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This document was prepared by,
and after recording, return to:

Eugene S. Kraus, Esq.
Scott & Kraus, LLC
150 S. Wacker Drive, Suite 2900
Chicago, IL 60606

Property Addresses:
833-835 Lake Street
Oak Park, Illinois 60301

822 North Boulevard
Oak Park, Illinois 60301

Parcel Identification Numbers:
16-07-129-013-0000
16-07-129-014-0000
16-07-129-020-0000



Doc# 2213157017 Fee \$88.00

CHSP FEE: \$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 05/11/2022 10:10 AM PG: 1 OF 13

This space reserved for Recorder's use only.

RECOGNITION AND NON-DISTURBANCE AGREEMENT

This **RECOGNITION AND NON-DISTURBANCE AGREEMENT** (this "**Agreement**") is made and entered into as of the 5th day of May, 2022, by and among **OAK PARK II LAND, LLC**, a Delaware limited liability company ("**Landlord**"), **OAK PARK LAND II, LLC**, a Delaware limited liability company ("**Tenant**"), and **PARKWAY BANK AND TRUST COMPANY**, an Illinois state chartered banking institution ("**Tenant Lender**").

WITNESSETH:

A. Landlord is the fee simple owner of certain real property commonly known as 833-835 Lake Street, Oak Park, Illinois 60301 and 822 North Boulevard, Oak Park, Illinois 60301 more particularly described on **Exhibit "A-1"** attached hereto and made a part hereof (the "**Fee Estate**").

B. Landlord and Tenant entered into that certain Ground Lease Agreement dated as of January 14, 2021, as amended by that certain First Amendment to Ground Lease Agreement dated as of even date herewith (together, the "**Ground Lease**"), the terms of which are incorporated herein by this reference, whereby Landlord and Tenant agreed that Tenant would lease the real property commonly known as 833-835 Lake Street, Oak Park, Illinois 60301 and 822 North Boulevard, Oak Park, Illinois 60301 as more particularly described on **Exhibit "A-2"** attached hereto and made a part hereof (the "**Leasehold Estate**") from Landlord for a period of twenty-nine (29) years. The material terms of the Ground Lease were memorialized in that certain Memorandum of Ground Lease dated as of January 14, 2021, and recorded on January 22, 2021 with the Cook County Clerk as Document No. 2102241008, as amended by that certain Partial

CS #12201259LD 7 of 7 CSC

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Release and Amendment of Memorandum of Ground Lease dated as of even date herewith.

C. Subject to the terms and conditions of the Tenant Loan Documents (as defined below) and the parties execution and delivery of this Agreement, Tenant Lender has agreed to make a construction loan (together with all renewals, amendments, modifications, increases, decreases and/or extensions thereof, the "Tenant Loan") to Tenant in an amount not to exceed Twenty-Three Million Six Hundred Seventy-Eight Thousand Two Hundred and No/100 Dollars (\$23,678,200.00) pursuant to that certain Construction Loan Agreement of even date herewith by and between Tenant and Tenant Lender (as amended, restated, supplemented or otherwise modified from time to time, the "Tenant Loan Agreement"). The Construction Loan is evidenced by that certain Promissory Note dated as of even date herewith in the principal amount of Twenty-Three Million Six Hundred Seventy-Eight Thousand Two Hundred and No/100 Dollars (\$23,678,200.00) made by Tenant in favor of Tenant Lender (together with all modifications, supplements, amendments, restatements or extensions thereto or thereof, the "Tenant Note").

D. The Tenant Loan will be secured by, *inter alia*, that certain Construction Leasehold Mortgage, Security Agreement, Fixture Filing and Assignment of Leases and Rents dated as of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Tenant Mortgage") made by Tenant in favor of Tenant Lender and encumbering the Leasehold Estate. The Tenant Note, Tenant Mortgage and all of the other Loan Documents (as defined in the Tenant Loan Agreement), each as amended, restated, supplemented or otherwise modified from time to time, are referred to herein as the "Tenant Loan Documents".

E. As a condition precedent to Tenant Lender extending the Tenant Loan to Tenant, Tenant Lender has required that the parties hereto execute and deliver to Tenant Lender this Agreement, the intent of which is to set forth the relative priorities of each party's interests in the Fee Estate, the Leasehold Estate and the Ground Lease.

