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Doc#. 1911612026 Fee: \$62.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 04/26/2019 09:25 AM Pg: 1 of 8

THIS INSTRUMENT PREPARED BY:

Bradley D. Broberg, Esq.
Winstead PC
500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201

WHEN RECORDED, RETURN TO:

ReadyCap Commercial, LLC
Post Closing / Melissa Perez
1320 Greenway Drive, Suite 560
Irving, Texas 75038
ATA / GMT Title Agency
85 W. Algonquin Road, Suite 120
Arlington Heights, IL 60007

File #

15-1253-00K

THIS SPACE RESERVED FOR RECORDERS USE ONLY
(TO BE RECORDED IN THE REAL PROPERTY RECORDS OF
COOK COUNTY, ILLINOIS)

LOAN EXTENSION AGREEMENT

THIS LOAN EXTENSION AGREEMENT ("Extension Agreement") relates to that certain Loan (herein so called) by READYCAP COMMERCIAL, LLC ("Original Lender") predecessor in interest to Sutherland Warehouse Trust II, a Delaware statutory trust ("Lender") in the original principal amount of \$4,900,000.00 to KD MELROSE PARK HOLDINGS, LLC, an Illinois limited liability company, MELROSE PARK INVESTORS LLC, a Delaware limited liability company, and KD SENIOR MELROSE PARK HOLDINGS, LLC, a Delaware limited liability company (individually, collectively, jointly and severally as tenants-in-common together with their successors and/or assigns, "Borrower") evidenced and secured by, among other documents, the following documents, each of which are dated March 8, 2016, (a) a Loan Agreement, (b) a Promissory Note (the "Note"), (c) a Mortgage, Security Agreement and Fixture Filing, recorded March 15, 2016 under document number 1607556256 in the office of the Cook County Recorder of Deeds (the "Records") (the "Security Instrument"), and (d) an Assignment of Rents, recorded March 15, 2016 under document number 1607556257 in the Records (the "Assignment of Rents," and together with all other documents evidencing or securing the Loan, the "Loan Documents") in each case related to the Property described in the Loan Documents on the land described on Exhibit A attached hereto and made a part hereof.

Borrower and Lender have agreed to a short extension and certain other modifications, if any are referenced below, to the Loan as described in this Extension Agreement. Capitalized terms used but not defined in this Extension Agreement shall have the meanings given to them in the Loan Agreement or in the other Loan Documents.

1. **Definitions.** The following defined terms are deemed to be added to or modified in Article I of the Loan Agreement:

"**Debt Service Coverage Ratio**" shall mean the ratio calculated by Lender for the applicable period of (i) the Net Operating Income to (ii) the aggregate amount of Debt Service on an interest-only basis which was due for the twelve (12) month period immediately preceding the date of calculation.

"**Extended Maturity Date**" means April 1, 2020.

"**Maturity Date**" means October 1, 2019.

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"Net Operating Income" means a property's or company's operating income after operating expenses are deducted, but before deductions for capital expenditures, debt service, depreciation, and taxes subject to Lender's customary and reasonable underwriting which shall include, without limitation, exclusion of rental income attributable to any tenant (i) in bankruptcy that has not affirmed its Lease pursuant to final non-appealable order, (ii) not paying rent under its Lease or otherwise in monetary default under its Lease beyond the longer of (1) applicable notice and cure periods, and (2) 30 days, (iii) that has expressed its intention (directly, constructively or otherwise) to terminate, cancel and/or reject its Lease within the succeeding six (6) month period, (iv) whose tenancy is month-to-month and/or (v) under a Lease which expires within six (6) months or less (unexercised renewal rights or options shall be ignored in calculating the expiration dates hereunder) from the date of calculation of Net Operating Income hereunder, and shall be based on trailing 3 calendar months' operating expenses annualized and trailing 1 calendar month's income, annualized.

"Occupied" or "Occupancy" with respect to a unit or tenant space shall have occurred for purposes of any related calculation thereof if Borrower has provided evidence reasonably satisfactory to Lender demonstrating that the unit or tenant space has, as of the date or period of determination or qualification, achieved and/or maintained physical occupancy in the entirety of the unit or space by a tenant open for business under a Lease (i) satisfying the approval requirements under the Loan Documents including those set forth in Article IV of the Loan Agreement, (ii) that is not then in default, (iii) that has a term that is not month-to-month, and (iv) that does not have a renewal option that has expired.

