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ILLINOIS



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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 04/27/2017 03:04 PM PG: 1 OF 13

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MODIFICATION OF MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

by

AGNL BLING, L.L.C., as Maker

to and for the benefit of

AMERICAN NATIONAL INSURANCE COMPANY, as Noteholder

**THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:**

Holland & Knight, LLP
131 South Dearborn Street
Suite 3000
Chicago, Illinois 60603
Attention: Francis L. Keldermans, Esq.

FIDELITY NATIONAL TITLE

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GHA 371805.4
10500-300-1

CCRD REVIEW 

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MODIFICATION OF MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

THIS MODIFICATION OF MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT (this "Modification") is made as of April 26, 2017 by and between AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company ("Noteholder") and AGNL BLING, L.L.C., a Delaware limited liability company ("Maker").

WITNESSETH:

WHEREAS, on or about May 13, 2010 (the "Original Closing Date") Noteholder made a loan (the "Loan") to Maker in the original principal amount of up to \$9,500,000.00, as evidenced by that certain Promissory Note in the original principal amount of \$9,500,000.00 dated May 13, 2010 executed by Maker and made payable to the order of Noteholder (the "Original Note"), with the Original Note being secured by inter alia that certain Mortgage, Security Agreement and Financing Statement of even date with the Original Note, being recorded on or about May 18, 2010 in the official records of Cook County, Illinois as Document No. 1013856011 (the "Original Mortgage"), such Original Mortgage securing that certain parcel of real property more particularly described in Exhibit "A" attached hereto (the "Mortgaged Property"); and

WHEREAS, the Original Mortgage, the Original Note and any and all other documents and instruments relating to, evidencing or securing the Original Loan are, collectively, the "Original Loan Documents"; and

WHEREAS, on or about the same date heretofore, Noteholder and Maker have entered into (i) that certain Agreement as to Modification of Loan and Loan Documents (the "Loan Modification Agreement") and (ii) that certain Amended and Restated Promissory Note of even date herewith by Maker to Noteholder (the "Amended and Restated Promissory Note"; together with this Modification and the Loan Modification Agreement, collectively, the "Modification Documents") to evidence the terms and conditions of certain modifications to the Loan and the Original Loan Documents; and

WHEREAS, to evidence certain of the modifications and amendments resulting from the Loan Modification Agreement, the parties hereto agree to make certain modifications and amendments to the Original Mortgage, such modifications and amendments being more particularly set forth herein.

NOW, THEREFORE, in consideration of the foregoing facts and the covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby agreed to and accepted, Maker and Noteholder hereby agree as follows:

1. The term "Note" as defined in Section 1.5 of the Original Mortgage is hereby modified and amended to read as follows:

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“ 1.5 The term “Note” shall mean that certain Amended and Restated Promissory Note dated on or about April ~~26~~, 2017 in the original principal sum of \$8,850,000.00 executed by Maker and payable to the order of Noteholder, payable with interest in installments as stipulated therein and providing for the right to declare the unpaid principal balance due and payable upon the occurrence of an Event of Default and otherwise as provided therein and providing for the reasonable attorneys’ fees, and all notes given in renewal, extension, modification, increase, consolidation or rearrangement of said Amended and Restated Promissory Note or any portion thereof. ”

