

1 of 3
CTF
7690384
03/11/98

(19)
65 Subs

FIRST LOAN MODIFICATION AGREEMENT

This First Loan Modification Agreement (the "Agreement") is made as of the 1st day of April, 1998, by and between LaSalle National Bank, not individually but as Trustee under that certain Trust created pursuant to a Trust Agreement dated October 16, 1997 and known as Trust Number 121312 ("Trustee"), and Near Loop Lofts, L.L.C., an Illinois limited liability company ("Beneficiary") (the Trustee and Beneficiary are hereunder collectively referred to as "Borrower"), and LaSalle Bank FSB, whose address is 8303 West Higgins Road, Chicago, Illinois 60631 (hereinafter called the "Lender").

RECITALS:

A. Borrower is indebted to Lender pursuant to that certain Secured Promissory Note dated October 31, 1997 made payable to Lender in the principal amount of THIRTY-NINE MILLION FORTY-FIVE THOUSAND SIX HUNDRED SIXTY-NINE DOLLARS (\$39,045,669)(the "Near Loop Note"), which debt is secured by that certain Mortgage and Security Agreement dated as of October 31, 1997 made by Borrower to Lender and recorded in the Office of the Cook County Recorder of Deeds on November 4, 1997 as Document No. 97823852 (the "Near Loop Mortgage"), encumbering the real property described in Exhibit A attached hereto and made a part hereof (the "Near Loop Mortgaged Property")(the Near Loop Note, Near Loop Mortgage and all other instruments evidencing or securing such indebtedness are referred to collectively herein as "Near Loop Loan Documents").

98731542

THIS INSTRUMENT PREPARED BY AND UPON RECORDING RETURN TO:

Thomas R. Brashler
Stahl Brashler LLC
20 East Jackson Boulevard, Suite 1600
Chicago, Illinois 60604

STREET ADDRESSES:

See attached Exhibit A

PERMANENT TAX INDEX NUMBERS:

See attached Exhibit A

BOX 333-CTI

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/02/20

UNOFFICIAL COPY

B. Borrower is also indebted to Lender pursuant to that certain First Amended and Restated Secured Promissory Note dated October 31, 1997 made payable to Lender in the principal amount of SEVEN MILLION SIX HUNDRED THOUSAND DOLLARS (\$7,600,000) (the "May Note"), which debt is secured by that certain Mortgage, Assignment of Rents and Security Agreement dated as of May 6, 1992 made by American National Bank and Trust Company of Chicago as Trustee Under Trust Agreement dated November 14, 1989 and known as Trust No. 109601-02 to LaSalle Bank Lake View (and subsequently assigned to Lender) and recorded in the Office of the Cook County Recorder of Deeds on May 15, 1992 as Document No. 92334469, as modified by Loan Modification Agreement August 31, 1993 recorded September 1, 1993 as Document No. 93695154, Second Loan Modification Agreement dated August 30, 1996 recorded February 3, 1997 as Document No. 97074978, Third Loan Modification Agreement between Borrower and Lender dated as of October 31, 1997 recorded November 4, 1997 in the Office of the Cook County Recorder of Deeds as Document No. 97823855, and Loan Modification Agreement of even date herewith (collectively the "May Mortgage"), encumbering the real property described in Exhibit B attached hereto and made a part hereof (the "May Mortgaged Property") (the May Note, May Mortgage and all other instruments evidencing or securing such indebtedness are referred to collectively herein as "May Loan Documents").

C. Borrower has asked Lender to modify the terms of the May Note and the May Loan Documents to, among other things, adjust the interest rate and extend the term thereof, and Lender has agreed to modify the May Loan Documents and the Near Loop Loan Documents by consolidating the total indebtedness due Lender under the May Note and the Near Loop Note into a single promissory note secured by the Near Loop Loan Documents.

D. All capitalized terms not defined in this Agreement shall have the same meanings as set forth in the Near Loop Loan Documents and the May Loan Documents. To the extent of any conflict between the terms of this Agreement and the terms of the Near Loop Loan Documents or the May Loan Documents, this Agreement shall be controlling.

AGREEMENTS:

NOW THEREFORE, in consideration of the covenants, promises and recitals set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Adoption of Recitals. The parties acknowledge that the Recitals are true and correct and are incorporated into this Agreement as though fully set forth herein.

