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KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 01/17/2023 03:44 PM PG: 1 OF 10

PTU - 79305

4/6

PROPERTY INDEX NUMBERS:

16-13-421-001-0000

16-13-421-017-0000

16-13-421-018-0000

16-13-422-001-0000

ADDRESS:

2747 West Taylor Street

Chicago, IL 60612

RECORDATION REQUESTED BY:

Wilmington Savings Fund Society, FSB

WSFS Bank Center

500 Delaware Avenue

Wilmington, DE 19801

WHEN RECORDED MAIL TO:

Wilmington Savings Fund Society, FSB

WSFS Bank Center

500 Delaware Avenue

Wilmington, DE 19801

SEND TAX NOTICES TO:

DFP Holdings III, LLC

One Penn Plaza

New York, NY 10019

THIS ASSIGNMENT PREPARED BY:

John C. Kuffel, Esquire (ACLAR)

Young Conaway Stargatt & Taylor, LLP

Rodney Square

1000 North King Street

Wilmington, DE 19801

COLLATERAL ASSIGNMENT OF AGREEMENTS AFFECTING REAL ESTATE

(Illinois)

THIS COLLATERAL ASSIGNMENT OF AGREEMENTS AFFECTING REAL ESTATE (this "Assignment") is made effective as of this 8th day of December, 2022, by DFP HOLDINGS III, LLC, a Delaware limited liability company (the "Borrower") to

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WILMINGTON SAVINGS FUND SOCIETY, FSB, a federal savings bank (the "Lender"), with an address at WSFS Bank Center, 500 Delaware Avenue, Wilmington, Delaware 19801.

RECITALS

Lender has made a certain commercial loan to Borrower in the principal amount of Four Million Seven Hundred Sixty Thousand and 00/100 Dollars (\$4,760,000.00) (the "Loan") pursuant to the terms of a Business Loan Agreement of even date herewith between Borrower and Lender (the "Loan Agreement").

Borrower has executed, acknowledged and delivered to Lender Borrower's Promissory Note of even date herewith payable to the order of Lender in the principal amount of Four Million Seven Hundred Sixty Thousand and 00/100 Dollars (\$4,760,000.00) evidencing the Loan (the "Note"). The Note and other obligations of Borrower in connection with the Loan are secured by (i) a Mortgage and Security of even date herewith from Borrower to Lender (the "IL Mortgage"), covering certain real property described in Exhibit "A" attached hereto and made a part hereof (the "IL Property"), and the improvements on the IL Property, and (ii) a Mortgage and Security Agreement of even date herewith from Delaware Freeport Holdings, LLC, a Delaware limited liability company to Lender (the "DE Mortgage") (the IL Mortgage and the DE Mortgage are hereinafter referred to collectively as the "Mortgage"), covering certain real property described therein (the "DE Property").

The repayment of the Loan, among other things, is guaranteed by certain parties named therein, each jointly and severally if more than one, pursuant to a Guaranty Agreement of even date herewith in favor of the Lender (the "Guaranty").

The Loan Agreement, Note, Mortgage, Guaranty, and any other documents executed or delivered in connection with the Loan are hereinafter referred to individually and collectively as the "Loan Documents."

As a condition to the making of the Loan by Lender to Borrower, Lender has requested that Borrower assign, and Borrower has agreed to assign, to Lender all of Borrower's rights under various Contracts, Permits and Warranties (defined below) affecting the IL Property from time-to-time, on the terms and conditions herein set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Borrower, intending to be legally bound, agrees as follows:

1. Assignment. Borrower hereby assigns, transfers and sets over unto Lender all of Borrower's right, title, interest and privileges that Borrower has or may have in all of the following that relate or pertain to the IL Property and improvements and buildings constructed or to be constructed thereon (collectively, the "Project"):

(a) All (i) contracts, subcontracts, agreements, service agreements,

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supply agreements, and purchase orders executed by or on behalf of Borrower before, on and after the date of this Assignment, or which have been or will hereafter be assigned to Borrower, as well as all promotional sales and/or marketing materials, products or documents in connection with development, construction, renovation or improvement (including but not limited to, offsite and/or reciprocal easements, ground leases and/or purchase and sale contracts, performance, surety or payment bonds, and/or construction and development contracts), agreements and commitments; and (ii) architects' and engineers' agreements, development agreements and management agreements, if any, and all plans and specifications prepared for Borrower with respect to the construction of buildings or other improvements. All of the foregoing contracts, agreements and other items and those referred to above in this Subparagraph (a) are hereinafter referred to individually and collectively as the "Contracts."

