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1725613006

THIS DOCUMENT PREPARED BY AND
RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:

Doc# 1725613006 Fee \$120.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 09/13/2017 09:17 AM PG: 1 OF 17

Winstead PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701
Attention: Nicholas M. Pyka, Esq.

Permanent Tax Identification Number: 08-08-403-021-0000

Street Address: 1600 Golf Road, Rolling Meadows, Illinois 60068

3064 CONSENT AND SUBORDINATION OF MANAGER

SOCIETE GENERALE
245 Park Avenue
New York, New York 10167

FIRST AMERICAN TITLE
FILE # 2876581

Reference is made to (i) that certain property management agreement (the "Management Agreement"), dated as of August 30, 2017, between **1600 CORPORATE CENTER, LLC**, a Delaware limited liability company, having an office at 1600 Golf Road, Suite 140, Rolling Meadows, Illinois 60068 ("Borrower"), and **HELIOS PROPERTY MANAGEMENT COMPANY**, an Illinois corporation, having an address of 1375 Woodfield Road, Suite C50, Schaumburg, IL 60173 ("Manager") with respect to the property known as 1600 Corporate Center and located in the City of Rolling Meadows, Cook County, Illinois as more particularly described on Exhibit A attached hereto (the "Property"), and (ii) that certain Loan Agreement (as amended, modified, restated, consolidated or supplemented from time to time, the "Loan Agreement") dated as of the-date hereof, between Borrower and **SOCIETE GENERALE** (together with its successors and assigns, "Lender") having an address of 245 Park Avenue, New York, New York 10167. Any capitalized terms used herein but not defined herein shall have the same meanings as are ascribed to them in the Loan Agreement.

A true, correct and complete copy of the Management Agreement is attached hereto as Exhibit B.

Manager acknowledges and understands that delivery of this letter to you is a condition to Lender making a certain loan to Borrower pursuant to the Loan Agreement in the original principal amount of \$22,780,000.00 (the "Loan").

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Borrower and Manager hereby agree as follows:

1. Borrower and Manager acknowledge that all of Borrower's right, title and interest in and to the Management Agreement has been collaterally assigned to Lender as additional collateral security for the Loan, pursuant to the terms of that certain Assignment of Agreements, Licenses, Permits and Contracts of even date herewith, executed by Borrower for the benefit of Lender.

2. The Management Agreement and all fees and commissions payable to Manager thereunder are and shall be subject and subordinate in all respects in lien and payment to the lien and payment of (i) the Mortgage, (ii) the Loan Documents, and (iii) any and all modifications, amendments, renewals and/or substitutions of the Mortgage and/or any of the other Loan Documents. Notwithstanding the foregoing, Manager shall not be obligated to Lender to return or refund any fee, commission or other amount duly owed to Manager to the extent that the same is (i) received by Manager prior to default in payment under the Loan, and (ii) duly allocable to the time prior to such default. Further, if any such default is cured and Lender accepts such cure (and Lender shall have no obligation to accept any cure other than as expressly provided in the Loan Documents and under applicable law), then Manager may receive and retain any fee, commission, or other amount payable to Manager that accrued during the default. This Paragraph 2 shall be self-operative and no further instrument of subordination shall be required. If requested, however, Borrower and/or Manager shall execute and deliver such further instruments as Lender may deem reasonably necessary to effectuate this subordination.

