

# UNOFFICIAL COPY



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CCHI1901699ALD DG  
RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO:  
STANCORP MORTGAGE INVESTORS, LLC  
ATTN: LOAN CLOSING, T3A  
10265 NE Tanasbourne Drive  
HILLSBORO, OR 97124

Doc# 2111322054 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 04/23/2021 02:15 PM PG: 1 OF 13

SIC Loan No. C1012102

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT (this "Agreement") is made and entered into as of the 30 day of March, 2021, by and among **STANDARD INSURANCE COMPANY**, an Oregon corporation ("Mortgagee"), **OLD NAVY, LLC**, a Delaware limited liability company ("Tenant"), and **162 N. STATE DEVELOPMENT, LLC**, an Illinois limited liability company ("Landlord").

### RECITALS

A. Mortgagee is, or shall be, the holder of a certain note (the "Note") and mortgagee under a mortgage (the "Mortgage") dated April 5, 2021, in which Landlord is named as the mortgagor, which Mortgage was, or shall be, recorded on Apr 123, 2021, in the Official Records of the County of Cook, State of Illinois as Document No. 2111322054. The Mortgage covers certain real property together with all appurtenances thereto and improvements thereon (the "Property") all as more particularly described in **Exhibit A** attached hereto and made a part hereof and which property is commonly known as 150 North State Street (a/k/a 162 North State Street), in the City of Chicago, County of Cook, State of Illinois.

B. Landlord is the owner in fee simple of the Property and is the current obligor under the Note.

C. By Retail Lease dated April 24, 2012 (as amended, the "Lease") Landlord's predecessor-in-interest, State/Randolph, L.L.C., leased to Tenant those certain premises (the "Premises") which constitutes or forms a portion of the Property covered by the Mortgage and commonly known as 150 North State Street, all as more particularly described in said Lease. Other documents affecting or amending the Lease include the following: Memorandum dated April 24, 2012; Letter Agreement re: Delivery of Possession dated June 20, 2012, acknowledged August 7, 2012; Notice re: Argo Tea Water Intrusion dated March 3, 2019; Notice re: Change of Landlord's Notice Address dated March 14, 2019; First Lease Amendment dated November 1, 2019; Notice of Default dated April 23, 2020; Notice of Default dated May 5, 2020; Notice of Default dated July 8, 2020; Settlement Agreement and Mutual Limited Release dated September 14, 2020; Second Lease Amendment dated September 16, 2020; Dismissal Order dated September 18, 2020; and Notice of Change of Landlord/Address dated November 23, 2020.

D. The Lease is or may become (subject to this Agreement) subordinate in priority to the Mortgage.

E. Tenant wishes to obtain from Mortgagee certain assurances that Tenant's possession of the Premises will not (subject to this Agreement) be disturbed by reason of the enforcement of the Mortgage covering the Premises or a foreclosure of the lien thereunder.

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F. Mortgagee is willing to provide such assurances to Tenant upon and subject to the terms and conditions of this Agreement.

## AGREEMENT

NOW, THEREFORE, in consideration of the above, the reciprocal promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually agree as follows:

1. **Ratification.** The Lease now is or shall become upon the mutual execution of this Agreement subordinate in all respects to the Mortgage and to all renewals, modifications and extensions thereof, subject to the terms and conditions of this Agreement. Tenant hereby affirms that the Lease is in full force and effect and that the Lease has not been modified or amended. Mortgagee acknowledges receipt of a copy of the Lease and hereby approves the same.

2. **Landlord's Default.** From and after the date Tenant receives a fully executed copy of this Agreement, Tenant will not seek to terminate the Lease by reason of any act or omission that constitutes (or would over time constitute) a default of Landlord and which would entitle Tenant to exercise any such termination right under the Lease, until Tenant shall have given written notice of such act or omission to Mortgagee (at Mortgagee's last address furnished to Tenant) and until a period of thirty (30) days shall have elapsed, Mortgagee shall have the right, but not the obligation, to remedy such act or omission, provided however that if the act or omission does not involve the payment of money from Landlord to Tenant and (i) is of such a nature that it could not be reasonably remedied within the thirty (30) day period aforesaid, or (ii) the nature of the act or omission or the requirements of local law require Mortgagee to appoint a receiver or to foreclose on or commence legal proceedings to recover possession of the Property in order to effect such remedy and such legal proceedings and consequent remedy cannot reasonably be achieved within said thirty (30) days, then Mortgagee shall have such further time as is reasonable under the circumstances to effect such remedy provided that Mortgagee shall notify Tenant, within ten (10) days after receipt of Tenant's notice, of Mortgagee's intention to effect such remedy and provided further that Mortgagee institutes immediate legal proceedings to appoint a receiver for the Property or to foreclose on or recover possession of the Property within said thirty (30) day period and thereafter prosecutes said proceedings and remedy with due diligence and continuity to completion. Notwithstanding the foregoing, Mortgagee shall have no rights under this Paragraph 2 if Mortgagee is an entity that controls, is controlled by, or is under common control with Landlord.

