

# UNOFFICIAL COPY

Doc#: 1604956081 Fee: \$68.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 02/18/2016 09:33 AM Pg: 1 of 11

PREPARED BY AND RECORDING REQUESTED BY,  
AND WHEN RECORDED RETURN TO:

Catherine P. Powell, Esquire  
Tatum Hillman Hickerson Powell, LLP  
1199 Oxford Road, N.E.  
Atlanta, GA 30306

Obligor #0263258039  
Unit Nos: 10926, 10927, 10929, 2812, 11186

**Please Cross Reference:**

Real Estate Mortgage and Security Agreement  
(Leasehold) dated July 9, 2015 recorded as Document  
No. 1519834055, Cook County, IL records

## AMENDATORY AGREEMENT

THIS AMENDATORY AGREEMENT (this "Agreement") is made this 11<sup>th</sup> day of February, 2016, by and among, **BRODERSEN ENTERPRISES OF ILLINOIS LLC**, an Illinois limited liability company, having an address of 5150 North Port Washington Road, Suite 299, Glendale, WI 53217 ("**Mortgagor**"), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, acting in its capacity as Administrative Agent for the Lenders and other Secured Parties (as such terms are defined in the Credit Agreement, hereinafter defined), having an address of 1808 Aston Avenue, Suite 250, Carlsbad, CA 92008 (the "**Administrative Agent**");

## PRELIMINARY STATEMENTS:

WHEREAS, the Mortgagor, **BRODERSEN MANAGEMENT CORP.**, a Wisconsin corporation, **BRODERSEN ENTERPRISES OF PUERTO RICO, INC.**, a Wisconsin corporation, **BRODERSEN ENTERPRISES OF MICHIGAN, LLC**, a Michigan limited liability company, **BRODERSEN ENTERPRISES OF WISCONSIN, INC.**, a Wisconsin corporation, **BRODERSEN ACQUISITIONS LLC**, an Illinois limited liability company, (collectively, the "**Opco Borrowers**"), **BRODERSEN PROPERTIES HATILLO, LLC**, a Puerto Rico limited liability company ("**BPHLLC**"), and **BRODERSEN PROPERTIES SANTURCE LLC**, **BRODERSEN PROPERTIES OF MAYAGUEZ TERRACE LLC**, **BRODERSEN PROPERTIES LEVITTOWN LLC**, **BRODERSEN PROPERTIES CUPEY LLC**, and **BRODERSEN PROPERTIES CAMPO RICO LLC**, each a Puerto Rico limited liability company (collectively, the "**Second New PR Entity**") (the Opco Borrowers, BPHLLC, Second New PR Entity, together with their respective successors and assigns are hereinafter collectively called "**Borrower**"), **JOHN R. BRODERSEN**, an individual resident of the State of Wisconsin, as guarantor ("**Guarantor**"), Lenders and the Administrative Agent (hereinafter defined) are parties to that certain Third Amendment to Second Consolidated, Amended

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and Restated Credit Agreement dated as of even date herewith (the "Third Amendment") which amends the Second Consolidated, Amended and Restated Credit Agreement dated August 7, 2014, as amended by that certain First Amendment to Second Consolidated, Amended and Restated Credit Agreement dated July 9, 2015 (the "First Amendment"), as further amended by the Second Amendment to Consolidated, Amended and Restated Credit Agreement dated December 18, 2015 (the "Second Amendment") (the Second Consolidated, Amended and Restated Credit Agreement, as amended by the above-described First Amendment, Second Amendment, Third Amendment, and as the same may hereinafter be further amended, modified, supplemented, restated or extended from time to time, the "Credit Agreement") (capitalized terms used in this Agreement shall have the meanings given to them in the Credit Agreement, unless otherwise defined herein);

WHEREAS, pursuant to the terms of the Credit Agreement, Lenders extended the following Facilities to Borrower: (i) a Term Loan in the original principal amount of TEN MILLION NINE HUNDRED FORTY-THREE THOUSAND THREE HUNDRED THIRTY-TWO AND 58/100 DOLLARS (\$10,943,332.58) (the "Term Loan") evidenced by the Consolidated, Amended and Restated Term Loan Note dated August 7, 2014, made by Opco Borrowers and Brodersen Properties of PR, LLC, a Puerto Rico limited liability company ("BPPR"), the Opco Borrowers and BPPR being collectively, the "Original Borrower") payable to the order of Lenders in the original principal amount of TEN MILLION NINE HUNDRED FORTY-THREE THOUSAND THREE HUNDRED THIRTY-TWO AND 58/100 DOLLARS (\$10,943,332.58) (as the same was and may hereafter be amended, restated, supplemented, extended or otherwise modified from time to time, the "Term Note"); and (ii) a Development Loan in the original principal amount of EIGHTEEN MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$18,900,000) (the "Second Development Loan") evidenced by a Second Consolidated, Amended and Restated Development Loan Note dated July 9, 2015 made by Borrower (exclusive of the Second New PR Entity) payable to the order of Lenders in the original principal amount of EIGHTEEN MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$18,900,000) (the "Second Consolidated Development Loan Note");

