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Doc# 2006416049 Fee \$28.00

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EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 03/04/2020 04:37 PM PG: 1 OF 9

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

**Clark Hill PLC
130 E. Randolph Street, Suite 3900
Chicago, Illinois 60601
Chad M. Poznansky, Esq**

SECOND MODIFICATION OF LOAN DOCUMENTS

THIS SECOND MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 3rd day of March, 2020, effective as of February 19, 2020, by and between **CJD PROJECTS, L.L.C.**, an Illinois limited liability company ("CJD" or "Mortgagor") and **WINTRUST BANK, N.A.**, a federally chartered institution, its affiliates, successors, participants and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to **CJD, CULLEN J. DAVIS**, an individual of the State of Illinois ("Davis"), **UPA LLC**, an Illinois limited liability company ("UPA") and **H & J REAL ESTATE MANAGEMENT SERVICES, LLC**, an Illinois limited liability company ("H & J") (CJD, Davis, UPA and H & J are collectively, the "Original Borrower") in the principal amount of TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) pursuant to the terms and conditions of and as evidenced by a certain Revolving Line of Credit Note dated as of February 19, 2016, from Original Borrower to Lender, in the principal amount of the Loan made payable by Original Borrower to the order of Lender ("Original Note").

B. Lender, Original Borrower, Villa Management I LLC, an Illinois limited liability company ("Villa") and Komoricave, LLC, an Illinois limited liability company, further entered into that certain Modification of Loan Documents dated March 19, 2018 and that certain Amended and Restated Revolving Line of Credit Note dated as of March 19, 2018 ("Amended Note") to, *inter alia*, increase the Loan to Three Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$3,850,000.00) and provide additional collateral for the Loan ("New Collateral").

C. Since the date of the Amended Note, the New Collateral and part of the original collateral was sold and partial releases granted thereon.

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D. The Amended Note is secured by, among other things, (i) that certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated February 19, 2016, from CJD to Lender recorded with the Recorder of Deeds in Cook, County, Illinois (the "Recorder's Office") on February 22, 2016, as Document No. 1605319080 as amended, modified or restated from time to time ("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 February 19, 2016, from CJD to Lender and recorded in the Recorder's Office on February 22, 2016, as Document No. 1605319081 as amended, modified or restated from time to time (the "Assignment of Leases"); (iii) that certain Amended and Restated Pledge Agreement dated March 19, 2018 from UPA in favor of Lender (the "Pledge Agreement"); and (iv) that certain Amended and Restated Security Agreement dated March 19, 2018 by Original Borrower, Villa and Komoricave, LLC in favor of Lender (the "Security Agreement"); and (v) certain other loan documents (the Amended Note, the Mortgage, the Assignment of Leases, the Pledge Agreement, the Security Agreement, and the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, including the Indemnity Agreement as defined herein are sometimes collectively referred to herein as the "Loan Documents").

E. Original Borrower, Villa and Komoricave, LLC also delivered an Amended and Restated Environmental Indemnity Agreement dated March 19, 2018 in favor of Lender (the "Indemnity Agreement").

F. Contemporaneously herewith, Original Borrower and Villa have agreed to amend the Amended Note by delivering a Second Amended and Restated Revolving Line of Credit Note (as amended, modified or restated from time to time, the "Note") evidencing the Loan in the amount of Two Million Fifty Thousand and 00/100 Dollars (\$2,050,000.00) and due on the Maturity Date as defined in the Note ("Maturity Date"), except as may be accelerated pursuant to the terms hereof or on the Note, or any of the Loan Documents.

G. CJD and Lender desire to amend the Mortgage and Assignment of Leases in order to reflect a decrease in the Loan Amount (as hereinafter defined), to extend the Maturity Date (as defined in the Note) and to provide for such other terms and conditions set forth herein.

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 to modify the Mortgage and Assignment of Leases, 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. **Loan Amount**. The amount of the Loan shall be decreased from \$3,850,000.00 to \$2,050,000.00 to. Any reference to Three Million Eight Hundred Fifty Thousand and 00/100 Dollars (\$3,850,000.00) as the Loan Amount in the Mortgage and Assignment of Leases shall mean Two Million Fifty Thousand and 00/100 Dollars (\$2,050,000.00) ("Loan Amount").

