

Illinois Anti-Predatory Lending Database Program

Doc#: 2022021052 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 08/07/2020 10:21 AM Pg: 1 of 20

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: PIN: 25-20-123-027-0000

Address:

Street: 11352 S Throop St

Street line 2:

City: Chicago

State: IL

ZIP Code: 60643

Lender: DLP Lending Fund, LLC

Borrower: TGH, LLC an Illinois Liability Company

Loan / Mortgage Amount: \$84,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

2025693 20F2
AFTER RECORDING, MAIL TO:

SATURN TITLE, LLC
1030 W. HIGGINS RD.
SUITE 365
PARK RIDGE, IL 60068

Certificate number: 91DBFD6B-C636-4F94-B6F0-E909F0D0EEEE4

Execution date: 6/25/2020

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DLP LENDING FUND LLC

a Delaware Limited Liability Company, as mortgagor

to

TGH, LLC

a Illinois limited liability company, as mortgagee

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

Dated: June 25 2020
Property Location: 11352 S THROOP ST CHICAGO, IL 60643
Parcel ID: 25-20-123-027-0000

DOCUMENT PREPARED BY AND WHEN RECORDED, RETURN TO:

DLP LENDING FUND LLC
95 Highland Avenue, Suite 300
Bethlehem, PA 18017

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING made as of and dated to be effective as of the June ____, 2020 (together with any amendments or modifications hereto in effect from time to time, the "**Mortgage**"), is between TGH, LLC AN ILLINOIS LIMITED LIABILITY COMPANY, having an address of 7227 Southwick Court Frankfort, Illinois 60423 (the "**Mortgagor**") and DLP LENDING FUND LLC, having an office at 95 Highland Avenue, Suite 300, Bethlehem, PA 18017 ("**Mortgagee**").

WITNESSETH

WHEREAS, Mortgagor is indebted to Mortgagee in the principal sum of EIGHTY-FOUR THOUSAND (\$84,000.00) Dollars (the "**Loan**"), together with interest thereon, as evidenced by a certain Promissory Note of even date herewith (the "**Note**"); and

WHEREAS, Mortgagor is the owner of that certain tract of land located at 11352 S THROOP ST CHICAGO, IL 60643 as is more particularly described in Schedule "A" attached hereto and made a part hereof (the "**Real Estate**"); and

WHEREAS, to induce Mortgagee to make the Loan and to secure payment of the Note and the other obligations described below, Mortgagor has agreed to execute and deliver this Mortgage.

GRANTING CLAUSES

NOW, THEREFORE, to secure to Mortgagee (i) the repayment of all sums due under the Note and Mortgage (and all extensions, renewals, replacements, and amendments thereof); (ii) the performance of all terms, conditions, and covenants set forth in the Note, Mortgage, and any of the other Loan Documents (as the term is defined in the Note); (iii) all other obligations or indebtedness of Mortgagor to Mortgagee of whatever kind or character and whenever borrowed or incurred, including without limitation, principal, interest, fees, late charges and expenses, including attorneys' fees (subsections (i), (ii), and (iii) hereof collectively, the "**Liabilities**"), Mortgagor has mortgaged, granted, and conveyed and by these presents **DOES HEREBY MORTGAGE, GRANT, AND CONVEY TO MORTGAGEE, ITS SUCCESSORS, AND ASSIGNS**, all of Mortgagor's right, title, and interest now owned or hereafter acquired in and to each of the following (collectively, the "**Property**"):

(A) The Real Estate;

(B) Any and all buildings and improvements now or hereafter erected on, under, or over the Real Estate (the "**Improvements**");

(C) Any and all fixtures, machinery, equipment, and other articles of real, personal, or mixed property belonging to Mortgagor, at any time now or hereafter installed in, attached to, or situated in or upon the Real Estate or the Improvements, or used or intended to be used in connection with or operation of the Real Estate or Improvements, whether or not such real, personal, or mixed property is or shall be affixed thereto, and all replacements, substitutions, and proceeds of the foregoing (all of the foregoing herein called the "**Service Equipment**"), including without limitation: (i) all appliances, furniture, and furnishings; all articles of interior decoration, floor, wall, and window coverings; all office, restaurant, bar, kitchen and laundry fixtures, utensils, appliances, and equipment; all supplies, tools, and accessories; all storm and screen windows, shutters, doors, decorations, awnings, shades, blinds, signs, trees, shrubbery, and other plantings; (ii) all building service fixtures, machinery, and equipment of any kind whatsoever, all lighting, heating, ventilating, air conditioning, refrigerating, sprinkling, plumbing, security, irrigating, cleaning, incinerating, waste disposal, communications, alarm, fire prevention and extinguishing systems, fixtures, apparatus, machinery and equipment; all elevators, escalators, lifts, cranes, hoists and platforms; all pipes, conduits, pumps, boilers, tanks, motors, engines, furnaces and compressors; all dynamos, transformers, and generators; (iii) all building materials, building machinery, and building equipment delivered on site to the Real Estate during the course of, or in connection with, any construction, repair, or renovation of the Improvement; (iv) all parts, fittings, accessories, accessions, substitutions and replacements therefor and thereof; and (v) all files, books, ledgers, reports, and records relating to any of the foregoing;

(D) Any and all leases, subleases, tenancies, licenses, occupancy agreements or agreements to lease all or any portion of the Real Estate, Improvements, Service Equipment or all or any other portion of the Property and all extensions, renewals, amendments, modifications, and replacements thereof, and any options, rights of first refusal, or guarantees relating thereto (collectively, the "**Leases**"); all rents, income, receipts, revenues, security deposits, escrow accounts, reserves, issues, profits, awards, and payments of any kind payable under the Leases or otherwise arising from the Real Estate, Improvements, Service Equipment or all or any other portion of the Property including, without limitation, minimum rents, additional rents, percentage rents, parking, maintenance, and deficiency rents (collectively, the "**Rents**"); all of the following personal property (collectively referred to as the "**Contracts**"): all

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accounts, general intangibles, and contract rights (including any right to payment thereunder, whether or not earned by performance) of any nature relating to the Real Estate, Improvements, Service Equipment or all or any other portion of the Property or the use, occupancy, maintenance, construction, repair, or operation thereof; all management agreements, franchise agreements, utility agreements and deposits, building service contracts, maintenance contracts, construction contracts, and architect's agreements; all maps, plans, surveys, and specifications; all warranties and guarantees; all permits, licenses, and approvals; and all insurance policies, books of account and other documents, of whatever kind or character, relating to the use, construction upon, occupancy, leasing, sale, or operation of the Real Estate, Improvements, Service Equipment or all or any other portion of the Property;

(E) Any and all estates, rights, tenements, hereditaments, privileges, easements, reversions, remainders and appurtenances of any kind benefiting or appurtenant to the Real Estate, Improvements or all or any other portion of the Property; all means of access to and from the Real Estate, Improvements or all or any other portion of the Property, whether public or private; all streets, alleys, passages, ways, water courses, water and mineral rights relating to the Real Estate, Improvements or all or any other portion of the Property; all rights of Mortgagor as declarant or unit owner under any declaration of condominium or association applicable to the Real Estate, Improvements or all or any other portion of the Property including, without limitation, all development rights and special declarant rights; and all other claims or demands of Mortgagor, either at law or in equity, in possession or expectancy of, in, or to the Real Estate, Improvements or all or any other portion of the Property (all of the foregoing described in this subsection E herein called the "Appurtenances"); and

(F) Any and all "proceeds" of any of the above-described Real Estate, Improvements, Service Equipment, Leases, Rents, Contracts and Appurtenances, which term "proceeds" shall have the meaning given to it in the Uniform Commercial Code, as amended, (the "Code") of the State in which the Property is located (collectively, the "Proceeds") and shall additionally include whatever is received upon the use, lease, sale, exchange, transfer, collection or other utilization or any disposition or conversion of any of the Real Estate, Improvements, Service Equipment, Leases, Rents, Contracts and Appurtenances, voluntary or involuntary, whether cash or non-cash, including proceeds of insurance and condemnation awards, rental or lease payments, accounts, chattel paper, instruments, documents, contract rights, general intangibles, equipment, and inventory.

