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RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 02/25/2014 08:49 AM Pg: 1 of 12

Prepared by, and after recording
return to:

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10 South Wacker Drive
Suite 2300
Chicago, Illinois 60606
Attn: Michael S. Kurzon, Esq.

8934985 D2 DG 1 of 2

**FIRST MODIFICATION OF NOTE,
MORTGAGE AND OTHER LOAN DOCUMENTS**

THIS FIRST MODIFICATION OF NOTE, MORTGAGE AND OTHER LOAN DOCUMENTS (this "Agreement") is dated as of the 16th day of January, 2014, by and among 1425 GLENVIEW ROAD, LLC, an Illinois limited liability company (the "1425 Borrower") and HRG VENTURE, LLC, an Illinois limited liability company (the "HRG Borrower" and, together with the 1425 Borrower, collectively, the "Borrowers" and each, individually, a "Borrower"), JEREMIAH S. JAMES ("Guarantor"), and THE PRIVATEBANK AND TRUST COMPANY, an Illinois state chartered bank, its successors and assigns (the "Lender").

RECITALS:

A. Pursuant to the terms and conditions of that certain Construction Loan Agreement dated as of September 20, 2013, by and among Borrowers and Lender (as amended from time to time, the "Loan Agreement"), Lender has heretofore made (i) an acquisition and development loan (the "A&D Loan") to Borrowers in the principal amount of up to Two Million Eight Hundred Thirty-Five Thousand and 00/100 Dollars (\$2,835,000.00), as evidenced by that certain Promissory Note (A&D) dated as of September 20, 2013 from Borrowers to Lender in the stated principal amount of \$2,835,000.00 (as amended, extended, replaced, substituted and restated, from time to time, the "A&D Note"); and (ii) a construction loan (the "Construction Loan," together with the A&D Loan, the "Loans") to Borrowers in the principal amount of up to Four Million Eighty Thousand and 00/100 Dollars (\$4,080,000.00), as evidenced by that certain Promissory Note (Construction) dated as of September 20, 2013 from Borrowers to Lender in the principal amount of \$4,080,000.00 (as amended, extended, replaced, substituted and restated from time to time, the "Construction Note," together with the A&D Note, the "Notes").

B. The Loans are secured by (i) that certain Construction Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents dated as of September 20, 2013, by Borrowers to and in favor of Lender, and recorded with the Recorder of Deeds of Cook

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County, Illinois (the "Recorder") on October 16, 2013 as Document Number 1328942197 (as amended, modified, replaced or restated from time to time, the "Mortgage"), which encumbers the land and all improvements thereon legally described on Exhibit A hereto ("Property"); (ii) that certain Assignment of Leases and Rents dated as of September 20, 2013, from Borrowers to Lender, and recorded with the Recorder on October 16, 2013 as Document Number 1328942198 (as amended, modified, replaced or restated from time to time, the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated as of September 20, 2013, from Borrowers and Guarantor to Lender (as amended from time to time, the "Indemnity Agreement"); (iv) that certain Guaranty of Non Recourse Carveouts dated as of September 20, 2013, from Guarantor in favor of Lender (as amended, modified, replaced or restated from time to time, the "Carveout Guaranty"); (v) that certain Guaranty of Completion dated as of September 20, 2013, from Guarantor in favor of Lender (as amended, modified, replaced or restated from time to time, the "Completion Guaranty," together with the Carveout Guaranty, the "Guaranties"); and (vi) certain other loan documents (the Notes, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Guaranties, and the other documents evidencing, securing and guarantying the Loans, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents").

C. Borrowers desire to increase the principal amount of the A&D Loan by \$250,000.00 to \$3,085,000.00 and to make certain other modifications, and Lender is willing to make such modifications pursuant to the terms and conditions set forth herein.

AGREEMENTS:

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION, the mutual receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Incorporation and Definitions.** The above recitals and any exhibits or schedules are made a part hereof and incorporated herein as representations and warranties of Borrowers. Each initially capitalized word or term used in this Agreement, but not defined herein, shall have the same meaning as is ascribed to such word or term in the Loan Agreement.