3. Without limiting the terms of Section 2 above and notwithstanding anything to the contrary contained in the Management Agreement, Manager hereby agrees that no portion of the Management Fee (as defined in the Management Agreement) to be paid to Manager under the Management Agreement which exceeds three percent (3.0%) of the gross rents collected (exclusive of security deposits) (any such excess fee being referred to herein as the "Excess Management Fee") shall be paid during a continuing Cash Management Period and unless such Excess Management Fee is paid solely out of excess cash flow and unless and until all debt service and reserves then due and payable are paid in relation to the Loan and all other operating expenses related to the Property have been paid for the particular period in question (collectively, the "Loan and Operating Costs"). During a continuing Cash Management Period and otherwise to the extent the Property does not generate sufficient cash flow to pay the then current Loan and Operating Costs and therefore Borrower cannot make any or all payments of the Excess Management Fee to Manager during any such period, such Excess Management Fee shall be deemed earned but deferred without penalty or interest and therefore shall not be due and payable until such time as there is no continuing Cash Management Period and the Property creates sufficient cash flow that exceeds the then current Loan and Operating Costs and such Excess Management Fees can then be paid. The obligation to pay any fee under the Management Agreement shall be an unsecured obligation and shall not in any respect become a lien against the Property or any part thereof. In addition, to the extent any third party acquires title to control of Borrower or the Property as a result of the exercise of any remedies under the Loan Agreement, Mortgage or the other loan documents evidencing or securing the Loan or any other loan secured by the ownership interests in Borrower, Manager shall not be entitled to any accrued Excess Management Fees under the Management Agreement.

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4. If there shall have occurred and be continuing an Event of Default and Lender shall have obtained (i) title to the Property (or any portion thereof) whether by foreclosure, deed-in-lieu of foreclosure, bankruptcy sale or otherwise and/or (ii) possession of the Property (or any portion thereof) whether personally or through an agent, a receiver or a trustee, Manager shall, if and to the extent requested in writing by Lender, continue performance under the Management Agreement in accordance with the terms thereof so long as Manager is paid compensation thereafter accruing under the Management Agreement. Borrower and Manager understand, however, that nothing contained herein, in the Mortgage or in any of the other Loan Documents shall be construed to obligate Lender to perform or discharge any of Borrower's obligations, duties or liabilities under the Management Agreement.

5. Upon the occurrence of any default by Borrower under the terms of the Management Agreement, Manager shall, promptly upon becoming aware thereof, provide Lender with notice in writing thereof, and after receipt of said notice, Lender shall have the same time period within which to cure said default as Borrower has under the Management Agreement although Borrower and Manager understand that Lender shall not have any obligation to do so. Notwithstanding the foregoing, the failure by Manager to notify Lender of a default under the Management Agreement shall not be deemed to constitute a waiver by Manager of such default. Furthermore, Borrower and Manager agree that Lender may terminate the Management Agreement (i) in the event Borrower fails to terminate the Management Agreement after instruction to do so by Lender in accordance with Section 5.12 of the Loan Agreement, (ii) in the event that Borrower has given Manager written notice of an event of default under the Management Agreement beyond applicable cure periods, (iii) in the event of Manager's gross negligence, malfeasance or willful misconduct, (iv) in the event Manager shall become a debtor in any bankruptcy or insolvency proceeding or (v) by giving five days' notice to Manager upon Lender (or a successor owner, as the case may be) obtaining (A) title to the Property (or any portion thereof) whether by foreclosure, deed-in-lieu of foreclosure, bankruptcy sale or otherwise, and/or (B) possession of the Property (or any portion thereof) whether personally or through an agent, a receiver or a trustee. If Lender elects to terminate the Management Agreement in accordance with this paragraph 4, Borrower and Manager understand and agree that Manager shall look solely to Borrower for any and all fees, charges or other sums payable to Manager under the Management Agreement. If the Management Agreement shall be so terminated by Lender, Manager agrees to cooperate with Lender to ensure a smooth transition to the new property manager.

6. This letter shall inure to the benefit of Lender and its successors and assigns, including the trustee in a Secondary Market Transaction. In the event of any inconsistency or conflict with the provisions of this letter and the provisions of the Management Agreement, the provisions of this letter shall control.

7. Manager agrees that it shall not change, amend, modify or terminate the Management Agreement without Lender's prior written approval in each instance, which approval may be given or denied by Lender in its sole discretion. If Manager does so amend, modify or terminate the Management Agreement without Lender's prior written approval, such amendment, modification or termination shall be void *ab initio*.

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8. This letter shall be governed by, and construed in accordance with, the law of the State of New York determined without regard to conflict of laws principles.

9. Without limiting the generality of any other provisions contained herein or in the other Loan Documents, no failure on the part of Lender to exercise, and no delay in exercising, any right hereunder or under any of the other Loan Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies of Lender provided herein and in the other Loan Documents are cumulative and are in addition to, and are not exclusive of, any rights or remedies provided by law or in equity.

