to the order of Lender (as amended or restated from time to time, the "Revolving Note"), and (ii) a certain Line of Credit Loan to Sweetener in an amount not to exceed Five Million Four Hundred Forty-Three Thousand Five Hundred and 00/100 Dollars (\$5,443,500.00) (the "Line of Credit Loan" also known as Loan No. 60101012718), as evidenced by that certain Line of Credit Note dated as of June 1, 2012 in the amount of the Line of Credit Loan made payable by Sweetener to the order of Lender (as amended or restated from time to time, the "Line of Credit Note").

B. Pursuant to the terms of that certain Commercial Loan Agreement dated November 23, 2010 between Sweetener and Lender (as amended, renewed, extended, modified, or restated, the "1.7M Equipment Loan Agreement"), Lender has made a certain Equipment

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Term Loan to Sweetener in the principal amount of One Million Seven Hundred Forty-Two Thousand Six Hundred Eighteen and 98/100 Dollars (\$1,742,618.98) (the "1.7M Equipment Loan" also known as Loan No. 60101002065), as evidenced by that certain Commercial Promissory Note dated as of November 23, 2010 in the amount of the 1.7M Equipment Loan made payable by Sweetener to the order of Lender (as amended or restated from time to time, the "1.7M Equipment Note").

C. Pursuant to the terms of that certain Commercial Loan Agreement dated November 23, 2010 between Sweetener and Lender (as amended, renewed, extended, modified, or restated, the "845k Equipment Loan Agreement") (the Revolving Loan Agreement, 1.7M Equipment Loan Agreement and 845k Equipment Loan Agreement are hereinafter collectively referred to as the "Loan Agreement"), Lender has made a certain Equipment Term Loan to Sweetener in the principal amount of Eight Hundred Forty-Five Thousand Eight Hundred Thirty-Two and 10/100 Dollars (\$845,832.10) (the "845k Equipment Loan" also known as Loan No. 60101002057) (the Revolving Loan, Line of Credit Loan, 1.7M Equipment Loan and 845k Equipment Loan are hereinafter collectively referred to as the "Sweetener Loans"), as evidenced by that certain Commercial Promissory Note dated as of November 23, 2010 in the amount of the 845k Equipment Loan made payable by Sweetener to the order of Lender (as amended or restated from time to time, the "845k Equipment Note") (the Revolving Note, Line of Credit Note, 1.7M Equipment Note and 845k Equipment Note are hereinafter collectively referred to as the "Sweetener Notes").

D. The Sweetener Loans are secured by, in addition to the Revolving Loan Agreement among other documents, a Commercial Security Agreement dated as of September 28, 2007, given by Sweetener in favor of the Lender (as amended, renewed, extended, modified, or restated, the "Security Agreement").

E. The Loan Agreement, the Sweetener Notes, and the Security Agreement, together with all other documents executed in connection with Sweetener Loans, as the same may hereafter be renewed, extended, modified, or amended, are collectively referred to herein as the "Sweetener Loan Documents." All collateral granted by Sweetener as security for the Sweetener Loans pursuant to the Sweetener Loan Documents is referred to herein as the "Sweetener Collateral".

F. Lender has also made (i) a certain Mortgage Loan to Spy Glass Properties, LLC, an Illinois limited liability company ("Spy Glass" and, together with the Borrowers, the "Companies") in the principal amount of Four Million Nine Hundred Seventy-Eight Thousand One Hundred Sixty and 63/100 Dollars (\$4,978,160.63) (the "Mortgage A Loan" also known as Loan No. 60101002040), as evidenced by that certain Promissory Note dated as of September 28, 2007 in the amount of the Mortgage A Loan, made payable by Spy Glass to the order of Lender (as amended or restated from time to time, the "Mortgage A Note").

G. Lender has also made a certain Mortgage Loan to Spy Glass Wisconsin in the original principal amount of Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) (the "Mortgage B Loan" also known as Loan No. 60101011090), as evidenced by that certain Universal Promissory Note dated as of December 5, 2011 in the amount of the Mortgage B Loan,

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made payable by Spy Glass Wisconsin to the order of Lender (as amended or restated from time to time, the "Mortgage B Note").