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2011/10/10

UNOFFICIAL COPY

2. Acknowledgments.

a. Borrower hereby acknowledges and confirms to Lender that the outstanding principal balance of the May Note as of the date hereof is \$7,600,000, and the outstanding principal balance of the Near Loop Loan as of the date hereof is \$39,045,669.

b. Borrower acknowledges and confirms to Lender that: (i) all sums due Lender under the May Note and the Near Loop Note, as stated above, are due and payable without any defense or right of setoff or reduction by Borrower existing as of the date hereof; (ii) that the security interests and liens granted under the May Loan Documents and the Near Loop Loan Documents and other related security documents are valid, binding and enforceable in accordance with their terms; and (iii) that Lender has fully performed all of its obligations which were required to be performed prior to the date hereof with respect to the loans evidenced and secured by the May Loan Documents and the Near Loop Loan Documents.

c. Borrower hereby affirms and restates all representations, warranties and covenants made or assumed by it under the May Loan Documents and the Near Loop Loan Documents.

3. Extension of May Note Maturity; Consolidation and Restatement of Indebtedness. Lender hereby agrees to extend the term of the May Note for a period expiring on October 31, 2007, and to modify all other provisions of the May Note to match the provisions of the Near Loop Note by consolidating the principal balance thereof with the principal balance of the Near Loop Note. The consolidated indebtedness under the May Note and the Near Loop Note is hereby restated pursuant to that certain First Amended and Restated Secured Promissory Note in the principal amount of \$46,645,669 in the form of Exhibit C attached hereto and made a part hereof, which note shall be substituted for all purposes as the Note described in the Near Loop Loan Documents and the May Loan Documents.

4. Fees and Expenses. Borrower shall pay concurrently herewith all costs and fees, including but not limited to appraisal fees, title charges, recording fees and attorneys' fees, incurred by Lender in connection with this Agreement.

5. Waiver and Release of Claims and Defenses. Borrower (the "Releasing Party") hereby waives, discharges and forever releases Lender, its predecessor in interest, and their respective employees, officers, directors, attorneys, stockholders, successors and assigns (the "Released Parties") from and of any and all claims, causes of action, allegations or assertions that Releasing Party has, had, or may have had at any time up through and including the date of this Agreement against any or all of the Released Parties relating to the Loan Documents or Lender's actions or omissions in connection with the Loan, regardless of when any of such claims, causes of action, allegations or assertions arose.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

6. **Continuing Performance.** Borrower agrees to continue performance of all covenants under the Near Loop Loan Documents and the May Loan Documents as modified hereby and to pay the indebtedness set forth in the Note. Nothing in this Agreement shall in any manner impair the Note or any of the other Near Loop Loan Documents or the May Loan Documents, as modified hereby, or any of the Other Loan Documents or the first liens and security interests created thereby, and nothing herein shall alter, waive, modify or affect any promise, agreement, covenant or condition recited in any of the Near Loop Loan Documents or the May Loan Documents (except as specifically set forth herein) or affect or impair any rights, powers or remedies of Lender under the Near Loop Loan Documents or the May Loan Documents.

7. **Land Trustee Exculpation.** This Agreement is executed by LaSalle National Bank not personally, but solely as successor land trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as land trustee (and such trustee hereby warrants in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on such land trustee personally to perform any covenant, either express or implied herein contained, except the warranty contained in this exculpatory paragraph, all such liability, if any, being expressly waived by Lender; provided that nothing herein contained shall be construed in any way so as to affect or impair the lien of the Mortgage or Lender's right to foreclose same, or construed in any way so as to limit any of the rights and remedies of Lender in any such foreclosure proceedings or other enforcement of the Loan Documents as modified hereby.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

10/10/2010

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/11

UNOFFICIAL COPY

as aforesaid for the uses and purposes therein set forth; and the said _____ then and there acknowledged that he, as custodian of the corporate seal of said Association, did affix the corporate seal of said Association to said instrument as his own free and voluntary act and as the free and voluntary act of said Association, as Trustee as aforesaid, for the uses and purposes therein set forth.

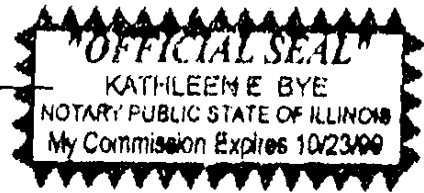
GIVEN under my hand and Notarial Seal this 17 day of August, 1998.



Notary Public

My Commission Expires:

10/23/99



Property of Cook County Clerk's Office

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Valerie M. Mandel, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Lewis S. Kostiner, President of Annie Properties, Inc., an Illinois corporation, who 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 the said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, as duly authorized Manager of Near Loop Lofts, L.L.C. for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 12th day of August, 1998.