F. Any capitalized term not otherwise defined herein shall have the meaning ascribed thereto in the Tenant Mortgage.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration; the receipt and sufficiency of which is hereby acknowledged, the parties do hereby covenant and agree as follows:

1. Landlord certifies, represents and warrants to Tenant Lender and Tenant as follows as of the date of this Agreement:

(a) Landlord holds fee title to the Fee Estate subject only to the Ground Lease and the Permitted Encumbrances.

(b) The Ground Lease (i) constitutes the entire rental agreement between Landlord and Tenant with respect to the Leasehold Estate, (ii) has not been amended, modified or supplemented, except as set forth in the recitals to this Agreement, and (iii) has not been superseded. There are no oral agreements between Landlord and Tenant with respect to the Leasehold Estate.

(c) The Ground Lease is in full force and effect and constitutes a binding and

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enforceable obligation of Landlord.

(d) To Landlord's knowledge after due inquiry, no default exists on the part of Landlord or Tenant under the Ground Lease, nor does any circumstance currently exist that, but for the giving of notice or the passage of time, or both, would be such a default.

(e) Tenant Lender will rely on the certifications, representations and warranties made by Landlord in this **Paragraph 1** and Landlord agrees that Tenant Lender and Tenant may so rely on such certifications, representations and warranties.

2. Tenant certifies, represents and warrants to Landlord and Tenant Lender as follows as of the date of this Agreement:

(a) Tenant holds a leasehold interest in and to the Leasehold Estate subject only to the Permitted Exceptions.

(b) The Ground Lease (i) constitutes the entire rental agreement between Landlord and Tenant with respect to the Leasehold Estate, (ii) has not been amended, modified or supplemented, except as set forth in the recitals to this Agreement, and (iii) has not been superseded. There are no oral agreements between Landlord and Tenant with respect to the Leasehold Estate.

(c) The Ground Lease is in full force and effect and constitutes a binding and enforceable obligation of Tenant.

(d) No default exists on the part of Landlord or Tenant under the Ground Lease, nor does any circumstance currently exist that, but for the giving of notice or the passage of time, or both, would be such a default.

(e) Tenant Lender will rely on the certifications, representations and warranties made by Tenant in this **Paragraph 2** and Tenant agrees that Tenant Lender and Landlord may so rely on such certifications, representations and warranties.

3. Landlord hereby consents to the execution, delivery, performance and recording by Tenant of the Tenant Mortgage and to the lien of Tenant Lender on the Leasehold Estate. Landlord further agrees that it will recognize Tenant Lender and any party claiming by, through or under Tenant Lender, including, without limitation any purchaser at a foreclosure sale (each, a "**Tenant Successor Party**"), as Tenant under the Ground Lease so long as Tenant Lender or such Tenant Successor Party succeeds to Tenant's leasehold interest under the Ground Lease in consequence of Tenant Lender's exercise of its remedies under the Tenant Mortgage or any of the other Tenant Loan Documents, including, by foreclosure or deed or assignment in lieu of foreclosure.

4. By executing this Agreement, Landlord agrees that if Tenant Lender or a Tenant Successor Party succeeds to the interest of Tenant under the Ground Lease in accordance with the terms of this Agreement and the Tenant Loan Documents, (a) Tenant Lender or such Tenant Successor Party shall have all of the benefits and assume all of the obligations of the Tenant under the Ground Lease, and (b) the rights of Landlord shall not be disturbed, affected or impaired, nor will the Ground Lease or the terms thereof be terminated or otherwise materially affected by (i)

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any suit, action or proceeding for the foreclosure of the Tenant Mortgage or the enforcement of any rights under the Tenant Mortgage or the other Tenant Loan Documents, or by any judicial sale or execution or other sale of the Leasehold Estate, or any deed given in lieu of foreclosure, or (ii) any default under the Tenant Mortgage or the other Tenant Loan Documents. Notwithstanding anything to the contrary contained herein, Tenant Lender and any Tenant Successor Party shall not violate any provisions set forth in the Ground Lease. For the avoidance of doubt, if Tenant Lender or any Tenant Successor Party succeeds to the interest of Tenant in the Ground Lease in accordance with the terms of this Agreement, Tenant Lender or such Tenant Successor Party shall be bound by and subject to all of the terms and provisions of the Ground Lease. Nothing contained herein shall amend, modify or alter any of the terms, conditions, obligations or covenants under the Ground Lease.