10. Manager represents and warrants to Lender that as of the date hereof (i) the Management Agreement is in full force and effect and has not been amended, modified, assigned, terminated or supplemented, (ii) Manager is not in default under the provisions of the Management Agreement and there is no condition which, with the giving of notice and/or the lapse of time, would constitute such a default, and (iii) to the best of Manager's knowledge, Borrower is not in default under the provisions of the Management Agreement and there is no condition which, with the giving of notice and/or the lapse of time, would constitute such a default.

11. Manager agrees that it shall not perform its duties under the Management Agreement or otherwise act in a manner which would result in Borrower's failure to be a "Special Purpose Bankruptcy Remote Entity" as defined in the Loan Agreement.

12. This letter may not be amended, modified, terminated or supplemented without the written approval of each of Manager, Borrower and Lender.

[Remainder of Page Intentionally Left Blank]

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Very truly yours,

MANAGER:

**HELIOS PROPERTY MANAGEMENT
COMPANY,**
an Illinois corporation

By: _____

Name: Chester B. Balder
Title: President

ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF COOK

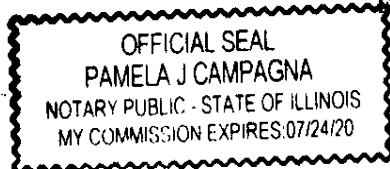
On this the 6th day of September 2017, before me, _____,
the undersigned officer, personally appeared Chester B. Balder, who acknowledged himself to be
the President of **HELIOS PROPERTY MANAGEMENT COMPANY**, an Illinois
corporation, and that he, as such President being authorized so to do, executed the foregoing
instrument for the purposes therein contained on behalf of such corporation.

In witness whereof I hereunto set my hand and official seal.

(SEAL)

(Signature of notarial officer)

[signatures continue on following page]




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AGREED AND CONSENTED TO:

BORROWER:

1600 CORPORATE CENTER, LLC,
a Delaware limited liability company

By: 
Name: Chester B. Balder
Title: Manager

ACKNOWLEDGMENT

STATE OF ILLINOIS

§

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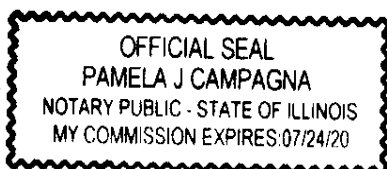
COUNTY OF COOK


§

On this the 10th day of September 2017, before me, _____,
the undersigned officer, personally appeared Chester B. Balder, who acknowledged himself to be
a Manager of **1600 CORPORATE CENTER, LLC**, a Delaware limited liability company, and
that he, as such Manager being authorized so to do, executed the foregoing instrument for the
purposes therein contained on behalf of such limited liability company.

In witness whereof I hereunto set my hand and official seal.

(SEAL)




(Signature of notarial officer)

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EXHIBIT A

Legal Description

Parcel 1:

That part of Lots 2 and 4 in 58-62 Venture Subdivision of part of Sections 8 and 9, Township 41 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded March 2, 1970 as Document Number 21092384, described as follows: Beginning at the Southeast corner of said Lot 4 (the West line of said Lot 4 having an assumed bearing of North 00 degrees 17 minutes 57 seconds West for this legal description); thence North 89 degrees 51 minutes 05 seconds West, along the South line of said Lots 2 and 4, 334.79 feet to an angle point in the South line of said Lot 2; thence South 88 degrees 15 minutes 10 seconds West, along the South line of said Lot 2, 145.03 feet to an intersection with a line 17.0 feet, as measured at right angles, East of and parallel with the West line of said Lots 2 and 4; thence North 00 degrees 17 minutes 57 seconds West, along said last described parallel line, being the East line of Wilke Road as widened, 1128.93 feet; thence North 89 degrees 42 minutes 03 seconds East, 137.0 feet; South 00 degrees 17 minutes 57 seconds East, 159.65 feet; thence South 50 degrees 40 minutes 22 seconds East, 149.69 feet; thence South 00 degrees 17 minutes 57 seconds East, 19.37 feet; thence North 89 degrees 42 minutes 03 seconds East, 227.47 feet, to a point on the East line of said Lot 4, 853.38 feet, as measured along said East line, North of the Southeast corner of said Lot 4; thence South 00 degrees 17 minutes 57 seconds East, along the East line of said Lot 4, 853.38 feet to the Point of Beginning in Cook County, Illinois.

