

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD
FINANCE, LLC, JEROME H. COHEN, and
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. Manish S. Shah

**MIDLAND’S¹ MOTION FOR ADJUDICATION OF SINGLE CLAIM STATUS
AND DISTRIBUTION REGARDING PROPERTY NO. 47**

Pursuant to Magistrate Judge Kim’s October 24, 2022 email, Midland hereby moves for an adjudication that 5437 S Laflin Street, designated as Property No. 47 (“P47”), should be treated as a single claim property in which Midland makes the sole claim other than the claims for fees, costs and expenses made by the Receiver.

As discussed in more detail below, Michael Borgia, the only claimant to P47 besides Midland, at one time had a secured interest that he released. Borgia did not document his claims, providing an alternative basis for adjudication in favor of Midland. And finally, the available evidence from the SEC’s EquityBuild Database reflects that Borgia had only an unsecured interest when Midland’s mortgage was made.

Accordingly, Midland is the only secured claimant and is entitled to a distribution from the Receiver’s fund for P47 subject to any fees, costs and expenses of the Receiver the Court allows.

¹ “Midland” refers to Midland Loan Services, a Division of PNC Bank, N.A. as servicer for Wilmington Trust, N.A., as Trustee for the Benefit of Corevest American Finance 2017-1 Trust Mortgage Pass-Through Certificates.

SUMMARY OF RELEVANT FACTS

Amount available for distribution. The amount in the Receiver's Account as of October 31, 2022 was \$45,869.64 (Dkt. 1328 at p.21). While the Receiver's fees and expenses continue to accrue, the Receiver appears to claim approximately \$13,500 in fees and expenses. *See, e.g.*, Dkt. No. 1296 at p.8.

Borgia's Claim No. 231. Just one person, other than Midland, submitted a claim on P47. The other claim was submitted by Individual Investor-Lender Michael Borgia ("Borgia"). *See, e.g.*, Dkt. 1280 at p. 50 identifying claim by Michael Borgia as to P47 as claim number 231. Borgia's Claim No. 231 asserts that, as to P47, Borgia loaned EquityBuild \$250,000.00, and received back \$73,500 in interest and \$110,000 in principal, thus rendering Borgia's self-asserted claim amount as to P47 as \$66,500. Claim 231 at p.16.

Borgia's Claim No. 231 was submitted on June 19, 2019 *pro se* and, according to the Court's docket, no attorney has filed an appearance on Borgia's behalf in the matter. Borgia also asserts claims as to two other properties, 109 North Laramie (Property No. 115) and 7201 Constance (Property No. 78). Claim No. 231 at p.16. As evidence in support of his claim, Borgia submitted only a single page which appears to be a portion of bank statements Borgia received (the page submitted states it is page 6 of 32 pages) reflecting transfer out of what appears to be Borgia's accounts to send investment money to "Equitybuild Inc.", but the two amounts listed are identical to the amounts Borgia claims to have invested on Property Nos. 115 and 78; Borgia's Claim No. 231 provides no evidence or documentary backup concerning P47, or the \$250,000 Borgia claims to have invested as to P47. *See* Claim No. 231 at p.44 of 44.

Magistrate Judge Kim Solicits settlement position with no response from Borgia. On October 11, 2022, Magistrate Judge Kim solicited the P47 claimants, Midland and Borgia, to provide their position regarding the distribution of any remaining funds in the Receiver's account

associated with P47 by October 14, 2022. On October 13, 2022, Midland replied and stated that its position was that it should receive a full distribution of any remaining funds because it is the only secured claimant noting that Borgia had released any secured interests he had. Borgia did not respond to Magistrate Judge Kim's email. On October 24, 2022, Magistrate Judge Kim noted that Borgia had not responded and suggested that Midland file "a motion for an adjudication that Property No. 47 is a single claimant property... This is my last email regarding this property." Midland accordingly files this motion now upon the suggestion of Magistrate Judge Kim.

Midland's Claim No. 1464. Midland's claim is Number 1464. Midland is represented by Michael Napoli and Thomas Fullerton of Akerman LLP, along with Todd Gale, Brett Natarelli, and Michael Gilman of Dykema Gossett PLLC. Midland's Loan is cross-collateralized among 7 properties, three of which are still part of this Receivership: 2129 W. 71st St, 6759 S. Indiana, 5437 S. Laflin (P47), 9610 S. Woodlawn, 8809 S. Wood, 7304 S. St. Lawrence (Property No. 49) and 7760 S. Coles (Property No. 50). The Court has already distributed the proceeds associated with the properties not numbered. Midland's claim is based on a mortgage which secures a loan made by Colony American Finance Lender LLC ("Colony") to EB South Chicago 3 LLC for \$1,491,000, recorded in Cook County land records as Document 171922020 (Exhibit ("Exh.") 1, "Midland's Mortgage"). Midland's Mortgage was executed on May 25, 2017, and was recorded on June 28, 2017. Midland's Mortgage was later assigned to Midland. Exh. 2.

Borgia's Mortgages and Releases of Mortgages. On September 7, 2010, "Michael Borgia, c/o Hard Money Company, LLC" executed a mortgage reflecting that he loaned Chad Johnstun \$250,000 which was secured by a mortgage encumbering P47. Exh. 3 ("Borgia's 2010 Mortgage"). Borgia's 2010 Mortgage was recorded on November 3, 2010. Exh. 3. On July 29, 2014, Borgia - via signature by an attorney-in-fact - released Borgia's 2010 Mortgage, and said release was

recorded as Document Number 1423256022 on August 20, 2014 (Exh. 4, “Borgia’s First Release”).

On July 24, 2014, Johnstun and Borgia entered into another mortgage likewise securing a \$250,000 loan from Borgia to Johnstun with P47 serving as the collateral. Exh. 5, “Borgia’s 2014 Mortgage”). Borgia’s 2014 Mortgage was recorded on August 20, 2014 as Document Number 1423256023, the same day that Borgia’s First Release was recorded as evidenced by the sequential Document Numbers provided by the Cook County Recorder of Deeds and the dates stated on the respective documents.

On May 19, 2017, Borgia – personally signing for himself, as notarized by a Nassau County, New York notary – acknowledged repayment of Borgia’s 2014 Mortgage and quitclaimed to Johnstun any interest he had under Borgia’s 2014 Mortgage (“Borgia’s Final Release”). Borgia’s Final Release was recorded on June 2, 2017. Exh. 6. Johnstun in turn conveyed “all interest” he had by warranty deed to EB South Chicago 3 LLC, which is the entity to whom Midland’s predecessor in interest made the loan secured by the Midland Mortgage. Exh. 12.

LEGAL STANDARD

District courts have broad powers and wide discretion to approve distributions regarding receivership funds. *See, e.g., SEC v. Enterprise Trust Co.*, 559 F.3d 649, 652 (7th Cir. 2009) (“District judges possess discretion to classify claims sensibly in receivership proceedings.”)

ARGUMENT

I. Midland Has Priority Over All Unsecured Claims on P47.

Midland is the only secured claimant. As a secured claimant, Midland is entitled to priority over unsecured claimants. Any secured interest Borgia may have had could only have been by virtue of Borgia’s 2010 Mortgage or Borgia’s 2014 Mortgage. Borgia released both. Exhs. 4, 6.

Pursuant to 765 ILCS 935/35, Borgia's First Release and Borgia's Final Release are each effective to release the liens described therein. That leaves Midland's Mortgage as the only secured interest on the land records, and the only secured claim admitted in these receivership proceedings, with respect to P47. Exh. 1. The Court need go no further to adjudicate that any funds in the Receiver's Account, subject to the Receiver's fee claims and subject to Midland's objections to same, should be awarded to Midland. *See, e.g., Ready v. Ready*, 300 Ill. App. 42, 51, 20 N.E.2d 636, 640 (2nd Dist. 1939) (later-recorded mortgage takes priority where earlier-recorded mortgage is released of record).

II. Borgia's Claim Fails Because Borgia Did Not Properly Document His Claim.

Borgia's Claim No. 231 failed to include any evidence that Borgia submitted \$250,000 in funds to EquityBuild associated with Property No. 47. As discussed above, Borgia submitted just a single page of a bank statement and no other documentation to support his claim. *See* Claim No. 231 at p.44 of 44. The single page in question appears to show deposits Borgia made with EquityBuild with regard to other properties, but no transfer for \$250,000 (the amount of both mortgages) or transfer associated with P47 is reflected on such single page. The Court may order that Midland has priority over Borgia for this reason alone. *See* Dkt. 1201 at 12 (Receiver's argument that claimants who failed to submit documentation should be disallowed).

III. Borgia's Claim Fails Because He Agreed to Rollover to an Unsecured Position.

While the Court need not look beyond the face of the Releases to rule in favor of Midland, additional evidence from the SEC's EquityBuild Database (*see, e.g.,* Dkt. 1040) supports that Borgia was well aware of the consequences of releasing his secured interest and did so knowingly by accepting an unsecured position in which he was paid interest as to P47. As shown below, Borgia understood his interest in P47 was rolled over to an unsecured status and therefore Midland should have priority. *See* Dkt. 1201 at pp. 10-11 (Receiver's argument that "claimants who agreed

to relinquish their secured interest by rolling their secured loan to either an equity position or an unsecured promissory note” should “be treated as unsecured creditors...”).

First, there does not appear to be any reasonable dispute that Borgia voluntarily signed Borgia’s Final Release because, on May 19, 2017, Shaun Cohen sent the blank unsigned version of what became Borgia’s Final Release to Borgia soliciting his signature (Exh. 7, REL 758130 from the SEC’s EquityBuild Database), and Borgia’s signature was notarized in Nassau County, New York on the same day (Exh. 6) where Borgia resides (Claim No. 231 at p.13). Borgia has not asserted that either of his releases (Exhs. 4, 6) were fraudulent, and the correspondence from 2018 discussed below does not suggest that Borgia believed the earlier release (Exh. 4) was improper.

Second, Borgia appears to have agreed to receive – and did receive – interest payments associated with his investment in P47 via a “UPN” – Unsecured Promissory Note – and thus realized he was unsecured. On July 18, 2017, just two months after Borgia’s Final Release was recorded, Shaun Cohen stated internally at EquityBuild that Borgia had only a UPN on P47: “Borgia still has a loan balance and he is aware of it. Laflin was refinanced before and that was when Borgia was placed in the UPN.” Exh. 8, REL749458 from SEC’s EquityBuild Database. On May 4, 2018 Borgia himself commented: “This UPN which had a 1/30/18 maturity date replaced an investment that was made over 5 years ago.” Exh. 9, REL595903 from SEC’s EquityBuild Database. In context, Borgia must be referring to P47 (Laflin) because Borgia made his statement about the UPN in response to receiving a payment history for Laflin (P47) reflecting interest payments of \$1,633.33 per month between February 28, 2017 and April 30, 2018, described as “UPN Replacing 5437 S Laflin – Borgia.” Shaun Cohen told Borgia on April 20, 2018, that “we will be performing on an amortized upn to pay back your \$250k on Lafiln...” Exh. 10, REL594942 from SEC’s EquityBuild Database. And finally, Borgia confirmed he knew he had “several UPNs”

generally on June 9, 2018. Exh. 11, REL719277 from SEC's EquityBuild Database. Thus, Borgia was generally aware he had unsecured positions, and at least as of May 4, 2018 was aware that P47 was one of them, having known since at least April 20, 2018 that an unsecured loan would be the arrangement.

CONCLUSION

WHEREFORE, Midland respectfully requests that the Court enter an order (i) designating P47 as a Single-Claim Property, and (ii) distributing the proceeds in the P47 Receiver's account to Midland after deducting any of the Receiver's fees, costs or expenses allowed by the Court.

Dated: November 8, 2022

Respectfully submitted,

/s/ Brett J. Natarelli

Edward S. Weil (eweil@dykema.com)
Michael A. Gilman (mgilman@dykema.com)
Todd Gale (tgale@dykema.com)
Brett J. Natarelli (bnatarelli@dykema.com)
Dykema Gossett PLLC
10 S. Wacker Drive
Suite 2300
Chicago, IL 60606
Phone: (312) 876-1700

*Counsel for Midland Loan Services, a Division of
PNC Bank, N.A. as servicer for Wilmington Trust,
N.A., as Trustee for the Benefit of Corevest
American Finance 2017-1 Trust Mortgage Pass-
Through Certificates*

4883-9327-2637.2

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2022, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent electronic notification of the filing on the same day and was served upon all counsel of record via the Court's CM/ECF system and I caused a copy of the foregoing to be mailed to the address below via US Mail, and emailed a copy to the specified email address.

Michael Borgia
43 Woodland Drive
Oyster Bay, NY 11771
mtborgia@gmail.com.

s/ Brett J. Natarelli _____

Exhibit 1

NOT AN OFFICIAL DOCUMENT

Document #: 1330-1 Filed: 11/08/22

Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785



Doc# 1717922020 Fee \$114.00

RNSP FEE: 59.00 RRP FEE: 55.00

KAREN A. YARBROOK

COOK COUNTY RECORDER OF DEEDS

DATE: 06/28/2017 10:31 AM PG: 1 OF 32

The property identified as: **PIN:** 20-30-104-004-0000

Address:

Street: 2129 W 71ST ST

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60636

Lender: COLONY AMERICAN FINANCE LENDER LLC

Borrower: EB SOUTH CHICAGO 3 LLC

Loan / Mortgage Amount: \$1,491,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

Certificate number: D18CC954-9C82-4029-B81A-33B604244B1B

Execution date: 5/25/2017



NOT AN OFFICIAL DOCUMENT

Document # 1330-1 Filed: 11/08/22

PREPARED BY:
Colony American Finance
c/o Michelle Aileen Fallis
1920 Main St., Suite 850
Irvine, CA 92614

UPON RECORDATION RETURN TO:
QS National, LLC
2470 Satellite Blvd., Suite 200
Duluth, GA 30097
(770) 497-9100

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT
AND FIXTURE FILING**

EB SOUTH CHICAGO 3 LLC
(Mortgagor)

to

COLONY AMERICAN FINANCE LENDER, LLC
(Mortgagee)

Dated: As of May 26, 2017

County: Cook

State: Illinois

NOT AN OFFICIAL DOCUMENT

Document #: 1330-1 Filed: 11/08/22

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT
AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*") is made as of May 26, 2017, by EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company, as mortgagor, having an address at 201 N Westshore Dr., Ste 1501, Chicago, IL 60601 ("*Mortgagor*"), for the benefit of COLONY AMERICAN FINANCE LENDER, LLC, a Delaware limited liability company, as mortgagee, having an address at c/o Colony Capital, LLC, 515 South Flower Street, 44th Floor, Los Angeles, CA 90071 Attn: General Counsel (together with its successors and/or assigns, "*Mortgagee*").