TO HAVE AND TO HOLD the above granted and conveyed Property unto and to the proper use and benefit of Mortgagee, its successors and assigns, forever.

PROVIDED ALWAYS, and these presents are upon the express condition, that if (i) all the Liabilities are paid in full, and (ii) each and every representation, warranty, agreement, and covenant of the Mortgage and Loan Documents are complied with and abided by, then this Mortgage and the estate hereby created shall cease and be null and void and canceled of record.

The terms of the Loan Documents are hereby made a part of this Mortgage to the same extent and with the same effect as if fully set forth herein. All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Documents.

AND Mortgagor covenants and agrees with and represents to Mortgagee as follows:

1. MORTGAGE.

1.1. **PURCHASE MONEY MORTGAGE.** If any of the debt secured by this Mortgage is loaned to Mortgagor to acquire title to the Property, this Mortgage shall be deemed a purchase money mortgage. This Mortgage secures a maximum principal amount of indebtedness outstanding at any time pursuant to the Note, and secures all Liabilities including, but not limited to, accrued and unpaid interest, advances for the payment of taxes and municipal assessments, maintenance charges, insurance premiums, costs incurred for the protection of the Property or the lien of this Mortgage, expenses incurred by the Mortgagee by reason of a default or Event of Default (as hereinafter defined) by the Mortgagor under this Mortgage and advances for the construction, alteration, or renovation on the Property or for any other purpose, together with all other sums due hereunder or secured hereby.

2. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

2.1. **Payment and Performance.** Mortgagor shall (a) pay to Mortgagee all sums required to be paid by Mortgagor under the Loan Documents, in accordance with their stated terms and conditions; (b) perform and comply with all terms, conditions, and covenants set forth in each of the Loan Documents by which Mortgagor is bound; and (c) to the extent applicable, perform and comply with all of Mortgagor's obligations and duties as landlord under any Leases.

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2.2. **Seisin and Warranty.** Mortgagor hereby warrants that (a) Mortgagor has a fee simple interest in the Real Estate; (b) Mortgagor has the right, power, and lawful authority to mortgage, grant, convey, and assign the same to Mortgagee in the manner and form set forth herein; and (c) this Mortgage is a valid and enforceable first lien on the Real Estate. Mortgagor hereby covenants that Mortgagor shall (a) preserve such title and the validity and priority of the lien of this Mortgage and shall forever warrant and defend the same to Mortgagee against all lawful claims whatsoever; and (b) execute, acknowledge, and deliver all such further documents or assurances as may at any time hereafter be required by Mortgagee to protect fully the lien of this Mortgage.

2.3. **Insurance.**

- (a) Mortgagor shall obtain and maintain at all times throughout the term of this Mortgage the following: (i) comprehensive general public liability insurance covering all operations of Mortgagor; (ii) "All-Risk" fire and extended coverage hazard insurance covering the Property in an aggregate amount not less than 100% of the agreed upon full insurable replacement value of the Property; (iii) during the course of any construction, reconstruction, remodeling, or repair of any Improvements, builders' all-risk extended coverage insurance in amounts based upon the completed replacement value of the Improvements (excluding roads, foundations, parking areas, paths, walkways and like improvements) and endorsed to provide that occupancy by any person shall not void such coverage; (iv) if the Property is required to be insured pursuant to the National Flood Insurance Reform Act of 1994, and the regulations promulgated thereunder, and/or if Mortgagee determines, in Mortgagee's sole discretion, at any time, that flood insurance is required, flood insurance in an amount at least equal to the lesser of the agreed upon full insurable replacement value of the Property (less any value attributable to the Real Estate) or the maximum limit of coverage available; (v) insurance that complies with the workers' compensation and employers' liability laws of all states in which Mortgagor shall be required to maintain such insurance; and (vi) such other insurance Mortgagee may reasonably require.
- (b) Each insurance policy required under this Section shall: (i) be written by an insurance company acceptable to Mortgagee and authorized or licensed to do business in the state within which the Property is located; (ii) be for terms of at least one year, with premium prepaid; (iii) be subject to the reasonable approval of Mortgagee as to insurance companies, amounts, content, forms of policies, and expiration dates; and (iv) name Mortgagee, its successors and assigns: (1) as an additional insured under all liability insurance policies, and (2) as the first mortgagee, under a standard non-contributory mortgagee clause, on all property insurance policies and all loss of rents or loss of business income insurance policies.
- (c) Mortgagor further agrees that each insurance: (i) shall provide at least thirty (30) days' prior written notice to Mortgagee prior to any policy reduction or cancellation for any reason; (ii) shall contain an endorsement or agreement by the insurer that any loss shall be payable to Mortgagee in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of such insurance; (iii) shall waive all rights of setoff, counterclaim, deduction, or subrogation against Mortgagor; and (iv) shall exclude Mortgagee from the operation of any coinsurance clause.
- (d) At least thirty (30) days prior to the expiration of any insurance policy, Mortgagor shall furnish evidence satisfactory to Mortgagee that the policy has been renewed or replaced or is no longer required.
- (e) Notwithstanding the foregoing, in the event Mortgagor fails to maintain insurance in accordance with this Section 2.3., and Mortgagee elects to obtain insurance to protect its interests hereunder, Mortgagee may obtain insurance in any amount and of any type Mortgagee deems appropriate to protect Mortgagee's interest only and Mortgagee shall have no duty or obligation to Mortgagor to maintain insurance in any greater amount or of any other type for the benefit of Mortgagor. All insurance premiums incurred or paid by Mortgagee shall be at Mortgagor's sole cost and expense. Mortgagee's election to obtain insurance shall not be deemed to waive any Event of Default (as hereinafter defined).

2.4. **Taxes and Other Charges.** Mortgagor shall promptly pay and discharge all taxes, assessments, water and sewer rents, and other governmental charges imposed upon the Property when due, but in no event after interest or

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penalties commence to accrue or become a lien thereon. Notwithstanding the foregoing, Mortgagor shall have the right to contest, at its own expense, by appropriate legal proceedings conducted in good faith and with due diligence, the amount or validity of such taxes, assessments, water and sewer rents, or other governmental charges, provided that (a) Mortgagor has established on its books or by deposit of cash with Mortgagee, at the option of Mortgagee, a reserve for the payment thereof in such amount as Mortgagee may require; and (b) such contest operates to prevent collection, stay any proceedings which may be instituted to enforce payment of such item, and prevent a sale of the Property to pay such item. Mortgagor shall promptly provide to Mortgagee, upon request, copies of receipted tax bills, canceled checks, or other evidence satisfactory to Mortgagee evidencing that such taxes, assessments, water and sewer rents, and other governmental charges have been timely satisfied. Mortgagor shall not claim, demand, or be entitled to any credit on account of the Liabilities for any part of the taxes paid with respect to the Property or any part thereof and no deduction shall otherwise be made or claimed from the taxable value of the Property, or any part thereof, by reason of this Mortgage. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Liabilities from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Liabilities or Mortgagee's interest in the Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. If Mortgagee is advised by its counsel that the payment of such tax or interest and penalties by Mortgagor would be unlawful, taxable to Mortgagee or unenforceable, or would provide the basis for a defense of usury, then Mortgagee shall have the option, by notice of not less than 90 days, to declare the Liabilities immediately due and payable without prepayment penalty.

2.5. Escrows. If required by Mortgagee, and only after an Event of Default, Mortgagor shall pay to Mortgagee at the time of each installment of principal and interest due under the Note, and commencing with the first payment due after the date of such request, a sum equal to (a) the amount of the next installment of taxes and assessments levied or assessed against the Property, and/or (b) the premiums which will next become due on the insurance policies required by this Mortgage, all in amounts as estimated by Mortgagee, less all sums already paid therefor or deposited with Mortgagee for the payment thereof, divided by the number of payments to become due before one (1) month prior to the date when such taxes and assessments and/or premiums, as applicable, will become due, such sums to be held by Mortgagee to pay the same when due. If such escrow funds are not sufficient to pay such taxes and assessments and/or insurance premiums, as applicable, as the same become due, Mortgagor shall pay to Mortgagee, upon request, such additional amounts as Mortgagee shall estimate to be sufficient to make up any deficiency. No amount paid to Mortgagee hereunder shall be deemed to be trust funds but may be commingled with general funds of Mortgagee and no interest shall be payable thereon. Upon the occurrence of an Event of Default, Mortgagee shall have the right, at its sole discretion, to apply any amounts so held against the Liabilities.

