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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 09/19/2017 09:21 AM Pg: 1 of 11

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This document prepared by and after
recording return to:

Seyfarth Shaw LLP
233 South Wacker Drive
Suite 8000
Chicago, Illinois 60306
Attn: Elizabeth Pfeiler Marriott, Esq.

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS is made as of September 12, 2017 (this "Assignment"), by **MRR 111 SOUTH PEORIA LLC**, an Illinois limited liability company (the "Borrower"), to and for the benefit of **ASSOCIATED BANK, NATIONAL ASSOCIATION**, a national banking association, its successors and assigns, as Agent (the "Agent") for the Banks from time to time party to the Loan Agreement referred to below (the "Banks").

RECITALS:

A. The Borrower is the owner of certain real property located in Cook County, State of Illinois, more particularly described in Exhibit A attached hereto ("Property").

B. The Banks have agreed to make loans to the Borrower in the maximum principal amount of \$44,000,000 (the "Loan") pursuant to that certain Construction Loan Agreement of even date herewith by and among the Borrower, the Banks from time to time party thereto, the Agent, and MB Financial Bank, N.A., a national banking association, as co-lead arranger (the "Loan Agreement"). The Loan will be evidenced by Promissory Notes from the Borrower to the Banks in the aggregate principal amount of \$44,000,000 (the "Notes").

C. The Loan is secured by: (i) that certain Construction Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents of even date herewith on the Property (the "Mortgage"), and (ii) certain other documents evidencing or securing the Loan (together with the Note, the Loan Agreement and the Mortgage, the "Loan Documents").

D. The obligations of the Borrower under the Loan Agreement, the Notes, the Mortgage, this Assignment, and the other Loan Documents are collectively referred to herein as the "Obligations".

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E. The Borrower is required as a condition to the making of the Loan to transfer and assign to the Agent all of the Borrower's right, title and interest in, to and under the Leases and Rents (as defined below).

AGREEMENT:

NOW, THEREFORE, as an inducement for the making of the Loan, the Borrower hereby represents, warrants, covenants and agrees as follows:

1. **Definitions.** As used herein, the following terms shall have the following meanings:

"Event of Default" means an Event of Default under the Loan Agreement, as defined therein.

"Leases" means all leases, subleases, rental contracts, occupancy agreements, licenses and other arrangements (in each case whether existing now or in the future) pursuant to which any person or entity occupies or has the right to occupy or use any portion of the Property, and includes (a) any supplement, modification, amendment, renewal or extension of any Lease and (b) any security or guaranty for any Lease.

"Lessees" means the lessees under the Leases or any subtenants or occupants of the Property.

"Rents" means all rents, issues, income, revenues, royalties, profits and other amounts now or in the future payable under any of the Leases, including those past due and unpaid.

Capitalized terms used in this Assignment and not otherwise defined are used as defined in the Loan Agreement.

2. **Assignment.** As security for the payment and performance of the Obligations, the Borrower hereby absolutely and unconditionally transfers, sets over and assigns to the Agent all present and future right, title and interest of the Borrower in, to and under the Leases and the Rents, together with all advance payments, security deposits and other amounts paid or payable to or deposited with the Borrower under any of the Leases and all other rights and interests of the Borrower under or in respect of any of the Leases. This Assignment is intended to be and is an absolute present assignment from the Borrower to the Agent, it being intended hereby to establish a complete and present transfer of all Leases and Rents with the right, but without the obligation, to collect all Rents.

3. **License.** Except as hereinafter set forth, the Borrower shall have a license to collect the Rents accruing under the Leases as they become due ("License"), but not in advance, and to enforce the Leases. Subject to Section 8.1 hereof, the License shall automatically terminate upon the occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents. The Borrower covenants and agrees that in exercising its License it shall hold all Rents in trust and shall apply the same first to the payment of the reasonable expenses of owning, maintaining, repairing, operating and renting the Property, and then to payment of the Obligations.