3. **Non-Disturbance and Attornment.** So long as Tenant is not in default under the Lease (beyond any period given Tenant to cure such default) as would entitle Landlord to terminate the Lease or would cause, without any further action of Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant thereunder, Mortgagee will not disturb the peaceful and quiet possession or right of possession of the Premises by Tenant nor shall the Lease or its appurtenances be extinguished by reason of any Foreclosure (as hereinafter defined) or otherwise, nor join Tenant as a party in any action or proceeding brought pursuant to the Mortgage.

In the event that Mortgagee or its successors or assigns, as defined in Paragraph 7 hereof ("Successor Landlord") acquires the interest of Landlord or comes into the possession of or acquires title to the Premises (the "Succession") by reason of the foreclosure (judicial or non-judicial) or enforcement of the Mortgage (including a private power of sale) or the Note or obligations secured thereby or by a conveyance in lieu thereof or other conveyance or as a result of any other means (any or all of the foregoing hereinafter referred to as a "Foreclosure"), then the Lease and all appurtenances thereto shall remain in full force and effect and Tenant shall be bound to Successor Landlord under all of the provisions of the Lease for the balance of the term thereof (including any extensions or renewals thereof which may be effected in accordance with any options contained in the Lease) with

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the same force and effect as if Successor Landlord was landlord under the Lease, and Tenant shall attorn to Successor Landlord as its landlord, such attornment to be effective and self-operative, without the execution of any further instruments on the part of either of the parties hereto, immediately upon the Succession; and further, in such event, Successor Landlord shall be bound to Tenant under all of the provisions of the Lease, and Tenant shall, from and after such Succession, have the same remedies against Successor Landlord for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord thereunder, provided, however, that if Successor Landlord is not an entity that controls, is controlled by, or is under common control with Landlord, then Successor Landlord shall not be:

- (a) liable for any act or omission of any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 2 hereof) of such act or omission to the party who was the then holder of the Mortgage (whether or not such holder elected to cure or remedy such act or omission); or
- (b) subject to any offsets (except those expressly permitted under the Lease) or defenses which Tenant might have against any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 2 hereof) of the state of facts or circumstances under which such offset or defense arose to the party who was the then holder of the Mortgage (whether or not such holder elected to cure or remedy such condition); or
- (c) bound by any rent or additional rent which Tenant might have paid to any prior landlord (including Landlord) more than thirty (30) days in advance of the due date under the Lease; or
- (d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is available to the party who was the holder of the Mortgage at the time of a Foreclosure.
- (e) bound by any Lease termination (except for a termination expressly permitted under the Lease), cancellation, assignment (except to an Affiliate), or any material amendment or modification of the Lease made without Mortgagee's prior written consent.

Tenant shall be under no obligation to pay rent to Mortgagee or Successor Landlord until Tenant receives written notice from Mortgagee or Successor Landlord stating that Mortgagee or Successor Landlord is entitled to receive the rents under the Lease directly from Tenant. Landlord, by its execution hereof, hereby authorizes Tenant to accept such direction from Mortgagee or Successor Landlord and to pay the rents directly to Mortgagee or Successor Landlord and waives all claims against Tenant for any sums so paid at Mortgagee's or Successor Landlord's direction. Tenant may conclusively rely upon any written notice Tenant receives from Mortgagee or Successor Landlord notwithstanding any claims by Landlord contesting the validity of any term or condition of such notice, including any default claimed by Mortgagee or Successor Landlord, and Tenant shall have no duty to inquire into the validity or appropriateness of any such notice.

