

UNOFFICIAL COPY

Doc#: 1908057178 Fee: \$68.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 03/21/2019 12:05 PM Pg: 1 of 11

*This document was prepared by,
and after recording, return to:*

*Meltzer, Purtil & Stelle LLC
1515 East Woodfield Road, Suite 250
Schaumburg, Illinois 60173
Attn: Jay Cherwin*

*Permanent Tax Index Numbers:
See **Exhibit A***

*Property Addresses:
See **Exhibit A***

This space reserved for Recorder's use

FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT, AND ASSIGNMENT OF RENTS AND LEASES

**599 WHEELING ROAD
WHEELING, ILLINOIS 60090**

This **FIRST AMENDMENT TO MORTGAGE AND SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES** dated January 28, 2019 (this "**Mortgage Amendment**"), is executed by executed by **NETCOM PROPERTIES, INC.**, an Illinois corporation ("**Netcom Properties**"), **NETCOM, INC.**, an Illinois corporation ("**Netcom**") (Netcom Properties and Netcom are hereinafter collectively referred to as the "**Mortgagor**" or "**Assignor**"), and **BUSEY BANK**, an Illinois banking corporation, as successor by merger to First Community Financial Bank ("**Lender**" or "**Assignee**").

RECITALS:

A. Mortgagor, Lender, Evangelos Argoudelis ("**Argoudelis**"), Netcom Holdings, Inc. ("**Holdings**") and Athanasios Kousathanas ("**Kousathanas**") entered into that certain Loan and Security Agreement dated as of August 11, 2016 (the "**Original Loan Agreement**"), pursuant to which Loan Agreement Lender has made certain Revolving Loans to the Netcom evidenced by that certain Revolving Note dated as of August 11, 2016, in the maximum principal amount of Five Million and 00/100 Dollars (\$5,000,000.00), executed by Netcom and made payable to the order of Lender (the "**Original Revolving Note**"), a Term Loan to Netcom evidenced by that certain Term Note dated as of August 11, 2016, in the principal amount of Five Hundred Forty-Five Thousand and 00/100 Dollars (\$545,000.00), executed by Netcom and made payable to the order of the Lender (the "**Term Note**"), and a Mortgage Loan to Netcom Properties evidenced by that certain Mortgage Note dated as of August 11, 2016, in the principal amount of Two Million and 00/100 Dollars (\$2,000,000.00), executed by Netcom Properties and made payable to the order of the Lender (the "**Mortgage Note**"). The Original Loan Agreement was amended pursuant to the First Amendment to Loan Agreement dated as of July 19, 2017 (the "**First Amendment**"), the Second Amendment to Loan Agreement dated as of December 22, 2017 (the "**Second Amendment**"), the Third Amendment to Loan Agreement dated as of July 31, 2018 (the "**Third Amendment**"), and Fourth Amendment to Loan Agreement dated as of September 28,

UNOFFICIAL COPY

2018 (the "Fourth Amendment"; the Original Loan Agreement as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment is the "Loan Agreement").

B. Pursuant to the First Amendment, Mortgagor executed in favor of Lender of that certain Amended and Restated Revolving Note dated as of July 19, 2017 in the principal amount not to exceed Three Million Five Hundred Thousand and No/100 Dollars (\$3,500,000.00) ("First Amended Revolving Note"; the Term Note, Mortgage Note, and First Amended Revolving Note are hereinafter each individually and collectively, the "Existing Note")

C. In connection with the Original Loan Agreement, Argoudelis executed that certain Guaranty dated as of August 11, 2016, to and for the benefit of Lender (the "Original Argoudelis Guaranty"), and Holdings (Holdings and Argoudelis each being referred to herein as a "Guarantor" and collectively referred to herein as the "Guarantors") executed that certain Guaranty dated as of August 11, 2016, to and for the benefit of Lender (the "Holdings Guaranty").

D. In connection with the Original Loan Agreement, Argoudelis and Kousathanas (Kousathanas and Argoudelis each being referred to herein as a "Junior Creditor" and collectively referred to herein as the "Junior Creditors") each executed that certain Subordination Agreement dated as of August 11, 2016, to and for the benefit of Lender (the "2016 Subordination Agreement").