2. Section VI(D) of the Original Mortgage is hereby modified and amended to read as follows.

“ D. Escrow for Taxes and Insurance. The requirements for escrows for Taxes and Assessments and premiums for insurance have been conditionally waived by Noteholder, so long as no Termination of Escrow Waiver Event (as defined below) occurs. For purposes of this Agreement, the phrase “Termination of Escrow Waiver Event” means the occurrence of one or more of the following: (1) an Event of Default has occurred and is continuing; (2) any amount of Taxes and Assessments is not paid prior to delinquency or any premium to maintain the insurance required under this Agreement is not paid when due; (3) Maker does not own the Real Estate, unless the subject loan has been assumed by (A) an AG Entity in accordance with Section VI(H)(2) or (B) any other borrower approved in writing by Noteholder, in Noteholder’s sole and absolute discretion; or (4) Noteholder has notified Maker that Noteholder has determined, in its sole and absolute discretion, that a material adverse change has occurred in the financial capacity of Tenant or the financial capacity of any guarantor of Tenant’s obligations under the Claire’s Lease (if any). If a Termination of Escrow Waiver Event occurs, thereafter Maker shall pay, in addition to the installments payable under the Note, on the same day as such installments are due and payable, a sum equal to 1/12th of the estimated annual taxes, hazard and rental insurance premiums, and special assessments, if any, next due on the Mortgaged Property. If the amount so paid is not sufficient to pay such taxes, insurance premiums and assessments when due, then Maker will immediately deposit with Noteholder amounts sufficient to pay the same. Funds deposited by Maker pursuant to this Section VI(D) shall be used to pay such taxes, insurance premiums and assessments when due, provided that Maker has furnished Noteholder with all tax statements, premium notices and other such notices at least thirty (30) days prior to the date that any such taxes, premiums and assessments may be due. If there is an Event of Default under this Agreement, Noteholder may elect, at any time after the occurrence of such Event of Default, to apply the funds accumulated under this Section VI(D) against the Indebtedness in any manner or order. No interest shall accrue or be allowed on any payments under the provisions of this paragraph. Noteholder shall not be required to deposit or hold monies in a special account or an account separate from Noteholder’s general funds. Maker expressly releases Noteholder from any liability to Maker arising out of the maintenance by Noteholder of an escrow as provided herein or for the payment of any sums out of such escrow. Maker further INDEMNIFIES Noteholder against

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claims arising out of payment of taxes, insurance premiums or assessments where Maker has failed to provide Noteholder with tax or assessment statements and insurance premium notices as required hereby. The maintenance by Noteholder of an escrow for Taxes and Assessments and insurance premiums shall not relieve Maker of its obligations under this Agreement respecting Taxes and Assessments and the payment of insurance premiums on the Mortgaged Property if such escrow is insufficient and is otherwise applied as provided in accordance with this Agreement.

“ A charge of \$200.00 per month for administration expenses shall be assessed against Maker for each successive month that all paid tax receipts and insurance policies are not delivered to Noteholder within thirty (30) days after notice to Maker of failure to deliver such documents. ”

3. Section VI(G) of the Original Mortgage is hereby modified and amended to read as follows:

“ G. Financial Statements. For purposes of this Mortgage, the date that is one hundred fifty (150) days after the first day of each and every January is the “Financial Statement Due Date”. The requirement for delivery of certified financial statements has been conditionally waived by Noteholder so long as no Termination of Certified Statement Waiver Event (as defined below) occurs. A “Termination of Certified Statement Waiver Event” means the occurrence of one or more of the following: (1) an Event of Default has occurred; or (2) on or before the Financial Statement Due Date, Maker has failed to deliver to Noteholder: (a) annual operating information relating to the Mortgaged Property for each calendar year in the form attached hereto as Exhibit “C”, or such other form as reasonably required by Noteholder from time to time, signed by the Manager, which includes the certification that, to the best of Maker’s knowledge, during the period of time covered by the particular statement, (i) no activity has been conducted upon the property in violation of any state, federal or local law, ordinance or regulation pertaining to toxic or hazardous materials, industrial hygiene or environmental conditions, and (ii) the Mortgaged Property complies in all material respects with the Americans with Disabilities Act of 1990, as it may be amended from time to time, or any state equivalent statute (collectively, the “ADA”); and (b) a detailed listing of all tenants leasing space in the Mortgaged Property which listing evidences the rate, the term, the amount of space, annual rent, any other reimbursements paid by each tenant, and, where appropriate, sales information provided by such tenant on the form attached hereto as Exhibit “D” attached hereto and incorporated herein for all purposes (or such other form as reasonably required by Noteholder from time to time) signed by the authorized signer of Maker. If a Termination of Certified Statement Waiver Event occurs, thereafter Maker shall furnish to Noteholder on or before Financial Statement Due Date until the Indebtedness secured hereby has been fully paid, annual financial statements prepared by or for Maker pertaining to Maker’s operation of the Mortgaged Property and audited financial statements of AG Net Lease Realty Fund, L.P., each such statement prepared in accordance with generally accepted accounting or management principles customarily

