

UNOFFICIAL COPY

Doc#: 2230842118 Fee: \$98.00

Karen A. Yarbrough

Cook County Clerk

Date: 11/04/2022 11:29 AM Pg: 1 of 10

THIS INSTRUMENT PREPARED
BY AND AFTER RECORDING
MAIL TO:

Clark Hill PLC
Attn: Chad M. Poznansky, Esq.
130 E. Randolph Street, Suite 3900
Chicago, Illinois 60601

2025 Tonne Road, Elk Grove
Village, IL 60007 and 625 Pratt
Blvd., Elk Grove Village, IL
60007

Tax PINS: 08-34-307-002-0000,
08-34-300-049-0000 and 08-34-
300-050-0000

NINTH AMENDMENT TO MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING

THIS NINTH AMENDMENT TO MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (this "Amendment") is entered into as of the 28th day of October, 2022 by RIVERPOINT PROPERTY TRUST, LLC, a Delaware limited liability company, doing business as Riverpoint Property, LLC (the "Mortgagor"), which has its chief executive office located at 2111 Pratt Boulevard, Elk Grove Village, Illinois 60007, in favor of OLD NATIONAL BANK, successor by merger to FIRST MIDWEST BANK ("Mortgagee"), whose address is 180 North LaSalle Street, Chicago, Illinois 60601.

WITNESSETH:

WHEREAS, Mortgagee previously made certain loans to Mortgagor, in the original principal amount of Two Million Six Hundred Eighty Thousand Hundred and 00/100 Dollars (\$2,680,000.00), pursuant to that certain Mortgage Note dated as of December 14, 2015, executed by Mortgagor in favor of Mortgagee (as amended, restated or modified from time to time, together with all substitutions thereof, the "Mortgage Note").

WHEREAS, KLC Global Services, Ltd, an Illinois corporation ("KLC"), M3 North America, LLC, an Illinois limited liability company ("M3"), and O'Hare Cold, Co., an Illinois

UNOFFICIAL COPY

corporation ("O'Hare"), previously entered into that certain Loan and Security Agreement dated as of May 31, 2012, as amended (collectively, the "Original Loan Agreement") with Mortgagee, pursuant to which Mortgagee agreed to make loans to KLC, M3 and O'Hare;

WHEREAS, Mortgagor, KLC, M3, and O'Hare (collectively, the "Affiliated Borrowers"), subsequently entered into that certain Amended and Restated Loan and Security Agreement dated as of December 7, 2017 (the "Restated Loan Agreement") which amended and restated the Original Loan Agreement with Mortgagee, pursuant to which Mortgagee agreed to make loans to the Affiliated Borrowers;

WHEREAS, Affiliated Borrowers and Riverport Empire, LLC, an Illinois limited liability company ("Empire", together with the Affiliated Borrowers, the "Original Borrowers") subsequently entered into that certain First Amendment to that certain Amended and Restated Loan and Security Agreement dated as of May 14, 2018 (the "First Amendment"), that certain Second Amendment to Amended and Restated Loan and Security Agreement dated May 29, 2019 among the Original Borrowers and the Mortgagee (the "Second Amendment"), that certain Third Amendment to Amended and Restated Loan and Security Agreement dated as of May 1, 2020 among the Original Borrowers and the Mortgagee (the "Third Amendment"), and that certain Forbearance Agreement and Fourth Amendment to Amended and Restated Loan and Security Agreement dated as of September 15, 2020 effective as of August 17, 2020 among the Original Borrowers and the Mortgagee (the "Fourth Amendment;" the Restated Loan Agreement, as amended by the First Amendment, Second Amendment, Third Amendment and Fourth Amendment, is hereinafter referred to as the "Amended and Restated Loan Agreement"), pursuant to which the Mortgagee agreed to make loans to the Original Borrowers;