WITNESSETH:

A. This Mortgage is given to secure a commercial loan (the "*Loan*") in the principal sum of ONE MILLION FOUR HUNDRED NINETY-ONE THOUSAND AND NO/100 DOLLARS (\$1,491,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof by and between Mortgagor and Mortgagee (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "*Loan Agreement*"), and evidenced by that certain Promissory Note dated the date hereof made by Mortgagor to Mortgagee (such Promissory Note, together with all extensions, renewals, replacements, restatements or modifications thereof, being hereinafter referred to as the "*Note*"). Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Mortgagor desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums (including the Spread Maintenance Premium) due to Mortgagee in respect of the Loan under the Note, the Loan Agreement and the other Loan Documents (the "*Debt*") and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents.

C. This Mortgage is given pursuant to the Loan Agreement, and payment, fulfillment and performance by Mortgagor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage.

NOT AN OFFICIAL DOCUMENT

ent #: 1330-1 Filed: 11/08/22

NEW TRUST CO., in consideration of the making of the Loan by Mortgagee and the covenants, agreements, representations and warranties set forth in this Mortgage and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Mortgagor:

ARTICLE I

GRANTS OF SECURITY

Section 1.01 Property Mortgaged. Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Mortgagee and its successors and assigns, all right, title, interest and estate of Mortgagor now owned, or hereafter acquired by Mortgagor, in and to the following (collectively, the "**Property**"):

(a) **Land.** The real property located in the State of Illinois (the "State") identified on **Schedule 1** attached hereto and made a part hereof and more particularly described in **Exhibit A**, inclusive; attached hereto and made a part hereof (collectively, the "**Land**");

(b) **Additional Land.** All additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental deed of trust or mortgage or otherwise be expressly made subject to the lien of this Mortgage;

(c) **Improvements.** The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) **Easements.** All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) **Equipment.** All "equipment," as such term is defined in **Article 9** of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to Tenants under Leases except to the extent that Mortgagor shall have any right or interest therein;

NOT AN OFFICIAL DOCUMENT

ent #: 1330-1 Filed: 11/08/22

(f) Fixtures. All equipment now owned, or the ownership of which is hereafter acquired, by Mortgagor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the State, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, lighting, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "Fixtures"). Notwithstanding the foregoing, "Fixtures" shall not include any property which Tenants are entitled to remove pursuant to Leases except to the extent that Mortgagor shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, equipment, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), other than Fixtures, which are now or hereafter owned by Mortgagor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "Personal Property"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State (as amended from time to time, the "Uniform Commercial Code"), superior in lien to the lien of this Mortgage, and all proceeds and products of any of the above;

(h) Leases and Rents. (i) All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment, extension, renewal, replacement, or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Mortgagor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") (collectively, the "Leases"); (ii) all right, title and interest of Mortgagor, its successors and assigns, therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by

NOT AN OFFICIAL DOCUMENT

ent #: 1330-1 Filed: 11/08/22

the lessors of their obligations thereunder and all rents, additional rents, royalties, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements, whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (collectively, the "Rents"); (iii) all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment and performance of the Obligations, including the payment of the Debt; (iv) all of Mortgagor's right, title and interest in, and claims under, any and all lease guaranties, letters of credit and any other credit support (individually, a "Lease Guaranty", and collectively, the "Lease Guaranties") given by any guarantor in connection with any of the Leases or leasing commissions (individually, a "Lease Guarantor", and collectively, the "Lease Guarantors") to Mortgagor; (v) all rights, powers, privileges, options and other benefits of Mortgagor as the lessor under any of the Leases and the beneficiary under any of the Lease Guaranties, including, without limitation, the immediate and continuing right to make claims for, and to receive, collect and acknowledge receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Debt or the Other Obligations), and to do all other things which Mortgagor or any lessor is or may become entitled to do under any of the Leases or Lease Guaranties; (vi) the right, subject to the provisions of the Loan Agreement, at Mortgagor's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents; (vii) during the continuance of an Event of Default, Mortgagor's irrevocable power of attorney, coupled with an interest, to take any or all other actions designated by Mortgagor for the proper management and preservation of the Land and Improvements; and (viii) any and all other rights of Mortgagor in and to the items set forth in subsections (i) through (vii) above, and all amendments, modifications, replacements, renewals and substitutions thereof;

(i) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in Taxes or Other Charges assessed against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction;

(l) Rights. The right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Mortgagor in the Property;

(m) Agreements. All agreements, contracts, certificates, instruments, franchises, management agreements, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use,

NOT AN OFFICIAL DOCUMENT

ent #: 1330-1 Filed: 11/08/22

occupancy, construction, management or operation of the Land and any part thereof and any improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the happening and during the continuance of any Event of Default, to receive and collect any sums payable to Mortgagor thereunder;

(n) Intellectual Property. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, URLs or other online media, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(o) Accounts. All reserves, escrows and deposit accounts maintained by Mortgagor with respect to the Property, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof, excluding the following (the "Account Collateral"): all reserves, escrows and deposit accounts in which a security interest is granted to Mortgagee pursuant to the Loan Agreement and all amounts at any time contained therein and the proceeds thereof;

(p) Uniform Commercial Code Property. All documents, instruments, chattel paper and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, relating to the Property;

(q) Minerals. All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under or above Land;

(r) All Other Assets. All other accounts, general intangibles, instruments, investment property, documents, chattel paper, goods, moneys, letters of credit, letter of credit rights, certificates of deposit, deposit accounts, escrow deposits, commercial tort claims, oil, gas and minerals, and all other property and interests in property of Mortgagor, whether tangible or intangible, and including without limitation all of Mortgagor's claims and rights to the payment of damages arising under the Bankruptcy Code ("Bankruptcy Claims"), excluding the Account Collateral;

(s) Proceeds. All proceeds of, and proceeds of any sale of, any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether in cash or in liquidation or other claims, or otherwise; and

(t) Other Rights. Any and all other rights of Mortgagor in and to the items set forth in Subsections (a) through (s) above.

AND, without limiting any of the other provisions of this Mortgage, to the extent permitted by applicable law, Mortgagor expressly grants to Mortgagee, as secured party, a security interest in all of Mortgagor's right, title and interest in and to that portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Land or not,

NOT AN OFFICIAL DOCUMENT**ent # 1330-1 Filed: 11/08/22**

shall for the purpose of this Mortgage be deemed conclusively to be the owner and mortgagee hereby.

It is hereby acknowledged and agreed that Mortgagor has granted a security interest to Mortgagee in the Account Collateral pursuant to the Loan Agreement. Notwithstanding anything to the contrary contained herein, Mortgagee's security interest in the Account Collateral shall be governed by the Loan Agreement and not this Mortgage.

Section 1.02 Assignment of Rents

(a) Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor's right, title and interest in and to all current and future Leases, Rents, Lease Guaranties and Bankruptcy Claims; it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to any applicable deposit account control agreement, the Loan Agreement and the terms of this Mortgage, Mortgagee grants to Mortgagor, so long as no Event of Default has occurred and is continuing, a revocable license to (and Mortgagor shall have the right to) collect, receive, use and enjoy the Rents, as well as any sums due under the Lease Guaranties. Mortgagor shall hold the Rents, as well as all sums received pursuant to any Lease Guaranty, or a portion thereof sufficient to discharge all current sums due on the Debt, in trust for the benefit of Mortgagee for use in the payment of such sums. This assignment is effective without any further or supplemental assignment documents.

(b) Mortgagor hereby authorizes and directs the lessees named in the Leases, any other future lessees or occupants of the Real Property and all Lease Guarantors to pay over to Mortgagee or to such other party as Mortgagee directs all Rents and all sums due under any Lease Guaranties, upon such lessee's receipt from Mortgagee of written notice to the effect that Mortgagee is then the holder of this assignment. Such Rents shall be disbursed and/or applied in accordance with the terms of the Loan Agreement. In furtherance of the foregoing, Mortgagor hereby grants to Mortgagee an irrevocable power of attorney, coupled with an interest, to execute and deliver, on behalf of Mortgagor, to tenants under current and future Leases and counterparties to Lease Guaranties, direction letters to deliver all Rents and all sums due under any Lease Guaranties directly to Mortgagee. Any exercise of the foregoing power of attorney shall constitute an immediate revocation of the revocable license given pursuant to Section 1.02(a).

Section 1.03 Security Agreement. This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Mortgage, Mortgagor hereby grants to Mortgagee, as security for the Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "*Collateral*"). If an Event of Default shall occur and be continuing, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

generally to the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Mortgagee at a convenient place (at the Land if tangible property) reasonably acceptable to Mortgagee. Mortgagor shall pay to Mortgagee, on demand, any and all expenses, including reasonable attorneys' fees and costs, incurred or paid by Mortgagee in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagee in accordance with the provisions hereof at least ten (10) days prior to such action, shall, except as otherwise provided by applicable law or the Loan Agreement, constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper. The principal place of business of Mortgagor (Debtor) is as set forth in the preamble of this Mortgage and the address of Mortgagee (Secured Party) is as set forth in the preamble of this Mortgage.

Section 1.04 Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Mortgage, and this Mortgage, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement naming Mortgagor as the Debtor and Mortgagee as the Secured Party filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. This Security Instrument constitutes a fixture filing in accordance with the Uniform Commercial Code. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preamble to this Security Instrument.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Mortgagee and its successors and assigns, forever,

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay and perform the Obligations (including the payment of the Debt) at the time and in the manner provided in this Mortgage, the Note, the Loan Agreement and the other Loan Documents, and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that, subject to Section 9.06, Mortgagor's obligation to indemnify and hold harmless Mortgagee pursuant to the provisions hereof shall survive any such payment or release.

ARTICLE II.**DEBT AND OBLIGATIONS SECURED**

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Section 2.01 Obligations. This Mortgage and the grants, assignments and transfers made in Article I are given for the purpose of securing the Obligations, including, but not limited to, the Debt.

Section 2.02 Other Obligations. This Mortgage and the grants, assignments and transfers made in Article I are also given for the purpose of securing the following (collectively, the "Other Obligations"):

- (a) the performance of all other obligations of Mortgagor contained herein;
- (b) the performance of each obligation of Mortgagor contained in the Loan Agreement and in each other Loan Document; and
- (c) the performance of each obligation of Mortgagor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.03 Debt and Other Obligations. Mortgagor's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "Obligations."

Section 2.04 Variable Interest Rate. The Loan secured by this Mortgage may be a variable interest rate loan if so provided in the Loan Agreement.

Section 2.05 Loan Repayment. Provided no Event of Default exists, this Mortgage will be satisfied and discharged of record by Mortgagee in accordance with the terms and provisions set forth in the Loan Agreement.

Section 2.06 Other Mortgages; No Election of Remedies.

(a) The Debt is now or may hereafter be secured by one or more other mortgages, deeds to secure debt, deeds of trust and other security agreements (collectively, as the same may be amended, restated, replaced, supplemented, expanded, renewed or otherwise modified and in effect from time to time, are herein collectively called the "Other Mortgages"), which cover or will hereafter cover other properties that are or may be located in various states and in other Counties in the State (collectively, the "Other Collateral"). The Other Mortgages will secure the Debt and the performance of the other covenants and agreements of Mortgagor set forth in the Loan Documents. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may proceed under this Mortgage and/or any or all the Other Mortgages against either the Property and/or any or all the Other Collateral in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, any right to have the Property and/or the Other Collateral marshaled upon any foreclosure of this Mortgage or any Other Mortgage.

(b) Without limiting the generality of the foregoing, and without limitation as to any other right or remedy provided to Mortgagee in this Mortgage or the other Loan Documents, in the case and during the continuance of an Event of Default (i) Mortgagee shall have the right to

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

to pursue all of its rights and remedies under this Mortgage and the Loan Documents, in law and/or in equity, in one proceeding, or separately and independently in separate proceedings from time to time, as Mortgagee, in its sole and absolute discretion, shall determine from time to time, (ii) Mortgagee shall not be required to either marshal assets, sell the Property and/or any Other Collateral in any particular order of alienation (and may sell the same simultaneously and together or separately), or be subject to any "one action" or "election of remedies" law or rule with respect to the Property and/or any Other Collateral, (iii) the exercise by Mortgagee of any remedies against any one item of Property and/or any Other Collateral will not impede Mortgagee from subsequently or simultaneously exercising remedies against any other item of Property and/or Other Collateral, (iv) all liens and other rights, remedies or privileges provided to Mortgagee herein shall remain in full force and effect until Mortgagee has exhausted all of its remedies against the Property and all Property has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt, and (v) Mortgagee may resort for the payment of the Debt to any security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect and Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage.

(c) Without notice to or consent of Mortgagor and without impairment of the lien and rights created by this Mortgage, Mortgagee may, at any time (in its sole and absolute discretion, but Mortgagee shall have no obligation to), execute and deliver to Mortgagor a written instrument releasing all or a portion of the lien of this Mortgage as security for any or all of the Obligations now existing or hereafter arising under or in respect of the Note, the Loan Agreement and each of the other Loan Documents, whereupon following the execution and delivery by Mortgagee to Mortgagor of any such written instrument of release, this Mortgage shall no longer secure such Obligations so released.

ARTICLE III.

MORTGAGOR COVENANTS

Mortgagor covenants and agrees that throughout the term of the Loan:

Section 3.01 Payment of Debt. Mortgagor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Mortgage.

Section 3.02 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note, and (c) all and any of the other Loan Documents, are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein. In the event of any inconsistency between any of the terms of this Mortgage (including the terms of Section 1.03 herein) and the Loan Agreement, the terms of the Loan Agreement shall control. Without limiting the generality of the foregoing, Mortgagor (i) agrees to insure, repair, maintain and restore damage to the Property, pay Taxes and Other Charges assessed against the Property, and comply with Legal Requirements, in accordance with the Loan Agreement, and (ii) agrees that the proceeds of insurance and condemnation awards shall be settled, held, applied and/or disbursed in accordance with the Loan Agreement.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Section 3.03 Performance of Other Agreements. Mortgagor shall observe and perform each and every term, covenant and provision to be observed or performed by Mortgagor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property, and any amendments, modifications or changes thereto.

ARTICLE IV.

OBLIGATIONS AND RELIANCES

Section 4.01 Relationship of Mortgagor and Mortgagee. The relationship between Mortgagor and Mortgagee is solely that of debtor and creditor, and Mortgagee has no fiduciary or other special relationship with Mortgagor, and no terms or condition of any of the Loan Agreement, the Note, this Mortgage or the other Loan Documents shall be construed so as to deem the relationship between Mortgagor and Mortgagee to be other than that of debtor and creditor.

Section 4.02 No Reliance on Mortgagee. The general partners, members, principals and (if Mortgagor is a trust) beneficial owners of Mortgagor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Mortgagee and Mortgagee are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Mortgagor is not relying on Mortgagee's expertise, business acumen or advice in connection with the Property.

Section 4.03 No Mortgagee Obligations.