2.6. Transfer of Title. Mortgagor acknowledges that (i) Mortgagee has examined and relied on the creditworthiness and experience of the principals of Mortgagor in owning and operating real property such as the Real Estate in agreeing to make the Loan; (ii) Mortgagee will continue to rely on Mortgagor's ownership of the Real Estate as a means of maintaining the value thereof as security for the Loan; and (iii) Mortgagee has a valid interest in maintaining the value of the Real Estate so as to ensure that, should an Event of Default occur under this Mortgage or the Loan Documents, Mortgagee can recover the Liabilities by a sale of the Real Estate. Without the prior written consent of Mortgagee, which shall not be unreasonably withheld, in each instance, Mortgagor shall not cause or permit any transfer of the Property or any part thereof, whether voluntarily, involuntarily, or by operation of law, nor shall Mortgagor enter into any agreement or transaction to transfer, or accomplish in form or substance a transfer of the Property. A "transfer" of the Property includes: (a) the direct or indirect sale, transfer, or conveyance of the Property or any portion thereof or interest therein; (b) the execution of an installment sale contract or similar instrument affecting all or any portion of the Property; (c) if Mortgagor, or any general partner or member of Mortgagor, is a corporation, partnership, limited liability company, or other business entity, the transfer (whether in one transaction or a series of transactions) of any stock, partnership, limited liability company, or other ownership interests in such corporation, partnership, limited liability company, or entity; (d) if Mortgagor, or any general partner or member of Mortgagor, is a corporation, the creation or issuance of new stock by which an aggregate of more than 10% of such corporation's stock shall be vested in a party or parties who are not now stockholders; and (e) an agreement by Mortgagor leasing all or a substantial part of the Property for other than actual occupancy by a space tenant thereunder or a sale, assignment, or other transfer of or the grant of a security interest in and to any Leases. Any default under this section shall cause an immediate acceleration of the Liabilities without any demand by the Mortgagee. Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default under the Loan Documents or this

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Mortgage in order to declare the Liabilities immediately due and payable upon any transfer in violation of this Section 2.6. Mortgagor agrees to bear, and shall pay or reimburse Mortgagee on demand for, all reasonable expenses (including reasonable attorneys' fees and disbursements, title search costs, and title insurance endorsement premiums) incurred by Mortgagee in connection with the review and written approval thereof by Mortgagee that does not otherwise violate the provision of this Section 2.6.

2.7. No Encumbrances. Mortgagor shall not create or permit to exist any mortgage, pledge, lien, security interest (including, without limitation, a purchase money security interest), encumbrance, attachment, levy, distraint, or other judicial process on or against the Property or any part thereof (including, without limitation, fixtures and other personality), whether superior or inferior to the lien of this Mortgage, without the prior written consent of Mortgagee. If any lien or encumbrance is filed or entered without Mortgagee's consent, Mortgagor shall have it removed of record within fifteen (15) days after it is filed or entered.

2.8. Removal of Fixtures. Mortgagor shall not remove or permit to be removed from the Property any fixtures presently or in the future owned by Mortgagor as the term "fixtures" is defined by the law of the state where the Property is located (unless such fixtures have been replaced with similar fixtures of equal or greater utility and value).

2.9. Maintenance and Repair; Alterations.

(a) Mortgagor shall (i) abstain from, and not permit the commission of waste in or about the Property; (ii) keep the Property, at Mortgagor's own cost and expense, in good and substantial repair, working order and condition; (iii) make or cause to be made, as and when necessary, all repairs and replacements, whether or not insurance proceeds are available therefor; and (iv) not remove, demolish, materially alter, discontinue the use of, permit to become vacant or deserted, or otherwise dispose of all or any part of the Property. All alterations, replacements, renewals or additions made pursuant hereto shall automatically become a part of the Property and shall be covered by the lien of this Mortgage.

(b) Mortgagee, and any persons authorized by Mortgagee, shall have the right, but not the obligation, to enter upon the Property at any reasonable time to inspect and photograph its condition and state of repair. In the event any such inspection reveals, in the sole discretion of Mortgagee, the necessity for any repair, alteration, replacement, clean-up, or maintenance, Mortgagor shall, at the discretion of Mortgagee, either: (i) cause such work to be effected immediately; or (ii) promptly establish an interest bearing reserve fund with Mortgagee in an amount determined by Mortgagee for the purpose of effecting such work.

2.10. Compliance with Applicable Laws. Mortgagor agrees to observe, conform and comply, and to cause its tenants to observe, conform, and comply with all applicable federal, state, county, municipal, and other governmental or quasi-governmental laws, rules, regulations, ordinances, codes, requirements, covenants conditions, orders, licenses, permits, approvals and restrictions, including without limitation, Environmental Laws (as defined below) and the Americans with Disabilities Act of 1990 (collectively, the "Legal Requirements"), now or hereafter affecting all or any part of the Property, its occupancy, or the business or operations now or hereafter conducted thereon and the personality contained therein, within such time as required by such Legal Requirements.

2.11. Damage, Destruction, and Condemnation.

(a) If all or any part of the Property shall be damaged or destroyed, or if title to or the temporary use of the whole or any part of the Property shall be taken or condemned by a competent authority for any public or quasi-public use or purpose, there shall be no abatement or reduction in the amounts payable by Mortgagor under the Loan Documents and Mortgagor shall continue to be obligated to make such payments.

(b) If all or any part of the Property is partially or totally damaged or destroyed, Mortgagor shall give prompt notice thereof to Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor. Mortgagor hereby authorizes and directs any affected insurance company to make payment under such insurance, including return of unearned premiums, to Mortgagee rather than to Mortgagor and Mortgagee jointly, and Mortgagor appoints Mortgagee as Mortgagor's attorney-in-fact to endorse any draft thereof, which

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appointment, being for security, is coupled with an interest and is irrevocable. Mortgagee is hereby authorized and empowered by Mortgagor to settle, adjust, or compromise, in consultation with Mortgagor, any claims for loss, damage, or destruction to the Property. Mortgagor shall pay all costs of collection of insurance proceeds payable on account of such damage or destruction. Mortgagor shall have no claim against the insurance proceeds, or be entitled to any portion thereof, and all rights to the insurance proceeds are hereby assigned to Mortgagee as security for payment of the Liabilities. Mortgagee shall have the option, in its sole discretion, of paying or applying all or any part of the insurance proceeds to: (i) reduction of the Liabilities; (ii) restoration, replacement, or repair of the Property in accordance with Mortgagee's standard construction loan disbursement conditions and requirements; or (iii) Mortgagor.

- (c) Immediately upon obtaining knowledge of the institution of any proceeding for the condemnation of all or any part of the Property, Mortgagor shall give notice to Mortgagee. Mortgagor shall, at its sole cost and expense, diligently prosecute any such proceeding and shall consult with Mortgagee, its attorneys and experts, and shall cooperate with it in the defense of any such proceeding. Mortgagee may participate in any such proceeding and Mortgagor shall from time to time deliver to Mortgagee all instruments requested by it to permit such participation. Mortgagor shall not, without Mortgagee's prior written consent, enter into any agreement (i) for the taking or conveyance in lieu thereof of all or any part of the Property, or (ii) to compromise, settle, or adjust any such proceeding. All awards and proceeds of condemnation are hereby assigned to Mortgagee, and Mortgagor, upon request by Mortgagee, agrees to make, execute, and deliver any additional assignments or documents necessary from time to time to enable Mortgagee to collect the same. Such awards and proceeds shall be paid or applied by Mortgagee, in its sole discretion, to: (i) reduction of the Liabilities; (ii) restoration, replacement, or repair of the Property in accordance with Mortgagee's standard construction loan disbursement conditions and requirements; or (iii) Mortgagor.
- (d) Nothing herein shall relieve Mortgagor of its duty to repair, restore, rebuild, or replace the Property following damage or destruction or partial condemnation if no or inadequate insurance proceeds or condemnation awards are available to defray the cost of repair, restoration, rebuilding, or replacement.
- (e) Notwithstanding the provisions of subparagraphs (b) and (c) above, in the event that all or any part of the Property is damaged by fire or other casualty, and Mortgagor promptly notifies Mortgagee of its desire to repair and restore the same, then provided that the following terms and conditions are and remain fully satisfied by Mortgagor, Mortgagee shall disburse insurance proceeds for repair and restoration of the Property against completed work in accordance with Mortgagee's standard construction loan disbursement conditions and requirements (which may be contained in an agreement which Mortgagee may require Mortgagor to sign); otherwise, and to the extent of any excess proceeds, Mortgagee shall have the right to apply the proceeds toward reduction of the Liabilities:
- (i) No uncured Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default under any of the Loan Documents shall have occurred;
 - (ii) Mortgagor shall have delivered evidence satisfactory to Mortgagee that the Property can be fully repaired and restored prior to the maturity of the Note;
 - (iii) no Lease is cancelable or terminable by any tenant or Mortgagor on account of the casualty or, if it is, said tenant or Mortgagor, as applicable, has waived in writing its right to cancel;
 - (iv) the work is performed under a stipulated sum or guaranteed maximum price contract satisfactory to Mortgagee in accordance with plans and specifications and a budget satisfactory to Mortgagee and in compliance with all Legal Requirements;
 - (v) Mortgagor shall have deposited with Mortgagee for disbursement in connection with the restoration the greater of: (1) the applicable deductible under the insurance policies covering the loss; or (2) the amount by which the cost of restoration of the Property to substantially the same value, condition, and character as existed prior to such damage is estimated by Mortgagee to exceed the net insurance proceeds available for