WHEREAS, Borrower has requested, and subject to the terms and conditions of the Credit Agreement and the other Loan Documents Lenders have agreed to extend to Borrower a new Development Loan Facility in the original principal amount of FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) (the "New Development Loan") to be evidenced by a new Development Loan Note dated of even date herewith made collectively by Borrower payable to the order of Lender in the original principal amount of FIFTEEN MILLION AND NO/100 DOLLARS (\$15,000,000.00) (as the same may hereafter be amended, restated, supplemented, extended or otherwise modified from time to time, the "New Development Loan Note"); and

WHEREAS, contemporaneously with the execution of this Agreement and from and after the date hereof, the Second New PR Entity is being added as a Borrower under the Facilities, the Credit Agreement and the Loan Documents in accordance with the terms of the Credit Agreement; and

WHEREAS, as a condition to entering into the Original Loan Documents, Secured Parties required the execution and delivery of that certain Real Estate Mortgage and Security Agreement (Leasehold) dated July 9, 2015 recorded as Document No.1519834055, Cook County, IL records (the "Mortgage"); and

WHEREAS, in order to memorialize the foregoing transactions and Loan modifications (collectively, the "Loan Modifications") and to modify the existing Mortgage to reflect such Loan Modifications, Borrower and Secured Party have entered into this Agreement.

NOW THEREFORE, for and in consideration of the Loan Modifications, the sum of Ten and No/100 Dollars, and the mutual covenants and agreements contained herein, the receipt and legal sufficiency Obligor #: 0263258039

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of which are hereby acknowledged, Borrower and Administrative Agent, on behalf of itself and the Lenders, intending to be legally bound hereby agree that the foregoing Preliminary Statements are incorporated in, and made a part of, this Agreement, and further agree as follows:

1. AMENDMENTS TO MORTGAGE. Effective as of even date herewith, the Mortgage has been and hereafter is amended as follows:

1.1 By amending the definition of "Borrower" to include therein each Second New PR Entity and their respective successors and assigns so that from and after the date hereof, each Second New PR Entity, together with each other Borrower, and all of the successors and assigns to the foregoing, shall be jointly and severally liable for the payment and performance of the Obligations.

1.2 By amending the defined term "Credit Agreement" and all references thereto to mean and refer to the Credit Agreement as defined in the first paragraph of the Preliminary Statements to this Agreement.

1.3 By amending the defined term "Development Loan" and all references thereto to mean and refer to the (i) Second Consolidated Development Loan, and (ii) the New Development Loan.

1.4 By deleting any and all references, both in words and numbers, to the amount of the Development Loan and the Development Loan Note as being "Eighteen Million Nine Hundred Thousand and No/100 Dollars" and "\$18,900,000", and replacing any and all of such references with the following (i) with respect to the Second Consolidated Development Loan and the Second Consolidated Development Loan Note, "Eighteen Million Nine Hundred Thousand and No/100 Dollars" and "\$18,900,000", and (ii) with respect to the New Development Loan and the New Development Loan Note, "Fifteen Million and No/100 Dollars" and "\$15,000,000".

1.5 By deleting the definitions of, and any and all references to, the "First DL Term Loan" and "First DL Term Note" which have been previously canceled by Lenders and which are of no force and effect. Subsequent to its issuance, Borrower and Lenders determined that the First DL Term Note dated August 7, 2014 was issued in error as the principal amount of the First DL Term Note, namely, \$7,532,667.00 was already incorporated into and evidenced by the Term Note and was not a separate and distinct Obligation from the Term Loan.

1.6 By amending the defined term "Indebtedness" to include, in addition to the other Obligations described therein and secured thereby, the indebtedness evidenced by the Credit Agreement, the Second Consolidated Development Loan Note, the Term Note, and the New Development Loan Note, in addition to all other Obligations of Borrower, including but not limited to, those evidenced by Swap Contracts.

1.7 By amending the defined term of "Loan" to include, in addition to the Term Loan, the Development Loan evidenced by (i) the Second Consolidated Development Loan Note, and (ii) the New Development Loan Note.

