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Edward M. Moody
Cook County Recorder of Deeds
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This Document Prepared by
and after Recording Return to:

Hinshaw & Culbertson LLP
151 N. Franklin Street
Suite 2500
Chicago, Illinois 60606-1821
Attn: Nicholas S. Legatos

Address of Property:
2005-2121 East 95th Street
Chicago, Illinois 60617

Parcel Identification Numbers:
25-12-201-077-0000;
25-12-201-078-0000;
25-12-201-079-0000; and
25-12-201-080-0000

FORBEARANCE AND SIXTH LOAN MODIFICATION AGREEMENT

THIS FORBEARANCE AND SIXTH LOAN MODIFICATION AGREEMENT (this "**Agreement**") is dated as of 30th day of June, 2020 ("**the date hereof**"), but is effective as of June 5, 2020 (the "**Effective Date**"), by and among: (i) BANK LEUMI USA, a New York banking corporation ("**Lender**"); (ii) BSG 95TH & JEFFERY, L.L.C., formerly known as BSG 95TH & JEFFREY, L.L.C., an Illinois limited liability company ("**Borrower**"); and (iii) SCOTT H. GENDELL, an individual ("**Guarantor**").

RECITALS

A. Lender has made a term loan to Borrower in the original principal amount of Three Million Two Hundred Ninety Thousand and 00/100 Dollars (\$3,290,000.00) (as amended from time to time, the "**Loan**"). The Loan is evidenced by, among other documents, that certain Promissory Note dated as of December 6, 2012 (as amended, restated, modified and/or replaced from time to time shall be collectively referred to herein as the "**Note**"), executed by Borrower and made payable to the order of Lender in the original principal amount of the Loan, together with interest on the balance of principal from time to time outstanding and unpaid thereon.

B. The Note is secured, and/or evidenced by, among other things, that certain Mortgage, Security Agreement, Assignment of Rents and Leases, and Fixture Filing encumbering the land and improvements located at the property commonly identified as 2005-2121 East 95th Street, Chicago, Illinois 60617 and legally described in **Exhibit A** attached hereto and made a part of hereof (the "**Mortgaged Premises**"), executed by Borrower in favor of Lender and recorded in the Office of the Cook County Recorder (the "**Recorder's Office**") as Document Number 1234622010 (the "**Original Mortgage**"), as amended by that certain First Modification Agreement dated as of August 7, 2014 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 1423245043 (the "**First Amendment**"), as amended by that certain Second Loan Modification

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Agreement dated as of December 5, 2017 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 1909957010 (the "**Second Amendment**"), as amended by that certain Third Loan Modification Agreement dated as of June 22, 2018 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 1909957011 (the "**Third Amendment**"), as amended by that certain Fourth Loan Modification Agreement dated as of March 25, 2019 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 1909957012 (the "**Fourth Amendment**"), as amended by that certain Fifth Loan Modification Agreement and Limited Waiver dated as of August 2, 2019 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 2000717008 (the "**Fifth Amendment**"); the Original Mortgage as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, shall be collectively referred to herein as the "**Mortgage**"), that certain Assignment of Rents and Leases dated as of December 6, 2012 executed by Borrower in favor of Lender and recorded in the Recorder's Office as Document Number 1234622011 (the "**Assignment of Rents and Leases**"), that certain Security Agreement dated as of December 6, 2012 executed by Borrower in favor of Lender (the "**Security Agreement**"), that certain Guaranty of Payment dated December 6, 2012, executed by Scott H. Gendell in favor of Lender (the "**Guaranty**"), that certain Environmental Indemnity Agreement dated December 6, 2012, executed by Borrower and Guarantor in favor of Lender (the "**Environmental Indemnity Agreement**"), and that certain Pledge Agreement (Deposit Accounts and Securities Accounts) dated October 23, 2018, executed by Guarantor in favor of Lender (the "**Pledge Agreement**"). The Mortgage, Assignment of Rents and Leases, Note, Guaranty, Security Agreement, Environmental Indemnity Agreement, and all other documents or instruments which evidence or secure the Loan, including any and all renewals, extensions and amendments of any of the foregoing, shall be collectively referred to herein as the "**Loan Documents**".

C. Borrower acknowledges that due to a scrivener's error, the Loan Documents identify Borrower as BSG 95TH & JEFFREY, L.L.C., which is the name initially selected by Borrower in its Articles of Organization filed on January 5, 2000, with the Secretary of State of the State of Illinois (the "**Secretary of State**"). Borrower subsequently changed its name to BSG 95TH & JEFFERY, L.L.C., changing the spelling of "Jeffrey" to "Jeffery", pursuant to Articles of Amendment filed on March 28, 2000, with the Secretary of State. Borrower further acknowledges: (i) that BSG 95TH & JEFFERY, L.L.C., and BSG 95TH & JEFFREY, L.L.C., are one in the same entity; and (ii) that Borrower is the "Borrower", "Mortgagor" and "Debtor" as such terms are used in the Note, the Mortgage, the Security Agreement and each of the other Loan Documents, as applicable.

D. The Loan matured on June 5, 2020, and Borrower has, among other things, failed to comply with: (i) the terms of the Note by failing to pay the Note in full upon its maturity, and (ii) the terms of the Mortgage by permitting the Debt Service Coverage Ratio of Borrower to be less than 1.25 to 1.00 for the fiscal quarters ending on September 30, 2019, December 31, 2019, and March 31, 2020, and each such failure constitutes an Event of Default under the Loan Documents (collectively, the "**Specified Defaults**").

E. Borrower and Guarantor have requested that Lender extend the maturity date of the Loan to December 2, 2020, conditionally waive the Specified Defaults, forbear from exercising its rights and remedies under the Loan Documents, conditionally waive the testing of financial covenants with test periods ending during the Forbearance Period, and make other modifications to the terms of the Loan Documents as specified in this Agreement, and Lender has agreed to do so in accordance with the terms and conditions set forth herein.

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F. Unless otherwise defined herein, all capitalized terms used herein shall bear the definition assigned in the Loan Documents.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, it is agreed as follows:

1. Acknowledgement of Recitals; Comprehensive Amendment to Loan Documents.

Borrower and Guarantor each hereby acknowledges and warrants that the Recitals herein are true and correct statements of fact. Borrower and Guarantor each also hereby recognizes and acknowledges that: (a) in entering into this Agreement, Lender is expressly relying on the truth and accuracy of the foregoing recitals, and the warranties and representations set forth in this Agreement; (b) such reliance exists on the part of Lender prior hereto; (c) such recitals, warranties and representations are a material inducement to Lender in making this Agreement and to agreeing to temporarily forbear from exercising its rights and remedies under the Loan Documents; and (d) that Lender would not be willing to agree to forbear from exercising its rights and remedies under the Loan Documents in the absence of any of such recitals, warranties and representations. This Agreement shall function as a universal amendment to the Loan Documents which shall be deemed to be modified as required to conform to the terms of this Agreement. Except as amended hereby, all of the terms, covenants and conditions of Loan Documents, shall remain in full force and effect and are hereby ratified and confirmed. In the event of any inconsistencies between this Agreement and Loan Documents, this Agreement shall control.

2. Specified Defaults; Conditional Forbearance.

a. Borrower and Guarantor each hereby acknowledges and agrees that: (i) each of the Specified Defaults has occurred and is continuing under the terms of the Loan Documents and that all of the outstanding amounts owed by Borrower to Lender under the Loan Documents are due and owing without any defense, right of setoff or counterclaim of Borrower or Guarantor; and (ii) Lender has the immediate right to exercise all rights and remedies available under the Loan Documents, including without limitation, foreclosure of the liens of the Mortgage and the Security Agreement, and acceleration of all amounts owned under and pursuant to the Note.

b. Subject to the terms and conditions of this Agreement, Lender agrees to temporarily forbear from exercising its rights and remedies under the Loan Documents, provided however, that such agreement to temporarily forbear by Lender shall immediately terminate upon on the earlier of (the "**Expiration Date**"): (i) the Extended Maturity Date (defined below); (ii) payment of all Indebtedness (as such term defined in the Mortgage) of Borrower pursuant to the Loan Documents (as modified herein); or (iii) the occurrence of a Forbearance Event of Default (as defined below). The period of time from the date of this Agreement until the termination of Lender's forbearance as provided in the previous sentence is referred to herein as the "**Forbearance Period.**" Borrower and Guarantor each hereby acknowledges that if Borrower or Guarantor fails to comply with the terms of this Agreement, Lender may exercise all of its rights on account of the Specified Defaults, any other default of Borrower or Guarantor under the Loan Documents, and/or any additional Forbearance Events of Default. Except to the extent Lender temporarily forbears from exercising its rights and remedies under the Loan Documents with respect to the Specified Defaults, Lender has not, and by execution of this Agreement does not, waive or alter any of its rights under the Loan

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Documents, at law, or in equity, including but limited to, the right to pursue against Borrower and/or Guarantor for deficiency judgments.

