

2020-016660

Klamath County, Oregon

12/21/2020 04:02:01 PM

Fee: \$122.00

AFTER RECORDING RETURN TO:

Lee Lyman, Esq.

Carlton Fields PA

1201 West Peachtree Street, 30th Floor

Atlanta, Georgia 30309

[Space Above This Line for Recorder's Use]

LINE OF CREDIT INSTRUMENT

SECURITY INSTRUMENT MODIFICATION AGREEMENT

GRANTOR: SAGE AID PROPCO LLC, a Delaware limited liability company

GRANTEE/
TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY

GRANTEE/
BENEFICIARY: KEYBANK NATIONAL ASSOCIATION, a national banking association

The maturity date of the Loan Agreement (as hereinafter defined) secured by this Deed of Trust, exclusive of any option to renew or extend such maturity date, is December 31, 2022. The maximum principal amount to be advance pursuant to the Loan Agreement is \$25,000,000.00; however such maximum principal amount may be exceeded by principal advances made for the reasonable protection of the property pursuant to ORS 86.155.

Subject Property: 2437 Kane Street, Klamath Falls, OR 97603
(Additional legal description in Exhibit "A" of this Instrument)

Assessor's Property Tax Parcel Account Number(s): Account No. E522045; Map No. R-3909-002DB-02500-000 and Account No. P8809541; Map No. P-008732

Recording Information of Deed of Trust: Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing dated June 28, 2017, recorded June 30, 2017, as Instrument No. 2017-007190, in the Official Records of Klamath County, Oregon, by Grantor in favor of Trustee.

SECURITY INSTRUMENT MODIFICATION AGREEMENT

(Rogue River Place – OR)

THIS SECURITY INSTRUMENT MODIFICATION AGREEMENT (this “**Modification**”) is made this 14th day of DECEMBER, 2020, effective as of DECEMBER 18, 2020, by and among **SAGE AID PROPCO LLC**, a Delaware limited liability company, as mortgagor, (hereinafter referred to as “**GRANTOR**”), having its business address at c/o AID Holdings, LLC, 330 N. Wabash, Suite 3700, Chicago, IL 60611, Attn: General Counsel; and **FIRST AMERICAN TITLE INSURANCE COMPANY**, a Nebraska corporation (hereinafter referred to as “**TRUSTEE**”) as trustee for the benefit of **KEYBANK NATIONAL ASSOCIATION**, a national banking association, as Administrative Agent (to the benefit of the Lenders), as beneficiary (hereinafter referred to as “**BENEFICIARY**”, having as a business (and mailing) address at 4910 Tiedeman Road, 3rd Floor, Brooklyn, Ohio 44144;

WITNESSETH:

WHEREAS, GRANTOR is party to that certain Third Amended and Restated Secured Loan Agreement dated as of June 1, 2016, by and among certain borrower parties thereto (collectively, the “**Existing Borrowers**”), and BENEFICIARY, as Lender, as modified by that certain Modification, Master Joinder and Release Agreement dated as of June 28, 2017, as further modified pursuant to that certain Fourth Amended and Restated Secured Loan Agreement dated as of the date hereof (as the same may from time to time be modified, extended, renewed, consolidated, restated or replaced, is hereinafter sometimes referred to as the “**Loan Agreement**”) by and among the Borrowers (as defined in the Loan Agreement from time to time and including GRANTOR collectively, “**Borrowers**”, or each individually a “**Borrower**”), and BENEFICIARY, as Administrative Agent, for the provision of certain loans and letters of credit (as defined in the Loan Agreement as the “**Facility**”) in the total amount of up to Twenty-Five Million and No/100 Dollars (\$25,000,000.00), as more particularly described in the Loan Agreement;

WHEREAS, the Loan Agreement provides, among other things, for final payment of principal and interest due on the Facility, if not sooner paid or payable as provided in the Loan Agreement, to be due on or before the **Maturity Date** (as defined in the Loan Agreement);

