

# UNOFFICIAL COPY

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Charles E. Schrank  
Sidley & Austin  
One First National Plaza  
Chicago, Illinois 60603

99632466

6069/0027 30 001 Page 1 of 15  
1999-07-01 09:22:21  
Cook County Recorder 49.50



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*19600064 and N9701209 Cook Co. Ill*

## AMENDMENT TO

## MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FINANCING STATEMENT

THIS AMENDMENT TO MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FINANCING STATEMENT ("Amendment") is made as of June 29, 1999, by and among 730 NORTH MICHIGAN AVENUE VENTURE, an Illinois general partnership, having an office at c/o Thomas J. Klutznick Company, 900 North Michigan Avenue, Chicago, Illinois 60610 (the "Borrower"), AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated as of April 20, 1994 and known as Trust No. 118199-01 (the "Borrower's Trust" and together with the Borrower, the "Mortgagor"), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 4866208, having an office at c/o Mr. Michael Schulson, Lunan Corporation, 414 North Orleans, Suite 202, Chicago, Illinois 60610 (the "Co-Mortgagor"; the Mortgagor and Co-Mortgagor are sometimes referred to herein as the "Mortgagors"), and CREDIT LYONNAIS NEW YORK BRANCH, a branch, licensed under the laws of the State of New York, and a banking corporation organized under the laws of the Republic of France ("Mortgagee"), as Agent for itself as a Lender and for each Lender under the Loan Agreement referred to below (Mortgagee and each other Lender are hereinafter sometimes collectively referred to as "Lender"), having an office at c/o Credit Lyonnais Real Estate Group, 1301 Avenue of the Americas, New York, New York 10019-6092, and its and their successors and assigns.

## WITNESSETH

WHEREAS, Mortgagors have executed and delivered to Mortgagee that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Financing Statement ("Mortgage"; capitalized terms used herein, which are not otherwise defined herein, shall have the same meanings as are ascribed to such terms in the Mortgage or, if not defined in the Mortgage, such terms shall have the same meanings as are ascribed thereto in the Loan

Agreement referred to herein and in the Mortgage) made as of September 30, 1996, but effective as of October 8, 1996, recorded in the office of the Cook County, Illinois Recorder of Deeds October 10, 1996, as Document No. 96773883, as security, among other things, for that certain Note, dated of even date with the Mortgage, in an aggregate principal amount not to exceed NINETY MILLION 00/100 DOLLARS (\$90,000,000.00) (the Note and any and all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof are herein referred to collectively as the "Note"), and for the other Liabilities (as defined in the Mortgage); and

WHEREAS, Borrower and Mortgagee have also executed that certain Loan Agreement, dated of even date with the Mortgage (the Loan Agreement and any and all amendments, modifications, supplements, restatements, substitutions, renewals, extensions for any period, increases or rearrangements thereof, including without limitation the First Amendment to Loan Agreement referred to below, is referred to as the "Loan Agreement"); and

WHEREAS, Mortgagor has executed and delivered to Mortgagee that certain Assignment of Lessor's Interest in Leases and Rents ("Assignment of Leases and Rents") dated of even date with the Mortgage, recorded in the office of the Cook County, Illinois Recorder of Deeds October 10, 1996, as Document No. 96773884, to further secure the Liabilities; and

WHEREAS, Mortgagors and Mortgagee are executing or have executed that certain plat of subdivision entitled "730 N. Michigan Avenue Subdivision" (the "Subdivision Plat"), re-describing the Land (as defined and referred to in the Mortgage) as set forth on the attached Exhibit A (the "Replatted Land Description"); and

WHEREAS, Borrower and Mortgagee have executed and delivered that certain Amendment to Loan Agreement (the "Amendment to Loan Agreement") dated of even date herewith, pursuant to which Borrower and Lender, among other things, enter into certain covenants and agreements concerning the Air Rights Parcel and the Air Rights Lease (as such terms are defined and referred to in Section 11.2 of the Loan Agreement); and

WHEREAS, as contemplated by the Amendment to Loan Agreement, Mortgagee has released or is releasing from the lien of the Mortgage the portion of the Land, described by reference to the Replatted Land Description, set forth on the attached Exhibit B (such portion, the "Release Parcel"); and