3. **Borrower and Guarantor Acknowledgements.** Borrower and Guarantor each hereby acknowledges and agrees that as of the date hereof:

a. **Loan Balance.** The outstanding balance of the Loan includes outstanding principal in the amount of Two Million Seven Hundred Ten Thousand Three Hundred Eight and 91/100 Dollars (\$2,710,308.91), plus any accrued but unpaid interest, plus unpaid fees and costs including without limitation Lender's attorneys' fees in connection with this Agreement and the matters contemplated herein, all of which are currently due and owing to Lender, without any defense, right of setoff or counterclaim of Borrower, Guarantor or any other person or party.

b. **Destruction to Dollar Tree Premises.** As a result of a fire occurring on or about May 31, 2020 (the "***Loss Incident***"), the portion of the Mortgaged Premises (the "***Dollar Tree Premises***") demised to DOLLAR TREE STORES, INC., a Virginia corporation ("***Dollar Tree***") is expected to be deemed by the Insurer (defined below) a total loss and other damage occurred to the Mortgaged Premises. The cause of the Loss Incident is currently under investigation and Borrower has filed a claim (the "***Claim***") with its insurance company (the "***Insurer***"). As a condition to Lender entering into this agreement and agreeing to forbear from exercising certain rights and remedies during the Forbearance Period, Borrower and Guarantor agree to cause the following to occur with respect to the Loss Incident:

i. Borrower has selected a public adjuster (the "***Public Adjuster***"), as agreed to by Lender, and the contract between the Public Adjuster and Borrower is attached hereto as **Exhibit B** (the "***Public Adjuster Contract***");

ii. Such Lender consent is conditioned upon Borrower providing to Lender the side letter agreement, between the Public Adjuster and Borrower, attached hereto as **Exhibit C** (the "***Side Letter***");

iii. Lender shall be provided with copies of police and fire reports, respectively, within one (1) Business Day of such reports being provided to either Borrower, Guarantor or the Public Adjuster, Lender agreeing that such copies may be sent by e-mail only;

iv. Lender's representatives are authorized to speak with the Public Adjuster for regular updates concerning the status of the claim, the damage investigation, insurance coverages and settlement negotiations and Lender shall provide Borrower and Guarantor the right to participate in any phone calls with the Public Adjuster;

v. Lender shall be provided with evidence of Borrower's timely payment of real estate taxes and all other Taxes assessed against the Mortgaged Premises; and

vi. Without limitation of the items that require Lender approval, any proof of loss and any settlement of the Claim shall require the prior written approval of Lender.

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c. Insurance Proceeds from Claim. Borrower and Guarantor expressly acknowledge, pursuant to Section 6(c) of the Mortgage, that regarding Lender's right to receive payment of insurance proceeds following a loss:

i. Lender may apply one hundred percent (100%) of the insurance proceeds payable in connection with the Loss Incident, including, but not limited to, insurance proceeds paid in connection with the Claim (collectively, the "**Insurance Proceeds**"), net of Borrower's obligation to the Public Adjuster, to (A) pay all of Lender's expenses in connection with the damage to the Mortgage Premises, and then (B) reduce the amount of the Indebtedness, *except* that, so long as no Forbearance Event of Default shall exist, Lender shall make available for demolition and restoration, pursuant to Lender's customary disbursement procedures, bonafide settlement proceeds for demolition costs and debris removal for the Dollar Tree Premises and restoration settlement proceeds related to smoke damage of the adjacent premises (in each case net of the related Borrower's obligation to the Public Adjuster) as long as such proceeds did not diminish any of the remainder of the Insurance Proceeds; and

ii. Lender has no obligation to make the Insurance Proceeds available to Borrower for the restoration of the Mortgaged Premises as the conditions for mandatory use of insurance proceeds contained in Section 6(c) of the Mortgage have not been met, regardless of any contractual obligations Borrower may or may not have with Dollar Tree or any other tenant at the Mortgaged Premises.

d. Extinguishment of Option to Extend. The option to extend the Maturity Date set forth in Section 44 of the Mortgage could not be exercised by the Borrower due to failure to meet required conditions and has now lapsed and is of no force and effect.

4. Modifications to the Loan Documents. As of the Effective Date, the following modifications are hereby made to the Loan and the respective Loan Documents:

a. Extension of the Loan Maturity Date. The maturity date of the Loan is hereby extended to December 2, 2020 (the "**Extended Maturity Date**"), and shall remain subject to the terms and conditions of the Loan Documents as modified by this Agreement.

b. Amended Note. As of the Effective Date and subject to the terms and conditions of this Agreement, Borrower and Lender shall amend the Note, which modification shall be effective as of June 5, 2020, by the execution and delivery of an Amended and Restated Promissory Note (the Note as amended and restated by the Amended and Restated Promissory Note shall continue to be referred to as the "**Note**").

c. Modifications to Mortgage. The Mortgage is hereby modified as follows:

i. The defined term "Maturity Date" is hereby modified by deleting the reference to "June 5, 2020" in Recital A and replacing it with December 2, 2020.

d. Conditional Waiver of Financial Covenant Testing during Forbearance Period. From the date of execution of this Agreement and continuing until the Expiration Date: (i) Lender agrees to waive the Debt Service Coverage Ratio testing, as set forth in Section 37 of

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the Mortgage; (ii) Lender agrees to waive the Minimum Occupancy testing, as set forth in Section 40 of the Mortgage; and (iii) Borrower's failure to satisfy the minimum Debt Service Coverage Ratio covenant or the Minimum Occupancy covenant, or both, during the Forbearance Period shall not be an Event of Default. Lender's waiver of the financial covenant testing pursuant to the preceding sentence is conditioned upon Borrower and Guarantors compliance with and performance of each of the terms, conditions and covenants set forth in this Agreement.

5. Additional Covenants. To induce Lender to enter into this Agreement, and as a condition thereof, Borrower hereby covenants and agrees with Lender that, so long as this Agreement is in effect Borrower shall:

a. Not do or permit to be done anything to impair the enforceability of any leases, sublease, or the like now or hereafter entered into, whether oral or written, which demise any portion of the Premises (each such leases/ sub-leases, together with any and all extensions and renewals thereof, being hereinafter referred as a "**Lease**" and collectively as the "**Leases**") or Borrower's interest therein, without Lender's prior written consent in each instance, which shall not be unreasonably withheld, conditioned or delayed, and Borrower shall diligently observe and perform all the obligations imposed upon it under each of the Leases;

b. Diligently, at Borrower's sole cost and expense, enforce performance of each and every material obligation, covenant, condition and agreement (including without limitation the payment of monies owed to Borrower) contained in each of the Leases by the respective party or parties identified therein;

c. At all times maintain a standard and modern system of accounting and, not later than ten (10) days after the end of each calendar month, deliver to Lender a rent roll for the Mortgaged Premises for the immediately preceding month, certified by Borrower and in a form reasonably satisfactory to Lender together, with such additional documentation and information as Lender may reasonably request from time to time;

d. Not sell, transfer, assign, pledge, or encumber any of the Leases or any interest therein without the prior written consent of Lender, or permit anything to be done that may materially impair the value of any of the Leases;

e. Not amend, modify, terminate or accept a cancellation of any of the Leases, or permit a pledge, conveyance or other transfer of any interest therein so as to affect directly or indirectly a cancellation, termination or diminution of the obligations of the respective tenant thereunder; without the prior written consent of Lender, which shall not be unreasonably withheld, conditioned or delayed;

f. Not, nor allow Guarantor to, directly or indirectly enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any management, consulting, investment banking, advisory or other similar services) with any affiliate of Borrower or Guarantor, or with any director, officer, member, or employee of Borrower or Guarantor, except for transactions in the ordinary course of business and pursuant to the reasonable requirements of the business of Borrower or Guarantor, and upon fair and reasonable terms which are no less favorable to Borrower or

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Guarantor than would be obtained in a comparable arm's length transaction with an individual or entity which is not an affiliate and which are disclosed to Lender and approved in writing in Lender's sole and absolute discretion;

g. Not make any loans, advances, gifts or other disbursements of any kind to any affiliates or other third parties who are not parties to the Loan Documents; and

h. Not pay compensation to any directors, officers, or members, without the prior written consent of Lender, which consent may be withheld by Lender in the sole and absolute discretion of Lender.