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4. **Representations and Warranties.** The Borrower hereby represents and warrants to the Agent that: (a) the Borrower is the absolute owner of the entire lessor's interest in each of the Leases, with absolute right and title to assign the Leases and the Rents; (b) to the Borrower's knowledge, the Leases are valid, enforceable and in full force and effect and have not been modified, amended or terminated; (c) there are no outstanding assignments or pledges of the Leases or of the Rents and no other party has any right, title or interest in the Leases or the Rents; (d) there are no existing defaults under the provisions of the Leases on the part of the lessor and to the Borrower's knowledge, there are no existing defaults under the provisions of the Leases on the part of the Lessees thereunder; (e) to the Borrower's knowledge, no Lessee has any defense, set-off or counterclaim against the Borrower; (f) except as disclosed in writing to the Agent, no Lessee has any purchase option or first refusal right or any right or option for additional space with respect to the Property; (g) the Borrower has not accepted prepayments of installments of rent or any other charges under any Lease for a period of more than one month in advance; and (h) to the Borrower's knowledge, except as otherwise disclosed to the Agent in writing, all work required to be performed by the Borrower, as landlord, as of the date hereof under any Lease has been completed in accordance with the provisions of the Lease.

5. **Covenants of the Borrower.**

5.1 **New Leases and Lease Terminations and Modifications.** The Borrower shall not enter into, cancel, surrender or terminate (except as a result of a material default by the Lessees thereunder and failure of such Lessee to cure the default within the applicable time periods set forth in the Lease), amend or modify any Lease, or make any subsequent assignment or pledge of a Lease, or consent to the subordination of the interest of any Lessee in any Lease, or consent to any assignment by any Lessee or any subletting, without the prior written consent of the Agent. Any attempt to do any of the foregoing without the prior written consent of the Agent (if such consent is required) shall be null and void.

5.2 **Performance under Leases.** The Borrower 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 Borrower shall not do or suffer to be done anything to impair the security thereof. The Borrower shall not (i) release the liability of any Lessee under any Lease or any guaranty thereof, (ii) consent to any Lessee's withholding of rent or making monetary advances and off-setting the same against future rentals, (iii) consent to any Lessee's claim of a total or partial eviction, (iv) consent to a termination or cancellation of any Lease, except as specifically provided above or in such Lease, or (v) enter into any oral Leases with respect to all or any portion of the Property.

5.3 **Collection of Rents.** The Borrower shall not collect any of the Rents, issues, income or profits assigned hereunder more than 30 days in advance of the time when the same shall become due, except for security or similar deposits.

5.4 **Further Assignment.** The Borrower 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, except as specifically permitted by the Loan Documents.

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5.5 **Lease Guaranty.** The Borrower 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.

5.6 **Waive Rental Payments.** The Borrower shall not waive or excuse the obligation to pay rent under any Lease.

5.7 **Defending Actions.** The Borrower 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 Lessee or guarantor thereunder, and shall pay all costs and expenses of the Agent and the Banks, including court costs and reasonable attorneys' fees, in any such action or proceeding in which the Agent or the Banks may appear.

5.8 **Enforcement.** The Borrower shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the Lessees and guarantors thereunder.

5.9 **Notice.** The Borrower shall immediately notify the Agent of any material breach by a Lessee or guarantor under any Lease.

5.10 **Subordination.** The Borrower 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.

5.11 **Bankruptcy of Lessee.** If any Lessee 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 Borrower 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 Agent, and any check in payment of damages for termination or rejection of any such Lease will be made payable both to the Borrower and the Agent. The Borrower hereby assigns any such payment to the Agent and further covenants and agrees that upon the request of the Agent, it will duly endorse to the order of the Agent any such check.

6. **Cancellation of Lease.** In the event that any Lease permits cancellation thereof on payment of consideration and the privilege of cancellation is exercised, the payments made or to be made by reason thereof are hereby assigned to the Agent, and if an Event of Default has occurred, shall be applied, at the election of the Agent, to the Obligations in whatever order the Agent shall choose in its discretion or shall be held in trust by the Agent as further security, without interest, for the payment of the Obligations. Prior to such Event of Default, the Borrower may use and apply such termination payments to expenses of the Property.