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restoration; and

(vi) Mortgagor has paid as and when due all of Mortgagee's reasonable costs and expenses incurred in connection with the collection and disbursement of insurance proceeds, including without limitation, inspection, monitoring, engineering, and legal fees.

2.12. **Required Notices.** Mortgagor shall notify Mortgagee within three (3) days of: (a) receipt of any notice from any governmental or quasi-governmental authority relating to the structure, use, or occupancy of the Property or alleging a violation of any Legal Requirement; (b) a substantial change in the occupancy or use of all or any part of the Property; (c) receipt of any notice from the holder of any lien or security interest in all or any part of the Property; (d) commencement of any litigation affecting or potentially affecting the financial ability of Mortgagor or the value of the Property; (e) pending or threatened condemnation of all or any part of the Property; (f) a fire or other casualty causing damage to all or any part of the Property; (g) receipt of any notice with regard to any Release of Hazardous Substances (as such terms are defined below) or any other environmental matter affecting the Property or Mortgagor's interest therein; (h) receipt of any request for information, demand letter, or notification of potential liability from any entity relating to potential responsibility for investigation or clean-up of Hazardous Substances on the Property or at any other site owned or operated by Mortgagor; (i) receipt of any notice from any tenant of all or any part of the Property alleging a default, failure to perform or any right to terminate its lease or to set-off rents; or (j) receipt of any notice of the imposition of, or of threatened or actual execution on, any lien on or security interest in all or any part of the Property.

2.13. **Books and Records; Inspection.** Mortgagor shall keep and maintain (a) complete and accurate books and records, in accordance with generally accepted accounting principles consistently applied, reflecting all items of income and expense in connection with the operation of the Property, and (b) copies of all written contracts, leases and other agreements affecting the Property. Mortgagee or its designated representatives shall, upon reasonable prior notice to Mortgagor, have (a) the right of entry and free access to the Property during business hours (which may be without notice in any case of emergency) to inspect the Property, and (b) the right to examine and audit all books, contracts, and records of Mortgagor relating to the Property. As to any leases affecting the Property, Mortgagor is responsible for immediately providing Mortgagee with a true and correct copy of such written lease executed by any tenant of all or a portion of the Property. Mortgagor shall not allow any tenant to gain possession of any part of all of the Property without executing a written lease.

2.14. **Right to Reappraise.** Mortgagee shall have the right to conduct or have conducted by an independent appraiser acceptable to Mortgagee appraisals of the Property in form and substance satisfactory to Mortgagee at the sole cost and expense of Mortgagor; provided, however, that Mortgagor shall not be obligated to bear the expense of such appraisals so long as (a) no Event of Default exists, and (b) such appraisals are not required by applicable law, rule, or regulation of any governmental authority having jurisdiction over Mortgagee.

2.15. **Use of the Real Estate.** Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law, or other public or private restriction, limiting or defining the uses which may be made of the Real Estate other than any such plans, proposals, or changes otherwise previously disclosed to and approved by Mortgagee. If under applicable zoning provisions the use of the Real Estate is or shall become a nonconforming use, Mortgagor shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Mortgagee. Mortgagor shall not (i) change the use of the Real Estate; (ii) permit or suffer to occur any waste on or to the Real Estate; or (iii) take any steps to convert the Real Estate to a condominium or cooperative form of ownership.

3. **SECURITY AGREEMENT.** This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the UCC. The Property (as the term is defined herein) includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor therein. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Mortgagee, as security for the Liabilities, a security interest in the Property to the full extent that the Property may be subject to the UCC (such portion of the Property so subject to the UCC being called in this paragraph the "Collateral"). The foregoing sentence is intended to grant in favor of Mortgagee a first priority continuing lien and security interest in all of Mortgagor's assets. Mortgagor authorizes Mortgagee and its counsel to file UCC financing statements in form and substance satisfactory to Mortgagee, describing

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the collateral as "all assets of Mortgagor, whether now owned or existing or hereafter acquired or arising and wheresoever located, and all proceeds and products thereof, including, without limitation, all fixtures on the Premises" or words to that effect, and any limitations on such collateral description, notwithstanding that such collateral description may be broader in scope than the Collateral described in this Mortgage. This Mortgage shall also constitute a "fixture filing" for the purposes of the UCC. As such, this Mortgage covers all items of the Collateral that are or are to become fixtures. For purposes of this fixture filing, the "Debtor" is the Mortgagor and the "Secured Party" is the Mortgagee. A description of the land which relates to the fixtures is set forth on Exhibit A attached hereto. Mortgagor is the record owner of such land. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this Mortgage. If an Event of Default shall occur and be continuing, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee, Mortgagor shall at its expense assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all actual out-of-pocket expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Mortgagee in protecting the interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition, or other intended action by Mortgagee with respect to the Collateral, sent to Mortgagor in accordance with the provisions hereof at least fifteen (15) business days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Mortgagee to the payment of the Liabilities in such priority and proportions as Mortgagee in its sole discretion shall deem proper. In the event of any change in name, identity or structure of Mortgagor, Mortgagor shall notify Mortgagee thereof and promptly after request shall execute, file and record such UCC forms as are necessary to maintain the priority of Mortgagee's lien upon and security interest in the Collateral, and shall pay all expenses and fees in connection with the filing and recording thereof. If Mortgagee shall require the filing or recording of additional UCC forms or continuation statements, Mortgagor shall, promptly after request, execute, file and record such UCC forms or continuation statements as Mortgagee shall deem necessary, and shall pay all expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Mortgagor's obligations under the Loan Documents. A photocopy of an executed financing statement shall be effective as an original. Without limiting the foregoing, Mortgagor hereby irrevocably appoints Mortgagee attorney-in-fact for Mortgagor to execute, deliver, and file such instruments for or on behalf of Mortgagor at Mortgagor's expense, which appointment, being for security, is coupled with an interest and shall be irrevocable.

4. ASSIGNMENT OF LEASES.

4.1. Mortgagor hereby absolutely, presently, and unconditionally conveys, transfers, and assigns to Mortgagee right, title, and interest of Mortgagor, now existing or hereafter arising, in and to the Leases and Rents, it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Notwithstanding that this assignment is effective immediately, so long as no Event of Default exists, Mortgagor shall have the privilege under a revocable license granted hereby to operate and manage the Property and to collect, as they become due, but not prior to accrual, the Rents. Mortgagor shall receive and hold such Rents in trust as a fund to be applied, and Mortgagor hereby covenants and agrees that such Rents shall be so applied, first to the operation, maintenance, and repair of the Property and the payment of interest, principal, and other sums becoming due under the Liabilities, before retaining and/or disbursing any part of the Rents for any other purpose. The license herein granted to Mortgagor shall automatically, without notice or any other action by Mortgagee, terminate upon the occurrence of an Event of Default under the Mortgage or Loan Documents, and all Rents subsequently collected or received by Mortgagor shall be held in trust by Mortgagor for the sole and exclusive benefit of Mortgagee. Nothing contained in this Section 4.1, and no collection by Mortgagee of Rents, shall be construed as imposing on Mortgagee any of the obligations of lessor under the Leases.