6. **Payments.** Notwithstanding anything contained in the Note or any of the other Loan Documents to the contrary, so long as this Agreement is in effect, Borrower and Guarantor each hereby agrees as follows:

a. Pursuant to the terms of the Amended and Restated Promissory Note, executed on the date hereof and effective as of the Effective Date, commencing on July 1, 2020, and continuing on the 1st day of each month thereafter through and including the month in which the Extended Maturity Date occurs, Borrower shall pay to Lender monthly installments of principal and interest each in the amount of Fifteen Thousand One Hundred Seventy-Seven and 13/100 Dollars (\$15,177.13);

b. Borrower shall not be entitled to use the Principal and Interest Reserve (as defined in and modified by the Fifth Amendment), but shall make such payments from Borrower's other funds;

c. A substantial portion of the principal amount of the Loan will remain unpaid by the aforementioned required monthly payments of principal and interest and a final balloon payment for all outstanding principal due under the Note, together with all accrued and unpaid interest thereon and all remaining Indebtedness of Borrower pursuant to the Loan Documents (as modified herein), shall be due and payable in full on the Expiration Date;

d. Any and all payments in connection with this Agreement shall be made by automatic debit of available funds from a Borrower Account (defined below) to an account designated by Lender from time to time, or by such other means as may be acceptable to Lender in its sole discretion; and

e. If a payment pursuant to this Agreement is due on a day which is not a Business Day, such payment shall be due on the next succeeding Business Day, and such extension of time shall be taken into account in calculating the amount of interest payable under the Note. "Business Day" means any day other than a Saturday, Sunday or legal holiday in the United States of America.

7. **Conditions Precedent.** In addition to any other condition contained herein, Lender's agreement to temporarily forbear from exercising its rights and remedies under the Loan Documents shall be effective only when Lender shall have received each of the following:

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a. Payment of not less than the amount of all accrued and unpaid interest on the Note (together with all applicable fees and charges as provided therein), through and including the date hereof; and

b. Reimbursement for all of Lender's accrued counsel fees and expenses and other Preparation Fees (as defined below).

8. Representations and Warranties. To induce Lender to enter into this Agreement, Borrower and Guarantor each hereby acknowledges, agrees, warrants and represents that:

a. Borrower has all requisite power and authority to execute this Agreement and to perform all of its obligations hereunder, and this Agreement has been duly executed and delivered by Borrower and constitutes the legal, valid and binding obligation of Borrower enforceable in accordance with its terms;

b. Guarantor has all requisite power and authority and capacity to execute this Agreement and to perform all of his obligations hereunder, and this Agreement has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor enforceable in accordance with its terms;

c. The execution, delivery and performance of this Agreement by Borrower and Guarantor will not result in a breach of, or constitute a default under, any indenture, lease, instrument or any other agreement, to which said Borrower or Guarantor is a party or by which he/she/it (as applicable), or his/her/its (as applicable) properties may be bound or affected;

d. The Operating Agreement and Articles of Organization of the Borrower remain in full force and effect at all times and have not been modified amended or revoked in any respect after delivery to Lender on December 6, 2012. The resolutions or unanimous written consent of the manager of the Borrower (the "*Resolutions*") which were delivered and certified to the Lender on December 6, 2012, remain in full force and effect at all times and have not been modified, amended or revoked in any respect after such delivery, and such Resolutions authorize the execution and delivery by the Borrower of this Agreement and the reaffirmation of the Loan Documents and the consummation of all matters contemplated therein, and no consent of any other party or body is required; and

e. The execution, delivery and performance by Borrower of this Agreement has been duly authorized by all necessary corporate action and: (i) does not require any authorization, consent or approval by any governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign; (ii) does not violate any provision of any law, rule or regulation or of any order, writ, injunction or decree presently in effect, having applicability to Borrower, the Articles of Organization, Operating Agreement, or any other agreement governing the operations of Borrower, or any other agreement governing the operations of Borrower; and (iii) will not result in a breach of or constitute a default under any indenture or loan or credit agreement or any other agreement, lease or instrument to which Borrower is a party or by which it or its properties may be bound or affected;

f. All of the representations and warranties contained in the Loan Documents are true and correct on and as of the date hereof as if made on and as of such date, except to the extent stated to relate to a specific earlier date, in which case such representations and

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warranties are true and correct as of such earlier date, and for the purposes hereof all such representations and warranties shall be deemed to extend to and cover this Agreement;

g. Except for the Specified Defaults, to the best knowledge of Borrower and Guarantor, there is no Event of Default, and no event has occurred that with the passage of time and/or the giving of notice will constitute an Event of Default, under the Mortgage, the Note or any of the other Loan Documents;

h. To the best of Borrower's knowledge, Borrower is not in default, and no event has occurred that with the passage of time and/or the giving of notice will constitute a default, under any other agreement by and between Lender and Borrower;

i. To the best of Guarantor's knowledge, Guarantor is not in default, and no event has occurred that with the passage of time and/or the giving of notice will constitute a default, under any other agreement by and between Lender and Guarantor;

j. No part of the Mortgaged Premises is in receivership nor is any application for receivership pending and no petition in bankruptcy has been filed by or against Borrower or Guarantor;

k. There are no agreements, state of facts or circumstances presently existing and known to Borrower or Guarantor which, with or without the service of notice, passage of time, or both, would grant to Borrower the right to refuse to make or delay the payments or otherwise perform the terms, covenants, conditions and agreements required pursuant to Loan Documents or this Agreement;

l. There are no leases, licenses or other occupancy agreements of any kind nor any management, operating or other consulting agreements affecting the Mortgaged Premises or the operations conducted thereon, except for agreements previously disclosed and furnished to Lender; Borrower is the sole fee simple title holder to the Mortgaged Premises, the sole tenants of the Mortgaged Premises are those tenant identified on **Exhibit D** attached hereto, and no other entities have an interest in or operate on the Mortgaged Premises; and

m. Borrower and Guarantor each agree to execute and deliver to Lender such other documents as Lender may reasonably request with respect to any matter relevant to this Agreement or the transactions contemplated hereby.

9. **Forbearance Events of Default**. The occurrence of one or more of the following shall constitute a "***Forbearance Event of Default***" within the meaning of this Agreement:

a. Borrower or Guarantor, or any of their respective agents, shall fail to abide by or observe any term, condition or covenant of this Agreement, including without limitation the confidentiality provisions of Section 17 below;

b. Any representation made by Borrower or Guarantor herein was materially false when made;

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- c. It is determined by the Insurer or any governmental agency that (i) arson was the cause of the Loss Incident, and (ii) Borrower, Guarantor or an affiliate of Borrower or Guarantor is charged in a criminal complaint in connection with such arson;
- d. It is determined by the Insurer, for any reason, that policy coverage for the Claim is denied in any material respect;
- e. There shall be any Event of Default (other than the Specified Defaults), or any event that with the passage of time and/or the giving of notice will constitute an Event of Default, pursuant to the Mortgage, the Note or any other Loan Document;
- f. Borrower or Guarantor shall be in default under and pursuant to any other agreement by and between Lender and Borrower or Guarantor;
- g. Borrower or Guarantor becomes insolvent; or makes an assignment for the benefit of creditors; or a custodian, trustee or receiver is appointed for Borrower or Guarantor or for any of their properties; or bankruptcy, reorganization or liquidation proceedings are instituted by or against Borrower or Guarantor;
- h. Any other creditor of Borrower or Guarantor commences foreclosure proceedings or otherwise exercises any of its rights or remedies as a result of a default by Borrower or Guarantor, or a judgment is entered in favor of any person, other than Lender, against Borrower or Guarantor;
- i. Any person or entity other than Lender seizes or pursues repossession, foreclosure, replevin or liquidation of any property of Borrower or Guarantor; and
- j. Failure to pay when due taxes or other governmental charges, applicable to any property which is Collateral for the Loan.

Upon the occurrence of any Forbearance Event of Default or at any time thereafter, Lender or the holder of all or any of the Loan Documents may declare all amounts owed under the Loan Documents to be due and payable, and all such amounts shall immediately become due and payable, and Lender shall be entitled to the immediate exercise of all its rights and remedies available to it under all of the Loan Documents and applicable law.