WHEREAS, as a condition to Mortgagee's execution of and the completion of the transactions contemplated by the Amendment to Loan Agreement, Mortgagee has required that Mortgagors enter into this Amendment to, among other things, confirm the continuing liens and security interests of the Mortgage as covering the Mortgage Property remaining after the release of the Release Parcel from the lien of the Mortgage, and as such Mortgaged Property is in part re-described by virtue of the Replatted Legal Description of the Land; and

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WHEREAS, the Co-Mortgagor acknowledges and agrees that Co-Mortgagor is obligated to execute and deliver this Amendment pursuant to the terms and provisions of the Lunan Ground Lease (as defined in the Mortgage), that the Co-Mortgagor's obligation to enter into mortgages such as the Mortgage (and amendments thereto such as this Amendment) formed a material basis for the tenant under the Lunan Ground Lease to enter into the Lunan Ground Lease, and that Co-Mortgagor enters into this Amendment pursuant to, and in consideration of, the Lunan Ground Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Co-Mortgagor;

NOW, THEREFORE, in consideration of the premises contained in the Mortgage and other good and valuable consideration, and in further consideration of One Dollar (\$1.00) in hand paid, the receipt and sufficiency whereof are hereby acknowledged, Mortgagors and Mortgagee do hereby covenant and agree as follows:

1. The Recitals set forth above are agreed to by Mortgagors and Mortgagee and are incorporated herein by reference.
2. From and after the recordation of the Subdivision Plat in the Cook County real estate records, the Land referred to in the Mortgage shall include the Land as described in the Replatted Legal Description, excepting therefrom the Release Parcel, and the related definitions of the Improvements, the Real Property and the Mortgaged Property contained in the Mortgage shall be construed accordingly. In no event shall this Amendment or the recordation of the Subdivision Plat be construed as releasing any real or personal property (other than the Release Parcel and the improvements and personalty thereon) from the liens, assignments and security interests created by the Mortgage, all of which shall continue in full force and effect.
3. From and after the recordation of the Subdivision Plat in the Cook County real estate records, the real estate referred to in Exhibit A of the Assignment of Leases and Rents shall include the Land as described in the Replatted Legal Description, excepting therefrom the Release Parcel and the improvements and personalty thereon, and the related definition of Project contained in the Assignment of Leases and Rents shall be construed accordingly. In no event shall this Amendment or the recordation of the Subdivision Plat be construed as releasing any real or personal property (other than the Release Parcel and the improvements and personalty thereon) from the liens, assignments and security interests created by the Assignment of Leases and Rents, all of which shall continue in full force and effect.
4. References in the Mortgage and Assignment of Leases and Rents to the Loan Agreement and the other Loan Documents shall include the Amendment to Loan Agreement and, where appropriate, this Amendment.
5. Mortgagors covenant, acknowledge and reaffirm that the Mortgage and Assignment of Leases and Rents, each as amended by this Amendment, and all of Mortgagors'

respective obligations thereunder, are and shall remain in full force and effect. This Amendment is not a novation nor is it to be construed as a release or modification of any of the terms, conditions, representations, warranties, covenants, rights or remedies set forth in the Mortgage and Assignment of Leases and Rents (each as amended by this Amendment) or any of the other Loan Documents.

6. The Co-Mortgagor is executing and delivering this Amendment pursuant to the terms and provisions of Section 13(a) of the Lunan Ground Lease. Notwithstanding any provision to the contrary contained herein, the Co-Mortgagor is executing and delivering this Amendment solely for the purpose of encumbering the Co-Mortgagor's fee estate in the portion of the Land and related Property Rights which are subject to the Lunan Ground Lease and, by executing and delivering this Amendment, does not assume any personal liability for the payment of any amounts due under the terms and provisions of the Note, the Loan Agreement or any of the other Loan Documents.

7. This Amendment is executed by American National Bank and Trust Company of Chicago, not personally but solely as Trustee as aforesaid, in the exercise of power and authority conferred upon and vested in it as such Trustee (and American National Bank and Trust Company of Chicago hereby represents and warrants that it possess full power and authority to execute this instrument). All the terms, provisions, stipulations, covenants and conditions to be performed hereunder (whether or not the same are expressed in terms of covenants, promises or agreements), are undertaken by its solely as Trustee, as aforesaid, and not individually, and no personal liability shall be asserted to be enforceable against American National Bank and Trust Company of Chicago by reason of any of the terms, provisions, stipulations, covenants and conditions contained herein.

8. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

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IN WITNESS WHEREOF, Mortgagee and Mortgagors have caused these presents to be signed and delivered as of the day and year first above written.