(a) Notwithstanding the provisions of Subsections 1.01(h) and (m) or Section 1.02, Mortgagee is not undertaking the performance of (i) any obligations under the Leases, or (ii) any obligations with respect to any other agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses or other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Mortgagee pursuant to this Mortgage, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Mortgagee shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Mortgagee.

Section 4.04 Reliance. Mortgagor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Mortgage and the other Loan Documents, Mortgagee is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article V of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Mortgagee; that such reliance existed on the part of Mortgagee prior to the date hereof; that the warranties and representations are a material inducement to Mortgagee in making the Loan; and that Mortgagee would not be willing to make the Loan and accept this Mortgage in the absence of the warranties and representations as set forth in Article V of the Loan Agreement.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

ARTICLE V.

FURTHER ASSURANCES

Section 5.01 Recording of Mortgage, Etc. Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Mortgagee in, the Property. Mortgagor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Mortgage, the other Loan Documents, any note, deed to secure debt, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any deed of trust, deed to secure debt or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by law so to do.

Section 5.02 Further Acts, Etc. Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, deeds to secure debt, mortgages, assignments, notices of assignments, transfers and assurances as Mortgagee shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the Property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage, or for complying with all Legal Requirements. Mortgagor, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Mortgagee to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so, one or more financing statements to evidence more effectively the security interest of Mortgagee in the Property and the Collateral. Financing statements to be filed with the Secretary of State of the State in which the Mortgagor is organized may describe as the collateral covered thereby "all assets of the debtor, whether now owned or hereafter acquired" or words to that effect, notwithstanding that such collateral description may be broader in scope than the collateral described herein. Mortgagee shall provide Mortgagor with copies of any notices and/or instruments of filings executed by Mortgagee in accordance with the immediately preceding sentence. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including, without limitation, such rights and remedies available to Mortgagee pursuant to this Section 5.02. Notwithstanding anything to the contrary in the immediately preceding sentence, Mortgagee shall not execute any documents as attorney in fact for Mortgagor unless (i) Mortgagor shall have failed or refused to execute the same within five (5) days after delivery of Mortgagee's request to Mortgagor or (ii) an Event of Default is continuing.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

(a) If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Mortgagee's interest in the Property, Mortgagee will pay the tax, with interest and penalties thereon, if any (it being understood that nothing hereunder shall require Mortgagee to pay any income or franchise tax imposed on Mortgagee by reason of Mortgagee's interest in the Property). If Mortgagee is advised by counsel chosen by it that the payment of tax by Mortgagee would be unlawful or taxable to Mortgagee or unenforceable or provide the basis for a defense of usury, then Mortgagee shall have the option, by written notice to Mortgagee, to declare the Debt due and payable no earlier than one hundred twenty (120) days following such notice.

(b) Mortgagee will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by written notice to Mortgagee, to declare the Debt due and payable no earlier than one hundred twenty (120) days following such notice.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Mortgage, or any of the other Loan Documents or shall impose any other tax or charge on the same, Mortgagee will pay for the same, with interest and penalties thereon, if any.

ARTICLE VI.

DUE ON SALE/ENCUMBRANCE

Section 6.01 Mortgagee Reliance. Mortgagee acknowledges that Mortgagee has examined and relied on the experience of Mortgagee and its general partners, members, principals and (if Mortgagee is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Mortgagee's ownership of the Property as a means of maintaining the value of the Property as security for the payment and performance of the Obligations, including the repayment of the Debt. Mortgagee acknowledges that Mortgagee has a valid interest in maintaining the value of the Property so as to ensure that, should Mortgagee default in the payment and/or performance of the Obligations, including the repayment of the Debt, Mortgagee can recover the Debt by a sale or foreclosure of the Property or other sale permitted by applicable law as to the Personal Property, Equipment or Fixtures.

Section 6.02 No Transfer. Mortgagee shall not permit or suffer any Transfer to occur except in accordance with the terms of the Loan Agreement.

ARTICLE VII.

RIGHTS AND REMEDIES UPON DEFAULT

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

Section 7041. Upon the occurrence and during the continuance of any event of Default, Mortgagor agrees that Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete or partial foreclosure of this Mortgage under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Obligations not then due, unimpaired and without loss of priority;
- (d) to the extent permitted by applicable law, sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof, all as may be required or permitted by law; and, without limiting the foregoing:
- (i) In connection with any sale or sales hereunder, Mortgagee shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) property that can be severed from the Real Property covered hereby, or (z) any Improvements (without causing structural damage thereto), as if the same were personal property, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Real Property. Where the Property consists of Real Property, Personal Property, Equipment or Fixtures, whether or not such Personal Property or Equipment is located on or within the Real Property, Mortgagee shall be entitled to elect to exercise its rights and remedies against any or all of the Real Property, Personal Property, Equipment and Fixtures in such order and manner as is now or hereafter permitted by applicable law;
- (ii) To the extent permitted by applicable law, Mortgagee shall be entitled to elect to proceed against any or all of the Real Property, Personal Property, Equipment and Fixtures in any manner permitted under applicable law; and if Mortgagee so elects pursuant to applicable law, the power of sale herein granted shall be exercisable (to the extent permitted by applicable law) with respect to all or any of the Real Property, Personal Property, Equipment and Fixtures covered hereby, as designated by Mortgagee and Mortgagee is hereby authorized and empowered to conduct any such sale of any Real Property, Personal Property, Equipment and Fixtures in accordance with applicable law;

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

(iii) To the extent permitted by applicable law, should Mortgagee elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that the Mortgagee has elected under applicable law to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Mortgagee shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, subject to the terms hereof and of the other Loan Documents, and, to the extent permitted by applicable law, without the necessity of any demand on Mortgagor, Mortgagee at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States of America. Mortgagee may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale, and

(iv) If the Property consists of several lots, parcels or items of property, Mortgagee shall, subject to applicable law, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Mortgagee designates and Mortgagor waives any right to require otherwise. Any Person, including Mortgagor or Mortgagee, may purchase at any sale hereunder. Should Mortgagee desire that more than one sale or other disposition of the Property be conducted, Mortgagee shall, subject to applicable law, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Mortgagee may designate, and no such sale shall terminate or otherwise affect the Lien of this Mortgage on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Mortgagee elects to dispose of the Property through more than one sale, except as otherwise provided by applicable law, Mortgagor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, in the Loan Agreement or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, any guarantor or indemnitor with respect to the Loan or any Person otherwise liable for the payment of the Debt or any part thereof, and Mortgagor hereby irrevocably consents to such appointment;

(h) subject to applicable law and Section 15.02 hereof, the license granted to Mortgagor under Section 1.02 hereof shall automatically be revoked and Mortgagee may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

of the Property and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may do such acts and things as Mortgagee deems necessary or desirable to protect the security hereof, including without limitation, (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereon on such terms and for such period of time as Mortgagee may deem proper; (ii) complete any construction on the Property in such manner and form as Mortgagee deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants and demand, sue for or otherwise collect and receive all Rents and all sums due under all Lease Guaranties, including, without limitation, those past due and unpaid; (v) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Mortgagor; (vi) require Mortgagor to vacate and surrender possession of the Property to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment and performance of the Obligations (including, without limitation, the payment of the Debt), in such order, priority and proportions as Mortgagee shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees and costs) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes or Other Charges assessed against the Property, insurance premiums, other expenses and Capital Expenditures incurred in connection with the Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and/or the Personal Property, or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Mortgagor, at its sole cost and expense, to assemble the Fixtures, the Equipment and/or the Personal Property and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Fixtures, the Equipment and/or the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Mortgagee in accordance with the terms of the Loan Agreement, this Mortgage or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges assessed against the Property;
- (ii) Insurance premiums;
- (iii) Other expenses and Capital Expenditures incurred in connection

with the Property;

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

- (iv) Interest on the unpaid principal balance of the Note;
- (v) Amortization of the unpaid principal balance of the Note; and/or
- (vi) All other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Loan Documents, including, without limitation, the Release Price, if applicable, and advances made by Mortgagee pursuant to the terms of this Mortgage;
- (k) pursue such other remedies as may be available to Mortgagee at law or in equity; and/or
- (l) apply the undisbursed balance of any escrow or other deposits held by or on behalf of the Mortgagee with respect to the Property, to the payment of the Debt in such order, priority and proportions as Mortgagee shall deem to be appropriate in its sole discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Mortgage shall continue as a Lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

The exercise by Mortgagee of its rights granted under this Section 7.01 and the collection of the Rents and the sums due under the Lease Guaranties and the application thereof as provided in the Loan Documents shall not be considered a waiver of any Default or Event of Default under the Note, the Loan Agreement, this Mortgage or the other Loan Documents.

Section 7.02 Application of Proceeds. The purchase money proceeds and avails of any disposition of the Property or any part thereof, or any other sums collected by Mortgagee pursuant to the Note, this Mortgage or the other Loan Documents, may be applied by Mortgagee to the payment of the Obligations in such priority and proportions as Mortgagee in its discretion shall deem proper, to the extent consistent with law.

Section 7.03 Right to Cure Defaults. During the continuance of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, perform the obligations in Default in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Property for such purposes or appear in, defend or bring any action or proceeding to protect its interest in the Property, to foreclose this Mortgage or collect the Debt, and to make any protective advances that Mortgagee may deem necessary to protect the security hereof, and the cost and expense of any of the foregoing (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Mortgagee upon demand.

Section 7.04 Other Rights, Etc.

(a) The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Mortgagee to comply

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

with any request of Mortgagee or any guarantor or co-obligor with respect to the Lien to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Mortgagee, and Mortgagee shall have no liability whatsoever for any decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Mortgagee shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Mortgagee's possession.

(c) Mortgagee may resort for the payment and performance of the Obligations (including, but not limited to, the payment of the Debt) to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce the Other Obligations or any covenant hereof, without prejudice to the right of Mortgagee thereafter to enforce any remedy hereunder or under applicable law against Mortgagee, including the right to foreclose this Mortgage. The rights of Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.05 Right to Release Any Portion of the Property. Mortgagee may release any portion of the Property for such consideration as Mortgagee may require without, as to the remainder of the Property, in any way impairing or affecting the Lien or priority of this Mortgage, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Mortgagee for such release, and Mortgagee may accept by assignment, pledge or otherwise any other property in place thereof as Mortgagee may require without being accountable for so doing to any other lienholder. This Mortgage shall continue as a Lien and security interest in the remaining portion of the Property.

Section 7.06 Right of Entry. Subject to the rights of Tenants and upon reasonable prior notice to Mortgagee, Mortgagee and its agents shall have the right to enter and inspect the Property at all reasonable times.

ARTICLE VIII.

INDEMNIFICATION

Section 8.01 Mortgage and/or Intangible Tax. Mortgagee shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless Mortgagee and any Person claiming by or through Mortgagee (collectively with Mortgagee, the "*Indemnified Parties*" and

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

each, an "Indemnified Party") from and against any and all losses, damages, costs, fees, expenses, claims, suits, judgments, awards, liabilities, obligations, debts, fines, penalties or charges imposed upon or incurred by or asserted against any Indemnified Party and directly or indirectly arising out of or in any way relating to any mortgage, recording, stamp, intangible or other similar taxes required to be paid by any Indemnified Party under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of this Mortgage or any of the Loan Documents (but excluding any income, franchise or other similar taxes).

Section 8.02 No Liability to Mortgagee. This Mortgage shall not be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Mortgagee with respect to the Leases. Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from Mortgagee's failure to let the Property after an Event of Default or from any other act or omission of Mortgagee in managing the Property after an Event of Default unless such loss is caused by the willful misconduct, bad faith or gross negligence of Mortgagee. Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Mortgage and Mortgagor shall indemnify Mortgagee for, and hold Mortgagee harmless from and against, (a) any and all liability, loss or damage which may or might be incurred under the Leases; any Lease Guaranties or under or by reason of this Mortgage, and (b) any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Mortgagee by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties, unless caused by the willful misconduct or bad faith of Mortgagee. Should Mortgagee incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees and costs, shall be secured by this Mortgage and by the other Loan Documents and Mortgagor shall reimburse Mortgagee thereof within seven (7) Business Days after demand therefor and upon the failure of Mortgagor so to do Mortgagee may, at its option, declare the Obligations to be immediately due and payable. This Mortgage shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property, including, without limitation, the presence of any Hazardous Substances (as defined in the Environmental Indemnity), or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 8.03 Duty to Defend; Attorneys' Fees and Other Fees and Expenses. In connection with any indemnification obligations of Mortgagor hereunder, upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Mortgagor and any Indemnified Party and Mortgagor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or in addition to those available to Mortgagor, such Indemnified Party shall have the right to select separate counsel to

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

assert such legal defenses and to otherwise participate in the defense or settlement on behalf of such Indemnified Party. Upon demand, Mortgagor shall pay or, in the sole and absolute discretion of any Indemnified Party, reimburse, such Indemnified Party for the payment of the reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

ARTICLE IX.**WAIVERS**

Section 9.01 Waiver of Counterclaim. To the extent permitted by applicable law, Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Mortgagee arising out of or in any way connected with this Mortgage, the Loan Agreement, the Note, any of the other Loan Documents or the Obligations.

Section 9.02 Marshaling and Other Matters. To the extent permitted by applicable law, Mortgagor hereby waives the benefit of all appraisement, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, to the extent permitted by applicable law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Mortgage.

Section 9.03 Waiver of Notice. To the extent permitted by applicable law, Mortgagor shall not be entitled to any notices of any nature whatsoever from Mortgagee, except with respect to matters for which this Mortgage or the Loan Documents specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor, and except with respect to matters for which Mortgagee is required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage or any of the other Loan Documents does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor.

Section 9.04 Waiver of Statute of Limitations. To the extent permitted by applicable law, Mortgagor hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment and performance of the Obligations (including, without limitation, the payment of the Debt).

Section 9.05 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE NOTE, THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

VOLUNTARILY BY MORTGAGOR AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

Section 9.06 Survival. Except as otherwise set forth in the other Loan Documents, the indemnifications made pursuant to Article VIII herein and the representations and warranties, covenants, and other obligations arising under the Loan Documents, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by (a) any satisfaction, release or other termination of this Mortgage or any other Loan Document, (b) any assignment or other transfer of all or any portion of this Mortgage or any other Loan Document or Mortgagee's interest in this Property (but, in such case, such indemnifications shall benefit both the Indemnified Parties and any such assignee or transferee), (c) any exercise of Mortgagee's rights and remedies pursuant hereto, including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Mortgagee or by Mortgagee following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), (d) any amendment to this Mortgage, the Loan Agreement, the Note or any other Loan Document, and/or (e) any act or omission that might otherwise be construed as a release or discharge of Mortgagee from the Obligations or any portion thereof. Notwithstanding the foregoing or anything to the contrary set forth herein, in no event shall Mortgagee be obligated to defend or indemnify any Indemnified Party for any damages, losses, claims and liabilities directly resulting from the gross negligence, bad faith or willful misconduct of such Indemnified Party.

