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2127941005

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KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 10/06/2021 11:00 AM PG: 1 OF 11

Drafted By and When Recorded Return To:

KHRE SMA Funding, LLC
c/o Knighthouse Funding, LLC
777 W. Putnam Ave.
3rd Floor, Suite B-2
Greenwich, CT 06830
Attn: Legal Dept.

00HI2105406LD THE AREA ABOVE IS RESERVED FOR RECORDER'S USE

TMS (leaf)

KHRE SMA FUNDING, LLC,
a Delaware limited liability company
(Assignor)

to

TRINITY LIFE INSURANCE COMPANY,
an insurance company organized under the laws of the State of Oklahoma
(Assignee)

ASSIGNMENT AND ASSUMPTION OF PARTICIPATION INTERESTS AGREEMENT

Dated: September 28, 2021

Address: 340-344 North Ogden Avenue and 1376 West
Carroll Avenue
Chicago, Illinois

County: Cook

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ASSIGNMENT AND ASSUMPTION OF PARTICIPATION INTERESTS AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF PARTICIPATION INTERESTS AGREEMENT (this “**Agreement**”), dated as of September 28, 2021, is made by and between **KHRE SMA FUNDING, LLC**, a Delaware limited liability company, having an address at c/o Knighthood Funding, LLC, 777 W. Putnam Ave., 3rd Floor, Suite B-2, Greenwich, Connecticut 06830 (“**Assignor**”) and **TRINITY LIFE INSURANCE COMPANY**, an insurance company organized under the laws of the State of Oklahoma, having an address 7633 E. 63rd Place, Tulsa, Oklahoma 74133 (“**Assignee**”).

RECITALS

A. Assignor is the holder and owner of a one hundred percent (100%) interest in that certain loan in the original principal amount of up to ELEVEN MILLION FIVE HUNDRED THOUSAND and 00/100 DOLLARS (\$11,500,000.00) (the “**Loan**”), pursuant to, among other things, that certain (1) Loan Agreement, dated of even date herewith (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Loan Agreement**”), by and between Assignor and OGDEN CARROLL 2016, LLC, an Illinois limited liability company (the “**Borrower**”), (2) \$11,500,000.00 Promissory Note, dated of even date herewith, made by Borrower payable to the order of Assignor (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Note**”), and secured by, among other things, that certain Mortgage, Security Agreement, Assignment of Leases and Fixture Filing, made by Borrower for the benefit of Assignor, dated of even date herewith and recorded immediately prior hereto (as amended, restated, replaced, supplemented or otherwise modified from time to time, the “**Security Instrument**”; the Loan Agreement, the Note, the Security Instrument, and any and all other documents executed and/or delivered in connection with the Loan collectively, the “**Loan Documents**”), which Loan encumbers certain real property and improvements located thereon commonly known as and located at **340-344 North Ogden Avenue and 1376 West Carroll Avenue, all in Chicago, Illinois**, and more particularly described on Exhibit A annexed hereto and made a part hereof (the “**Property**”).

B. Assignor desires to transfer and assign to Assignee, and Assignee desires to acquire and assume from Assignor, **3.47826087%** of Assignor’s interest in the Loan (collectively, the “**Transferred Interests**”), pursuant to the terms and conditions (1) of that certain Lender Participation Agreement, dated of even date herewith, made by and among Assignor, Assignee, and KHR Servicing, LLC, a Delaware limited liability company (the “**Participation Agreement**”) and (2) as hereinafter set forth in this Agreement. The Transferred Interests represent **\$400,000.00** of the maximum principal Loan amount set forth in Recital A. above.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Assignment and Assumption of Transferred Interests. On the terms hereof and subject to the conditions set forth in the Participation Agreement, as of the date hereof, Assignor hereby transfers, conveys and assigns to Assignee all of Assignor’s right, title and interest in and