1.8 By amending the defined term "Obligations" to include, in addition to all other obligations described therein and secured thereby (including, without limitation, obligations evidenced by Treasury Services Documents and Swap Contracts), the obligations evidenced by the Credit Agreement, the Second Consolidated Development Loan Note, the Term Note, and the New Development Loan Note.

1.9 By amending the defined terms "Note" and "Notes" to include, in addition to the Term Note and Second Consolidated Development Loan Note, the New Development Loan Note.

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2. ESTOPPEL. Mortgagor represents, warrants and covenants that as of the date hereof, it does not have any claim or counterclaims of offset, defense, or cause of action of any nature against Administrative Agent or Lenders or any of any kind.

3. NO NOVATION; NO OTHER MODIFICATION. Neither this Agreement, the Credit Agreement, the Term Note, the Second Consolidated Development Loan Note, the New Development Loan Note nor any other Loan Document executed and delivered by Borrower to and/or among Secured Parties in connection with the the Loan Modifications shall be, nor shall be deemed to be, a novation. Except as expressly provided in this Agreement, the Credit Agreement, the Term Note, the Second Consolidated Development Loan Note, the New Development Loan Note, and any other Loan Documents executed and delivered by Borrower to and/or among Secured Parties in connection with the Loan Modifications, each of the Loan Documents is and remains unmodified and in full force and effect.

4. WARRANTIES AND REPRESENTATIONS. The warranties and representations made by Borrower in the Loan Documents, as amended hereby, are true and correct as of the date hereof, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

5. BINDING NATURE. This Agreement shall inure to the benefit of, and bind, Administrative Agent, Lenders, and Mortgagor and their respective successors and assigns.

6. GOVERNING LAW. This Agreement has been given, and shall be construed under, the laws of the State of Illinois.

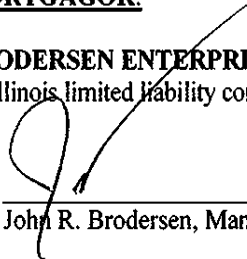
(SIGNATURE AND NOTARY PAGES IMMEDIATELY FOLLOW)

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

**MORTGAGOR:**

**BRODERSEN ENTERPRISES OF ILLINOIS LLC,**  
an Illinois limited liability company

By:   
John R. Brodersen, Manager


[COMPANY SEAL]

**ACKNOWLEDGMENTS**

STATE OF WI SS.  
COUNTY OF MILWAUKEE

I, Jacilyn Seitz, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that John R. Brodersen, Manager of **BRODERSEN ENTERPRISES OF ILLINOIS LLC**, an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 9 day of Feb, 2016.

  
Notary Public

My Commission Expires: 2-18-18

[NOTARY SEAL]

*[Signatures and Acknowledgments Continue on Page Following]*



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Unit No. 10926  
818 East 47<sup>th</sup> Street  
Chicago, IL 60653

Owner Name: Brodersen Properties of Illinois LLC  
Borrower Name: Brodersen Enterprises of Illinois LLC

## EXHIBIT "A"

### Legal Description

LOTS 13, 14, 15, 16 AND 17, IN BLOCK 7 IN WALKER AND OTHERS' RESUBDIVISION OF BLOCK 7 IN WALKER AND STINSON'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPTING THEREFROM THAT PORTION OF SAID LOTS 13 TO 17 INCLUSIVE DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT THE NORTH-EAST CORNER OF LOT 13, THENCE SOUTH 81 FEET 1 1/2 INCHES ALONG THE EAST LOT LINE OF LOT 13, THENCE WEST APPROXIMATELY 125 FEET TO A POINT ON THE WEST LINE OF LOT 17, WHICH SAID POINT IS 81 FEET 2 1/2 INCHES, SOUTH OF THE NORTHWEST CORNER OF LOT 17, THENCE NORTH ALONG THE WEST LINE 81 FEET 2 1/2 INCHES, THENCE EAST 125 FEET 3/8 INCH ALONG THE NORTH LINES OF SAID LOTS TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Common Address: 818 East 47<sup>th</sup> Street  
Chicago, Illinois 60653

P.I.N.: 17-34-122-109-0000

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Unit No. 10927  
300 East 35<sup>th</sup> Street  
Chicago, IL 60616

Owner Name: Brodersen Properties of Illinois LLC  
Borrower Name: Brodersen Enterprises of Illinois LLC