ARTICLE X.**INTENTIONALLY OMITTED****ARTICLE XI****NOTICES**

All notices or other written communications hereunder shall be delivered in accordance with Section 9.6 of the Loan Agreement.

ARTICLE XII.**APPLICABLE LAW**

Section 12.01 Governing Law; Jurisdiction; Service of Process. WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND ENFORCEMENT OF LIENS AND SECURITY INTERESTS CREATED UNDER THIS MORTGAGE, THIS MORTGAGE SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

PERFORMED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW) SHALL GOVERN ALL MATTERS RELATING TO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

Section 12.02 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Mortgagor and Mortgagee are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Mortgagee shall never exceed the Maximum Legal Rate, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Mortgagor to Mortgagee, and (c) if through any contingency or event, Mortgagee receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Mortgagor to Mortgagee, or if there is no such indebtedness, shall immediately be returned to Mortgagor.

Section 12.03 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of the term shall not be affected thereby.

ARTICLE XIII.

DEFINITIONS

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in the singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of Indebtedness secured by this Mortgage," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all reasonable attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels, incurred or paid by Mortgagee in protecting its interest in the Property, the Leases, the Rents, the sums due under the Lease Guaranties, and/or in enforcing its rights hereunder.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

ARTICLE XIV.**MISCELLANEOUS PROVISIONS**

Section 14.01 No Oral Change. This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Mortgagee, but only by an agreement in writing signed by the party(ies) against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 14.02 Successors and Assigns. This Mortgage shall be binding upon, and shall inure to the benefit of, Mortgagor and Mortgagee and their respective successors and permitted assigns, as set forth in the Loan Agreement.

Section 14.03 Inapplicable Provisions. If any provision of this Mortgage is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Mortgage, such provision shall be fully severable and this Mortgage shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Mortgage, and the remaining provisions of this Mortgage shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Mortgage, unless such continued effectiveness of this Mortgage, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

Section 14.04 Headings, Etc. The headings and captions of the various Sections of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 14.05 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any Indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Mortgagee shall be subrogated to all of the rights, claims, liens, titles and interests existing against the Property heretofore held by, or in favor of, the holder of such Indebtedness and such former rights, claims, liens, titles and interests, if any, are not waived, but rather are continued in full force and effect in favor of Mortgagee and are merged with the Lien and security interest created herein as cumulative security for the payment, performance and discharge of the Obligations (including, but not limited to, the payment of the Debt).

Section 14.06 Entire Agreement. The Note, the Loan Agreement, this Mortgage and the other Loan Documents constitute the entire understanding and agreement between Mortgagor and Mortgagee with respect to the transactions arising in connection with the Obligations and supersede all prior written or oral understandings and agreements between Mortgagor and Mortgagee with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Mortgage and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Mortgagee to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

to the transaction which is the subject of the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

Section 14.07 Limitation on Mortgagee's Responsibility. No provision of this Mortgage shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the Tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Mortgagee a "mortgagee in possession."

Section 14.08 Recitals. The recitals hereof are a part hereof, form a basis for this Mortgage and shall be considered prima facie evidence of the facts and documents referred to therein.

Section 14.09 Time of Essence. Time is of the essence with respect to this Mortgage and each and every provision hereof.

ARTICLE XV.

STATE-SPECIFIC PROVISIONS

Section 15.01 Principles of Construction. Without limiting Section 12.01, to the extent that the laws of the State of Illinois govern the interpretation or enforcement of this Mortgage, (a) the provisions of this Article XV shall apply, and (b) in the event of any inconsistencies between the terms and provisions of this Article XV and the other terms and provisions of this Mortgage, the terms and provisions of this Article XV shall control and be binding.

Section 15.02 Use of Proceeds. Mortgagor hereby covenants, represents and agrees that all of the proceeds of the Loan secured by this Mortgage will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire liabilities and obligations evidenced by the Loan Documents and secured by this Mortgage: (a) constitute a business loan which comes within the purview of 815 ILCS 205/4 as amended; (b) constitute "a loan secured by a mortgage on real estate," within the purview and operation of 815 ILCS 205/4(1)(D); and (c) is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C., §1601 et seq.

Section 15.03 Power of Sale. Each of the remedies set forth herein, including without limitation the remedies involving a power of sale on the part of the Mortgagee and the right of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, shall be exercisable if, and to the extent, permitted by the Laws of the State in force at the time of the exercise of such remedies without regard to the enforceability of such remedies at the time of the execution and delivery of this Mortgage.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Section 15.04 Agricultural Real Estate. Mortgagor acknowledges that the Property does not constitute agricultural real estate as defined in Section 15-1201 of the Foreclosure Act or residential real estate as defined in Section 15-1219 of the Foreclosure Act.

Section 15.05 Maximum Principal Indebtedness. Notwithstanding any provision contained herein to the contrary, the liabilities and obligations secured by this Mortgage shall not exceed \$2,982,000.00.

Section 15.06 [Reserved].

Section 15.07 Illinois Mortgage Foreclosure Law.

(a) In the event any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS Sections 5/15-1101 et seq., Illinois Compiled Statutes) (the "**Foreclosure Act**"), the provisions of the Foreclosure Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Act.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by the Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Foreclosure Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

(d) In addition to any provision of this Mortgage authorizing Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Foreclosure Act, to be placed in the possession of the Property or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties and provisions for in Sections 15-1701, 15-1703 and 15-1704 of the Foreclosure Act.

Section 15.08 Collateral Protection Act. Pursuant to the terms of the Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified that unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in the Property, which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Mortgagee may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the Property. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained the insurance as required hereunder. If Mortgagee purchases insurance for the Property, the Mortgagor will be responsible for the costs of such insurance, including interest and any Other

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Mortgagee may be able to obtain for itself.

Section 15.09 Protective Advances. All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings authorized by this Mortgage or by the Foreclosure Act (collectively, "**Protective Advances**"), shall have the benefit of all applicable provisions of the Foreclosure Act. All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after an Event of Default under the terms of the Note. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b) of Section 5/15-1302 of the Foreclosure Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Foreclosure Act, apply to and be included in:

- (a) determination of the amount of indebtedness secured by this Mortgage at any time;
- (b) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (c) if right of redemption has not been waived by the Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Foreclosure Act;
- (d) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Foreclosure Act;
- (e) application of income in the hands of any receiver or Mortgagee in possession; and
- (f) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Foreclosure Act.

Section 15.10 Waiver of Rights of Redemption and Reinstatement. Mortgagor shall not and will not apply for or avail itself of any appraisement, valuation, stay, extension or exemption laws, or any so called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of Mortgagee under this Mortgage, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Property or the Obligations. Mortgagor for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any and all right to have the property

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 P**

and cures comprising the Property, or any part thereof, was filed upon any foreclosure or other disposition (whether or not the entire Property be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Property, or any party thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Mortgage may order the Property sold as an entirety. On behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Property described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the maximum extent permitted by applicable law, Mortgagor hereby waives any and all rights (x) of redemption from any foreclosure, or other disposition of any kind or nature of the Property, or any part thereof, or interest therein, under or pursuant to rights herein granted to Mortgagee, and (y) to reinstatement of the indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to 735 ILCS 5/15-1602. Mortgagor further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by Mortgagee under the Note, this Mortgage, or any of the Loan Documents, (b) all benefits that might accrue to the Mortgagor by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale under civil process, or extension, exemption from civil process, or extension of time for payment, and (c) all notices not specifically required by this Mortgage of default, or of Mortgagee's exercise, or election to exercise, any option under this Mortgage. All waivers by Mortgagor in this Mortgage have been made voluntarily, intelligently and knowingly by Mortgagor after Mortgagor has been afforded an opportunity to be informed by counsel of Mortgagor's choice as to possible alternative rights. Mortgagor's execution of this Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

[NO FURTHER TEXT ON THIS PAGE]

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

IN WITNESS WHEREOF, THIS MORTGAGE has been executed by Mortgagor as of the day and year first above written.

MORTGAGOR:

EB SOUTH CHICAGO 3 LLC,
a Delaware limited liability company

By: SSDF3 Holdco 1 LLC
Its: Managing Member

By: Great Lakes Development Corp LLC
Its: Managing Member

By: 
Name: Jerome H. Cohen
Title: Managing Member

ACKNOWLEDGMENT

State of FL
County of Collier

On May 25, 2017, before me, Robert Firon, a Notary Public in and for the County and State aforesaid, personally appeared Jerome H. Cohen, the Managing Member of Great Lakes Development Corp LLC, the Managing Member of SSDF3 Holdco 1 LLC, the Managing Member of EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of FL that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



ROBERT FIRION
NOTARY PUBLIC - FL 00100
EXPIRES February 27, 2019
Build the Judge's Legacy Service

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F****SCHEDULE 1**

Property List

Address	City	State	County	Zip
2129 W 71ST ST	CHICAGO	IL	COOK	60635
5437 S LAFLIN ST. UNIT 1, UNIT 2, UNIT 3, AND UNIT 4	CHICAGO	IL	COOK	60609
6759 S INDIANA AVE	CHICAGO	IL	COOK	60637
7300-04 ST LAWRENCE AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, AND UNIT 8	CHICAGO	IL	COOK	60619
7760 S COLES AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, UNIT 8, UNIT 9, UNIT 10, UNIT 11, UNIT 12, AND UNIT 13	CHICAGO	IL	COOK	60649
8809 S WOOD ST	CHICAGO	IL	COOK	60620
9610 S WOODLAWN AVE	CHICAGO	IL	COOK	60628

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 P****EXHIBIT A****Legal Descriptions**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636
 PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000
 CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609
 PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000
 CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637
 PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000
 CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619
 PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000
 CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8

NOT AN OFFICIAL DOCUMENT**Document #: 1330-1 Filed: 11/08/22**

FEET (MINUS FOUR FEET) WIDE, IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMING'S SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649
 PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000
 CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620
 PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000
 CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 18, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628
 PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000
 CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:
 THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Exhibit A

Mortgage (Cook County, Illinois)

Exhibit 2

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22



Doc# 1736315119 Fee \$50.00

ORSP FEE: \$9.00 ORRF FEE: \$1.00

KAREN A. HARRINGTON

COOK COUNTY RECORDER OF DEEDS

DATE: 12/29/2017 02:06 PM PG: 1 OF 7

PREPARED BY:
Karen Wade Esq.
Alston & Bird LLP
2828 N Harwood Street, Suite 1800
Dallas, TX 75201

UPON RECORDATION RETURN TO:
Attn: Kelly Grady
OS National LLC
2170 Sateline Blvd, Ste 200
Duluth, GA 30097

ASSIGNMENT OF SECURITY INSTRUMENT

by

CAF TERM BORROWER MS, LLC,
a Delaware limited liability company,

to

CF COREVEST PURCHASER LLC
a Delaware limited liability company

Dated: As of October 31st, 2017

State: Illinois
County: Cook

S Y
P 7
S 6
M N
SC Y
E Y
INT Y

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

ASSIGNMENT OF SECURITY INSTRUMENT

THIS ASSIGNMENT OF SECURITY INSTRUMENT (this "Assignment"), made and entered into as of the 31st day of October, 2017, is made by **CAF TERM BORROWER MS, LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignor"), in favor of **CF COREVEST PURCHASER LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignee").

WITNESSETH

WHEREAS, Assignor is the present legal and equitable owner and holder of that certain Promissory Note dated as of May 26, 2017 executed by **EB South Chicago 3 LLC**, a Delaware limited liability company ("Borrower"), and made payable to the order of Colony American Finance Lender, LLC, a Delaware limited liability company ("Colony"), predecessor-in-interest to Assignor, in the stated principal amount of One Million Four Hundred Ninety One Thousand Dollars and No Cents (\$1,491,000.00) (the "Note") in connection with certain real property and improvements located thereon situated in the County of Cook, State of Illinois, and more particularly described on Exhibit A annexed hereto and made a part hereof (the "Premises"); and

WHEREAS, the Note is secured, *inter alia*, by the Security Instrument (as hereinafter defined); and

WHEREAS, the parties hereto desire that Assignor assign to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Security Instrument.

NOW, THEREFORE, in consideration of the premises above set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Assignor and Assignee hereby covenant and agree as follows:

1. Assignment. Assignor does hereby transfer, assign, grant and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the following described instrument, and does hereby grant and delegate to Assignee, its successors and assigns, any and all of the duties and obligations of Assignor thereunder from and after the date hereof:

That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of May 26, 2017, executed by Borrower for the benefit of Colony American Finance Lender, LLC, as lender, and recorded on June 28, 2017 in the Real Property Records of Cook County, Illinois, as Document No. 1717922020, Book N/A, Page N/A (as the same may heretofore have been assigned, the "Security Instrument"), in respect of the Premises, together with all rights accrued or to accrue under said Security Instrument.

Loan # 20747

Assignment of Security Instrument (TERM BORROWER TO PURCHASER) - Page 1
#32666147

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Representations and Warranties to Assignee: This Assignment is an absolute assignment. This Assignment is without recourse, representation or warranty, express or implied, upon Assignor, except Assignor hereby warrants and represents to Assignee that:

(a) Prior to the execution hereof, Assignor has not sold, transferred, assigned, conveyed, pledged or endorsed any right, title or interest in the Security Instrument to any person or entity other than Assignee; and

(b) Assignor has full right and power to sell and assign the same to Assignee subject to no interest or participation of, or agreement with, any party other than Assignee.

3. Governing Law. With respect to matters relating to the creation, perfection and procedures relating to the enforcement of this Assignment, this Assignment shall be governed by, and be construed in accordance with, the laws of the State of Illinois, it being understood that, except as expressly set forth above in this paragraph and to the fullest extent permitted by the law of the State of Illinois, the law of the State of New York applicable to contracts made and performed in such State (pursuant to Section 5-1401 of the New York General Obligations Law) shall govern all matters relating to this Assignment and all of the indebtedness or obligations arising hereunder.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Headings. The headings of the paragraphs of this Assignment have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Assignment or be used in any manner in the interpretation of this Assignment.

6. Interpretation. Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

7. Partial Invalidity. Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

[SIGNATURE PAGE FOLLOWS]

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

IN WITNESS WHEREOF, Assignor has executed this Assignment of Security Instrument as of the day and year first above written.

ASSIGNOR:

CAF TERM BORROWER MS, LLC,
A Delaware limited liability company

By: 

J. Christopher Hoeffel
Vice President



Witness #1 **Samuel Harity**
Print Name: _____



Witness #2 **Leah Granovskaya**
Print Name: _____

Property of Cook County Recorder of Deeds

Signature Page

Assignment of Security Instrument (BORROWER TO PURCHASER)

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

ACKNOWLEDGMENT

STATE OF NEW YORK)

COUNTY OF NEW YORK) ss.:

On November 2, 2017, before me, Debra Helen Heitzler, a Notary Public personally appeared J. Christopher Hoeffel, as personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of New York, County of New York, State of New York.

