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THIS INSTRUMENT PREPARED BY:

Christyl Marsh
Cohen, Saik & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

Doc#: 1926055027 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 09/17/2019 09:03 AM Pg: 1 of 11

AND AFTER RECORDING MAIL TO:

Steve Frank
Oxford Bank & Trust
1111 W. 22nd Street, Suite 800
Oak Brook, Illinois 60523

MODIFICATION AGREEMENT

THIS MODIFICATION AGREEMENT (hereinafter referred to as this "Modification Agreement") made as of this 1st day of August, 2019, by and among **Kasper Development LLC 4223**, a series of an Illinois limited liability company ("Borrower"), **Joseph Skiba, Jan Ptaszek and Kasper Development LLC**, an Illinois series limited liability company (each a "Guarantor," and collectively, the "Guarantors") (Borrower and Guarantors are hereinafter each sometimes individually referred to as an "Obligor" and are collectively referred to as the "Obligors") and **Oxford Bank & Trust** ("Lender").

WITNESSETH:

WHEREAS, pursuant to the terms and conditions of a Construction Loan Agreement dated as of January 12, 2018 (as amended, restated or replaced from time to time "Loan Agreement") between Borrower and Lender, Lender agreed to loan to Borrower the aggregate maximum principal amount of Two Million Three Hundred Twenty Thousand and 00/100 Dollars (\$2,320,000.00) (as modified from time to time, the "Loan"), or so much thereof as may be advanced pursuant to the Loan Agreement.

WHEREAS, the Loan is evidenced by the following notes made by Borrower and payable to Lender: (i) a certain Promissory Note dated as of January 12, 2018 (as amended, restated or replaced from time to time, the "Acquisition Note") in the original principal amount of \$520,000.00, and (ii) a certain Promissory Note dated as of January 12, 2018 (as amended, restated or replaced from time to time, the "Construction Note") in an amount not to exceed \$1,800,000.00 at any one time (subject to extension as provided for in the Construction Note) (the Acquisition Note and the Construction Note are sometimes each hereinafter singularly referred to as a "Note," and collectively referred to as the "Notes"), which Notes are secured by the Loan Agreement and the following documents (the following documents and any and all other instruments executed by any Obligor, as modified from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) construction mortgage, security agreement, assignment of leases and rents and fixture filing dated as of January 12, 2018, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 180171803 (the "Mortgage") on property commonly known as 4223 S. Halsted Street, Chicago.

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Illinois and legally described on Exhibit A attached hereto and made a part hereof (the "Premises");

- (ii) assignment of rents and leases dated as of January 12, 2018 made by Borrower in favor of Lender, recorded in the Recorder's Office, as Document No. 1801718104 (the "Assignment of Rents");
- (iii) guaranty of payment and completion dated as of January 12, 2018 made by Guarantors in favor of Lender (the "Guaranty");
- (iv) environmental indemnity agreement dated as of January 12, 2018 made by Obligors in favor of Lender;
- (v) assignment of sales contracts and security agreement dated as of January 12, 2018 made by Borrower in favor of Lender;
- (vi) assignment of plans, specifications, construction and service contracts, licenses and permits dated as of January 12, 2018 made by Borrower in favor of Lender; and
- (vii) certificate of representations, warranties and covenants dated as of January 12, 2018 made by Obligors in favor of Lender.

WHEREAS, the scope of the Project (as such term is defined in the Loan Agreement) has changed, and Obligors are desirous of restructuring the Loan and extending the maturity date of the Acquisition Note to February 1, 2021 to allow time for the development of the revised Project, and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises (as defined in the Mortgage) and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.
2. As of the date hereof, Lender has disbursed (a) \$369,000.00 under the Acquisition Note for Borrower's acquisition of the Premises and (b) \$0.00 under the Construction Note.
3. The Acquisition Note is hereby modified as follows:
 - a. The principal amount is reduced from \$520,000.00 to \$369,000.00. Notwithstanding anything to the contrary set forth in the Acquisition Note or the other Loan Documents, Lender shall have no obligation to disburse any additional loan proceeds under the Acquisition Note.

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b. The phrase "August 1, 2019 (the "Maturity Date")" as it appears in section 2.1 is deleted and replaced with the phrase "February 1, 2021 (the "Maturity Date")".