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2. **Maturity Date.** The Maturity Date shall be March 1, 2021. Any reference to Maturity Date in the Mortgage and Assignment of Leases shall mean March 1, 2021, unless otherwise extended or renewed by the parties hereto.

3. **Notices.** Section 26 of the Mortgage shall be deleted in its entirety and replaced with the following:

“26. **Notices.** Any notices, communications and waivers under this Mortgage shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Mortgagee: Wintrust Bank, N.A.
231 South LaSalle Street, Suite 200
Chicago, Illinois 60604
Attn: Kimberly Bowman (Curschman), Vice President

With a copy to: Clark Hill PLC
130 E Randolph Street, Suite 3900
Chicago, IL 60601
Attn: Chad M. Poznansky, Esq.

To Mortgagor: CJD Projects, L.L.C.
6160 N. Cicero Avenue, Suite 620
Chicago, Illinois 60645

With a copy to: Sugar Felsenthal Grais & Helsing LLP
30 North LaSalle Street, Suite 3000
Chicago, IL 60602
Attn: Henry Krasnow, Esq.

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.”

5. **Maximum Indebtedness.** Section 37j. of the Mortgage shall be deleted in its entirety and replaced with the following:

“j. **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to **Four Million One Hundred Thousand and No/100 Dollars (\$4,100,000.00)**; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

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6. **Representations and Warranties of CJD.** CJD hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Mortgage 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 Mortgage) under the Note, the Mortgage, the Assignment of Leases or the other Loan Documents and CJD does not 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, the Mortgage, the Assignment of Leases 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 CJD 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 CJD or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, CJD has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) CJD 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 herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of CJD. This Agreement has been duly executed and delivered on behalf of CJD.

7. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Fidelity National Title Insurance Company to issue an endorsement to Lender's title insurance policy No. 2011 999102323 UNC (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, 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.

8. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

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9. 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 CJD merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that CJD and Lender have contributed substantially and materially to the preparation of this Agreement, and CJD and Lender each 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. 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 CJD nor shall privity of contract be presumed to have been established with any third party.

(d) CJD and Lender each acknowledge 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 CJD 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.

(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", "Assignment of Leases" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage, the Assignment of Leases 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.

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- (h) Time is of the essence of each of CJD's obligations under this Agreement.
- (i) The recitals are hereby made a part of this Agreement.

[signature page to follow.]

Property of Cook County Clerk's Office

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

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CJD:

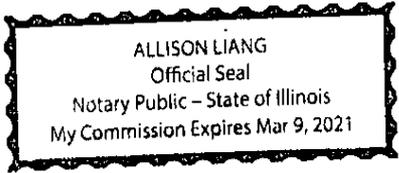
CJD PROJECTS, L.L.C., an Illinois limited liability company

By: _____
 Name: Cullen J. Davis
 Title: Manager

STATE OF IL)
) .ss
 COUNTY OF Cook)

I Allison Liang, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cullen J. Davis, Manager of CJD PROJECTS, L.L.C., an Illinois limited liability company, 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 limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25th day of February, 2020.



 Notary Public

My Commission Expires: 3/9/2021

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EXHIBIT A

THE PROPERTY

PARCEL 1:

UNIT NUMBER 402 AND P-165 IN THE MADISON 901 CONDOMINIUM, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED TRACT OF LAND:

LOTS 1 TO 8, INCLUSIVE AND LOTS 13 AND 14 IN BLOCK 3 IN DUNCAN'S ADDITION TO CHICAGO SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED AS AN EXHIBIT TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0715015054; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN COOK COUNTY ILLINOIS.

Common Address: 901 W. Madison Street, Unit 402 and P-165, Chicago, Illinois

PIN(s): 17-17-207-029-1002 (Unit 402) and 17-17-207-029-1331 (P-165)

PARCEL 2:

UNIT NUMBER 614 AND P-105 IN THE MADISON 901 CONDOMINIUM, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED TRACT OF LAND:

LOTS 1 TO 8, INCLUSIVE AND LOTS 13 AND 14 IN BLOCK 3 IN DUNCAN'S ADDITION TO CHICAGO SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED AS AN EXHIBIT TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0715015054; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN COOK COUNTY, ILLINOIS.

Common Address: 901 W. Madison Street, Unit 614 and P-105, Chicago, Illinois

PIN(s): 17-17-207-029-1058 (Unit 614) and 17-17-207-029-1253 (P-105)