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used in the commercial real estate industry and, with respect to audited financial statements, signed by an independent certified public accountant approved by and acceptable to Noteholder. The financial statements referenced herein shall also contain Maker's certification that, during the period of time covered by the particular statement, to Maker's knowledge, (1) no activity has been conducted upon the Mortgaged Property in violation of any state, federal or local law, ordinance or regulation pertaining to Hazardous Materials, industrial hygiene or environmental conditions and (2) the Mortgaged Property complies with the ADA.

" If Maker does not deliver the financial statements as and when required by this paragraph, there shall be added to the Indebtedness and Maker agrees to pay upon demand Two Hundred Dollars (\$200.00) for each calendar month or part thereof following the Financial Statement Due Date until the required financial statements are delivered to Noteholder. "

4. The form attached hereto and incorporated herein by reference as Exhibit "B" shall become Exhibit "C" to the Mortgage, as modified.

5. The form attached hereto and incorporated herein by reference as Exhibit "C" shall become Exhibit "D" to the Mortgage, as modified.

6. Section VI(H)(1) of the Original Mortgage (One Time Transfer to Unrelated Maker) is hereby deleted in its entirety.

7. The parties hereto agree that by their execution of the Amended and Restated Promissory Note referenced herein, the parties are renewing and extending the indebtedness evidenced thereby, as opposed to such execution being a novation of the indebtedness.

8. This Modification binds the parties hereto, and each of their successors and assigns.

9. This Modification may be executed in multiple counterparts, each of which shall be an original document and which, taken together, shall constitute one and the same agreement and modification.

10. Time is of the essence for all matters provided for herein.

11. Upon the request of Noteholder, Maker shall execute, acknowledge, deliver, record and file such further instruments and do such further acts as may be reasonably necessary, desirable and proper to carry out more effectively the purposes of this Modification.

12. This Modification shall in no way release or, except as expressly provided for in this Modification, modify or amend any of the Original Loan Documents. In all respects, except as it pertains to the Original Mortgage as expressly modified and amended in the Modification Documents, Maker does hereby ratify and reaffirm its obligations as set forth in the Original

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Loan Documents (except, with respect to representations and warranties, as disclosed to Lender or to the extent that any such representation or warranty is no longer true and correct solely by reason of the passage of time or events contemplated by the parties to have occurred in the ordinary course since the Original Closing Date), all as being in full force and effect as of the date of execution and recordation hereof. Except as expressly provided for in this Modification, the Original Loan Documents remain unmodified, unamended and in full force and effect.

13. In order to induce Noteholder to execute this Modification, Maker represents and warrants that: (a) Maker is validly in existence in accordance with the laws of the State of Delaware and is authorized to transact business in the state in which the Mortgaged Property is situated; (b) Maker is duly authorized to execute this Modification and any and all other documents contemplated to be executed by Maker in connection with this Modification; and (c) the undersigned executing on behalf of Maker has the full right, power and authority to execute this Modification and any and all other documents contemplated to be executed by Maker in connection with this Modification on behalf of and in the name of Maker, without the consent, agreement or joinder of any other party.

14. All headings and captions in this Modification are for convenience of reference only and shall not be used in the interpretation of any provisions of this Modification.

15. Any and all provisions contained in this Modification are severable and the invalidity or unenforceability of any provision shall not affect or impair the validity or enforceability of the remaining provisions of this Modification.