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to the Transferred Interests, free and clear of all liens, claims and encumbrances of any nature whatsoever. Assignee, upon execution of this Agreement, hereby accepts such assignment, transfer and conveyance from Assignor of the Transferred Interests. Assignee, upon execution of this Agreement, hereby accepts such assignment, transfer, and conveyance from Assignor of the Transferred Interests. The Transferred Interests are solely an interest in the economic benefits and consequences of the Loan. Title to the Loan Documents themselves remains with Assignor. Assignor retains the right, as record holder of the Loan and Loan Documents and as agent of Assignee and all other holders of interests or participation interests in the Loan (collectively, and together with Assignor and Assignee, "**Participants**"), to act on behalf of Assignee and all other Participants in any matter relating to the Loan and Loan Documents, including, without limitation: (i) appointment of a successor lender under the Security Instrument, (ii) judicial or non-judicial foreclosure of the Security Instrument, (iii) instructions to the lender (or trustee, as the case may be) in connection with non-judicial foreclosure, (iv) credit bidding at any judicial or non-judicial foreclosure sale under the Security Instrument, (v) appointment of a receiver for the Property, and if applicable, sale of the Property by the receiver, and (vi) credit bidding at any receiver sale of the Property. Participant agrees to execute and deliver all documents which Assignor deems necessary or advisable in connection with judicial or non-judicial foreclosure of the Security Instrument or appointment of a receiver for the Property. Participant's agreement to execute such documents at the request of Assignor does not alter or detract from the general agency authority of Assignor pursuant to this Section 1.

2. Future Assurances. Assignor and Assignee each agrees, at any time and from time to time on or after the date hereof, to execute, acknowledge where appropriate, and deliver or cause to be executed, acknowledged and delivered such further instruments and documents and to take such other action as may be necessary and/or reasonably requested to carry out the intents and purposes of this Agreement. Upon the payment in full of the Loan, Assignee agrees to assign the Transferred Interests to Assignor to facilitate an assignment of the Loan to a subsequent lender.

3. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Nothing in this Agreement creates any third party beneficiary rights in any person that is not a party to this Agreement.

4. Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of New York, without regard to its conflict of laws principles which would apply the substantive law of another jurisdiction.

5. Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been given when delivered if personally delivered, mailed by certified or registered mail, postage prepaid, return receipt requested, or sent by overnight courier, and email to the address of the intended recipient as follows:

if to Assignor, at:

KHRE SMA Funding, LLC
 c/o Knighthood Funding, LLC
 777 W. Putnam Ave.
 3rd Floor, Suite B-2

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Greenwich, Connecticut 06830
 Attention: Jonathan J. Daniel
 Phone: (203) 327-3327
 Email: jdaniel@knightheadfunding.com
 if to Assignee, at:

Trinity Life Insurance Company
 c/o Knighthead Funding, LLC
 777 W. Putnam Ave.
 3rd Floor, Suite B-2
 Greenwich, Connecticut 06830
 Attention: Jonathan J. Daniel
 Phone: (203) 327-3327
 Email: jdaniel@knightheadfunding.com

with a copy to:

Trinity Life Insurance Company
 7633 E. 63rd Place
 Tulsa, Oklahoma 74133
 Attention: Jeffrey Wood
 Phone: (918) 249-2438
 Email: jwood@firsttrinityfinancial.com

6. Conflicts. In the event of any conflict between the provisions of this Agreement and the Participation Agreement, the provisions of the Participation Agreement shall control.

7. Entire Agreement and Amendments. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented or changed, and any provision hereof can be waived, only by written instrument signed by the party against whom enforcement of any such amendment, supplement, change or waiver is sought.

8. Severability. In case any one or more of the provisions of this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

9. Counterparts. This Agreement may be executed in one or more counterparts (including by facsimile or electronic .pdf submission), each of which shall be deemed an original, and all of which shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered (by telecopy or otherwise) to the other party, it being understood that both parties need not sign the same counterpart.

10. Miscellaneous Representations of Assignor

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(a) Assignor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware.

(b) To Assignor's knowledge, the execution and delivery of this Agreement by Assignor, and the performance of, and compliance with, the terms of this Agreement by Assignor, will not violate its organizational documents or constitute a default (or an event which, with notice or lapse of time, or both, would constitute a default) under, or result in the breach of, any material agreement or other instrument to which it is a party or that is applicable to it or any of its assets, in each case which materially and adversely affect its ability to carry out the transactions contemplated by this Agreement.

(c) Assignor has the full power and authority to enter into and consummate all transactions contemplated by this Agreement, has duly authorized the execution, delivery and performance of this Agreement and has duly executed and delivered this Agreement.