H. Lender is also making a certain Wisconsin Line of Credit Loan to Spy Glass Wisconsin in an amount not to exceed Seven Hundred Fifty Thousand Five Hundred and 00/100 Dollars (\$750,500.00) (the "Wisconsin Line of Credit Loan" also known as Loan No. 60101012726) (the Mortgage A Loan, Mortgage B Loan and Wisconsin Line of Credit Loan are hereinafter collectively referred to as the "Spy Glass Loans") (the Sweetener Loans and Spy Glass Loans are hereinafter referred to individually, each as a "Loan" and collectively, as the "Loans"), pursuant to the terms of that certain Wisconsin Line of Credit Note dated as of June 1, 2012 in the amount of the Wisconsin Line of Credit Loan made payable by Spy Glass Wisconsin to the order of Lender (as amended or restated from time to time, the "Wisconsin Line of Credit Note") (the Mortgage A Note, Mortgage B Note, and Wisconsin Line of Credit Note are hereinafter collectively referred to as the "Spy Glass Notes") (the Sweetener Notes and the Spy Glass Notes are hereinafter referred to individually as a "Note" and collectively, as the "Notes").

I. The Mortgage A Loan is secured by, among other documents, a Real Estate Mortgage dated as of September 28, 2007 and recorded in the Cook County, Illinois Recorder's Office (the "Recorder's Office") on October 9, 2007 as Document No. 0728203047, made by Spy Glass to the Lender (as amended, renewed, extended, modified, or restated, the "Original Mortgage A"), as amended by that certain Amendment to Mortgage and Assignment of Rents dated as of June 1, 2012 given by Spy Glass Illinois in favor of Lender (the "Illinois Mortgage Amendment") (Original Mortgage A, as amended by the Illinois Mortgage Amendment is hereinafter referred to as "Mortgage A") which encumbers the real property and all improvements thereon described on Exhibit A-1 attached hereto (the "Brookfield Property"), by an Assignment of Rents and Leases, dated as of September 28, 2007 and recorded in the Recorder's Office on October 9, 2007 as Document No. 0728203048, made by Spy Glass to the Lender, as amended by the Illinois Mortgage Amendment (as amended, renewed, extended, modified, or restated, being hereinafter referred to herein as the "Assignment A") which further encumbers the Brookfield Property.

J. The Mortgage B Loan and Wisconsin Line of Credit Loan are secured by, among other documents, a Mortgage dated as of December 5, 2011 and recorded in the Walworth County, Wisconsin Recorder's Office (the "Wisconsin Recorder's Office") on December 8, 2011 as Document No. 827782, made by Spy Glass Wisconsin to the Lender (the "Original Mortgage B"), as amended by that certain Amendment to Mortgage and Assignment of Rents and Leases dated as of June 1, 2012 given by Spy Glass Wisconsin in favor of Lender (the "Wisconsin Mortgage Amendment") (Original Mortgage B, as amended by the Wisconsin Mortgage Amendment is hereinafter referred to as "Mortgage B") (Mortgage A and Mortgage B are hereinafter collectively referred to as the "Mortgage") which encumbers the real property and all improvements thereon described on Exhibit A-2 attached hereto (the "Elkhorn Property" (the Brookfield Property and Elkhorn Property are hereinafter collectively referred to as the "Property"), by an Assignment of Rents and Leases, dated as of December 5, 2011 and recorded in the Wisconsin Recorder's Office on December 8, 2011 as Document No. 827783, made by Spy Glass Wisconsin to the Lender, as amended by the Wisconsin Mortgage Amendment (as amended, renewed, extended, modified, or restated, being hereinafter referred to herein as the

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"Assignment B") (Assignment A and Assignment B are hereinafter collectively referred to as the "Assignment") which further encumbers the Elkhorn Property.

K. Pursuant to the terms of that certain Loan Assumption and Mortgage Modification Agreement dated August 1, 2011 and recorded with the Recorder's Office on September 13, 2011 as Document No. 1125619114 (the "Assumption Agreement"), the Mortgage A Loan was assigned by Spy Glass to and assumed by Spy Glass Illinois.

