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Edward M. Moody
Cook County Recorder of Deeds
Date: 05/29/2019 01:04 PM Pg: 1 of 7

**THIS DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:**

Aaron B. Zarkowsky
Howard & Howard Attorneys
200 S. Michigan Ave. #1100
Chicago, IL 60604

Commonly known as:
1000 & 1002 Dundee Road,
Palatine, Illinois

PINS:
02-01-300-024-0000
02-01-300-025-0000

**FIRST MODIFICATION OF LOAN DOCUMENTS
FOR PURPOSES OF RECORDING**

THIS FIRST MODIFICATION OF LOAN DOCUMENTS FOR PURPOSES OF RECORDING (this "First Modification") is effective as of April ~~24~~ 2019 (the "Effective Date") by and among KC 1000, LLC, an Illinois limited liability company (the "Borrower") for the benefit of WINTRUST BANK, an Illinois chartered bank, its successors and assigns ("Lender" or "Bank").

RECITALS:

A. Bank made a loan ("Loan") to Borrower in the principal amount of \$4,880,000.00 pursuant to the terms and conditions of a Construction Loan and Security Agreement dated as of June 5, 2018 between Borrower and Bank (the "Loan Agreement"), and as evidenced by a Promissory Note dated June 5, 2018, in the principal amount of the Loan made payable by Borrower to the order of Bank ("Note").

B. The Note is secured by, among other things, (i) that certain Construction Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of June 5, 2018 from Borrower to Bank recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on June 12, 2018 as Document No. 1816316030 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto ("Property"), (ii) that certain Assignment of Rents and Leases dated as of June 5, 2018, from Borrower to Bank and recorded in the Recorder's Office on June 12, 2018 as Document No. 1816316031 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated as of June 5, 2018 from Borrower and Guarantor to Bank (the "Indemnity Agreement"); (iv) that certain Guaranty of Payment and Completion dated as of June

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5, 2018 from the Guarantors to Bank (the "Guaranty") and (v) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Guaranty, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents").

C. At the Borrower's request, the Loan Documents were amended to incorporate a Letters of Credit subfacility pursuant to the terms and conditions of that certain First Modification of Construction Loan and Security Agreement and Other Loan Documents dated as of July 26, 2018.

D. The Borrower is now requesting that the Loan Documents be further amended to increase the maximum principal amount of the Loan, and make other modifications pursuant to the terms and conditions of that certain Second Modification of Construction Loan and Security Agreement and Other Loan Documents of even date herewith by and among the Lender, the Borrower and the Guarantors (the "Second Amendment"). A condition precedent to the Bank's agreements set forth in the Second Amendment is the execution and delivery by the Borrower of this Modification.

E. This Modification is given by the Borrower to amend the Loan Documents. The payment, fulfillment, and performance by the Borrower of its obligations under the Loan Documents, including this Modification are secured by the Mortgage. Each and every term and provision of the Loan Documents and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Modification.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove, (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Incorporation and Definitions.** The foregoing recitals constitute an integral part of this First Modification, evidencing the intent of the Borrower in executing this First Modification and describing the circumstances surrounding its execution. Accordingly, the recitals are, by this express reference, made a part of the covenants hereof, and this First Modification shall be construed in the light thereof. Words, terms and/or phrases not defined herein shall have the meanings provided in the Loan Documents.

2. **Incorporation of the Second Amendment.** The terms and conditions of the Second Amendment are incorporated herein by reference in full and with the same effect as if set forth herein at length.

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3. Increased Maximum Principal Amount of the Loan.

(a) The first WHEREAS clause set forth on Page 1 of the Mortgage is hereby amended by (i) deleting "\$4,880,000;" and (ii) inserting in its place "5,434,184.00."

(b) The paragraph immediately preceding Section 1 of the Mortgage is hereby amended by (i) deleting "\$9,760,000.00;" and (ii) inserting in its place: "\$10,868,368.00."

4. Miscellaneous.

(a) This First Modification shall be governed by and construed in accordance with the laws of the State of Illinois provided, however that to the extent the mandatory provisions of the laws of another jurisdiction relating to (i) the perfection or the effect of perfection or non-perfection of the security interests in any of the Property, (ii) the lien, encumbrance or other interest in the premises granted or conveyed by the Mortgage, or (iii) the availability of and procedures relating to any remedy hereunder or related to the Mortgage are required to be governed by such other jurisdiction's laws, such other laws shall be deemed to govern and control.

(b) This First Modification shall not be construed more strictly against Lender than against the Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that the Borrower and the Lender have contributed substantially and materially to the preparation of this First Modification, and the 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 First Modification. Each of the parties to this First Modification represents that it has been advised by its respective counsel of the legal and practical effect of this First Modification, and recognizes that it is executing and delivering this First Modification, 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 First Modification, 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 First Modification by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with the Borrower nor shall privity of contract be presumed to have been established with any third party.

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

(e) This First Modification may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Modification.

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(f) Time is of the essence of each of the Borrower's obligations under this First Modification.

(Signature Page Follows)

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IN WITNESS WHEREOF, the parties hereto have executed this First Modification of Loan Documents for Purposes of Recording dated as of the day and year first above written.

KC 1000, LLC, an Illinois limited liability company

By: *ADF*
Name: Adam D. Firsel
Its: Manager

STATE OF ILLINOIS Illinois
COUNTY OF Cook) SS:

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Adam D. Firsel the manager of KC 1000, LLC, an Illinois limited liability company, 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 official seal, as of the 24th day of April, 2019.

Eric H. Murphy
Notary Public

Commission
640927

expires:
12/1/2020



Signature Page to First Modification of
Loan Documents for Purposes of Recording

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EXHIBIT A

PROPERTY ADDRESS:

**1000 & 1002 DUNDEE ROAD
PALATINE, ILLINOIS**

PINS:

02-01-300-024-0000

02-01-300-025-0000

PARCEL 1: LOTS 1, 2 AND 3 OF THE FINAL PLAT OF SUBDIVISION OF KC 1000 SUBDIVISION RECORDED ON JUNE 12, 2018 AS DOCUMENT NO. 1816316026 BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS CREATED IN A DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED JUNE 12, 2018 AS DOCUMENT 1816316028 FOR REASONABLE ACCESS, INGRESS AND EGRESS OVER THE COMMON AREAS AS DEFINED IN SAID DOCUMENT

PARCEL 3: NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY A RECIPROCAL EASEMENT AGREEMENT ENTERED INTO ON MARCH 20, 2018 BETWEEN KC 1000, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY ("PARCEL A OWNER") AND DON-A-BAR, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY ("PARCEL B OWNER") RECORDED ON JUNE 12, 2018 AS DOCUMENT NO. 1816316029 FOR REASONABLE ACCESS, INGRESS AND EGRESS OVER THE DRIVEWAYS AS DEFINED IN SAID AGREEMENT