

# UNOFFICIAL COPY

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Cook County Clerk  
Date: 01/07/2021 12:02 PM Pg: 1 of 13

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

Sheppard Mullin Richter &  
Hampton, LLP  
70 West Madison Street  
Suite 4800  
Chicago, Illinois 60602  
Terrence E. Budny, Esq.

*This space reserved for Recorder's use only*

## **FOURTH MODIFICATION OF LOAN DOCUMENTS**

**THIS FOURTH MODIFICATION OF LOAN DOCUMENTS** (this "Agreement") is made as of the 30th day of November, 2020, to be effective as of October 10, 2020, by and among **JFA REAL ESTATE, LLC**, an Illinois limited liability company ("Borrower"), and **DANIEL A. LUKAS** and **J. MICHAEL DREW** (each individually, "Guarantor", and collectively, "Guarantors"), and **CIBC BANK USA**, formerly known as The PrivateBank and Trust Company, an Illinois state chartered bank, its successors and assigns ("Lender").

### **Recitals**

A. Lender has heretofore made a loan (the "Loan") to Borrower in the initial principal amount of TWO MILLION SIX HUNDRED SIXTY-FIVE THOUSAND AND 00/100 DOLLARS (\$2,665,000.00) as evidenced by a Promissory Note dated December 19, 2014, in the principal amount of the Loan made payable by Borrower to the order of Lender, as amended by that certain Modification of Loan Documents among Borrower, Guarantors and Lender dated January 31, 2017, by that certain Second Modification of Loan Documents among Borrower, Guarantors and Lender dated July 28, 2017 and recorded with the Recorder of Deeds of Cook County, Illinois (the "Recorder") on September 18, 2017 as Document No. 17261570.1, and by that certain Third Modification of Loan Documents among Borrower, Guarantors and Lender dated July 24, 2020 and recorded with the Recorder on October 19, 2020 as Document No. 2029139306 (collectively, the "Modifications"). Such Promissory Note, as amended by the Modifications and as hereafter amended, restated, replaced or supplemented, is referred to herein as the "Note". Initially capitalized terms used but not expressly defined in this Agreement have the respective meanings given them in the Note. The outstanding principal balance of the Loan as of the date hereof is \$2,081,700.00.

B. The Note is secured by, among other things, (i) that certain Certificate of Representations, Warranties and Covenants dated as of December 19, 2014, by and among Borrower, Guarantors and Lender, as amended by the Modifications (as hereafter amended,

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restated, replaced or supplemented, the "Certificate"; (ii) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of December 19, 2014, from Borrower to Lender and recorded with the Recorder on December 24, 2014 as Document No. 1435856042, as amended by the Modifications (as hereafter amended, restated, replaced or supplemented, the "Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on **Exhibit A** hereto ("Property"); (iii) that certain Assignment of Rents and Leases dated as of December 19, 2014, from Borrower to Lender and recorded with the Recorder on December 24, 2014 as Document no. 1435856043, as amended by the Modifications (as hereafter amended, restated, replaced or supplemented, the "Assignment of Leases"); (iv) that certain Environmental Indemnity Agreement dated as of December 19, 2014, from Borrower and Guarantors to Lender, as amended by the Modifications (as hereafter amended, restated, replaced or supplemented, the "Indemnity Agreement"); (v) that certain Guaranty of Payment dated as of December 19, 2014, from Guarantors to Lender, as amended by the Modifications (as hereafter amended, restated, replaced or supplemented, the "Payment Guaranty"); (vi) that certain Account Pledge Agreement dated as of July 28, 2017 from Borrower in favor of Lender, as amended by the Modifications (as hereafter amended, restated, replaced or supplemented, the "Pledge Agreement"), and (vii) certain other loan documents (the Certificate, the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Payment Guaranty, the Pledge Agreement and the other documents evidencing, securing and guarantying the Loan, in their original form, as amended by the Modifications and as hereafter amended, restated, replaced or supplemented are sometimes collectively referred to herein as the "Loan Documents").

C. Borrower, Lender and Guarantors desire to amend the Loan Documents in accordance with the provisions of this Agreement.

