

# UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY:

Prepared By:  
Plunkett Cooney, P.C.  
221 N. LaSalle Street, Suite 1550  
Chicago, Illinois 60601

Mail to:

Plunkett Cooney, P.C.  
221 N. LaSalle Street, Suite 1550  
Chicago, Illinois 60601  
Attn: Michelle Musto



Doc# 1905834028 Fee \$54.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 02/27/2019 12:12 PM PG: 1 OF 9

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## MODIFICATION OF LOAN DOCUMENTS

**THIS MODIFICATION OF LOAN DOCUMENTS** (this "Agreement") is executed as of the 21<sup>th</sup> day of February, 2019 but made effective January 10, 2019 by and among **M&M PROPERTIES DESIGN, INC.**, an Illinois corporation ("Borrower"), and **MARCUS MOSTHOF** ("Guarantor"), each having an address of 210 S. Des Plaines, Unit 707, Chicago, Illinois 60661 and **MUTUAL FEDERAL BANK**, its successors and assigns, having an address of 2212 W. Cermak Road, Chicago, Illinois 60608 ("Lender" or "Bank").

## RECITALS

A. Lender made a loan (the "Loan") in the principal amount of \$130,000.00, as evidenced by a Promissory Note dated January 10, 2014, in the principal amount of \$130,000.00 made payable by Borrower to the order of Lender (as amended, modified and/or replaced from time to time the "Note"). Capitalized terms used herein but not otherwise defined shall have the meanings given to them in the Note.

B. The Note is secured by, among other things, (i) that certain Mortgage dated January 10, 2014 from Borrower ("Mortgagor") to Lender and recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on January 15, 2014 as Document No. 1401548049 (as amended, modified and/or replaced from time to time, the "Mortgage"), which Mortgage encumbers the real property, and all improvements thereon, legally described on Exhibit A hereto (the "Property"), and (ii) that certain Assignment of Rents dated January 10, 2014, from Mortgagor to Lender and recorded with the Recorder's Office as Document No. 1401548050 (as amended, modified and/or replaced from time to time, the "Assignment of

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Rents”), (iii) a Business Loan Agreement from Borrower in favor of Lender dated January 10, 2014 (“Loan Agreement”) and that certain Guaranty from Marcus Mosthof (the “Guaranty”) dated January 10, 2014. The Note, the Mortgage, the Assignment of Rents, the Loan Agreement, the Guaranty and any other document at any time evidencing, securing and guarantying the Loan, in their original form and as amended from time to time, are sometimes collectively referred to herein as the “Loan Documents”).

C. The outstanding principal balance of the Note as of January 10, 2019 (prior to the Additional Advance set forth below) is \$108,386.65. Certain other amounts, including accrued interest, late fees and attorneys’ fees and costs, are also owed under the Note and the other Loan Documents

D. The Note matured by its terms on January 10, 2019. The Borrower has requested that Lender (i) advance an additional sum of \$2,500.00 (the “Additional Advance”) to Borrower to be used by Borrower to pay all or a portion of the expenses related to this extension set forth in Paragraph 7 below, and (ii) extend the maturity date of the Note until January 10, 2024 and Lender is willing to advance additional funds to Borrower and extend the maturity date of the Note, on the terms and conditions more fully set forth hereinafter and the Amended Note (defined below).

## AGREEMENTS:

**NOW, THEREFORE**, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower’s agreement to pay all of Lender’s reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Extend Maturity.** Lender and Borrower agree that the Maturity Date for the Loan shall hereby be amended and extended from January 10, 2019 to January 10, 2024. All references in any and all Loan Documents to “Maturity Date” or words of similar import shall now mean January 10, 2024. Borrower agrees that the Loan, together with all obligations under the Loan Documents, shall be due and payable on such Maturity Date, or such earlier date that the Loan and all other obligations of Borrower to Lender under the Loan Documents shall be due and payable (whether by acceleration or otherwise).