4.2. Mortgagor shall timely perform all of its obligations under the Leases. Mortgagor represents and warrants that: (a) Mortgagor has title to and full right to assign presently, absolutely, and unconditionally the Leases and Rents; (b) no other assignment of any interest in any of the Leases or Rents has been made; (c) there are no leases or agreements to lease all or any portion of the Property now in effect except the Leases, true and complete copies of which have

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been furnished to Mortgagee or will be furnished to Mortgagee immediately upon execution, and no written or oral modifications have been or will be made thereto; (d) there is no existing default by Mortgagor or by any tenant under any of the Leases, nor has any event occurred which due to the passage of time, the giving or failure to give notice, or both, would constitute a default under any of the Leases and, to the best of Mortgagor's knowledge, no tenant has any defenses, set-offs, or counterclaims against Mortgagor; (e) the Leases are in full force and effect; and (f) Mortgagor has not accepted Rent under any Lease more than thirty (30) days in advance of its accrual, and payment thereof has not otherwise been forgiven, discounted, or compromised.

4.3. Mortgagor shall not, without the prior written consent of Mortgagee: (a) enter into any lease of all or any portion of the Property; (b) amend, modify, terminate, or accept a surrender of any Lease; or (c) collect or accept rent from any tenant of the Property for a period of more than one month in advance. Any of the foregoing acts, if done without the prior written consent of Mortgagee/Assignee in each instance, which consent shall not be unreasonably withheld or delayed, shall be null and void.

5. **DECLARATION OF NO OFFSET.** Mortgagor represents to Mortgagee that Mortgagor has no knowledge of any offsets, counterclaims, or defenses to the Liabilities either at law or in equity. Mortgagor shall, within three (3) days upon request in person or within seven (7) days upon request by mail, furnish to Mortgagee or Mortgagee's designee, a written statement in a form satisfactory to Mortgagee stating the amount due under the Liabilities and whether there are offsets or defenses against the same, and if so, the nature and extent thereof.

6. **ENVIRONMENTAL MATTERS.**

6.1. **Definitions.** As used herein, "Environmental Laws" shall mean all existing or future federal, state, and local statutes, ordinances, regulations, rules, executive orders, standards, and requirements, including the requirements imposed by common law, concerning or relating to industrial hygiene and the protection of health and the environment including but not limited to: (a) those relating to the generation, manufacture, storage, transportation, disposal, release, emission, or discharge of Hazardous Substances (as hereinafter defined); (b) those in connection with the construction, fuel supply, power generation and transmission, waste disposal, or any other operations or processes relating to the Property; and (c) those relating to the atmosphere, soil, surface and groundwater, wetlands, stream sediments, and vegetation on, under, in or about the Property. Any terms mentioned herein which are defined in any Environmental Law shall have the meanings ascribed to such terms in said laws; provided, however, that if any of such laws are amended so as to broaden any term defined therein, such broader meaning shall apply subsequent to the effective date of such amendment.

6.2. **Representations, Warranties and Covenants.** Mortgagor represents, warrants, covenants and agrees as follows as of the date hereof:

(a) Neither Mortgagor nor the Property or any occupant thereof is in violation of or subject to any existing, pending, or threatened investigation or inquiry by any governmental authority pertaining to any Environmental Law. Mortgagor shall not cause or permit the Property to be in violation of, or do anything which would subject the Property to any remedial obligations under, any Environmental Law, and shall promptly notify Mortgagee in writing of any existing, pending, or threatened investigation or inquiry by any governmental authority in connection with any Environmental Law. In addition, Mortgagor shall provide Mortgagee with copies of any and all material written communications with any governmental authority in connection with any Environmental Law, concurrently with Mortgagor's giving or receiving of same.

(b) Mortgagor has taken all steps necessary to determine and has determined that there has been no release, spill, discharge, leak, disposal, or emission which violates any Environmental Laws (individually a "Release" and collectively, "Releases") of any Hazardous Material, Hazardous Substance or Hazardous Waste, including gasoline, petroleum products, explosives, toxic substances, solid wastes and radioactive materials (collectively, "Hazardous Substances") at, upon, under or within the Property. The use which Mortgagor or any other occupant of the Property makes or intends to make of the Property will not result in Release of any Hazardous Substances on or to the Property. During the term of this Mortgage, Mortgagor shall take all steps necessary to determine whether there has been a Release of any Hazardous Substances on or to the Property

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and if Mortgagor finds a Release has occurred, Mortgagor shall remove or remediate the same promptly upon discovery at its sole cost and expense.

- (c) The Property has never been used by the present or previous owners and/or operators nor will be used in the future to refine, produce, store, handle, transfer, process, transport, generate, manufacture, heat, treat, recycle, or dispose of Hazardous Substances which violates any Environmental Laws.
- (d) The Property: (i) is being and has been operated in compliance with all Environmental Laws, and all permits required thereunder have been obtained and complied with in all respects; and (ii) does not have any Hazardous Substances present excepting small quantities of petroleum and chemical products, in proper storage containers, that are necessary for the construction or operation of the commercial business of Mortgagor and its tenants, and the usual waste products therefrom ("Permitted Substances").
- (e) Mortgagor will and will cause its tenants to operate the Property in compliance with all Environmental Laws and, other than Permitted Substances, will not place or permit to be placed any Hazardous Substances on the Property, except in compliance with applicable environmental laws.
- (f) No lien has been attached to or threatened to be imposed upon the Property, and there is no basis for the imposition of any such lien based on any governmental action under Environmental Laws. Neither Mortgagor nor any other person has been, is or will be involved in operations at the Property which could lead to the imposition of environmental liability on Mortgagor, or on any subsequent or former owner of the Property, or the creation of an environmental lien on the Property. In the event that any such lien is filed, Mortgagor shall, within (30) days from the date that the Mortgagor is given notice of such lien (or within such shorter period of time as is appropriate in the event that steps have commenced to have the Property sold), either: (i) pay the claim and remove the lien from the Property, or (ii) furnish a cash deposit, bond or other security satisfactory in form and substance to Mortgagee in an amount sufficient to discharge the claim out of which the lien arises.

6.3. Right to Inspect and Cure. Mortgagee shall have the right to conduct or have conducted by its agents or contractors such environmental inspections, audits, and tests as Mortgagee shall deem necessary or advisable from time to time at the sole cost and expense of Mortgagor; provided, however, that Mortgagor shall not be obligated to bear the expense of such environmental inspections, audits, and tests so long as (a) no Event of Default exists, and (b) Mortgagee has no cause to believe in its sole reasonable judgment that there has been a Release or threatened Release of Hazardous Substances at the Property or that Mortgagor or the Property is in violation of any Environmental Law. The cost of such inspections, audits, and tests, if chargeable to Mortgagor as aforesaid, shall be added to the Liabilities and shall be secured by this Mortgage. Mortgagor shall, and shall cause each tenant of the Property to, cooperate with such inspection efforts; such cooperation shall include, without limitation, supplying all information requested concerning the operations conducted and Hazardous Substances located at the Property.