2. **A&D Loan Increase.** The principal amount of the A&D Loan is hereby increased to Three Million Eighty-Five Thousand and 00/100 Dollars (\$3,085,000.00). Any reference in the A&D Note, the Loan Agreement, the Mortgage, or any of the other Loan Documents to the A&D Loan, or to the principal amount of Two Million Eight Hundred Thirty-Five Thousand and 00/100 Dollars (\$2,835,000.00), in each case, shall mean Three Million Eighty-Five Thousand and 00/100 Dollars (\$3,085,000.00). Any references in any of the Notes, Loan Agreement, Mortgage or any of the other Loan Documents to the Loans, or to the aggregate principal amount of Six Million Nine Hundred Fifteen Thousand and 00/100 Dollars (\$6,915,000.00), in each case, shall mean Seven Million One Hundred Sixty-Five and 00/100 Dollars (\$7,165,000.00).

3. **Reallocation of Construction Loan.** Section 3.9(b) of the Loan Agreement is hereby amended as follows: (i) the figure \$581,919.00 contained in clause (i) of Section 3.9(b) is

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hereby replaced with the figure \$575,833.00; and (ii) the figure \$588,487.00 contained in clause (ii)(y) of Section 3.9(b) is hereby replaced with \$625,000.00.

4. **Maximum Indebtedness.** The figure "\$13,830,000.00" set forth in Section 36(c) of the Mortgage as maximum indebtedness secured thereby, is hereby replaced with the figure "\$14,330,000.00."

5. **Limited Amendment; Ratification.** This Agreement is given solely to amend the Loan Agreement, the Notes, Mortgage, and other Loan Documents as set forth herein. No further amendment or modification is made or intended, and the terms and provisions of the Loan Documents, except as expressly modified herein, continue in full force and effect after the date hereof. The warranties, representations, covenants and agreements contained in the Loan Documents, as herein expressly amended, are hereby specifically reaffirmed and remade by Borrowers and Guarantor and the Loan Documents themselves, as expressly amended hereby, are hereby ratified, approved and confirmed in every respect. Each Borrower also hereby ratifies and confirms, as of the date of the Loan Documents and as of the date hereof, the liens, encumbrances and security interests in and on the Property and the other Mortgaged Property (as such term is defined in the Mortgage) created by the Mortgage and the other Loan Documents, as amended by this Agreement.

6. **Reaffirmation of Guaranty** Guarantor ratifies and affirms each Guaranty and agrees that each Guaranty is in full force and effect. The representations and warranties of Guarantor in each Guaranty are, as of the date hereof, true and correct, and Guarantor does not know of any default thereunder. Each Guaranty, as affected hereby, continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms, and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in such Guaranty.

7. **No Release or Novation.** The indebtedness evidenced by the Notes and secured by the Loan Documents are continuing obligations and nothing contained herein shall be deemed to release, terminate or subordinate any lien, security interest or assignment created or evidenced by the Mortgage and all such liens, security interest and assignments and the priority thereof shall relate back to the date that the Mortgage was recorded as referenced in the above recitals. Borrowers and Lender intend that this Agreement shall in no way affect the priority of the Mortgage or constitute a novation of the indebtedness secured thereby.

8. **Representations and Warranties of Borrower.** In addition to the remaking and reaffirmation of the representations, warranties, representations, covenants and agreements contained in the Loan Documents, contained above in Section 5, each Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Loan Agreement and the other Loan Documents, as amended hereby, are true and correct as of the date hereof.

(b) There is currently no Event of Default under the Loan Agreement, Notes, Mortgage or the other Loan Documents and neither Borrower knows of any event or circumstance which with the giving of notice or passing of time, or both, would constitute

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an Event of Default under the Loan Agreement, Notes, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect, and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrowers and Guarantor, enforceable in accordance with their respective terms.

(d) There has been no material adverse change in the financial condition of either Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loans from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, neither Borrower has any claims, counterclaims, defenses, or set-offs with respect to the Loans or the Loan Documents as modified herein.

(f) Each Borrower is validly existing under the laws of the state of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified hereby. The execution and delivery of this Agreement and the performance of the Loan Documents as modified hereby have been duly authorized by all requisite action by or on behalf of each Borrower. This Agreement has been duly executed and delivered on behalf of each Borrower by its respective authorized officer.