2. **Amendment of the Note.** The Note shall be amended by that certain change in terms agreement (“Change In Terms”) of even date herewith executed by Borrower in favor of Lender (such Change In Terms together with the Note, the “Amended Note”), advancing additional funds of \$2,500.00 to Borrower, extending the Maturity Date of the Note, increasing the interest rate for the note and making certain other changes to the Note. As of the date hereof, the Amended Note amends the Note and is not a repayment or novation of the Note. Notwithstanding any other provision of the Loan Documents, the principal and interest payments and interest rate applicable to the Loan shall be as set forth in the Amended Note. Any reference in any Loan Document to “Note” or words of similar import shall now mean the Amended Note. Any reference in any Loan Document to “Note” or words of similar import shall now mean the

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Amended Note. From and after the date hereof, wherever the term "Note" or "Loan" (or any derivation of such terms), are used in any of the Loan Documents, such terms shall refer to the "Amended Note" and "Loan" described above, as applicable.

2. **Reaffirmation of Guaranty.** Guarantor acknowledges and approves the Additional Advance from Lender to Borrower and ratifies and affirms the applicable Guaranty, agrees that such Guaranty, after the Additional Advance, is in full force and effect following the execution and delivery of this Agreement and the Amended Note and agrees that Guarantor shall be liable to Lender for all amounts due in connection with the Amended Note and other Loan Documents. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor knows of no default thereunder. Guarantor has not made any claims or defenses to the enforcement of the rights and remedies of Lender under any Guaranty.

3. **Continuing Validity.** Except as expressly modified above or in connection herewith, the terms of the original Mortgage, the Note, the Loan Agreement, the Guaranty and the other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of any of the Loan Documents (as amended) nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the Note, the Loan Agreement and other Loan Documents secured by the Mortgage and other security instruments. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement.

4. **Releases/Estoppel.** Borrower and Guarantor, in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby remise, release and forever discharge, and by these presents, do for their successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and all its parents, subsidiaries and affiliates and the officers, directors, agents, attorneys and employees of each (hereinafter "Releasees") from any and all claims, causes of action, suits, debts, liens, obligations, liabilities, demands, losses, defenses, offsets, costs or expenses (including attorneys' fees) of any kind, character or nature whatsoever, vested or contingent, at law, in equity or otherwise (collectively, "Claims"), which any or all of Borrower and Guarantor have or claim to have against Lender, arising out of or connected with any act or omission of Lender existing or occurring on or prior to the execution date of this Agreement, including without limitation, any claims, liabilities or undischarged obligations of Lender with respect to the indebtedness evidenced by the Loan Documents, which any or all of Borrower and/or Guarantor ever had, now have, or which may result from the past or present state of things, against or related to Releasees. Borrower and Guarantor agree to assume the risk of releasing any and all unknown, unanticipated or misunderstood Claims hereby. Borrower and Guarantor represent and warrant that Lender has duly performed or otherwise met all its duties and obligations under the Loan Documents or otherwise owed to Borrower and/or Guarantor, and that there are no Claims which Borrower or Guarantor have or claim to have against Lender, arising out of or connected with

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any act or omission of Lender existing or occurring on or prior to the date of this Agreement, including without limitation, any claims, liabilities or undischarged obligations of Lender with respect to the indebtedness evidenced by the Loan Documents. The Borrower and Guarantor further agree to indemnify and hold the Bank and its officers, directors, attorneys, agents and employees harmless from any loss, damage, judgment, liability or expense (including attorneys' fees) suffered by or rendered against the Bank or any of them on account of any claims arising out of or relating to the obligations under the Loan Documents. The Borrower and Guarantor further state that each has carefully read the foregoing release and indemnity, knows the contents thereof and grants the same as its own free act and deed.