E. The Existing Note is secured by, among other things, that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of August 11, 2016 (the "Mortgage") from Mortgagor to Lender and recorded with the Cook County Recorder of Deeds ("Recorder's Office") on August 16, 2016 as Document No. 1622962110, which Mortgage encumbers the real property and all improvements thereon legally described on the Mortgage as Exhibit A thereto ("Original Property"); (ii) that certain Assignment of Rents and Leases dated August 11, 2016, from Mortgagor to Lender and recorded in the Recorder's Office on August 16, 2016 as Document No. 1622962111 (the "Assignment of Rents"); (iii) that certain Environmental Indemnity Agreement dated August 11, 2016 from Mortgagor and Guarantor to Lender (the "Indemnity Agreement"); (iv) the Argoudelis Guaranty; (v) the Holdings Guaranty and (vi) certain other loan documents.

F. Pursuant to that certain Fifth Amendment to Loan Agreement dated as of even date herewith (the "Fifth Amendment") by and among Lender, Mortgagor, Guarantors, and Junior Creditors, the parties amended the Loan Agreement and Loan Documents to, among other things, modify certain provisions and definitions set forth therein, extend the Revolving Loan Maturity Date, reduce the maximum principal amount of the Revolving Loan Commitment, and issue an additional term loan as more particularly set forth therein ("Term Loan Two," as hereinafter defined). Pursuant to that Fifth Amendment, Mortgagor has delivered to Lender among other things, (i) the Second Amendment and Restated Revolving Note (as hereinafter defined), (ii) that certain Term Note Two, (iii) that certain Amended and Restated Guaranty executed by Argoudelis in favor of the Bank dated as of even date herewith ("Argoudelis Guaranty"; the Holdings Guaranty and the Argoudelis Guaranty each being referred to herein as a "Guaranty", and collectively as the "Guaranties"), and (iv) that certain Shareholder Loan

UNOFFICIAL COPY

Subordination Agreement executed by Argoudelis in favor of the Bank dated as of even date herewith ("2019 Subordination Agreement"; the 2016 Subordination Agreement and the 2019 Subordination Agreement are hereinafter each and collectively referred to as the "Subordination Agreement").

G. Mortgagor and Lender desire to amend the Mortgage and Assignment of Rents on terms and conditions as set forth herein.

ACCORDINGLY, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the covenants and agreements contained herein, and (iii) other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. All references herein to the Loan Agreement and/or to any or all of the Loan Documents to the Mortgage or the Assignment of Rents shall be deemed to mean and include the Mortgage or the Assignment of Rents as amended by this Mortgage Amendment.

2. The first and second Recital of the Mortgage shall be amended to read in its entirety as follows:

Pursuant to the terms and conditions of that certain Loan and Security Agreement dated as of August 11, 2016, by and among Mortgagor and Lender (the "Original Loan Agreement") as amended by that certain First Amendment to Loan and Security Agreement and Reaffirmation of Guaranties and Subordination Agreement dated as of July 19, 2017 ("First Modification"), that certain Second Amendment to Loan and Security Agreement and Reaffirmation of Guaranties and Subordination Agreement dated as of December 22, 2017 ("Second Modification"), that certain Third Amendment to Loan and Security Agreement and Reaffirmation of Guaranties and Subordination Agreement dated as of July 31, 2018 ("Third Modification"), that certain Fourth Amendment to Loan and Security Agreement and Reaffirmation of Guaranties and Subordination Agreement dated as of September 29, 2018 ("Fourth Modification"), and that certain Fifth Amendment to Loan and Security Agreement and Reaffirmation of Guaranties and Subordination Agreement dated as of even date herewith ("Fifth Modification"; the Original Loan Agreement, First Modification, Second Modification, Third Modification, Fourth Modification, and Fifth Modification, are collectively, as further amended from time to time, the "Loan Agreement"), the Lender has agreed to make certain loans to the Mortgagor, consisting of (i) that certain Revolving Loan in an amount not to exceed Three Million Two Hundred Fifty Thousand and 00/100 DOLLARS (\$3,250,000.00) outstanding at any one time (the "Revolving Loan"), (ii) that certain Term Loan in the principal amount of Five Hundred Forty-Five Thousand and 00/100 Dollars (\$545,000.00) (the "Term Loan"), (iii) that certain Mortgage Loan in the principal amount of Two Million and 00/100 Dollars (\$2,000,000.00) (the "Mortgage Loan") and (iv) that certain Term Loan Two in the principal amount of Four Hundred Five Thousand and 00/100 Dollars (\$405,000.00) ("Term Loan Two") (the Revolving Loan, the Term Loan, the Mortgage Loan and Term Loan Two are hereinafter collectively referred to as the "Loan").