WHEREAS, Original Borrowers, KLC Brokerage, Incorporated, an Illinois corporation ("KLC Brokerage") and Runway 3 Leasing, LLC, an Illinois liability company ("Runway 3 Leasing") entered into that certain Second Amended and Restated Loan and Security Agreement dated as of December 17, 2020, as amended by that certain as amended by that certain First Amendment to Second Amended and Restated Loan Agreement dated as of March 18, 2021, as amended by that certain Second Amendment to Second Amended and Restated Loan Agreement dated as of October 7, 2021 (collectively, "Second Amended and Restated Loan Agreement"), pursuant to which the Mortgagee agreed to make loans to the Original Borrowers, KLC Brokerage and Runway 3 Leasing;

WHEREAS, the Original Borrowers, KLC Brokerage, Runway 3 Leasing and BRATT CAPITAL PARTNERS, LLC SERIES 2001, an Illinois series limited liability company ("Bratt" and together with the Original Borrowers, KLC Brokerage and Runway 3 Leasing, the "Borrowers") entered into that certain Third Amended and Restated Loan and Security Agreement dated as of December 17, 2021 (the "Existing Loan Agreement"), pursuant to which the Mortgagee agreed to make loans to the Borrowers;

WHEREAS, pursuant to the terms of the Mortgage Note, Mortgagor executed in favor of Mortgagee that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 14, 2015 which was recorded with the Recorder of Deeds of Cook County, Illinois on December 14, 2015 as Document Number 1534850058, as amended by that certain First Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement

UNOFFICIAL COPY

and Fixture Filing dated as of June 20, 2016, which was recorded with the Recorder of Deeds of Cook County, Illinois on January 10, 2017 as Document Number 1701915102, that certain Second Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 23, 2016, which was recorded with the Recorder of Deeds of Cook County, Illinois on January 10, 2017 as Document Number 1701015103, and that certain Third Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of November 3, 2017 which was recorded with the Recorder of Deeds of Cook County on November 8, 2017 as Document Number 1731229065, and that certain Fourth Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 7, 2017, which was recorded with the Recorder of Deeds of Cook County on February 26, 2018 as Document Number 1805749043, and that certain Fifth Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of May 14, 2018, which was recorded with the Recorder of Deeds of Cook County on June 22, 2018 as Document Number 1817313043, that certain Sixth Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of May 31, 2019, which was recorded with the Recorder of Deeds of Cook County on June 21, 2019 as Document Number 1917233142 and that certain Seventh Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 17, 2020, which was recorded with the Recorder of Deeds of Cook County on January 20, 2021 as Document Number 2102001171 and that certain Eighth Amendment to Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of December 17, 2021, which was recorded with the Cook County Clerk, Recordings Division on December 27, 2021 as Document Number 2136133534 (collectively, the "Mortgage"), whereby Mortgagor mortgaged and warranted unto Mortgagee, its successors and assigns, among other things, the real estate located at 2025 Tonne Road, Elk Grove Village, IL 60007 and 625 Pratt Blvd., Elk Grove Village, IL 60007 as legally described on Exhibit A attached hereto (collectively, the "Premises"), and all of its estate, right, title and interest therein situated, lying and being in the County of Cook and State of Illinois;

WHEREAS, the Borrowers have agreed to enter into that certain Amendment to Third Amended and Restated Loan and Security Agreement as of even date herewith (the "Loan Agreement"), which Loan Agreement shall amend, restate and replace the Existing Loan Agreement in its entirety, pursuant to which the Mortgagee has agreed to, among other items, modify certain loans to the Borrowers under the Loan Agreement; and

WHEREAS, as a condition to entering into the Loan Agreement, the Mortgagee requires and Mortgagor has agreed to enter into this Amendment.