Valerie M. Mandel
Notary Public

My Commission Expires:

8/3/99



Property of Cook County Clerk's Office

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2014-01-01

UNOFFICIAL COPY

Property of Cook County Clerk's Office

01/23/2018

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOT 1, THE EAST 1/2 OF LOT 2 (EXCEPT THE NORTH 125.11 FEET OF THE WEST 1.45 FEET THEREOF) AND LOTS 5 AND 6 IN THE ASSESSOR'S DIVISION OF LOTS 1 TO 9, BOTH INCLUSIVE, IN BLOCK 50 IN CARPENTER'S ADDITION TO CHICAGO; TOGETHER WITH LOT 11 AND THE NORTH 35 FEET OF LOT 12 AND THE NORTH 2 FEET OF THE SOUTH 15 FEET OF THE EAST 50 FEET OF LOT 12 AND THE SOUTH 5 FEET OF THE NORTH 40 FEET OF THE WEST 75 FEET OF LOT 12, AFORESAID, IN BLOCK 50 IN CARPENTER'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1001 W. Washington and 16-22 N. Morgan, Chicago, Illinois

P.I.N. 17-08-446-011, 17-08-446-012, 17-08-446-015

PARCEL 2:

THE WEST 1/2 OF LOT 2 AND THE NORTH 125.11 FEET OF THE WEST 1.45 FEET OF THE EAST 1/2 OF LOT 2 AND LOTS 3 AND 4 IN THE ASSESSOR'S DIVISION OF LOTS 1 TO 9, BOTH INCLUSIVE, IN BLOCK 50 IN CARPENTER'S ADDITION TO CHICAGO; TOGETHER WITH LOT 10 AND THE NORTH 1/2 OF LOT 13 AND THE WEST 70 FEET OF THE NORTH 6 INCHES OF THE SOUTH 1/2 OF LOT 13 IN BLOCK 50 IN CARPENTER'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1017 W. Washington, Chicago, Illinois

P.I.N. 17-08-446-001, 17-08-446-004, 17-08-446-005, 17-08-446-006

PARCEL 3A:

LOTS 27 TO 33, INCLUSIVE, IN S. F. GALE'S SUBDIVISION OF BLOCK 52 OF CARPENTER'S ADDITION TO CHICAGO OF THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 14 N. Peoria, Chicago, Illinois

P.I.N. 17-08-448-003

93731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/01/20

UNOFFICIAL COPY

PARCEL 3B:

LOTS 1, 2 AND 3 IN ROGERS' SUBDIVISION OF BLOCK 1 IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST 1/2 AND OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, WITH BLOCK 5 IN DUNCAN'S ADDITION ALL IN CHICAGO, (EXCEPT THAT PART OF SAID LOT 3, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 4 IN ROGER'S SUBDIVISION, AFORESAID, THENCE SOUTH IN A STRAIGHT LINE ALONG THE EAST LINE OF SAID LOT 4 TO A POINT ON THE EAST LINE OF LOT 4, WHICH POINT IS 5 FEET 5-3/4 INCHES NORTH OF THE SOUTH LINE OF SAID LOT 4; THENCE EAST, A DISTANCE OF 1 FOOT 6-1/4 INCHES; THENCE IN A NORTHERLY DIRECTION TO A POINT ON THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 114 FEET 10-1/2 INCHES TO A POINT 2 FEET 1-3/4 INCHES EAST OF THE NORTHWEST CORNER OF LOT 3; THENCE WEST ALONG THE NORTH LINE OF LOT 3 TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

Commonly known as: 1001 W. Madison, Chicago, Illinois

P.I.N. 17-17-203-021

PARCEL 4:

LOTS 11 TO 16, INCLUSIVE, IN S. F. GALE'S SUBDIVISION OF BLOCK 52 OF CARPENTER'S ADDITION TO CHICAGO OF THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 19 N. Sangamon, Chicago, Illinois

P.I.N. 17-08-448-002

PARCEL 5:

THE WEST 15 FEET OF LOT 21 AND LOTS 22 TO 28 IN BLOCK 6 IN MALCOLM M. MCNEIL'S SUBDIVISION OF BLOCKS 6, 7 AND 8 IN WRIGHT'S ADDITION TO CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 17 N. Loomis and 1346-64 W. Madison, Chicago, Illinois

P.I.N. 17-08-335-009, 17-08-335-013, 17-08-335-014, 17-08-335-015,
17-08-335-016, 17-08-335-024, 17-08-335-025

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025/01/20 10:00 AM

UNOFFICIAL COPY

PARCEL 6:

THE EAST 1/2 OF THE SOUTH 1/2 OF LOT 49 ALSO THAT PART OF THE EAST 1/2 OF LOT 50 LYING NORTH OF THE SOUTH WALL OF AN EXISTING TALL 1 STORY BRICK BUILDING, SAID SOUTH WALL BEING A STRAIGHT LINE RUNNING FROM A POINT ON THE EAST LINE OF SAID LOT 50, 31.09 FEET SOUTH OF THE NORTH LINE OF LOT 50 AS MEASURED ON THE EAST LINE THEREOF, TO A POINT ON THE WEST LINE OF THE SAID EAST 1/2 OF LOT 50, 31.16 FEET SOUTH OF THE NORTH LINE OF LOT 50 AS MEASURED ON THE WEST LINE THEREOF, ALL IN THE SUBDIVISION OF THE WEST 1/2 OF LOTS 120 AND 125, AND ALL OF LOTS 123, 124, 127 TO 134 INCLUSIVE AND 137 IN BRONSON'S ADDITION TO CHICAGO, ALL IN THE NORTHEAST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1448 N. Orleans, Chicago, Illinois

