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This document was prepared by,  
and after recording, return to:

Albert, Whitehead, P.C.  
10 North Dearborn Street  
Suite 600  
Chicago, Illinois 60602  
Attn: Gregory C. Whitehead

Permanent Tax Index Numbers:

Property Address:

3133-3145 S. Oak Park Avenue  
Berwyn, Illinois



Doc# 1807145040 Fee \$60.00

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

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 03/12/2018 11:50 AM PG: 1 OF 12

*This space reserved for Recorders use only.*

## ASSIGNMENT OF RENTS AND LEASES

This ASSIGNMENT OF RENTS AND LEASES dated as of March 2, 2018 (the "Assignment"), is executed by **BERWYN APARTMENTS, LP**, an Illinois limited partnership (the "Assignor"), whose address is P.O. Box 1021, Lombard, Illinois 60148 to and for the benefit of **WHEATON BANK & TRUST COMPANY**, its successors and assigns (the "Assignee"), whose address is 100 N Wheaton Avenue, Wheaton, Illinois 60187.

### RECITALS:

A. Pursuant to that certain Construction Loan Agreement of even date herewith (the "Loan Agreement") the Assignee has agreed to loan to the Assignor the amount of Six Million Seven Hundred Eighty Nine Thousand Seven Hundred Twenty-Six and No/100 Dollars (\$6,789,726) (the "Loan"), as evidenced by that certain Promissory Note dated of even date herewith (as the same may be amended, modified, replaced or restated from time to time, the "Note"), executed by the Assignor and made payable to the order of the Assignee.

B. A condition precedent to the Assignee's making of the Loan to the Assignor 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:

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## A G R E E M E N T S:

1. Definitions. All capitalized terms which are not defined herein shall have the meanings ascribed thereto in that certain Construction Mortgage, Security Agreement, 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 Assignee (the "Mortgage").

2. Grant of Security Interest. The Assignor hereby grants, transfers, sets over and assigns to the Assignee, 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. The security interest granted in this Paragraph 2 does not apply to the furniture, fixtures and equipment of any Tenant. This Assignment is an absolute transfer and assignment of the foregoing interests to the Assignee given to secure:

(a) the payment by the Assignor when due of (i) the indebtedness evidenced by the Note 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 Assignee by the Assignor under or with respect to the Loan Documents (as defined in the Note) including without limitation, letter of credit reimbursement obligations; and (iii) all costs and expenses paid or incurred by the Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

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

3. Representations and Warranties of the Assignor. The Assignor represents and warrants to the Assignee 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;

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- (b) a current rent roll has been provided to Lender;
- (c) the Assignor (or its property manager or agent) is the lessor under all Leases;

(d) except for a subordinate assignment in connection with that certain mortgage loan from the Illinois Housing Development Authority, there is no other existing assignment of the Assignor's entire or any part of its 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 except for Permitted Exceptions (as defined in the Mortgage);

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

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

4. Covenants of the Assignor. Subject to the terms and conditions of the Loan Documents, 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 Assignee's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned to all aspects of such lease provided, however, such prior consent shall not be required if and only if such lease substantially conforms with a form of lease previously approved by the Assignee and each residential lease provides for monthly rent payments consistent with applicable financing requirements.

(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. Except as may be consistent with prudent management of residential properties of this type, 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 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) except as may be consistent with prudent management of properties of this type, the Assignor shall not materially 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 Assignee's prior written consent; which consent shall not be unreasonably withheld, delayed or conditioned; 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 other than in the ordinary course of Assignor's business 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;

(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) except as may be consistent with prudent management of properties of this type, the Assignor shall not waive or excuse the obligation to pay rent under any Lease unless as provided for in such 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 Assignee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which the Assignee may appear;

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

(k) the Assignor shall use commercially reasonable efforts to 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 taking into account the scope of any violation or breach and cost involved to enforce;

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(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 such Lease is consistent with a lease form approved by Assignee and complies with the restrictions of regulatory agreements encumbering the Premises;

(n) Once leasing commences, not later than thirty (30) days after the end of each calendar month, the Assignor shall deliver to the Assignee a certified rent roll for the Premises as of the last day of such period in a form reasonably satisfactory to the Assignee.

5. Rights Prior to Default. Subject to the terms of the Loan Documents, 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 and continuance 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 Assignee 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 Mortgage (however if there is no such cure period in the Mortgage the cure period shall be thirty (30) days from receipt of written notice from Assignee of a breach or default under this Assignment), or (b) any other Event of Default described in the Note, the Mortgage or any of the other Loan Documents (taking into account all applicable grace and cure periods).