7. EVENTS OF DEFAULT. Each of the following shall constitute a default hereof (each, an "Event of Default"):

- 7.1. Non-payment when due of any sum required to be paid to the Mortgagee under any of the Loan Documents;
- 7.2. A breach of any covenant contained in Sections 2.3, 2.4, 2.7, 2.12, or 2.13 hereof and the continuance of such breach for a period of fifteen (15) days after written notice thereof to Mortgagor;
- 7.3. A breach by Mortgagor of any other term, covenant, condition, obligation, or agreement under this Mortgage, and the continuance of such breach for a period of fifteen (15) days after written notice thereof to Mortgagor;
- 7.4. An Event of Default under any of the other Loan Documents and the continuance of such breach beyond any applicable cure periods;
- 7.5. Any representation or warranty made by Mortgagor or by any Guarantor in any Loan Document or to induce Mortgagee to enter into the transactions contemplated hereunder shall prove to be false, incorrect, or misleading in any material respect as of the date made;

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7.6. The filing by or against Mortgagor or any Guarantor of a petition seeking relief, or the granting of relief, under the Federal Bankruptcy Code or any similar federal or state statute; any assignment for the benefit of creditors made by the Mortgagor or any Guarantor; the appointment of a custodian, receiver, liquidator, or trustee for Mortgagor or any Guarantor or for any of the property of Mortgagor or such Guarantor, or any action by Mortgagor or any Guarantor to effect any of the foregoing; or if the Mortgagor or any Guarantor becomes insolvent (however defined) or is not paying its debts generally as they become due. Notwithstanding the above, Mortgagor or any Guarantor shall have sixty (60) days in which to dismiss any involuntary bankruptcy proceeding filed against it;

7.7. The death, dissolution, liquidation, merger, consolidation, or reorganization of Mortgagor or any Guarantor, or the institution of any proceeding to effect any of the foregoing;

7.8. A default under any other obligation by Mortgagor or any Guarantor in favor of Mortgagee, or under any document securing or evidencing such obligation, whether or not such obligation is secured by the Property and the continuance of such breach for a period of fifteen (15) days after written notice thereof to Mortgagor;

7.9. The filing, entry, or issuance of any judgment, execution, garnishment, attachment, distraint, or lien against Mortgagor or any Guarantor or their property in excess of \$25,000.00 which is not covered by insurance, subject to the provisions of Section 2.7 hereof, if applicable;

7.10. A default under any other obligations secured by the Property or any part thereof and the continuance of such breach for a period of fifteen (15) days after written notice thereof to Mortgagor; or

7.11. The Mortgagor or any other obligor or guarantor of any of the Liabilities, shall at any time deliver or cause to be delivered to the Mortgagee a notice pursuant to 42 Pa. C.S.A. §8143 (or any successor or similar law, rule or regulation) electing to limit the indebtedness secured by this Mortgage.

With regard to the notice and cure periods herein, Mortgagee shall not be obligated to give any notice more than one (1) time during any calendar year.

8. **REMEDIES.** If an Event of Default occurs, Mortgagee may take any of the following actions:

8.1. **Acceleration.** Mortgagee may declare the entire amount of the Liabilities immediately due and payable, without presentment, demand, notice of any kind, protest or notice of protest, all of which are expressly waived, notwithstanding anything to the contrary contained in any of the Loan Documents. Mortgagee may charge and collect interest from the date of default on the unpaid balance of the Liabilities at the Default Rate set forth in the Note.

8.2. **Possession.** Mortgagee may enter upon and take possession of the Property, with or without legal action, lease the Property, collect therefrom all rents and, after deducting all costs of collection and administration expense, apply the net rent amounts to any one or more of the following items in such manner and in such order of priority as Mortgagee, in Mortgagee's sole discretion, may elect: the payment of any sums due under any prior lien, taxes, water, and sewer rents, charges and claims, insurance premiums, and all other carrying charges, to the maintenance, repair, or restoration of the Property, or on account of the Liabilities. Mortgagee is given full authority to do any act which Mortgagor could do in connection with the management and operation of the Property. This covenant is effective either with or without any action brought to foreclose this Mortgage and without applying for a receiver of such rents. In addition to the foregoing, upon the occurrence of an Event of Default, Mortgagor shall pay monthly in advance to Mortgagee or to any receiver appointed to collect said rents the fair and reasonable rental value for Mortgagor's use and occupation of the Property, and upon default in any such payment Mortgagor shall vacate and surrender possession of the Property to Mortgagee or to such receiver. If the Mortgagor does not vacate and surrender the Property then Mortgagor may be evicted by summary proceedings.

8.3. **Foreclosure.** Mortgagee may institute any one or more actions of mortgage foreclosure against all or any part of the Property, judicial or non-judicial, or take such other action at law, equity, or by contract for the enforcement of this Mortgage and realization on the security herein or elsewhere provided for, as the law may allow, and may proceed

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therein to final judgment and execution for the entire unpaid balance of the Liabilities. The unpaid balance of any judgment shall bear interest as provided in the Note, but in no event less than the greater of (a) the statutory rate provided for judgments, or (b) the Default Rate. Without limiting the foregoing, Mortgagee may foreclose this Mortgage and exercise its rights as a secured party for all or any portion of the Liabilities which are then due and payable, subject to the continuing lien of this Mortgage for the balance not then due and payable. In case of any sale of the Property by judicial proceedings, the Property may be sold in one parcel or in such parcels, manner, or order as Mortgagee in its sole discretion may elect. Mortgagor, for itself and anyone claiming by, through, or under it, hereby agrees that Mortgagee shall in no manner, in law or in equity, be limited, except as herein provided, in the exercise of its rights in the Property or in any other security hereunder or otherwise appertaining to the Liabilities or any other obligation secured by this Mortgage, whether by any statute, rule, or precedent which may otherwise require said security to be marshalled in any manner and Mortgagor, for itself and others as aforesaid, hereby expressly waives and releases any right to or benefit thereof. The failure to make any tenant a defendant to a foreclosure proceeding shall not be asserted by Mortgagor as a defense in any proceeding instituted by Mortgagee to collect the Liabilities or any deficiency remaining unpaid after a foreclosure sale of the Property.

8.4. Appointment of Receiver. Mortgagee may petition a court of competent jurisdiction to appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver, without regard to the then value of the Property or whether the Property shall be then occupied as a homestead or not, and without regard to whether Mortgagor has committed waste or allowed deterioration of the Property. Mortgagor hereby acknowledges and agrees that Mortgagee or any agent of Mortgagee may be appointed as such receiver to serve in the interest of both Mortgagee and Mortgagor. Mortgagor hereby agrees that Mortgagee has a special interest in the Property and absent the appointment of such receiver the Property shall suffer waste and deterioration and Mortgagor further agrees that it shall not contest the appointment of a receiver and by execution hereof hereby stipulates to such appointment pursuant to this paragraph. Such receiver shall be granted the power to perform all acts permitted Mortgagee pursuant to Section 8.2 above and such other powers which may be necessary or customary in such cases for the protection, possession, control, management and operation of the Property during such period.

8.5. Rights as a Secured Party. Mortgagee shall have, in addition to other rights and remedies available at law or in equity, the rights and remedies of a secured party under the Code. Mortgagee may elect to foreclose such of the Property as then comprise fixtures pursuant either to the law applicable to foreclosure of an interest in real estate or to that applicable to personal property under the Code. To the extent permitted by law, Mortgagor waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its sole but good faith discretion, decides should be brought to protect its or their interest in the Property. Mortgagee shall, at its option, be subrogated to the lien of any mortgage or other security instrument discharged in whole or in part by the Liabilities, and any such subrogation rights shall constitute additional security for the payment of the Liabilities.

8.6. Excess Monies. In the Event of a Default, Mortgagee may apply on account of the Liabilities any unexpended monies still retained by Mortgagee that were paid by Mortgagor to Mortgagee: (a) for the payment of, or as security for the payment of taxes, assessments, or other governmental charges, insurance premiums, or any other charges; or (b) to secure the performance of some act by Mortgagor.

8.7. Other Remedies. Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not any other Liabilities shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of mortgage foreclosure, or any other action, for any default by Mortgagor existing at the time the earlier action was commenced, including but not limited to an action, suit, or proceeding in equity for specific performance of any covenant, condition, or agreement contained herein or in any other Loan Document, to recover judgment on the Note either before, during, or after any proceeding for the enforcement of this Mortgage, and/or to enforce the interest of Mortgagee in the Leases and Rents. Upon any sale made during the continuance of an Event of Default under or by virtue of this Article 8, whether made under a power of sale, if permitted by applicable law, or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Mortgagee may bid for and acquire the Property

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or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Liabilities the net sales price after deducting therefrom the expenses of the sale and costs of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage or any other Loan Document. In addition, Mortgagee shall have the right to set-off all or any part of any amount due by Mortgagor to Mortgagee under any of the Liabilities, against any indebtedness, liabilities, or obligations owing by Mortgagee in any capacity to Mortgagor, including any obligation to disburse to Mortgagor any funds or other property on deposit with or otherwise in the possession, control, or custody of Mortgagee.