**4. Notices of Default/Tenant's Right to Cure.** Mortgagee hereby agrees to give to Tenant a copy of each notice of a failure on the part of the mortgagor or obligor under the Mortgage or Note to perform or observe any of the covenants, conditions or agreements of such Mortgage or Note at the same time as whenever any such notice shall be given to the said mortgagor or obligor, such copy to be sent as provided in Paragraph 6 herein. Further, Mortgagee shall accept the cure by Tenant of any default, which cure shall be made within ten (10) days in the case of monetary defaults of Landlord and within thirty (30) days in the case of non-monetary defaults following Tenant's receipt of such notice provided however that (i) if the failure of performance does not involve the payment of money from Landlord to Tenant, and (ii) is of such a nature that it could not be reasonably remedied within the thirty (30) day period aforesaid, then Tenant shall have such further time as is reasonable under the circumstances to effect such remedy provided that Tenant shall notify Mortgagee, within ten (10) days after receipt of Mortgagee's notice, of Tenant's intention to effect such remedy and provided further that Tenant institutes steps to effect such

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remedy within said thirty (30) day period and thereafter prosecutes said remedy with due diligence and continuity to completion. Mortgagee agrees that it will accept such performance by Tenant of any covenant, condition or agreement to be performed by mortgagor or obligor under the Mortgage or Note with the same force and effect as though performed by such mortgagor or obligor. The provisions of this Paragraph 4 are intended to confer additional rights upon Tenant and shall not be construed as obligating Tenant to cure any default of any such mortgagor or obligor.

## 5. Agreement to Release Proceeds or Awards.

(a) **Destruction.** In the event of a casualty at the Premises, Mortgagee shall release its interest in any insurance proceeds applicable to the nonstructural improvements installed by Tenant. Mortgagee acknowledges that it has no interest and waives any interest in Tenant's personal property, Tenant's signs, the satellite dish, and any safety systems (such as, without limitation, fire and security monitoring and alarm systems) installed at or about the Premises, or any insurance proceeds that are payable with respect thereto under either Landlord's or Tenant's policies.

(b) **Eminent Domain.** In the event of a public taking or act of eminent domain, Mortgagee shall release its interest in that portion of the award to which Tenant is entitled pursuant to the Lease, as well as its interest in so much of the award applicable to the improvements installed by Tenant as shall be necessary for the purposes of restoration, consistent with Landlord's and Tenant's rights and obligations under the Lease.

6. **Notices.** In order to be effective, any notice to be given under this Agreement must be in writing and either (1) served personally at the following applicable notice address, provided that proof of delivery thereof can be produced; or (2) sent by registered or certified U.S. mail, Federal Express or a similar reputable express courier to the following applicable notice address, provided that proof of delivery thereof can be produced, or (3) if the notice is not a notice of default, sent by fax at the applicable fax number listed under the following applicable notice address, provided that proof of delivery thereof can be produced, and provided further that a copy of the notice is also promptly sent by U.S. mail, Federal Express or a similar reputable express courier to the following applicable notice address.

To Mortgagee: Standard Insurance Company  
Attn: Loan Closing, T3A  
10265 NE Tanasbourne Drive  
Hillsboro, OR 97124  
Telephone: (971) 321-6100  
Fax: (773) 321-5868

To Tenant: Old Navy, LLC  
c/o The Gap, Inc.  
2 Folsom Street  
San Francisco, CA 94105  
Attention: Real Estate Law, Old Navy #3997  
Telephone: (415) 427-0225  
Fax: (415) 427-0188

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To Landlord: 162 N. State Development, LLC  
 3423 N. Drake Avenue  
 Chicago, IL 60618  
 Attention: Charles Bowling  
 Telephone: (773) 272-7700 x 315  
 Fax: (773) 272-1119

No notice of default shall be sent by fax. No notice to Tenant shall be effective unless it is addressed to the attention of Real Estate Law (for all notices, including notices of default, other than invoices) and as otherwise set forth above. No notice delivered to the Premises shall be effective. The telephone numbers identified above are for informational purposes only and not for purposes of giving notice under this Agreement. Any party may change the address or fax number by written notice to the other parties clearly stating such party's intent to change the address or fax number for all purposes of this Agreement, which new address or fax number shall be effective one (1) month after receipt. All such notices shall be deemed delivered when actually received or refused by the addressee.

7. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective personal representatives, successors and assigns it being understood that the obligations herein of Mortgagee shall extend to it in its capacity as mortgagee under the Mortgage and to its successors and assigns, including anyone who shall have succeeded to its interest or to Landlord's interest in the Premises or acquired possession thereof by Foreclosure or otherwise.

