

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
PO Box 45490
MAC U1228-063
Salt Lake City, UT 84145-0490
Attn: J. Brian Duerden
Loan No. 1019124
111398-ETB
APN: 33-08-377-008-0000

13755788
8/26/2021 3:17:00 PM \$40.00
Book - 11228 Pg - 8508-8513
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 6 P.

(Space Above For Recorder's Use)

**MODIFICATION AGREEMENT
AMENDING SECURITY INSTRUMENT**

THIS MODIFICATION AGREEMENT AMENDING SECURITY INSTRUMENT ("Agreement") is entered into as of August 24, 2021, by and between SOLEIL APARTMENT HOLDINGS, LLC, a Utah limited liability company ("Trustor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association (collectively with its successors or assigns, "Lender").

RECITALS

- A. Pursuant to the terms of that certain Construction Loan Agreement dated as of August 27, 2019, by and between Trustor and Lender (as the same may be amended, modified, supplemented or replaced from time to time, "Loan Agreement"), Lender made a loan to Trustor in the original principal amount of Ninety-Three Million and No/100ths Dollars (\$93,000,000.00) ("Loan") evidenced by that certain Promissory Note dated as of August 29, 2019, executed by Trustor payable to the order of Lender in the original principal amount of the Loan ("Note"), as further amended, restated and modified by that certain Amended and Restated Promissory Note of even date herewith (as the same may be amended, modified, supplemented or replaced from time to time, "Amended Note"). Capitalized terms used in this Agreement shall have the meanings attributed to such terms in the Loan Agreement.
- B. The Note is secured by, among other things, that certain Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated August 27, 2019, executed by Trustor in favor of Wells Fargo Bank Northwest, National Association, as Trustee, for the benefit of Lender, as Beneficiary, and recorded August 29, 2019, as Entry No. 13062153 in the official records of Salt Lake County, Utah (as the same may be amended, modified, supplemented or replaced from time to time, "Security Instrument"), encumbering real property described in Exhibit A attached hereto (the "Property").
- C. Trustor and Lender have entered into that certain First Modification and Additional Advance Agreement dated of even date herewith ("Modification Agreement"), wherein provision is made for the amendment of certain obligations secured by that Security Instrument, including, without limitation, an additional advance on the Loan in the principal sum of Seven Million and No/100ths Dollars (\$7,000,000.00) ("Additional Advance"). The Additional Advance is evidenced by the Amended Note in the aggregate principal amount of One Hundred Million and No/100ths Dollars (\$100,000,000.00) ("Aggregate Loan"). Any reference to the Note hereinafter shall mean the Amended Note.
- D. All exhibits, schedules or other items attached hereto are incorporated herein by such attachment for all purposes.

NOW, THEREFORE, Trustor and Lender agree as follows:

1. **NOTICE OF AMENDMENT; AMENDMENT SECURITY INSTRUMENT.** Notice is hereby given that the Loan Agreement and other Loan Documents have been amended and modified pursuant to the Modification Agreement. The Security Instrument is hereby modified and amended to the extent necessary to be consistent with the Modification Agreement, including, without limitation, to provide that the Security Instrument shall secure, in addition to any other obligations secured thereby, the payment and performance by Trustor of all obligations under: (a) the Amended Note in the amount of the Aggregate Loan together with interest and other charges thereon and any and all amendments, modifications, extensions and renewals thereof, whether or not any such amendment, modification, extension or renewal is evidenced by a new or additional promissory note or notes; and (b) the Modification Agreement, as amended, modified, extended or renewed in writing by Trustor and Lender, as well as any related documents required by Lender in connection with the issuance of the same. Accordingly, Section 2.1(a) of the Security Instrument is hereby deleted in its entirety and amended and restated as follows
 - “(a) Payment to Lender of all sums at any time owing, with interest thereon, according to the terms of that certain Amended and Restated Promissory Note dated as of August 24, 2021 (as the same may be amended, modified, supplemented or replaced from time to time, the "**Note**"), in the principal amount of One Hundred Million and No/100ths Dollars (\$100,000,000.00), executed SOLEIL APARTMENT HOLDINGS, LLC, a Utah limited liability company ("**Borrower**"), and payable to the order of Lender; and”
2. **NOT A NOVATION.** The parties each agree and acknowledge that the modifications set forth herein are not intended to be a novation or to constitute or evidence a new loan but rather a continuation of the existing Loan and the lien and charge of the Security Instrument against the Property and all assets and properties described in the Security Instrument shall continue unabrogated and in full force and effect.
3. **RATIFICATION OF DEED OF TRUST.** As amended by this Agreement, the Security Instrument is ratified and confirmed and continues in full force and effect and contains the entire understanding and agreement of the parties in respect of the Security Instrument and supersedes all prior representations, warranties, agreements and understandings. The Security Instrument as modified herein shall be binding upon and inure to the benefit of Trustor and Lender, and their respective successors and assigns. No provision of this Agreement may be changed, discharged, supplemented, terminated or waived except in a writing signed by Lender.
4. **RELEASE AND DISCHARGE.** Trustor fully, finally, and forever releases and discharges Lender, and its respective successors, assigns, directors, officers, employees, agents, and representatives from any and all actions, causes of action, claims, debts, demands, liabilities, obligations, and suits, of whatever kind or nature, in law or equity, that Trustor has or in the future may have, whether known or unknown, (i) in respect of the Loan, the Loan Documents, or the actions or omissions of Lender in respect of the Loan or the Loan Documents, and (ii) arising from events occurring prior to the date of this Agreement.
5. **MISCELLANEOUS.** Except for the amendments above stated, all of the conditions and covenants of the Security Instrument shall remain in full force effect, unchanged, and the Security Instrument is in all respects ratified, confirmed and approved. All of the terms and conditions of the Security Instrument are incorporated herein by reference.
6. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Signature pages may be removed from separate counterparts to form a single document.

7. **CHOICE OF LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to conflicts of law principles.
8. **BINDING EFFECT.** The Security Instrument as modified herein shall be binding upon and inure to the benefit of, Trustor and Lender and their respective successors and assigns.

Except as modified herein, all of the terms and provisions of the Security Instrument shall remain in full force and effect and are hereby ratified and confirmed.

[Signature Pages Follow]

"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association

By: *J. Brian Duerden*
Name: J. Brian Duerden
Title: Director

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 23 day of August, 2021, by J. Brian Duerden, a Director of WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, on behalf of such association.

McKayla Anderson
NOTARY PUBLIC
Residing at: Salt Lake City, UT

My commission expires: 4/14/2023

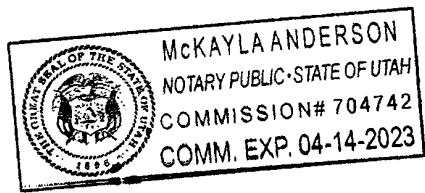


EXHIBIT A - DESCRIPTION OF PROPERTY

Exhibit A to Modification Agreement Amending Security Instrument between SOLEIL APARTMENT HOLDINGS, LLC, a Utah limited liability company, and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, entered into as of August 24, 2021.

All that certain real property located in the City of Herriman, County of Salt Lake, State of Utah, described as follows:

Lot 1, SOLEIL LOFTS APARTMENTS, according to the official plat thereof, filed for record in the office of the Salt Lake County Recorder on April 12, 2019 as Entry No. 12966832 in Book 2019 at Page 127, official records.