L. The Spy Glass Notes, the Mortgage, the Assignment and the Assumption Agreement together with all other documents executed in connection with Spy Glass Loans, as the same may hereafter be renewed, extended, modified, or amended, are collectively referred to herein as the "Spy Glass Loan Documents" which, together with the Sweetener Loan Documents, are hereinafter collectively referred to as the "Loan Documents." All collateral granted by Spy Glass Illinois and Spy Glass Wisconsin as security for the Spy Glass Loans pursuant to the Spy Glass Loan Documents is referred to herein as the "Spy Glass Collateral" which, together with the Sweetener Collateral, are hereinafter collectively referred to as the "Collateral".

M. The Loans are further evidenced and secured by (i) that certain Financial Reporting and Covenant Agreement dated as of June 1, 2012 by and among each Borrower and Lender (the "Financial Reporting and Covenant Agreement") pursuant to which Borrower makes certain representations, warranties and covenants to Lender with respect to, among other things, the Loan, the Property and the Collateral, and (ii) that certain Cross-Collateralization Cross-Default Agreement dated as of June 1, 2012 by and among Spy Glass, Borrower and Lender (the "Cross-Collateralization Cross-Default Agreement").

N. On or about October 5, 2012, Sweetener paid to Lender the outstanding balance of the 1.7M Equipment Note and the 1.7M Equipment Loan was thereupon terminated and Sweetener owes no further amounts thereunder.

O. On or about September 28, 2012, Sweetener paid to Lender the outstanding balance of the 845k Equipment Note and the 845k Equipment Loan was thereupon terminated and Sweetener owes no further amounts thereunder.

P. The 1.7M Equipment Note and 845k Equipment Note shall no longer be included in the definition of "Sweetener Notes" or "Notes" and the 1.7M Equipment Loan and 845k Equipment Loan shall no longer be included in the definition of "Sweetener Loans", "Loans" or "Loan" herein and in the other Loan Documents.

Q. On or about November 14, 2012, Spy Glass Wisconsin paid to Lender the outstanding balance of the Mortgage B Note and the Mortgage B Loan was thereupon terminated and Spy Glass Wisconsin owes no further amounts thereunder.

R. The Mortgage B Note shall no longer be included in the definition of "Spy Glass Notes" or "Notes" and the Mortgage B Loan shall no longer be included in the definition of "Spy Glass Loans", "Loans" or "Loan" herein and in the other Loan Documents.

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S. Borrower now desires to amend the Loan Documents in order to (i) increase the Revolving Loan Commitment from \$11,500,000.00 to \$15,000,000.00, and (ii) revise certain financial and reporting requirements, as more fully 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. **Increase in Revolving Loan Commitment.** The Loan Agreement and each of the Loan Documents are hereby modified such that any reference in the Loan Agreement and each of the other Loan Documents to the amount of the Revolving Loan Commitment or the amount of \$11,500,000.00 (either in numbers or words, as the case may be) as the principal amount of the Revolving Loan Commitment or otherwise is hereby amended to be \$15,000,000.00 (either in numbers or words, as the case may be) as the maximum amount of such Revolving Loan Commitment, secured by each of the Sweetener Loan Documents, such that each of said Sweetener Loan Documents secure the full and prompt payment of the Second Amended Revolving Note (as hereinafter defined), and the full and prompt performance of all the terms, covenants and conditions relating to the Sweetener Loans in this Agreement.

2. **Amendment of Loan Agreement.** The following definition in Section 1.1 of the Revolving Loan Agreement is hereby amended and restated in its entirety to read as follows:

“Revolving Loan Commitment” shall mean Fifteen Million and 00/100 Dollars (\$15,000,000.00).

3. **Amendment of Financial Reporting and Covenant Agreement.** The following Section 4.9 shall be added to the Financial Reporting and Covenant Agreement to read in its entirety as follows:

“4.9 Equipment Appraisal Requirement. If Borrower shall request financing from Bank (excluding any requests under the Revolving Loan) or any other source in an amount more than \$1,000,000.00 for the purpose of purchasing any fixed assets, then Bank shall obtain a desktop appraisal of all equipment owned by Borrower (the “Equipment Appraisal”) which Equipment Appraisal shall be satisfactory and addressed to Bank prepared by a certified or licensed appraiser who is approved by Bank, the cost of which shall be deemed loan expenses due and payable by Borrower under the Loan Documents.”