WHEREAS, the Obligations of Borrowers under the Loan Agreement are secured by (a) that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing dated June 28, 2017, recorded June 30, 2017, as Instrument No. 2017-007190, in the Official Records of Klamath County, Oregon (as may be modified, assigned, amended, restated or supplemented from time to time, the “**Existing Security Instrument**”), (b) the other Mortgages (as defined in the Loan Agreement), and (c) the other Loan Documents (as defined below);

WHEREAS, the parties hereto desire to amend and modify the Existing Security Instrument, among other things, to reflect modification of the Loan Agreement and incorporate the modification thereof as set forth in the Loan Agreement. Terms used and not defined herein shall have the meaning set forth in the Loan Agreement;

WHEREAS, this Modification is required by and is delivered in compliance with Section 4.3(a) of the Loan Agreement;

WHEREAS, the Existing Security Instrument, as modified and as it may be further modified or amended in accordance with the Loan Agreement is delivered as required by Section 4.3(a) of the Loan Agreement.

NOW, THEREFORE, the parties to the Existing Security Instrument, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants herein, hereby agree that the Existing Security Instrument should be, and the same hereby is, modified and amended as follows:

1. Recitals. The Recitals set out above are true and correct.
2. Ownership of Property. GRANTOR represents that it is the owner of the property described on Exhibit A attached hereto, and further that the Property described on Exhibit A is the "Land" defined by and covered by and secured by the Existing Security Instrument (as it may have been corrected if applicable) and is and remains secured and encumbered by the Existing Security Instrument, as modified hereby. For avoidance of doubt GRANTOR hereby reconfirms its grant of the Premises including the "Land" as defined hereby and thereby. GRANTOR hereby irrevocably and unconditionally does by these presents CONVEY, BARGAIN, SELL MORTGAGE, TRANSFER, ASSIGN, WARRANT, SET OVER, REMISE AND CONFIRM in trust, to TRUSTEE, its successors and assigns, with all powers of sale and all statutory rights under the laws of the State in which the Premises is located and grants to TRUSTEE and its successors and assigns, with all statutory rights under the laws of the State in which the Premises is located, all estate, right, title and interest which GRANTOR now has, or may later acquire, in the Premises (as defined by the Existing Security Instrument), as modified hereby.
3. Security. GRANTOR agrees that the indebtedness evidenced by the Loan Agreement and the Facility is and shall continue to be secured by the Existing Security Instrument as modified hereby.
4. Modification of Existing Security Instrument. The Existing Security Instrument is hereby amended to reflect the following:
 - (i) modification of the Loan Agreement, including but not limited to the extension of the maturity date of the Facility, which Facility has a maturity date as to each of the Notes as set forth in the Loan Agreement; the "Maturity Date" as defined in the Existing Security Instrument shall be modified and replaced by the "Maturity Date" as defined in the Loan Agreement (as the same may be modified, amended, or extended from time to time);
 - (ii) certain properties shall be released as Collateral under the Loan, resulting in certain entities being released as Existing Borrowers (provided that GRANTOR is not a borrower that is being released from its obligations under the Existing Security Instrument and the Loan Agreement);

(iii) All references to the Loan Agreement in the Existing Security Instrument and all other Loan Documents shall henceforth be deemed to be references to the Loan Agreement (as defined in this Modification, and without limiting the generality of this provision, all terms defined in the Existing Security Instrument by reference to the Loan Agreement will have the meanings assigned to them in the Loan Agreement as defined in this Modification), as modified herein and therein (and as it may be further modified, amended, restated, syndicated, participated, extended, increased or renewed);

(iv) All references in the Existing Security Instrument to future advances shall be modified to refer to future advances of up to \$25,000,000.00;

(v) The parties acknowledge and agree that the provisions in the Existing Security Instrument that exclude from the definition of "Premises" or "Collateral", any property held by "Tenants", in no way amend, limit, prohibit or affect the collateral that is separately being provided by the Tenants at the Premises pursuant to the Security Agreement, other Loan Documents or any other instrument (which collateral shall include, without limitation, personal property and condemnation or casualty proceeds of Tenant).

(vi) GRANTOR agrees that during the continuation of an Event of Default, GRANTOR, as grantor, shall not have the consent right set forth in Section 20(b) of the Existing Security Instrument.

