

EXTENSION AND MODIFICATION AGREEMENT

THIS EXTENSION AND MODIFICATION AGREEMENT (this "Agreement") dated as of this ___ day of _____, 20__ (the "Effective Date"), by and between I.PARK 87 WEST, LLC, a Delaware limited liability company with an address at 485 West Putnam Avenue, Greenwich, Connecticut 06830 ("Borrower") and ULSTER COUNTY ECONOMIC DEVELOPMENT ALLIANCE, INC., a New York not-for-profit corporation with an address at 244 Fair Street, Kingston, New York 12402 ("Lender").

W I T N E S S E T H :

WHEREAS, Borrower is on the date of this Agreement the owner of certain real property and the improvements situate thereon located in the Town of Ulster, in the County of Ulster, and State of New York, originally designated on the Town of Ulster tax map as Section 48.7, Block 1, Lots 29.100 and 29.200 (the "Premises"), which Premises were conveyed by Lender to Borrower pursuant to the terms of that certain Purchase and Sale Agreement between Lender and Borrower dated as of June 17, 2022 (the "PSA") at a closing on April 6, 2023;

WHEREAS, Lender is on the date of this Agreement the owner and holder of the purchase money mortgage dated April 6, 2023 and recorded in the Office of the Ulster County Clerk on August 1, 2023 in Book 13133 and Page 306 (the "Mortgage") encumbering, among other things, the Premises, and of the promissory note dated April 6, 2023 secured by the Mortgage (the "Note"), which Note and Mortgage evidence and secure a purchase money loan made by Lender to Borrower in the original principal sum of \$6,700,000.00 (the "Loan");

WHEREAS, the Note, the Mortgage, and all other documents securing, guaranteeing or evidencing the Loan, or executed in connection therewith, are herein collectively referred to as the "Loan Documents";

WHEREAS, the original terms of the Note call for the Borrower to make annual installments of principal equal to \$670,000.00, plus all accrued and unpaid interest, commencing on January 2, 2024 and on the second (2nd) date of each and every January thereafter until January 2, 2033;

WHEREAS, the Borrower is desirous of obtaining from Lender an agreement to: (a) extend the maturity date of the Loan and modify certain of the terms and conditions thereof, so that: (i) the Loan is non-interest bearing for the period April 6, 2023 through December 31, 2024; (ii) the annual installments of principal and interest due under the Note are modified; and (iii) the Maturity Date is extended until January 2, 2037; and (b) modify Section 16.30 of the PSA, all as is more particularly hereinafter set forth in this Agreement;

WHEREAS, as an inducement to Lender to agree to such extension and modification, Borrower represents and warrants to Lender that (a) the unpaid principal balance now due and owing on the Note is \$6,700,000.00; (b) no default on the part of Borrower exists under the Loan

Documents, the Mortgage, or the PSA and no other event or condition has occurred or exists which, with the passage of time or giving of notice or both, would constitute a default under the Loan Documents or the PSA; (c) Borrower has no defense to liability or setoff or claim to setoff under the Loan Documents or the PSA; and (d) the Loan Documents and those portions of the PSA that survived the Closing (as defined in the PSA) are in full force and effect; and

WHEREAS, as an accommodation to Borrower, Lender is willing to extend and modify the Loan, the Note, and the PSA as more particularly hereinbelow set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

A. CONDITIONS PRECEDENT TO EXTENSION AND MODIFICATION. Lender's consent to the extension and modification of the Loan and the Note is conditioned upon the satisfaction and performance by Borrower of each of the following at or prior to the closing of the restructuring of the Loan:

1. Execute this Agreement. Borrower shall execute and deliver to Lender this Agreement.
2. Pay Administrative Fee and Attorneys' Fees. Borrower shall pay to Lender: (i) the Administrative Fee that is due on January 1, 2025 in the amount of \$125,000.00 under Section 16.30 of the PSA, as modified by this Agreement; and (ii) the reasonable attorneys' fees and disbursements of Lender in connection with this Agreement.
3. Representations True. All representations and warranties of Borrower contained in this Agreement, in the Loan Documents and in any documents or instruments executed in connection with the transaction contemplated by this Agreement, are true and correct in all material respects as of the date of this Agreement.
4. Performance of Covenants. Borrower shall have performed and fulfilled all covenants and obligations to be performed and fulfilled pursuant to this Agreement on or prior to the date of this Agreement.
5. Real Estate Tax Payments. Borrower shall deliver to Lender evidence that all real estate taxes, water and sewer charges and assessments payable with respect to the Premises are current.
6. Lease Term Commencement Date for the Phase 2 Leased Premises. Borrower shall deliver to Lender a letter or other document amending that certain Lease Agreement dated July 12, 2024 by and between I.Park 87 LLC and Ulster County Economic Development Alliance, Inc. (the "Master Lease") so that the Lease Term Commencement Date for the Phase 2 Leased Premises shall be the date Landlord Substantially Completes all of Landlord's Work as to the Phase

2 Leased Premises, notwithstanding anything to the contrary contained in the Master Lease.

B. MODIFICATION TO LOAN DOCUMENTS. Effective as of the date hereof, the Note and Mortgage, as applicable, are amended as follows:

1. The second and third paragraphs on the first page of the Note are hereby deleted in their entirety and replaced with the following:

“This purchase money note (“Note”), unless otherwise provided herein, shall (i) be non-interest bearing for the period commencing on April 6, 2023 through December 31, 2024; and (ii) bear interest on the unpaid principal balance commencing on January 1, 2025 until maturity (whether by acceleration or otherwise) at an interest rate equal to four (4.00%) percent *per annum*. Interest under this Note will be calculated for each day at 1/360th of the applicable *per annum* rate, which will result in a higher effective annual rate. In no event shall interest under this Note exceed the maximum rate of interest authorized by applicable law.

There shall be no installments of principal or interest due on January 2, 2024 or on January 2, 2025.

Annual installments of accrued interest only on the then outstanding principal balance, each in the amount of \$271,722.22, shall be due and payable on January 2, 2026 and on January 2, 2027.

An annual installment of principal equal to \$300,000.00, plus \$271,722.22 in accrued interest, shall be due and payable on January 2, 2028.

An annual installment of principal equal to \$325,000.00, plus \$259,555.56 in accrued interest, shall be due and payable on January 2, 2029.

An annual installment of principal equal to \$375,000.00, plus \$246,375.00 in accrued interest, shall be due and payable on January 2, 2030.

An annual installment of principal equal to \$400,000.00, plus \$231,166.67 in accrued interest, shall be due and payable on January 2, 2031.

An annual installment of principal equal to \$425,000.00, plus \$214,944.44 in accrued interest, shall be due and payable on January 2, 2032.

An annual installment of principal equal to \$450,000.00, plus \$197,708.33 in accrued interest, shall be due and payable on January 2, 2033.

An annual installment of principal equal to \$475,000.00, plus \$179,458.33 in accrued interest, shall be due and payable on January 2, 2034.

An annual installment of principal equal to \$500,000.00, plus \$160,194.44 in accrued interest, shall be due and payable on January 2, 2035.

An annual installment of principal equal to \$525,000.00, plus \$139,916.67 in accrued interest, shall be due and payable on January 2, 2036.

On the Maturity Date (as hereinafter defined), the remaining unpaid principal balance of \$2,925,000.00, and all accrued and unpaid interest and other charges hereunder, shall be due and payable.

If the 2nd day of January in any given year prior to the Maturity Date is not a Business Day (as hereinafter defined), the due date shall be the next occurring Business Day.”

2. The term “Maturity Date” as originally defined in the Note as January 2, 2033 is hereby deleted in its entirety and replaced with the following:

“Maturity Date” shall mean January 2, 2037, or such earlier date on which the entire indebtedness evidenced by this Note shall become due and payable as provided herein, whether by declaration of acceleration or otherwise.”