Parcel 2:

Easement for the benefit of Parcel 1 as set forth in and created by Agreement and Declaration of Covenants and Easement recorded as Document Number 86214935, for ingress and egress, support, utility and service easements, parking easements, parking and encroachment easement over the following described property; Lots 2 and 4 in 58-62 Venture Subdivision of part of Sections 8 and 9, Township 41 North, Range 11, East of the Third Principal Meridian, (except the West 17.0 feet of said lots, as measured at right angles), and except that part of Lot 4 described as follows: Beginning at the most Northerly corner of Lot 4; thence South 12 degrees 10 minutes 10 seconds West, 271.97 feet to a point being 297.66 feet Easterly of the Southwest corner of Lot 6 in said 58-62 Venture Subdivision; thence continuously South 12 degrees 10 minutes 10 seconds West, a distance of 20.03 feet; thence South 64 degrees 18 minutes 39 seconds East, 123.39 feet; thence North 21 degrees 25 minutes 20 seconds East, a distance of 297.37 feet, to a point in the Northeasterly line of Lot 4 in said 58-62 Venture Subdivision, said line being an arc of a Circle Convex Northeasterly and having a radius of 2814.79 feet; thence Northwesterly along said arc for a distance of 170.02 feet to the place of beginning, and except the North 113.86 feet, measured at right angles to the North line of Lot 4, of the East 214.73 feet of the West 231.73 feet; measured at right angles, of Lot 4 and except that part of Lot 4 described as follows: The West line of said Lot 4 is due North-South for the following courses; beginning at a point in the West line of Lot 4 aforesaid, 114 feet South of the Northwest corner thereof; thence South 87 degrees 07 minutes East, a distance of 232.02 feet; thence due South, a distance of 120 feet; thence North 87 degrees 07 minutes West, a distance of 232.02 feet to said West line of Lot 4; thence due North on said line, a distance of 120 feet to the Point of Beginning, (excepting therefrom): That part of Lots 2 and 4 in 58-62 Venture Subdivision of part

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of Sections 8 and 9, Township 41 North, Range 11, East of the Third Principal Meridian, according to the plat thereof recorded March 2, 1970 as Document Number 21092384, described as follows: Beginning at the Southeast corner of said Lot 4 (the West line of said Lot 4 having an assumed bearing of North 00 degrees 17 minutes 57 seconds West for this legal description); thence North 89 degrees 51 minutes 05 seconds West, along the South line of said Lots 2 and 4, 334.79 feet to an angle point in the South line of said Lot 2; thence South 88 degrees 15 minutes 10 seconds West, along the South line of said Lot 2, 145.03 feet to an intersection with a line 17.0 feet, as measured at right angles, East of and parallel with the West line of said Lots 2 and 4; thence North 00 degrees 17 minutes 57 seconds West, along said last described parallel line, being the East line of Wilke Road as widened, 1128.93 feet; thence North 89 degrees 42 minutes 03 seconds East, 137.0 feet; thence South 00 degrees 17 minutes 57 seconds East, 159.65 feet; thence South 50 degrees 40 minutes 22 seconds East, 149.69 feet; thence South 00 degrees 17 minutes 57 seconds East, 19.37 feet; thence North 89 degrees 42 minutes 03 seconds East, 227.47 feet to a point on the East line of said Lot 4, 853.38 feet, as measured along said East line, North of the Southeast corner of said Lot 4; thence South 00 degrees 17 minutes 57 seconds East, along the East line of said Lot 4, 853.38 feet to the Point of Beginning), in Cook County, Illinois.