4. **Issuance of Second Amended and Restated Revolving Note.** Borrower and Lender agree that the Revolving Note shall be amended and restated in its entirety and that Sweetener shall execute and deliver a Second Amended and Restated Revolving Note in an

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amount not to exceed \$15,000,000.00 outstanding at any one time, in form and substance reasonably acceptable to Lender dated of even date herewith (the "Second Amended Revolving Note"). The Second Amended Revolving Note is not a novation, but a modification and restatement of the Revolving Note, and all of such obligations shall be and remain in full force and effect, as amended and restated therein. From and after the date hereof and execution and delivery of the Second Amended Revolving Note by Borrower, all references in the Loan Agreement and the Loan Documents, as amended, to the Revolving Note shall be deemed references to the Second Amended Revolving Note, and all references in the Loan Agreement and Loan Documents, as amended, to the Revolving Loan shall be deemed references to the Revolving Loan as amended hereby, as evidenced by the Second Amended Revolving Note.

5. **Amendment of Mortgage and Cross-Collateralization Cross-Default Agreement.** The Mortgage and the Cross-Collateralization Cross-Default Agreement are each hereby amended to reflect the terms hereof including, without limitation, the increase in the Revolving Loan Commitment. Any references in the Mortgage and the Cross-Collateralization Cross-Default Agreement to the Property shall be deemed to mean and refer to the Property as amended hereby. Borrower agrees that Lender shall have the right to record this Agreement in the Recorder's Office to reflect the subject matter of this Agreement.

6. **Other Conforming Amendments.** The Loan Documents are hereby amended to reflect the terms of this Agreement including, without limitation, the increase in the Revolving Loan Commitment.

7. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrant 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 and shall continue to be, true and correct until the Loan is indefeasibly repaid in full and no Borrower knows of any default under any of the Loan Documents.

(b) Each Borrower is in full compliance with all of the terms and conditions of the Loan Documents to which they are a party, and no Event of Default has occurred and is continuing with respect to any of the 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 each 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 the Property, any Borrower, 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) There is no litigation or administrative proceeding pending or, to the knowledge of any Borrower, threatened to restrain or enjoin the transactions contemplated by this Agreement or any of the Loan Documents, or questioning the

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validity thereof, or in any way contesting the existence or powers of any Borrower, or in which an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by this Agreement or any of the Loan Documents, or would result in any material adverse change in the financial condition, properties, business or operations of any Borrower.

(f) Each 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 each Borrower.

8. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause (i) Commonwealth Land Title Insurance Company ("Commonwealth Title Company") to issue an endorsement to Lender's title insurance policy No. 8009892 (the "Brookfield 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 Mortgage A, subject only to the exceptions and encumbrances expressly agreed to by Lender in writing, and (ii) Chicago Title Insurance Company ("Chicago Title Company") to issue an endorsement to Lender's title insurance policy No. 441110 (the "Elkhorn 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 Mortgage B, subject only to the exceptions and encumbrances expressly agreed to by Lender in writing.

9. **Additional Requirements.** The obligations of Lender to amend the Loan shall be subject to Borrower and others having delivered, or having caused to be delivered, to Lender, the following items, all of which shall be in form and substance acceptable to Lender:

- (a) This Agreement, executed by all parties;
- (b) The Second Amended Revolving Note, executed by Sweetener;
- (c) The date down endorsements from Commonwealth Title Company and Chicago Title Company, as required by Section 8 hereof;
- (d) A good standing certificate with respect to each Borrower;
- (e) Resolutions of the directors of Sweetener;
- (f) Resolutions of the members of Spy Glass Illinois and Spy Glass Wisconsin; and
- (g) Such other documents as Lender may reasonably require.