NOW, THEREFORE, for and in consideration of the premises and mutual agreements herein contained and for the purposes of setting forth the terms and conditions of this Amendment, the parties, intending to be bound, hereby agree as follows:

1. Incorporation of the Mortgage. All capitalized terms which are not defined hereunder shall have the same meanings as set forth in the Mortgage, and the Mortgage to the extent not inconsistent with this Amendment is incorporated herein by this reference as though the same were set forth in its entirety. To the extent any terms and provisions of the Mortgage are inconsistent with the amendments set forth in paragraph 2 below, such terms and provisions shall

UNOFFICIAL COPY

be deemed superseded hereby. Except as specifically set forth herein, the Mortgage shall remain in full force and effect and its provisions shall be binding on the parties hereto.

2. Amendment of the Mortgage.

(a) Recitals A and B and the first granting paragraph to the Mortgage are hereby amended and restated to read as follows:

“A. Mortgagee has made a certain loan (the “Mortgage Loan”) to Mortgagor pursuant to that certain Mortgage Note dated as of December 14, 2015 executed by Mortgagor in favor of Mortgagee (collectively, as amended, restated or modified from time to time, together with all substitutions thereof, the “Mortgage Note”); Mortgagee has made a certain loan (the “Additional Mortgage Loan”) to Mortgagor pursuant to that certain Mortgage Note dated as of April 10, 2015 (collectively, as amended, restated or modified from time to time, together with all substitutions thereof, the “Additional Mortgage Note”); Mortgagee has made certain loans (the “Affiliate Loans”, together with the Mortgage Loan and the Additional Mortgage Loan, the “Original Loans”) to Mortgagor, KLC Global Services, Ltd, an Illinois corporation (“KLC”), O’Hare Cold, Co., an Illinois corporation (“O’Hare”), M3 North America, LLC, an Illinois limited liability company (“M3”), Riverport Empire, LLC, an Illinois limited liability company (“Empire,” and, together with Mortgagor, KLC, O’Hare and M3, the “Original Borrowers”), pursuant to that certain Amended and Restated Loan and Security Agreement dated as of December 7, 2017, by and among Original Borrowers and Mortgagee as amended by that certain First Amendment to Amended and Restated Loan and Security Agreement dated May 14, 2018 among the Original Borrowers and the Mortgagee, that certain Second Amendment to Amended and Restated Loan and Security Agreement dated May 29, 2019 among the Original Borrowers and the Mortgagee, that certain Third Amendment to Amended and Restated Loan and Security Agreement dated as of May 1, 2020 among the Original Borrowers and the Mortgagee, and that certain Forbearance Agreement and Fourth Amendment to Amended and Restated Loan and Security Agreement dated as of August 17, 2020 among the Original Borrowers and the Mortgagee (as amended, the “Amended and Restated Loan Agreement”). The Original Borrowers, KLC Brokerage, Incorporated, an Illinois corporation (“KLC Brokerage”), and Runway 3 Leasing, LLC, a Delaware limited liability company (“Runway 3 Leasing”) entered into that certain Second Amended and Restated Loan and Security Agreement dated as of December 17, 2020, as amended by that certain as amended by that certain First Amendment to Second Amended and Restated Loan Agreement dated as of March 18, 2021, as amended by that

UNOFFICIAL COPY

certain Second Amendment to Second Amended and Restated Loan Agreement dated as of October 7, 2021 (collectively, "Second Amended and Restated Loan Agreement"), pursuant to which the Mortgagee agreed to make loans to the Original Borrowers, KLC Brokerage and Runway 3 Leasing;

B. the Original Borrowers, KLC Brokerage, Runway 3 Leasing and BRATT CAPITAL PARTNERS, LLC SERIES 2001, an Illinois series limited liability company ("Bratt" and together with the Original Borrowers, KLC Brokerage and Runway 3 Leasing, the "Borrowers") and the Mortgagee entered into that certain Third Amended and Restated Loan and Security Agreement dated as of December 17, 2021 (the "Existing Loan Agreement") pursuant to which the Mortgagee agreed to make loans to the Borrowers;