9. **Costs and Expenses.** As a condition precedent to the agreements contained herein, Borrowers shall pay to Lender and all out-of-pocket costs and expenses incurred by Lender in connection with the preparation and execution of this Agreement, including, without being limited to, reasonable attorneys' fees and title and recording costs and expenses.

10. **Title Policy.** As a condition precedent to the agreements contained herein, Borrowers shall, at their sole cost and expense, obtain a date down and increase endorsement, in form and substance satisfactory to Lender in its direction, from Chicago Title Insurance Company to Lender's loan policy of title insurance, No. 1401-008934985 (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement, increasing the face amount of insurance, and insuring the first priority of the lien of the Deed of Trust, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

11. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

12. **Entire Agreement.** Each of Borrowers, Guarantor and Lender acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrowers, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as

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expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

13. **Borrower Not a Joint Venturer or Partner.** Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrowers or Guarantor nor shall privity of contract be presumed to have been established with any third party.

14. **Successors and Assigns.** This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors, substitutes and assigns.

15. **Headings and Gender.** Any references to the "A&D Note," the "Construction Note," the "Notes," the "Mortgage," the "Loan Agreement," or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the A&D Note, Construction Note, Notes, the Mortgage, Loan Agreement and the other Loan Documents, as amended by this Agreement. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

16. **Construction of Agreement; Authority to Execute.** This Agreement has been negotiated by the parties and their respective attorneys. The language in this Agreement shall not be construed for or against either party based on any rule of construction favoring the non-drafting party, but shall be interpreted liberally to effect the intent of the parties. Each of Borrowers, Guarantor and Lender acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it.

17. **Counterparts.** This Agreement may be executed in any number of original counterparts, which when so executed shall be deemed to be an original for all purposes, and all counterparts shall together constitute one and same instrument; signature and acknowledgment pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same documents. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto.

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

BORROWERS:

1425 GLENVIEW ROAD, LLC, an Illinois limited liability company

By: _____
Name: Jeremiah S. James
Title: Manager

HRG VENTURE, LLC, an Illinois limited liability company

By: _____
Name: Jeremiah S. James
Title: Manager

GUARANTOR:

JEREMIAH S. JAMES

LENDER:

THE PRIVATEBANK AND TRUST COMPANY, an Illinois state chartered bank

By: _____
Name: _____
Title: _____

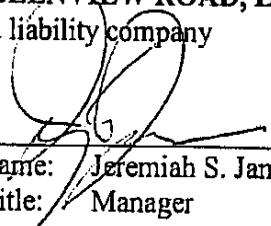
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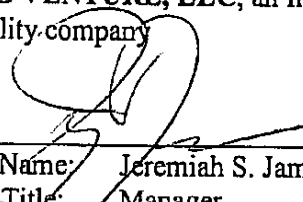
IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

BORROWERS:

1425 GLENVIEW ROAD, LLC, an Illinois limited liability company

By: 
Name: Jeremiah S. James
Title: Manager

HRG VENTURE, LLC, an Illinois limited liability company

By: 
Name: Jeremiah S. James
Title: Manager

GUARANTOR:


JEREMIAH S. JAMES

LENDER:

THE PRIVATEBANK AND TRUST COMPANY, an Illinois state chartered bank

By: 
Name: Andrea Tierney
Title: Associate Managing Director

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Jeremiah S. James, the Manager of **1425 GLENVIEW ROAD, LLC**, an Illinois limited liability company, 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 limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of January, 2014.

Sheryl Zentner
Notary Public



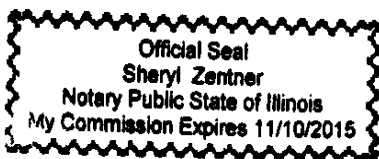
My Commission Expires:
11/10/2015

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Jeremiah S. James, the Manager of **HRC VENTURE, LLC**, an Illinois limited liability company, 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 limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of January, 2014.

Sheryl Zentner
Notary Public



My Commission Expires:
11/10/2015

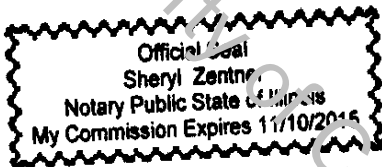
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **JEREMIAH S. JAMES**, 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, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 16th day of January, 2014.