## 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 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. **Extension of Loan Maturity Date.** The Maturity Date of the Loan is hereby extended from October 10, 2020 to April 10, 2021. All references in the Certificate, Note, Mortgage and the other Loan Documents to the Maturity Date, or to October 10, 2020 as the maturity date of the Loan, shall be deemed references to April 10, 2021, as the Maturity Date of the Loan. The Maturity Date is subject to extension to October 10, 2021 in accordance with the provisions of the Amended and Restated Note, as defined below.

2. **Amended and Restated Note.** Simultaneously with the execution and delivery of this Agreement, Borrower has executed and delivered to Lender an Amended and Restated Promissory Note of even date herewith in the principal amount of \$2,081,700.00 (as hereafter amended, restated, replaced or supplemented, the "Amended and Restated Note"), which amends and restates the Note in its entirety. The indebtedness evidenced by the Note, as amended and restated by the Amended and Restated Note, is continuing indebtedness and nothing contained

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herein or in the Amended and Restated Note shall be deemed to constitute payment, settlement or a novation of the Note. The Amended and Restated Note shall constitute a Loan Document. All references in the Mortgage, Assignment of Leases and the other Loan Documents to the 'Note' shall be deemed references to the Amended and Restated Note.

3. **Amendment to Mortgage.** Recital A of the Mortgage is deleted, and the following is inserted in its place:

A. Lender has agreed to loan (the "Loan") to the Mortgagor the principal amount of up to TWO MILLION EIGHTY-ONE THOUSAND SEVEN HUNDRED AND 00/100 DOLLARS (\$2,081,700.00). The Loan provides for a variable interest rate based on LIBOR. The Loan is evidenced by an Amended and Restated Note dated October 10, 2020 (as hereafter amended, restated, replaced or supplemented, the "Note"), executed by the Mortgagor in the maximum principal amount of the Loan and due on April 10, 2020, subject to extension to October 10, 2021 in accordance with the provisions of the Note, except as may be accelerated pursuant to the terms hereof, of the Note or of any other document or instrument now or hereafter given to evidence or secure the payment of the Note or delivered to induce the Lender to disburse the proceeds of the Loan (the Note, together with such other documents, as amended by the Modifications and as hereafter amended, restated, replaced or supplemented, being collectively referred to herein as the "Loan Documents").

4. **Amendment to Pledge Agreement.** The Pledge Agreement is hereby amended by deleting Section 5(g) and inserting the following in its place:

(g) No later than November 30, 2020, Pledgor shall deposit into the Account the amount of \$230,000.00 (the "Debt Service Deposit"). On December 1, 2020, provided no Event of Default has occurred and is continuing, Lender shall apply a portion of the Debt Service Deposit toward payment of the installments of principal on the Loan for both November and December, 2020, in the aggregate amount of Eighteen Thousand and 00/100 Dollars (\$18,000.00), plus payment of all accrued and unpaid interest on the principal balance of the Note outstanding through November 30, 2020. Commencing on January 1, 2021 and continuing on the first day of each month thereafter through and including April 1, 2020, provided no Event of Default has occurred and is continuing, Lender shall apply a portion of the Debt Service Deposit toward an installment payment of principal on the Loan in the amount of Nine Thousand and 00/100 Dollars (\$9,000.00), plus all accrued and unpaid interest on the principal balance of this Note outstanding from time to time.

If the Maturity Date is extended to October 10, 2021 in accordance with the provisions of the Note, (i) Borrower shall have deposited into the Account an additional sum of \$115,000.00, which shall become a part of the Debt Service Deposit, and (ii) on the first day of May, 2021, and on the first day of each month thereafter, through October 1, 2021, provided no Event of Default has occurred and is continuing, Lender shall apply

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a portion of the Debt Service Deposit toward payment of an installment payment of principal on the Loan in the amount of Nine Thousand and 00/100 Dollars (\$9,000.00), plus all accrued and unpaid interest on the principal balance of this Note outstanding from time to time.

The Debt Service Deposit shall constitute a part of the Pledged Funds, and shall not be subject to disbursement in accordance with Section 5(d) above. The unapplied portion of the Debt Service Deposit remaining in the Account on the Maturity Date shall be applied to payment of the principal amount of the Loan.