10. **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

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this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses. In addition, as a condition precedent to Lender entering into this Agreement and agreeing to increase the Revolving Loan Commitment, Borrower shall pay to Lender an extension fee in the amount of \$8,750.00, which shall be due and payable in full by Borrower upon the execution of this Agreement.

11. **Bankruptcy Provisions.** Each Borrower hereby acknowledges and agrees 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 Borrower, (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 Borrower seeks relief under the Bankruptcy Code, including, without limitation, the filing of a petition under Chapter 7 or 11 thereof, such Borrower shall be deemed to have taken such action in bad faith. Furthermore, if such action is taken against any Borrower by a third party, such Borrower 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.

12. **Waiver of Defenses.** As of the date of this Agreement, each Borrower acknowledges that it has no defense, offset, or counterclaim to any of any Borrower's obligations under the Loan Documents. Each Borrower hereby irrevocably waives and releases 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 any Borrower, and the Lender.

13. **Release of Claims.** Each Borrower hereby fully and forever remises, releases and discharges 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, which any Borrower 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 date hereof.

14. **No Course of Dealing.** Each Borrower acknowledges and agrees 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.

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15. **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 any Borrower nor shall privity of contract be presumed to have been established with any third party.

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

17. **Entire Agreement.** Each Borrower 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 each Borrower 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.

18. **Construction of Agreement.** Any reference 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. Each Borrower and their legal counsel have participated in the drafting of this Agreement, and 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.

19. **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.

20. **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.

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

22. **Time of the Essence.** Time is of the essence of each of Borrower and [each] Guarantor's obligations under this Agreement.

23. **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.

24. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

25. **FORUM SELECTION AND CONSENT TO JURISDICTION.** ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, SHALL BE BROUGHT AND MAINTAINED EXCLUSIVELY IN THE COURTS OF THE STATE OF ILLINOIS OR IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS; PROVIDED THAT NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE THE LENDER FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION. EACH BORROWER HEREBY EXPRESSLY AND IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF ILLINOIS AND OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE PURPOSE OF ANY SUCH LITIGATION AS SET FORTH ABOVE. EACH BORROWER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS BY REGISTERED MAIL, POSTAGE PREPAID, OR BY PERSONAL SERVICE WITHIN OR WITHOUT THE STATE OF ILLINOIS. EACH BORROWER HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH LITIGATION BROUGHT IN ANY SUCH COURT REFERRED TO ABOVE AND ANY CLAIM THAT ANY SUCH LITIGATION HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

26. **WAIVER OF JURY TRIAL.** THE LENDER AND EACH BORROWER, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY, ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT, ANY NOTE, ANY OTHER LOAN DOCUMENT, ANY OF THE OTHER OBLIGATIONS, THE COLLATERAL, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH OR ARISING FROM ANY LENDING RELATIONSHIP EXISTING IN CONNECTION WITH ANY OF THE FOREGOING, OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH THE LENDER AND ANY BORROWER ARE ADVERSE PARTIES, AND EACH AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO ANY BORROWER.

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RECORDER OF DEEDS
SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

Property Cook County Clerk's Office

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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:

OLD SECOND NATIONAL BANK

By: [Signature]
Name: David Miller
Title: Vice President

BORROWER:

SWEETENER SUPPLY CORPORATION,
an Illinois corporation

By: [Signature]
Name: Paul M. Julien
Its: VP Finance, Secy.

SPY GLASS ILLINOIS, LLC,
an Illinois limited liability company

By: Spy Glass Properties LLC, its
Manager

By: [Signature]
Name: JOE GARIBOLDI
Its: Manager

SPY GLASS WISCONSIN, LLC,
a Wisconsin limited liability company

By: Spy Glass Properties LLC, its
Manager

By: [Signature]
Name: JOE GARIBOLDI
Its: Manager

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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 Paul M. Julien, VP Finance of SWEETENER SUPPLY CORPORATION, an Illinois corporation, 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/she signed and delivered said instrument as his/her own free and voluntary act and the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23rd day of May, 2013.