8.8. Costs, Expenses, and Counsel Fees. Mortgagor shall pay all expenses incurred by Mortgagee incident to the preparation, execution, delivery, and/or recording of this Mortgage and any other document or instrument delivered by Mortgagor in connection with this Mortgage, including, without limitation, Mortgagee's attorney fees. Mortgagor shall also promptly pay to Mortgagee all expenses and costs, including reasonable attorneys' fees, incurred by Mortgagee or otherwise associated with the collection of any of the indebtedness secured hereby or to enforce the performance of the terms, conditions, provisions, agreements, and covenants contained herein or in any other document or instrument delivered by or on behalf of Mortgagor in connection with this Mortgage, whether or not suit is instituted, or incurred by Mortgagee in connection with any action, proceeding, litigation, or claim instituted or asserted by or against Mortgagee or in which the Mortgagee becomes engaged, wherein it becomes necessary, in the opinion of Mortgagee, to enforce, defend, or uphold the lien of this Mortgage or the validity or effectiveness of any assignment of any claim, award, payment, insurance recovery, or any other right or property conveyed, encumbered, or assigned by Mortgagor to Mortgagee hereunder, or the priority of any of the same or otherwise. All such expenses, costs, and attorneys' fees, together with interest thereon at the rate set forth in the Note in the event of a default thereunder, shall be deemed to be part of the principal indebtedness evidenced by the Note and secured by this Mortgage

8.9. Certain Waivers. The Mortgagor hereby waives and releases all benefit that might accrue to the Mortgagor by virtue of any present or future law exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment or any rights of marshalling in the event of any sale hereunder of the Property, and, unless specifically required herein, all notices of the Mortgagor's default or of the Mortgagee's election to exercise, or the Mortgagee's actual exercise of any option under this Mortgage or any other Loan Document. No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the Property or any part thereof, or any liens, rights, powers, or remedies of Mortgagee hereunder, but such liens, rights, powers, and remedies of Mortgagee shall continue unimpaired as before. The lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Mortgagee of any other security for any portion of the Liabilities; (ii) any failure, neglect or omission on the part of Mortgagee to realize upon or protect any portion of the Liabilities or any collateral security therefor; or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any portion of the Liabilities or of any of the collateral security therefor; and Mortgagee may foreclose, or exercise any other remedy available to Mortgagee under other Loan Documents without first exercising or enforcing any of its remedies under this Mortgage, and any exercise of the rights and remedies of Mortgagee hereunder shall not in any manner impair the Liabilities or the liens of any other Loan Document or any of Mortgagee's rights and remedies thereunder. Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law.

8.10. Confession of Judgment in Ejectment. To the extent permitted by governing law, at any time after the occurrence of an Event of Default, without further notice, regardless of whether the Mortgagee has asserted any other right or exercised any other remedy under this Mortgage or any of the other Loan Documents, it shall be lawful for any attorney of any court of record as attorney for the Mortgagor to confess judgment in ejectment against the Mortgagor and all persons claiming under the Mortgagor for the recovery by the Mortgagee of possession of all or any part of the

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Property, for which this Mortgage shall be sufficient warrant. If for any reason after such action shall have commenced the same shall be discontinued and the possession of the Property shall remain in or be restored to the Mortgagor, the Mortgagee shall have the right upon any subsequent default or defaults to bring one or more amicable action or actions as hereinbefore set forth to recover possession of all or any part of the Property.

9. MISCELLANEOUS.

9.1. **Notices.** All notices and communications under this Mortgage shall be in writing and shall be given by either (a) hand-delivery, (b) first class mail (postage prepaid), or (c) reliable overnight commercial courier (charges prepaid), to the addresses listed in this Mortgage. Notice shall be deemed to have been given and received: (a) if by hand delivery, upon delivery; (b) if by mail, three (3) calendar days after the date first deposited in the United States mail; and (c) if by overnight courier, on the date scheduled for delivery. A party may change its address by giving written notice to the other party as specified herein.

9.2. **Remedies Cumulative.** The rights and remedies of Mortgagee as provided in this Mortgage or in any other Loan Document shall be cumulative and concurrent, may be pursued separately, successively or together, may be exercised as often as occasion therefore shall arise, and shall be in addition to any other rights or remedies conferred upon Mortgagee at law or in equity. The failure, at any one or more times, of Mortgagee to assert the right to declare the Liabilities due, grant any extension of time for payment of the Liabilities, take other or additional security for the payment thereof, release any security, change any of the terms of the Loan Documents, or waive or fail to exercise any right or remedy under any Loan Document shall not in any way affect this Mortgage or the rights of Mortgagee.

9.3. **No Implied Waiver.** Mortgagee shall not be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the Mortgagee, and then only to the extent specifically set forth therein. A waiver in one event shall not be construed as continuing or as a waiver of or bar to such right or remedy on a subsequent event.

9.4. **Partial Invalidity.** The invalidity or unenforceability of any one or more provisions of this Mortgage shall not render any other provision invalid or unenforceable. In lieu of any invalid or unenforceable provision, there shall be added automatically a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

9.5. **Binding Effect.** The covenants, conditions, waivers, releases, and agreements contained in this Mortgage shall bind, and the benefits thereof shall inure to, the parties hereto and their respective heirs, executors, administrators, successors and assigns and are intended and shall be held to be real covenants running with the land; provided, however, that this Mortgage cannot be assigned by Mortgagor without the prior written consent of Mortgagee, and any such assignment or attempted assignment by Mortgagor shall be void and of no effect with respect to Mortgagee.

9.6. **Modifications.** This Mortgage may not be supplemented, extended, modified or terminated, except by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.7. **Commercial Loan.** Mortgagor represents and warrants that the loans or other financial accommodations included as Liabilities secured by this Mortgage were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer or household purposes.

9.8. **Governing Law and Venue.** This Mortgage has been delivered to and accepted by the Mortgagee and will be deemed to be made in the State where the Mortgagee's office indicated above is located. THIS MORTGAGE WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE MORTGAGEE'S OFFICE INDICATED ABOVE IS LOCATED, EXCLUDING ITS CONFLICT OF LAWS RULES, EXCEPT THAT THE LAWS OF THE STATE WHERE THE APPLICABLE PROPERTY IS LOCATED (IF DIFFERENT FROM THE STATE WHERE SUCH OFFICE OF THE MORTGAGEE IS LOCATED) SHALL GOVERN THE CREATION, PERFECTION, AND FORECLOSURE OF THE LIENS CREATED HEREUNDER ON THE APPLICABLE PROPERTY OR ANY INTEREST THEREIN. Mortgagor

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hereby irrevocably consents to the exclusive jurisdiction of any state or federal court for the county or judicial district where Mortgagee's office indicated above is located; provided that nothing contained in this Mortgage will prevent Mortgagee from bringing any action, enforcing any award or judgment, or exercising any rights against the Mortgagor individually, against any security or against any property of the Mortgagor within any other county, state, or other foreign or domestic jurisdiction. Mortgagee and Mortgagor agree that the venue provided above is the most convenient forum for both the Mortgagee and the Mortgagor. The Mortgagor waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Mortgage.

9.9. **Waiver of Jury Trial.** MORTGAGOR AND MORTGAGEE AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY SUIT, ACTION OR PROCEEDING, WHETHER CLAIM OR COUNTERCLAIM, BROUGHT BY MORTGAGEE OR MORTGAGOR, ON OR WITH RESPECT TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT OR THE DEALINGS OF THE PARTIES WITH RESPECT HERETO OR THERETO, SHALL BE TRIED ONLY BY A COURT AND NOT BY A JURY. MORTGAGEE AND MORTGAGOR EACH HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND INTELLIGENTLY, AND WITH THE ADVICE OF THEIR RESPECTIVE COUNSEL, WAIVE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION, OR PROCEEDING. FURTHER, MORTGAGOR WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER, IN ANY SUCH SUIT, ACTION, OR PROCEEDING, ANY SPECIAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL OR OTHER DAMAGES OTHER THAN, OR IN ADDITION TO, ACTUAL DAMAGES. MORTGAGOR ACKNOWLEDGES AND AGREES THAT THIS SECTION IS A SPECIFIC AND MATERIAL ASPECT OF THIS MORTGAGE AND THAT MORTGAGEE WOULD NOT EXTEND CREDIT TO MORTGAGOR IF THE WAIVERS SET FORTH IN THIS SECTION WERE NOT A PART OF THIS MORTGAGE.