10. Costs, Expenses and Attorneys' Fees. Upon execution and delivery of this Agreement, Borrower shall pay, or cause to be paid, to Lender, or reimburse Lender for, the full amount of all payments, advances, charges, costs and expenses, including attorneys' fees (including outside counsel fees and all allocated costs of Lender's in-house counsel), expended or incurred by Lender in connection with the preparation, administration, or maintenance of this Agreement, all documents related hereto and the Loan Documents (collectively the "*Preparation Fees*"). Further, upon demand, Borrower shall pay to Lender, or reimburse Lender for, the full amount of all payments, advances, charges, costs and expenses, including attorneys' fees (including outside counsel fees and all allocated costs of Lender's in-house counsel), expended or incurred by Lender in connection with the enforcement of any of Lender's rights, powers or remedies and/or the collection of any amounts which become due to Lender under this Agreement and/or the other Loan Documents, and the prosecution or defense of any action in any way related to this Agreement and/or the other Loan Documents, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise,

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and including any of the foregoing incurred in connection with any bankruptcy proceeding (including, without limitation, any adversary proceeding, contested matter or motion brought by Lender or any other person). Without in any way limiting the foregoing, Borrower hereby reaffirms its agreement under the applicable Loan Documents to pay or reimburse Lender on demand for certain costs and expenses incurred by Lender, including without limitation fees and disbursements of legal counsel, in connection with the Loan Documents and all other documents contemplated thereby. Lender is hereby authorized to debit such fees, costs and expenses from Borrower's accounts held with Lender.

11. Automatic Debit from Borrower Accounts including disbursements from Principal and Interest Reserve. To effectuate any payment due under this Agreement or any of the Loan Documents, including without limitation such payments due pursuant to Section 6 above, Borrower hereby authorizes Lender to initiate debit entries to any one or more of Borrower's accounts maintained by Lender (such accounts together with any account replacing or substituting any such account, the "*Borrower Accounts*"), and to debit the same to the Borrower Accounts. This authorization to initiate debit entries shall remain in full force and effect until all Indebtedness under the Loan Documents is paid in full. Borrower hereby represents to Lender that it is, and at all times will be, the owner of all funds in the Borrower Accounts. Borrower also acknowledges that: (a) such debit entries may cause an overdraft of one or more of the Borrower Accounts which may result in Lender's refusal to honor items drawn on such Borrower Account until adequate deposits are made to one or more of the Borrower Accounts; (b) Lender is under no duty or obligation to initiate any debit entry for any purpose; and (c) if a debit is not made because a Borrower Account does not have a sufficient available balance, or otherwise, the payment may be late or past due. Without limitation to the foregoing, Borrower and Guarantor each acknowledges and agrees that Lender has the right to debit from the Principal and Interest Reserve (as defined in and modified by the Fifth Amendment) all principal and interest payments due to Lender during the Forbearance Period. However, Borrower and Guarantor acknowledge it is Lender's right to make payments or hold or apply collateral from the Principal and Interest Reserve at Lender's sole election and Borrower and Guarantor shall not have the right to direct application of such collateral but shall remain obligated to make principal and interest payments from other funds. Borrower and Guarantor each further acknowledges and agrees that the foregoing sentences merely confirm certain rights of Lender under the Mortgage and the other Loan Documents and that no such confirmation from Borrower or Guarantor is required for Lender to disburse funds, for the benefit of Lender, from the Principal and Interest Reserve.

12. Conditional Waiver of the Specified Defaults. Per Section 37 of the Mortgage, Borrower agreed to maintain during any calendar year quarter ending on March 31, June 30, September 30 or December 31 a Debt Service Coverage Ratio of 1.25 to 1.0 measured on a trailing twelve month basis. Borrower did not maintain the Debt Service Coverage Ratio for the fiscal year to date period ending September 30, 2019, for the fiscal year end period ending December 31, 2019, and for the fiscal quarter ending March 31, 2020, measured on a trailing twelve month basis. Borrower's failure to maintain the Debt Service Coverage Ratio for of the previously stated periods constitutes an Event of Default under the Mortgage (the "*Specified Covenant Defaults*"). The Loan matured on June 5, 2020, and Borrower failed to pay the Note in full upon its maturity (the "*Specified Payment Default*"). The Specified Covenant Defaults and the Specified Payment Default are collectively referred to as the Specified Defaults. Lender hereby waives the Specified Defaults on the condition that Borrower and Guarantor, as applicable, each comply with and perform of each of the terms, conditions and covenants set forth in this Agreement. The above waivers described in this Section 12 are limited to the specific instances and the specific purposes for which they are being given and are conditioned on the truth and accuracy in all respects of the representations and

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warranties of the Borrower and Guarantor, as applicable, described in this Agreement. Except as may be expressly stated, nothing contained or implied in this Agreement shall be deemed to constitute a waiver of any other Event of Default or any other default by Borrower or Guarantor under the Loan Documents, or of any other right, remedy or power of Lender under the Loan Documents, all of which, as against Borrower, Guarantor or any other person or entity, are hereby expressly reserved by Lender. The execution, delivery and effectiveness of this Agreement shall not operate as a waiver of any right, power or remedy of Lender under the Loan Documents, nor constitute a waiver of any provision of the Loan Documents, except as specifically referenced in this Section 12 of this Agreement.

13. No Implied Waiver. Except as expressly set forth in Section 12 above or as otherwise expressly stated in this Agreement, the execution of this Agreement and acceptance of any documents related hereto shall not be deemed to be a waiver of any Event of Default under any of the Loan Documents, whether or not known to Lender and whether or not existing on the date of this Agreement. Borrower and Guarantor each hereby acknowledges that, except as expressly set forth in Section 12 above or as otherwise expressly stated in this Agreement, Lender is not waiving any Event of Default, but is simply agreeing to forbear from exercising its rights, to the extent expressly set forth in this Agreement, with respect to the Loan Documents. Borrower and Guarantor will not assert, and each hereby forever waives any right to assert, that Lender is obligated in any way to continue beyond the Forbearance Period to forbear from enforcing its rights or remedies or that Lender is not entitled to act on the Specified Defaults following the occurrence of a Forbearance Event of Default, as if such default had just occurred and the Forbearance Period had never existed. Borrower and Guarantor each hereby acknowledges that Lender has made no representations as to what actions, if any, Lender will take after the Forbearance Period, and Lender must and does hereby specifically reserve any and all rights and remedies it has with respect to the Specified Defaults and each other default or Event of Default that may occur.

14. Acknowledgement and Release. Borrower and Guarantor each hereby acknowledges and agrees that Lender has fulfilled all of its obligations under the Loan Documents to date, and each hereby absolutely and unconditionally releases and forever discharges Lender (and all participants, parent corporations, subsidiary corporations, affiliated corporations, insurers, indemnitors, successors and assigns thereof, together with all of the present and former directors, officers, agents and employees of any of the foregoing) from all claims, demands or causes of action of any kind, nature or description, whether arising in law or equity or upon contract or tort or under any state or federal law or otherwise, which Borrower or Guarantor has had, now has, or has otherwise made claim, against any such person for or by reason of any act, omission, matter, cause or thing whatsoever arising from the beginning of time to and including the date of this Agreement, whether such claims, demands and causes of action are matured or unmatured or known or unknown. Borrower and Guarantor each hereby further acknowledges and agrees that as of the date hereof they have no existing defenses to the enforcement of any of the Loan Documents and to the extent that any exist as of the date hereof, each of them are hereby absolutely and forever waived.

15. Acknowledgement and Reaffirmation of Guarantor. By signing this Agreement, Guarantor hereby consents and agrees to the terms of this Agreement and acknowledges that all Indebtedness arising under the Loan Documents shall continue to constitute obligations guaranteed under the Guaranty executed by Guarantor and collaterally secured by the Pledge Agreement executed by Guarantor. The foregoing confirmation shall not be deemed to limit the terms of the Guaranty or the Pledge Agreement in any manner. Guarantor also acknowledges and agrees that: (a) this paragraph

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merely confirms the terms of the Guaranty and the Pledge Agreement and that no such confirmation is required in connection with this Agreement; (b) all references in the Guaranty and the Pledge Agreement to the "Loan Documents" shall be deemed to refer to the Loan Documents as modified by this Agreement; (c) none of the agreements contained in this Agreement will limit, impair or otherwise affect any Guarantor's agreements, undertakings or obligations under the Guaranty or the Pledge Agreement; (d) the Guaranty and the Pledge Agreement will each remain in full force and effect in accordance with their terms and the Guaranty and the Pledge Agreement are each hereby ratified and confirmed; (e) the Loan Documents will remain in full force and effect in accordance with their respective terms and are hereby ratified and confirmed; (f) agrees that the Guarantor is and will remain bound by the Guaranty and the Pledge Agreement; and (g) no events, conditions or circumstances have arisen or exist as of the date hereof which would give the undersigned the right to assert a defense, counterclaim and/or setoff to any claim by Lender for the payment and performance of the obligations of Guarantor under the Guaranty or the Pledge Agreement, or to the extent that any such defense, counterclaim and/or setoff exist as of the date hereof, the same are hereby absolutely and forever waived and released.

