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2000-10-23 10:50:37
Cook County Recorder 39.00

CT-7637439-DI KML

Property of Cook County Clerk's Office

SECOND MODIFICATION AGREEMENT

This Second Modification Agreement ("Modification") dated as of October 1, 2000 by and between INDYMAC CLCA SPCI, INC., a Delaware corporation, as successor to INDYMAC MORTGAGE HOLDINGS, INC., a Delaware corporation, f/k/a CWM MORTGAGE HOLDINGS, INC. d/b/a CONSTRUCTION LENDING CORPORATION OF AMERICA ("Lender"), and KIMBALL HILL, INC., an Illinois corporation, ("Borrower").

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RECITALS:

WHEREAS, the Borrower executed a certain Promissory Note dated as of March 14, 1997 payable to the order of Lender in the original principal amount of \$4,000,000.00, (the "Original Note");

WHEREAS, the Original Note is secured by a certain Mortgage with Assignment of Rents, Security Agreement and Fixture Filing from Borrower in favor of Lender dated March 14, 1997, recorded with the Cook County Recorder on March 25, 1997 as Document No.97-204407 (the "Original Mortgage"), which Mortgage encumbers certain

PREPARED BY AND AFTER
RECORDING RETURN TO:

TAX I.D. No.:

Edward W. Malstrom
Schwartz Cooper, Greenberger
& Krauss
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601

See Exhibit "A"

ADDRESS OF PROPERTY

Kirchoff Road and Meadow Lane
Rolling Meadows, Illinois
1

BOX 333

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real property located in Cook County, Illinois legally described as shown on Exhibit "A" attached hereto;

WHEREAS, by a certain Modification Agreement dated as of April 1, 1999 and recorded with the Cook County Recorder of Deeds on April 21, 1999 as Document No. 99381805 (the "First Modification Agreement"), the parties modified the Original Note, Original Mortgage and all of the other documents given to Lender in connection with the Note (collectively, the "Original Loan Documents"), to extend the maturity date of the Note to October 1, 2000 (the Original Note, the Original Mortgage and the Original Loan Documents, as modified by the First Modification Agreement are hereinafter referred to as the "Note", "Mortgage" and "Loan Documents", respectively; and

WHEREAS, the parties hereto desire to amend the Note, Mortgage and other Loan Documents, as modified by the Modification Agreement, to extend the maturity date of the Note to April 1, 2001, and to reduce the maximum principal amount of the Note to \$3,000,000.00.

NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties, the receipt and sufficiency of which are hereby acknowledged by Borrower, it is hereby agreed as follows:

1. The maturity date of the Note shall be changed from "October 1, 2000" to "April 1, 2001". The Note, Mortgage and other Loan Documents are hereby modified to reflect this extension of the maturity date.

2. The maximum principal amount of the Note is hereby reduced from "\$4,000,000.00" to "\$3,000,000.00". The Note, Mortgage and all other Loan Documents are hereby modified to reflect this reduction in the maximum principal amount of the Note.

3. The modifications provided for in this Modification shall be effective only upon the following conditions being complied with by Borrower:

(a) That the Borrower is and always has been maintained in good standing, free from any default, and there is no uncured Event of Default under the Note, Mortgage or other Loan Documents as of the date hereof;

(b) Delivery to Lender of an endorsement to ALTA Loan Policy No. 7637439 issued by Chicago Title Insurance Company

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(the "Title Company") previously delivered to Lender insuring the Mortgage to reflect the recording of this Modification;

(c) Delivery to Lender of a Reaffirmation of Guaranties in form and substance satisfactory to Lender; and

(d) Payment to Lender of a loan extension fee of \$10,000.00.

4. Nothing herein contained shall impair the Note, Mortgage or other Loan Documents in any way, nor alter, waive, annul, vary, nor affect any provision, condition therein contained except as expressly herein provided, nor affect or impair any right, power or remedy of Lender. It being the intention of the parties hereto that the terms and provision of the Note, Mortgage and other Loan Documents shall continue in full force and effect except as expressly modified in connection herewith.

5. Contemporaneously with the execution and delivery hereof, Borrower shall pay or cause to be paid all closing costs and expenses, including title insurance premiums and legal fees incurred by Lender incident to the transactions contemplated herein.

6. Borrower hereby acknowledges that (i) Borrower has no defense, offset or counterclaim with respect to the payment of any sum owed to Lender, with respect to any covenant in the Loan Documents; (ii) Lender, on as of the date hereof, has fully performed all obligations to borrower which may have had or has on and as of the date hereof; (iii) other than as expressly set forth herein, by entering into this Third Modification, Lender does not waive any condition or obligation in the Loan Documents.