C. The Existing Loan Agreement is being amended by that certain Amendment to Third Amended and Restated Loan and Security Agreement dated as of even date herewith (as amended, restated or modified from time to time, together with all substitutions thereof, the "Loan Agreement") among Borrowers and the Mortgagee, which loans are evidenced by: (i) in connection with a revolving loan, an Amended and Restated Revolving Note dated as of even date herewith in the maximum principal amount of Sixteen Million and 00/100 Dollars (\$16,000,000.00) (said note, with all allonges, amendments, supplements, modifications and replacements thereof, being sometimes referred to in this Mortgage as the "Real Estate Investment Revolving Note"); (ii) in connection with a revolving loan, a Third Amended and Restated Revolving Note dated December 17, 2021 in the maximum principal amount of Nine Million and 00/100 Dollars (\$9,000,000.00) (said note, with all allonges, amendments, supplements, modification and replacements thereof, being sometimes referred to in this Mortgage as the "Working Capital Revolving Note"); (iii) in connection with a term loan, an Amended and Restated Term Note dated as of even date herewith in the original principal amount of FOUR MILLION FIVE HUNDRED THIRTY-NINE THOUSAND FIVE HUNDRED TWENTY-SEVEN AND 32/100 DOLLARS (\$4,539,527.32) (said note, with all allonges, amendments, supplements, modifications and replacements thereof, being sometimes referred to in this Mortgage as the "Pratt Term Note"); and (iv) in connection with a term loan, an Omnibus Third Amended and Restated Note dated as of even date herewith in the original principal amount of EIGHT MILLION FOUR HUNDRED SEVENTY-SIX THOUSAND NINE HUNDRED SIXTY-SIX and 24/100 DOLLARS (\$8,476,966.24) (said note, with all allonges, amendments, supplements, modifications and replacements thereof,

UNOFFICIAL COPY

being sometimes referred to in this Mortgage as the “Term Note”); (the Real Estate Investment Revolving Note, the Working Capital Revolving Note, the Pratt Term Note, and the Term Note, collectively, are sometimes referred to in this Mortgage as the “Notes”). The terms and provisions of the Notes and Loan Agreement are hereby incorporated by reference in this Mortgage. Capitalized terms used herein but not otherwise defined shall have the meanings given to such terms in the Notes and Loan Agreement.

NOW, THEREFORE, in consideration of the (i) revolving loan (the “Real Estate Investment Revolving Loan”) in the maximum principal amount of \$16,000,000.00 evidenced by the Real Estate Investment Revolving Note; (ii) revolving loan (the “Working Capital Revolving Loan”) in the maximum principal amount of \$9,000,000.00 evidenced by the Working Capital Revolving Note; (iii) term loan (the “Pratt Term Loan”) in the original principal amount of \$4,539,527.32 evidenced by the Pratt Term Note; and (iv) term loan (the “Term Loan”) in the original principal amount of \$8,476,966.24 evidenced by the Term Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure payment of the Real Estate Investment Revolving Loan, the Working Capital Revolving Loan, the Pratt Term Loan and the Term Loan (collectively, the “Loans”) including, but not limited to, payment of the principal of and interest on the Notes, and to secure the payment of any and all amounts required to be paid and the performance of all covenants, agreements and obligations, including without limitation interest, fees, costs, charges, expenses and other amounts accruing or incurred during a legal proceeding (collectively, the “Obligations”), required to be performed by this Mortgage and the other Loan Documents (as defined in the Loan Agreement), the Mortgagor does hereby MORTGAGE, CONVEY, GRANT, BARGAIN, REMISE, RELEASE, ASSIGN, TRANSFER AND WARRANT unto Mortgagee, its successors and assigns forever, and grant a security interest in, set over and deliver to Mortgagee the parcel of real estate described on Exhibit A attached hereto and all of its estate, right, title and interest therein (collectively, the “Real Estate”) situated, lying and being in the City of Elk Grove Village, County of Cook and State of Illinois, together with all of Mortgagor’s right, title and interest in and to the following described property now owned or hereinafter acquired (which property, together with the Real Estate, is collectively referred to as the “Premises”):”

(b) The references in Section 16 to maximum principal balance of “SEVENTY-TWO MILLION TWO HUNDRED THIRTY THOUSAND AND 00/100 DOLLARS

UNOFFICIAL COPY

(\$72,230,000.00)" shall be deleted and replaced with "SEVENTY-SIX MILLION THIRTY-TWO THOUSAND NINE HUNDRED EIGHTY-SEVEN AND 10/100 DOLLARS (\$76,032,987.10)".