7. Rights and Remedies Upon Default. Subject to the terms and conditions of the Loan Documents, at any time upon or following the occurrence and continuance of any Event of Default, the Assignee, 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 the Note from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by the Loan Documents (but subject to rights of tenants under the Leases):

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

(b) Enter upon and take possession of the Premises, by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such

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period of time as the Assignee may deem reasonably necessary or proper, with full power to make from time to time all commercially reasonable and necessary alterations, renovations, repairs or replacements thereto, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which the Assignee deems necessary or proper;

(c) Upon 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 Assignee, without proof of default hereunder, upon receipt from the Assignee of written notice to thereafter pay all such rents and other amounts to the Assignee and to comply with any notice or demand by the Assignee 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 Assignee'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 Assignee; and

(d) Make any payment or do any act required herein of the Assignor in such manner and to such extent as the Assignee may deem necessary, and any amount so paid by the Assignee 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 Assignee out of the rents, issues, income and profits of the Premises following the occurrence of and continuance of any one or more Events of Default shall be applied in accordance with applicable law and, unless otherwise specified therein, such order as the Assignee shall elect in its sole and absolute discretion.

9. Limitation of the Assignee's Liability. The Assignee shall not be liable for any loss except those resulting from Assignee's gross negligence or willful misconduct, sustained by the Assignor resulting from the Assignee's failure to let the Premises or from any other act or omission of the Assignee in managing, operating or maintaining the Premises following the occurrence of an Event of Default. The Assignee shall not be obligated to observe, perform or discharge, nor does the Assignee 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 Assignee) and hold the Assignee harmless from and against any and all liability, loss or damage which the Assignee 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 Assignee 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

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damage which the Assignor incurs as a result of the Assignee's gross negligence or willful misconduct. Should the Assignee 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 Assignment. This Assignment shall not operate to place responsibility upon the Assignee 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 Assignee 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 Mortgage, and no exercise by the Assignee of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting the Assignee a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by the Assignee pursuant to the provisions hereof or of the Mortgage.

10. No Waiver. Nothing contained in this Assignment and no act done or omitted to be done by the Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by the Assignee 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 Assignee under the terms and provisions of such instruments, and the Assignee 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 Assignee 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. Subject to the terms and provisions of the Loan Documents, 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 Assignee may designate) and shall do or cause to be done such further commercially reasonable act, as the Assignee may request, in order to permit the Assignee to perfect, protect, preserve and maintain the assignment made to the Assignee by this Assignment.

12. Security Deposits. The Assignor acknowledges that the Assignee has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that the Assignee 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 Assignee 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

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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 Assignee under this Assignment shall inure to the benefit of the Assignee and its successors and assigns.

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

16. Duration. This Assignment shall become null and void at such time as the Assignor shall have paid the principal sum of the Note, 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.

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 Assignee, as the case may be, as specified in the Mortgage.

19. WAIVER OF TRIAL BY JURY. THE ASSIGNOR AND THE ASSIGNEE (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 ASSIGNEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.




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IN WITNESS WHEREOF, the Assignor has executed and delivered this Assignment of Rents and Leases as of the day and year first above written.

**BERWYN APARTMENTS, LP,**  
an Illinois limited partnership

By: **BERWYN APARTMENTS GP, LLC,**  
an Illinois limited liability company,  
its general partner

By: **New Directors Housing Corporation,**  
an Illinois not for profit corporation,  
its manager

By:   
Name: ROGER BOLTON  
Title: PRESIDENT

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

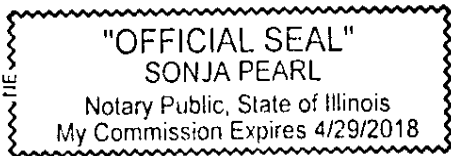
The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that SONJA PEARL the PRESIDENT of New Directions Housing Corporation, an Illinois not for profit corporation which is manager of Berwyn Apartments GP, LLC, an Illinois limited liability company which is General Partner ("General Partner") of BERWYN APARTMENTS, LP, an Illinois limited partnership (the "Partnership"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Rodriguez, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said General Partner on behalf of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of January, 2017.

Sonja Pearl  
\_\_\_\_\_  
Notary Public

My Commission Expires:

April 29, 2018  
\_\_\_\_\_



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## EXHIBIT "A"

### LEGAL DESCRIPTION OF REAL ESTATE

LOTS 33 THROUGH 38, BOTH INCLUSIVE, IN BLOCK 2 IN BERWYN SUBDIVISION OF BLOCKS 4, 5, 12, 13, 20, 21, 28, 29, 34, 35, 36 AND 39 IN LAVERGNE, BEING A SUBDIVISION OF ALL OF THE NORTHWEST QUARTER AND THAT PART OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER AND THE EAST HALF OF THE SOUTHWEST QUARTER LYING NORTH OF OGDEN AVENUE, IN SECTION 31, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.\*\*\* ✓

### PROPERTY ADDRESS OF REAL ESTATE:

3133-3145 S. Oak Park Avenue  
Berwyn, Illinois

### PERMANENT TAX IDENTIFICATION NUMBERS:

16-31-200-013-0000 and 16-31-200-014-0000 ✓

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EXHIBIT "B"

LEASES

NONE

Property of Cook County Clerk's Office

COOK COUNTY  
RECORDER OF DEEDS

COOK COUNTY  
RECORDER OF DEEDS

COOK COUNTY  
RECORDER OF DEEDS