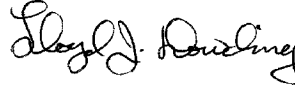


FILED SARPY CO. NE.  
INSTRUMENT NUMBER

**2015-18782**

2015 Aug 03 01:33:56 PM



REGISTER OF DEEDS



COUNTER JS  
VERIFY JS  
FEES \$ 40.00  
CHG SFILE  
SUBMITTED TITLECORE TITLE - COMMERCIA

When Recorded, Please Return To:  
Peter J. Hogan, Esq.  
Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, NY 13202

(SPACE ABOVE RESERVED FOR RECORDER'S USE)

**DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, ASSIGNMENT OF  
CONTRACTS, SECURITY AGREEMENT, AND FIXTURE FILING FIRST MODIFICATION  
AGREEMENT**

**THIS MODIFICATION AGREEMENT INCREASES THE MAXIMUM PRINCIPAL AMOUNT  
OF THE DEBT ENCUMBERED BY THE LIEN OF THE DEED OF TRUST FROM \$6,931,806.00  
to \$7,138,006.31**

THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, ASSIGNMENT OF  
CONTRACTS, SECURITY AGREEMENT, AND FIXTURE FILING FIRST MODIFICATION  
AGREEMENT ("Modification") is made to be effective as of July 31, 2015, by and between RM9A  
HOLDINGS, LLC, a Delaware limited liability company, whose address is 3949 Forest Parkway, Suite  
100, Wheatfield, New York 14120 ("**Borrower**"), and KEYBANK NATIONAL ASSOCIATION, whose  
address is 127 Public Square, Cleveland, Ohio 44114, its successors and assigns ("**Lender**").

**WITNESSETH:**

A. On or about April 30, 2014, Borrower executed and delivered to Lender a Deed of Trust,  
Assignment of Leases and Rents, Assignment of Contracts, Security Agreement, and Fixture Filing  
("**Deed of Trust**"), which was recorded in the Office of the Register of Deeds of Sarpy County, Nebraska  
on April 30, 2014 as Instrument No. 2014-08745 and encumbers, among other things, the real property  
described on Exhibit "A" attached thereto and hereto; and

B. The Deed of Trust secures the performance obligations of a Promissory Note dated as of  
March 31, 2014 ("**Note**") in the stated principal amount of Twenty Five Million Seven Hundred  
Thousand and 00/100 Dollars (\$25,700,000.00) (the "**Loan**") and the payment of Six Million Nine  
Hundred Thirty One Thousand Eight Hundred Six and 00/100 Dollars (\$6,931,806.00) of the Loan, plus  
interest and other charges thereon and the amount of any future advances under Section 9.19 of the Deed  
of Trust; and

D. Borrower has requested that Lender increase the stated principal amount of the Loan, whereby the stated principal amount that may be advanced under the Loan be increased to Twenty Seven Million and 00/100 Dollars (\$27,000,000.00) pursuant to the terms of a Promissory Note (with Consolidation Language) executed and delivered by Borrower to Lender dated of even date herewith (the "**Restated Note**"), and Borrower is willing to have the lien of the Deed of Trust secure Seven Million One Hundred Thirty Eight Thousand Six and 31/100 Dollars (\$7,138,006.31) of the increased principal amount of the Restated Note; and

E. As an inducement to Lender to enter into the transaction evidenced by the Restated Note, and in consideration of Lender doing so, Borrower is willing to execute and deliver this Modification in favor of Lender, and acknowledges good and sufficient consideration for entering into and delivering this Modification.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the parties hereto agree as follows:

1. Modification of Secured Amount of Deed of Trust. Notwithstanding terms to the contrary in the Deed of Trust, all references therein to "Loan" are hereby modified and changed from a loan in the stated principal amount of Twenty Five Million Seven Hundred Thousand and 00/100 Dollars (\$25,700,000.00) to a loan in the stated principal amount of Twenty Seven Million and 00/100 Dollars (\$27,000,000.00) (the "**Restated Loan**"), and all references to a "Promissory Note" or "Note" shall mean and refer to the Restated Note, executed on an even date herewith, in the stated principal amount of Twenty Seven Million and 00/100 Dollars (\$27,000,000.00). The liens and encumbrances of the Deed of Trust shall be limited to principal of Seven Million One Hundred Thirty Eight Thousand Six and 31/100 Dollars (\$7,138,006.31), plus accrued interest and other charges thereon and the amount of any future advances under Section 9.19 of this Deed of Trust.