P.I.N. 17-04-200-077

PARCEL 7:

LOTS 5, 6, 7 AND 8 IN BLOCK 6 IN MCNEILL'S SUBDIVISION OF BLOCKS 6, 7 AND 8 IN WRIGHT'S ADDITION TO CHICAGO IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known as: 1325-43 W. Washington, Chicago, Illinois

P.I.N. 17-08-335-006, 17-08-335-007, 17-08-335-008

MAJCONTRACTLOAN-A.LGL
103097-1210pm

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00000000

UNOFFICIAL COPY

EXHIBIT B

LEGAL DESCRIPTION

PARCEL 1:

LOTS 1, 4, 5, 8, 9, 12, 13 AND 16 IN SUBDIVISION OF BLOCK 11 OF CARPENTER'S ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTH EAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THAT PART OF LOTS 1 TO 6 AND 27 TO 30 IN THE SUBDIVISION OF BLOCK 7 IN CARPENTER'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH PART OF KINZIE STREET LYING NORTH OF AND ADJOINING THE NORTH LINE OF AFORESAID BLOCK 7 AND SOUTH OF AND ADJOINING THE "DIVISION LINE" BETWEEN THE LANDS OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY AND THE LANDS OF THE PITTSBURGH, CINCINNATI, CHICAGO AND ST. LOUIS RAILWAY COMPANY AS ESTABLISHED BY AGREEMENT DATED FEBRUARY 11, 1903, AND RECORDED FEBRUARY 9, 1943, AS DOCUMENT NO. 13028398:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF AFORESAID BLOCK 7 EXTENDED NORTH TO AFORESAID "DIVISION LINE", THENCE WEST ON AFORESAID "DIVISION LINE" A DISTANCE OF 251.71 FEET TO ITS INTERSECTION WITH THE WEST LINE OF AFORESAID BLOCK 7, BEING THE EAST LINE OF MAY STREET, EXTENDED NORTH, THENCE SOUTH ON AFORESAID DESCRIBED WEST LINE OF BLOCK 7, A DISTANCE OF 105.0 FEET TO A POINT, THENCE EAST ON A LINE PARALLEL WITH AFORESAID "DIVISION LINE" A DISTANCE OF 251.73 FEET TO A POINT ON THE EAST LINE OF AFORESAID BLOCK 7; THENCE NORTH ON THE EAST LINE OF AFORESAID BLOCK 7; AND ITS EXTENSION NORTH BEING THE WEST LINE OF ABERDEEN STREET, A DISTANCE OF 105.0 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Commonly known as: 312-28 N. May Street and 351 N. May Street, Chicago, Illinois

P.I.N. 17-08-408-005, 17-08-408-004

UNOFFICIAL COPY

EXHIBIT C

COPY

FIRST AMENDED AND RESTATED SECURED PROMISSORY NOTE

\$46,645,669

April 1, 1998
Chicago, Illinois

FOR VALUE RECEIVED, the undersigned, LaSalle National Bank, not individually but as Trustee under a Trust Agreement (the "Trust Agreement") dated October 16, 1997 and known as Trust No. 121312 ("Trust") and Near Loop Lofts, L.L.C., an Illinois limited liability company ("Beneficiary") (Trust and Beneficiary are referred to jointly herein as "Borrower"), hereby jointly and severally promise to pay to the order of LaSalle Bank FSB, its principal office and place of business located at 8303 West Higgins Road, 6th Floor, Chicago, Illinois 60631-2941, or any successor holder of this Note ("Lender"), at Lender's principal place of business, or such other place or places as Lender from time to time may designate in writing, the principal sum of FORTY SIX MILLION SIX HUNDRED FORTY-FIVE THOUSAND SIX HUNDRED SIXTY-NINE DOLLARS (\$46,645,669) in lawful money of the United States of America.

1. Interest Rate. The unpaid principal amount hereof shall bear interest at the fixed rate of Seven and Five Hundred Eighty-Five Thousandths percent (7.585%) per annum (the "Interest Rate"), from the date of disbursement hereunder on the unpaid principal balance hereof from time to time outstanding. The Interest Rate shall be adjusted on October 31, 2002, ("Adjustment Date"), to a per annum rate equal to the sum of the yield on a five (5) year United States Treasury Security or Bond as of the third (3rd) business day prior to the Adjustment Date plus One and Six-Tenths percent (1.60%). The outstanding principal balance hereof shall bear interest at the adjusted Interest Rate from the Adjustment Date through the Maturity Date (as defined below).