2. **Extension(s).** Borrower has paid and Lender hereby acknowledges receipt of \$12,250.00 as a non-refundable extension fee and in consideration thereof, Lender hereby extends the maturity date under the Loan Documents to the Maturity Date. Borrower may extend the Maturity Date to the Extended Maturity Date upon Lender's reasonable determination that Borrower has satisfied each of the following conditions precedent:
 - (a) at least sixty (60) days prior to the Maturity Date, Lender shall have received written notice that Borrower desires to extend the Maturity Date to the Extended Maturity Date;
 - (b) at the time of the request and at the Maturity Date, no Event of Default or Potential Default shall exist;
 - (c) Borrower, at its sole cost and expense, shall furnish to Lender an extension agreement satisfactory to Lender, an endorsement to Lender's title insurance policy showing no additional exceptions to title other than those shown on the original policy of title insurance, and shall have paid all of Lender's reasonable costs and expenses associated with the extension;
 - (d) Borrower shall have provided evidence that as of the date that is 30 days prior to the Maturity Date the Debt Service Coverage Ratio is at least 1.10 to 1 or greater and no Material Adverse Effect shall have occurred thereafter;
 - (e) Borrower shall have provided evidence that as of the date that is 30 days prior to the Maturity Date the Occupancy of the Property is 85% or higher and no Material Adverse Effect shall have occurred thereafter;
 - (f) Lender shall have received updated financial statements from Borrower and Guarantor and determined, in its reasonable discretion, that no event which has had or may have a Material Adverse Effect on the Borrower, Guarantor or the Property has occurred;
 - (g) Borrower shall have delivered a compliance certificate containing the certifications required under Section 3.18 of the Loan Agreement to Lender; and
 - (h) Borrower shall have paid to Lender in cash or immediately available funds, an additional extension fee equal to \$12,500.00 (separate and apart from the extension fee described in the

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introductory portion of this Section 2), which fee shall be fully earned and nonrefundable upon payment regardless of whether the Loan is repaid prior to the Extended Maturity Date.

3. Other Modifications and Specific Confirmations.

- (a) As of February 28, 2019, the funds remaining in the Immediate Repair/Capital Expenditures Account were \$886,430.00 and Lender hereby confirms that items 2 through 6 of the Immediate Repair/Capital Expenditures have been completed but that 0 square feet of the vacant space referenced in item 1 thereof has been renovated leaving all 13,600 square feet of vacant space remaining.
- (b) Section 2.4 of the Loan Agreement is hereby modified to add the following at the end thereof: "Whenever any payment to be made hereunder or under the other Loan Documents shall be stated to be due on a day which is not a Business Day, the due date shall be deemed to be the immediately preceding Business Day unless expressly stated otherwise."
- (c) Section 2.6 of the Loan Agreement is hereby modified to add the following at the end thereof: "Any prepayment received by Lender on a date other than a Monthly Payment Date shall include interest which would have accrued thereon to the next Monthly Payment Date."
- (d) Pursuant to Section 3.18 of the Loan Agreement, the undersigned hereby confirms that the representations and warranties in the Loan Agreement are true and correct as of the date hereof and that, to the best of Borrower's knowledge, no Potential Default and no Event of Default or Material Adverse Effect has occurred or exists under the Loan Agreement.
- (e) New Section 3.22 is hereby added to the Loan Agreement as follows:

"Section 3.22. Illegal Activity/Forfeiture. No portion of the Property has been or will be purchased, improved, equipped or furnished with proceeds of any illegal activity and to the best of Borrower's knowledge, there are no illegal activities or activities relating to controlled substances (which shall include, without limitation, the growing, distributing and/or selling or dispensing of marijuana, whether for medical use or otherwise). Borrower has not, will not, and will not permit the operation or use of the Property in any manner that would afford any Governmental Authority a right of forfeiture against the Property or any part thereof and, irrespective of the legality of such activity, no portion of the Property shall be operated or used for growing, distributing, selling and/or dispensing of marijuana, whether for medical use or otherwise."
- (f) Section 9.1(c) is hereby deleted and replaced with the following:

"(c) divide (whether pursuant to a plan of division or otherwise), merge into or consolidate with any Person or into two or more entities, or dissolve, terminate, liquidate in whole or in part, transfer or otherwise dispose of all or substantially all of its assets or change its legal structure;"
- (g) Section 10.1(d) is hereby modified to add the following at the end thereof: "... or the division of any Borrower into two or more entities."

Except as otherwise specified herein, the terms and provisions hereof shall in no manner impair, limit, restrict or otherwise affect the obligations of Borrower or any other party to Lender, as evidenced by the Loan Documents. Borrower hereby acknowledges, agrees and represents that there are no claims or offsets against, or defenses or counterclaims to, the terms or provisions of the Loan Documents, and the other obligations created or evidenced by the Loan Documents. Guarantor hereby acknowledges and consents to the terms and provisions hereof and acknowledges that there are no claims or offsets against, or defenses or counterclaims to, the terms and provisions of and the obligations created and evidenced by the Guaranty.