7. **Agent's Rights Upon Lessee Bankruptcy.** Upon the occurrence of an Event of Default, and if a Lessee under a Lease files or has filed against it any petition in bankruptcy or for reorganization, or undertakes or is subject to similar action, the Agent shall have, and is hereby assigned by the Borrower, all of the rights which would otherwise inure to the benefit of the Borrower in such proceedings, including, without limitation, the right to seek "adequate

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protection” of its interests, to compel rejection of any Lease, and to seek such claims and awards as may be sought or granted in connection with the rejection of such Lease. Unless otherwise consented to by the Agent in writing, the Agent’s exercise of any of the rights provided herein shall preclude the Borrower from the pursuit and benefit thereof without any further action or proceeding of any nature. The Agent, however, shall not be obligated to make timely filings of claims in any bankruptcy, reorganization or similar action, or to otherwise pursue creditor’s rights therein.

8. Default of the Borrower.

8.1 Remedies. Upon the occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents, the Borrower’s License to collect Rents shall immediately cease and terminate, unless the Agent shall otherwise notify the Borrower in writing that such License is not being terminated by the Agent. The Agent shall thereupon be authorized at its option to enter and take possession of all or part of the Property, in person or by agent, employee or court appointed receiver, and to perform all acts necessary for the operation and maintenance of the Property in the same manner and to the same extent that the Borrower might reasonably so act. In furtherance thereof, the Agent shall be authorized, but under no obligation, to collect the Rents arising from the Leases, and to enforce performance of any other terms of the Leases including, but not limited to, the Borrower’s rights to fix or modify rents, sue for possession of the leased premises, relet all or part of the leased premises, and collect all Rents under such new Leases. The Borrower shall also pay to the Agent, promptly upon any Event of Default: (a) all rent prepayments and security or other deposits paid to the Borrower pursuant to any Lease assigned hereunder; and (b) all charges for services or facilities or for escalations which have theretofore been paid pursuant to any such Lease to the extent allocable to any period from and after such Event of Default. The Agent will, after payment of all proper costs, charges and any damages, apply the net amount of such Rents to the Obligations. The Agent shall have sole discretion as to the manner in which such Rents are to be applied, the reasonableness of the costs to which they are applied, and the items that will be credited thereby.

8.2 Notice to Lessee. The Borrower hereby irrevocably authorizes each Lessee, upon demand and notice from the Agent of the occurrence of an Event of Default, to pay all Rents under the Leases to the Agent. The Borrower agrees that each Lessee shall have the right to rely upon any notice from the Agent directing such Lessee to pay all Rents to the Agent, without any obligation to inquire as to the actual existence of an Event of Default, notwithstanding any notice from or claim of the Borrower to the contrary. The Borrower shall have no claim against any Lessee for any Rents paid by Lessee to the Agent.

8.3 Assignment of Defaulting the Borrower’s Interest in Lease. The Agent shall have the right to assign the Borrower’s right, title and interest in and to the Leases to any person acquiring title to the Property through foreclosure or otherwise. Such assignee shall not be liable to account to the Borrower for the Rents thereafter accruing.

8.4 No Waiver. The Agent’s failure to avail itself of any of its rights under this Assignment for any period of time, or at any time or times, shall not constitute a waiver thereof. The Agent’s rights and remedies hereunder are cumulative, and not in lieu of, but in addition to, any other rights and remedies the Agent has under the Loan Agreement, the Notes, the Mortgage

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and any of the other Loan Documents. The Agent's rights and remedies hereunder may be exercised as often as the Agent deems expedient.

8.5 Costs and Expenses. The cost and expenses (including any receiver's fees and fees) incurred by the Agent pursuant to the powers contained in this Assignment shall be immediately reimbursed by the Borrower to the Agent on demand, shall be secured hereby and, if not paid by the Borrower, shall bear interest from the date due at the Default Rate (as defined in the Loan Agreement). The Agent shall not be liable to account to the Borrower for any action taken pursuant hereto, other than to account for any Rents actually received by the Agent.