16. Where appropriate, all references to the singular shall include the plural and vice versa and all references to any gender shall include the others. Any and all capitalized terms used herein not otherwise defined shall have the same definition as provided for in the Original Mortgage.

[THE REMAINDER OF THIS PAGE INTENTIONALLY RESERVED]

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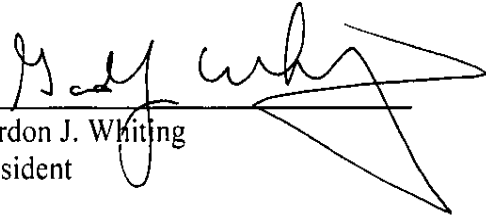
EXECUTED to be effective as of the date first set forth above.

MAKER:

AGNL BLING, LLC,
a Delaware limited liability company

By: AGNL Manager, Inc.,
a Delaware corporation

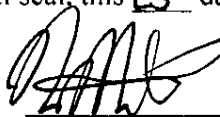
Its: Manager

By: 
Name: Gordon J. Whiting
Title: President

STATE OF New York §
COUNTY OF New York §

I, Nicholas Miller Grace a Notary Public in and for said County, in the State aforesaid, do hereby certify that GORDON J. WHITING, President of AGNL Manager, Inc., a Delaware corporation, as Manager of AGNL Bling, L.L.C., a Delaware limited liability company ("Company"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, 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 Company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 25 day of April, 2017.

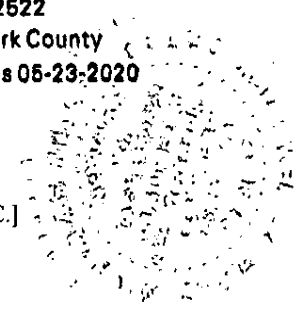


NOTARY PUBLIC

(SEAL)

NICHOLAS MILLER GRACE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GR6342522
Qualified In New York County
My Commission Expires 05-23-2020

[Signature Page(s) to Modification of Mortgage – AGNL Bling, L.L.C.]



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EXHIBIT "A"

MORTGAGED PROPERTY

THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART WITHIN RELOCATED BARRINGTON ROAD AND EXCEPT THAT PART THEREOF DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 36; THENCE NORTHERLY ALONG THE WEST LINE OF SAID SECTION OF 168.32 FEET TO A POINT; THENCE TURNING AN ANGLE RIGHT OF 123 DEGREES 21 MINUTES WITH THE LAST DESCRIBED LINE EXTENDED AND RUNNING SOUTHEASTERLY A DISTANCE OF 306.17 FEET TO A POINT ON THE SOUTH LINE OF SECTION 36; THENCE WESTERLY ALONG THE SOUTH LINE A DISTANCE OF 255.76 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

AND FURTHER EXCEPTING THEREFROM THE FOLLOWING FOUR PARCELS OF LAND:

EXCEPTION PARCEL 1:

THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF A LINE DRAWN FROM A POINT ON THE WEST LINE THEREOF, A DISTANCE OF 963.50 FEET NORTH OF THE SOUTHWEST CORNER THEREOF TO A POINT ON THE EAST LINE THEREOF, 957.54 FEET NORTH OF THE SOUTHEAST CORNER THEREOF, (EXCEPTING THEREFROM THAT PART THEREOF TAKEN AND USED FOR ORIGINAL BARRINGTON ROAD AND EXCEPTING THAT PART TAKEN FOR RELOCATED BARRINGTON ROAD ACCORDING TO DOCUMENT 11172686), IN COOK COUNTY, ILLINOIS.

