

# UNOFFICIAL COPY

**This Document Prepared by,  
and after Recording Return to:**

Doc#: 2013407253 Fee: \$98.00  
Edward M. Moody  
Cook County Recorder of Deeds  
Date: 05/13/2020 12:19 PM Pg: 1 of 7

**Kevin S. Werner**  
RFLF 5, LLC  
222 W. Adams #1980  
Chicago, IL 60606

## LOAN MODIFICATION AGREEMENT

This **LOAN MODIFICATION AGREEMENT** ("**Agreement**") is made as of April 27<sup>th</sup>, 2020, by and among **RFLF 5, LLC**, a Delaware limited liability company, its successors and assigns ("**Lender**"), and the following parties, each being referred to herein as an "**Obligor**" (and collectively as the "**Obligors**");

**454 WEST BARRY DEV., LLC**, an Illinois Limited Liability Company, **JOHN C. FEDERICI**, an individual, **JEFFERSON DAVID OFFUTT**, an individual, and **WILLIAM J. FISHER**, an individual, (collectively referred to herein as "**Borrower**");

### Recitals

A. Lender has made a loan (the "**Loan**") to Borrower for the purchase and/or rehabilitation of a condo property (the "**Property**") located in Cook County, IL. The principal balance of the Loan at origination was **\$4,830,000.00** (the "**Loan**") pursuant to the terms and conditions of a certain Promissory Note made payable by Borrower to the order of Lender (the "**Note**"), which Note has a Maturity Date of September 26, 2020.

B. The Note is secured by, among other things, the following documents, each in favor of Lender and dated the date of the Note: a Mortgage (the "**Mortgage**") (collectively referred to herein as the "**Loan Documents**"), each executed by JOHN C. FEDERICI, JEFFERSON DAVID OFFUTT, and WILLIAM J. FISHER and encumbering the real property and all improvements thereon located at and common address:

**454 West Barry Avenue, Chicago, IL 60657**

and legally described in attached Exhibit A, and recorded with the Cook County Recorder of Deeds as Document Number 1905918156 on February 28, 2019 respectively. Lender is insured as to the lien of the Mortgage under a certain title policy (the "**Title Policies**"), as issued by a title insurer ("**Title Insurer**");

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C. The Note, together with the Mortgage, the Construction Loan Agreement, and all other documents evidencing or securing the Loan, in their original form, and the pursuant to this Agreement, are hereinafter collectively referred to as the "**Loan Documents**";

D. As of the date hereof, the outstanding principal balance of the Loan is **\$4,830,000.00**;

E. The Obligors have now requested that the Loan be modified to provide for the creation of an interest reserve, which request the Lender is willing to grant, upon and subject to the following terms and conditions.

**Therefore**, upon good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## Agreements

1. **Recitals: Loan Documents.** The foregoing Recitals are hereby restated, and the aforesaid Loan Documents are hereby incorporated herein by reference.

2. **Creation of Interest Reserve and Increase of Loan Amount.** An interest reserve shall be created in the sum of \$170,000.00 which shall be held by Lender to apply to interest payments that accrue under the Note. Further, the total loan amount will be increased to \$5,004,625.00 which includes a modification fee of \$4,625.00.

3. **Modifications.**

a) Intentionally omitted

4. **Representations and Warranties of the Obligors.** Each of the Obligors hereby represents, covenants and warrants to the Lender that, as of the date hereof: (a) the representations and warranties in the Loan Documents are true and correct; (b) there is no Event of Default under the Loan Documents and such Obligor does not know of any event or circumstance which, with the giving of notice and/or the passage of time, would constitute an Event of Default; (c) the Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they will continue to be the legal, valid and binding obligations of the Obligors, 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 any of the Obligors or any other party whose financial statement has been delivered to the Lender in connection with the Loan from the date of the most recent financial statement received by Lender; and (e) none of Obligors has any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein; (f) Borrower is validly existing under the laws of the State of IL and each Obligor, has the requisite power and authority to execute and deliver this Agreement and to perform its respective obligations under the Loan Documents as modified herein. The execution and delivery of this Agreement and performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of each of the Obligors, and this Agreement has been duly executed and delivered.

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5. **Modification Fee; Expenses.** As a condition of the agreements contained herein, concurrent with the execution of this Agreement, Borrower shall pay Lender's legal fees for drafting this modification on payoff of the Loan.