2. Payments. Commencing on May 1, 1998 and on the first (1st) day of each month thereafter through April 1, 1999, Borrower shall make payments of interest only at the Interest Rate on the outstanding principal balance hereunder. Commencing on May 1, 1999 and on the first (1st) day of each month thereafter Borrower shall make level monthly payments of principal and interest in the amount of Three Hundred Fifty-four Thousand Eight Hundred Seventy-Three Dollars (\$354,873), with a final payment of all outstanding principal and accrued but unpaid interest due on October 31, 2007 (the "Maturity Date"). THIS IS A BALLOON NOTE, AND ON THE MATURITY DATE ALL OUTSTANDING PRINCIPAL AND UNPAID INTEREST SHALL BE DUE AND PAYABLE.

All interest due hereunder shall be computed for the actual number of days elapsed on the basis of a year consisting of three hundred sixty (360) days. All advances and repayments hereunder shall be evidenced by entries on the books and records of Lender which shall be presumptive evidence of the principal amount and interest owing and unpaid on this Note. The failure to so record any such amount or any error in so recording any such amount shall not, however, limit or otherwise affect the obligations of Borrower hereunder or under any note to repay the principal amount of the liabilities together with all interest accruing thereon.

3. Security for Note. The payment of this Note is secured by all security interests, liens, pledges, assignments and encumbrances concurrently herewith or from time to time hereafter granted by or for Borrower to Lender in connection with this Note, including, but not limited to, the liens evidenced by that certain Mortgage and Security Agreement dated as of October 31, 1997, as modified by that certain Loan Modification Agreement of even date herewith, made by Borrower for the benefit of Lender ("Mortgage") encumbering the real properties commonly known as 1448 North Orleans, 1327 West Washington, 1001-1017 West Washington and 1001 W. Madison, 16-22 North Morgan, 17 North Loomis, 14 North Peoria, 19 North Sangamon, 1346-64 West Washington, 312-328 N. May, and 351 N. May,

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/2014

UNOFFICIAL COPY

Chicago, Illinois (collectively, the "Premises"), that certain Assignment of Rents and Leases executed by Borrower (the "Assignment"), that certain Security Agreement and Collateral Assignment Under Land Trust executed by Beneficiary (the "Collateral ABI"), that certain Environmental Indemnity Agreement executed by Beneficiary ("Indemnity"), those certain Continuing Guaranties executed by principals of Beneficiary (the "Guaranties"), that certain Pledge Agreement executed by certain principals of Beneficiary (the "Pledge Agreement"), the Other Loan Documents (as defined in the Mortgage) granting mortgage liens and other collateral interests to Lender in the real property commonly known as 1010-1020 S. Wabash, Chicago, Illinois, and such other instruments, documents and agreements evidencing and/or securing the payment of this Note as Trust, Beneficiary or any other person executes and delivers to Lender now and from time to time hereafter (the Note, the Mortgage, the Assignment, the Collateral ABI, the Indemnity, the Guaranties, the Pledge Agreement, the Other Loan Documents, and all other documents described in the foregoing sentence are collectively referred to herein as the "Loan Documents"). The Premises, the property granted as security under the Other Loan Documents (as defined in the Mortgage), and all other property, rights and assets pledged or given to secure this Note are herein referred to as the "Mortgaged Property." The terms and provisions of the Loan Documents are incorporated herein by this reference thereto as if fully set forth herein, including but not limited to the right to accelerate the full amount due hereunder in the event of a sale as defined in the Mortgage or any further encumbrance of the Mortgaged Property.

4. Prepayment. (a) Provided that no Event of Default then exists under this Note, Borrower may voluntarily prepay the principal balance of this Note in whole or in part at any time, subject to the following conditions:

(i) Not less than 14 days prior to the date upon which Borrower desires to make such prepayment, Borrower shall deliver to Lender written notice of its intention to prepay, which notice shall be irrevocable and state the prepayment amount and the prepayment date;

(ii) Borrower shall pay to Lender, concurrently with such prepayment, a prepayment premium (the "Prepayment Premium") equal to the greater of (A) the Yield Amount (as hereinafter defined) or (B) 1% of the amount being prepaid;

(iii) Borrower shall pay to Lender all accrued and unpaid interest through the date of such prepayment on the principal balance being prepaid and

(iv) Borrower shall pay to Lender any other obligations of Borrower to Lender then due which remain unpaid.

