

# UNOFFICIAL COPY

Doc#. 2009121180 Fee: \$98.00  
Edward M. Moody  
Cook County Recorder of Deeds  
Date: 03/31/2020 12:01 PM Pg: 1 of 8

ATA / GAT Title Agency  
175 E. Hawthorn Parkway, Suite 135  
Vernon Hills, IL 60061

File # 20094335-1L 2/2

(Above space for Recorder's Use Only)

\*\*\*\*\*

THIS INSTRUMENT PREPARED BY: ) David H. Hight, Esq.  
) Ice Miller LLP  
) 2300 Cabot Drive  
MAIL TO: ) Suite 455  
) Lisle, Illinois 60532

\*\*\*\*\*

## FIRST MODIFICATION AGREEMENT TO MORTGAGE AND ASSIGNMENT OF RENTS

This First Modification Agreement to Mortgage and Assignment of Rents (the "Agreement"), made, as of the 16th day of March, 2020, by and between BARRINGTON BANK & TRUST COMPANY, N.A. (together with its successor and assigns, the "Lender") and ASP PROPERTIES LLC SERIES 44 CENTURY DRIVE (together with IYS successors and assigns, the "Grantor").

### WITNESSETH:

Pursuant to a Promissory Note dated November 16, 2018, Lender agreed to lend to Grantor (the "Grantor Loan") the original principal amount of \$1,256,839.40 (as amended from time to time, the "Grantor Note");

The Grantor Note is secured by the Mortgage dated as of November 16, 2018, made by the Grantor in favor of the Lender, as amended (the "Century Drive Mortgage") and the Assignment of Rents dated as of November 16, 2018 made by the Grantor in

|| | | | | | | |

|| | | | | | | |

# UNOFFICIAL COPY

favor of the Lender, as amended (the "Century Drive Assignment of Rents"), for the property located at 44 Century Drive, Wheeling, Illinois;

Weber Flavors Real Estate LLC, an Illinois limited liability company ("Weber Flavors") is an affiliate of the Grantor and requested that the Lender provide a loan to it in the original principal amount of \$4,400,000 (the "Weber Flavors Loan") and the Lender agreed, pursuant to the terms of that certain Promissory Note in the original principal amount of \$4,400,000 from Weber Flavors in favor of the Lender, dated as of the date of this Agreement (as amended from time to time, the "Weber Flavors Note") and that certain Credit Agreement between Weber Flavors and the Lender, dated as of the date of this Agreement (as amended from time to time, the "Weber Flavors Credit Agreement");

Edgar A. Weber & Company, an Illinois corporation ("EAW") is an affiliate of the Grantor and is party to that certain Business Loan Agreement (Asset Based dated January 15, 2015, pursuant to which Lender made loans to EAW (as amended from time to time, the "EAW Loan Agreement");

The obligations of EAW to Lender are secured by that certain Mortgage from EAW in favor of the Lender, dated as of November 2, 2011, for the property located at 549 Palwaukee Drive, Wheeling, Illinois 60090 (as amended from time to time, the "Palwaukee Drive Mortgage") and are further secured by that certain Assignment of Rents from EAW in favor of the Lender dated as of October 20, 2011, for the same property (as amended from time to time, the "Palwaukee Drive Assignment of Rents");

EAW has requested Lender to extend the maturity of the EAW Loan Agreement to January 31, 2021;

EAW has agreed to guarantee the obligations of Weber Flavors to Lender pursuant to the Guaranty Agreement of EAW in favor of Lender dated as of the date of this Agreement (the "EAW Guaranty").

The Grantor is an affiliate of Weber Flavors and EAW and will derive direct and indirect economic and other benefits from the making of the Weber Flavors Loan.

In order to induce the Lender to enter into the Weber Flavors Loan and to extend the maturity of the EAW Loan Agreement, the parties hereby agree to further amend the Century Drive Mortgage and the Century Drive Assignment of Rents, as provided herein, to establish that the Century Drive Mortgage and the Century Drive Assignment of Rents secure (i) the obligations of Weber Flavors under the Weber Flavors Note, EAW under the EAW Loan Agreement, the EAW Guaranty and all other agreements, documents and instruments executed by Weber Flavors in connection therewith, and (ii) any obligations of any of Grantor, EAW or Weber Flavors due and owing to the Lender whether existing on the date hereof or arising on any date hereafter, as such may be renewed, extended, modified, refinanced, consolidated or substituted from time to time; and

NOW, THEREFORE, in consideration of the foregoing and the mutual undertakings herein set forth, the parties hereto agree as follows:

# UNOFFICIAL COPY

## I. RECITALS

The foregoing recitals are hereby adopted by the parties hereto and made a part hereof and are binding upon the parties.

## AMENDMENTS TO MORTGAGE AND ASSIGNMENT OF RENTS

The parties agree that the Mortgage and the Assignment of Rents shall be further amended as set forth in this Section II.