6. **Interest Charged.** Any extension to the maturity date of the loan will entitle lender to immediately disburse the full amount of the construction portion of this loan into a non-segregated, non-interest bearing construction account (the "construction reserve account"); said funds shall be held in this construction reserve account pending borrower's satisfaction of any and all conditions to disbursement of funds set forth in the loan agreement. Borrower further acknowledges and agrees that all funds disbursed by lender into this construction reserve account shall immediately accrue interest (and borrower shall be responsible for payment of such interest to lender) from the date of disbursement of funds by lender into the construction reserve account.

7. **Reaffirmation of Guaranty.** Each Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of each Guarantor in the Guaranty are, as of the date hereof, true and correct and such Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of each Guarantor, enforceable in accordance with its terms and such Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder.

8. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of IL, and shall not be construed more strictly against the Lender than against the Obligors merely by virtue of the fact that the same has been prepared by counsel for the Lender, it being recognized that the Obligors and the Lender have contributed substantially and materially to the preparation of this Agreement, and the Obligors and the 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.

(b) Notwithstanding the execution of this Agreement by the Lender, the same shall not be deemed to constitute the Lender a venturer or partner of or in any way associated with the Obligors nor shall privity of contract be presumed to have been established with any third party.

(c) The Obligors and the 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 the Obligors and the Lender; and that all such prior understandings, agreements and representations are hereby modified as

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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.

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

(e) References to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the 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.

(f) Lender retains the sole discretion on which loan balance to apply principal payments.

(g) Time is of the essence of the Obligors' obligations under this Agreement.

9. **Counterparts** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. Facsimile signatures shall be deemed originals for purposes of execution.

**SIGNATURE PAGE FOLLOWS**

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IN WITNESS WHEREOF, the Lender and the Obligors have each executed and delivered this Instrument as of the day and year first written above.


**Lender:**

**RFLF 5, LLC**

Sign:   
Name: ALYSSA TEBBITT  
Title: VP OF SERVICING

**Borrower:**

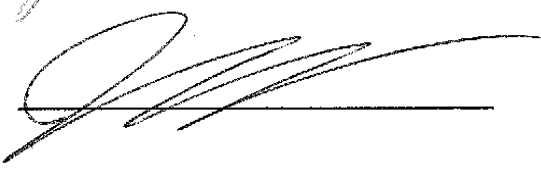
**454 WEST BAKERY DEV., LLC**

Sign:   
Name: JOHN C. FEDERICI  
Title: MEMBER

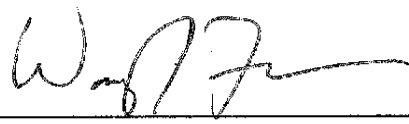
**JOHN C. FEDERICI**



**JEFFERSON DAVID OFFUTT**



**WILLIAM J. FISHER**



Property of Cook County Clerk's Office

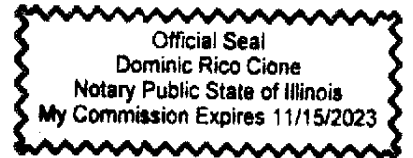
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STATE OF ILLINOIS  
COUNTY OF COOK

### Lender's Acknowledgement

The foregoing Instrument was acknowledged before me on April 23<sup>rd</sup>, 2020 by ALYSSA  
TEBBITT, the VP OF SERVICING of RFLF 5, LLC.

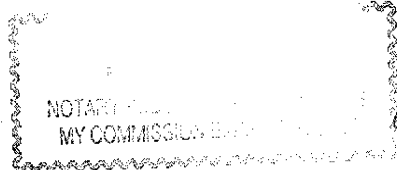
Dominic Rico Cione  
NOTARY PUBLIC



### Borrower's Acknowledgement

The foregoing Instrument was acknowledged before me on April 23<sup>rd</sup>, 2020 by JOHN C.  
FEDERICI.

[Signature]  
NOTARY PUBLIC



The foregoing Instrument was acknowledged before me on April 23<sup>rd</sup>, 2020 by JEFFERSON  
DAVID OFFUTT.

[Signature]  
NOTARY PUBLIC



The foregoing Instrument was acknowledged before me on April 23<sup>rd</sup>, 2020 by WILLIAM J.  
FISHER.

[Signature]  
NOTARY PUBLIC



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## Legal Description - PIN 14-28-105-035-0000

THE EAST 12 FEET OF LOT 13 AND THE WEST 28 FEET OF LOT 14 IN CULVER'S ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

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