(b) Borrower acknowledges that the Loan was made on the basis and assumption that Lender would receive the payments of principal and interest set forth herein for the full term hereof. Therefore, whenever the maturity hereof has been accelerated by Lender by reason of the occurrence of an Event of Default under this Note or any other of the Loan Documents, including an acceleration by reason of sale, conveyance, further encumbrance or other Event of Default (which acceleration shall be at Lender's sole option), there shall be due, in addition to the outstanding principal balance, accrued interest and other sums due hereunder, a premium equal to the Prepayment Premium that would be payable pursuant to clause (a) above if such principal balance had been voluntarily prepaid by Borrower.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

01/21/2025

UNOFFICIAL COPY

(c) For purposes of this Note, the "Yield Amount" shall be the amount calculated as follows:

- (i) There shall first be determined, as of the date fixed for prepayment (the "Prepayment Date"), the yield to maturity percentage (the "Current Yield") for the United States Treasury Note closest in maturity to the Maturity Date (the Treasury Note") as published in *The Wall Street Journal*. If *The Wall Street Journal* or the publication of such rates therein is discontinued, Lender, in its sole discretion, shall designate another daily financial or governmental publication of national circulation to be used to determine the Current Yield;
- (ii) If the Current Yield exceeds the Loan Rate, then the Yield Amount shall equal zero;
- (iii) If the Loan Rate exceeds the Current Yield, the Yield Amount shall be calculated as follows:
 - (A) As of each scheduled payment date through and including the Maturity Date, Lender shall calculate the difference between (1) the principal and interest payment on the Loan which would have been due and payable on such payment date if the prepayment were not being made, and (2) the amount which shall actually be due and payable on such payment date after giving effect to the prepayment (such difference being hereinafter referred to as the "Net Payment").
 - (B) The present value of each Net Payment shall then be calculated by discounting from its scheduled payment date the amount of such Net Payment at the Current Yield.
 - (C) The principal amount being prepaid shall then be subtracted from the sum of all of the present values calculated pursuant to clause (B), and the result shall be the amount of the Yield Amount.

Borrower shall not be entitled in any event to a credit against, or a reduction of, the indebtedness being prepaid if the Current Yield exceeds the Loan Rate or for any other reason.

Notwithstanding the foregoing, no prepayment premium shall be payable with respect to any prepayment of the entire principal balance (A) occurring at any time prior to May 1, 1999 where resulting from an arms-length sale of the Mortgaged Property or any portion thereof to an unrelated third party, or (B) during the periods of May 1, 2002 through October 31, 2002, or May 1, 2007 through October 31, 2007, unless such prepayment arises from an acceleration of the Maturity Date as a result of a default or event of default under the Loan Documents. Except as expressly set forth in this Section, this Note may not be prepaid by Borrower.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025

UNOFFICIAL COPY

5. Acceleration on Default; Waivers. If any payment due under this Note or any other monies owing from Borrower to Lender hereunder or under the Loan Documents is not paid when due, or if Borrower otherwise defaults under the terms of this Note or if a default or event of default occurs under any of the Loan Documents, including the Other Loan Documents (after the expiration of any applicable grace or cure periods specifically provided for therein) (collectively referred to herein as a "Default"), then all indebtedness evidenced by this Note, together with all other monies owing hereunder by Borrower to Lender, will be due and payable in full. The acceptance by Lender of any payment, partial or otherwise, made hereunder after the time when it becomes due as herein set forth will not establish a custom or constitute a waiver by Lender of any right to enforce prompt payment thereof or a waiver of any other Default or the same Default on another occasion. TO THE EXTENT PERMITTED BY APPLICABLE LAW, BORROWER HEREBY WAIVES THE APPLICATION OF ANY AND ALL OF THEIR RIGHTS AND POWERS UNDER ALL STATUTES OF LIMITATION AND SIMILAR STATUTES AND LAWS AS TO THIS NOTE AND ALL PORTIONS HEREOF. DEMAND, PRESENTMENT FOR PAYMENT, PROTEST AND NOTICE OF NON-PAYMENT AND PROTEST ARE HEREBY WAIVED BY BORROWER AND EVERY ENDORSER AND/OR GUARANTOR HEREOF.

6. Default Rate of Interest. If any payment or other monies owing to Lender are not paid when due, or upon the acceleration of the indebtedness evidenced hereby, then, from the due date of such amounts until all accrued, unpaid interest, all prepayment premiums, and any other amounts due hereunder or under any of the Loan Documents are paid or otherwise satisfied in full, all such amounts and indebtedness shall bear interest at the Default Rate. As used herein, the "Default Rate" means a per annum rate of interest equal to the Interest Rate as changing from time to time plus five (5%) percent.

7. Late Charge. In the event Lender receives any payment due under this Note more than fifteen (15) days after the due date therefor, Lender, at its sole election and in its sole discretion, may collect from Borrower a "late charge" of five cents (\$0.05) for each one dollar (\$1.00) of such delinquent payment to reimburse Lender for the extra administrative cost and expense involved in handling the late payment. Lender's acceptance of any late charge payment shall not constitute a waiver of any of its rights or remedies or of any Default which may then or thereafter occur or exist hereunder.