WITNESS my hand and official seal.

Signature: 

(Notary Seal)

DEBRA HELEN HEITZLER
 NOTARY PUBLIC STATE OF NEW YORK
 No. 01HE052855
 Qualified in New York County
 My Commission Expires 01-30-2021

Signature Page

Assignment of Security Instrument (BORROWER TO PURCHASER)

NOT AN OFFICIAL DOCUMENT**Document #: 1330-1 Filed: 11/08/22****EXHIBIT 2**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636
 PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000
 CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS: 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609
 PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000
 CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637
 PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000
 CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619
 PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000
 CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8 FEET TAKEN FOR ALLEY) ALL IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27,

NOT AN OFFICIAL DOCUMENTnt #: **1330-1 Filed: 11/08/22**

TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT 7A IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMING'S SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649
 PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000
 CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620
 PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000
 CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628
 PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000
 CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:
 THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Exhibit 3

nt #: 1330-1 Filed: 11/08/22 P

Illinois Anti-Predatory
Lending Database
Program

Doc#: 1030758055 Fee: \$54.00
Lgrms "uses" Mort RevIP Fee \$10.00
Cook County Recorder of Deeds
Date: 11/08/2010 02:33 PM Pg: 1 of 10

Certificate of Exemption

Property of Cook County Recorder of Deeds
EST 1025460
Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 20-08-318-014-0000

Address:

Street: 5437 S Lavin St

Street line 2:

City: Chicago

State: IL

ZIP Code: 60609

Lender: Michael Borgia dba Hard Money Company LLC

Borrower: Chad Johnston

Loan / Mortgage Amount: \$250,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: EF18F5A0-0735-41F8-A9E4-28602FE6C829

Execution date: 09/07/2010

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 P**

File Name: JOHNSTUN

Tax ID#: 20-08-318-014-0000
and 20-08-318-015-0000

Title Insurer: First American Title Ins. Co.

AFTER RECORDING RETURN TO:

_____**MORTGAGE**

COT 1025460

THIS MORTGAGE is made this 7 day of September, 2022, between CHAD JOHNSTUN, a Washington resident, with an address of 8704 241st Place SW, Edmonds, Washington 98026 (hereinafter "Mortgagor"), and MICHAEL BORGIA, c/o HARD MONEY COMPANY, LLC, a Florida limited liability company, whose address is 165 Guilford Court, Marco Island, Florida 34145 (hereinafter "Mortgagee" or "Lender").

For value received, Mortgagor mortgages and warrants to Mortgagee the property situated in Chicago, Cook County, Illinois, with a common street address of 5437 S. LAFLIN ST., CHICAGO, ILLINOIS 60609, and legally described as shown on the attached EXHIBIT A, said Exhibit incorporated herein, together with the easements, rights-of-way, licenses, privileges, benefits, and appurtenances belonging to the property, and all the rents, issues, leases, and profits, the interest of Mortgagor in the property, either at law or in equity, all buildings, structures, and improvements, and all fixtures located in, on, or affixed to the property, and used or usable in connection with the operation of the property (all of the above-stated property are collectively referred to in this Mortgage as the "Premises" or the "Mortgaged Property"). This Mortgage is given to secure the following:

- payment of the indebtedness evidenced by a promissory Note dated the same date hereof, and made and delivered by Mortgagor to Mortgagee, in the principal sum of TWO HUNDRED AND FIFTY THOUSAND and 00/100 DOLLARS (\$250,000.00), payable with interest (hereinafter the "Note");
- payment by Mortgagor to Mortgagee of all sums expended or advanced by Mortgagee pursuant to any term or provision of this Mortgage;
- performance of the covenants, conditions, and agreements contained in this Mortgage, in the Note, in any security agreement given in connection with this transaction, and in any other documents or agreements securing the indebtedness shown above;
- all other indebtedness and obligations of Mortgagor presently or subsequently owing to Mortgagee, including but not limited to all future advances under this Mortgage or on the Note and under all notes, loan agreements, security agreements, pledge agreements, assignments, mortgages, leases, guarantees, and any other agreements, instruments, or documents previously or subsequently signed by Mortgagor, whether the indebtedness or obligations are direct or indirect, absolute or contingent, primary or secondary, or related or unrelated to the Premises or the transaction of which this Mortgage is a part, and any and all partial or full extensions or renewals of this indebtedness or other indebtedness and obligations (all of the foregoing are collectively referred to as the "Indebtedness").

Mortgagor warrants, covenants, and agrees that

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 P**

1. Title. Mortgagor warrants it is seized of the Premises in fee simple. Mortgagor warrants it had the right and power to Mortgage and warrants the Premises as set forth in this Mortgage. Mortgagor warrants that this mortgage shall be a first lien against the Premises and there are no other superior liens or encumbrances against the Property than this Mortgage. The Premises are free from all liens and encumbrances except assessments and restrictions of record disclosed in City Suburban Title site commitment no. 1025460, dated August 9, 2010, relating to the Premises. Mortgagor will defend the Premises against all claims and demands.

2. Payment of Indebtedness. Mortgagor will pay all indebtedness when due, including the principal and interest, as provided in the Note.

3. Taxes and Assessments. Until the indebtedness is fully satisfied, Mortgagor will pay all taxes, assessments, and other similar charges and encumbrances levied on the Premises before they become delinquent, and will promptly deliver to Mortgagee, without demand, receipts showing the payment.

4. Tax and Insurance Escrow. On request, and at the sole and exclusive option of Mortgagee, Mortgagor will pay to Mortgagee monthly, in addition to each monthly payment required by this Mortgage or under the Note, a sum equivalent to one-twelfth of the amount estimated by Mortgagee to be sufficient to enable Mortgagee to pay, at least 30 days before they become due, all taxes, assessments, and other similar charges levied against the Premises, and all insurance premiums on any policy or policies of insurance required by this Mortgage. The additional payments may be commingled with the general funds of Mortgagee, and no interest shall be payable on those payments. On demand by Mortgagee, Mortgagor will deliver and pay over to Mortgagee any additional sums necessary to make up any deficiency in the amount necessary to enable Mortgagee to fully pay when due any of the preceding items. In the event of any default by Mortgagor in performing any of the terms of this Mortgage, Mortgagee may apply against the indebtedness, in the manner that Mortgagee may determine, any funds of Mortgagor then held by Mortgagee under this paragraph.

5. Change of Law. If, after the date of this Mortgage, any statute or ordinance is passed that changes in any way the laws now in force for the taxation of mortgages or mortgaged debts or the manner in which those taxes are collected, so as to affect this Mortgage or the interest of Mortgagee, the whole of the principal sum secured by this Mortgage, with all interest and charges, if any, at the option of Mortgagee, shall become due and payable.

6. Insurance. Mortgagor will procure, deliver to, and maintain for the benefit of Mortgagee during the term of this Mortgage:

- a policy of builder's risk insurance during construction, and thereafter hazard insurance, providing an all-risk extended coverage endorsement, in an amount equal to the highest replacement value of the Premises;
- a policy of comprehensive public liability insurance insuring against bodily injury, with a coverage limit of at least \$1,000,000, and against property damage, with a coverage limit of at least \$250,000, from any accident or occurrence with respect to the Premises.

All policies of insurance required by this paragraph shall be in a form, with companies, and in amounts acceptable to Mortgagee, and shall contain a mortgagee endorsement clause acceptable to Mortgagee, with loss payable to Mortgagee. Mortgagor will pay when due the premiums on any policy of insurance required by Mortgagee, and will deliver to Mortgagee renewals of all policies at least 10 days before their expiration date(s). Duplicates of all policies shall be delivered to Mortgagee.

In the event of any loss or damage to the Premises, Mortgagor will give immediate written notice to Mortgagee, and Mortgagee may then make proof of the loss or damage, if it is not promptly made by Mortgagor. All proceeds of insurance shall be payable to Mortgagee, and any affected insurance company is authorized and directed to make payment directly to Mortgagee. Mortgagee is authorized to settle, adjust, or compromise any claims for

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

loss, damage, or destruction under any policy of insurance.

7. Maintenance and Repair. Mortgagor will not cause or permit the commission of waste on the Premises and will keep the Premises in good condition and repair. No building or other improvement on the Premises shall be removed, demolished, or materially altered without the prior written consent of Mortgagee. Mortgagee will comply with all laws, ordinances, regulations, and orders of all public authorities having jurisdiction over the Premises. If the Premises, in the sole judgment of Mortgagee, require inspection or repair, Mortgagee may enter upon the Premises and inspect and/or repair the Premises as Mortgagee may deem advisable, and may take other action as Mortgagee may deem appropriate to preserve the Premises. Mortgagee will pay when due all charges for utilities or services contracted for by Mortgagee.

8. Waste. The failure of Mortgagee to meet its maintenance obligations or to pay any taxes assessed against the Premises or any insurance premium on policies covering any property located on the Premises shall constitute waste as provided by MCLA 600.2927, MSA 27A.2927, and shall entitle Mortgagee to appoint a receiver of the property for the purpose of preventing the waste. The receiver may collect the rents and income from the Premises.

9. Condemnation. If the Premises, or any part, are taken under the power of eminent domain, the entire award, to the full extent of the indebtedness, shall be paid to Mortgagee. Mortgagee is empowered in the name of Mortgagee to receive and give acquittance for any award, whether it is joint or several. However, Mortgagee shall not be held responsible for failure to collect any award.

10. Mortgagee Expenses. If Mortgagee fails to meet any of its obligations under this Mortgage, Mortgagee shall have the right, but not the obligation, to perform in the place of Mortgagee. If Mortgagee incurs or expends any sums, including reasonable attorney fees, whether or not in connection with any action or proceeding, to (a) sustain the lien of this Mortgage or its priority, (b) protect or enforce any of Mortgagee's rights, (c) recover any part of the indebtedness, (d) meet an obligation of Mortgagee under this Mortgage, or (e) collect insurance or condemnation proceeds, then those sums shall become immediately due and payable by Mortgagee with interest at the default rate set forth in the Note from the date of Mortgagee's payment until paid by Mortgagee. The sums expended in this manner by Mortgagee shall be secured by this Mortgage and be a lien on the Premises prior to any right, title, or interest on the Premises attaching or accruing subsequent to the lien of this Mortgage.

11. Assignment of Contracts and Licenses. Mortgagee assigns to Mortgagee, as further security for payment of the indebtedness, Mortgagee's interest in all agreements, contracts (including any contracts for the lease or sale of the Premises), licenses, and permits affecting the Premises. The assignment shall not be construed as a consent by Mortgagee to any agreement, contract, license or permit so assigned, or to impose any obligations on Mortgagee. Mortgagee shall not cancel, amend, permit, or cause a default or termination of any of the agreements, contracts, licenses, and permits used in conjunction with the operation of the Premises without the written approval of Mortgagee.

12. Assignment of Rents and Leases. As additional security for the payment of the indebtedness, Mortgagee assigns and transfers to Mortgagee, pursuant to 1953 PA 210, as amended by 1966 PA 151 (MCLA 554.231 et seq., MSA 26.1137(1) et seq.), all the rents, profits, and income under all leases, occupancy agreements, or arrangements upon or affecting the Premises (including any extensions or amendments) now in existence or coming into existence during the period this Mortgage is in effect. This assignment shall run with the land and be good and valid as against Mortgagee and those claiming under or through Mortgagee. This assignment shall continue to be operative during foreclosure or any other proceedings to enforce this Mortgage. If a foreclosure sale results in a deficiency, this assignment shall stand as security during the redemption period for the payment of the deficiency. This assignment is given only as collateral security and shall not be construed as obligating Mortgagee to perform any of the covenants or undertakings required to be performed by Mortgagee in any leases.

In the event of default in any of the terms or covenants of this Mortgage, Mortgagee shall be entitled to all of the rights and benefits of MCLA 554.231-233, MSA 26.1137(1)-(3), and 1966 PA 151, and Mortgagee shall be

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

entitled to collect the rents and income from the Premises, to rent or lease the Premises on the terms that it may deem best, and to maintain proceedings to recover rents or possession of the Premises from any tenant or trespassor.

Mortgagee shall be entitled to enter the Premises for the purpose of delivering notices or other communications to the tenants and occupants. Mortgagee shall have no liability to Mortgagor as a result of those acts. Mortgagee may deliver all of the notices and communications by ordinary first-class U.S. mail.

If Mortgagor obstructs Mortgagee in its efforts to collect the rents and income from the Premises or unreasonably refuses or neglects to assist Mortgagee in collecting the rent and income, Mortgagee shall be entitled to appoint a receiver for the Premises and the income, rents, and profits, with powers that the court making the appointment fully confer.

Mortgagor shall at no time collect advance rent in excess of one month under any lease pertaining to the Premises, and Mortgagee shall not be bound by any rent prepayment made or received in violation of this paragraph. Mortgagee shall not have any obligation to collect rent or to enforce any other obligations of any tenant or occupant of the Premises to Mortgagor. No action taken by Mortgagee under this paragraph shall cause Mortgagee to become a "mortgagee in possession."

13. Performance of Leases. Mortgagor shall observe and perform all obligations contained in any lease affecting the Premises. Mortgagor shall not default in performing any of the obligations imposed on Mortgagor by any lease. Such a default gives the lessee the right to terminate or cancel the lease or offset against rentals. Upon request, Mortgagor shall furnish to Mortgagee a statement, in any reasonable detail that Mortgagee may request, of all leases relating to the Premises and executed counterparts of any and all leases.

14. Records. Borrower will at all times keep proper books of record and account in which full, true and correct entries shall be made in accordance with generally accepted accounting principles and will deliver to Lender, within ninety (90) days after the end of each fiscal year of Borrower, a copy of the annual financial statements of Borrower relating to such fiscal year, such statement to include (i) the balance sheet of Borrower as at the end of such fiscal year end (ii) the related income statement, statement of retained earnings and statement of cash flow of Borrower for such fiscal year, prepared by such certified public accountants as may be reasonably satisfactory to Lender. Borrower also agrees to deliver to Lender within fifteen (15) days after filing same, a copy of Borrower's income tax returns and also, from time to time, such other financial information with respect to Borrower as Lender may request. In addition, Mortgagor shall furnish to Mortgagee, in a form acceptable to Mortgagee, interim financial statements that Mortgagee may request, certified by Mortgagor.

15. Waiver. If Mortgagee (a) grants any extension of time with respect to the payment of any part of the indebtedness, (b) takes other or additional security for the payment of the indebtedness, (c) waives or fails to exercise any right granted by this Mortgage or the Note, (d) grants any release on any part of the security held for the payment of the indebtedness, or (e) amends any of the terms and provisions of this Mortgage or of the Note, that act or omission shall not release Mortgagor under any covenant of this Mortgage or of the Note, nor preclude Mortgagee from exercising any right or power granted, nor impair the lien or priority of this Mortgage.