## EXHIBIT "A"

### Legal Description

LOTS 1 THROUGH 5 BOTH INCLUSIVE, LOTS 15 THROUGH 18 BOTH INCLUSIVE, AND THAT PART OF THE EAST AND WEST 16 FOOT VACATED PUBLIC ALLEY LYING NORTH OF AND ADJOINING THE NORTH LINE OF SAID LOTS 1, 2, 3, 4 AND 5, AND THAT PART LYING SOUTH AND SOUTHWESTERLY OF AND ADJOINING THE SOUTH AND SOUTHWESTERLY LINES RESPECTIVELY OF LOT 18 AND EAST OF AND ADJOINING THE WEST LINE OF LOT 18, PRODUCED SOUTH 21 FEET, ALL IN FRANCIS J. YOUNG'S SUBDIVISION OF LOT 9 IN BLOCK 2 IN DYER AND DAVISSON'S SUBDIVISION OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 300 East 35<sup>th</sup> Street  
Chicago, Illinois 60616

P.I.N.s: 17-34-122-109-0000  
17-34-122-114-0000

Obligor #: 0263258039

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Unit No. 10929  
111 West 75<sup>th</sup> Street  
Chicago, IL 60620

Owner Name: Brodersen Properties of Illinois LLC  
Borrower Name: Brodersen Enterprises of Illinois LLC

## EXHIBIT "A"

### Legal Description

LOTS 7, 8, 9, 10, 11 AND 12 IN BLOCK 2 IN MALLETTE'S RESUBDIVISION OF LOTS 1, 2, 11 AND 12 IN BLOCK 2 OF STEWART'S SUBDIVISION OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART OF SAID LOTS LYING NORTH OF THE FOLLOWING DESCRIBED LINES:

(1) BEGINNING ON THE EAST LINE OF LOT 1 IN MALLETTE'S RESUBDIVION, 35 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE WEST PARALLEL TO THE NORTH LINE OF SAID LOTS A DISTANCE OF 75 FEET; THENCE EXTENDING NORTHWESTERLY TO THE WEST LINE OF LOT 6 IN MALLETTE'S RESUBDIVISION, 19 FEET SOUTH OF THE NORTHWEST CORNER THEREOF; THENCE EXTENDING NORTHWESTERLY TO THE EAST LINE OF THE WEST 20 FEET OF LOT 10, 7.94 FEET SOUTH OF THE NORTH LINE OF SAID LOT 10 FOR A POINT OF TERMINATION; AND

(2) A CURVED LINE EXTENDING FROM THE NORTHWEST CORNER OF LOT 12 IN MALLETTE'S RESUBDIVISION CONVEX NORTHERLY AND HAVING A RADIUS OF 838.52 FEET TO A POINT ON THE EAST LINE OF THE WEST 20 FEET OF LOT 10, SAID POINT BEING 3.36 FEET SOUTH OF THE NORTH LINE OF SAID LOT), ALL IN COOK COUNTY, ILLINOIS.

Common Address: 111 West 75<sup>th</sup> Street  
Chicago, Illinois 60620

P.I.N.s: 20-28-405-004-0000  
20-28-405-041-0000  
20-28-405-042-0000  
25-03-327-045-0000

Obligor #: 0263258039

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Unit No. 2812

346 East 95<sup>th</sup>

Chicago, IL 60649

Owner Name: Brodersen Properties of Illinois LLC

Borrower Name: Brodersen Enterprises of Illinois LLC

## EXHIBIT "A"

### Legal Description

LOTS 24, 25, 26 AND 27 IN BLOCK 13 IN FAIRMOUNT BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTH WEST 1/4 AND THE NORTH WEST 1/4 OF THE SOUTH EAST 1/4, SOUTH OF THE CHICAGO ROCK ISLAND AND PACIFIC RAILROAD, IN SECTION 3, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 346 East 95<sup>th</sup>  
Chicago, Illinois 60649

P.I.N.: 20-26-230-028-0000

Obligor #: 0263258039

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Unit No. 11186  
7601-7635 South Racine Avenue  
Chicago, Illinois 60620  
Owner Name: Brodersen Properties of Illinois LLC  
Borrower Name: Brodersen Enterprises of Illinois LLC

## EXHIBIT "A"

### Legal Description

LOTS 37, 38, 39, 40, 41, 42, 43, 44 IN BLOCK 9 IN AUBURN ON THE HILL FIRST ADDITION BEING HART'S SUBDIVISION OF BLOCK 9, 10 AND 22 IN THE SUBDIVISION OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE NORTH 99 FEET) IN COOK COUNTY, ILLINOIS.

**STREET ADDRESS:** 7601-7635 South Racine Avenue  
Chicago, Illinois 60620

**PERMANENT TAX IDENTIFICATION NUMBER:** 20-29-408-042-0000

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