16. Reaffirmation of Loan Documents. Except as specifically modified herein, Borrower and Guarantor hereby agree that the terms and conditions of the Note, the Mortgage, the Guaranty and the other Loan Documents remain in full force and effect in accordance with their terms, not subject to any defense, right of setoff or counterclaim against Lender.

17. Confidentiality. The terms of this Agreement shall remain strictly confidential. Each signatory to this Agreement, on their behalf and on behalf of their respective attorneys and agents, covenant not to disclose any of the terms of this Agreement, whether generally or specifically, to any third party, provided however, that the terms of the Agreement may be disclosed: (a) to a party's attorneys, accountants, financial advisors, board of directors, reinsurers or insurers, including but not limited to inclusion, if necessary, on financial statements or annual reports; (b) by order of a court of competent jurisdiction; (c) for the enforcement of this Agreement; (d) as may be required to comply with any existing laws or regulations; (e) as may be lawfully required by a government body or agency; or (f) to any subsequent entity extending, or considering extending, credit facilities to Borrower or Guarantor.

18. Post Closing Conditions. Borrower and Guarantor also agree to deliver to Lender, at Borrower's and Guarantor's sole cost and expense, within the time periods specified below, each of the following items, and acknowledge and agree that the failure to so deliver by such date any such item (in form and substance satisfactory to Lender) shall, at the option of Lender, constitute a Forbearance Event of Default:

a. within ten (10) days of the date of this Agreement, a date down title endorsement, issued by Chicago Title Insurance Company (the "**Title Company**"), endorsing Lender's existing title insurance loan policy having policy number 1412-WSA398236-CN (the "**Loan Policy**"), which endorsement shall not raise any new exceptions to title and shall otherwise be in the form of the proforma endorsement previously provided to Lender in connection with this Agreement.

19. Entire Agreement. Each of the Loan Documents, together with all schedules and exhibits attached to this Agreement, if any, are hereby incorporated herein by reference. This Agreement, together with the Loan Documents as modified herein, contains the entire agreement

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between the parties with respect to the subject matter hereof. All prior oral and written communications, commitments, alleged commitments, promises, alleged promises, agreements and alleged agreements by or among Lender, Borrower and/or Guarantor related to the Loan or the Loan Documents are hereby merged into this Agreement and the Loan Documents, and shall not be enforceable unless expressly set forth in this Agreement or the Loan Documents. This Agreement may not be modified except in writing signed by all parties hereto. Nothing contained in this Agreement shall constitute or be deemed to be a commitment or agreement on the part of Lender to restructure any Indebtedness of Borrower, to amend any of the provisions of any of the Loan Documents, or to forbear from exercising any of Lender's rights and remedies under any of the Loan Documents except to the limited extent specifically agreed to herein. In the event of a conflict between the terms of any of the Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern.

20. Time is of the Essence. Time is of the essence for obligations due under this Agreement and the Loan Documents. Accordingly, Borrower and Guarantor each hereby acknowledges and agrees that, except as otherwise specifically provided herein, there is no "grace period," "cure period," or similar period applicable to payments or performance of any obligations of Borrower under this Agreement or any of the Loan Documents. Any failure to make a payment or otherwise perform as specified in this Agreement will be strictly construed as a Forbearance Event of Default hereunder and an Event of Default under each of the Loan Documents.

21. Lender's Right of Waiver. Borrower and Guarantor each specifically acknowledges that all of the conditions set forth in this Agreement (including without limitation each of the conditions contained in Section 7 above) are for the sole and exclusive benefit of Lender, and Lender shall have the unilateral right to waive any condition by written notice to Borrower.

22. Legal Counsel. Borrower and Guarantor each hereby represents and warrants to Lender that they have had the opportunity to consult with and receive advice from legal counsel of their choice with respect to this Agreement and the documents related thereto, or they have had an opportunity to consult with legal counsel of their choice and have made the decision not to consult with legal counsel. Without limiting the foregoing, Borrower and Guarantor each hereby acknowledges that they have legal and business options available to them other than the execution and delivery of this Agreement but have nonetheless decided to execute this Agreement and have done so voluntarily and without duress. The parties hereby agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

23. Further Assurances and Additional Documents. Borrower and Guarantor shall each, at the request of Lender and at any time and from time to time following the execution of this Agreement, promptly execute and deliver, or cause to be executed and delivered, to Lender all such further documents and instruments and take all such further action as may be reasonably necessary or appropriate to confirm or carry out the provisions and intent of this Agreement, specifically including all documents necessary to the continued perfection of the security interest, if any, in the Collateral referenced in the Loan Documents.

24. Cash Collateral Stipulation. Borrower and Guarantor each hereby agree that, if Borrower or Guarantor should file a petition for relief under Chapter 11 of the United States Bankruptcy Code, as amended or restated from time to time, Lender shall be entitled to the entry of a

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cash collateral order under Section 364 of the Code that is consistent with the terms and conditions of this Agreement. Such cash collateral order shall provide, at a minimum, that: (a) Borrower will be permitted to use cash collateral only in manner that is consistent with the allocation contained herein; (b) Lender will obtain a replacement lien on all present and future assets of Borrower, including the proceeds of any avoidance actions; (c) if the replacement lien is inadequate, Lender will have the priority afforded by Section 507(b) of the Bankruptcy Code; and (d) neither Borrower nor Guarantor, as debtor-in-possession, will seek to surcharge Lender or its collateral with any expenses of the type described in Sections 506(c) or 522(b) of the Bankruptcy Code.

25. Cumulative Rights. Each right, power or remedy herein conferred upon Lender or in the Loan Documents is cumulative and in addition to every other right, power or remedy, express or implied, now or hereafter arising, available to Lender at law or in equity, under the Uniform Commercial Code or other law, or under the Loan Documents, or under any other agreement, and each and every right, power and remedy herein set forth or otherwise existing may be exercised from time to time as often and in such order as may be deemed expedient by Lender, and shall not be a waiver of the right to exercise at any time thereafter any other right, power or remedy. No delay or omission by Lender in the exercise of any right, power or remedy shall impair any such right, power or remedy or the right of any such party to resort thereto at a later date. Nor shall any such delay or omission be construed to be waiver of any default.

26. Notice. Except as otherwise expressly set forth in this Agreement, all notices, requests and demands hereunder shall be in writing and: (a) made to a party at the address identified on the signature page hereto, or to such other address as a party may designate by written notice to the other parties in accordance with this provision, and (b) deemed to have been given or made: (i) if delivered in person, immediately upon delivery, (ii) if by nationally recognized overnight courier service with all delivery fees prepaid and with instructions to deliver the next business day, one (1) business day after sending; and (iii) if by certified mail, with all postage fees paid and return receipt requested, five (5) days after mailing.

27. Severability of Provisions. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation. In the event that any clause, term, or condition of this Agreement shall be held invalid or contrary to law: (a) this Agreement shall remain in full force and effect as to all other clauses, terms, and conditions; (b) the subject clause, term, or condition shall be revised to the minimum extent necessary to render the modified provision valid, legal and enforceable; and (c) the remaining provisions of this Agreement shall be amended to the minimum extent necessary so as to render the Agreement as a whole most nearly consistent with the parties' intentions in light of the removal of the invalid or illegal provision.

28. Successors and Assigns. This Agreement is binding upon the parties and their respective successors, assigns, heirs and personal representatives, except that neither Borrower nor Guarantor may assign or transfer their respective rights or obligations hereunder without the prior written consent of Lender.

29. Governing Law. This Agreement is governed by, and shall be construed in accordance with the law of the State of Illinois without reference to the conflicts of laws principles thereof.

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30. **No Third Party Reliance.** No third party shall be entitled to rely upon this Agreement or to have any of the rights or benefits hereunder.

31. **Underlining; Headings and Construction.** The use of underlining within this Agreement is for reference purposes only and no other meaning or emphasis is intended by this use, nor should any be inferred. The section and other headings contained in this Agreement are for convenience and shall not be deemed to limit, characterize or interpret any provision of this Agreement. Any word or defined term in this Agreement shall be read as singular, plural, masculine, feminine or neuter as may be appropriate under the circumstances then existing.