3. A new Section 35 is added to the Mortgage as follows:

“The Mortgagor shall meet with Mortgagee and provide Mortgagee with information, as reasonably requested by Mortgagee, including a monthly written update, with respect to the planning, preparation, ongoing construction and general pursuit and status of Mortgagor’s redevelopment of the former IBM site located in the Town of Ulster known as the “Tech City Campus.”

4. Loan Documents. The terms “Note” and “Mortgage” as defined in the Loan Documents shall mean the Note and Mortgage as modified by this Agreement. The term “Loan Documents” shall include this Agreement.

C. **MODIFICATION TO SECTION 16.30 OF THE PSA.**

Effective as of the date hereof, the PSA is amended as follows:

1. Section 16.30 of the PSA is hereby deleted in its entirety and replaced with the following:

“Section 16.30 UCEDA Administrative Fees. PURCHASER expressly acknowledges and agrees that SELLER will dedicate significant time and effort monitoring and administering the terms of this Agreement and the Purchase Money Mortgage. In recognition of SELLER’S efforts, the PURCHASER shall make payment to SELLER in the amount of \$125,000.00

per annum (“Administrative Fees”) until the earlier of: (i) achievement of Final Completion or (ii) the Purchase Money Mortgage is satisfied. The Administrative Fees shall be due commencing January 1, 2025 (“Commencement Date”) and each year thereafter on January 1. Effective one year from the Commencement Date and each year thereafter, the Administrative Fees shall increase annually based on the amount equal to the product of 103% and the Administrative Fees amount for the immediately preceding year. For example, the Administrative Fees due on January 1, 2026 shall be \$128,750.00. The Administrative Fees due on January 1, 2027 shall be \$132,612.50. The obligation to pay the Administrative Fees in this Section 16.30 shall survive the Closing.”

D. REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants to Lender that, as of the date of this Agreement:

1. Enforceability. This Agreement and each of the Loan Documents and the PSA constitute the valid and binding obligations of Borrower and are enforceable against Borrower in accordance with their terms.
2. Financial Condition. Borrower’s financial condition is, and Borrower covenants that such financial condition shall remain, such as to enable Borrower to perform all of its financial obligations as provided in this Agreement. Borrower represents that there has been no material adverse change in its condition which would render inaccurate any fact or information supplied to Lender in connection with this Agreement.
3. Pending Litigation. There is no action, suit, proceeding or investigation pending or threatened against Borrower, or any basis therefor known to Borrower, that questions the validity of this Agreement or any of the Loan Documents, the PSA, or any action taken or to be taken pursuant to such agreements, or in any way affecting the Premises.
4. Title. Borrower has good marketable title to an indefeasible fee estate in the Premises free and clear of all liens except as indicated in Lender’s title policy.
5. Continuous Representations. Borrower is and continues to be in compliance with all representations and warranties contained in the Loan Documents.
6. No Defenses, Set-offs or Counterclaims. Borrower has no defenses, set-offs, or counterclaims of any kind or nature whatsoever against Lender with respect to the Loan Documents or obligations under the Loan Documents, the PSA or obligations under the PSA, or any action previously taken or not taken by Lender with respect thereto or with respect to any security interest, encumbrance, lien, or collateral to secure the outstanding indebtedness under the Loan.

7. No Misrepresentations. Neither this Agreement, any Loan Document, the PSA, nor any other document or certificate furnished to Lender or to legal counsel for Lender in connection with the transactions contemplated by this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statement contained in such document or in this Agreement not misleading.