2. Recording Fees and Title Insurance Premiums. All recording fees associated with the recording of this Modification with the Sarpy County Register of Deeds and all premiums incurred by Lender in connection with increase in the amount of Lender's loan policy insurance amount shall be reimbursed to Lender by Borrower on demand and, if not paid when due, shall bear interest at the default rate set forth in the Restated Note, from the due date until paid in full. In addition, failure to pay such fees shall constitute a default under this Modification and the Restated Loan.

3. Incorporation. All of the terms, conditions, obligations and representations of the Deed of Trust are hereby incorporated herein by reference.

4. No Further Commitment. Borrower hereby acknowledges and agrees that this Modification modifies the Deed of Trust only to the extent and on the terms set forth herein, and this Modification is not, nor shall it be, construed as a commitment by Lender to modify the same in any other respect.

5. Further Assurances. Borrower agrees to execute and deliver such documents and to perform such other acts, promptly upon request, as Lender requests and which are, in Lender's reasonable judgment, necessary or appropriate to effectuate the purposes of this Modification.

6. Governing Law. This Modification shall be construed in accordance with the laws of the State of Nebraska.


7. Execution in Counterparts. This Modification may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURES APPEAR ON THE FOLLOWING PAGE**

IN WITNESS WHEREOF, the parties hereto have executed this Modification to be effective as of the date and year above first written.

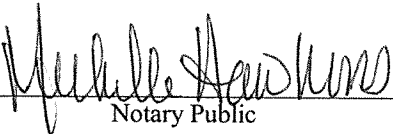
**BORROWER:**

**RM9A HOLDINGS, LLC**, a Delaware limited liability company

By   
Kenneth M. Franasiak, Authorized Signatory

STATE OF NEW YORK     )  
  )SS:  
COUNTY OF ERIE         )

On the 22 day of July in the year 2015, before me, the undersigned, personally appeared KENNETH M. FRANASIAK, the Authorized Signatory of RM9A Holdings, LLC, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed this instrument.


  
Notary Public

MICHELLE HAWKINS  
Notary Public, State Of New York  
Reg. 01HA8087620  
Qualified in Erie County  
My Commission Expires February 24, 2019

IN WITNESS WHEREOF, the parties hereto have executed this Modification to be effective as of the date and year above first written.

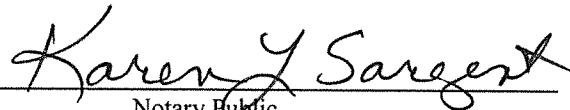
**LENDER:**

**KEYBANK NATIONAL ASSOCIATION**

By:   
David A. Pyc, Senior Vice President

STATE OF NEW YORK        )  
COUNTY OF ERIE         ) ss.:

On the 30<sup>th</sup> day of July in the year 2015 before me, the undersigned, personally appeared DAVID A. PYC, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

KAREN L. SARGENT  
Notary Public, State of New York  
No. 01SA6252767  
Qualified in Erie County  
Commission Expires December 12, 2015

**EXHIBIT "A"**  
**Legal Description**

Lot 4 in Harrison Heights, an addition to the City of LaVista, as surveyed, platted and recorded, in Sarpy County, Nebraska;

Together with non-exclusive easement rights appurtenant thereto for storm sewer, ingress and egress as established by the Plat and Dedication of Harrison Heights recorded December 30, 2009, as Instrument No. 2009-40933 of the Records of Sarpy County, Nebraska.