5. **Permitted Indebtedness.** Lender agrees that the SBA loan obtained by Borrower in July, 2020, in the principal amount of \$150,000.00 (the "SBA Loan"), which is secured by all of Borrower's tangible and intangible personal property, (a) shall constitute Permitted Indebtedness, as defined in the Certificate, and (b) shall not constitute a Prohibited Transfer, as defined in the Mortgage. A default by Borrower under the SBA Loan that continues beyond the expiration of any applicable grace or cure period shall constitute an Event of Default under and as defined in the Note and the other Loan Documents.

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

(a) The representations and warranties of Borrower in the Certificate and the other Loan Documents are true and correct in all material respects as of the date hereof.

(b) There is currently no Event of Default under the Certificate, the Note, the Mortgage or the other Loan Documents, and to the actual knowledge of Borrower there is no event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Certificate, the Note, the Mortgage 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 Borrower 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 Borrower 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, Borrower has no, and hereby irrevocably waives all, claims, counterclaims, defenses, or set-offs with respect to the Loan and the Loan Documents as modified herein.

(f) Borrower 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

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duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

7. **Representations, Warranties and Covenants of Guarantors.** Each Guarantor hereby represents, warrants and covenants, with respect to himself only, to Lender as follows:

(a) The representations and warranties of such Guarantor in the Indemnity Agreement and the Guaranty are true and correct in all material respects as of the date hereof.

(b) There is currently no Event of Default under the Indemnity Agreement or the Guaranty, and such Guarantor does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute any such Event of Default.

(c) The Indemnity Agreement and the Guaranty 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 such Guarantor, 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 such Guarantor from the date of his most recent financial statement received by Lender.

(e) As of the date hereof, such Guarantor has no, and hereby irrevocably waives all, claims, counterclaims, defenses, or set-offs with respect to the Indemnity Agreement and the Guaranty.

(f) This Agreement has been duly executed and delivered on behalf of such Guarantor.

8. **Reaffirmation of Guaranty and Indemnity Agreement.** Each Guarantor ratifies and reaffirms the Guaranty and the Indemnity Agreement and agrees that the Guaranty and the Indemnity Agreement are in full force and effect following the execution and delivery of this Agreement and the modification of the Guaranty and Indemnity Agreement pursuant hereto.

9. **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, attorneys' fees and expenses and a loan fee in the amount of \$10,408.50.

10. **Date-Down Endorsement.** Promptly after recording of this Agreement, Borrower shall deliver to Lender, at Borrower's expense, a date-down endorsement to Chicago Title Insurance Company loan policy no. 72307-43819907, covering the date of recording of this Agreement, which endorsement shall be in form and substance reasonably acceptable to Lender.

11. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantors merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantors and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantors 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 Agreement. Each of the parties to this Agreement represents that it has been advised by its or his respective counsel of the legal and practical effect of this Agreement, and recognizes that it or he is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its or his own free will, without promises or threats or the exertion of duress upon it or him. 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 this Agreement.

(c) The execution of this Agreement by Lender shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantors nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantors 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 Borrower, Guarantors 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 "Certificate", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Certificate, 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.

(g) This Agreement may be executed in any number of counterparts as may be convenient or necessary, and it shall not be necessary that the signature of all parties hereto be contained on any one counterpart hereof. Additionally, the parties hereto agree that for purposes of facilitating the execution of this Agreement, (a) the signature pages taken from the separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts, (b) a facsimile transmission shall be deemed to be an original signature for all purposes, and (c) a signature transmitted by email or in "pdf" format shall be deemed an original signature for all purposes. All executed counterparts of this Agreement shall be deemed

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originals, but all such counterparts taken together or collectively, as the case may be, shall constitute one and the same agreement.

(h) Time is of the essence of each of Borrower's and Guarantors' obligations under this Agreement.