16. Use of Premises. Mortgagor shall use the premises for commercial purposes and shall not make, or permit, without the prior written consent of Mortgagee, (a) any use of the Premises for any purpose other than for residential or commercial lease; (b) any alterations of the buildings, improvements, and fixtures located on the Premises; (c) any purchase, lease of, or agreement for any fixtures to be placed on the Premises under which title is reserved in the vendor. Mortgagor shall execute and deliver documents that may be requested by Mortgagee to confirm the lien of this Mortgage on any fixtures, machinery, and equipment.

17. Events of Default. The occurrences listed below shall be deemed events of default and shall entitle Mortgagee, at its option and without notice except as required by law, to exercise any one or any combination of remedies under this Mortgage or permitted by law:

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

- a. the failure by Mortgagor to (i) make any payment when due under the Note or (ii) fail to perform any of the other terms, covenants, or conditions of this Mortgage within a period of 10 days after written notice from Mortgagee of Mortgagor's failure to perform an obligation;
- b. the institution of foreclosure or other proceedings to enforce any junior lien or encumbrance on the Premises;
- c. the appointment by a court of a receiver or trustee of Mortgagor or for any property of Mortgagor;
- d. a decree by a court adjudicating Mortgagor as bankrupt or insolvent, or for the sequestration of any of Mortgagor's property;
- e. the filing of a petition in bankruptcy by or against Mortgagor under the federal Bankruptcy Code or any similar statute that is in effect;
- f. an assignment by Mortgagor for the benefit of creditors or a written admission by Mortgagor of the inability to pay debts generally as they become due;
- g. the failure to comply with all of the terms and covenants of any leases or other agreements, documents, or restrictions that now encumber, affect, or pertain to the Premises;
- h. Mortgagor, without the written consent of Mortgagee, sells, conveys, or transfers the Premises, any interest in the Premises, or any rents or profits from the Premises, or causes or allows any Mortgage, lien, or other encumbrance, or any writ of attachment, garnishment, execution, or other legal process to be placed on the Premises, or any part of the Premises is transferred by operation of law;
- i. all or any part of the Premises is damaged or destroyed by fire or other casualty, regardless of insurance coverage, or is taken by power of eminent domain;
- j. without the prior written consent of Mortgagee, Mortgagor allows for the creation or permits to be created or filed against the Premises, any mortgage lien or other lien or security interest superior or inferior to the lien of this Mortgage, or in any way modify or amend any provision on the Mortgaged Property;
- k. failure of Mortgagor to comply with any of the terms or conditions set forth in the Note or this Mortgage.

18. Default Remedies. Upon the occurrence of any event of default of this Mortgage, Mortgagee shall have the option, in addition to and not in lieu of all other rights and remedies provided by law, to do any or all of the following:

- a. Without notice, except as expressly required by law, to declare the principal sum secured by the Mortgage, together with all interest and all other sums secured by this Mortgage, to be immediately due and payable; to demand any installment payment due under the Note; and to institute any proceedings that Mortgagee deems necessary to collect and otherwise to enforce the indebtedness and obligations secured by this Mortgage and to protect the lien of this Mortgage. Mortgagee shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 18, including, but not limited to, reasonable attorneys' fees.
- b. Commence foreclosure proceedings against the Premises pursuant to applicable laws. Mortgagee's commencement of a foreclosure shall be deemed an exercise by Mortgagee of its option to accelerate the due date of all sums secured by this Mortgage. Mortgagor also grants to Mortgagee, in the event of the occurrence of an event of default, the power of sale. If the Mortgagee invokes the power of sale, i.e., the power to sell the Premises at public auction by advertisement, Mortgagee shall give notice of sale to Mortgagor in the manner provided in Section 27. Mortgagee shall publish and post the notice of sale, and

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

the Premises shall be sold in a manner prescribed by Illinois statutes. Mortgagee or its designee may purchase the Premises at any sale.

- c. To enter into peaceful possession of the Premises and/or to receive the rent, income, and profits, and to apply those in accordance with paragraph 12.

Mortgagor acknowledges having been advised that Mortgagee believes that the value of the security covered by this Mortgage is inextricably intertwined with the effectiveness of the management, maintenance, and general operation of the Premises, and that Mortgagee would not make the loan secured by this Mortgage unless it could be assured that it would have the right to take possession of the Premises in order to manage, control, and enjoy the income, rents, and profits, immediately upon default by Mortgagor, notwithstanding that foreclosure proceedings may not have been instituted, or are pending, or that the redemption period may not have expired. Accordingly, Mortgagor knowingly and voluntarily waives all right to possession of the Premises from and after the date of default, upon demand for possession by Mortgagee.

19. Sale of Premises as a Whole or in Parcels. Upon any foreclosure sale of the Premises, the Premises may be sold either as a whole or in parcels, as Mortgagee may elect, and if in parcels, to be divided as Mortgagee may elect, or, at the election of Mortgagee, the Premises may be offered first in parcels and then as a whole, with the offer producing the highest price for the entire property to prevail.

20. Assignment. Mortgagor shall not make a conveyance of any interest in the Premises. A "conveyance" of Mortgagee's interest in the Premises shall include without limitation any voluntary or involuntary disposition or dilution of legal or beneficial title to the Premises by any means. If ownership of the Premises, or any part, becomes vested in a person other than Mortgagor (with or without Mortgagee's consent), Mortgagee may, without notice to Mortgagor, deal with the successors in interest with reference to this Mortgage and the Note, without in any way releasing or otherwise affecting Mortgagor's liability under this Note and Mortgage.

21. Application of Proceeds. In the event of the payment to Mortgagee, pursuant to this Mortgage, of any rents or profits, or proceeds of any insurance or condemnation award, or proceeds from the sale of the Premises upon foreclosure, Mortgagee shall have the right to apply the rents, profits, or proceeds, in amounts and proportions that Mortgagee shall, in its sole discretion, determine, against the cost and expenses incurred by Mortgagee in exercising its rights under this Mortgage, payment of the interest and principal due under the Note, payment of any other portion of the indebtedness, and payment of expenses incurred in preserving the Premises. Application by Mortgagee of any proceeds toward the last maturing installments of principal and interest to become due under the Note shall not excuse Mortgagor from making the regularly scheduled payments due under the Note and this Mortgage, nor shall the application reduce the amount of the payments. In the event of the payment of proceeds as a result of an insurance or condemnation award, Mortgagee shall have the right, but not the obligation, to require all or part of the proceeds of any insurance or condemnation award to be used to restore any part of the Premises damaged or taken by reason of the occurrence which gave rise to the payment of the proceeds.

22. Required Notices. Mortgagor shall notify Mortgagee promptly of the occurrence of any of the following:

- a fire or other casualty causing damage to all or any part of the Premises;
- receipt of notice of eminent domain proceedings or condemnation of all or any part of the Premises and Mortgagor hereby grants Mortgagee an irrevocable power of attorney to appear in fact for and on behalf of Mortgagor in any and all such proceedings;
- receipt of notice from any governmental authority relating to the structure, use or occupancy of the Premises or any real property adjacent to the Premises;
- receipt of any notice from the holder of any lien or security interest in all or any part of the Premises; or

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

e. commencement of any litigation affecting the Premises.

CAUTION: PARAGRAPH 23 CONTAINS A WAIVER OF IMPORTANT LEGAL RIGHTS

23. Waiver of Rights. This Mortgage contains a power of sale which permits Mortgagee to cause the Premises to be sold in the event of a default. Mortgagee may elect to cause the Premises to be sold by advertisement rather than pursuant to court action, and Mortgagor voluntarily and knowingly waives any right Mortgagee may have by virtue of any applicable constitutional provision or statute to any notice or court hearing prior to the exercise of the power of sale, except as may be expressly required by the Illinois statute governing foreclosures by advertisement. In addition, Mortgagor knowingly and voluntarily waives any right Mortgagee may have to remain in possession of the Premises or to collect any rents or income from the Premises during the pendency of any foreclosure proceedings and during any applicable redemption period. Also, paragraphs 17 and 18 above entitle Mortgagee to require immediate payment of the balance of the indebtedness in full if the Premises are sold or otherwise transferred. By execution of this Mortgage, Mortgagor represents and acknowledges that the meaning and consequences of these paragraphs have been discussed as fully as desired by Mortgagee with Mortgagor's legal counsel.

24. Environmental Matters. Mortgagor agrees to indemnify Mortgagee against, and hold it harmless from, all obligations and liabilities relating to the Premises arising out of claims made or suits brought for investigation, study, remedial work, monitoring, or other costs and expenses arising from or associated with response to any environmental matter, including but not limited to any (a) water pollution, air pollution, noise, odor, spills, leaks, or inadvertent discharges, emissions, or releases, or the generation, transportation, storage, treatment, or disposal of solid waste, including hazardous waste, hazardous substances, pollutants and contaminants; (b) injury, sickness, disease, or death of any person; or (c) damage to any property, regardless of whether the cause of the injury or damage occurred before or after the date of this Mortgage. Mortgagor further agrees that Mortgagee shall have no liability for any environmental contamination associated with Mortgagee's business or the Premises, and that any involvement of Mortgagee with Mortgagor's business to protect its security interest in the Premises shall not constitute Mortgagee as an "owner or operator" of Mortgagor's business for purposes of determining environmental liability. In any event, if Mortgagee becomes obligated, by judicial or administrative judgment or settlement of a claim, to pay any amounts for response to any environmental contamination associated or connected with Mortgagor's business or the Premises, any payment by Mortgagee shall be deemed additional indebtedness secured by the lien of this Mortgage, shall be immediately due and payable to Mortgagee, and shall bear interest until paid at the default interest rate specified in the Note.

25. Covenants Run with Land. All of the terms and covenants of this Mortgage shall run with the land and shall be binding on and inure to the benefit of the respective legal representatives and successors of the parties.

26. Release of Mortgage. If Mortgagor pays to Mortgagee the money required by this Note, in the manner and at the times provided in the Note, and all other sums of the indebtedness payable by Mortgagor to Mortgagee, and keeps and performs the terms, covenants, and agreements of Mortgagee with Mortgagee, then this Mortgage shall be satisfied, and Mortgagee shall release the Mortgage.

27. Notice and Communications. All notices, communications, demands, and requests required or permitted to be given to Mortgagor or by law shall be deemed delivered when deposited in the United States mail, with postage prepaid, addressed to Mortgagor at its last known addresses.

All notices, communications, demands, and requests required or permitted to be given to Mortgagee or by law, to be effective, shall be delivered or sent by registered mail, postage prepaid, return receipt requested, addressed to Mortgagee at the address set forth above or at such other address as the Mortgagee may hereafter designate in writing in the manner herein provided.

28. Severability. If any provision of this Mortgage is in conflict with any statute or rule of law of the State of Illinois or is otherwise unenforceable for any reason, then that provision shall be deemed null and void to the extent of the conflict or unenforceability, but shall be deemed separable from and shall not invalidate any other

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

provision of this Mortgage.

29. Mortgagor's Waivers. Mortgagor hereby waives and releases to the extent permitted by law:

- All errors, defects and imperfections in any proceeding instituted by Mortgagee under the Note or this Mortgage, and/or the accompanying loan documents;
- All benefits that might accrue to the Mortgagor by virtue of any present or future law exempting the Premises, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment; and
- Unless specifically required herein, all notices of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise of any option under the Note or this Mortgage.

Signed on the date set forth above.

MORTGAGOR(S):

Chad Johnston
 _____ (SEAL)
 CHAD JOHNSTON

STATE OF Illinois, COUNTY OF Cook ss:

On this 7 day of September, 2022, before me, a notary public, personally appeared Chad Johnston, to me known (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed the foregoing instrument and acknowledged the same for the purpose therein contained and in my presence signed and sealed the same.

[Signature]

 NOTARY PUBLIC

My Comm. Expires: _____

Drafted by:

Jonathan Siro (PS2100)
 Lelkowsky & Gorosh, P.C.
 31500 Northwestern Highway, Suite 105
 Farmington Hills, MI 48334



NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F****EXHIBIT A****Legal Description for Mortgage**

LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS. PERMANENT TAX NUMBER: 20-08-318-014-0000 and 20-08-318-015-0000

Property of Cook County Recorder of Deeds

Exhibit 4

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22



115 1330-1

Doc# 1423-00022 Fee \$40.00
Rec'd Fee \$0.00 RPRF Fee \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 08/20/2024 07:42 AM Pg: 1 of 1

RELEASE

MICHAEL BORGIA DBA HARD MONEY COMPANY LLC of the County of LEE and State of FLORIDA, DO HEREBY CERTIFY that a certain mortgage dated 9/7/10 made by CRAIG JOHNSTON to MICHAEL BORGIA DBA HARD MONEY COMPANY LLC and recorded as Document No. 1030756055 in the office of THE RECORDER OF DEEDS of COOK County, in the State of ILLINOIS is, with the notes accompanying it, fully paid, satisfied, released and discharged.
Legal description of premises: 13 28 606

LOT 30 AND THE NORTH 1/2 OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTH WEST 1/4 OF THE SOUTH WEST 1/4 OF SECTION 8 TOWNSHIP 38 NORTH RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

Permanent Real Estate Index Number(s): 20-08218-014,015
Address(es) of premises: 5437 S LAFLIN STREET

Witness MY hand and seal this 27th day of July 2014.

Michael Borgia (SEAL)
MICHAEL BORGIA (SEAL)

STATE OF IL
COUNTY OF Cook

I, the undersigned, a Notary Public in and for said County and State aforesaid, do hereby certify that MICHAEL BORGIA, Shawn Cho personally known to me to be the same person(s) whose name(s) appear subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal this 27th day of July

Sarah Bruce
Notary Public
My Commission Expires 12/16/2017



This Instrument prepared by: Sharon Kirkpatrick 8833 Gross Point Rd #205 Skokie, IL 60077

When Recorded mail original to: Chad Johnston 7694 241st Place Edmonds, WA 98026

Exhibit 5

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

Illinois Anti-Predatory

Lending Database
Program

Certificate of Exemption



Doc# 1423268023 Fee: \$52.00
RIP Fee: \$9.00 RPRF Fee: \$1.00
Karin A. Yarbrough
Cook County Recorder of Deeds
Date: 06/20/2014 07:42 AM Pg. 1 of 8

Report Mortgage Fraud
800-632-8785

The property identified as: **PIN:** 20-08-316-014-0000

Address:

Street: 5437 S. Latin St.

Street line 2:

City: Chicago

State: IL

ZIP Code: 60609

Lender: Michael Borgie C/O Hard Money Company

Borrower: Chad Johnston

Loan / Mortgage Amount: \$250,000.00

This property is located within the program area and is exempt from the requirements of 705 ILCS 77/70 et seq. because it is not owner-occupied.