9. Indemnification of the Agent and Banks. The Borrower hereby agrees to indemnify, defend, protect and hold the Agent and the Banks harmless from and against any and all liability, loss, cost, expense or damage (including reasonable attorney fees) that the Agent or the Banks may or might incur under the Leases or by reason of this Assignment. Such indemnification shall also cover any and all claims and demands that may be asserted against the Agent or the Banks under the Leases or this Assignment. Nothing in this section shall be construed to bind the Agent or the Banks to the performance of any Lease provisions, or to otherwise impose any liability upon the Agent or the Banks, including, without limitation, any liability under covenants of quiet enjoyment in the Leases in the event that any Lessee shall have been joined as party defendant in any action to foreclose the Mortgage and shall have been barred thereby of all right, title, interest, and equity of redemption in the Property. This Assignment imposes no liability upon the Agent or the Banks for the operation and maintenance of the Property or for carrying out the terms of any Lease before the Agent has entered and taken possession of the Property. Any loss or liability incurred by the Agent or the Banks by reason of actual entry and taking possession under any Lease or this Assignment or in the defense of any claims shall, at the Agent's request, be immediately reimbursed by the Borrower. Such reimbursement shall include interest at the Default Rate provided in the Loan Agreement, costs, expenses and reasonable attorney fees. The Agent may, upon entry and taking of possession, collect the Rents and apply them to reimbursement for any such loss or liability. The provisions of this Section 9 shall survive repayment of the Obligations and any termination or satisfaction of this Assignment.

10. Additions to, Changes in and Replacement of Obligations. The Agent may take security in addition to the security already given the Agent for the payment of the Obligations or release such other security, and may release any party primarily or secondarily liable on the Obligations, may grant or make extensions, renewals, modifications or indulgences with respect to the Obligations or the Mortgage and replacements thereof, which replacements of the Obligations or the Mortgage may be on the same terms as, or on terms different from, the present terms of the Obligations or the Mortgage, and may apply any other security held by it to the satisfaction of the Obligations, without prejudice to any of its rights hereunder.

11. Power of Attorney. In furtherance of the purposes of this Assignment, the Borrower hereby appoints the Agent as the Borrower's attorney-in-fact, with full authority in the place of the Borrower, at the option of the Agent at any time after the occurrence of an Event of Default, and in the name of the Borrower or the Agent, to (a) collect, demand and receive the Rents and other amounts payable under any Lease, (b) bring suit and take other action to enforce the Leases, (c) enforce, supplement, modify, amend, renew, extend, terminate and otherwise

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administer the Leases and deal with Lessees in relation to the Leases, (d) give notices, receipts, releases and satisfactions with respect to the Leases and the Rents and other amounts payable under any Lease, and (e) take such other action as the Agent may reasonably deem necessary or advisable in connection with the exercise of any right or remedy or any other action taken by the Agent under this Assignment.

12. **No Mortgagee in Possession; No Other Liability.** The acceptance by the Agent of this Assignment, with all of the rights, power, privileges and authority so created, shall not, prior to entry upon and taking of possession of the Property by the Agent, be deemed or construed to: (a) constitute the Agent as a mortgagee in possession nor place any responsibility upon the Agent for the care, control, management or repair of the Property, nor shall it operate to make the Agent responsible or liable for any waste committed on the Property by any Lessee, occupant or other party, or for any dangerous or defective condition of the Property, nor thereafter at any time or in any event obligate the Agent to appear in or defend any action or proceeding relating to the Leases or to the Property; (b) require the Agent to take any action hereunder, or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under the Leases; or (c) require the Agent to assume any obligation or responsibility for any security deposits or other deposits delivered to the Borrower by Lessees and not assigned and delivered to the Agent. The Agent shall not be liable in any way for any injury or damage to person or property sustained by any person in or about the Property.

13. **Termination of Assignment.** The Agent shall terminate and release this Assignment as to all or a portion of the Property to the same extent as the Mortgage is released in whole or in part.

14. **Miscellaneous.**

14.1 **Severability.** If any term of this Assignment or the application hereof to any person or set of circumstances, shall to any extent be invalid or unenforceable, the remainder of this Assignment, or the application of such provision or part thereof to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent consistent with applicable law.

14.2 **Captions.** The captions or headings at the beginning of each section hereof are for the convenience of the parties only and are not part of this Assignment.

14.3 **Counterparts.** This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, and all of which shall be construed together and shall constitute one instrument. It shall not be necessary in making proof of this Assignment to produce or account for more than one such counterpart.

14.4 **Notices.** All notices or other written communications hereunder shall be given in the manner set forth in the Mortgage/Loan Agreement.