7. This Second Modification shall be governed and construed in accordance with the laws of the State of Illinois.

8. This Second Modification may be executed in one or more counterparts, which together shall comprise the entire agreement.

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IN WITNESS WHEREOF, the parties hereto have executed this Third Modification as of the day and year first above written.

INDYMAC CLCA SPCI, INC., a Delaware corporation, as successor to INDYMAC MORTGAGE HOLDINGS, INC., a Delaware corporation f/k/a CWM MORTGAGE HOLDINGS, INC. d/b/a CONSTRUCTION LENDING CORPORATION OF AMERICA

By: Scott W. Moore

Its: VICE PRESIDENT

KIMBALL HILL, INC., an Illinois corporation

By: [Signature]

Its: Senior Vice President

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STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

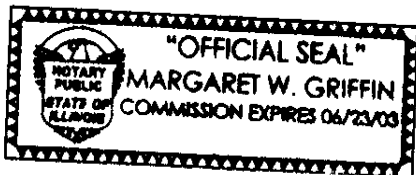
I HEREBY CERTIFY that on this 13th day of October, ²⁰⁰⁰1999, before me personally appeared Scott W. Morris, Vice President of INDYMAC CLCA SPCI, INC., a Delaware corporation, as successor to INDYMAC MORTGAGE HOLDINGS, INC., a Delaware corporation f/k/a CWM MORTGAGE HOLDINGS, INC., d/b/a CONSTRUCTION LENDING CORPORATION OF AMERICA, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Scott W. Morris President appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 13th day of October, 1999 ²⁰⁰⁰

(NOTARY SEAL)

Margaret W. Griffin
Notary Public

My Commission Expires: 06/23/03



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STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I HEREBY CERTIFY that on this 5th day of Oct., 2000,
before me personally appeared Hal Barber, S. Vice
President of KIMBALL HILL, INC., an Illinois corporation, to me
known to be the same person who signed the foregoing instrument as
his free act and deed as such officer for the use and purpose
therein mentioned, and that such instrument is the act and deed of
such corporation.

WITNESS my signature and official seal at _____ in the
County of Cook and State of Illinois, the day and year
last aforesaid.

(NOTARY SEAL)

Eileen M. Connelly
Notary Public

My Commission Expires: 03-07-04



EXHIBIT "A"
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LEGAL DESCRIPTION

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PARCEL 1

ALL THAT PART OF THE FOLLOWING DESCRIBED PARCEL LYING SOUTH OF A LINE DRAWN 271.77 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID PARCEL THAT PART OF LOT "S" IN ROLLING MEADOWS UNIT NO. 8 BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36 TOWNSHIP 42 NORTH RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF KIRCHOFF ROAD ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY ILLINOIS AS DOCUMENT NO. LR1608437 DESCRIBED AS FOLLOWS

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID LOT "S" 872.48 FEET WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT "S" THENCE SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S" A DISTANCE OF 517.98 FEET MORE OR LESS TO A POINT ON THE LINE BETWEEN SAID LOT "S" AND LOT "T" IN SAID SUBDIVISION SAID POINT BEING 171.28 FEET WEST OF THE NORTHWESTERLY CORNER OF LOT 1371 IN SAID ROLLING MEADOWS UNIT NO. 8, THENCE EAST ALONG THE SOUTH LINE OF SAID LOT "S" A DISTANCE OF 171.28 FEET TO THE NORTHWESTERLY CORNER OF SAID 1371, ALSO BEING AN ANGLE CORNER ON THE SOUTHERLY LINE OF SAID LOT "S", THENCE SOUTHEASTERLY ALONG THE SOUTHERLY LINE OF SAID LOT "S", A DISTANCE OF 27.85 FEET, THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID LOT "S", 253.78 FEET TO AN INTERSECTION WITH A LINE DRAWN AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S" FROM A POINT 600.0 FEET WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT "S", THENCE NORTHERLY ALONG SAID LINE DRAWN AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S", A DISTANCE OF 251.88 FEET TO THE NORTHERLY LINE OF SAID LOT "S", THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT "S", 272.48 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL 2

THAT PART OF LOT "S" IN ROLLING MEADOWS UNIT NO. 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY ILLINOIS AS DOCUMENT NO. LR1608437, BOUNDED BY A LINE DESCRIBED AS FOLLOWS.

