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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 02/11/2014 10:41 AM Pg: 1 of 14

THIS DOCUMENT WAS PREPARED BY,
AND AFTER RECORDING, RETURN TO:

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MUCH SHELIST
191 North Wacker Drive
Suite 1800
Chicago, Illinois 60606.1615

PERMANENT TAX INDEX NUMBERS:

16-35-200-001-0000
16-35-200-002-0000
16-35-200-007-0000

PROPERTY ADDRESS:

3535 West 31st Street
Chicago, Illinois **60623**

This space for Recorder's use only.

AMENDED AND RESTATED ASSIGNMENT OF RENTS AND LEASES

This **AMENDED AND RESTATED ASSIGNMENT OF RENTS AND LEASES** dated as of January 31, 2014 (this "**Assignment**"), is executed by **MRC POLYMERS, INC.**, an Illinois corporation (the "**Assignor**"), whose address is 3535 West 31st Street Chicago, Illinois 60623, to and for the benefit of **FIRSTMERIT BANK, N.A.**, a national banking association, together with its successors and assigns (the "**Lender**"), whose address is 101 North Wacker Drive, Suite 160, Chicago, Illinois 60606.

RECITALS:

A. Pursuant to the terms and conditions contained in that certain Second Amended and Restated Credit and Security Agreement dated as of December 31, 2012, executed by and among the Assignor, **MATERIAL RECOVERY HOLDINGS, LLC**, an Illinois limited liability company ("**MRH**"), and **MRC MANAGEMENT, LLC**, an Illinois limited liability company ("**MRC Management**"; the Assignor, MRH and MRC Management are collectively referred to in this Assignment as the "**Commercial Borrowers**"), and the Lender, as amended by that certain First Amendment to Second Amended and Restated Credit Agreement dated as of May 31, 2013, that certain Second Amendment to Second Amended and Restated Credit Agreement dated as of December 2, 2013, and that certain Third Amendment to Second

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Amended and Restated Credit Agreement (the "**Third Amendment**") dated as of even date herewith (as so amended and as further amended, modified, replaced, or restated from time to time, the "**Loan Agreement**"), the Lender agreed to loan to the Commercial Borrowers the aggregate principal amount of **THIRTEEN MILLION FOUR HUNDRED THIRTY-ONE THOUSAND TWENTY AND 00/100 DOLLARS** (\$13,431,020.00) (collectively, the "**Commercial Loans**"). The Commercial Loans are evidenced by:

(i) that certain Second Amended and Restated Revolving Note dated December 31, 2012 (as amended, restated or replaced from time to time, the "**Revolving Note**"), executed by the Commercial Borrowers and made payable to the order of the Lender in the maximum principal amount of **SIX MILLION AND 00/100 DOLLARS** (\$6,000,000.00);

(ii) that certain Third Amended and Restated Capex Note dated December 31, 2012 (as amended, restated or replaced from time to time, the "**Capex Note**"), executed by the Commercial Borrowers and made payable to the order of the Lender in the original principal amount of **TWO MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS** (\$2,500,000.00);

(iii) that certain Capex 3 Note dated May 31, 2013 (as amended, restated or replaced from time to time, the "**Capex 3 Note**"), executed by the Commercial Borrowers and made payable to the order of the Lender in the original principal amount of **ONE MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS** (\$1,500,000.00); and

(iv) that certain Term Loan 3 Note of even date herewith (as amended, restated or replaced from time to time, the "**Term Loan 3 Note**"; the Revolving Note, the Capex Note, the Capex 3 Note and the Term Loan 3 Note are collectively referred to in this Assignment as the "**Commercial Notes**"), executed by the Commercial Borrowers and made payable to the order of the Lender in the original principal amount of **THREE MILLION FOUR HUNDRED THIRTY-ONE THOUSAND TWENTY AND 00/100 DOLLARS** (\$3,431,020.00) (the Commercial Notes and the Loan Agreement, together with the other documents evidencing, securing, and guarantying the Commercial Loans, in their original form and as amended, restated or replaced from time to time, are collectively referred to in this Assignment as the "**Commercial Loan Documents**").