Sheryl Zentner
Notary Public



My Commission Expires:
11/10/2015

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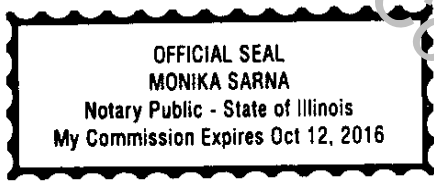
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STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I Monika Sarna, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Andrea Temeley, AND of **THE PRIVATEBANK AND TRUST COMPANY**, an Illinois state chartered bank, 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/she signed and delivered said instrument as his/her own free and voluntary act, and as the free and voluntary act of said state chartered bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of January 2014.

Monika Sarna
Notary Public



My Commission Expires:
10/12/16

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EXHIBIT A

1425 LAND LEGAL DESCRIPTION

LOT 4 OF BLOCK 1 IN GLENVIEW BORDERS, A SUBDIVISION OF THAT PART OF LOT 10 IN ASSESSORS DIVISION OF THE EAST 1/2 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH AND WESTERLY OF GLENVIEW ROAD AND NORTHERLY AND EASTERLY OF THE NORTH BRANCH OF THE CHICAGO RIVER ACCORDING TO THE PLAT THEREOF RECORDED JULY 2, 1924 AS DOCUMENT 8494675 IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS : 1425 GLENVIEW ROAD, GLENVIEW, ILLINOIS 60025

PIN: 04-35-404-008-0000

HRG LAND LEGAL DESCRIPTION

PARCEL 1:

THE NORTH 185.76 FEET OF THE EAST 283 FEET OF LOT 3, IN SCHILDGEN'S SUBDIVISION OF THE NORTHEAST 1/4 AND THE NORTH 10 CHAINS OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THAT PART OF LOT 2 IN SCHILDGEN'S SUBDIVISION OF THE NORTHEAST 1/4 AND THE NORTH 10 CHAINS OF THE SOUTHEAST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN BEING (EXCEPT LOTS 13 AND 20), A RESUBDIVISION OF A SUBDIVISION BY HENRY SMITH OF THE LAND DESCRIBED IN THE CAPTION OF SAID

SCHILDGEN'S SUBDIVISION AND RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS OCTOBER 23, 1850 IN BOOK 29, PAGE 54 AS NO. 27485 IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 30, 303.0 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG SAID EAST LINE 77.24 FEET TO THE SOUTH LINE OF LOT 2 IN SAID SCHILDGEN'S SUBDIVISION; THENCE WEST ALONG THE SOUTH LINE OF LOT 2, 283.0 FEET; THENCE NORTH PARALLEL WITH THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 30, 77.12 FEET MORE OR LESS TO A POINT 303.0 FEET SOUTH OF THE NORTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 30 AND THENCE EAST 283.0 FEET TO THE PLACE OF BEGINNING.

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PARCEL 3:

THAT PART OF LOTS 1 AND 2 IN SCHILDGEN'S SUBDIVISION LOCATED IN THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF WINNETKA AVENUE AND THE CENTER LINE OF HIBBARD ROAD, THENCE SOUTH 303 FEET ALONG THE CENTER LINE OF HIBBARD ROAD TO A POINT, THENCE WEST 283 FEET PARALLEL WITH THE CENTER LINE OF WINNETKA AVENUE AND 303 FEET SOUTH OF THE CENTER LINE OF WINNETKA AVENUE TO A

POINT; THENCE NORTH 303 FEET PARALLEL WITH THE CENTER LINE OF HIBBARD ROAD TO A POINT IN THE CENTER LINE OF SAID WINNETKA AVENUE 283 FEET WEST OF THE CENTER LINE OF SAID HIBBARD ROAD; THENCE EAST ALONG THE CENTER LINE OF WINNETKA AVENUE 283 FEET TO THE PLACE OF BEGINNING IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 60 & 62 HIBBARD ROAD, NORTHFIELD, ILLINOIS 60093

PINS: 05-30-201-011-0000, 05-30-201-013-0000, 05-30-201-030-0000