5. Tenant Lender agrees that the Tenant Mortgage shall be subject to all of the terms of the Ground Lease, including any amendments thereto (provided that Tenant Lender provides its prior written consent to any such amendments), and shall be subordinate to the rights of Landlord's interest in the Fee Estate, and the Tenant Mortgage shall not extend to or affect the Fee Estate in any manner. The Tenant Mortgage shall be a lien solely on the rights of Tenant's interest in the Leasehold Estate. The terms of this Paragraph shall be self-operative without any further action of the parties, provided that Tenant and Tenant Lender agree to execute such further subordination agreements or similar commercially reasonable documents reasonably requested by Landlord.

6. Landlord agrees that it shall not execute any mortgage or other encumbrance on the Fee Estate (other than a mortgage in favor of Tenant Lender) unless the mortgagee thereunder delivers to Tenant Lender a Recognition and Non-Disturbance Agreement executed by said mortgagee which agreement shall be substantially in the form of this Agreement.

7. This Agreement shall be deemed a written notice under Article 9(a)(i) of the Ground Lease and Landlord agrees that Tenant Lender will have all the rights of a "Leasehold Mortgagee", as such term is defined in the Ground Lease, including, without limitation, the rights set forth in Article 9 of the Ground Lease. The Ground Lease shall not be amended without Tenant Lender's written consent.

8. Landlord represents and warrants to the Tenant Lender that to Landlord's knowledge after due inquiry the Tenant has complied with all obligations currently owed to the Landlord by the Tenant, including without limitation the payment of all rent as and when due.

9. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

10. All notices, demands or documents which are required or permitted to be given or served hereunder shall be in writing and shall be deemed given or served when sent by registered or certified mail, return receipt requested, postage prepaid, or by commercial overnight delivery service, or by personal delivery addressed as follows:

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To Landlord: Oak Park II Land, LLC
 c/o Wirtz Realty Corporation
 680 North Lake Shore Drive, Suite 1900
 Chicago, Illinois 60611
 Attention: Senior Vice President

With a copy to: Gozdecki, Del Giudice, Americus, Farkas &
 Brocato LLP
 One East Wacker Drive, Suite 1700
 Chicago, Illinois 60601
 Attention: Meghan E. White, Esq.

To Tenant: Oak Park Land II, LLC
 c/o Michigan Avenue Real Estate Group
 1259 West Madison Street
 Chicago, Illinois 60607
 Attention: Tom Meador

With a copy to: Greenberg Traurig, LLP
 77 West Wacker Drive, Suite 3100
 Chicago, Illinois 60601
 Attention: Andrew N. Hamm, Esq.

To Tenant Lender: Parkway Bank and Trust Company
 4800 North Harlem Avenue
 Harwood Heights, Illinois 60706
 Attention: Greg Bear

With a copy to: Scott & Kraus, LLC
 150 South Wacker Drive, Suite 2900
 Chicago, Illinois 60606
 Attention: Eugene S. Kraus, Esq.

11. Anything in the Ground Lease to the contrary notwithstanding, the parties hereto agree that this Agreement shall constitute sufficient notice to Landlord of the execution by Tenant of a Leasehold Mortgage pursuant to Section 9(a)(i) of the Ground Lease.

12. This Agreement shall be governed by the laws of the State of Illinois. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

[Remainder of Page Intentionally Left Blank—Signature Pages Follow]

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IN WITNESS WHEREOF, the parties hereto have executed this Recognition and Non-Disturbance Agreement the day and year first above written.

LANDLORD:

OAK PARK II LAND, LLC, a Delaware limited liability company

By: James English
Name: James English
Title: Authorized Officer

TENANT:

OAK PARK LAND II, LLC, a Delaware limited liability company

By: _____
Name: Thomas E. Meador
Title: Authorized Signatory

TENANT LENDER:

PARKWAY BANK AND TRUST COMPANY, an Illinois state chartered banking institution

By: _____
Name: _____
Title: _____

[Notary pages follow]

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IN WITNESS WHEREOF, the parties hereto have executed this Recognition and Non-Disturbance Agreement the day and year first above written.

LANDLORD:

OAK PARK II LAND, LLC, a Delaware limited liability company

By: _____
Name: James English
Title: Authorized Officer

TENANT:

OAK PARK LAND II, LLC, a Delaware limited liability company

By: Thomas E. Meador
Name: Thomas E. Meador
Title: Authorized Signatory

TENANT LENDER:

PARKWAY BANK AND TRUST COMPANY, an Illinois state chartered banking institution

By: _____
Name: _____
Title: _____

[Notary pages follow]

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IN WITNESS WHEREOF, the parties hereto have executed this Recognition and Non-Disturbance Agreement the day and year first above written.