(vii) The reference to permitted exceptions in the Existing Security Instrument shall be amended, to the extent necessary to reflect and incorporate the definition of Permitted Exceptions as to the Premises set forth in the Loan Agreement.

5. No Novation. It is the intent of the parties hereto that this Modification shall not constitute a novation or in any way adversely affect the lien or security interest of the Existing Security Instrument. The Premises shall remain subject to the lien, charge and encumbrance of the Existing Security Instrument, which shall continue to secure the Notes, the Facility and indebtedness evidenced by the Loan Agreement and nothing herein contained or done pursuant hereto shall affect or be construed to affect the liens, charges or encumbrances of the Existing Security Instrument, as modified hereby, or the priority thereof over any other liens, charges or encumbrances, or except as may be herein otherwise expressly provided, to release or affect the liability of any party or parties whomsoever who may now or hereafter be liable under or on account of the Notes, the Facility and indebtedness evidenced by the Loan Agreement.

6. Warranties And Representations. GRANTOR hereby reaffirms, warrants and represents to BENEFICIARY that all of it is representations and warranties in the Existing Security Instrument (as modified hereby) are true, complete and correct as of the date hereof and further in addition, represents and warrants to BENEFICIARY as follows:

(a) After giving effect to this Modification, GRANTOR is in compliance with all of the provisions of the Loan Agreement, the Notes, the Existing Security Agreement, as amended hereby and the Loan Documents and all of the other documents executed in connection therewith and herewith and that no default has occurred thereunder nor has any event occurred or

failed to occur which with the passage of time or the giving of notice or both would comprise such a default;

(b) There are no offsets, counterclaims or defenses against the indebtedness evidenced by the Notes, the Existing Security Instrument, and/or the Loan Documents, as each is modified hereby;

(c) GRANTOR has full power, authority and legal right to execute this Modification and to keep and observe all of the terms of this Modification to be observed or performed by GRANTOR;

(d) There are no actions, suits or proceedings pending or, to the knowledge of GRANTOR, threatened against or affecting GRANTOR or Premises which could have a Material Adverse Effect on GRANTOR or the Premises;

(e) GRANTOR has previously delivered to BENEFICIARY all of the relevant formation and organizational documents of GRANTOR, the partners, members, managers or joint venturers of GRANTOR (if any), and all such formation documents remain in full force and effect and have not been amended or modified since they were delivered to BENEFICIARY. GRANTOR hereby certifies that: (i) the above documents are all of the relevant formation and organizational documents of GRANTOR; (ii) they remain in full force and effect; and (iii) they have not been amended or modified since they were previously delivered to BENEFICIARY.

(f) The lien and security interest of the Existing Security Instrument, as modified hereby, is a first lien on the Premises, described therein, and covered thereby and that this Modification will not cause intervening liens to become prior to the lien of the Existing Security Instrument, as modified hereby. If any intervening lien exists or hereafter arises, GRANTOR shall cause the same to be released or subordinated to the lien of the Existing Security Instrument, as modified without limiting any other right or remedy available to BENEFICIARY. GRANTOR has no legal or equitable claim against any mortgagor, trustor or grantor named in the Existing Security Instrument which would be prior to the lien of the Existing Security Instrument, or which would entitle any GRANTOR to a judgment entitling any GRANTOR to an equitable lien on all or any portion of that property prior in lien to the Existing Security Instrument, as modified hereby.

(g) Since the recording date of the Existing Security Instrument, GRANTOR has not further encumbered the Premises, including, without limitation, by entering into any deed of trust, deed to secure debt or mortgage, ground lease, and/or any option to purchase or right of first refusal with respect to the Premises;

(h) GRANTOR modifies and reaffirms its obligations under the Notes, Existing Security Instrument, the Loan Documents and all other documents executed in connection therewith, all as modified hereby and by the Loan Documents.