Except as may be expressly set forth herein, nothing contained in this Extension Agreement shall prejudice, act as, or be deemed to be a waiver of any right or remedy available to Lender by reason of the

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occurrence or existence of any fact, circumstance or event constituting a default under the Note or the other Loan Documents.

Except as expressly modified by the terms and provisions hereof, each of the terms and provisions of the Loan Documents are hereby ratified and shall remain in full force and effect; provided, however, that any reference in any of the Loan Documents to the Loan, the amount constituting the Loan, any defined terms, or to any of the other Loan Documents shall be deemed, from and after the date hereof, to refer to the Loan, the amount constituting the Loan, defined terms and to such other Loan Documents, as modified hereby.

THE TERMS AND PROVISIONS HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS.

BORROWER, GUARANTOR AND LENDER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THE LOAN, THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTIONS OF BORROWER, GUARANTOR OR LENDER.

THIS EXTENSION AGREEMENT, TOGETHER WITH THE EXISTING LOAN DOCUMENTS REPRESENTS THE FINAL AGREEMENT OR AGREEMENTS BETWEEN THE PARTIES AS TO THE SUBJECT MATTER HEREOF AND THEREOF, AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. THIS INSTRUMENT MAY BE AMENDED ONLY BY AN INSTRUMENT IN WRITING EXECUTED BY THE PARTIES HERETO.

Signature Page Follows

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BORROWER:

KD MELROSE PARK HOLDINGS, LLC
an Illinois limited liability company

By: _____

Name: Kenny DeAngelis, Jr.
Title: Manager

MELROSE PARK INVESTORS, LLC
a Delaware limited liability company

By: _____

Name: Kenny DeAngelis, Jr.
Title: Manager

KD SENIOR MELROSE PARK HOLDINGS, LLC
a Delaware limited liability company

By: _____

Name: Kenny DeAngelis, Jr.
Title: Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California

COUNTY OF Los Angeles

On April 1, 2019, before me, Alexandra Kelsey NOTARY PUBLIC personally appeared **KENNY DEANGELIS, JR.**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



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GUARANTOR:


 KENNY DEANGELIS, JR., Individually

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF

California

COUNTY OF

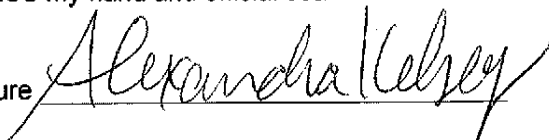
Los Angeles

On ~~March~~ April 1, 2019, before me, Alexandra Kelsey
NOTARY PUBLIC personally appeared
 KENNY DEANGELIS, JR., who proved to me on the basis of satisfactory evidence to be the person(s)
 whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
 executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
 instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



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LENDER:

SUTHERLAND WAREHOUSE TRUST II,
a Delaware statutory trust

By: Waterfall Asset Management, LLC,
as Trust's Agent

By: [Signature]
Name: JACK ROSS
Title: Authorized Person

STATE OF NEW YORK

§
§ SS:
§

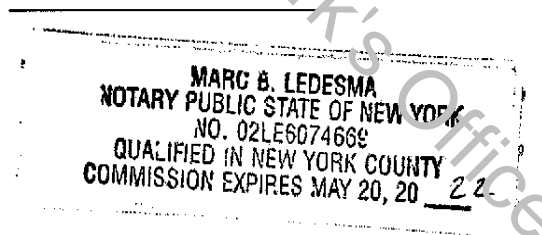
COUNTY OF NEW YORK

I, Marc B. Ledesma, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that JACK ROSS, personally known to be the Authorized Person of Waterfall Asset Management, LLC as authorized agent of SUTHERLAND WAREHOUSE TRUST II, a Delaware statutory trust, and personally known to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such Authorized Person she signed and delivered the said instrument pursuant to authority of said limited liability company as his free and voluntary act, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 9th day of April, 2019.

[Signature]
Notary Public

My Commission Expires:



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EXHIBIT A

Legal Description

Common Property Address: 1501 West North Ave.
Melrose Park, Illinois 60160

Permanent Index Numbers: 12-34-403-013-0000

THE EAST 297.46 FEET OF LOT 3 OF THE SUBDIVISION OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART THEREOF LYING NORTH OF A LINE 469.13 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 34) AND (EXCEPT THAT PART THEREOF TAKEN FOR WIDENING OF NORTH AVENUE) AND (EXCEPT THE EAST 25 FEET FALLING IN 15TH AVENUE), IN COOK COUNTY, ILLINOIS.

APN: 12-34-403-013-0000