8. Fees and Expenses. If Lender employs counsel for advice with respect to the Loan Documents to respond to any request of Trust or Beneficiary, including but not limited to, a request for a consent, waiver, amendment or interpretation of the Loan Documents or to intervene, file a petition, answer, motion or other pleading in any suit or proceeding (bankruptcy or otherwise) relating to the Loan Documents or the Premises, or to attempt to collect this Note or said other monies from, or to enforce the Loan Documents against, Borrower or any other party, then, in any such event, to the extent permitted by law all of the reasonable attorneys' and paralegals' fees and expenses arising from such services, and all expenses, costs and charges relating thereto, shall be an additional liability owing hereunder by Borrower to Lender, payable within five (5) days of demand and bearing interest at the Default Rate, from the date of demand until paid in full to Lender and shall be secured by the lien evidenced by the Mortgage.

9. Interest Limitation. All agreements between Borrower and Lender expressly are limited so that in no contingency or event whatsoever, whether by reason of disbursement of the proceeds hereof or otherwise, shall the amount paid or agreed to be paid by Borrower to Lender for the use, detention or forbearance of the amounts to be disbursed hereunder exceed the highest lawful rate of interest permissible under the law which a court of competent jurisdiction, by a final non-appealable order, determines is applicable hereto ("Highest Lawful Rate"). If fulfillment of any provision herein contained at the time performance of such provision becomes due involves exceeding the Highest Lawful Rate, then inso facto,

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00000000

UNOFFICIAL COPY

the obligation to fulfill the same shall be reduced to such Highest Lawful Rate. If by any circumstance Lender shall ever receive as interest an amount which would exceed the Highest Lawful Rate, the amount which may be deemed excessive interest shall be applied to the principal and not to interest, or, if such excessive interest exceeds the unpaid principal under this Note, such excess shall be refunded to Borrower. All interest paid or agreed to be paid to Lender under this Note or any instrument executed in connection with this Note shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full period until payment in full of the principal (including the period of any renewal or extension of this Note) so that the interest on this Note for such full period shall not exceed interest computed at the Highest Lawful Rate. It is Lender's intention that the performance of any provision herein never result in any payments due or paid which involve exceeding the Highest Lawful Rate. The terms and provisions of this Paragraph shall control all other terms and provisions contained herein, in the Mortgage and in the other Loan Documents. If any provision of this Note or the application thereof to any party or circumstance is held invalid or unenforceable, the remainder of this Note and the application of such provision to other parties or circumstances shall not be affected thereby, the provisions of this Note being severable in any such instance.

10. Waivers; Continued Liability. It is agreed that the granting to Borrower or any other party of an extension or extensions of time for the payment of any sum or sums due under this Note, the Mortgage or the other Loan Documents or for the performance of any term, provision, covenant or agreement of this Note, the Mortgage or the other Loan Documents, or the taking or releasing of security or collateral for the payment of this Note or the exercising or failure to exercise of any right or power under this Note, the Mortgage or the other Loan Documents, shall not in any way release or affect the liability of Borrower evidenced by this Note.

11. Amendments and Modifications. This Note may not be amended or modified, nor shall any revision hereof be effective, except by an instrument in writing expressing such intention executed by Lender and directed to Borrower.

12. Choice of Law. This Note shall be governed and controlled as to validity, enforcement, interpretation, construction, effect and in all other respects, including, but not limited to, the legality of the interest charged hereunder, by the statutes, laws and decisions of the State of Illinois. Borrower, in order to induce Lender to accept this Note and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, HEREBY WAIVES TO THE EXTENT PERMITTED BY LAW, PERSONAL SERVICE OF ANY AND ALL PROCESS UPON BORROWER AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO BORROWER AT 1017 WEST WASHINGTON STREET, CHICAGO, ILLINOIS 60607, ATTENTION: MR. LEWIS S. KOSTINER (OR SUCH OTHER ADDRESS AS BORROWER SHALL SPECIFY BY WRITTEN NOTICE TO LENDER) AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. BORROWER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE CIRCUIT COURT OR FEDERAL COURT LOCATED WITHIN THE STATE OF ILLINOIS. BORROWER WAIVES TRIAL BY JURY AND WAIVES ANY OBJECTION WHICH THE BORROWER MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS TO THE CONDUCT OF ANY PROCEEDING INSTITUTED HEREUNDER.

13. Binding Effect. Wherever the term "Borrower" is used in this Note, the term shall include (unless otherwise expressly indicated) Trust, Beneficiary, and each of their respective successors and

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

2025-08-28

UNOFFICIAL COPY

assigns, as the case may be. This Note shall be binding upon Borrower and shall inure to the benefit of Lender and its successors and assigns.