Certificate number: 641D095A-C685-4870-A910-CCDC93CE7490

Execution date: 07/24/2014

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 F**

PS 1328406

Mail To:

Hard Money Co.
5088 W Plano Pkwy
Ste 300
Plano, TX 75093

Plano, TX 75093 (The Above Space For Recorder's Use Only) _____

MORTGAGE

THIS MORTGAGE ("Security Instrument") is given on July 24th, 2014. The mortgagor is Chad Johnstun ("Borrower").

This Security Instrument is given to Michael Borgia C/O Hard Money Company whose address is 5088 West Plano Parkway, #300, Plano, TX 75093 ("Lender").

Borrower owes Lender the principal sum of Two Hundred Fifty Thousand and 00/100 Dollars (U.S. \$250,000.00). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for a final payment of the full debt, if not paid earlier, due and payable August 1st, 2015. This Security Instrument secures to Lender:

(a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extension and modifications; (b) the payment of all other sums, with interest advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to Lender the following described property located in COOK County, Illinois:

PIN: 20-08-318-014-0000 and 20-08-318-015-0000

which has the address of 5437 S Laffin St., Chicago, IL 60609 ("Property Address")

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANT. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; Prepayment and Late Charges.** Borrower shall promptly pay when due the principal of and interest on the debt evidenced by the Note and any prepayment and late charges due under the Note.

2. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause. Lender shall have the right to hold the policies and renewals. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration and repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 19 the property is acquired by Lender, Borrower's rights to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of sums secured by this Security Instrument immediately prior to the acquisition.

3. **Preservation and Maintenance of Property; Leaseholds.** Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate or commit waste. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease, and if Borrower acquires fee title to the Property, the leasehold and fee title shall not merge unless Lender agrees to the merger in writing.

4. **Protection of Lender's Rights in the Property; Mortgage Insurance.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Instrument, appearing in court, paying reasonable attorney's fees, and entering on the Property to make repairs. Although Lender may take action under this paragraph 4, Lender does not have to do so.

5. Successor and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements of this Security Interest shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of paragraph 9. Borrower's covenants and agreements shall be joint and several. Any Borrower who co-signs this Security Instrument but does not execute the Note: (a) is co-signing this Security Instrument only to mortgage, grant and convey the Borrower's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower may agree to extend, modify, forebear or make any accommodations with regard to the terms of this Security Instrument or the Note without the Borrower's consent.

6. Notices. Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Borrower designates by notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this paragraph.

7. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

8. Borrower's Copy. Borrower shall be given one conformed copy of the Note and of this Security Instrument.

9. Transfer of the Property or a beneficial interest in Borrower. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Security Instrument.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

10. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

11. Assignment of Rents and Leases. As additional security for the payment of the Indebtedness, Mortgagor assigns and transfers to Mortgagee, pursuant to 1953 PA 210, as amended

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

by 1966 PA 151 (MCLA 554 231 et seq., MSA 28.1137(1) et seq.), all the rents, profits, and income under all leases, occupancy agreements, or arrangements upon or affecting the Premises (including any extensions or amendments) now in existence or coming into existence during the period this Mortgage is in effect. This assignment shall run with the land and be good and valid as against Mortgagor and those claiming under or through Mortgagor. This assignment shall continue to be operative during foreclosure or any other proceedings to enforce this Mortgage. If a foreclosure sale results in a deficiency, this assignment shall stand as security during the redemption period for the payment of the deficiency. This assignment is given only as collateral security and shall not be construed as obligating Mortgagee to perform any of the covenants or undertakings required to be performed by Mortgagor in any leases. In the event of default in any of the terms or covenants of this Mortgage, Mortgagee shall be entitled to all of the rights and benefits of MCLA 554 231-233, MSA 28.1137(1)-(3), and 1966 PA 151, and Mortgagee shall be entitled to collect the rents and income from the Premises, to rent or lease the Premises on the terms that it may deem best, and to maintain proceedings to recover rents or possession of the Premises from any tenant or trespasser. Mortgagee shall be entitled to enter the Premises for the purpose of delivering notices or other communications to the tenants and occupants. Mortgagee shall have no liability to Mortgagor as a result of those acts. Mortgagee may deliver all of the notices and communications by ordinary first-class U.S. mail. If Mortgagor obstructs Mortgagee in its efforts to collect the rents and income from the Premises or unreasonably refuses or neglects to assist Mortgagee in collecting the rent and income, Mortgagee shall be entitled to appoint a receiver for the Premises and the income, rents, and profits, with powers that the court making the appointment may confer. Mortgagor shall at no time collect advance rent in excess of one month under any lease pertaining to the Premises, and Mortgagee shall not be bound by any rent prepayment made or received in violation of this paragraph. Mortgagee shall not have any obligation to collect rent or to enforce any other obligations of any tenant or occupant of the Premises to Mortgagor. No action taken by Mortgagee under this paragraph shall cause Mortgagee to become a "mortgagee in possession."

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Signed, sealed and delivered in the presence of:


 _____ (SEAL)
 Chad Johnston, BORROWER

_____[Space Below This Line For Acknowledgement]_____

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgements, personally appeared Chad Johnston, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same for the purpose therein expressed.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

WITNESS my hand and official seal in the County of state and on this 26th day of July, 2014

My Commission expires: 03/1/2016

(Seal)

Notary Public H/S



Property of Cook County Recorder of Deeds

Lender Name:

Lender Amount:

Percent of Total Loan:

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

Lender Signature

Property of Cook County Recorder of Deeds

Hard Money Company, LLC, as agent and trustee has been authorized by the above listed lenders to receive the payoff in its name and issue and execute a release of said mortgage, upon payment in full of any outstanding balance.

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 F

EXHIBIT A

Commitment Number: 1328608

LOT 30 AND THE NORTH 1/2 OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE SOUTH WEST 1/4 OF THE SOUTH WEST 1/4 OF SECTION 8 TOWNSHIP 38 NORTH RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

20-08318-014,015
5437 S. LAFLIN STREET CHICAGO IL

Property of Cook County Recorder of Deeds

PRIMARY TITLE SERVICES LLC
8833 CROSS POINT ROAD #201 - SKOKIE, IL 60077-1859
PH 847-677-8833 FX 847-475-8933
A Policyholders Agent for
WFG NATIONAL TITLE INSURANCE COMPANY

Commitment
Exhibit A

(1328608 PFD) 1328608(12)

Exhibit 6

204
NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22

RELEASE OF MORTGAGE OR
TRUST DEED (ILLINOIS)



Doc# 1715313013 Fee \$40.00

DEED FEE: 19.00 COPY FEE: \$1.00

HAREN A. VARRUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 06/02/2017 10:16 AM PG: 1 OF 2

Instrument Prepared by and
After-recorded return to:
Ivana Salajans
Rock Fusco & Connelly, L.L.C.
321 N. Clark Street, Suite 2200
Chicago, Illinois 60654

Return to:
OS NATIONAL LLC
2170 SATELLITE BLVD.
SUITE 200
DULUTH, GA 30097

The above space is for the recorder's use only

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER OF DEEDS IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS FILED.

KNOW ALL MEN BY THESE PRESENTS, That **MICHAEL BORGIA**, for and in consideration of the payment of the indebtedness secured by the Mortgage hereinafter mentioned, and the cancellation of all the monies thereby secured, and of the sum of one dollar, the receipt whereof is hereby acknowledged, do hereby **REMISE, RELEASE, CONVEY, and QUIT CLAIM** unto **CHAD JOHNSTUN**, and his heirs, legal representatives and assigns, all the right, title, interest, claim or demand whatsoever they may have acquired in, through or by a certain **MORTGAGE**, recorded on the 14th day of **August, 2014**, in the Recorder's Office of **COOK County**, in the State of **Illinois**, as Document No. **1423256923** to the premises therein described as follows, situated in the County of **COOK**, in the State of **Illinois**, to wit:

LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 28 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

together with all the appurtenances and privileges thereunto belonging or appertaining.

Permanent Real Estate Index Number(s): **20-08-318-014-000**

Property Address: **5437 S. LAFLIN STREET, CHICAGO, ILLINOIS 60609**

IN TESTIMONY WHEREOF, said party of the first part has caused its name to be signed to these presents this 14 day of **May, 2017**.

MICHAEL BORGIA

208

NOT AN OFFICIAL DOCUMENT**nt #: 1330-1 Filed: 11/08/22 P**STATE OF New York)
SS
COUNTY OF Albany)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT **MICHAEL BORGIA**, are personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 19 day of May, 2017.

Theresa Macci (Notary Public)

TERESA MACCI
No. 01682311002
Notary Public, State of New York
Qualified in Albany County
My Commission Expires Sept. 08, 2018

Property of Cook County Recorder of Deeds

Exhibit 7

Natarelli, Brett

From: Shaun Cohen
Sent: Friday, May 19, 2017 7:32 AM
To: Michael Borgia
Subject: Release Deed
Attachments: RELEASE OF MORTGAGE - 5437 Laflin.pdf

Mike,

Please sign this and overnight to the address on the release itself.

Thanks,

Shaun Cohen *President, EquityBuild Finance*

Tel: (877) 978-1916 x 1807 | Mobile: (215) 407-5777 | Fax: (239) 244-8666
shaun@equitybuildfinance.com | www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

**RELEASE OF MORTGAGE OR
TRUST DEED(ILLINOIS)**

**Instrument Prepared by and
After recorded return to:
Ioana Salajanu
Rock Fusco & Connelly, LLC
321 N. Clark Street, Suite 2200
Chicago, Illinois 60654**

The above space is for the recorder's use only

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER OF DEEDS IN WHOSE OFFICE THE MORTGAGE OR DEED OF TRUST WAS FILED.

KNOW ALL MEN BY THESE PRESENTS, That **MICHAEL BORGIA**, for and in consideration of the payment of the payment of the indebtedness secured by the Mortgage hereinafter mentioned, and the cancellation of all the notes thereby secured, and of the sum of one dollar, the receipt whereof is hereby acknowledged, do hereby **REMISE, RELEASE, CONVEY, and QUIT CLAIM** unto **CHAD JOHNSTUN**, and its heirs, legal representatives and assigns, all the right, title, interest, claim or demand whatsoever they may have acquired in, through or by a certain **MORTGAGE**, recorded on the 14th day of **August, 2014**, in the Recorder's Office of **COOK** County, in the State of Illinois, as Document No. **1423256023** to the premises therein described as follows, situated in the County of **COOK**, in the State of Illinois, to wit:

LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

together with all the appurtenances and privileges thereunto belonging or appertaining.

Permanent Real Estate Index Number(s): **20-08-318-014-0000**

Property Address: **5437 S. LAFLIN STREET, CHICAGO, ILLINOIS 60609**

IN TESTIMONY WHEREOF, said party of the first part has caused its name to be signed to these presents this _____ day of May, 2017.

MICHAEL BORGIA

Exhibit 8

Mandel, Candace

From: Shaun Cohen <shaun@equitybuildfinance.com>
Sent: Tuesday, July 18, 2017 2:48 PM
To: 'Elizabeth Kammerer'
Cc: 'Brian Walker'
Subject: Re: T3

Aldrich, yes. Borgia still has a loan balance and he is aware of it. Laflin was refinanced before and that was when Borgia was placed in the UPN.

Thanks,

Shaun Cohen *President, EquityBuild Finance*

Tel: (877) 978-1916 x 1807 | Mobile: (215) 407-5777 | eFax: (239) 244-8666
shaun@equitybuildfinance.com | www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

On Tue, Jul 18, 2017 at 2:41 PM, Elizabeth Kammerer <elizabeth@equitybuildfinance.com> wrote:
Has Borgia and Aldrich been repaid?

Thanks,

Mrs. Elizabeth Kammerer *Documentation Department Manager, EquityBuild Finance*

Tel: (877) 978-1916 x 1804 | Mobile: (469) 910-9790 | Fax: (877) 978-2727 |
www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

On Tue, Jul 18, 2017 at 2:31 PM, Shaun Cohen <shaun@equitybuildfinance.com> wrote:

Do not send anything to any investor until I look over what you are sending. In order to be more efficient, send me one or two samples for me to approve and then you can handle the rest.

Thanks,

Shaun Cohen *President, EquityBuild Finance*

Tel: (877) 978-1916 x 1807 | Mobile: (215) 407-5777 | eFax: (239) 244-8666
shaun@equitybuildfinance.com | www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

On Tue, Jul 18, 2017 at 2:30 PM, Shaun Cohen <shaun@equitybuildfinance.com> wrote:
Here are the sheets.

Thanks,

Shaun Cohen *President, EquityBuild Finance*

Tel: (877) 978-1916 x 1807 | Mobile: (215) 407-5777 | eFax: (239) 244-8666
shaun@equitybuildfinance.com | www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

On Tue, Jul 18, 2017 at 12:46 PM, Brian Walker <brian@equitybuild.com> wrote:
GREAT! who wants to send it to me and Elizabeth? anyone! lol first come first serve ;)

Tyler, if the data is already in a summary, or better yet an email, can it just be re-sent? Just looking for the fastest way to the end.

Thanks everyone!

On Tue, Jul 18, 2017 at 12:39 PM, Tyler DeRoo <tyler@equitybuild.com> wrote:
Shaun and ron have this info already.

Sent from my iPhone

On Jul 18, 2017, at 12:35 PM, Brian Walker <brian@equitybuild.com> wrote:

Hi Tyler,

Hope the week is off to a great start! When you get a minute sometime today, we (docs team) are building the FR sheets and Elizabeth needs some foundation data to open this up with Sales. I'll just cheat and pull her question into the thread. ;)

Thanks for your help! Have a great day,

Brian

Question: How much money came in from T3 in total AND per property that the investors can get as a payoff.

If there's some additional information you need to answer the question - please contact Elizabeth directly. Her contact info is listed below.

----- Forwarded message -----

From: **Elizabeth Kammerer** <elizabeth@equitybuildfinance.com>

Date: Tue, Jul 18, 2017 at 12:27 PM

Subject: T3

To: Brian Walker via DocuSign <brian@equitybuild.com>

How much money came in from T3 in total AND per property that the investors can get as a payoff

Thanks,

Mrs. Elizabeth Kammerer *Documentation Department Manager, EquityBuild Finance*

Tel: (877) 978-1916 x 1804 | Mobile: (469) 910-9790 | Fax: (877) 978-2727 |

www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

Exhibit 9

Mandel, Candace

From: Elizabeth Kammerer <elizabeth@equitybuildfinance.com>
Sent: Thursday, May 17, 2018 1:24 PM
To: 'John Allred'
Cc: 'Julie Foster'
Subject: Re: Status Updates for Michael Borgia

That payment comes from 140k at 14% interest only
I am preparing the amendment now, I've been in 100% liberty immersion for weeks

Thanks,

Mrs. Elizabeth Kammerer *Document Control Manager, EquityBuild Finance, LLC*
Tel: (877) 978-1916 x 1804 | Mobile: (469) 910-9790 | Fax: (877) 978-2727 |
www.equitybuildfinance.com

This email is intended only for the person or entity to which it is addressed and may contain information that is confidential, privileged, or otherwise protected from disclosure under applicable law. Dissemination, distribution or copying of this email including the information contained herein or any attachments hereto (the "message") by anyone other than the intended recipient, or an employee of agent responsible for delivering the message to the intended recipient, is strictly prohibited. If you received this email in error, please immediately contact the sender and destroy the material in its entirety whether in electronic or hard copy format.

