

**SECOND AMENDMENT TO SECOND AMENDED AND FULLY RESTATED HARDSHIP
PLANNED UNIT DEVELOPMENT AGREEMENT**

This Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement (the "Second Amendment ") made this ____ day of _____, 2024, by and between HAMBURG TOWNSHIP, a Michigan municipal corporation (referred to hereafter as the "TOWNSHIP), and FIRST CHILSON, L.L.C., a Michigan limited liability company ("First Chilson"), whose principal address is 27600 Northwestern Hwy., Suite 200, Southfield, Michigan 48034, and CHILSON COMMONS, L.L.C., a Michigan limited liability company ("Chilson Commons"), whose principal address is 27600 Northwestern Hwy., Suite 200, Southfield, Michigan 48034 (First Chilson and Chilson Commons are collectively referred to hereafter as "DEVELOPERS"), The Kroger Co. of Michigan, a Michigan corporation ("KROGER"), whose address is 1014 Vine Street, Cincinnati, Ohio 45202 and Chilson Commons Shopping Center Condominium Association, a Michigan non-profit corporation (hereafter referred to hereafter as "ASSOCIATION"), whose address is 27600 Northwestern Hwy., Suite 200, Southfield, Michigan 48034. TOWNSHIP, DEVELOPERS, KROGER and ASSOCIATION are sometimes hereinafter individually referred to as a "Party" and collectively, as the "Parties."

RECITALS

WHEREAS. KROGER is the successor-in-interest to Chilson Commons with respect to Units 7 and 11, having purchased said Units in the Chilson Commons Shopping Center Condominium ("Condominium"); and

WHEREAS. Chilson Commons is the successor-in-interest to The Huntington National Bank, a national banking association ("Huntington"), successor by merger to TCF National Bank, a national bank association ("TCF"), with respect to Unit 8, having purchased said Unit in the Chilson Commons Shopping Center Condominium ("Condominium"); and

WHEREAS, the DEVELOPERS, KROGER and ASSOCIATION are owners of 67.66 more or less acres of land located in Hamburg Township, Livingston County, Michigan, a portion of which is improved with a commercial shopping center, more particularly described as:

The East 116 rods in width of that part of the Southeast fractional 1/4 of Section 22, T.1N., R.5E., Hamburg Township, Livingston County, Michigan, which lies North of the Huron River and the Grand Trunk Railroad Excepting that portion lying northerly and westerly of a line described in Liber 3121 on page 135, Livingston County Records, and also excepting that portion taken for M-36, and

being more particularly described as follows: Commencing at the East 1/4 Corner of Section 22; thence along the east line of said section, S 01°08'26" E, 95.25 feet to the south line of M-36 (66' wide) and the Point of Beginning; thence continuing along said east line, S 01°08'26" E, 1722.26 feet to an intermediate traverse line; thence along said line S 86°45'31" W, 600.53 feet; thence continuing along said traverse line, S 70°12'36" W, 234.21 feet to the north line of the abandoned Grand Trunk Western Railroad right-of-way (100' wide); thence along said right-of-way, N 50°41'56" W, 1434.77 feet to the west line of the east 116 rods of the Southeast fractional 1/4 of said Section 22, as measured perpendicular to the east line of said section; thence along said west line, N 01°08'26" W, 871.07 feet to the south line of the aforementioned recorded line, said line being the south line of M- 36 (variable width); thence along said recorded line the following three courses, N 88°31'32" c, 611.94 feet and N 87°40'10" E, 385.42 feet and N 02°19'50" W, 55.89 feet to the south line of M- 36 (66' wide); thence along said south line the following two courses, N 88°05'53" E, 680.02 feet and 247.88 feet along a curve to the right having a radius of 482.60 feet and a chord that bears S 77°11'40" E, 245.16 feet to the east line of said section 22 and the Point of Beginning. Also including the land lying between the Intermediate Traverse Line and the Huron River. Containing a net area of 67.66 acres more or less.