B. The Lender has also previously loaned to **DEAN M. EBERHARDT, TRUSTEE OF THE DEAN M. EBERHARDT TRUST** (the "**Mortgage Borrower**"), and **DEAN M. EBERHARDT, TRUSTEE OF THE MARK D. EBERHARDT TRUST** (the "**MDE Trust**"); the Mortgage Borrower and the MDE Trust are collectively referred to in this Assignment as the "**Original Mortgage Borrowers**"), the original principal amount of **ONE MILLION FOUR HUNDRED NINETY-FIVE THOUSAND AND 00/100 DOLLARS** (\$1,495,000.00) (the "**Mortgage Loan**"), as evidenced by that certain Promissory Note dated October 18, 2010 (as amended, restated, or replaced from time to time, the "**Mortgage Note**"; the Commercial Notes and the Mortgage Note are collectively referred to in this Assignment as the "**Notes**"), jointly and severally executed by the Original Mortgage Borrowers and made payable to the order of the Lender in the original principal amount of the Mortgage Loan. The Mortgage Note and the other documents evidencing, securing, and guarantying the Mortgage Loan, in their original form and

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as amended, restated, or replaced from time to time, are collectively referred to in this Assignment as the "**Mortgage Loan Documents**"; the Commercial Loan Documents and the Mortgage Loan Documents are collectively referred to in this Assignment as the "**Loan Documents**").

C. Pursuant to that certain Loan Assignment and Assumption Agreement, Limited Release and Modification of Loan Documents dated as of June 23, 2011 (the "**First Modification**"), executed by and among the Original Mortgage Borrowers, the Assignor, Dean M. Eberhardt, and the Lender, the Mortgage Borrower assumed the MDE Trust's obligations under the Mortgage Loan Documents, and the MDE Trust was released from its obligations under the Mortgage Loan Documents (except as set forth in the First Modification).

D. The Mortgage Loan Documents were further amended by that certain Second Modification of Loan Documents dated as of May 31, 2012, executed by and among the Mortgage Borrower, the Assignor, Dean M. Eberhardt and the Lender, that certain Third Modification of Loan Documents dated as of December 31, 2012, executed by and among the Mortgage Borrower, the Assignor, Dean M. Eberhardt and the Lender, and that certain Fourth Modification of Loan Documents dated as of even date herewith executed by and among the Mortgage Borrower, the Assignor, and the Lender.

E. The Loan Documents were previously secured by, among other things, (i) that certain Revolving Mortgage, Assignment of Rents and Leases and Fixture Filing dated as of October 18, 2010, executed by the Assignor to and for the benefit of the Lender, and recorded with the Recorder of Deeds of Cook County, Illinois (the "**Recorder's Office**"), on October 22, 2010, as Document No. 1029533026 (as amended, the "**Original Mortgage**"), and (ii) that certain Assignment of Rents and Leases dated as of October 18, 2010, executed by the Assignor to and for the benefit of the Lender, and recorded with the Recorder's Office, on October 22, 2010, as Document No. 1029533027 (as amended, the "**Original Assignment**"), as amended by that certain First Amendment to (I) Revolving Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, (II) Assignment of Rents and Leases, and (III) Environmental Indemnity Agreement dated as of June 23, 2011, and recorded with the Recorder's Office on August 18, 2011, as Document No. 1123012047, that certain Second Amendment to (I) Revolving Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, (II) Assignment of Rents and Leases, and (III) Environmental Indemnity Agreement dated as of May 31, 2012, and recorded with the Recorder's Office on January 16, 2013, as Document No. 1301618071, and that certain Third Amendment to (I) Revolving Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, (II) Assignment of Rents and Leases, and (III) Environmental Indemnity Agreement dated as of December 31, 2012, and recorded with the Recorder's Office on January 16, 2013, as Document No. 1301634081.

F. Pursuant to that certain Special Warranty Deed recorded with the Recorder's Office on January 31, 2013, as Document No. 1303122035 (the "**Deed**"), the Assignor conveyed a portion of the premises encumbered by the Original Mortgage. Pursuant to a scrivener's error, the Lender released the Original Mortgage and the Original Assignment in their entirety by that certain Satisfaction of Mortgage recorded with the Recorder's Office on March 19, 2013, as

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Document No. 1307719063; however, the Lender only intended to release the property conveyed by the Deed from the lien of the Original Mortgage and the Original Assignment and intended that the Premises (as hereinafter defined) were to remain subject to the lien of the Original Mortgage and the Original Assignment.