UNOFFICIAL COPY

The Revolving Loan is evidenced by that certain Second Amended and Restated Revolving Note dated as of even date herewith made payable by Netcom to the order of Lender in the maximum principal amount of the Revolving Loan (as amended, restated or replaced from time to time, the "Second Amended Revolving Note"), and due on the Revolving Loan Maturity Date (as defined in the Loan Agreement); the Term Loan is evidenced by that certain Term Note dated as of August 11, 2016 made payable by Netcom to the order of the Lender, in the principal amount of the Term Loan (as amended, restated or replaced from time to time, the "Term Note") and due on the Term Loan Maturity Date (as defined in the Loan Agreement); the Mortgage Loan is evidenced by that certain Mortgage Note dated as of August 11, 2016 made payable by Netcom Properties to the order of the Lender, in the principal amount of the Mortgage Loan (as amended, restated or replaced from time to time, the "Mortgage Note") and due on the Mortgage Loan Maturity Date (as defined in the Loan Agreement); and the Term Loan Two is evidenced by that certain Term Note Two dated as of even date herewith made payable by Netcom to the order of the Lender, in the principal amount of the Term Loan Two (as amended, restated or replaced from time to time, the "Term Note Two") and due on the Term Note Two Maturity Date (as defined in the Loan Agreement) (the Second Amended Revolving Note, the Term Note, the Mortgage Note, and the Term Note Two are hereinafter collectively referred to as the "Note"), except as may be accelerated pursuant to the terms hereof, of the Note, the Loan Agreement or of any other document or instrument now or hereafter given to evidence or secure the payment of the Note or delivered to induce the Lender to disburse the proceeds of the Loan (the Loan Agreement, the Note, the Mortgage, the Assignment of Rents, the Indemnity Agreement, the Guaranties, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents").

3. Mortgagor warrants that it has full power and authority to execute this Mortgage Amendment, that there are no other liens or claims against the Property other than the first lien of the Mortgage and the Permitted Exceptions, that the Mortgage is binding upon the Mortgagor, its successors and assigns, that Lender has heretofore fully performed its obligations under the Note, Mortgage and Loan Documents, and that Mortgagor has no claims or offsets against the Lender or against the indebtedness under the Note, the obligations under the Mortgage, or the obligations under any of the Loan Documents. Mortgagor does hereby release and hold harmless Lender, its officers, employees and agents, from and against any claim, action, suit, demand, cost, expense, liability of any kind whether known or unknown, relating in any way to the making of the Loan evidenced by the Note and Mortgage or the administration thereof, or the communications and business dealings between Lender and Mortgagor through the date hereof. Mortgagor represents and warrants that (i) it has no defenses, setoffs, counterclaims, actions or equities in favor of Mortgagor to or against enforcement of the Note, Mortgage or other Loan Documents; and (ii) no oral agreement has been made by any of Lender's employees, agents, officers or directors to further modify the Note, Mortgage, or the Loan Documents.

4. It is the intent of the parties hereto that this instrument shall not constitute a novation and shall in no way adversely affect or impair the lien priority of the Mortgage, and that all sums advanced in connection herewith shall have the same priority as the sums originally under the Mortgage.

UNOFFICIAL COPY

5. All references in the Mortgage and Assignment of Rents to the Loan and the other Loan Documents shall be deemed to refer to the Loan and the other Loan Documents as amended by this Mortgage Amendment.