4. The Mortgage is hereby modified as follows:

a. The first three sentences of Recital A are deleted and replaced with the following:

"Mortgagee has agreed to loan to Mortgagor the principal amount of Three Hundred Sixty-Nine Thousand and 00/100 Dollars (\$369,000.00) (as modified from time to time, the "Loan"). The Loan shall be evidenced by a certain Promissory Note of even date herewith (as amended, restated or replaced from time to time, the "Note") made by Mortgagor payable to Mortgagee in the original principal amount of \$369,000.00 and due on February 1, 2021 (the "Maturity Date"), except as may be accelerated pursuant to the terms hereof or of the Note or any Loan Document (as defined in the Note). The Note shall bear interest at a variable rate equal to one percent (1.00%) plus the Prime Rate (as such term is defined in the Note), subject to modification by Mortgagee and Mortgagor."

b. Paragraph 37(o) is hereby amended and restated to read as follows:

"Provided that no default or event with which the giving of notice or the passage of time, or both, would constitute a default then exists under any Note, this Mortgage or any of the Loan Documents, Mortgagee will issue a partial release of the lien of its Loan Documents covering a single residential lot upon the payment to Mortgagee of an amount equal to (a) \$41,000.00 per residential lot, plus (b) a partial release fee of \$100.00 per Unit. Said amounts shall be allocated to the Loan in such manner as Mortgagee shall determine."

c. Paragraph 37(p) is hereby deleted.

d. Each reference in the Mortgage to the terms "Notes," "Acquisition Note" and "Construction Note" shall hereafter mean the \$369,000.00 Acquisition Note, as hereby modified.

5. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Acquisition Note, as hereby modified. The Construction Note has matured and is not being renewed. All references in the Loan Documents to the term "Notes" shall hereafter mean, solely, the Acquisition Note, as hereby modified.

6. Except for the modifications stated herein, the Acquisition Note and the other Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Acquisition Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Acquisition Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Acquisition Note and the other Loan Documents, to forgive or waive any violation, default or breach under the Acquisition Note or any other Loan

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Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

7. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Acquisition Note).

8. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Notes, the Mortgage and/or the other Loan Documents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

9. This Modification Agreement shall extend to and be binding upon each of the Obligors and their respective heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

10. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Acquisition Note, the Guaranty and the other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Acquisition Note, the Guaranty and the other Loan Documents, as so amended.

Without limiting the generality of the foregoing paragraph, each Guarantor hereby further represents and warrants to the Lender with the intent that the Lender rely thereon, as follows with regard to the Guaranty, as hereby modified: (a) the Guaranty is in full force and effect and is binding and enforceable against the Guarantor in accordance with its terms; (b) the Guarantor irrevocably consents and agrees to the Borrower's execution and delivery of this Modification Agreement; (c) the liability of the Guarantor to the Lender under the Guaranty shall in no way be affected, modified, altered, or discharged in any fashion by the Borrower's execution, delivery or performance of this Modification Agreement; (d) the Guarantor hereby restates and reaffirms to Lender all terms and provisions of the Guaranty as if set forth in full herein; and (e) the Guarantor does not possess any claims, defenses, offsets, or counterclaims against the enforcement of the Guaranty as of the date hereof, and any and all such claims, defenses, offsets and counterclaims, whether known or unknown, are forever waived and released, and the Guarantor is unconditionally liable under the Guaranty, for the payment and performance of all present and future indebtedness and all other obligations described therein.

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11. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principles), including all matters of construction, validity and performance.

12. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

13. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

14. Lender's consent to this Modification Agreement shall be subject to Lender (or Lender's nominee) having received the following in a form and substance acceptable to Lender on or before September 13, 2019 (the "Modification Termination Date"):

(a) An endorsement to Chicago Title Insurance Company Loan Policy No. 17WM5227719LFE (the "Title Policy") which (i) amends the description of the Mortgage insured under the Title Policy to include this Modification Agreement, (ii) amends the description of the Assignment of Rents to include this Modification Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Modification Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender and (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full; and

(b) Such other documents as Lender may reasonably require.

The Obligors' failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Modification Agreement (including all agreements and waivers of Lender contained herein) being null and void.

15. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT

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TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

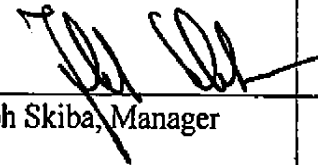
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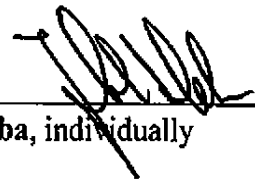
Property of Cook County Clerk's Office

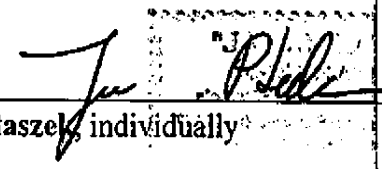
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IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

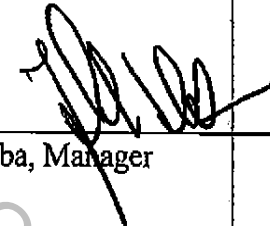
Kasper Development LLC 4223, a series of an Illinois limited liability company

By: 
Joseph Skiba, Manager



Joseph Skiba, individually


Jan Ptaszek, individually

Kasper Development LLC, an Illinois series limited liability company

By: 
Joseph Skiba, Manager

Oxford Bank & Trust

By: 
Steven M. Frank, Vice President, Commercial Real Estate

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Joseph Skiba, the Manager of Kasper Development LLC 4223, a series of an Illinois limited liability company, and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such Manager of said limited liability company series, pursuant to authority, given by the members of said limited liability company series, as his own and free and voluntary act and as the free and voluntary act of said limited liability company series, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of August, 2019.