14.5 **Modification.** No amendment, modification or cancellation of this Assignment or any part hereof shall be enforceable without the Agent's prior written consent.

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14.6 Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the state in which the Property is located.

14.7 Successors and Assigns; Gender; Joint and Several Liability. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all subsequent owners of the Property, and all subsequent holders of the Notes and the Mortgage, subject in all events to the provisions of the Mortgage regarding transfers of the Property by the Borrower. In this Assignment, whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case. If there is more than one party constituting the Borrower, all obligations of each the Borrower hereunder shall be joint and several.

14.8 Expenses. The Borrower shall pay on demand all costs and expenses incurred by the Agent in connection with the review of Leases, including reasonable fees and expenses of the Agent's outside counsel.

15. WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER, BY ITS ACCEPTANCE HEREOF, HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN OR AMONG BORROWER AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS ASSIGNMENT, ANY OTHER LOAN DOCUMENT, OR ANY RELATIONSHIP BETWEEN BORROWER AND LENDER. THIS PROVISION IS A MATERIAL INDUCEMENT TO LENDER TO PROVIDE THE LOAN DESCRIBED HEREIN AND IN THE OTHER LOAN DOCUMENTS.

16. JURISDICTION AND VENUE. THE BORROWER HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS INITIATED BY THE BORROWER AND ARISING DIRECTLY OR INDIRECTLY OUT OF THIS ASSIGNMENT SHALL BE LITIGATED IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED OR OF COOK COUNTY, ILLINOIS, OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION, OR, IF THE LENDER INITIATES SUCH ACTION, ANY COURT IN WHICH LENDER SHALL INITIATE SUCH ACTION AND WHICH HAS JURISDICTION. THE BORROWER HEREBY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED BY THE LENDER IN ANY OF SUCH COURTS, AND HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREES THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE BORROWER AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO THE MORTGAGE. THE BORROWER WAIVES ANY CLAIM THAT ANY SUCH COUNTY OR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN

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DIVISION IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE. SHOULD THE BORROWER, AFTER BEING SO SERVED, FAIL TO APPEAR OR ANSWER TO ANY SUMMONS, COMPLAINT, PROCESS OR PAPERS SO SERVED WITHIN THE NUMBER OF DAYS PRESCRIBED BY LAW AFTER THE MAILING THEREOF, THE BORROWER SHALL BE DEEMED IN DEFAULT AND AN ORDER AND/OR JUDGMENT MAY BE ENTERED BY LENDER AGAINST THE BORROWER AS DEMANDED OR PRAYED FOR IN SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS. THE EXCLUSIVE CHOICE OF FORUM FOR THE BORROWER SET FORTH IN THIS SECTION SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT BY THE LENDER OF ANY JUDGMENT OBTAINED IN ANY OTHER FORUM OR THE TAKING BY THE LENDER OF ANY ACTION TO ENFORCE THE SAME IN ANY OTHER APPROPRIATE JURISDICTION, AND THE BORROWER HEREBY WAIVES THE RIGHT, IF ANY, TO COLLATERALLY ATTACK ANY SUCH JUDGMENT OR ACTION.

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IN WITNESS WHEREOF, the Borrower has caused this Assignment to be duly executed as of the day and year first above written.

MRR 111 SOUTH PEORIA LLC

By *Gerald Lee Nudo*
Gerald Nudo, Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 12th day of ~~September~~ 2017, by Gerald Nudo, a Manager of MRR 111 South Peoria LLC, an Illinois limited liability company, on behalf of the company.

Luz A. Mansilla
Printed Name: Luz A. Mansilla
Notary Public
Commission Expires: 03/18/2020



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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOTS 3, 4 AND THE NORTH 18 FEET 7 INCHES OF LOT 5, AND LOTS 13 AND 14 IN BLOCK 9 IN DUNCAN'S ADDITION TO CHICAGO SUBDIVISION OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Tax Index Nos.:

17-17-214-002-0000

17-17-214-003-0000

17-17-214-004-0000

17-17-214-009-0000

17-17-214-013-0000

Addresses of the Premises:

111 South Peoria Street, Chicago, Illinois