(d) This Agreement is Assignor's legal, valid and binding obligation enforceable against it in accordance with its terms (except as such enforcement may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws or equitable principles limiting the rights of creditors generally and except that rights with respect to indemnification and contribution obligations may be limited by applicable law).

(e) Immediately prior to the execution and delivery of this Agreement, Assignor was the sole legal owner and holder of the Loan, Assignor has the right to enter into this Agreement without the consent of any third party, and Assignor has the right to sell the Transferred Interest to Assignee.

(f) Assignor is not a debtor in any state or federal bankruptcy or insolvency proceeding.

(g) Assignor has complied in all material respects with all applicable anti-money laundering laws and regulations, including without limitation the USA PATRIOT Act of 2001, with respect to the origination of the Loan.

(h) Assignor has not (i) except by written instrument or other written documentation, modified the Loan or any of the other Loan Documents, or (ii) terminated, satisfied, canceled, subordinated or released the Note or any of the other Loan Documents, or (iii) waived any material right under any of the Loan Documents.

(i) The representations and warranties set forth on Exhibit B attached hereto as to the Loan and Property are true and accurate in all material respects.


[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption of Participation Interests Agreement as of the date first set forth above.

ASSIGNOR:

KHRE SMA FUNDING, LLC

By:  _____


Name: Laura L. Torrado

Title: Authorized Signatory

ASSIGNEE:

TRINITY LIFE INSURANCE COMPANY

By: Knighthead Realty Capital Management, LLC,
Its Sub-Advisor

By:  _____

Name: Laura L. Torrado

Title: Authorized Signatory

Property of Cook County Clerk's Office

Signature Page to Assignment and Assumption of Participation Interests Agreement (Trinity)

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EXHIBIT A

Property Description

Parcel 1:

That part of Block 7, in Union Park Second Addition to Chicago, in Section 8, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows:

Beginning at a point on the South Line of said Block 7, which is 144.32 feet East of the South West corner of said Block, thence running North a distance of 17.46 feet to a point 144.26 feet East of the West Line of said Block, thence East along a line parallel to said South Block line a distance of 3.31 feet; thence North a distance of 55.20 feet to a point 147.63 feet East of said West Block Line, thence East a Distance of 60.27 Feet to a point on the Westerly Line of North Ogden

Avenue which is 72.54 feet North of said South Block line thence Southwestwardly along said Westerly line of North Ogden Avenue a distance of 79.10 feet to its intersection with said South Line of Block 7, thence West along said Block line, a distance of 31.84 feet to the place of beginning, in Cook County, Illinois.

Parcel 2:

That part of Block 7 in Union Park Second Addition to Chicago in Section 8, Township 39 North, Range 14, East of the Third Principal Meridian, which lies West of the Westerly line of North Ogden Avenue as established by Condemnation Proceedings in Case No. 42162 County Court, described as follows: Beginning at a point on the South Line of said Block 7 which is 72.31 feet East of the Southwest corner of said Block; thence North parallel with the West Line of said Block 7, 72.81 feet; thence East 75.32 feet to a point 72.66 feet North of the South Line of Block 7 and 147.63 feet East of the West Line of Block 7; thence South 55.20 feet; thence West parallel with the South Line of Block 7, 3.31 feet to a point 144.26 feet East of the West Line of Block 7; thence South 17.46 feet to the South Line of Block 7; thence West along the South Line of Block 7, 72.01 feet to the point of beginning, in Cook County, Illinois.

Parcel 3:

That part of the South 146.25 feet of Block 7 in Union Park Second Addition to Chicago in Section 8, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, which lies West of the Westerly line of North Ogden Avenue, as established by Condemnation Proceedings in Case No. 42162, County Court, excepting from said South 146.25 feet, the following described parcels,

(A) A part thereof described as follows:

Beginning at a point on the South Line of said Block 7, which is 72.31 feet East of the Southwest corner of said Block; thence running North parallel with the West Line of said Block, a distance of 72.81 feet; thence East, a distance of 135.59 feet to a point on the abovementioned Westerly line of North Ogden Avenue, which is 72.54 feet North of said South Block Line; thence Southwestwardly along the Westerly line of North Ogden Avenue, a distance of 79.10 feet to its

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intersection with said South Line of Block 7; thence West along said South Block Line, a distance of 103.85 feet to the place of beginning, in Cook County, Illinois.