(the "Property"); and

WHEREAS, the DEVELOPERS petitioned for Hardship Planned Unit Development (the "HPUD") approval pursuant to Article 16 of the Hamburg Township Ordinance for the development of the Property; and

WHEREAS, on November 6, 2002, the Hamburg Township Planning Commission recommended approval of the HPUD with the conditions as set forth in Exhibit A to the Hardship Planned Unit Development Agreement dated January 28, 2004 and recorded with the Livingston County Register of Deeds at Liber 4350, Page 643, Livingston County Records (the "HPUD Agreement"); and

WHEREAS, on December 17, 2002, the Hamburg Township Board approved the HPUD with the conditions as set forth in Exhibit B to the HPUD Agreement; and

WHEREAS, on December 21, 2010, the TOWNSHIP, DEVELOPERS and the ASSOCIATION amended the HPUD Agreement by entering into the First Amendment to Hardship Planned Unit Development Agreement; and

WHEREAS, on December 4, 2020, TOWNSHIP, DEVELOPERS, KROGER, TCF and ASSOCIATION further amended the HPUD Agreement by entering into the Second Amended and Fully Restated Hardship Planned Unit Development; and

WHEREAS, on August 3, 2022, TOWNSHIP, DEVELOPERS, KROGER, HUNTINGTON and ASSOCIATION further amended the HPUD Agreement by entering into the First Amendment to Second Amended and Fully Restated Hardship Planned Unit Development. References to "HPUD Agreement" herein below shall refer to the forgoing Second Amended and Fully Restated HPUD as amended by First Amendment to Second Amended and Fully Restated Hardship Planned Unit Development; and

WHEREAS, the Hamburg Township Zoning Ordinance, Section 16, provides for approval of the HPUD, and authorizes and permits, among other things, the modification of the Zoning Ordinance regulations with respect to use, area, heights, bulk and placement within and in the case of such HPUD; and

WHEREAS, it is the desire of the TOWNSHIP to ensure that the Property is developed and used in accordance with its lawful rules and regulations and pursuant to the conditions imposed in the HPUD approval granted by the TOWNSHIP; and

WHEREAS, DEVELOPERS seek to further amend the HPUD Agreement to modify the size and configuration of Units 7 and 9 of the Condominium and convert a portion of the existing Unit 9 into a General Common Element by amending the HPUD Site Plan and corresponding legal descriptions within the Chilson Commons Shopping Center Condominium property ("Parcel 1" on Exhibit A to the HPUD Agreement) without modifying the overall size of said Parcel 1; and

WHEREAS, DEVELOPERS caused an amended parcel layout (the "Second Amendment to HPUD Site Plan") to be prepared and submitted to the Township for its approval showing the newly proposed layout of Parcel 1, including the corresponding legal descriptions. The Second Amendment to HPUD Site Plan attached hereto as **Exhibit A** was prepared by Professional Engineering Associates, Job Number 2021-0175, dated August 29, 2023; and

WHEREAS, the Second Amendment to HPUD Site Plan was approved by the TOWNSHIP on _____, 2024 in accordance with Sections 36-449 and 36-77 of the Hamburg Township Zoning Ordinance, contingent upon the recording of this Second Amendment.

NOW, THEREFORE, it is hereby agreed between the TOWNSHIP, KROGER, DEVELOPERS and ASSOCIATION as follows:

1. This Second Amendment, is hereby approved in accordance with the authority granted to and vested in the Township under and pursuant to ACT 184, Public Acts of 1943, the Township Zoning Act; Act No. 285, Public Acts of 1931, and Act No. 168, Public Acts of 1958, related to municipal planning, and in accordance with the Township's Zoning Ordinance Article 16.

2. Notwithstanding the provisions of Paragraph 2.D.5(d) of the HPUD Agreement to the contrary, a new access point is hereby permitted to provide ingress and egress from Revised Unit 9, as described in Second Amendment to HPUD Site Plan (see, Exhibit A described below), to M-36 provided that the same is first approved by the Michigan Department of Transportation, including the specific location thereof and the same may be incorporated in the Site Plan for said Unit 9.

3. Exhibit A to the HPUD Agreement is hereby amended and fully superseded by the Second Amendment to HPUD Site Plan attached hereto as Exhibit A.

4. This Second Amendment may not be amended except in writing signed by the parties and recorded in the same manner as this Second Amendment.

5. This Second Amendment shall be governed by the laws of the State of Michigan, both as to interpretation and performance. Any and all suits for any and every breach of this Agreement may be instituted and maintained in any court of competent jurisdiction.