7. Miscellaneous.

(a) This Modification shall be governed by and construed in accordance with the laws of the State in which the Premises is located. Paragraph or section headings used herein are for convenience only and shall not be used to interpret any term hereof. The Existing Security Instrument, as modified by this Modification and the Loan Documents shall continue in full force and effect. In the event that the terms of this Modification conflict with the terms of the Existing Security Instrument, and/or the Loan Documents, as the case may be, the terms of this Modification shall control. This Modification may not be modified, amended, changed or terminated orally, but only by an agreement in writing signed by the party against whom the enforcement of the modification, amendment, change or termination is sought. If any term, covenant or condition of this Modification shall be held to be invalid, illegal or unenforceable in any respect, this Modification shall be construed without such provision.

(b) Except as hereinabove specifically modified in this Modification, all other provisions of the Existing Security Instrument, and the Loan Documents, as may be modified in connection with this Modification, shall remain unchanged and in full force and effect. Without limiting the generality of any of the provisions of this Modification, nothing herein or in any other instrument or agreement shall be deemed or construed to constitute a novation, satisfaction or refinancing of all or any portion of the Facility, or in any manner affect or impair the lien or priority of the Existing Security Instrument, or the Loan Documents, as each has been modified hereby.

(c) This Modification may be executed in any number of counterparts with each executed counterpart constituting an original, but altogether constituting but one and the same instrument.

(d) This Modification shall be binding upon and inure to the benefit of each of the parties and their respective heirs, legal representatives, executors, successors and assigns.

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IN WITNESS WHEREOF, the GRANTOR AND BENEFICIARY have executed this instrument the day and year first above written.

GRANTOR:

SAGE AID PROPCO LLC, a Delaware limited liability company

By: 

Name: Erich Reutzel

Title: Chief Financial Officer

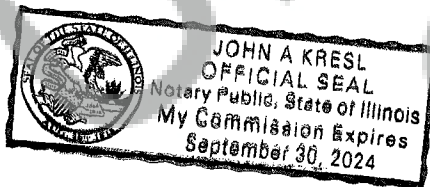
ACKNOWLEDGMENT OF GRANTOR

STATE OF Illinois)
COUNTY OF Cook) ss.

I certify that I know or have satisfactory evidence that Erich Reutzel is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Chief Financial Officer of SAGE AID PROPCO LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: December, 15 2020

(Stamp or seal)





Notary Public for the State of Illinois

Name: John A. Kresl

My Commission Expires: September 30, 2024

IN WITNESS WHEREOF, the GRANTOR AND BENEFICIARY have executed this instrument the day and year first above written.

BENEFICIARY:

KEYBANK NATIONAL ASSOCIATION,
a national banking association

By: [Signature] (SEAL)
Name: Timothy Sylvain
Title: Senior Vice President

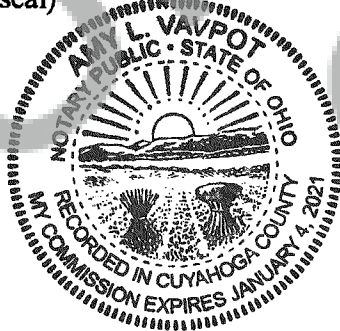
ACKNOWLEDGMENT OF BENEFICIARY

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss.

I certify that I know or have satisfactory evidence that Timothy Sylvain is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Senior Vice President of KEYBANK NATIONAL ASSOCIATION, a national banking association, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 14th December, 2020

(Stamp or seal)



[Signature]
Notary Public for the State of OHIO
Name: Amy L. Vavpot
My Commission Expires: 4th January 2021

AMY L. VAVPOT
NOTARY PUBLIC • STATE OF OHIO
Recorded in Cuyahoga County
My commission expires Jan. 4, 2021

EXHIBIT "A"
LEGAL DESCRIPTION
(ROGUE RIVER PLACE – OR)

REAL PROPERTY IN THE COUNTY OF KLAMATH, STATE OF OREGON, DESCRIBED
AS FOLLOWS:

TRACTS 14 AND 17 KIELSMEIER ACRE TRACTS, ACCORDING TO THE OFFICIAL
PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK, KLAMATH
COUNTY, ORGEGON.

When Recorded Return to:
First American Title Insurance Company
National Commercial Services
666 Third Avenue
New York, NY 10017
File No: FA534OR11*JW