Parcel 3:

A permanent and perpetual non-exclusive easement as created in agreement regarding extinguishment, release and regrant of easements, covenants and restrictions made by Chicago Title and Trust Company, as Trustee under Trust Agreement dated November 2, 1970 and known as Trust Number 56088 recorded April 30, 1986 as Document Number 86170066, for the benefit of Parcel 1 for the purposes of constructing, operating, using, maintaining, removing, replacing and repairing same, in, upon, across, over and under that portion of Parcel A as described in said easement agreement.

Also excepting that part of the land taken by the Department of Transportation of the state of Illinois in Case No. 12 L 51541.

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EXHIBIT B

Management Agreement

(attached)

Property of Cook County Clerk's Office

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HELIOS PROPERTY MANAGEMENT COMPANY AGREEMENT

This Agreement made this 30th day of August 2017, between HELIOS PROPERTY MANAGEMENT COMPANY, an Illinois corporation ("Agent"), and 1600 Corporate Center, LLC, A Delaware limited liability company ("Owner").

WITNESSETH

WHEREAS, Owner owns, leases, or is responsible for the management of the property known as 1600 Corporate Center, LLC, ("Property") for use by Owner, its subsidiaries, affiliates and tenants.

WHEREAS, Agent is qualified to render the management, operating and supervising services required for the Property, and;

WHEREAS, Owner desires to engage the services of Agent as managing agent for the Property as provided herein.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **Employment:** Subject to the terms and conditions hereof, Owner hereby employs and authorizes Agent to perform on Owner's behalf all action and services required or desirable for the operation and management of the Property for the period of time and on the terms and conditions hereinafter set forth, however, Agent shall not be required to devote itself exclusively to the Property.
2. **Maintenance, Repair and Alterations:** Agent shall arrange for the maintenance, repair and alteration of the building and improvements comprising the Property so that the Property will be operated and maintained in a first quality manner, and to do all acts or things and to hire such employees or independent contractors as may be necessary or desirable to accomplish such purposes, but the cost of such repairs, maintenance and alteration shall be done at the cost and expense of the Owner. The Owner shall pay such costs in advance or provide other payment arrangements satisfactory to Agent.

Notwithstanding the foregoing, Agent shall not, without the prior consent of the Owner, make or incur expenditures for the maintenance, repair or alterations of the Property in excess of Ten THOUSAND Dollars (\$10,000) in the case of any one item over the approved budget, as defined herein, except for (i) expenditures reimbursable to Owner by the tenants in the Property, and (ii) expenditures for emergency repairs to the Property which, in Agent's opinion, are required to be made for the preservation and safety of the Property or occupants of the Property, or as may be required by law. In any such case, Agent shall promptly report the same to Owner.

Agent is hereby authorized, without further consent of Owner, to contract in the name of Owner for maintenance, repairs, alterations, improvements or replacements in, to or upon the Property, provided the item contracted for was set forth in the approved budget and such contracts are consistent with the then current market rate for the services or goods contracted for.

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In the event that Agent enters into any contract that would pay in one lump sum or in aggregate to the contracting party a sum greater than \$35,000.00, Agent shall get a minimum of Two (2) bids for such contract. In the event that Agent desires to enter into the contract with any provider other than the lowest bidder, Agent shall obtain written consent from Owner prior to entering into any such contract.

3. **Tenant Relations:** Agent shall maintain businesslike relations with tenants, whose requests and complaints shall be received, logged, and acted upon by Agent in a systematic fashion. Complaints of a serious nature shall be promptly reported to Owner by Agent.

4. **Non-discrimination:** Neither Agent nor its contractors or subcontractors nor anyone else authorized to act for Agent shall, in the performance of the Management Services, discriminate against any person on the grounds of race, color, creed, religion, handicap or medical condition, marital status, sex, age, organized affiliation, ancestry or national origin or other protected class, and Agent agrees to comply with all Laws relating thereto. Without limiting the generality of the foregoing, Agent and its contractors and subcontractors and anyone else authorized to act for Agent shall comply with applicable Laws prohibiting such discrimination in all employment, contracting and other activities.