6. No waiver of any breach of this Second Amendment shall be held to be a waiver of any subsequent breach. All remedies afforded in this Second Amendment shall be taken and construed as cumulative in addition to every other remedy provided by law.

7. The signors of this Second Amendment warrant and represent that they have the authority to sign this Agreement on behalf of their respective principals and the authorities that bind each Party to this Second Amendment according to its terms. Further, each of the Parties represent that the execution of this Second Amendment has been duly authorized and is binding on such Parties.

8. DEVELOPER has negotiated with the TOWNSHIP the terms of this Second Amendment, and the same represents the product of the joint efforts and mutual agreements of DEVELOPER and the TOWNSHIP.

9. The Recitals contained in this Second Amendment and all exhibits attached to this Second Amendment and referred to herein shall for all purposes be deemed to be incorporated in this Second Amendment by this reference and made a part hereof. Headings are descriptive only.

10. Both parties acknowledge and agree that they have had the opportunity to have the Second Amendment to HPUD Site Plan, HPUD Terms & Conditions, and this Second Amendment, reviewed by legal counsel.

11. Except as amended hereby, the HPUD Agreement shall remain in full force and effect and is hereby confirmed, ratified and approved.

[remainder of page intentionally left blank]
[signatures and notarizations on following pages]

*[Signature lines of the Second Amendment to Second Amended and Fully Restated Hardship
Planned Unit Development Agreement.]*

Signed the day and date first above written.

HAMBURG TOWNSHIP, a Michigan
municipal corporation

By: _____

Its: _____

By: _____

Its: _____

By: _____

Its: _____

STATE OF MICHIGAN)
)SS
COUNTY OF LIVINGSTON)

The foregoing Second Amendment to Second Amended and Fully Restated Hardship
Planned Unit Development Agreement was acknowledged by me on _____,
2024, by _____, _____ and
_____, the _____, _____ and
_____ respectively, of Hamburg Township, a Michigan Municipal corporation,
for and on behalf of such municipal corporation.

Notary Public

[printed name]
In the County of _____ Michigan
My Commission Expires: _____
Acting in _____ County, Michigan

[signatures and notarizations continued on following pages]

[Signature lines continuing from page 5 of the Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement.]

Signed the day and date first above written.

FIRST CHILSON, L.L.C., a Michigan
limited liability company

By: WILLIAM E. WATCH
Its: Manager

STATE OF MICHIGAN)
)SS
COUNTY OF LIVINGSTON)

The foregoing Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement was acknowledged by me on _____, 2024, by WILLIAM E. WATCH, the Manager of First Chilson, L.L.C., a Michigan limited liability company, and for and on behalf of such company as said limited liability company's free act and deed.

Notary Public

In the County of _____ Michigan
My Commission Expires: _____
Acting in _____ County, Michigan

[signatures and notarizations continued on following page]

[Signature lines continuing from page 6 of the Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement.]

Signed the day and date first above written.

CHILSON COMMONS, L.L.C., a Michigan
limited liability company, MI

By: First Chilson, L.L.C., a Michigan
limited liability company
Its: Manager

By: WILLIAM E. WATCH
Its: Manager

STATE OF MICHIGAN)
)SS
COUNTY OF LIVINGSTON)

The foregoing Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement was acknowledged by me on _____, 2024, by WILLIAM E. WATCH, Manager of First Chilson, L.L.C., Manager of Chilson Commons, L.L.C., a Michigan limited liability company, , for and on behalf of such limited liability company, as said limited liability company's free act and deed.

Notary Public

In the County of _____ Michigan
My Commission Expires: _____
Acting in _____ County, Michigan

[signatures and notarizations continued on following page]

[Signature lines continuing from page 8 of the Second Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement.]

Signed the day and date first above written.

CHILSON COMMONS SHOPPING
CENTER CONDOMINIUM ASSOCIATION,
a Michigan non-profit corporation

By: William E. Watch
Its: President

STATE OF MICHIGAN)
)SS
COUNTY OF _____)

The foregoing First Amendment to Second Amended and Fully Restated Hardship Planned Unit Development Agreement was acknowledged by me on _____, 2024, by William E. Watch, President of Chilson Commons Shopping Center Condominium Association, a Michigan non-profit corporation, as said corporation's free act and deed.

Notary Public

[printed name]
In the County of _____ Michigan
My Commission Expires: _____
Acting in _____ County, Michigan