G. A condition precedent to the Lender's extension of the loan evidenced by the Term Loan 3 Note and the Lender's execution of the Third Amendment is the execution and delivery by the Assignor of this Assignment.

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

AGREEMENTS:

1. **Definitions** All capitalized terms which are not defined herein shall have the meanings ascribed thereto in that certain Amended and Restated Revolving Mortgage, Assignment of Rents and Leases and Fixture Filing dated as of even date herewith, executed by the Assignor to and for the benefit of the Lender (as amended, modified or replaced from time to time, the "**Security Instrument**"). The Security Instrument amends and restates the Original Mortgage in its entirety.

2. **Grant of Security Interest.** The Assignor hereby grants, transfers, sets over and assigns to the Lender, all of the right, title and interest of the Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the land legally described in **Exhibit "A"** attached hereto and made a part hereof and all buildings and other improvements located thereon (said land and improvements being hereinafter referred to collectively as the "**Premises**"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (each, a "**Lease**", and collectively, the "**Leases**"), now or hereafter existing, of all or any part of the Premises together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements and fixtures located on the Premises. This Assignment is an absolute transfer and assignment of the foregoing interests to the Lender given to secure:

(a) the payment by the Borrowers when due of (i) the indebtedness evidenced by the Notes and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to the Lender by the Borrowers under or with respect to the Loan Documents and/or the Interest Rate Agreements (as defined in the Security Instrument); and (iii) all costs and expenses paid or incurred by the Lender in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

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(b) the observance and performance by the Borrowers of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of the Borrowers or any other obligor to or benefiting the Lender which are evidenced or secured by or otherwise provided in the Loan Agreement, the Notes, this Assignment, any of the other Loan Documents or any of the Interest Rate Agreements, together with all amendments and modifications thereof.

3. Representations and Warranties of the Assignor. The Assignor represents and warrants to the Lender that:

(a) this Assignment, as executed by the Assignor, constitutes the legal and binding obligation of the Assignor enforceable in accordance with its terms and provisions;

(b) the Assignor is the lessor under all Leases;

(c) there is no other existing assignment of the Assignor's entire interest or any part of the Assignor's interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has the Assignor entered into any agreement to subordinate any of the Leases or the Assignor's right to receive any of the rents, issues, income or profits assigned hereunder;

(d) the Assignor has not executed any instrument or performed any act which may prevent the Lender from operating under any of the terms and provisions hereof or which would limit the Lender in such operation; and

(e) there are no defaults by the landlord and, to the Assignor's knowledge, there are no material defaults by tenants under any Leases.

4. Covenants of the Assignor. The Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) the Assignor shall not lease any portion of the Premises unless the Assignor obtains the Lender's prior written consent to all aspects of such lease;

(b) the Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and the Assignor shall not do or suffer to be done anything to impair the security thereof. The Assignor shall not (i) release the liability of any tenant under any Lease, (ii) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals, (iii) consent to any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease, except as specifically provided therein, or (v) enter into any oral leases with respect to all or any portion of the Premises;

(c) the Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, except for security or similar deposits;

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(d) the Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) the Assignor shall not modify the terms and provisions of any Lease, nor shall the Assignor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease, without the Lender's prior written consent; provided, however, that the Assignor may cancel or terminate any Lease as a result of a material default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease;

(f) the Assignor shall not accept a surrender of any Lease or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to the Assignor and the Lender;

(g) the Assignor shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything which would terminate any such guaranty as a matter of law.

(h) the Assignor shall not waive or excuse the obligation to pay rent under any Lease;

(i) the Assignor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of the Lender, including court costs and reasonable attorneys' fees, in any such action or proceeding in which the Lender may appear;

(j) the Assignor shall give prompt notice to the Lender of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder;

(k) the Assignor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors thereunder and shall immediately notify the Lender of any material breach by the tenant or guarantor under any such Lease;

(l) the Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent;

(m) the Assignor shall not execute hereafter any Lease unless there shall be included therein a provision providing that the tenant thereunder acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to the Lender as mortgagee,

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mortgagee in possession or successor in title to the Premises for accountability for any security deposit required by lessor under such Lease unless such sums have actually been received in cash by the Lender as security for tenant's performance under such Lease; and

(n) if any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, the Assignor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of the Lender, and any check in payment of damages for termination or rejection of any such Lease will be made payable both to the Assignor and the Lender. The Assignor hereby assigns any such payment to the Lender and further covenants and agrees that upon the request of the Lender, it will duly endorse to the order of the Lender any such check, the proceeds of which shall be applied in accordance with the provisions of **Section 8** below.

