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MORTGAGE MODIFICATION AGREEMENT

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DATE: As of May 1, 2011

MORTGAGOR: 160 Madison Avenue Owners Corp.

MORTGAGEE: Intervest National Bank

ADDRESS OF 160 Madison Avenue  
PROPERTY: New York, New York

Block 862, Lot 20  
City of New York, County of New York

RECORD AND RETURN TO:

Intervest National Bank  
One Rockefeller Plaza, Suite 400  
New York, New York 10020-2002

## **MORTGAGE MODIFICATION AGREEMENT**

THIS MORTGAGE MODIFICATION AGREEMENT (the "Agreement") made as of May 1, 2011 between 160 Madison Avenue Owners Corp, a New York corporation, having an address at 160 Madison Avenue, New York, New York 10016 ("Mortgagor") and Intervest National Bank having an address at One Rockefeller Plaza, Suite 400, New York, New York 10020-2002 ("Mortgagee").

### **STATEMENT OF FACTS**

A. Mortgagor is the fee owner of the real property and improvements located at 160 Madison Avenue, New York, New York (the "Premises"), as such Premises are more particularly bounded and described on Schedule A attached hereto and made a part hereof.

B. Mortgagee is the holder of the mortgage described on Schedule C annexed hereto and made a part hereof (the "Mortgage") which encumbers the Premises and of the mortgage note (the "Existing Note") secured by the Mortgage.

C. Mortgagor and Mortgagee desire to modify certain terms and conditions of the Mortgage and the Existing Note.

**NOW, THEREFORE**, in pursuance of said agreement and in consideration of the mutual promises, covenants and agreements contained herein and in the Mortgage, and other valuable consideration, the receipt of which is hereby respectively acknowledged by the parties, Mortgagor and Mortgagee mutually covenant and agree as follows:

1. Mortgagor hereby ratifies and confirms that, after the April 1, 2011 payment was made, the unpaid principal balance due under the Existing Note and secured by the Mortgage is One Million Four Hundred Seventy Four Thousand Nine Hundred Seventy Three and 24/100 (\$1,474,973.24) Dollars (the "Outstanding Principal Balance") and that interest has been paid through April 30, 2011.

2. The terms, covenants, conditions, warranties, representations and undertakings contained in the Mortgage are hereby incorporated herein by this reference as if set forth herein in their entirety.

3. As of the date hereof, the Mortgage is hereby amended to substitute the annexed Schedule B (Payment of Indebtedness) for that existing therein.

4. The Existing Note is deemed amended to conform to the terms of Paragraph 3 above.

5. Prior to execution hereof, Mortgagor has paid to Mortgage the sum of \$14,819 for the extension of the maturity date of the Mortgage and the sum of \$8,500.00 as the Fee Payment due under the Mortgage in connection with this Agreement.

6. As of the date hereof, the Fee Payment hereafter due shall be as follows:

A. If the Fee Payment date is on or prior to August 1, 2011, zero (0%) percent;

B. If the Fee Payment Date is on or after August 2, 2011 and prior to January 1, 2012, one percent (1%) of the then outstanding loan balance;

C. If the Fee Payment Date is on or after January 1, 2012 and prior to January 1, 2013, five percent (5%) of the then outstanding loan balance;

D. If the Fee Payment Date is on or after January 1, 2013 and prior to January 1, 2014, four percent (4%) of the then outstanding loan balance;

E.. If the Fee Payment Date is on or after January 1, 2014 and prior to January 1, 2015, three percent (3%) of the then outstanding loan balance;

F If the Fee Payment Date is on or after January 1, 2015 and prior to January 1, 2016, two percent (2%) of the then outstanding loan balance;

G. If the Fee Payment Date is on or after January 1, 2016 (including after the stated Maturity Date), one percent (1%) of the then outstanding loan balance.

7. Claude Simon is executing this instrument also in an individual capacity to signify that the Guaranty of Payment of Recourse Obligations he executed simultaneously with the Mortgage remains in full force and effect, in respect of the Mortgage and Existing Note, as herein and hereby modified.

8. All capitalized terms contained herein, except where otherwise herein defined, shall have the same meanings ascribed to them as are contained in the Mortgage and the Existing Note.

9. Except as hereby amended, all terms, covenants, conditions, warranties, representations and undertakings contained in the Mortgage are hereby ratified and confirmed and continued in full force and effect.

IN WITNESS WHEREOF, the Mortgagor and the Mortgagee have caused this instrument to be signed as of the day and year first above written.

As to Paragraph 7:

\_\_\_\_\_  
Claude Simon

MORTGAGOR:  
160 MADISON AVENUE OWNERS CORP.