32. **Counterparts.** This Agreement may be executed in counterparts. Each such executed counterpart shall be deemed an original hereof and all such executed counterparts shall together constitute one and the same instrument. Copies of signatures transmitted by mail, facsimile, email, or any other electronic method shall be considered authentic and binding and shall have the same full force and effect as original signatures.

33. **No Third Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of Lender, Borrower and the Guarantor. No other person, entity or entities shall have the right of action hereof, right to claim any right or benefit from the terms contained herein, or be deemed a third party beneficiary hereunder.

34. **Waivers; Jurisdiction; Venue.** Borrower and Guarantor, each having had the opportunity to be represented by counsel, knowing, voluntarily and irrevocably:

- A. AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM, OR RELATED TO, THIS AGREEMENT, ANY OF THE OTHER LOAN DOCUMENTS, OR ANY OTHER AGREEMENT DELIVERED (OR WHICH MAY IN THE FUTURE BE DELIVERED) IN CONNECTION THEREWITH (COLLECTIVELY THE "FORBEARANCE DOCUMENTS") SHALL, BE LITIGATED IN ANY STATE OR FEDERAL COURT IN COOK COUNTY, ILLINOIS, AND CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID COUNTY AND STATE;
- B. WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT BY LENDER; AND
- C. WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING: (1) TO ENFORCE OR DEFEND ANY RIGHTS UNDER ANY OF THE FORBEARANCE DOCUMENTS; (2) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH, OR RELATED TO, ANY OF THE FORBEARANCE DOCUMENTS; OR (3) ARISING FROM ANY BANKING RELATIONSHIP EXISTING BETWEEN LENDER AND BORROWER AND/OR GUARNTOR WHETHER IN CONNECTION WITH ANY OF THE FORBEARANCE DOCUMENTS OR OTHERWISE; AND FURTHER AGREES THAT ANY SUCH ACTION OR PROCEEDING RELATED TO ANY OF THE FOREGOING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

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[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE TO FOLLOW]

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IN WITNESS WHEREOF, the undersigned have executed this Forbearance and Sixth Loan Modification Agreement effective as of the Effective Date.

LENDER: **BANK LEUMI USA,**
a New York banking corporation

Address

By: _____

1 N. LaSalle Street
2nd Floor
Chicago, IL 60602

Print Name: _____

Its: _____

BORROWER: **BSG 95TH & JEFFERY, L.L.C.,**
f/k/a BSG 95TH & JEFFREY, L.L.C.,
an Illinois limited liability company

Address

By: 

3201 Old 6th Ave
W. Lincoln IL

Print Name: Scott H. Gendell

60091

Its: Manager

GUARANTOR: 
SCOTT H. GENDELL

Address

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IN WITNESS WHEREOF, the undersigned have executed this Forbearance and Sixth Loan Modification Agreement effective as of the Effective Date.

LENDER: **BANK LEUMI USA,**
a New York banking corporation

Address

By: *Cheerl Luochesi*

1 N. LaSalle Street
2nd Floor
Chicago, IL 60602

Print Name: CHEERL LUOCHESE

Its: FKP

BORROWER: **BSG 95TH & JEFFREY, L.L.C.,**
an Illinois limited liability company

Address

By: _____

Print Name: _____

Its: Manager

GUARANTOR:

Address

SCOTT H. GENDELL

Property of Cook County Clerk's Office

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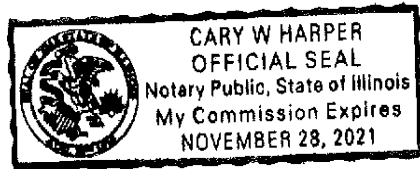
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that Cheryl Locchesi, personally known to me to be the FVP of Bank Leumi USA ("Lender") and personally 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Lender for the uses and purposes therein set forth;

GIVEN under my hand and Notarial Seal this 1st day of July, 2020.

Cary W Harper
Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)



The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that _____, personally known to me to be the _____ of BSG 95TH & JEFFREY, L.L.C., and personally 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of BSG 95TH & JEFFREY, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, 2020.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that SCOTT H. GENDELL, personally 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/she signed and delivered the said instrument as his/her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____, 2020.

Notary Public

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that _____, personally known to me to be the _____ of Bank Leumi USA ("Lender") and personally 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of Lender for the uses and purposes therein set forth;

GIVEN under my hand and Notarial Seal this _____ day of _____, 2020.

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that SCOTT H. GENDELL, personally known to me to be the MANAGER of BSG 95TH & JEFFERY, L.L.C., f/k/a BSG 95TH & JEFFREY, L.L.C., and personally 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of BSG 95TH & JEFFREY, L.L.C., f/k/a BSG 95TH & JEFFREY, L.L.C., for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of JUNE, 2020.

Patricia Gancarczyk
Notary Public

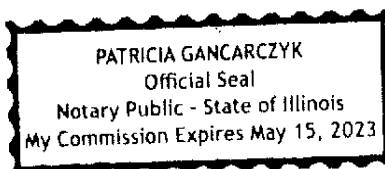
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)



The undersigned, a Notary Public in and for said County, in the State aforesaid, DOES HEREBY CERTIFY that SCOTT H. GENDELL, personally 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/she signed and delivered the said instrument as his/her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of JUNE, 2020.

Patricia Gancarczyk
Notary Public



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EXHIBIT A LEGAL DESCRIPTION

LOTS 1 AND 2 AND THE WEST 7 FEET OF LOT 3 IN BLOCK 1 AND THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS 1 AND 2 AND THE WEST 7 FEET OF LOT 3 IN SAID BLOCK 1 AND THAT PART OF VACATED CHAPPEL AVENUE LYING WEST OF LOT 1 IN BLOCK 1 AND LYING WEST OF AND ADJOINING THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING LOT 1 IN BLOCK 1, ALL IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID

ALSO:

LOT 3 (EXCEPT THE WEST 7 FEET THEREOF) LOT 4 AND WEST 7 FEET OF LOT 5 IN BLOCK 1 AND THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING SOUTH OF AND ADJOINING SAID LOTS (EXCEPT THE WEST 7 FEET THEREOF) LOT 4 AND THE WEST 7 FEET OF LOT 5 IN BLOCK 1, ALL IN VAN VLISSINGEN HEIGHTS SUBDIVISION, A SUBDIVISION OF PARTS OF THE EAST 2/3 OF THE NORTHWEST 1/4 NORTH OF THE INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 25, 1926 AS DOCUMENT NUMBER 9285759, COOK COUNTY, ILLINOIS

ALSO

LOT 5 (EXCEPT THE WEST 7 FEET THEREOF) AND LOTS L6 TO 12, BOTH INCLUSIVE, IN BLOCK 1 IN VAN VLISSINGEN HEIGHTS, A SUBDIVISION OF PART OF THE EAST 2/3 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 NORTH OF THE INDIAN BOUNDARY LINE OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

ALSO

THE NORTH 1/2 OF THE VACATED EAST AND WEST ALLEY LYING SOUTH AND ADJOINING LOT 5 (EXCEPT THE WEST 7 FEET THEREOF) AND LOTS 6 TO 12, BOTH INCLUSIVE, IN BLOCK 1 IN VAN VLISSINGEN HEIGHTS SUBDIVISION AFORESAID, IN COOK COUNTY, ILLINOIS

ALSO

LOTS 1 TO 11, BOTH INCLUSIVE, IN BLOCK 12 IN HUGH MAGINNIS' 95TH STREET SUBDIVISION OF THE EAST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF FRACTIONAL SECTION 12, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, NORTH OF THE INDIAN BOUNDARY LINE IN COOK COUNTY, ILLINOIS.

Tax ID Numbers: 25-12-201-077-0000; 25-12-201-078-0000; 25-12-201-079-0000;
and 25-12-201-080-0000

Commonly known as: 2005-2121 East 95th Street, Chicago, Illinois 60617

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EXHIBIT B
PUBLIC ADJUSTER CONTRACT

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9523

PUBLIC ADJUSTER CONTRACT

FIELDS LOSS CONSULTANTS, LLC
1332 N. Halsted Street, Suite 404
Chicago, IL 60642

phone: 312.824.8180
fax: 312.496.3678
email: fieldslna@comcast.com

I, BSG 95th & JEFFERY LLC (the named insured, retain **FIELDS LOSS CONSULTANTS, LLC**, (F.L.C.) to be the agent and representative to assist in the preparation, presentation, adjustment and settlement of the claim under the insurance policy issued by: CHARTER OAK (TRAVELERS), policy number Y-630-26967453 - COF 19 for loss and/or damage that occurred at 2021 E. 95th St. Chicago 60617, Illinois by reason of FIRE AND LOOTING taking place on MAY 30 - JUNE 7, 2020 at about _____ o'clock AM (PM).