BEGINNING AT THE INTERSECTION OF A LINE DRAWN 310.0 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES, OF THE NORTHERLY LINE OF SAID LOT "S" WITH A LINE DRAWN 300.0 FEET WESTERLY, MEASURED AT RIGHT ANGLES, OF THE EASTERLY LINE OF SAID LOT "S", THENCE WESTERLY ALONG SAID LINE DRAWN 310.0 FEET SOUTHERLY AS AFORESAID, A DISTANCE OF 129.62 FEET, THENCE SOUTHWESTERLY ALONG A LINE DRAWN AT RIGHT ANGLES TO THE SOUTHWESTERLY LINE OF SAID LOT "S" A DISTANCE OF 250.77 FEET TO A POINT ON SAID SOUTHWESTERLY LINE, THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT "S", A DISTANCE OF 217.09 FEET TO AN INTERSECTION WITH SAID LINE DRAWN 300.0 FEET WESTERLY OF THE EASTERLY LINE OF SAID LOT "S" AND SAID PARALLEL LINE EXTENDED, THENCE NORTHERLY ALONG SAID PARALLEL LINE 300.0 FEET WESTERLY, AS AFORESAID, A DISTANCE OF 305.40 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3

THAT PART OF LOT "S" IN ROLLING MEADOWS UNIT NO. 8, HEREINAFTER DESCRIBED, DESCRIBED AS FOLLOWS COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID LOT "S", 300.00 FEET WESTERLY OF THE NORTHEASTERLY CORNER OF SAID LOT "S", THENCE SOUTHERLY AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S", 310 FEET, THENCE WESTERLY PARALLEL TO THE NORTHERLY LINE OF LOT "S", 129.62 FEET, THENCE SOUTHWESTERLY ON A LINE DRAWN AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID LOT "S" AND THE NORTHERLY LINE OF LOTS 1381 TO 1371, INCLUSIVE, IN SAID ROLLING MEADOWS UNIT NO. 8, FROM A POINT 457.98 FEET NORTHWESTERLY OF AN ANGLE CORNER IN THE SOUTH LINE OF LOT "S", 250.77 FEET TO THE SOUTHERLY LINE OF SAID LOT "S", THENCE NORTHWESTERLY ALONG SAID SOUTHERLY LINE OF LOT "S", AND THE NORTHERLY LINE OF SAID LOTS 1381 TO 1371, INCLUSIVE, 180.0 FEET TO A POINT 27.85 FEET SOUTHEASTERLY OF THE NORTHWESTERLY CORNER OF SAID LOT 1371, THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID SOUTHERLY LINE OF LOT "S", 253.78 FEET TO AN INTERSECTION WITH A LINE DRAWN AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT "S" FROM A POINT 600.0 WESTERLY OF THE NORTHEASTERLY CORNER OF LOT "S", THENCE NORTHERLY ALONG SAID LINE DRAWN AT RIGHT ANGLES TO THE NORTHERLY LINE OF LOT "S", 251.88 FEET TO THE NORTHERLY LINE OF LOT "S", THENCE EASTERLY ALONG THE NORTHERLY LINE OF LOT "S", 300.0 FEET TO THE PLACE OF BEGINNING, IN ROLLING MEADOWS UNIT NO. 8, BEING A SUBDIVISION IN THAT PART OF THE WEST 1/2 OF SECTION 36, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF KIRCHOFF ROAD, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, ON JULY 19, 1956, AS DOCUMENT NUMBER LR1608437 IN COOK COUNTY ILLINOIS

PERMANENT INDEX NUMBERS: 02-36-105-043; 02-36-105-008; and 02-36-105-013

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EXCEPT FROM PARCEL 3 THE FOLLOWING DESCRIBED PREMISES:

That part of lot "S" in Rolling Meadows Unit No. 8, being a sub-division in that part of the West 1/2 of Section 36, Township 42 North, Range 10 East of the 3rd Principal Meridian, lying South of Kirchoff Road, thereof registered in the Office of the Registrar of Titles of Cook County, Illinois as Document No. LR 1608437, described as follows: Commencing at a point on the Northerly line of said Lot "S", 300.0 feet Westerly of the Northeasterly corner of said Lot "S"; Thence Southerly at right angles to the Northerly line of said Lot "S" a distance of 150.00 feet; Thence Westerly parallel to the Northerly line of said Lot "S" a distance of 40.00 feet; Thence Northerly at right angles to the previously described line a distance of 150.00 feet to the Northerly line of said Lot "S"; Thence Easterly along the Northerly line of said Lot "S" a distance of 40.00 feet to the place of beginning, in Cook County, Illinois.

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