MORTGAGEE:

99632466

CREDIT LYONNAIS NEW YORK BRANCH

By: \_\_\_\_\_  
Its: \_\_\_\_\_

MORTGAGORS:

BORROWER:

730 NORTH MICHIGAN AVENUE VENTURE, an  
Illinois general partnership

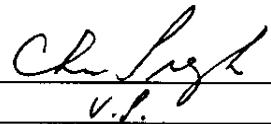
By: TKM LLC, an Illinois limited liability company,  
its partner

By: Lakeview L.L.C., an Illinois limited  
liability company, its manager

By: Coast to Coast Limited Partnership,  
an Illinois limited partnership, its  
manager

By:   
Its: GENERAL PARTNER

By: McGolden Mile Corporation,  
a Delaware corporation, its partner

By:   
Its: v.l.

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, Mortgagee and Mortgagors have caused these presents to be signed and delivered as of the day and year first above written.

**MORTGAGEE:**

99632466

**CREDIT LYONNAIS NEW YORK BRANCH**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

JAMES R. FITZGERALD  
SENIOR VICE PRESIDENT

**MORTGAGORS:**

**BORROWER:**

**730 NORTH MICHIGAN AVENUE VENTURE**, an Illinois general partnership

By: TKM LLC, an Illinois limited liability company, its partner

By: Lakeview L.L.C., an Illinois limited liability company, its manager

By: Coast to Coast Limited Partnership, an Illinois limited partnership, its manager

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: McGolden Mile Corporation, a Delaware corporation, its partner

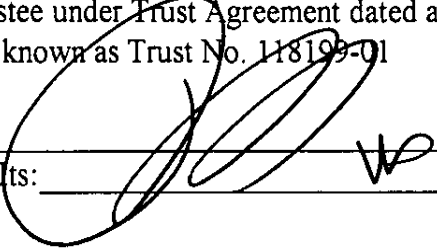
By: \_\_\_\_\_  
Its: \_\_\_\_\_

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## BORROWER'S TRUST:

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, not personally but solely as  
Trustee under Trust Agreement dated as of April 20, 1994  
and known as Trust No. 118199-01

By:  \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: Affestation not required by American National  
Bank and Trust Company of Chicago, Chicago, Illinois

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**CO-MORTGAGOR:**

**AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO**, not personally but solely as  
Trustee under Trust Agreement dated December 19, 1979  
and known as Trust No. 4866208

By:   
Its: TRUST OFFICER

Property of Cook County Clerk's Office



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STATE OF ILLINOIS        )  
                          DuPAGE    ) SS.  
COUNTY OF ~~COOK~~        )

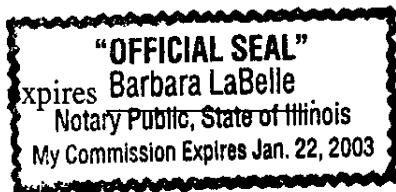
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I, BARBARA La BELLE, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that THOMAS J. KRUTZWICK general partner of Coast to Coast Limited Partnership, an Illinois limited partnership ("Coast to Coast"), the manager of Lakeview L.L.C., an Illinois limited liability company ("Lakeview"), in turn the manager TKM LLC, an Illinois limited liability company ("TKM"), a general partner of 730 North Michigan Avenue Venture, an Illinois general partnership (the "Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such general partner, 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 Coast to Coast on behalf of said Lakeview and, in turn, on behalf of said TKM and Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 15<sup>TH</sup> day of June, 1999.

Barbara La Belle  
Notary Public

My commission expires



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STATE OF ILLINOIS        )  
                                  DUPAGE        ) SS.  
COUNTY OF ~~COOK~~        )

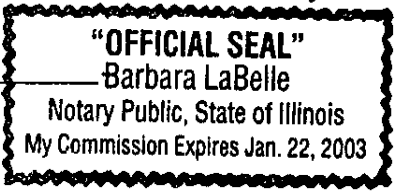
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I, BARBARA LABELLE, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that CHAS PIESZKO, VP of McGolden Mile Corporation, a Delaware corporation, a general partner of 730 North Michigan Avenue Venture, an Illinois general partnership (the "Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VP, 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 corporation on behalf of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 24<sup>th</sup> day of June, 1999.