14. Joint and Several. All obligations and liabilities of Borrower under this Note shall be the joint and several obligations and liabilities of Trust and Beneficiary.

15. Severability. Any provision of this Note which is unenforceable or contrary to applicable law, the inclusion of which would affect the validity, legality or enforcement of this Note, shall be of no effect, and in such case all the remaining terms and provisions of this Note shall be fully effective, the same as though no such invalid provision had ever been included in this Note.

16. Restatement. THIS NOTE IS GIVEN IN SUBSTITUTION AND REPLACEMENT FOR, BUT NOT IN PAYMENT OF, THAT CERTAIN SECURED PROMISSORY NOTE DATED OCTOBER 31, 1997, EXECUTED BY BORROWER AND PAYABLE TO LENDER IN THE ORIGINAL PRINCIPAL AMOUNT OF \$39,045,669 (THE "ORIGINAL NOTE"). THE INDEBTEDNESS EVIDENCED BY THE ORIGINAL NOTE IS CONTINUING INDEBTEDNESS, AND NOTHING HEREIN SHALL BE DEEMED TO CONSTITUTE A PAYMENT, SETTLEMENT OR NOVATION OF THE ORIGINAL NOTE OR OTHERWISE RELEASE, MODIFY OR IMPAIR ANY LIEN OR SECURITY INTEREST SECURING SUCH INDEBTEDNESS OR ANY RIGHTS OF THE LENDER AGAINST BORROWER OR ANY OTHER PARTY. ALL AMOUNTS OUTSTANDING UNDER THE ORIGINAL NOTE SHALL BE AUTOMATICALLY TRANSFERRED TO, AND BE DEEMED TO BE OUTSTANDING UNDER, THIS NOTE.

THIS SECURED PROMISSORY NOTE IS EXECUTED BY LaSalle National Bank, not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. No personal liability shall be asserted or be enforceable against LaSalle National Bank all such liability being expressly waived by each maker and holder hereof, but nothing herein contained shall modify or discharge the personal liability of any other maker or guarantor hereof.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Note as of the day and year first above written.

LASALLE NATIONAL BANK, as Trustee as aforesaid

By: _____
Its: _____

Attest: _____
Its: _____

NEAR LOOP LOFTS, L.L.C., an Illinois limited liability company, by its Managers:

Annie Properties, Inc., an Illinois corporation

By: _____
Lewis S. Kostiner, President

Bilger Corporation, an Ohio corporation

By: _____
Richard M. Ross, Jr., President

98731542

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00000000

UNOFFICIAL COPY

98731543

9411/0193 30 001 Page 1 of 17
1998-08-19 15:01:13
Cook County Recorder 53.00

SECOND LOAN MODIFICATION AGREEMENT

17
6 Sub

This Second Loan Modification Agreement (the "Agreement") is made as of the 12th day of August, 1998, by and between LaSalle National Bank, not individually but as Trustee under that certain Trust created pursuant to a Trust Agreement dated October 16, 1997 and known as Trust Number 121312 ("Trustee"), and Near Loop Lofts, L.L.C., an Illinois limited liability company ("Beneficiary") (the Trustee and Beneficiary are hereunder collectively referred to as "Borrower"), and LaSalle Bank FSI, whose address is 8303 West Higgins Road, Chicago, Illinois 60631 (hereinafter called the "Lender").

RECITALS:

A. Borrower is indebted to Lender pursuant to that certain First Amended And Restated Secured Promissory Note dated April 1, 1998 made payable to Lender in the principal amount of FORTY-SIX MILLION SIX HUNDRED FORTY-FIVE THOUSAND SIX HUNDRED SIXTY-NINE DOLLARS (\$46,645,669)(the "Restated Near Loop Note"), which debt is secured by that certain Mortgage and Security Agreement dated as of October 31, 1997 made by Borrower to Lender and recorded in the Office of the Cook County Recorder of Deeds on November 4, 1997 as Document No. 97823852, as amended by that certain First Loan Modification Agreement dated April 1, 1998 (collectively the "Near Loop Mortgage"), encumbering the real property described in Exhibit A attached hereto and made a part hereof (the "Near Loop Mortgaged Property")(the Restated Near Loop Note, Near Loop Mortgage and all other instruments evidencing or securing such indebtedness are referred to collectively herein as "Near Loop Loan Documents").

THIS INSTRUMENT PREPARED BY AND UPON
RECORDING RETURN TO:

Thomas R. Brashler
Stahl Brashler LLC
20 East Jackson Boulevard, Suite 1600
Chicago, Illinois 60604

STREET ADDRESSES:

See attached Exhibit A

PERMANENT TAX INDEX NUMBERS:

See attached Exhibit A

98731543

243
CTE
7690384
031100

BOX 333-CTI

UNOFFICIAL COPY

Property of Cook County Clerk's Office

12/12/2014