8. **Effectiveness of Agreement.** If, within four (4) weeks of Tenant's execution of this Agreement, Tenant has not received one (1) fully executed copy of this Agreement at the notice address listed above, this Agreement shall, at Tenant's option, be null and void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

MORTGAGEE

**STANDARD INSURANCE COMPANY,**  
 an Oregon corporation

ST By: [Signature]  
 TF Name: Michael Morey  
 MC Its: Vice President

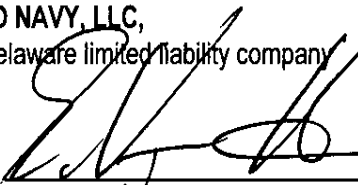
ATTEST:

By: [Signature]  
 Scott Tumbleson  
 Director  
 Stan Corp Mortgage Investors, LLC

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TENANT

**OLD NAVY, LLC,**  
a Delaware limited liability company

By: 

Name: E. Vanessa Horton

Its: Senior Counsel

LANDLORD

**162 N. STATE DEVELOPMENT, LLC**  
an Illinois limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

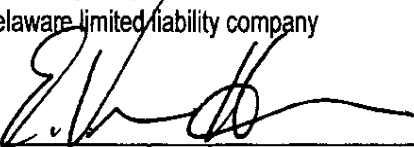
Its: \_\_\_\_\_

Property of Cook County Clerk's Office

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TENANT

**OLD NAVY, LLC,**  
a Delaware limited liability company

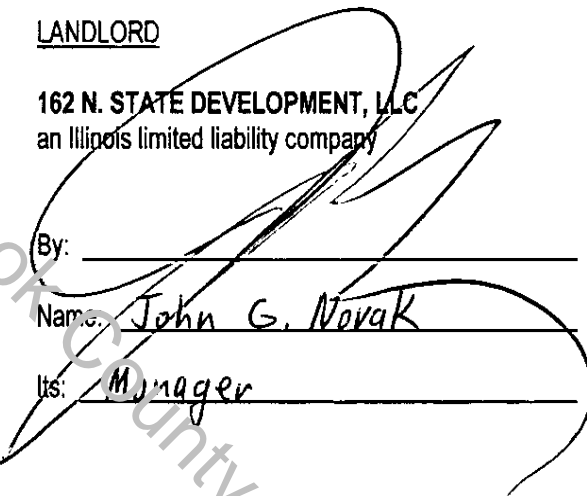
By: 

Name: E. Vanessa Henlon

Its: Senior Counsel

LANDLORD

**162 N. STATE DEVELOPMENT, LLC**  
an Illinois limited liability company

By: 

Name: John G. Novak

Its: Manager

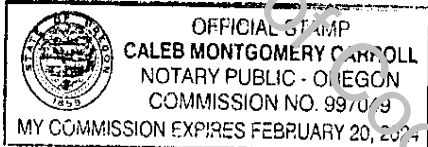
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STATE OF OREGON                    )  
   ) ss:  
 COUNTY OF WASHINGTON        )

On this 5<sup>th</sup> day of April, 2021, before me, Caleb Montgomery Carroll, appeared MICHAEL MOREY and SCOTT TUMBLESON, both to me personally known, who being duly sworn did say that he, the said MICHAEL MOREY is the Vice President of STANDARD INSURANCE COMPANY, an Oregon corporation, the within named corporation, and that the seal affixed to said document is the corporate seal of said corporation, and that the said document was signed and sealed in behalf of said corporation by authority of its Board of Directors, and he, the said SCOTT TUMBLESON is the Director of STANCORP MORTGAGE INVESTORS, LLC, an Oregon limited liability company, as Servicer for STANDARD INSURANCE COMPANY and MICHAEL MOREY and SCOTT TUMBLESON acknowledged said document to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.