Barbara La Belle  
Notary Public

My commission expires \_\_\_\_\_



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STATE OF ILLINOIS     )  
                                  ) SS.  
COUNTY OF COOK     )

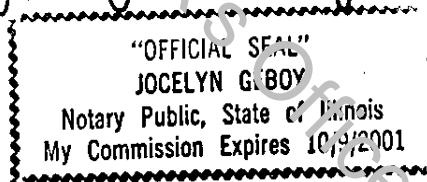
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I, Joelyn Geboy, a Notary Public in and for said County, in the State  
aforesaid, DO HEREBY CERTIFY, that Breogon Kasprysk UP of AMERICAN  
NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as  
Trustee under Trust No. 118199-01 (the "Trustee"), who is personally known to me to be the  
same person whose name is subscribed to the foregoing instrument as such UP,  
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  
Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11 day of June, 1999.

Joelyn Geboy  
Notary Public

My commission expires \_\_\_\_\_.



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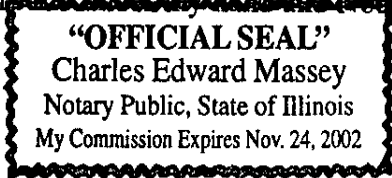
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

99632466

I, \_\_\_\_\_, a Notary Public in and for said County, in the State  
**MARK DEGRAZIA** **TRUST OFFICER**  
aforesaid, DO HEREBY CERTIFY, that \_\_\_\_\_, \_\_\_\_\_ of AMERICAN  
NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as  
Trustee under Trust No. 4866208 (the "Trustee"), who is personally known to me to be the  
same person whose name is subscribed to the foregoing instrument as such **TRUST OFFICER**,  
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  
Trustee, for the uses and purposes therein set forth.

**JUN 25 1999**

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.



*Charles Edward Massey*  
Notary Public

My commission expires \_\_\_\_\_.

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STATE OF NY )  
 ) SS.  
COUNTY OF NY )

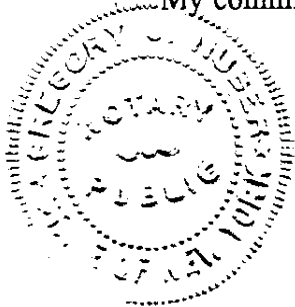
I, Gregory J Nuber, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that James R Fitzgerald of Credit Lyonnais New York Branch, a branch, licensed under the laws of the State of New York, and a banking corporation organized under the laws of the Republic of France, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Sr V. P., appeared before me this day in person and acknowledged that he ~~has~~ signed and delivered the said instrument as his ~~own~~ free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2<sup>nd</sup> day of June, 1999.

[Signature]  
Notary Public

My commission expires \_\_\_\_\_.

**GREGORY J. NUBER**  
Notary Public, State of New York  
No. 01NU5045215  
Qualified in New York County 1999  
Commission Expires June 12, 1999



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## EXHIBIT A

### REPLATTED LAND DESCRIPTION

LOTS 1, 1A, 1B, 2, 2A, 2B, 3, 4, 4A, 4B, 4C, 4D, 4F, 4G, 4H, 4J, 4K, 4L, 4M, 4N, 5, 5A, 5B, 6, 7, 8 AND 8A, COMPRISING ALL THE LOTS IN 730 N. MICHIGAN AVENUE SUBDIVISION BEING A SUBDIVISION IN THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS RECORDED

~~JUNE 30 1999~~ AS DOCUMENT NUMBER 99631468.

99632466

#### TAX NUMBERS:

17-10-102-003  
17-10-102-004  
17-10-102-005  
17-10-102-006  
17-10-102-007  
17-10-102-008  
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17-10-102-015  
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17-10-102-022  
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17-10-102-024  
17-10-102-028  
17-10-102-029  
17-10-102-030  
17-10-102-031  
17-10-102-032

730 N. Michigan  
Ave.

Chgo. Il. 60611

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## EXHIBIT B

### DESCRIPTION OF RELEASE PARCEL

LOTS 4A, 4C, 4D, 4H AND 6, IN 730 N. MICHIGAN AVENUE SUBDIVISION BEING A SUBDIVISION IN THE NORTH FRACTIONAL 1/2 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS RECORDED JUNE 30 1999 AS DOCUMENT NUMBER 99631466.

#### TAX NUMBERS:

17-10-102-003  
17-10-102-004  
17-10-102-005  
17-10-102-006  
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17-10-102-028  
17-10-102-029  
17-10-102-030  
17-10-102-031  
17-10-102-032

99632466

730 N. Michigan Ave  
Cty Il 60641

99632466