5. **Indemnification:** The Owner shall indemnify the Agent and save it harmless from and against all claims, losses, and liabilities (including attorney's fees and court costs) arising out of damage to property or injury to, or death of, persons (including subcontractors and employees) occasioned by or in connection with the condition of the Buildings (except as provided below) resulting out of the acts or omissions of Owner or Owner's agents, employees or subcontractors, (other than the Agent or the Agent's agents, employees or subcontractors). Agent shall indemnify Owner and save it harmless from and against all claims, losses and liabilities (including attorney's fees and court costs) arising out of damage to property or injury to, or death of, persons (including the property and persons of the parties hereto and their agents, subcontractors and employees) occasioned by or in connection with the negligence or misconduct of Agent to the extent the same are not covered by insurance.

The foregoing provisions of this Article shall survive the termination of this Agreement, but this shall not be construed to mean that Owner's liability does not survive as to other provisions of this Agreement. Nothing contained in this Article shall relieve Agent from responsibility to Owner for its negligence or misconduct, unless covered by Owner's insurance on behalf of Agent.

6. **Insurance:** Owner shall provide and maintain at Owners cost and expense the following insurance with respect to the Property (1) all-risk property insurance on each of the buildings and contents (other than property or tenant's) covering 90% of the replacement value of all insured property; (2) commercial general liability insurance, including bodily injury, personal injury, property damage and contractual liability. Owner shall provide and maintain at Owner's cost and expense such insurance in connection with the ownership, use or occupancy of the each Building with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate and umbrella Excess Liability of at least \$2,000,000.00; and (3) such other or additional insurance as Owner may from time to time deem appropriate. The general aggregate should apply separately to each location. All insurance policies shall name Owner and each of Owners partners, if any, as named insured, and shall name Agent or any affiliate of Agent as additional insured on a primary, not contributory basis. A certificate of each policy issued by the insurer shall be delivered promptly to Agent and Owner. All policies shall provide for ten (10) day's written notice to Agent prior to

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cancellation.

Agent agrees to carry the following minimum insurance coverage and amount:

Worker's Comp.	Statutory	
Employers Liability	\$1,000,000	bodily injury, each accident
	\$1,000,000	bodily injury by disease-each person
	\$1,000,000	bodily injury by disease-policy limit
Employee Dishonesty Insurance	\$250,000	bonding all personnel of Agent who handle or are responsible for the handling of Owner's funds
Commercial General Liability	\$1,000,000	each occurrence
	\$2,000,000	aggregate
Commercial Automobile Liability	\$1,000,000	each accident
Umbrella Excess Liability	\$2,000,000	

Commercial General and Automobile Liability insurance may be arranged under single policies for the full minimum limits required or by any combination of underlying policies with the blanket provided by an Excess or Umbrella policy.

Agent shall furnish to Owner a certificate evidencing all such insurance coverage with respect to itself.

Agent may provide property and liability insurance for the Property under Agent's master insurance policy. Owner shall reimburse Agent for all expenses related to such insurance.

7. **Waiver of Subrogation:** Owner shall procure an appropriate clause in, or endorsement on, each of its policies for all risk property insurance and on all other forms of property damage insurance including, but not limited to, coverage such as water damage, property damage, boiler and machinery insurance and sprinkler leakage insurance, covering the buildings or personal property, fixtures or equipment located thereon whereby the insurer waives subrogation or consents to a waiver of the right of recovery against Agent, and having obtained such clause or endorsement of waiver of subrogation or consent to a waiver of right of recovery, Owner hereby agrees that it will not make any claim against or seek to recover from Agent for any loss or damage to property of the type covered by such insurance, unless such coverage is denied in which case Owner may pursue that loss or damage against Agent directly.

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8. **Collections:** During the terms of this Agreement, Agent is hereby authorized to use reasonable efforts to collect for the account of Owner (i) all rentals, utility charges, common area charges, insurance charges and any and all other charges, sums and/or income accruing to Owner for the Property whether as additional rent or otherwise, payable by tenants under their respective leases and other agreements, and (ii) by other parties under license, service and other agreements.

Agent shall, on behalf of Owner, utilize such collection procedures as it deems appropriate in order to collect any past due rentals or other charges or income from the Property; provided, however, that Agent shall not institute any legal actions or proceedings with respect to such collection activities without Owner's prior approval. All such legal proceedings shall be brought in Owner's name and Owner shall cooperate with Agent in all such proceedings, which shall be at Owner's sole expense. Agent will keep Owner advised, from time-to-time, of Agent's collection activities hereunder.