3. Representations and Warranties. The representations, warranties and covenants set forth in the Mortgage shall be deemed remade and affirmed as of the date hereof by Mortgagor, except that any and all references to the Mortgage in such representations, warranties and covenants shall be deemed to include this Amendment.

4. Acknowledgment and Reaffirmation of the Validity and Enforceability of the Mortgage. Mortgagor expressly acknowledges and agrees that the Mortgage constitutes the legal, valid and binding obligation of Mortgagor enforceable in accordance with its terms by Mortgagee against Mortgagor and Mortgagor expressly reaffirms its obligations under the Mortgage (as amended by this Amendment after giving effect to the execution of any new Notes). Mortgagor further expressly acknowledges and agrees that Mortgagee has a valid, duly perfected, first priority and fully enforceable security interest in and lien against the Mortgaged Property therein as security for all Obligations Secured, as amended hereby, after giving effect to the execution of the Notes. Mortgagor agrees that it shall not dispute the validity or enforceability of the Mortgage or any of the other Loan Documents or any of its respective obligations thereunder, or the validity, priority, enforceability or extent of Mortgagee's security interest in or lien against any item of Mortgaged Property, in any judicial, administrative or other proceeding.

5. Relation Back. It is the intent of Mortgagor and Mortgagee that this Amendment will relate back to and be effective as if adopted on December 14, 2015.

6. Effectuation. The amendments to the Mortgage contemplated by this Amendment shall be deemed effective immediately upon the full execution of this Amendment and without any further action required by the parties hereto. There are no conditions precedent or subsequent to the effectiveness of this Amendment.

(Signature Page Follows)

UNOFFICIAL COPY

(Signature Page to Ninth Amendment to Mortgage)

IN WITNESS WHEREOF, Mortgagor has duly executed this Amendment as of the date first above written.

MORTGAGOR:

RIVERPOINT PROPERTY TRUST, LLC,
a Delaware limited liability company
transacting business under the assumed name
of Riverpoint Property, LLC

By: 

Name: Richard K. ...

Title: Riverpoint Manager

Property of Cook County Clerk's Office

UNOFFICIAL COPY

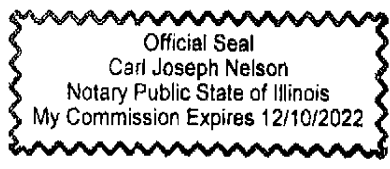
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Carl Nelson, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Michael Madey, the Manager of RIVERPOINT PROPERTY TRUST, LLC, a Delaware limited liability company transacting business under the assumed name of Riverpoint Property, LLC, 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, sealed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of the Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26 day of October, 2022.

Carl Joseph Nelson
Notary Public

My Commission Expires: 12/10/2022



*THIS INSTRUMENT WAS PREPARED
BY AND SHOULD BE RETURNED TO:*

Clark Hill PLC
Attn: Chad M. Poznansky, Esq.
130 E. Randolph Street, Suite 3900
Chicago, Illinois 60601

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOTS 1 AND 2 IN BERTHOLD SUBDIVISION IN THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1973 AS DOCUMENT 22476125, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 51 IN CENTEX INDUSTRIAL PARK UNIT NO. 26, BEING A SUBDIVISION IN SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Tax PINS: 08-34-307-002-0000, 08-34-300-049-0000 and 08-34-300-050-0000

Parcel 1: 2025 Tonne Road, Elk Grove Village, IL 60007

Parcel 2: 625 Pratt Blvd., Elk Grove Village, IL 60007