In full and complete consideration for the services outlined in this contract, the Insured agrees to pay and assign to F.L.C. Seven percent (7%) of all sums recovered by adjustment, appraisal, arbitration, litigation, settlement or otherwise pursuant to the insurance contract or from any other source that may be responsible for payment of this claim.

F.L.C. shall be named as a co-payee on each check issued by the insurer or any other source making payment for this claim.

The Insured authorizes the insurer to communicate directly with F.L.C. on their behalf. F.L.C. acknowledges that they will convey all communicated requests from the insurer, directly to the Insured. F.L.C., will also convey any requests from the Insured to the insurer, during the life of this claim. The Insured directs that all written communication be forwarded to them through F.L.C.

If the insurer, not later than 5 business days after the date on which the loss was reported to the insurer, either pays or commits in writing to pay to the Insured the policy limit of the insurance contract, F.L.C. (1) will inform the Insured that the loss recovery amount might not be increased by the insurer and (2) will not receive the above listed percentage commission, but will be entitled to reasonable compensation from the Insured for the services provided to the Insured prior to the insurer's payment or commitment based on the time spent on the claim.

F.L.C. has provided to the Insured a written disclosure concerning any direct or indirect financial interest it has with any other party involved in any aspect of this claim as required by law.

Nothing in this contract shall be construed as to give F.L.C. a power of attorney by which it may act in the place and instead of the Insured.

Insured acknowledges that F.L.C. has provided the Insured with a written notice of the Insured's rights as a consumer under Illinois State law.

At the Insured's option, anything within this contract can be voided for five business days after its execution for all claims other than fire. According to the Fire Damage Representation Act (915 ILCS 228), a copy which I acknowledge having received, if a Public Adjusting Contract is signed within the first five days following a fire, the Insured may cancel the contract within 10 business days from the date of signing. If the Insured signs the Public Adjusting Contract for fire, beyond day 5 following the fire, the Insured still has an additional 5 business days to void the Public Adjuster Contract. The Insured may void this contract by notifying F.L.C. in writing, either registered or certified mail, return receipt requested, to the address shown on this contract, or by personally serving notice on F.L.C. If the Insured rescinds F.L.C., anything of value given by the Insured under this contract will be returned within 15 days of the receipt of notice by F.L.C.

This written Contract shall constitute the entire agreement between **FIELDS LOSS CONSULTANTS, L.L.C.**, and the Insured.

[Signature] STEPHEN FIELDS
Public Adjuster Signature Public Adjuster Full Printed Name

216 2365
Public Adjuster License Number Date and Time of Signing

THE PUBLIC ADJUSTER IS FULLY BONDED IN ACCORDANCE WITH ILLINOIS STATE LAW
[Signature] KEVIN GAZLEY
Insured Signature Insured Full Printed Name

3201 Old Glenview Rd. Wilmette IL 6-4-2020
Insured Full Street Address Date and Time of Signing

(FIELDS PA 003 (ed. 01/2014))

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WRITTEN NOTICE OF CONSUMER RIGHTS

In addition to any protections granted to you the Insured under the Public Adjusters Law, as a consumer of services under Illinois law you are entitled to the full protections granted by the consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505 et seq., including the right to bring an action for actual damages as a result of a violation of such Act.

A public adjuster shall provide the insured written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than salary, fee, commission, or other consideration established in the written contract with the insured, including but not limited to, any ownership of or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, board-up company, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall include any corporation, partnership, association, joint-stock, or person

Acknowledgement of Receipt

Signature of Insured: [Signature] Date 6-4-2020
Location: 2021 E. 95th St. Chicago

FIRE DAMAGE REPRESENTATION ACT DISCLOSURE

BUSINESS TRANSACTIONS (815 ILCS 625/) Fire Damage Representation Agreement Act.
(815 ILCS 625/0.01, (from Ch. 29, par. 80) Sec. 0.01. Short title. This Act may be cited as the Fire Damage Representation Agreement Act. (Source: P.A. 86-1924.)

(815 ILCS 625/1) (from Ch. 29, par. 81) Sec.1. Any person who, within 5 days after a fire, makes an agreement with any other person to represent him in his claim for damages caused by that fire may, within a 10 day period after the execution of such agreement, elect to avoid the agreement by notifying the other person in writing of the election by registered or certified mail, return receipt requested.

The person undertaking the representation of the claimant by such an agreement must, at the time of the agreement, furnish the party with whom the agreement is made a copy of the agreement and the address to which the notice may be sent and a copy of this Act, and obtain written acknowledgement of receipt of such from the party represented. If he fails to do so, the 10 day period provided for in this Act does not commence to run until the agreement, address and a copy of this Act are furnished. (Source: P.A. 83-290; 83-577.)

Acknowledgement of Receipt

Signature of Insured: [Signature] Date 6-4-2020
Location: 2021 E. 95th Street Chicago

FIELDS LOSS CONSULTANTS LLC
1332 N. Halsted Street, Suite 1004 Chicago, IL 60642
P312.624.8180 f 312.496.3078

FLC (disclosure 1/2014)

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ILLINOIS DEPARTMENT OF INSURANCE AND REQUIRED DISCLOSURE

Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are three types of adjusters that could be involved in that process. The definitions of the three types are as follows:

- (A) "COMPANY ADJUSTER" means the insurance adjusters who are employees of an insurance company. They REPRESENT THE INTEREST OF THE INSURANCE COMPANY and are paid by the insurance company. They will not charge you a fee.
- (B) "INDEPENDENT ADJUSTER" means the insurance adjusters who are hired on a contract basis by an insurance company to REPRESENT THE INSURANCE COMPANY'S INTEREST in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.
- (C) "PUBLIC ADJUSTER" means the insurance adjusters who do not work for any insurance company. THEY WORK FOR THE INSURED to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement or other method of compensation.

This Disclosure has been received by:

Insured	<u>[Signature]</u>	Date	<u>6-4-2020</u>
Insured	<u>[Signature]</u>	Date	
Public Adjuster	<u>[Signature]</u>	Date	

PROFESSIONAL DISCLAIMER

The insured understands this contract relates to adjusting services only. If it is necessary to engage the service of any additional experts, it shall be the responsibility of the insured and not a part of the adjusting contract.

Insured	<u>[Signature]</u>	Date	<u>6-4-2020</u>
Public Adjuster	<u>[Signature]</u>	Date	

FIELDS LOSS CONSULTANTS LLC
 1332 N. Halsted St., Suite 404
 Chicago, IL 60642
 P 312.624.8180 F 312.416.3978
 fieldsins@gmail.com

FLC (3/2014)

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EXHIBIT C
SIDE LETTER

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BSG 95th & JEFFREY, L.L.C.

3201 Old Glenview Road, Suite 300
Wilmette, IL 60091

VIA E-MAIL ONLY - fieldsins@gmail.com
sfields414@gmail.com

June 15, 2020

FIELDS LOSS CONSULTANTS LLC
1332 N. Halsted St., Suite 404
Chicago, IL 60642
Attention: Stephen Fields

Re: 95th & Jeffrey, Chicago, IL ("Property")
Date of Loss: May 31, 2020

Dear Stephen:

Pursuant to our recent communications, at the request of the lender of the Property, Bank Leumi USA ("Bank"), the following supplements the Public Adjuster Contract dated June 4, 2020 ("Contract") between FIELDS LOSS CONSULTANTS LLC ("F.L.C.") and BSG 95TH & JEFFREY, L.L.C., the named insured of the insurance policy referred to in the Contract ("Insured").

F.L.C. hereby acknowledges that the Bank is the mortgage/loss payee on the insurance policy. F.L.C. further acknowledges the Bank's mortgage recorded with the Cook County Recorders Office and that it permits the Bank the right to make proof of loss and to be the sole recipient of payment for loss from each insurance company concerned. In consideration for the Bank's consent to allow the Insured to execute this agreement, allowing F.L.C. to be named as co-payee on any check from an insurer or any other source making payment for this claim, F.L.C. agrees as follows:

1. F.L.C. shall owe each of the Bank and the Insured the fiduciary duties of an agent and representative in connection with all matters related to this agreement. Without limitation, this shall include a duty of full and prompt disclosure to representatives of the Bank as to all matters in any manner related to this agreement. In the event the interests of the Bank and the Insured should diverge for any reason, F.L.C. shall promptly disclose the divergence and the issues involved and all relevant background to both the Bank and the Insured. If the Bank and the Insured are unable to agree, F.L.C. shall follow the direction of the Bank with respect to matters requiring direction from the Insured under this agreement.
2. F.L.C. shall assure the Bank is named as a co-payee on each check issued by the Insurer or any other source making payment for this claim.
3. F.L.C. shall cooperate with representatives of the Bank and shall keep them promptly advised of all material developments in connection with all matters in any way related to this agreement. F.L.C. or the Insured shall provide written reports to Bank and its representatives detailing status, progress and direction on at least a monthly basis, and more frequently upon Bank's request.
4. F.L.C. shall conduct all of its activities at all times in accordance with industry best practices and procedures. This agreement may be terminated by either the Bank or the Insured if any failure by F.L.C. is not corrected within five (5) days of written notice from the Bank or the Insured.