5. **Rights Prior to Default.** Unless or until an Event of Default (as defined in **Section 6**) shall occur, the Assignor shall have the right to collect, at the time (but in no event more than thirty days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain use and enjoy the same. Upon the occurrence of an Event of Default, the Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to the Assignor. The Lender shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

6. **Events of Default.** An "**Event of Default**" shall occur under this Assignment upon the occurrence of (a) a breach by the Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or cure period, if any, set forth in the Security Instrument, or (b) any other Event of Default described in the Note, the Security Instrument or any of the other Loan Documents.

7. **Rights and Remedies Upon Default.** At any time upon or following the occurrence of any Event of Default, the Lender, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event of Default, without further notice or demand on the Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing the Assignor or any guarantor of any of the Notes from any obligation, and with or without bringing any action or proceeding to foreclose the Security Instrument or any other lien or security interest granted by the Loan Documents:

(a) declare the unpaid balance of the principal sum of the Notes, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as the Lender may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to the Lender, to make, enforce, modify and accept the surrender of

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Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which the Lender deems necessary or proper;

(c) either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to the Lender, without proof of default hereunder, upon receipt from the Lender of written notice to thereafter pay all such rents and other amounts to the Lender and to comply with any notice or demand by the Lender for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and the Assignor shall facilitate in all reasonable ways the Lender's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to the Lender; and

(d) make any payment or do any act required herein of the Assignor in such manner and to such extent as the Lender may deem necessary, and any amount so paid by the Lender shall become immediately due and payable by the Assignor with interest thereon until paid at the Default Rate and shall be secured by this Assignment.

8. Application of Proceeds. All sums collected and received by the Lender out of the rents, issues, income and profits of the Premises following the occurrence of any one or more Events of Default shall be applied in accordance with the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) and, unless otherwise specified in such act, in such order as the Lender shall elect in its sole and absolute discretion.

9. Limitation of the Lender's Liability. The Lender shall not be liable for any loss sustained by the Assignor resulting from the Lender's failure to let the Premises or from any other act or omission of the Lender in managing, operating or maintaining the Premises following the occurrence of an Event of Default. The Lender shall not be obligated to observe, perform or discharge, nor does the Lender hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of the Assignor under or by reason of this Assignment. The Assignor shall and does hereby agree to indemnify, defend (using counsel reasonably satisfactory to the Lender) and hold the Lender harmless from and against any and all liability, loss or damage which the Lender may incur under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall the Assignor be liable for any liability, loss or damage which the Assignor incurs as a result of the Lender's gross negligence or willful misconduct. Should the Lender incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by the Assignor with interest thereon at the Default Rate and shall be secured by this

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Assignment. This Assignment shall not operate to place responsibility upon the Lender for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make the Lender responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Security Instrument, and no exercise by the Lender of any of the rights set forth herein or in the Security Instrument shall constitute or be construed as constituting the Lender a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by the Lender pursuant to the provisions hereof or of the Security Instrument.

10. **No Waiver.** Nothing contained in this Assignment and no act done or omitted to be done by the Lender pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by the Lender of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of the Lender under the terms and provisions of such instruments, and the Lender may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. The Lender may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

11. **Further Assurances.** The Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as the Lender may designate) and shall do or cause to be done such further acts, as the Lender may request, in order to permit the Lender to perfect, protect, preserve and maintain the assignment made to the Lender by this Assignment.

12. **Security Deposits.** The Assignor acknowledges that the Lender has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that the Lender assumes no responsibility or liability for any security so deposited.

13. **Severability.** If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Lender and the Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. **Successors and Assigns.** This Assignment is binding upon the Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of the Lender under this Assignment shall inure to the benefit of the Lender and its successors and assigns.