## 5. Representations, Agreements and Warranties of Borrower and Guarantor.

Borrower and Guarantor hereby represent, covenant and warrant to Lender as follows:

- (a) The representations and warranties in the Note, the Loan Agreement and the other Loan Documents are true and correct as of the date hereof.
- (b) There is currently no Event of Default (as defined in the Loan Documents) under the Note or the other Loan Documents and none of Borrower or Guarantor know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note or the other Loan Documents.
- (c) The Note and the other 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 Borrower and Guarantor, as applicable, enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.
- (d) There has been no material adverse change in the financial condition of Borrower or Guarantor from the date of the most recent financial statement received by Lender which could have a material adverse effect on the Loan or any of the collateral for the Loan.
- (e) The execution and delivery of this Agreement and related documents and the performance of the Loan Documents, as modified herein, have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement and related documents have been duly executed and delivered on behalf of each Borrower and Guarantor, as applicable, and are the legal, valid and binding obligation of Borrower and each Guarantor, as applicable, enforceable in accordance with their terms.
- (f) The copies of organizational documents of Borrowers which have been furnished to Lender in connection with the Loan are in effect, unamended and are the true, correct and complete documents relating to Borrower's creation and governance.

7. Conditions Precedent. As a conditions precedent to the agreements of Lender contained herein, Borrower shall (i) pay to Lender (A) all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, filing fees and attorneys' fees and expenses, (B) a non-refundable documentation fee of \$500.00, (C) any amounts needed to cure any principal and interest deficiency for the period January 10, 2019

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until the execution of this Agreement, and (D) all title recording and UCC filing fees charges, fees and costs, (ii) execute and deliver to Lender and cause all other parties to execute and deliver to Lender the signature page and notary pages to this Agreement; (iii) Borrower shall execute and deliver the Change In Terms, in the form provided by Lender, (iv) pay a loan fee to Lender in the amount of \$1,108.87, (v) provide to Lender such other certificates, financial statements, schedules, resolutions and other documents which Lender shall require, including insurance certificates for the Property in form and substance acceptable to Lender.

## 8. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower and Lender each acknowledge and waive 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. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) 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 Borrower nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower and Lender each 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 Borrower and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect. In the event of any inconsistency or conflict between this Agreement and the Loan Documents, the terms, provisions and conditions contained in this Agreement shall govern and control. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by, unenforceable or invalid under any jurisdiction, such provision shall as to such jurisdiction, be severable and be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

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(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage", or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Amended Note, the Mortgage, and the other Loan Documents as amended hereby. 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.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement. A facsimile signature shall be deemed a valid and binding signature for all purposes.

(h) Time is of the essence of Borrower's obligations under this Agreement.

**[SIGNATURE PAGE ATTACHED]**

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


**BORROWER:**

**LENDER:**

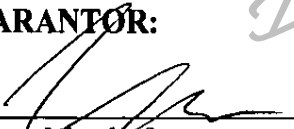
**M&M PROPERTIES DESIGN, INC.,  
an Illinois corporation**

**MUTUAL FEDERAL BANK**

By:   
Marcus Mosthof, President

By:   
Its: VICE PRESIDENT

**GUARANTOR:**

  
Marcus Mosthof

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Lorena Solorio, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that WILLIAM OZANIC, vice President of **MUTUAL FEDERAL BANK** known to me to be the same person whose name is subscribed to the foregoing instrument as such vice President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of such bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21 day of February, 2019.

Lorena Solorio  
Notary Public

My Commission Expires:

08/02/2022



\*\*\*\*\*

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

I, Lorena Solorio, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **MARCUS MOSTHOE**, individually and as President of **M&M PROPERTIES DESIGN, INC.**, an Illinois corporation known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of such M&M Properties Design, Inc., for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21 day of February, 2019.

Lorena Solorio  
Notary Public

My Commission Expires:

08/02/2022





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## EXHIBIT A

### LEGAL DESCRIPTION

LOT 29 IN THE RESUBDIVISION OF THE NORTH 1/2 OF BLOCK 5 IN MC CHESNEY'S HYDE PARK HOMESTEAD SUBDIVISION IN THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

P.I.N. 20-22-227-034-0000

COMMONLY KNOWN AS: 6622 S. Saint Lawrence Avenue, Chicago, Illinois 60637

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