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5. Steve Fields shall perform or supervise the majority of all activities conducted by F.L.C. under this agreement. Sam Fields shall supervise and shall be directly and meaningfully involved in all material phases of the services provided under this agreement including without limitation, development of the proof(s) of loss, negotiations and finalizing any adjustment settlement.
6. Without limitation of the items that require approval, any proof of loss and any settlement shall require the prior written approval of the Bank.
7. The Bank is an intended third party beneficiary of this agreement and shall have all of the rights and remedies as the Insured with respect to this agreement as well as the additional rights set forth herein.
8. In the event the Bank or the Insured shall engage in exercising rights and remedies under this agreement, they shall be entitled to recover all costs and expenses incurred, including attorney's fees.

By this letter, the Insured acknowledges that: (i) the Bank intends to apply recoveries to its expenses and the indebtedness pursuant to the mortgage; and (ii) the Bank reserves all of its rights and remedies set forth in the mortgage and the related loan documents. F.L.C. acknowledges that the Bank is intended to be a third party beneficiary to this letter agreement.

Please acknowledge your agreement to and acceptance of the foregoing by signing and returning a copy of this letter to me. If you have any questions, please contact me.

Sincerely,

BSG 95TH & JEFFREY, LLC

By: _____
Scott H. Gendell, Manager

AGREED AND ACCEPTED ON JUNE _____, 2020

FIELDS LOSS CONSULTANTS LLC

By: 
Stephen Fields, Manager

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BSG 95th & JEFFREY, L.L.C.
3201 Old Glenview Road, Suite 300
Wilmette, IL 60091

VIA E-MAIL ONLY - fieldsns@gmail.com

June 15, 2020

FIELDS LOSS CONSULTANTS LLC
1332 N. Halsted St., Suite 404
Chicago, IL 60642
Attention: Stephen Fields

Re: 95th & Jeffrey, Chicago, IL ("Property"),
Date of Loss: May 31, 2020

Dear Stephen:

Pursuant to our recent communications, at the request of the lender of the Property, Bank Leumi USA ("Bank"), the following supplements the Public Adjuster Contract dated June 4, 2020 ("Contract") between FIELDS LOSS CONSULTANTS LLC ("F.L.C.") and BSG 95TH & JEFFREY, L.L.C., the named insured of the insurance policy referred to in the Contract ("Insured").

F.L.C. hereby acknowledges that the Bank is the

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mortgagee/loss payee on the insurance policy. F.L.C. further acknowledges the Bank's mortgage recorded with the Cook County Recorders Office and that it permits the Bank the right to make proof of loss and to be the sole recipient of payment for loss from each insurance company concerned. In consideration for the Bank's consent to allow the Insured to execute this agreement, allowing F.L.C. to be named as co-payee on any check from an insurer or any other source making payment for this claim, F.L.C. agrees as follows:

1. F.L.C. shall owe each of the Bank and the Insured the fiduciary duties of an agent and representative in connection with all matters related to this agreement. Without limitation, this shall include a duty of full and prompt disclosure to representatives of the Bank as to all matters in any manner related to this agreement. In the event the interests of the Bank and the Insured should diverge for any reason, F.L.C. shall promptly disclose the divergence and the issues involved and all relevant background to both the Bank and the Insured. If the Bank and the Insured are unable to agree, F.L.C. shall follow the direction of the Bank with respect to matters requiring direction from the Insured under this agreement.
2. F.L.C. shall assure the Bank is named as a co-payee on each check issued by the Insurer or any other source making payment for this claim.
3. F.L.C. shall cooperate with representatives of the Bank and shall keep them promptly advised of all material developments in connection with all matters in any way related to this agreement. F.L.C. or the Insured shall provide written reports to Bank and its representatives detailing status, progress and direction on at least a monthly basis, and more frequently upon Bank's request.
4. F.L.C. shall conduct all of its activities at all times in accordance with industry best practices and procedures. This agreement may be terminated by either the Bank or the Insured if any failure by F.L.C. is not corrected within five (5) days of written notice from the Bank or the Insured.
5. Steve Fields shall perform or supervise the majority of all activities conducted by F.L.C. under this agreement.

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limitation, development of the proof(s) of loss, negotiations and finalizing any adjustment settlement.

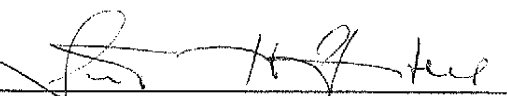
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Please acknowledge your agreement to and acceptance of the foregoing by signing and returning a copy of this letter to me. If you have any questions, please contact me.

Sincerely,

BSG 95TH & JEFFREY, LLC

By:  6/22/20

Scott H. Gendell, Manager

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AGREED AND ACCEPTED ON JUNE _____, 2020

FIELDS LOSS CONSULTANTS LLC

By: _____
Stephen Fields, Manager

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EXHIBIT D
LIST OF TENANTS

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7/13/2020 1:17 PM

BSG 95TH & JEFFREY LLC

95th and Jeffrey, Chicago

ENTITY
PROPERTY

	Tenant Type	Status as of 7/10/2020	UNIT	SF	RENT	CAM	RET	Normalized Total	Actual April		Actual May		Actual June		Arrears 7/17/2020
									Rent Paid as of	as of	Rent Paid as of	as of	Rent Paid as of	as of	
FIRST ACCEPTANCE	insurance agent	30-Jun-2021	2021	1,543	\$3,137	\$804	\$687	\$4,000	\$4,607	\$4,607	\$4,607	\$4,607	\$4,607	\$0	\$0
SHARKS	fast food	31-Dec-2023	2027	1,500	\$2,833	\$781	\$649	\$4,263	\$2,131	\$2,131	\$0	\$0	\$0	\$7,121	\$7,121
TAX SERVICES	tax services	30-Apr-2025	2029	1,260	\$3,279	\$0	\$0	\$3,279	\$4,045	\$0	\$0	\$3,279	\$3,279	\$0	\$0
EDIBLE	take out specialty food	30-Sep-2022	2031	1,744	\$1,744	\$908	\$751	\$3,406	\$3,600	\$3,600	\$0	\$0	\$0	\$26,463	\$26,463
NAILS	nail salon	31-Mar-2024	2049	1,241	\$1,516	\$640	\$394	\$2,550	\$2,580	\$2,580	\$2,580	\$2,583	\$2,583	\$0	\$0
T MOBILE	Cellular	31-Dec-2020	2051	1,231	\$1,732	\$334	\$487	\$2,553	\$1,276	\$2,553	\$0	\$0	\$0	\$3,886	\$3,886
NEIGHBORHOOD LAUNDRY	laundromat	30-Apr-2022	2053	2,386	\$2,048	\$1,029	\$1,012	\$4,109	\$0	\$0	\$0	\$0	\$0	\$16,620	\$16,620
KWEILIN CHOP	fast food	31-Oct-2020	2057	1,339	\$2,386	\$697	\$579	\$3,662	\$3,662	\$3,662	\$3,662	\$3,662	\$3,662	\$3,662	\$3,662
BENFORD	Security Services	31-Jan-2021	2059	2,186	\$2,483	\$1,138	\$945	\$4,566	\$4,566	\$4,566	\$0	\$0	\$0	\$13,619	\$13,619
ACM	Counseling	31-Oct-2022	2065	3,591	\$4,788	\$1,714	\$1,553	\$7,855	\$7,855	\$7,855	\$7,855	\$7,855	\$7,855	\$7,855	\$7,855
DOLLAR TREE	Dollar store	30-Apr-2028	2101	12,170	\$8,021	\$3,080	\$5,252	\$16,962	\$16,962	\$16,770	\$16,770	\$16,770	\$16,770	\$0	\$28,013
TOTAL				30,191	\$21,565	\$10,925	\$12,321	\$57,812	\$51,285	\$43,756	\$41,309	\$14,132	\$106,029	\$106,029	\$106,029

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