(B) Also excepting the North 24.90 feet of the West 82.69 feet of the South 146.25 feet thereof;

(C) And excepting the North 4.80 feet of the West 112.95 feet (except the West 82.69 feet thereof) of the South 146.25 feet thereof.

Parcel 4:

Non-exclusive easements for utilities and encroachments, as set forth in the Declaration of Covenants, Restrictions and Easements, recorded May 9, 2005 as Document No. 0512927016 and as amended by Amendment and Partial Release of Declaration of Covenants, Restrictions and Easements recorded June 6, 2014 as document No. 1415718020.

Common Address: 340-344 N. Ogden Avenue and 1376 W. Carroll Avenue, Chicago, Illinois 60607.

P.I.N.s: 17-08-304-005-0000

17-08-304-006-0000

17-08-304-010-0000

17-08-304-012-0000

17-08-304-013-0000

17-08-304-016-0000

Property of Cook County Clerk's Office

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EXHIBIT B

PROPERTY AND LOAN REPRESENTATIONS

1. No Equity Participation or Contingent Interest. (i) Neither Assignor, nor any of its affiliates has an equity participation in the Borrower; (ii) the Loan Documents do not provide for any contingent or additional interest in the form of participation in the cash flow of the related Property; and (iii) the Loan is not convertible by its terms into an equity ownership interest in the Property or the Borrower.
2. Title Insurance. Assignor has obtained an American Land Title Association (or an equivalent form thereof approved for use in the applicable jurisdiction) lender's title insurance policy (or a preliminary title policy with escrow instructions or a marked up title insurance commitment on which the required premium has been paid exists which is binding on the title insurer and which evidences that such title policy will be issued) (the "**Title Policy**") in the original principal amount of the Loan after all advances of principal, which insures that the mortgage or deed of trust securing the Loan (the "**Security Instrument**") is a valid first priority lien on the Property, subject only to the exceptions stated therein. The Title Policy contains no exclusion for, or it affirmatively insures (unless the related Property is located in a jurisdiction where such affirmative insurance is not available), the following: (a) access to a public road; (b) the area shown on a current survey is the same as the property legally described in the Security Instrument, and (c) there are no delinquent taxes or assessments affecting any Property which are or may become a lien of priority equal to or higher than the lien of the Security Instrument.
3. Inspection of Property. Assignor (or if Assignor is not the originator, the originator of the Loan) has inspected or caused to be inspected the Property in connection with the origination of the related Loan.
4. Insurance. The Loan Documents require that the Property be insured by insurance customary for similar commercial loans, and Assignor is named as additional insured.
5. Environmental Conditions. An environmental site assessment (or an update of a previous assessment) was performed by an independent third party environmental consultant with respect to the Property in connection with the origination of the Loan (an "**Environmental Report**"). Other than what is set forth in the Environmental Report and in the Loan Documents, Assignor is not aware of any other material and adverse environmental conditions or circumstances affecting the Property.
6. Borrower Bankruptcy. To Assignor's knowledge, neither Borrower nor any non-recourse carve-out guarantor, is a debtor in any voluntary or involuntary state or federal bankruptcy or insolvency proceeding.
7. ERISA. Based on Borrower's representations and warranties, none of Borrower or its equity owners is an "employee benefit plan" as defined in ERISA, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of ERISA.
8. U.S. Person and Property. Borrower is a United States Person organized under the laws of a state or commonwealth of the United States. The Property is located in a state or commonwealth of the United States, the District of Columbia or Puerto Rico.

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9. Embargoed Person. To Assignor's knowledge, with respect to the Loan, (a) none of the funds or other assets of Borrower and any principals and guarantors constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under U.S. law, including but not limited to, the USA Patriot Act of 2001, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder or any regulations promulgated by the Office of Foreign Loan Control of the US Department of the Treasury with the result that the investment in mezzanine borrower, principal or guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by the Lender is in violation of law ("**Embargoed Person**"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower or any principal or guarantor, as applicable, with the result that the investment in Borrower is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower or any principal or guarantor, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower or any principal or guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Security Instrument or Loan is in violation of law.