(b) All licenses, permits, approvals, certificates, development grants, and agreements with or from all boards, bodies, agencies, departments, authorities and commissions, whether governmental or quasi-governmental (hereinafter collectively referred to as "Governmental Authorities"), relating or pertaining directly or indirectly to ownership, use, operation, construction or maintenance, issued before, on and after the date of this Assignment (individually and collectively, the "Permits").

(c) All warranties, guarantees, and other rights of Borrower, direct and indirect, against manufacturers, dealers, suppliers, contractors and others in connection with the work done or to be done and the materials supplied or to be supplied (individually and collectively, the "Warranties").

2. Obligations Secured. This Assignment is made as separate and independent security for all of the following:

(a) The payment of the Note.

(b) The obligations, agreements and undertakings of Borrower under the Loan Documents.

(c) The obligations, agreements and undertakings of Borrower under any Interest Rate Swap Agreement, including all schedules thereto or confirmations thereof, entered into from time-to-time by Lender at Borrower's request or another counterparty approved by Lender (collectively, the "Swap Agreement").

3. No Waiver; Remedies Cumulative. The acceptance of this Assignment shall not constitute a waiver of any rights of Lender under any of the terms of the Loan Documents. The security provided hereby is intended to be of the same quality and significance as the security provided by the Mortgage, and all rights and remedies of Lender hereunder and under the Loan Documents are cumulative and concurrent and may be exercised singly, successively or concurrently, at the discretion of the Lender.

4. License Prior to Event of Default. Until Lender notifies Borrower or Borrower of:

(a) the occurrence of an "Event of Default" as defined in any of the

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Loan Documents; or

(b) a default in the covenants, terms of or conditions under this Assignment that is continuing uncured for more than thirty (30) days after written notice from Lender to Borrower of such default or, if such default cannot be reasonably cured within thirty (30) days, such longer period as is reasonably necessary to cure such default not to exceed ninety (90) days after such notice; or

(c) a default continuing beyond any applicable cure period under a Swap Agreement;

(hereinafter referred to collectively as an “Event of Default”), then Borrower may retain, use and enjoy the benefits of all of the Contracts, Permits and Warranties including, without limitation, the right to enforce, appeal or defend any of the same without in each case requiring the joinder of Lender. During the continuance of an Event of Default, Lender may enforce this Assignment by notifying Borrower at the address of Borrower in accordance with the “Notices” Section of the Loan Agreement. The affidavit or written statement of an officer, agent or attorney of Lender stating that there has been an Event of Default shall constitute prima facie evidence thereof and any contractor or other party to any of the Contracts or any of the Governmental Authorities is authorized and directed to rely thereon.

5. Remedies. During the occurrence of an Event of Default and after notice to Borrower, as specified in Section 11 of this Assignment, Lender may elect (but shall have no obligation) to exercise any and all of the Borrower's rights, remedies and privileges under one or more of the Contracts, Permits or Warranties, without any interference or objection from Borrower. Borrower shall lend its full cooperation to Lender in carrying out this Assignment. In connection with any and all of the foregoing powers, and without limiting the same, Lender may effect new Contracts, Permits and Warranties, cancel or surrender existing Contracts, Permits and Warranties, alter and amend the terms of and renew existing Contracts and Permits, and make concessions to Governmental Authorities and other parties to the Contracts and warrantors. Borrower hereby releases any and all claims which it has or might have against Lender arising out of any such action by Lender.

6. No Assumption by Lender; Indemnification. Lender will not be deemed in any manner to have assumed any liabilities or obligations relating to any of the Contracts or Permits, nor shall Lender be liable to Governmental Authorities or Contractors or other parties to any Contract by reason of any default by Borrower or any party under the Contracts or Permits. Borrower agrees to indemnify and to hold Lender harmless of and from any and all liability, loss or damage which it may or might incur by reason of any claims or demands against it based on its alleged assumption of Borrower's duty and obligation to perform and discharge the terms, covenants and agreements in any Permits, Contracts and Warranties, except to the extent such loss, liability or damage is caused in whole or in part by the gross negligence or willful misconduct of Lender.

7. Lender's Consent Required. From and after the date hereof, no Contract or Permit may be materially altered, amended or canceled by Borrower without the prior written consent of Lender, which consent shall not be unreasonably withheld, and no Contract with

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respect to the Project having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00) shall be entered into by Borrower without giving Lender prior notice thereof.

8. Liberal Construction; Advances by Lender. All of the foregoing powers herein granted to Lender shall be liberally construed. Lender need not expend its own funds in the exercise of such powers, but if it does, such amounts shall be considered as advances for and on behalf of Borrower secured by this Assignment and also secured by the Loan Documents, and shall bear interest at the Default Rate set forth in the Note from the respective dates of any such advances to the date of repayment in full.