LANDLORD:

OAK PARK II LAND, LLC, a Delaware limited liability company

By: _____
Name: James English
Title: Authorized Officer


TENANT:

OAK PARK LAND II, LLC, a Delaware limited liability company

By: _____
Name: Thomas E. Meador
Title: Authorized Signatory

TENANT LENDER:

PARKWAY BANK AND TRUST COMPANY, an Illinois state chartered banking institution

By: 
Name: **David F. Hyde**
Title: **Vice President**

[Notary pages follow]

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that James English, the Authorized Officer of **OAK PARK II LAND, LLC**, a Delaware limited liability company, who is 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 said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of APRIL, 2022.



Cynthia E. Krch
Notary Public

My Commission Expires:

08/23/2023

STATE OF _____)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas E. Meador, the Authorized Signatory of **OAK PARK LAND II, LLC**, a Delaware limited liability company, who is 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 said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2022.

Notary Public

My Commission Expires:

UNOFFICIAL COPY

STATE OF _____)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that James English, the Authorized Officer of **OAK PARK II LAND, LLC**, a Delaware limited liability company, who is 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 said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2022.

Notary Public

My Commission Expires:

STATE OF Illinois)
) SS.
COUNTY OF Cook)

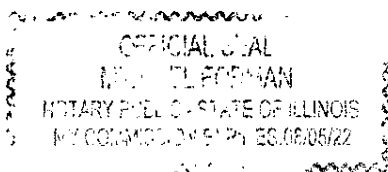
The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas E. Meador, the Authorized Signatory of **OAK PARK LAND II, LLC**, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the 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 said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2 day of May, 2022.

Michael [Signature]
Notary Public

My Commission Expires:

0/5/22

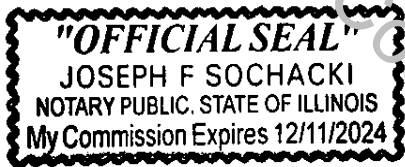


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STATE OF Illinois)
) SS.
COUNTY OF Cook)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that David Hyde, the Vice President of PARKWAY BANK AND TRUST COMPANY, an Illinois state chartered banking institution, who is 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 said company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 26th day of April, 2022.



Joseph F. Sochacki
Notary Public
My Commission Expires:
12 / 11 / 2024

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EXHIBIT "A-1"

LEGAL DESCRIPTION OF FEE ESTATE

Parcel 1:

Lot 6 (except the East Half thereof), all of Lots 7 and 8 and Lot 9 (except the West 15 feet of Lot 9) in Holley and Smith's Subdivision of Lot 18 and of Sub Lots 1 and 2 in Scoville's Subdivision of Lot 17 in Kettlestring's Subdivision of Land in the Southeast Corner of the Northwest Quarter of Section 7, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

Lot 17 in Holley and Smith's Subdivision of Lot 18 and Lots 1 and 2 in J.W. Scovilles Subdivision of Lot 17 in Kettlestrings Subdivision of Land in Southeast Corner of the Northwest 1/4 of Section 7, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Property Addresses:

833-835 Lake Street
Oak Park, Illinois 60301

822 North Boulevard
Oak Park, Illinois 60301

Parcel Identification Numbers:

16-07-129-013-0000
16-07-129-014-0000
16-07-129-020-0000

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EXHIBIT "A-2"

LEGAL DESCRIPTION OF LEASEHOLD ESTATE

The leasehold estate, created by the instrument herein referred to as the lease, executed by Oak Park II Land, LLC, a Delaware limited liability company, as lessor, and Oak Park Land II, LLC, a Delaware limited liability company, as lessee, dated January 14, 2021, which a Memorandum of Ground Lease was recorded January 22, 2021 as document no. 2102241008, as amended by that certain Partial Release and Amendment of Memorandum of Ground Lease dated May 5, 2022, which lease demises the following described land.

Parcel 1:

Lot 6 (except the East Half thereof), all of Lots 7 and 8 and Lot 9 (except the West 15 feet of Lot 9) in Holley and Smith's Subdivision of Lot 18 and of Sub Lots 1 and 2 in Scoville's Subdivision of Lot 17 in Kettlestring's Subdivision of Land in the Southeast Corner of the Northwest Quarter of Section 7, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

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