A. The Section of the Mortgage titled "MAXIMUM LIEN" is hereby amended to provide that "At no time shall the principal amount of indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$12,000,000.

B. In addition to the Indebtedness under the Note and Related Documents (as defined in the Mortgage), and the obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, the Mortgage and the Assignment of Rents are amended in all respects necessary to provide that the Mortgage and the Assignment of Rents also secure any and all of the obligations of (i) Weber Flavors under the Weber Flavors Credit Agreement and all other agreements, documents and instruments executed by Weber now or hereafter in connection with any loans by Lender to Weber Flavors, and (ii) EAW under the EAW Loan Agreement, the EAW Guaranty and all other agreements, documents and instruments executed by EAW now or hereafter in connection with any loans by Lender to EAW; and (iii) any obligations of any of the Grantor, Weber Flavors or EAW due and owing to the Lender, whether existing on the date hereof or arising on any date hereafter, as such may be renewed, extended, modified, refinanced, consolidated or substituted from time to time.

C. The Mortgage and Assignment of Rents are hereby further amended to provide that any default under the Weber Flavors Credit Agreement or the EAW Credit Agreement shall also be a default under each of the Mortgage and the Assignment of Rents.

D. Grantor agrees that it is a party to and bound by the Second Amendment to Cross Collateralization and Cross Default Agreement of even date herewith among Lender and the "Borrowers" defined therein, and that the terms thereof are incorporated herein by reference.

## WAIVER AND DISCLAIMER

Waiver and Release of Claims. The Grantor represents to the Lender that it has no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever directly against the Lender in connection with the Mortgage, the Assignment of Rents or any extensions or modifications thereof. Without limiting the generality of the foregoing, and in consideration of Lender's agreements hereunder, and to the extent permitted by law, the Grantor hereby releases and forever discharges the Lender, its affiliates and each of

# UNOFFICIAL COPY

their officers, agents, employees, attorneys, insurers, successors and assigns (collectively the "Released Parties"), from and against any and all liabilities, rights, claims, losses, expenses, or causes of action, known or unknown, arising out of any action or inaction by any of the Released Parties to the date hereof with respect to the Mortgage, the Assignment of Rents or any extensions or modifications thereof, or any such matter in any way related thereto or arising in conjunction therewith. The Grantor also waives, releases, and forever discharges the Released Parties and each of them from and against any and all known or unknown rights to setoff, defenses, claims, counterclaims, causes of action or any other bar to the enforcement of this Agreement, the Mortgage, the Assignment of Rents or any extensions or modifications thereof, to the extent permitted by law.

Disclaimer of Reliance. The Grantor expressly disclaims any reliance on any oral representation made by the Lender with respect to the subject matter of this Agreement.

## MISCELLANEOUS

Counterparts. This Agreement may be executed in as many counterparts as may be deemed necessary or convenient, each of which, when so executed, shall be deemed an original but all such counterparts shall constitute but one and the same agreement.

Original Documents. Except as otherwise specifically modified or amended by the terms of this Agreement, the Mortgage, the Assignment of Rents, as amended from time to time, and all provisions contained therein, respectively, shall continue in full force and effect.

# UNOFFICIAL COPY

IN WITNESS WHEREOF, each of Grantor and Lender has caused these presents to be signed as of the day and year first above written.

GRANTOR:

ASP PROPERTIES LLC SERIES 44  
CENTURY DRIVE

By: Andrew Plennert

Name: Andrew Plennert

Title: Manager

LENDER:

BARRINGTON BANK & TRUST  
COMPANY, N.A.

By: Paul Ebert

Name: Paul Ebert

Title: SVP

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## ACKNOWLEDGEMENT

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF Cook     )

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby certify that Andrew Bennett, 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, sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notary seal this 16 day of March, 2020.

[Signature]  
Notary Public



Property of Cook County Clerk's Office

|| | |

|| | |

|| |

|| |

# UNOFFICIAL COPY

## ACKNOWLEDGEMENT

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF Cook     )

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby certify that Paul Paul, Sr of BARRINGTON BANK & TRUST COMPANY, N.A., 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, sealed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

Given under my hand and notary seal this 16 day of March, 2020.

[Signature]  
Notary Public



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A

### LEGAL DESCRIPTION

**PARCEL 1:**

LOT 52 IN PALWAUKEE BUSINESS CENTER UNIT NUMBER 3, A SUBDIVISION IN THE SOUTHEAST ¼ OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

LOTS 54, 55 AND 56 IN PALWAUKEE BUSINESS CENTER UNIT 3, BEING A SUBDIVISION IN THE SOUTHEAST ¼ OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 44 CENTURY DRIVE  
WHEELING, IL 60089

PERMANENT INDEX NOS.: 03-11-407-015  
03-11-407-017  
03-11-407-018  
03-11-407-019