E. ADDITIONAL AGREEMENTS.

1. Acknowledgment of Reliance. Borrower acknowledges that Lender is specifically relying upon the representations, warranties, and agreements contained in this Agreement, and that this Agreement is being executed by Borrower and delivered to Lender as an inducement to Lender to forbear from exercising contractual rights and remedies available to Lender, including foreclosure, attachment, and prosecution and collection of the outstanding indebtedness under the Loan Documents.
2. Subsequent Bankruptcy. In the event that Borrower files for protection under the United States Bankruptcy Code at any time during the remaining term of the Loan (or any extensions of the Loan), Lender shall be entitled to immediate and unconditional relief from the automatic stay (11 U.S.C. Section 362) in order to initiate and/or complete foreclosure proceedings against the Premises and other security for the Loan.
3. Notices. Any notices or other communications required or permitted under this Agreement shall be sufficiently given if delivered as set forth in the Mortgage or the PSA, as applicable.
4. Amendment. This Agreement shall not be amended or modified in any way except by an instrument in writing executed by each of the parties.
5. Choice of Law. This Agreement shall be governed by and shall be construed in accordance with the laws of the State of New York without regard to conflict of laws rules.
6. Entire Agreement. The Loan Documents and the PSA, as modified by this Agreement, constitute the entire agreement among the parties, and there are no agreements, understandings, warranties or representations with respect to the matters set forth in this Agreement, except as specifically delineated in this Agreement. Any schedules attached to this Agreement are hereby incorporated in this Agreement by reference and made a part of this Agreement. This instrument is not intended to have any legal effect, or to be a legally binding agreement, or any evidence thereof, until it has been signed and delivered by each of the parties and all conditions to effectiveness have been satisfied.

7. Third Party Beneficiaries. This Agreement is entered into for the exclusive benefit of the parties and no other party shall derive any rights or benefits from this Agreement.
8. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives and assigns.
9. Multiple Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
10. Further Assurances. The parties agree that upon the reasonable request of the other party to this Agreement, each such party will execute and deliver to the requesting party such other additional instruments and documents, or perform or cause to be performed such other and further acts and things, as may be reasonably necessary to more fully consummate the transaction as set forth in this Agreement provided, however, that performance by either party under this paragraph shall not create any new and material liability or obligation on the performing party whatsoever.
11. Loan Documents and PSA Provisions Continue. The Loan Documents and the PSA are deemed modified only to the extent necessary to effectuate the intent and agreements of this Agreement. Except as expressly provided in this Agreement, all terms, covenants, conditions and provisions of the Loan Documents and of those provisions of the PSA that survive the Closing of the PSA transaction, shall be and remain in full force and effect as written. Borrower hereby further ratifies and acknowledges and continuing validity and enforceability of the Loan Documents and the PSA, and the obligations and liens evidenced by the Loan Documents and the PSA. In the event of any conflict between the terms of this Agreement and the Loan Documents or the PSA, this Agreement shall control. Except as expressly set forth in this Agreement, this Agreement shall not waive, suspend, diminish or impair the Loan Documents or the PSA, or the obligations, liabilities, liens or security interests represented by the Loan Documents or the PSA.
12. Incorporation of Recitals. The recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
13. Release. Borrower acknowledges, certifies, represents and warrants that he has no claims or defenses in connection with the principal sum, or the interest and other sums heretofore paid or payable pursuant to, or in connection with the Loan Documents or the PSA. Borrower, for himself, and each of his agents, employees, representatives, affiliates, successors, assigns and all persons acting by, through, under or under control of any of the foregoing (hereinafter collectively referred to as "Releasor"), hereby releases, waives, discharges and covenants not to sue Lender or its officers, directors, shareholders, affiliates,

agents, employees, successors, assigns and/or representatives (hereinafter collectively referred to as “Releasee”) with respect to any and all past, present and future claims, causes of action, damages, demands, costs and other liabilities of any kind, direct or indirect, known or unknown, foreseen or unforeseen, which any Releasor now has or which may arise in the future and which relates to the Loan, the Loan Documents or the PSA.

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IN WITNESS WHEREOF, the undersigned have executed this instrument as of the Effective Date.

LENDER:

ULSTER COUNTY ECONOMIC
DEVELOPMENT ALLIANCE, INC.

By: _____

Name: _____

Title: _____

BORROWER:

I.PARK 87 WEST, LLC

By: _____

Name: _____

Title: _____