9. **Bank Account:** During the term of this Agreement, Agent shall keep and maintain an operating account for the Property held in Owner's name granting complete access to the account or accounts to Owner's then current managers or officers. All monies received by Agent with respect to the Property shall promptly be deposited into a bank satisfactory to Owner, which account shall be used solely for funds of the Property. Agent is authorized to make disbursements from the account as limited in this Agreement. Withdrawals may be made on such accounts only for purposes authorized under this Agreement. Owner shall provide sufficient funds for the payment of all costs and expenses (including Agent's compensation and mortgage) of the Property.

10. **Reports, Budgets and Statements:** Throughout the continuation of this Agreement, Agent shall furnish Owner with summary of Cash Receipts and Disbursements, Profit and Loss statements, balance sheet and such other reports as Owner may reasonably request in advance, which additional reports will be provided at Owner's cost and expense.

Approximately sixty (60) days prior to the beginning of each calendar year during the term of this Agreement and with respect to the initial calendar year, within sixty (60) days of the commencement of the term of this Agreement, Agent will submit to Owner an Annual Budget consisting of a detailed income and expense budget and a capital expenditure budget by category. Within thirty (30) days of receipt of the proposed budget, Owner shall either approve the same or advise Agent of the items which it disapproves. Owner and Agent shall use their best efforts to arrive at any approved budget before the commencement of the year to which the budget relates. The budget shall contain reasonable reserves and contingencies if requested by Agent. The budget, as approved by Owner, shall be the "Budget" for such calendar year. Agent shall not make any disbursement without Owner's approval except for (i) items provided in the Budget, including Agent's fees in the amounts provided in this Agreement, and (ii) emergency expenditures authorized under Section 2 hereof.

11. **Construction Management:** Upon Owner's request, Agent shall make all arrangements for the construction of capital improvements and tenant improvements as approved by Owner. If Agent desires to retain a service provider who is not the lowest bidder, Agent must obtain Owner's written consent to do so. Agent shall supervise all work to insure that the work is performed in a cost-effective manner and coordinate all construction activities to minimize the disruption to other tenants at the Property.

12. **Allocation of Costs.** The parties hereto acknowledge that the Property may be managed in conjunction with other properties managed by Agent and certain costs may be

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allocated or shared among the Property and such other properties on an equitable basis; provided, however, that the quality of service provided by Agent with respect to the Property shall not be diminished as a result of such joint management.

13. **Agent's Compensation:** As its fee for the management services to be performed by it hereunder, Agent shall receive a management fee equal to Three per cent (3.0%) of monthly Gross Revenues. Such amount shall be paid monthly based on the prior month's actually collected gross revenues. The term "Gross Revenues" as used herein shall mean and include all gross receipts derived from the operation of the Property, including gross rent comprised of, all actually collected and received base rents and other sums received from lessees such as real estate taxes, insurance or common area maintenance expenses, provided, however, that Gross Receipts shall not include condemnation or insurance proceeds, or any security or other deposits, prior to forfeiture thereof. Agent is authorized to deduct all amounts owed to it, including compensation, from any Property bank accounts.

Owner agrees to reimburse Agent for Agent's maintenance personnel service the Property and for the pro-rata costs associated with operating a reasonable management office servicing the Property including but not limited to postage and supplies. Such amount shall be paid on the first of each month based on the prior month's reimbursable costs (inclusive of salaries).

Should Agent be requested by Owner to act as Construction Manager, Owner agrees to pay Agent a construction management fee equal to 2% of the cost of the work for supervision of tenant improvements or capital improvements to the Property.