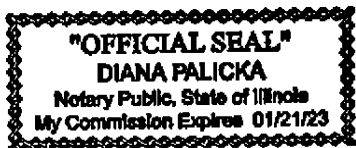
Diana Palicka
Notary Public

My Commission Expires: 1-21-23

STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Joseph Skiba personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 1st day of August, 2019.



Diana Palicka
Notary Public

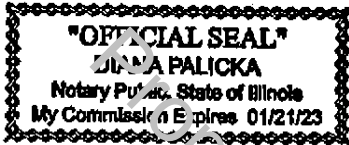
My Commission Expires: 1-21-23

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Jan Ptaszek personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 1st day of August, 2019.



Diana Palicka

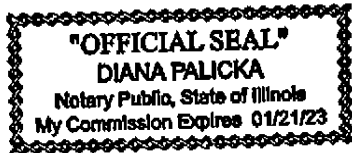
Notary Public

My Commission Expires: 1-21-23

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Joseph Skiba, the Manager of Kasper Development LLC, an Illinois series limited liability company, and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such Manager of said limited liability company, pursuant to authority, given by the members of said limited liability company, as his own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1st day of August, 2019.



Diana Palicka

Notary Public

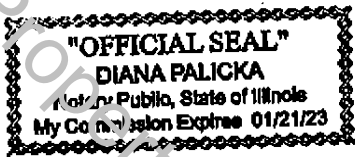
My Commission Expires: 1-21-23

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STATE OF ILLINOIS)
) SS
COUNTY OF DUPAGE)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that **Steven M. Frank**, a Vice President of Commercial Real Estate, of Oxford Bank & Trust, known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said bank.

Given under my hand and notarial seal this 1st day of August, 2019.



Diana Palicka

Notary Public

My Commission Expires: 02/23

Cook County Clerk's Office

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EXHIBIT A

PINS: 20-04-123-009-0000; 20-04-123-022-0000; 20-04-123-023-0000

Address: 4223-45 S. Halsted Street, Chicago, Illinois 60609

PARCEL 1: THE SOUTH 25 FEET OF THE NORTH 250 FEET OF LOT 2 IN THE SUBDIVISION OF BLOCK 20 (EXCEPT THE SOUTH 25 FEET OF THE WEST 116.25 FEET) IN SUPERIOR COURT PARTITION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THE SOUTH 25 FEET OF THE WEST 116 3/12 FEET (EXCEPT THAT PART BEING USED FOR ALLEY PURPOSES) OF BLOCK 20 IN SUPERIOR COURT COMMISSIONERS SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3: THE SOUTH 25 FEET FRONTING ON HALSTED STREET OF LOT 2 OF THE SUBDIVISION OF PART OF BLOCK 20 IN SUPERIOR COURT PARTITION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4: THE NORTH 25 FEET OF THE SOUTH 75 FEET OF LOT 2 IN SUBDIVISION OF BLOCK 20 (EXCEPT THE SOUTH 25 FEET OF THE WEST 116.25 FEET THEREOF) IN SUPERIOR COURT PARTITION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5: THE NORTH 25 FEET OF THE SOUTH 50 FEET OF LOT 2 (EXCEPT THAT PART THEREOF DEDICATED OR USED FOR HALSTED STREET) IN SUBDIVISION OF BLOCK 20 (EXCEPT THE SOUTH 25 FEET OF THE WEST 116.25 FEET) IN SUPERIOR COURT COMMISSIONER'S SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6: THE SOUTH 25 FEET OF THE EAST 10 FEET OF THE WEST 50 FEET OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF A LINE 33 FEET NORTH OF THE SOUTH LINE OF SAID NORTHWEST 1/4 IN COOK COUNTY, ILLINOIS.

PARCEL 7: LOT 2 (EXCEPT THE NORTH 250 FEET THEREOF, AND EXCEPT THE SOUTH 75 FEET THEREOF) IN THE SUBDIVISION OF BLOCK 20 (EXCEPT THE SOUTH 25 FEET OF THE WEST 116.25 FEET THEREOF) IN THE SUPERIOR COURT PARTITION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.