Leslie L. Sigmond
Notary Public

My Commission Expires: 4-26-14

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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 Joseph P. Gardella, Manager of Spy Glass Properties, LLC, the Manager of SPY GLASS ILLINOIS, 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/she signed and delivered said instrument as his/her own free and voluntary act and 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 23 day of May, 2013.



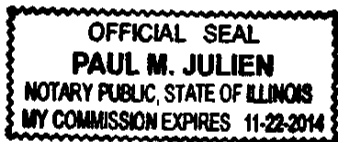
[Signature]
Notary Public

My Commission Expires: _____

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 Joseph P. Gardella, Manager of Spy Glass Properties, LLC, the Manager of SPY GLASS WISCONSIN, LLC, a Wisconsin 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/she signed and delivered said instrument as his/her own free and voluntary act and 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 23 day of May, 2013.



[Signature]
Notary Public

My Commission Expires: _____

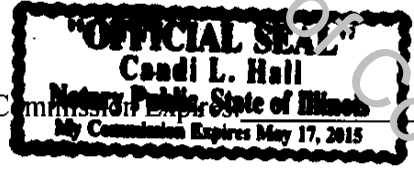
UNOFFICIAL COPY

STATE OF ILLINOIS)
) .ss
COUNTY OF Kane)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Daniel Mottet VP of OLD SECOND NATIONAL 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/she signed and delivered said instrument as his/her own free and voluntary act and the free and voluntary act of said bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23 day of May, 2013.

Candi L. Hall
Notary Public



My Commission Expires

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A-1

THE BROOKFIELD PROPERTY

THAT PORTION OF THE NORTHWEST ¼ OF SECTION 3, TOWNSHIP 38 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 3, THENCE EASTERLY ALONG THE NORTH LINE OF SAID SECTION 3, A DISTANCE OF 275.00 FEET TO THE TRUE POINT OF BEGINNING OF THE PARCEL TO BE DESCRIBED:

THENCE SOUTHERLY AT RIGHT ANGLES TO SAID NORTH LINE OF SECTION 3, A DISTANCE OF 246.34 FEET; THENCE SOUTHWESTERLY ALONG A STRAIGHT LINE TO A POINT ON THE WEST LINE OF SAID SECTION 3, A DISTANCE OF 320.00 FEET SOUTHERLY OF SAID NORTHWEST CORNER; THENCE SOUTHERLY ALONG SAID WEST LINE OF SECTION 3 TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 105.00 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO BURLINGTON NORTHERN RAILROAD CO'S (FORMERLY CHICAGO, BURLINGTON AND QUINCY RAILROAD COMPANY'S) MAIN TRACK CENTERLINE, AS NOW LOCATED AND CONSTRUCTED; THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE, A DISTANCE OF 600.00 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT 160.0 FEET NORTHWESTERLY OF, AS MEASURED AT RIGHT ANGLES TO SAID MAIN TRACK CENTERLINE; THENCE NORTHEASTERLY ALONG SAID PARALLEL LINE TO THE POINT OF INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND DISTANT OF 5.0 FEET WESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, THE SOUTHERLY EXTENSION OF THE CENTERLINE OF MORTON AVENUE, ACCORDING TO THE RECORDED PLAT OF THE TOWN OF BROOKFIELD, ILLINOIS; THENCE NORTHERLY ALONG SAID PARALLEL LINE TO THE POINT OF INTERSECTION WITH SAID NORTH LINE OF SECTION 3; THENCE WESTERLY ALONG SAID NORTH LINE OF THE TRUE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

Property Address: 9501 West Southview Avenue, Brookfield (Cook County), Illinois 60513

PIN: 18-03-100-011

UNOFFICIAL COPY

EXHIBIT A-2

THE ELKHORN PROPERTY

LOT 1 OF CERTIFIED SURVEY MAP NO. 3693 AS RECORDED IN VOLUME 22 OF CERTIFIED SURVEYS ON PAGE 100 AS DOCUMENT NO. 603911, LOCATED IN THE SOUTHEAST ¼ OF SECTION 6, T2N, R17E, CITY OF ELKHORN, WALWORTH COUNTY, WISCONSIN..

Property Address: 1080 Proctor Drive, Elkhorn, Wisconsin

PIN: VA 369300001