6. All references to the Note in the Mortgage and the Assignment of Rents shall be deemed to refer to the Note as amended by this Mortgage Amendment.

7. As modified hereby, the Mortgage and Assignment of Rents shall each continue in full force and effect as collateral security for the performance and payment of the Loan.

8. This Mortgage Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

[Signatures on following page]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Lender and Mortgagor have caused this Agreement to be executed the day and year first above written.

MORTGAGOR:

NETCOM, INC., an Illinois corporation

By: _____
Name: Evangelos Argoudelis
Title: President

NETCOM PROPERTIES, INC. an Illinois corporation

By: _____
Name: Evangelos Argoudelis
Title: President

LENDER:

BUSEY BANK, an Illinois banking corporation

By: _____
Name: _____
Title: _____

[Notaries on following page]

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Evangelos Argoudelis, the President of NETCOM, INC., an Illinois corporation, (the "Company"), 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 signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this ___ day of _____, 2019.

Notary Public

(SEAL)

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 Evangelos Argoudelis, the President of NETCOM PROPERTIES, INC., an Illinois corporation, (the "Company"), 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 signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Company, for the uses and purposes therein set forth.
GIVEN under my hand and notarial seal, this ___ day of _____, 2019.

Notary Public

(SEAL)

My Commission Expires: _____

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of BUSEY BANK (the "Bank"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this ___ day of _____, 2019.

Notary Public

(SEAL)

My Commission Expires: _____

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

LOT 7 (EXCEPT THE WEST 15.25 FEET THEREOF) AND ALL OF LOT 8 IN BLOCK 1 IN HERZOG'S 1ST INDUSTRIAL SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 10, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PART OF THE WEST 1/2 OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON DECEMBER 13, 1955 AS DOCUMENT NUMBER LR1639763 AND CERTIFICATE OF CORRECTION THEREOF REGISTERED DECEMBER 14, 1956 AS DOCUMENT NUMBER LR1713481, IN COOK COUNTY, ILLINOIS.

Address: 599 Wheeling Road, Wheeling, Illinois 60090

PINs: 03-11-300-004-0000, 03-11300-005-0000

UNOFFICIAL COPY

IN WITNESS WHEREOF, Lender and Mortgagor have caused this Agreement to be executed the day and year first above written.

MORTGAGOR:

NETCOM, INC., an Illinois corporation

By: *E. Argoudelis*
Name: Evangelos Argoudelis
Title: President

NETCOM PROPERTIES, INC. an Illinois corporation

By: *E. Argoudelis*
Name: Evangelos Argoudelis
Title: President

LENDER:

BUSEY BANK, an Illinois banking corporation

By: _____
Name: _____
Title: _____

[Notaries on following page]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Lender and Mortgagor have caused this Agreement to be executed the day and year first above written.

MORTGAGOR:

NETCOM, INC., an Illinois corporation

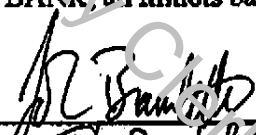
By: 
Name: Evangelos Argyrakis
Title: President

NETCOM PROPERTIES, INC. an Illinois corporation

By: 
Name: Evangelos Argyrakis
Title: President

LENDER:

BUSEY BANK, an Illinois banking corporation

By: 
Name: John Bram
Title: AVP

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Evangelos Argoudelis, the President of NETCOM, INC., an Illinois corporation, (the "Company"), 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 signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 28 day of February, 2019.



My Commission Expires: 7/10/2022

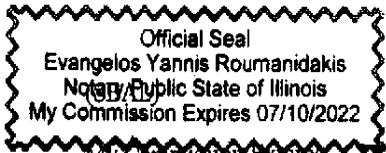
[Signature]

Notary Public

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 Evangelos Argoudelis, the President of NETCOM PROPERTIES INC., an Illinois corporation, (the "Company"), 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 signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 28 day of February, 2019.



My Commission Expires: 7/10/2022

[Signature]

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, the _____ of BUSEY BANK (the "Bank"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this ___ day of February, 2019.

Notary Public

(SEAL)

My Commission Expires: _____