9. Covenant to Perform. Borrower agrees faithfully to observe and perform in all material respects all of the obligations and agreements imposed upon Borrower under the Contracts and Permits.

10. No Waiver; Mortgagee in Possession; Joint Venture. Nothing herein contained shall be construed as making Lender a mortgagee in possession, or as constituting a waiver or suspension by Lender of its right to enforce payment of the debts under the terms of the Loan Documents. Lender is not and shall not be deemed the agent, partner or joint venturer of the Borrower.

11. Notices. Notices required hereunder to Borrower shall be sent to Borrower's address, and otherwise shall be sent in the manner and at the address required for notices as set forth in the Loan Agreement.

12. Termination of Assignment. The repayment in full of the Note and the full performance of the obligations of Borrower under the Note, Mortgage, and other Loan Documents and the Swap Agreement shall render this Assignment as automatically void. The duly recorded satisfaction of the Mortgage shall render this Assignment automatically void without further force or effect.

13. Successors and Assigns. This Assignment applies to and binds the parties hereto and their respective successors and assigns, as well as any subsequent owner of the Project described herein and any successor to or assignee of Lender; and the word "Borrower" whenever occurring herein shall be deemed and construed to include the Borrower, and its successors and assigns.

14. Copies Furnished. Borrower shall, within ten (10) days of any written request by Lender, furnish Lender with a complete list of all Contracts, Permits and Warranties entered into or obtained by Borrower and deliver to Lender executed or certified copies of all Contracts, Permits and Warranties and other written agreements, correspondence and memoranda between Borrower and contractors or Governmental Authorities setting forth the contractual arrangements between them. To the extent that Borrower does not have executed or certified copies of the foregoing in its possession, it shall deliver copies of those of the foregoing which are in its possession, with a certification that to the best of its knowledge and belief, the documents actually delivered are true and correct copies of the aforesaid original documents. Lender's requests pursuant to this Section 14 may be made at any time.

15. Jurisdiction. SUBJECT TO ANY APPLICABLE RULE OF CIVIL

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PROCEDURE TO THE CONTRARY, IN ANY LEGAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER ARISING OUT OF OR RELATED TO THIS ASSIGNMENT OR THE RELATIONSHIP EVIDENCED HEREBY, BORROWER HEREBY IRREVOCABLY SUBMITS TO THE NONEXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN ANY COUNTY IN THE STATE OF DELAWARE AND AGREES NOT TO RAISE ANY OBJECTION TO SUCH JURISDICTION OR TO THE LAYING OR MAINTAINING OF THE VENUE OF ANY SUCH PROCEEDING IN SUCH COUNTY. BORROWER AGREES THAT SERVICE OF PROCESS IN ANY SUCH PROCEEDING MAY BE DULY EFFECTED UPON IT BY MAILING A COPY THEREOF, BY REGISTERED MAIL, POSTAGE PREPAID, TO BORROWER.

16. **Waiver of Jury Trial.** BORROWER AND LENDER HEREBY WAIVE TRIAL BY JURY IN ANY LEGAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF OR RELATED TO THIS ASSIGNMENT OR ANY OTHER LOAN DOCUMENT OR THE RELATIONSHIP EVIDENCED HEREBY OR THEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER TO ENTER INTO, ACCEPT OR RELY UPON THIS ASSIGNMENT.

17. **Waiver of Punitive Damages.** BORROWER WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER, IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY EXEMPLARY, PUNITIVE, OR OTHER DAMAGES IN CONNECTION WITH THE LOAN OTHER THAN, OR IN ADDITION TO, COMPENSATORY DAMAGES. BORROWER ACKNOWLEDGES AND AGREES THAT THIS SECTION IS A SPECIFIC AND MATERIAL ASPECT OF THIS ASSIGNMENT AND THAT LENDER WOULD NOT EXTEND CREDIT TO BORROWER IF THE WAIVERS SET FORTH IN THIS SECTION WERE NOT A PART OF THIS ASSIGNMENT.

LENDER WAIVES ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER, IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES IN CONNECTION WITH THE LOAN OTHER THAN, OR IN ADDITION TO, COMPENSATORY DAMAGES, PROVIDED THAT, NOTWITHSTANDING THE FOREGOING, NOTHING SHALL PREVENT LENDER FROM RECOVERING SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES SOLELY TO THE EXTENT OF A THIRD PARTY CLAIM PURSUANT TO WHICH LENDER IS REQUIRED TO PAY SUCH SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES TO SUCH THIRD PARTY IN CONNECTION WITH THE LOAN, UNLESS SAME RESULTS FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF LENDER.