9.10. **Joint and Several Liability.** If Mortgagor consists of more than one person or entity, the word "Mortgagor" shall mean each of them and their liability shall be joint and several.

9.11. **Cross Default and Cross Collateralization.** This Mortgage shall be cross collateralized with any and all other mortgages or security instruments executed now, or hereafter, by Mortgagor or any of Mortgagor's affiliated entities, including, but not limited to, any Guarantor ("Collateral Mortgage"). A default under this Mortgage shall be deemed a default under any Collateral Mortgage and a default under any Collateral Mortgage shall be deemed a default under this Mortgage.

9.12. **Non-Merger.** In the event Mortgagee shall acquire title to the Property by conveyance from Mortgagor or as a result of foreclosure, this Mortgage shall not merge in the fee estate of the Property but shall remain and continue as an existing and enforceable lien for the Liabilities secured hereby until the same shall be released of record by Mortgagee in writing.

9.13. **Homestead.** Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Constitution and the laws of the United States and of any stated, in and to the Property as against the collection of the Liabilities, or any part thereof.

10. STATE-SPECIFIC PROVISIONS.

10.1. **Principles of Construction.** In the event of any inconsistencies between the terms and condition of this Section 10 and the terms and conditions of this Mortgage, the terms and conditions of this Section 10 shall prevail.

10.2. **Maximum Principal Sum.** Notwithstanding anything herein to the contrary, it is agreed that the maximum principal amount secured by this Mortgage at any one time, including advancements (but excluding fees, costs, and other sums as may be due and payable pursuant to the Loan Documents) shall not exceed *****Loan Amount*** (***) Dollars.**

10.3. **Illinois Mortgage Foreclosure Law.** It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/5-1101), as amended from time to time (the "IMFL") and, with respect to thereto, Mortgagor agrees and covenants that:

- (a) Mortgagor and Mortgagee shall have the benefit of all of the provisions of the IMFL, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the IMFL specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal as though the same were incorporated herein by express reference;

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- (b) Wherever provision is made in this Mortgage, the Note, or the other Loan Documents for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of Mortgagee shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale;
- (c) Subject to and to the maximum extent allowed under the IMFL, all advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, of the type contemplated under Subsection b(5) of Section 15-1302 of the IMFL (collectively "IMFL Protective Advances"), shall have the benefit of all applicable provisions of the IMFL. To the maximum extent permitted under the IMFL, all IMFL Protective Advances shall be additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate of interest payable after default under the terms of the Loan Documents. To the maximum extent permitted under the IMFL, this Mortgage shall be a lien for all IMFL Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 15-1302 of the IMFL;
- (d) In addition to any provision of this Mortgage authorizing the Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with, and subject to, Sections 15-1701 and 15-1702 of the IMFL, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties as provided for in Sections 15-1701, 15-1703 and 15-1704 of the IMFL; and
- (e) Mortgagor acknowledges that (i) the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the IMFL or residential real estate as defined in Section 15-1219 of the IMFL and (ii) the entire principal obligation secured hereby constitutes a "loan secured by a mortgage on real estate" within the purview of the operation of 815 ILCS 205/4(1)(I). To the fullest extent permitted by the IMFL and any other applicable law, pursuant to Section 15-1601(b) of the IMFL, Mortgagor hereby waives any and all right of redemption.

Notwithstanding anything contained in this Mortgage to the contrary, if any provision in this Mortgage shall be inconsistent with any provision of the IMFL, the provisions of the IMFL shall take precedence over the provisions of this Mortgage with respect to such inconsistent provision, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the IMFL.

10.4. Use of Loan Proceeds. Mortgagor covenants that the proceeds of the loan evidenced by the Note and secured by this Mortgage will be used for business purposes as specified in 815 ILCS 2/15/4, as amended, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of such Section.

10.5. Possession of the Property. To the maximum extent permitted by applicable law, Mortgagor hereby releases and waives any and all rights to retain possession of the Property after the occurrence of an Event of Default and any and all rights of redemption from sale under any order or decree of foreclosure, pursuant to rights therein granted, on behalf of Mortgagor, all persons and entities interested in Mortgagor and each and every person (except judgment creditors of Mortgagor) acquiring any interest in, or title to, the Property subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by the provisions of 735 ILCS 5/15-1603, as amended.

10.6. Insurance Default. In the event Mortgagor, at any time, fails to provide Mortgagee with evidence of the insurance coverage as required by this Mortgage or the other Loan Documents, Mortgagee may purchase the insurance coverage at Mortgagor's expense to protect Mortgagee's interests in the Property. Pursuant to 815 ILCS 180/10, such insurance may, but need not, protect Mortgagor's interests, and Mortgagee shall be under no obligation to so protect Mortgagor's interests. The insurance coverage that Mortgagee purchases on behalf of Mortgagor may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property. Mortgagor may later cancel any insurance coverage purchased by Mortgagee, but only after providing Mortgagee with evidence that insurance coverage has been obtained as provided for in this Mortgage and the other Loan Documents. In the event Mortgagee purchases all or any portion of the insurance coverage for the Property or as otherwise required hereunder or in the other Loan Documents, Mortgagor will be responsible for all costs and expenses of such insurance coverage, including, but not limited to, interest and any other charges imposed by Mortgagee in connection with the purchase of the insurance coverage, until the effective date of the cancellation or expiration of the insurance coverage.

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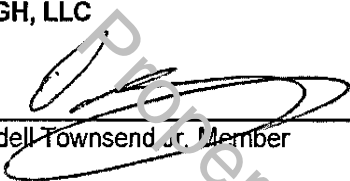
The costs and expenses of any insurance coverage purchased by Mortgagee shall be added to the Liabilities secured hereby. Mortgagor acknowledges that the cost of the insurance coverage purchased by Mortgagee pursuant hereto may be more than the cost of insurance that Mortgagee may be able to obtain on its own.

Mortgagor acknowledges it has read and understood all provisions of this Mortgage, including the confession of judgment and waiver of jury trial, and been advised by counsel as necessary or appropriate.

IN WITNESS WHEREOF, Mortgagor, intending to be legally bound, has duly executed and delivered this Mortgage as a document under seal as of the day and year first above written.

DATED Effective June 25, 2020

TGH, LLC



Odell Townsend Jr. Member

STATE OF IL _____

COUNTY OF Cook _____

:
:
: ss.
:

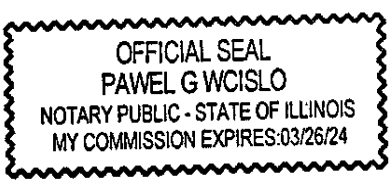
ON THIS, the 25 day of June, 2020, before me, the undersigned officer, personally appeared Odell Townsend Jr and acknowledged that he/she has executed the foregoing instrument by signing his/her name as a duly authorized officer/member of TGH, LLC for the purposes therein contained, and desired the same might be recorded as such, according to law.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My commission expires: 3/26/24



Property of Cook County Clerk's Office

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American Land Title Association

File Number : 2025693
Commitment for Title Insurance
Adopted 6-17-06 Revised 08-01-2016

EXHIBIT A

Legal:

LOT 8 IN BLOCK 19 IN JERNBERG'S SUBDIVISION OF BLOCKS 2, 5, 6, 7, 8 AND 11 TO 28 INCLUSIVE IN RESUBDIVISION OF BLOCK 4 IN ROOD AND WESTON'S ADDITION TO MORGAN PARK, BEING A SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 (EXCEPT THE NORTH 20 ACRES) AND THE EAST 1/2 OF THE NORTHWEST 1/4 (EXCEPT NORTH 20 ACRES) OF SECTION 20, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 11352 S. Throop St., Chicago, IL 60643

PIN #: 25-20-123-027-0000

PIN #:

PIN #:

Township: Lake

This page is only a part of a 2016 ALTA® Commitment for Title Insurance (issued by Old Republic National Title Insurance Company). This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I-Requirements; (and) Schedule B, Part II-Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form).

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