On Fri, May 4, 2018 at 3:11 PM, John Allred <jallred@equitybuild.com> wrote:

Elizabeth, please help us with Michael Borgia's position on Lafin. He keeps following up repeatedly and we're nowhere on getting this answered for him.

- 1) QB shows a \$250K position; his email says \$140K; What do we owe him???
- 2) Julie shows a current payout history below on an open Lafin UPN for \$1633.33/ mo. What are the original terms on this? I can't make any sense out of it.
- 3) we need whatever we owe him converted to an amortized note with our standard terms (24 mos @8%).

john b. allred
Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Fri, May 4, 2018 at 2:16 PM, Michael Borgia <mtborgia@gmail.com> wrote:

I wanted an update on when the principal will be repaid. This UPN which had a 1/30/18 maturity date replaced an investment that was made over 5 years ago.

On Fri, May 4, 2018 at 12:54 PM, John Allred <jallred@equitybuild.com> wrote:

Michael, here is the payout history on your upn for Laflin. Is this what you were wanting?

john b. allred

Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Fri, May 4, 2018 at 11:20 AM, Julie Foster <julie@equitybuild.com> wrote:

2/28/2017	UPN Replacing 5437 S Laflin - Borgia	0008139	⚡	\$1,633.33
3/30/2017	UPN Replacing 5437 S Laflin - Borgia	0009181	⚡	\$1,633.33
4/28/2017	UPN Replacing 5437 S Laflin - Borgia	0010064	⚡	\$1,633.33
5/30/2017	UPN Replacing 5437 S Laflin - Borgia	0011036	⚡	\$1,633.33
6/30/2017	UPN Replacing 5437 S Laflin - Borgia	0011989	⚡	\$1,633.33
7/31/2017	UPN Replacing 5437 S Laflin - Borgia	0012969	⚡	\$1,633.33
8/30/2017	UPN Replacing 5437 S Laflin - Borgia	0014696	⚡	\$1,633.33
9/29/2017	UPN Replacing 5437 S Laflin - Borgia	0015556	⚡	\$1,633.33
10/30/2017	UPN Replacing 5437 S Laflin - Borgia	0016527	⚡	\$1,633.33
11/30/2017	UPN Replacing 5437 S Laflin - Borgia	0017429	⚡	\$1,633.33
12/29/2017	UPN Replacing 5437 S Laflin - Borgia	0018342	⚡	\$1,633.33
1/30/2018	UPN Replacing 5437 S Laflin - Borgia	0019314	⚡	\$1,633.33
2/28/2018	UPN Replacing 5437 S Laflin - Borgia	0020298	⚡	\$1,633.33
3/30/2018	UPN Replacing 5437 S Laflin - Borgia	0021374	⚡	\$1,633.33
4/30/2018	UPN Replacing 5437 S Laflin - Borgia	0022337	⚡	\$1,633.33

On Fri, May 4, 2018 at 8:56 AM, John Allred <jallred@equitybuild.com> wrote:

Julie, can we produce a payout history on Laflin upn, please?

john b. allred

Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Fri, May 4, 2018 at 6:36 AM, Michael Borgia <mtborgia@gmail.com> wrote:

It's been over 5 weeks since I asked for an update on Laflin - what is the status?

On Fri, Apr 20, 2018 at 1:40 PM, John Allred <jallred@equitybuild.com> wrote:

Mike, unfortunately both the staff members I need access to in order to finalize the disposition on Laflin are out today. In broad strokes, we will be performing on an amortized upn to pay back your \$250K on Laflin, but I'm still running down some detail on it before my final report back to you.

john b. allred
Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Fri, Apr 20, 2018 at 10:55 AM, David Geldart <dgeldart@equitybuildfinance.com> wrote:

Hi Mike,

I will have to defer to John on this one.

David Geldart
Relationship
Manager
EquityBuild Finance, LLC
Direct: +1 (469) 275-2024
Fax: +1 (800) 578.7161
EquityBuild.com
Dallas, TX | Marco Island, FL | Denver, CO | Chicago, IL



Note: This email, including attachments, is intended only for the addresses(s) indicated, and may include non-public, proprietary, confidential or legally privileged information. If you are not an intended recipient or an authorized agent of an intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained in or transmitted with this e-mail is unauthorized and strictly prohibited. If you have received this email in error, delete it and any attachments or copies immediately.

On Fri, Apr 20, 2018 at 9:08 AM, Michael Borgia <mtborgia@gmail.com> wrote:
Still waiting for an status on the South Laffin property - thanks.

On Mon, Mar 26, 2018 at 12:19 PM, John Allred <jallred@equitybuild.com> wrote:

- 7616 S Phillips \$325,000 07/01/17 under extension with current projected maturity of 7/1/18.
- 7255 S Euclid \$125,000 09/01/17 under 2nd extension with current projected maturity of 7/1/18.
- 1700 W Juneway \$125,000 07/01/18 under extension with current projected maturity of 6/30/18.
- 5201 W Washington \$400,416 02/16/18 GSLOW – opting for amortized note
- [109 N Laramie](#) \$455,673 02/16/18 GSLOW – opting for amortized note
- 7201 S Constance \$669,327 07/01/18 under 2nd extension with projected maturity of 6/30/18.
- S Laffin \$140,000 01/30/18 provide checking with Docs Dept and Data Mgmnt.
- South Side Dev \$349,521 11/01/22

john b. allred
Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Mon, Mar 26, 2018 at 11:01 AM, Max Capistran <mcapistran@equitybuild.com> wrote:
Hey John,

Michael has an attachment with some request regarding status updates. Could you take a look at them and help him out?

Thanks!

--

Max Capistran

Associate RM

EquityBuild Finance, LLC

Direct: [+1 \(469\) 562.9144](tel:+14695629144)

Fax: [+1 \(800\) 578.7161](tel:+18005787161)

EquityBuild.com

Dallas, TX | Marco Island, FL | Denver, CO | Chicago, IL



Note: This email, including attachments, is intended only for the addresses(s) indicated, and may include non-public, proprietary, confidential or legally privileged information. If you are not an intended recipient or an authorized agent of an intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained in or transmitted with this e-mail is unauthorized and strictly prohibited. If you have received this email in error, delete it and any attachments or copies immediately.

Exhibit 10

Mandel, Candace

From: John Allred <jallred@equitybuild.com>
Sent: Friday, April 20, 2018 12:40 PM
To: 'David Geldart'
Cc: 'Michael Borgia'; 'Max Capistran'; 'David Geldart'
Subject: Re: Status Updates for Michael Borgia

Mike, unfortunately both the staff members I need access to in order to finalize the disposition on Laflin are out today. In broad strokes, we will be performing on an amortized upn to pay back your \$250K on Laflin, but I'm still running down some detail on it before my final report back to you.

john b. allred
Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Fri, Apr 20, 2018 at 10:55 AM, David Geldart <dgeldart@equitybuildfinance.com> wrote:
Hi Mike,

I will have to defer to John on this one.

David Geldart
Relationship
Manager
EquityBuild Finance, LLC
Direct: +1 (469) 275-2024
Fax: +1 (800) 578.7161
EquityBuild.com
Dallas, TX | Marco Island, FL | Denver, CO | Chicago, IL



Note: This email, including attachments, is intended only for the addresses(s) indicated, and may include non-public, proprietary, confidential or legally privileged information. If you are not an intended recipient or an authorized agent of an intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained in or transmitted with this e-mail is unauthorized and strictly prohibited. If you have received this email in error, delete it and any attachments or copies immediately.

On Fri, Apr 20, 2018 at 9:08 AM, Michael Borgia <mtborgia@gmail.com> wrote:
Still waiting for an status on the South Laffin property - thanks.

On Mon, Mar 26, 2018 at 12:19 PM, John Allred <jallred@equitybuild.com> wrote:

7616 S Phillips \$325,000 07/01/17 under extension with current projected maturity of 7/1/18.
7255 S Euclid \$125,000 09/01/17 under 2nd extension with current projected maturity of 7/1/18.
1700 W Juneway \$125,000 07/01/18 under extension with current projected maturity of 6/30/18.
5201 W Washington \$400,416 02/16/18 GSLOW – opting for amortized note
[109 N Laramie](#) \$455,673 02/16/18 GSLOW – opting for amortized note
7201 S Constance \$669,327 07/01/18 under 2nd extension with projected maturity of 6/30/18.
S Laffin \$140,000 01/30/18 provide checking with Docs Dept and Data Mgmnt.
South Side Dev \$349,521 11/01/22

john b. allred
Chief Client Advocate

EquityBuild Inc. &
EquityBuild Finance, LLC

tel +1.918.286.7992

jallred@equitybuild.com
EquityBuild.com | EquityBuildFinance.com



On Mon, Mar 26, 2018 at 11:01 AM, Max Capistran <mcapistran@equitybuild.com> wrote:
Hey John,

Michael has an attachment with some request regarding status updates. Could you take a look at them and help him out?

Thanks!

--
Max Capistran
Associate RM

EquityBuild Finance, LLC

Direct: [+1 \(469\) 562.9144](tel:+14695629144)

Fax: [+1 \(800\) 578.7161](tel:+18005787161)

EquityBuild.com

Dallas, TX | Marco Island, FL | Denver, CO | Chicago, IL



Note: This email, including attachments, is intended only for the addresses(s) indicated, and may include non-public, proprietary, confidential or legally privileged information. If you are not an intended recipient or an authorized agent of an intended recipient, you are hereby notified that any dissemination, distribution or copying of the information contained in or transmitted with this e-mail is unauthorized and strictly prohibited. If you have received this email in error, delete it and any attachments or copies immediately.

Exhibit 11

Mandel, Candace

From: Michael Borgia <mtborgia@gmail.com>
Sent: Saturday, June 9, 2018 5:50 AM
To: 'Shaun.cohen@equitybuild.com'
Subject: Fwd: Michael,Urgent Update Message: please read carefully.

Shaun,

Which of my investments will be rolled into this Fund? I have 8 in total including several UPNs and need to know the disposition of all before I make any decisions.

Once I read these new documents I will get back to you with my questions.

Mike

----- Forwarded message -----

From: **EquityBuild Updates** <updates@equitybuild.com>
Date: Fri, Jun 8, 2018 at 6:02 PM
Subject: Michael,Urgent Update Message: please read carefully.
To: mtborgia@gmail.com



Michael,

Attached is the equity fund model we promised to deliver to you today. The principle objective we pursued in constructing this model was getting you a full return of capital at the earliest possible date while also generating an attractive return on capital.

The attached model projects return of 50% of your capital at the end of the first year, followed by a small capital repayment at the end of year 2 and return of the remainder at the end of the year 3.

[Click here](#)

The model also offers a preferred dividend of 8% subject to property performance. We are pleased we are also able to project a better than 11% internal rate of return as well. Thank you for your patience while we worked through this process and your continued patience as we move forward.

Our documents team will be sending a new document set. Please execute and return promptly so that your position can be set up for dividend distributions as warranted.

Sincerely,

EquityBuild Inc.

updates@equitybuild.com

(877) 978-1869

The information contained herein was obtained from sources deemed reliable. However, EquityBuild makes no guarantees, warranties or representations as to the completeness or accuracy of this information. This is not an offer to purchase or sell any securities. Any such offer can be made only by transmitting to any prospective investor a Confidential Private Placement Memorandum or other document intended to give a prospective investor all relevant information in order to make an informed decision about an investment. All such information should be considered carefully by any prospective investor before making any investment.







Available on the iPhone

App Store

ANDROID APP ON



Google Play

EquityBuild 5068 W. Plano Pkwy, #300 Plano TX 75093 [USA](#)

You received this email because you are subscribed to 'New/Updated Projects' Subscription from EquityBuild .

Update your [email preferences](#) to choose the types of emails you receive.

[Unsubscribe from all future emails](#)

Exhibit 12

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

WARRANT DEED
ILLINOIS STATUTORY



Doc# 1717219027 Fee \$40.00
RSP FEE:19.00 DRP FEE: 51.00
CHAD A. JOHNSTUN
COOK COUNTY RECORDER OF DEEDS
DATE: 06/21/2017 12:25 PM PG: 1 OF 2

THE GRANTOR(S) CHAD JOHNSTUN, of the City of Edmonds, County of Snohomish, State of Washington, for and in consideration of Ten and 00/100 Dollars, and other good and valuable consideration in hand paid, CONVEY(S) and WARRANT(S) to EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company, of 201 N. Westshore Drive, Apt. 1501, Chicago, Illinois 60601, Illinois 60475, of the County of Cook, all interest in the following described Real Estate situated in the County of Cook in the State of Illinois, to-wit:

LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

SUBJECT TO: Covenants, conditions and restrictions of record; public and utility easements; all special governmental taxes or assessments confirmed and unconfirmed; and general real estate taxes not yet due and payable at the time of the Closing.

Hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois.

Permanent Real Estate Index Number(s): 20-08-318-014-0000 AND 20-08-318-015-0000

Address(es) of Real Estate: 5437 S. LAFLIN STREET, CHICAGO, ILLINOIS 60609

Dated this 17 day of MAY, 2017

CHAD JOHNSTUN

CCRD REVIEW

REAL ESTATE TRANSFER TAX 21-Jun-2017



CHICAGO: 1,065.00
CTA: 426.00
TOTAL: 1,491.00

20-08-318-014-0000 | 20170601676920 | 1-793-394-112

* Total does not include any applicable penalty or interest due.

REAL ESTATE TRANSFER TAX 21-Jun-2017



COUNTY: 71.00
ILLINOIS: 142.00
TOTAL: 213.00

20-08-318-014-0000 | 20170601676920 | 1-567-398-026

NOT AN OFFICIAL DOCUMENT

nt #: 1330-1 Filed: 11/08/22 P

STATE OF Washington COUNTY OF King SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT **CHAD JOHNSTUN**, are personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal this 17th day of May, 2017.



Stephanie Bartee
Notary Public

Prepared by:

Rock Fusco & Connelly, LLC
Ioana Salajanu
321 N. Clark Street Suite 2200
Chicago, IL 60654

Met by:

Rock Fusco & Connelly, LLC
Patrick Clancy
321 N. Clark Street Suite 2200
Chicago, IL 60654

Name and Address of Taxpayer:

EB South Chicago 3 LLC
757 E 20th Ave Suite 370 #442
Denver, CO 80205

Return to:

OS NATIONAL, LLC
2170 SATELLITE BLVD,
SUITE 200
DULUTH, GA 30097

Cook County Recorder of Deeds