18. **Governing Law.** Lender is a Delaware resident entity. This Assignment is being executed and delivered in the State of Delaware and shall be construed, governed and enforced in accordance with the laws in effect from time to time in the State of Delaware, except that at all times the provisions for the creation, validity, perfection, priority, and enforcement (including without limitation by way of foreclosure) perfection, priority, enforcement and

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foreclosure of the liens and security interests created hereunder shall be governed by and construed according to the law of the State of Illinois; it being understood that, to the fullest extent permitted by the law of Illinois, the law of Delaware shall govern the validity and enforceability of all Loan Documents, and the obligations arising hereunder. Borrower acknowledges that this Assignment is intended to be a “sealed instrument” under Delaware law and shall be entitled to all of the benefits and remedies provided thereunder.

[END OF TEXT – SIGNATURES ON FOLLOWING PAGE(S)]

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IN WITNESS WHEREOF, Borrower has duly executed this Assignment as a sealed instrument under Delaware law as of the date first written above.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

DFP HOLDINGS III, LLC, a Delaware limited liability company

Diane D Hill
Witness

By: Friedrich Dietl (Seal)
Name: Friedrich Dietl
Print Title: Manager

STATE OF NY
COUNTY OF NY

BE IT REMEMBERED, that on this 5th day of December, 2022, personally came before me, the subscriber, a Notary Public for the State aforesaid, Friedrich Dietl, Manager of DFP Holdings III, LLC, a Delaware limited liability company, and acknowledged this instrument to be the act and deed of said company; that the signature of Friedrich Dietl, the Manager thereof, is in his own proper handwriting; that the seal affixed is the seal of DFP Holdings III, LLC; and that his act of executing, sealing and delivering this instrument was duly authorized by said company.

Given under my Hand and Seal of Office the day and year aforesaid.

DIANE D HILL
NOTARY PUBLIC-STATE OF NEW YORK
No 01H16158080
Qualified in Nassau County
My Commission Expires 03-26-2023

Diane D Hill
Notary Public
Print Name:
My Commission Expires:

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EXHIBIT "A"

Legal Description

PARCEL 1:

LOTS 14, 15 AND 16 IN SUBDIVISION OF LOT 26 IN GAYLORD & SMITH'S SUBDIVISION OF THE NORTHWEST 1/4 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13 TOWNSHIP 39 NORTH RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE NORTH AND SOUTH ALLEY LYING BETWEEN THE WEST LINE OF LOTS 14, 15 AND 16 IN GAYLORD AND SMITH'S SUBDIVISION OF THE NORTHWEST QUARTER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE EAST LINE OF LOTS 14, 15 AND 16 IN GAYLORD AND SMITH'S SUBDIVISION OF LOT 26 OF GAYLORD AND SMITH SUBDIVISION OF THE NORTHWEST QUARTER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND PER ORDINANCE OF VACATION RECORDED SEPTEMBER 12, 1925 AS DOCUMENT 9032239.

PARCEL 3:

LOTS 14, 15 AND 16 IN GAYLORD & SMITH'S SUBDIVISION OF THE NORTHWEST 1/4 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13 TOWNSHIP 39 RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 14, 15 AND 16 AND THE WEST 1/2 OF THE ALLEY (NOW VACATED PURSUANT TO ORDINANCE RECORDED AS DOCUMENT 0010510991) LYING EAST OF AND ADJOINING SAID LOTS IN CHERRY'S SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED JULY 27, 1883 AS DOCUMENT 484638,

AND THE EAST 1/2 OF THE ALLEY (NOW VACATED PURSUANT TO ORDINANCE RECORDED AS DOCUMENT 0010510991) LYING WEST OF AND ADJOINING LOTS 14, 15 AND 16 IN CUMMING'S SUBDIVISION OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO OF LOTS 26 AND 27 IN THE SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13 AFORESAID, EXCEPT THE RAILROAD, ALL IN COOK COUNTY, ILLINOIS.

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PARCEL 5:

VACATED SOUTH FAIRFIELD AVENUE, AS VACATED BY ORDINANCE RECORDED AS DOCUMENT 0010510991, LYING BETWEEN THE WEST LINE OF LOTS 14, 15 AND 16 IN CHERRY'S SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE EAST LINE OF LOTS 14, 15 AND 16 IN GAYLORD AND SMITH'S SUBDIVISION OF THE NORTHWEST 1/4 OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 2747 W. Taylor Street, Chicago, IL 60612

PINS: 16-13-421-001-0000; 16-13-421-017-0000; 16-13-421-018-0000; 16-13-422-001-0000

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