**SIGNATURE PAGE FOLLOWS**

Property of Cook County Clerk's Office

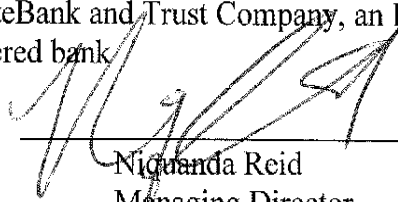
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

LENDER:

CIBC BANK USA, formerly known as The PrivateBank and Trust Company, an Illinois state chartered bank

By: \_\_\_\_\_

  
Niqanda Reid  
Managing Director

BORROWER:

JFA REAL ESTATE, LLC, an Illinois limited liability company

By: \_\_\_\_\_

Daniel A. Lukas  
Its Manager

GUARANTORS:

\_\_\_\_\_

Daniel A. Lukas

\_\_\_\_\_

J. Michael Drew

Property of Cook County Clerk's Office



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IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

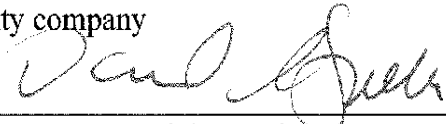
LENDER:

CIBC BANK USA, formerly known as The PrivateBank and Trust Company, an Illinois state chartered bank

By: \_\_\_\_\_  
Niquanda Reid  
Managing Director

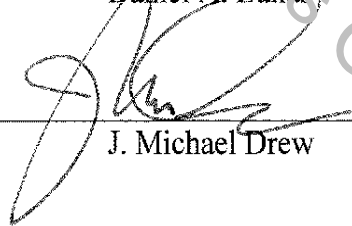
BORROWER:

JFA REAL ESTATE, LLC, an Illinois limited liability company

By:   
\_\_\_\_\_  
Daniel A. Lukas  
Its Manager

GUARANTORS:

  
\_\_\_\_\_  
Daniel A. Lukas

  
\_\_\_\_\_  
J. Michael Drew

Property of Cook County Clerk's Office



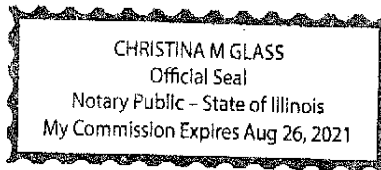
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STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel A. Lukas, the Manager of JFA Real Estate, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, 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 Notarial Seal this 30<sup>th</sup> day of November, 2020.

Christina M. Glass  
NOTARY PUBLIC  
(SEAL)



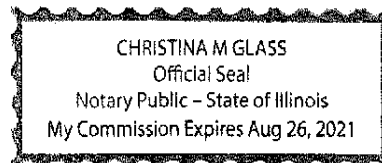
My commission expires AUG. 26, 2021

STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

I, CHRISTINA M. GLASS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Daniel A. Lukas, who 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 signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30<sup>th</sup> day of November, 2020.

Christina M. Glass  
NOTARY PUBLIC  
(SEAL)



My commission expires AUG. 26, 2021



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## EXHIBIT A

### LEGAL DESCRIPTION

#### Parcel A

Parcel I: Part of the Northeast Quarter of the Southeast Quarter, Section 10, and part of the Northwest Quarter of the Southwest Quarter, Section 11, Township 37 North, Range 14 East, Third Principal Meridian, City of Chicago, Cook County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of Lot 21, Block 4, Cottage Grove Heights, City of Chicago, Cook County, Illinois; thence South 00°00'07" West, 93.00 feet to the point of beginning; thence South 89°59'53" East, 35.27 feet; thence North 00°00'07" East, 60.00 feet; thence South 89°59'53" East, 89.63 feet; thence South 00°00'07" West, 324.83 feet; thence North 89°59'53" West, 89.63 feet; thence South 00°00'07" West, 25.17 feet; thence North 89°59'53" West, 855.76 feet; thence North 10°53'09" East, 295.31 feet; thence South 89°59'53" East, 764.73 feet to the point of beginning.

Parcel II: Easement as created by deed from the Chicago, Rock Island and Pacific Railroad Company to Andrew J. Suski dated April 27, 1954 and recorded May 24, 1954 as Document No. 15914334 for ingress and egress.

825 East 99th Street, Chicago, IL 60628

Pin No. 25-11-300-026 (Pt. Parcel I & Other Real Estate); Pin No. 25-11-300-027 (Pt. Parcel I);  
Pin No. 25-11-300-038 (Pt. Parcel I); Pin No. 25-11-300-039 (Pt. Parcel I & Other Real Estate);  
Pin No. 25-11-300-040 (Pt. Parcel I)