14. **Services outside the Scope of the Agreement:** Except as may be specifically set forth to the contrary herein and except as otherwise authorized by Owner and agreed to by Agent in writing, the following duties are not within the scope of the services to be performed by Agent hereunder:

- (a) Arranging or obtaining any type of financing for the Property or any part thereof. If asked to obtain financing for the property, the manager shall be paid one half of one percent (.5%) of the finance amount.
- (b) Examinations or audits of books and records of tenants.
- (c) Real estate tax and assessment appeal, however, Agent shall keep Owner apprised of changes in the amount of real estate assessment or taxes relating to the Property and recommend, from time to time, the advisability of contesting either the validity or the amount thereof.
- (d) Charges incurred for legal or accounting services, except as are performed for Agent by its employees in the performance of the duties of Agent hereunder;
- (e) Arranging and obtaining an annual audit by outside third parties.

15. **Term:** The term of this Agreement shall commence as of the date of this agreement and continue through December 31, 2018, and shall automatically renew thereafter on an annual basis, however, either party may cancel this Agreement, at any time during the term, upon not less than ninety (90) days written notice, unless otherwise provided for below.

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16. **Termination:** Notwithstanding anything to the contrary herein contained, this Agreement may be terminated:

- (a) By Owner or Agent, upon thirty days notice.
- (b) In the event a petition in bankruptcy is filed by either Owner or Agent, or in the event that either shall make an assignment for the benefit of creditors or take advantage of any insolvency act, either party hereto may immediately terminate this Agreement written notice. Remedies set forth herein above shall be in addition to and shall not exclude any other remedy available under applicable law to the parties hereto.
- (c) In the event that Owner is called into default on any loan or other obligation to any third party, Owner may terminate this Agreement upon fifteen (30) days' notice to Agent.
- (d) In the event that Owner determines, in its reasonable discretion, that Agent has or continues to mismanage the property by failing to adequately lease the Property or by entering into service or maintenance contracts above fair market rates for the services or goods provided.

In the event this Agreement is terminated, Agent shall pay to Owner all funds held by it for the account of Owner held as of the termination date less the amount of compensation, advances or other sums due Agent pursuant to this Agreement accrued to the date of termination and shall deliver to Owner all records relating to its management of the Property. Owner shall remain bound by obligations of all contracts for services, supplies or alterations Agent entered into in connection with the performance of its obligations hereunder.

17. **Compliance with Laws:** If Owner shall fail or refuse to comply with or abide by any rule, order, determination, ordinance or law of any federal, state or municipal authority, Agent, upon twenty-four hours written notice mailed to Owner, may terminate this Agreement.

18. **Notices:** All notices and other communication which either party is required or desires to send to the other shall be in writing and be sent by registered or certified mail or overnight delivery, postage prepaid, to the parties addressed as follows:

If to Agent:

UNOFFICIAL COPY

HELIOS PROPERTY MANAGEMENT COMPANY

1375 Woodfield Rd, Suite C50

Schaumburg, IL 60173

If to Owner:

1600 Corporate Center, LLC

1600 W. Golf Rd

Rolling Meadows IL 60008

With a copy to:

The Law Offices of Gregory S. Gann PC

1480 Renaissance Drive, Suite 201

Park Ridge, IL 60068

19. **Attorneys' Fees.** Each party agrees to pay to the other party all costs and expenses, including reasonable attorneys' fees and disbursements, incurred by the prevailing party in connection with such other party's enforcement of this Agreement.

20. **Representation:** Owner represents that it is the Owner of the Property and is fully authorized to execute this Agreement. Owner agrees that Agent is clothed with such general authority and powers as may be necessary or advisable to carry out the intent of this Agreement. Agent shall not be liable to Owner for any error in judgment, nor for any good faith act or omission in the performance of its obligations hereunder.

21. **Governing Law; Jury Trial Waiver:** This agreement shall be construed and governed in accordance with the laws of the State of Illinois. This Agreement sets forth the entire agreement between the parties, and may not be modified or amended except by written agreement of the parties. Each of the parties hereby waives any right to a jury trial.

22. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original of this Agreement, but all of which, taken together, shall constitute one and the same agreement.

23. **Binding Effect:** All terms and conditions of this Agreement shall be binding upon the parties hereto and their respective successors and assigns,

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

AGENT:

Helios Property Management Company

Signature: _____

By: Pam Campagna

Title: Senior Property Manager

OWNER:

1600 Corporate Center, LLC

Signature: _____

By: Chet Balder

Title: Manager

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