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15. **Written Modifications.** This Assignment shall not be amended, modified or supplemented without the written agreement of the Assignor and the Lender at the time of such amendment, modification or supplement.

16. **Duration.** This Assignment shall become null and void at such time as the Borrowers shall have paid the principal sum of the Notes, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan Documents, and by its acceptance thereof, the Lender agrees, at such time, to execute and deliver to the Assignor an instrument in recordable form, wherein the Lender acknowledges the termination of its rights hereunder or assigns such rights, without recourse, to the Assignor's designee.

17. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

18. **Notices.** All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of the Assignor and the Lender, as the case may be, as specified in the Security Instrument.

19. **WAIVER OF TRIAL BY JURY. THE ASSIGNOR AND THE LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS ASSIGNMENT OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE ASSIGNOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.**

20. **Amended and Restated Assignment.** This Assignment amends and restates in its entirety the Original Assignment, which Original Assignment shall be deemed merged herein. The Assignor and the Lender acknowledge and agree that (i) this Assignment does not constitute a novation, repayment and reborrowing or termination of any of the Assignor's obligations under the Original Assignment or any of the Borrowers' obligations secured by the Original Assignment, (ii) such obligations are in all respects continuing and outstanding (except to the extent the same have been paid in full prior to or on the date of this Assignment), and (iii) the liabilities and obligations of the Assignor under the Original Assignment and the liabilities and obligations of the Borrowers secured by the Original Assignment are in all respects continuing and in full force and effect (except to the extent the same have been paid in full prior to or on the date of this Assignment). Furthermore, if it is determined that any other person or entity other

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than the Lender shall have a lien, encumbrance, or claim of any type which has a legal priority over any term of this Assignment, the original terms of the Original Assignment shall be severable from this Assignment and separately enforceable from the terms thereof as modified hereby in accordance with their original terms, and the Lender shall maintain all legal or equitable priorities which were in existence before the date of execution of this Assignment. It is understood by and is the intention of the parties hereto that any legal or equitable priorities of the Lender over any party which were in existence before the date of execution of this Assignment shall remain in effect after the execution of this Assignment.

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EXHIBIT "A"

LEGAL DESCRIPTION OF PREMISES

PARCEL 1:

THE WEST 333 FEET OF THAT PART OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THAT PORTION CONVEYED TO THE CHICAGO AND GRAND TRUNK RAILROAD COMPANY BY DEED RECORDED AS DOCUMENT 293080 (THE RIGHT OF WAY CONVEYED BY SAID DEED NOW COMMONLY KNOWN AS THAT OF ILLINOIS NORTHERN RAILWAY) (EXCEPT THAT PART THEREOF DEDICATED FOR S. CENTRAL PARK AVENUE, BY INSTRUMENT RECORDED JUNE 4, 1875 AS DOCUMENT 32096 AND ALSO EXCEPT THE NORTH 33 FEET THEREOF) IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE NORTH 33 FEET THEREOF AND NORTH OF THE NORTHERLY LINE OF THE RIGHT OF WAY CONVEYED TO THE CHICAGO AND GRAND TRUNK RAILROAD COMPANY BY DEED RECORDED AS DOCUMENT 293080 (RIGHT OF WAY CONVEYED BY SAID DEED NOW COMMONLY KNOWN AS THAT OF THE ILLINOIS NORTHERN RAILWAY) (EXCEPT THE WEST 333 FEET OF THAT PART OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THAT PORTION CONVEYED TO THE CHICAGO AND GRAND TRUNK RAILROAD COMPANY BY DEED RECORDED AS DOCUMENT 293080 (THE RIGHT OF WAY CONVEYED BY SAID DEED NOW COMMONLY KNOWN AS THAT OF ILLINOIS NORTHERN RAILWAY) AND EXCEPT THAT PART THEREOF DEDICATED FOR S. CENTRAL PARK AVENUE, BY INSTRUMENT RECORDED JUNE 4, 1875 AS DOCUMENT 32096), IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESSES OF PREMISES:

3535 West 31st Street
Chicago, Illinois 60623

UNOFFICIAL COPY

PERMANENT TAX INDEX NUMBERS:

16-35-200-001-0000
16-35-200-002-0000
16-35-200-007-0000

**COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____**

**COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____**

Property of Cook County Clerk's Office