EXCEPTION PARCEL 2:

ALL THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, COUNTY AND STATE AFORESAID; THENCE EASTERLY ALONG THE SOUTH LINE OF SAID SECTION 36 A DISTANCE OF 255.76 FEET FOR A POINT OF BEGINNING; THENCE-EASTERLY ALONG SAID LINE A DISTANCE OF 300.00 FEET TO A POINT; THENCE NORTHWESTERLY ALONG A LINE FORMING AN ANGLE OF 175 DEGREES 14 MINUTES 30 SECONDS TO THE LEFT WITH THE LAST DESCRIBED LINE EXTENDED A DISTANCE OF 344.62 FEET TO A POINT; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 151 DEGREES 24 MINUTES 30 SECONDS TO THE LEFT WITH THE LAST DESCRIBED LINE EXTENDED

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A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EXCEPTION PARCEL 3:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 36; THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 11 MINUTES 21 SECONDS EAST ALONG THE EAST LINE OF SAID WEST HALF 52.16 FEET TO THE POINT OF BEGINNING. BEING ALSO A POINT IN THE NORTHERLY LINE OF A PERMANENT EASEMENT GRANTED TO THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY PER CONVEYANCE RECORDED SEPTEMBER 30, 1974 AS DOCUMENT NO. 22862741 IN SAID COUNTY; THENCE NORTH 87 DEGREES 14 MINUTES 21 SECONDS WEST ALONG SAID NORTHERLY LINE 650.20 FEET; THENCE NORTH 72 DEGREES 56 MINUTES 57 SECONDS WEST ALONG THE NORTHERLY LINE OF A PERPETUAL EASEMENT (GRANTED TO THE ILLINOIS STATE TOLL HIGHWAY COMMISSION PER CONVEYANCE RECORDED FEBRUARY 21, 1957 AS DOCUMENT NO. 16831935 IN SAID COUNTY) A DISTANCE OF 72.36 FEET; THENCE SOUTH 85 DEGREES 49 MINUTES 07 SECONDS EAST 720.65 FEET TO THE POINT OF BEGINNING.

EXCEPTION PARCEL 4:

ALL THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, DEDICATED FOR PUBLIC STREET AND OTHER PUBLIC PURPOSES ACCORDING TO THE PLAT OF DEDICATION RECORDED MAY 12, 1999 AS DOCUMENT 99459271, IN COOK COUNTY, ILLINOIS.

Address: 2400 West Central Road, Hoffman Estates, Illinois

Property Index No.: 01-36-300-003-0000

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EXHIBIT "B"

EXHIBIT "C" TO THE MORTGAGE

CASH BASIS OPERATING STATEMENT FROM _____ TO _____

Loan # _____

Borrower: _____

Gross Potential Minimum Rent at year end based on 100% Occupancy: _____

Income:

Minimum rentals	\$ _____
Coverage or percentage rentals	\$ _____
Expense reimbursements	\$ _____
Other (specify)	\$ _____

Total Income \$ _____

Operating Expenses:

Taxes (ad valorem)	\$ _____
Utilities	\$ _____
Maintenance & repair	\$ _____
Management	\$ _____
Insurance	\$ _____
Leasing fees	\$ _____
Other (specify)	\$ _____

Total Expense \$ _____

Net Operating Income Before Interest and Depreciation \$ _____

Debt Service (separate line for each loan) \$ _____

Capital expenditures \$ _____

Net Cash Flow \$ _____

Depreciation \$ _____

I certify the operating information shown above is true and correct.

I certify to the best of my knowledge that during the period of time covered by this statement (1) no activity has been conducted upon the property in violation of any state, federal or local law, ordinance or regulation pertaining to toxic or hazardous materials, industrial hygiene or environmental conditions and (2) the property complies with the Americans with Disabilities Act.

Borrower

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Sworn and subscribed to me on this _____ day of _____ 20____.

Notary Public _____

(REVISED 7/00)
I:\Public\Forms\Cashbasis.doc

Property of Cook County Clerk's Office

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

371805.4[Exhibit "B" to Modification of Mortgage – AGNL Bling, L.L.C.]

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