*C. M. C.*  
 \_\_\_\_\_  
 Caleb Montgomery Carroll  
 Notary Public for Oregon  
 My Commission Expires: February 20, 2024

Property Clerk's Office  
 County Clerk's Office



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## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }  
County of Alameda

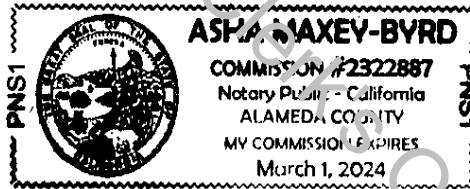
On 3/30/21, before me, Asa Maxey-Byrd Notary Public  
(Date) (insert name and title of the officer)

personally appeared E. Vanessa Henlon who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Asa Maxey-Byrd  
Signature



(Seal)

### OPTIONAL DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document: Subordination, Non-Disturbance & Assignment Agreement

Document Date: — Number of Pages: 6

Other Information: \_\_\_\_\_

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## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF SAN FRANCISCO )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

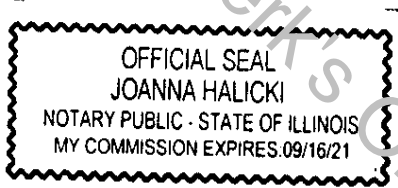
\_\_\_\_\_  
Notary Public Signature (SEAL)

STATE OF Illinois )  
 ) ss:  
COUNTY OF COOK )

On April 14, 2021, before me, Joanna Halicki, Notary Public, personally appeared John G. Novak personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Joanna Halicki (SEAL)  
Notary Public Signature



STATE OF \_\_\_\_\_ )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by

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**EXHIBIT A**

**Legal Description**

*[Handwritten scribble]*

Property of Cook County Clerk's Office

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EXHIBIT "A"  
LEGAL DESCRIPTION  
LOAN NO. C1012102

**ESTATE A:**

**PARCEL 1**

THE EAST HALF OF LOT 7 IN BLOCK 36 OF ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 2**

LOTS 1, 13, 14, 15, 16 AND A 10 FOOT STRIP OF LAND LYING NORTH OF AND ADJACENT TO SAID LOTS 14 AND 15 IN ASSESSOR'S DIVISION OF LOTS 5, 6 AND 8 OF BLOCK 36 OF ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**PARCEL 3**

THAT PART OF A STRIP OF LAND LYING EAST OF THE EAST LINE OF BLOCK 36 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE WEST LINE OF STATE STREET AS ESTABLISHED BY AN ACT OF THE LEGISLATURE OF THE STATE OF ILLINOIS, APPROVED MARCH 3, 1845 AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID BLOCK 36; THENCE NORTH 00°57'52" WEST ALONG THE EAST LINE OF BLOCK 36 AFORESAID 52.37 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 52.37 FEET OF BLOCK 36 AFORESAID, SAID POINT BEING ALSO THE POINT OF BEGINNING; THENCE NORTH 89°48'11" EAST ALONG THE EASTERLY EXTENSION OF SAID NORTH LINE 3.86 FEET TO A POINT ON THE WEST LINE OF STATE STREET AS PASSED BY AN ACT OF LEGISLATURE AFORESAID; THENCE NORTH 01°03'00" WEST ALONG SAID WEST LINE 51.07 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 23.00 FEET OF LOT 1 OF ASSESSOR'S DIVISION OF LOTS 5, 6 AND 8 OF SAID BLOCK 36; THENCE SOUTH 89°48'55" WEST ALONG THE EASTERLY EXTENSION OF THE NORTH LINE OF THE SOUTH 23.00 FEET AFORESAID 3.79 FEET TO A POINT ON THE EAST LINE OF SAID BLOCK 36; THENCE SOUTH 00°57'52" EAST ALONG SAID EAST LINE 51.07 FEET; TO THE POINT OF BEGINNING, IN COOK COUNTY ILLINOIS.

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## ESTATE B:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF ESTATE A AS CREATED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RECORDED DECEMBER 16, 2020 AS DOCUMENT NUMBER 2035133099 MADE BY THE ART INSTITUTE OF CHICAGO AND GRANTED BY DEED DATED NOVEMBER 23, 2020 AND RECORDED DECEMBER 16, 2020 AS DOCUMENT NUMBER 2035133101.

## ESTATE C:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF ESTATE A AS CREATED BY THE ADJOINING BUILDINGS EASEMENT DATED SEPTEMBER 14, 2000 AND RECORDED OCTOBER 16, 2000 AS DOCUMENT NUMBER 00806019 FOR THE PURPOSE OF INSTALLING, MAINTAINING, REPAIRING AND REPLACING AND EXPANSION JOINT.

PINS: 17-09-439-006  
17-09-439-024

Address: 10-18 w. Randolph St. and 150, 162, 164, 166  
and 168 N. State Street, Chicago, IL  
60601