By: \_\_\_\_\_  
Name: Claude Simon  
Title: President

MORTGAGEE:  
INTERVEST NATIONAL BANK

By: \_\_\_\_\_  
Lowell S. Dansker, Chief Executive Officer

SCHEDULE A

Description of Land

ALL that certain plot, piece or parcel of land, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point on the westerly side of Madison Avenue distant 73 feet 11 ½ inches northerly from the corner formed by the intersection of the westerly side of Madison Avenue and the northerly side of 32<sup>nd</sup> Street;

RUNNING THENCE Northerly along the westerly side of Madison Avenue 24 feet 7 inches;

THENCE Westerly part of the distance through a party wall 95 feet;

THENCE Southerly parallel with Madison Avenue 24 feet 7 inches;

THENCE Easterly parallel with 32<sup>nd</sup> Street and part of the distance through a party wall 95 feet to the westerly side of Madison Avenue to the point or place of BEGINNING.

## **SCHEDULE B**

### **Payment of Indebtedness**

The indebtedness evidenced by this Mortgage shall be payable as follows:

(a) (i) A payment of interest only calculated at the Interest Rate from April 25, 2008 to and including April 30, 2008 shall be due and payable upon the execution of this Mortgage; and

(ii) Commencing on June 1, 2008 and continuing thereafter on the first day of each calendar month to and including April 1, 2016, Mortgagor shall make payments of principal and interest of \$14,500.00.

Said payments shall be applied in accordance with the terms hereof. There shall be a final payment on May 1, 2016, on which date all outstanding principal, together with all accrued and unpaid interest, and all other outstanding charges, shall be due and payable in full. In addition, the Fee Payment shall be due and payable on each and every Fee Payment Date which may arise under this Mortgage.

(b) The Interest Rate in effect shall be 6.125% per annum from the date hereof to and including maturity date, stated or accelerated.

### **SCHEDULE C**

Mortgage dated April 25, 2008 made by 160 Madison Avenue Owners Corp. to Intervest National Bank in the principal amount of \$1,700,000.00 and recorded on May 13, 2008 at CRFN 2008000191310 in the Office of the City Register of New York County (the "Register's Office").

STATE OF NEW YORK       )  
  ) SS:  
COUNTY OF NEW YORK    )

On the \_\_\_\_ day of June, in the year 2011, before me, the undersigned, personally appeared Claude Simon personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacities, and that by his signatures on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK       )  
  ) SS:  
COUNTY OF NEW YORK    )

On the \_\_\_\_ day of June, in the year 2011, before me, the undersigned, personally appeared Lowell S. Dansker, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**CLOSING STATEMENT OF MODIFICATION OF MORTGAGE**

DATE: As of May 1, 2011

PROPERTY: 160 Madison Avenue  
New York, New York

PRINCIPAL: \$1,481,910.46

MATURITY: May 1, 2016

**FUNDS RECEIVED PRIOR TO CLOSING:**

Intervest National Bank – Extension Fee	\$14,819.00
Intervest National Bank – Fee Payment	\$ 8,500.00
Phillips Nizer – Legal Fee	\$ 2,000.00
Intervest National Bank – Costs Deposit	\$ 4,200.00

**FUNDS TO BE RECEIVED AT CLOSING:**

Phillips Nizer - Disbursements	\$150.00
Continental Abstract – Recording Charges	\$150.00

APPROVED:  
160 Madison Avenue Corp.

By: \_\_\_\_\_  
Name: Claude Simon  
Title: President



**AFFIDAVIT UNDER SECTION 255 TAX LAW**

STATE OF NEW YORK       )  
  ) SS:  
COUNTY OF NEW YORK    )

Claude Simon, being duly sworn, deposes and says:

1)       That I am the President of 160 Madison Avenue Owners Corp, the owner of premises 160 Madison Avenue, , New York, New York (the "Premises"), and I am fully familiar with the facts and circumstances set forth herein.

2)       That the Premises are encumbered by the Mortgage listed on Schedule C annexed hereto.

3)       That herewith being submitted for recording is a Mortgage Modification Agreement made by 160 Madison Avenue Owners Corp. as Mortgagor, to Intervest National Bank, as Mortgagee (the "Modification").

4)       That the Modification modifies the Mortgage listed on Schedule C. At the time of the recording of the Mortgage, the required mortgage taxes due on the Mortgage were paid.

5)       That the Modification Agreement does not create or secure any new or further indebtedness or obligation other than the principal indebtedness or obligation secured by or which under any contingency may be secured by the Mortgage, nor does it constitute a re-advance or re-loan under the Mortgage.

**WHEREFORE**, deponent respectfully requests that the Mortgage Modification Agreement herewith offered for recording be declared exempt from taxation pursuant to the provisions of Section 255, Article 11 of the Tax Law.

\_\_\_\_\_  
Claude Simon

Sworn to before me this  
\_\_\_\_ day of June, 2011

\_\_\_\_\_  
Notary Public

### **SCHEDULE C**

Mortgage dated April 25, 2008 made by 160 Madison Avenue Owners Corp. to Intervest National Bank in the principal amount of \$1,700,000.00 and recorded on May 13, 2008 at CRFN 2008000191310 in the Office of the City Register of New York County (the "Register's Office").