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Prepared By: Big Homes LLC  
1658 W. Milwaukee Ave, Suite 502



\*2317857034\*

Chicago, IL 60647  
WHEN RECORDED, RETURN TO:

KIAMI FUNDING, INC.  
2 ALLEGHENY CENTER, NOVA TOWER 2  
SUITE 200  
PITTSBURGH, PA, 15212

Doc# 2317857034 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 06/27/2023 03:49 PM PG: 1 OF 11

APN: |

## SUBORDINATION AND STANDSTILL AGREEMENT

### (Senior Debt Future Advances)

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INTEREST.

THIS SUBORDINATION AGREEMENT ("Agreement") is entered into as of 6/20/23, by and between Big Homes LLC - Series 3838 ("Owner") and Caspita Properties LLC ("Subordinate Lender"); in favor of Kiavi Funding, Inc., a Delaware corporation ("Lender").

### RECITALS

A. Subject to the terms and provisions of that certain Deed of Trust dated 11/10/22, executed by Owner, as Trustor, in favor of Subordinate Lender, and recorded on 12/2/22 as Instrument Number 2233640085 in the official records of the County of Cook, State of Illinois ("Subordinate Lender's Deed of Trust" and together with any other any other documents, agreements, certificates, affidavits and instruments now or hereafter evidencing, securing or delivered to Subordinate Lender in connection with the Subordinate Debt (as hereinafter defined), as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Subordinate Loan Documents"), Owner granted to Subordinate Lender a security interest in and to the property described in Exhibit "A" attached hereto and incorporated herein located at 3838 Hampton, Western Springs, IL 60058 (which property, together with all improvements now or hereafter located on the property, is hereinafter referred to as the "Property") to secure Owner's obligations to Subordinate Lender (the "Subordinated Debt").

B. Owner has executed a Deed of Trust, Assignment of Leases and Rents Fixture Filing, and Security Agreement ("Lender's Deed of Trust") securing, among other things, a loan agreement between Big Homes LLC - Series 3838 ("Borrower") and Lender as set forth in the Promissory Note Secured by Deed of Trust (the "Note") dated 11/18/22, in favor of Lender, in the principal sum of 370,000 (the "Loan"). Lender's Deed of Trust has been recorded in the official records of Cook County. The recording date of Lender's Deed of Trust is before the recording date of the Subordinate Lender's Deed of Trust, however future advances by Lender to be secured by the Lender's Deed of Trust may post-date the recording date of the Subordinate Lender's Deed of Trust. The Note, the Lender's Deed of Trust and all attendant loan documents executed in connection with the Loan are collectively referred to herein as the "Loan Documents".

C. As a condition to Lender making future advances under the Loan (the "Senior Debt Future Advances"), Lender requires that Lender's Deed of Trust, including the amount of Senior Debt Future Advances, be unconditionally and at all times remain a lien or charge upon the Property, prior and superior to all the rights of Subordinate Lender under its deed of trust and that Subordinate Lender specifically and unconditionally subordinates its deed of trust to the lien or charge of Lender's Deed of

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Trust, including all Senior Debt Future Advances, whenever such Advances are made during the term of the Loan.

**D.** Subordinate Lender and Owner agree to the subordination in favor of Lender.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and to induce Lender to make the Senior Debt Future Advances, Owner and Subordinate Lender hereby agree for the benefit of Lender as follows:

**Section 1. Subordination.** Lender's Deed of Trust securing the Note in favor of Lender, and any modifications, renewals or extensions thereof (including, without limitation, any Senior Debt Future Advances made by Lender), shall unconditionally be and at all times remain a lien or charge on the Property prior and superior to Subordinate Lender's Deed of Trust.

**Section 2. Entire Agreement.** This Agreement shall be the whole agreement with regard to the subordination of Subordinate Lender's Deed of Trust to the lien or charge of Lender's Deed of Trust, and shall supersede and cancel, but only insofar as would affect the priority of Lender's Deed of Trust, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in Subordinate Lender's deed of trust which provide for the subordination of the deed of trust to a deed or deeds of trust or to a mortgage or mortgages.

**Section 3. Standstill; Limitation on Subordinate Lender Rights.**

(a) Notwithstanding Subordinate Lender's rights under applicable law or any provision of the Subordinate Loan Documents to the contrary, Subordinate Lender hereby acknowledges and agrees that it shall not (A) accelerate payment of the Subordinate Debt or any portion thereof, or (B) take any Enforcement Action, until, in any such case, the earlier of (i) ninety-one (91) days following the satisfaction in full of the Senior Debt or (ii) ninety-one (91) days following the acquisition of the Senior Indebtedness by Subordinate Lender. Subordinate Lender hereby waives any right it may have to require that Lender marshal any assets of Owner in favor of Subordinate Lender and Subordinate Lender agrees that it shall not acquire, by subrogation or otherwise, any lien, estate, right or other interest in any of the Property or the proceeds therefrom that is or may be prior to any of the Loan Documents.

(b) Until the earlier of (i) ninety-one (91) days following the satisfaction in full of the Senior Debt or (ii) ninety-one (91) days following the acquisition of the Senior Debt by Subordinate Lender, Subordinate Lender hereby covenants and agrees that it will not acquiesce, petition or otherwise invoke or cause any other Person to invoke the process of the United States of America, any state or other political subdivision thereof or any other jurisdiction, any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government for the purpose of commencing or sustaining a case against Owner, under a Federal or state bankruptcy, insolvency or similar law or appointing a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar official of Owner or all or any part of its property or assets or ordering the winding-up or liquidation of the affairs of Owner.

(c) For purposes of this Agreement, the following terms shall have the definitions as set forth below.

(i) "Enforcement Action" shall mean the commencement of the exercise of any remedies against Owner including, without limitation, the delivery of a notice of default to Owner, the acceleration of the Subordinate Debt, the commencement of any litigation or proceeding, including the commencement of any foreclosure proceeding, the exercise of any power of sale, the sale by advertisement, the taking of a deed or assignment in lieu of foreclosure, the obtaining of a receiver or the taking of any other enforcement action against, or the taking of possession or control of, any of the Property,

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but specifically excludes (a) requests and demands made upon Owner by delivery of notices to Owner, (b) assertion or enforcement of any right of Subordinate Lender to receive payment from proceeds of a foreclosure sale of any Property incident to foreclosure of the liens or security interests of the Loan Documents which may remain after payment of costs and expenses of such foreclosure and payment and indefeasible satisfaction in full of the Senior Debt and the filing of claims in any Insolvency Proceeding concerning Owner as may be required to protect and preserve the right of Subordinate Lender to participate in such Insolvency Proceeding as creditor and to participate in distributions of assets of Owner in said Insolvency Proceeding with respect to the Subordinate Debt after payment and indefeasible satisfaction in full of the Senior Debt, but subject in all respects to the rights of Lender under and as provided in this Agreement and without in any way impairing or affecting the right of Lender to require performance and observance by Subordinate Lender of or the obligations of Subordinate Lender to perform and observe the covenants, undertakings and agreements of Subordinate Lender under and as provided in this Agreement.

(ii) "Insolvency Proceeding" shall mean any proceeding under Title 11 of the United States Code (11 U.S.C. Sec. 101 et seq.) or any other insolvency, liquidation, reorganization or other similar proceeding concerning Owner, any action for the dissolution of Owner, any proceeding (judicial or otherwise) concerning the application of the assets of Owner, for the benefit of its creditors, the appointment of or any proceeding seeking the appointment of a trustee, receiver or other similar custodian for all or any substantial part of the assets of Owner or any other action concerning the adjustment of the debts of Owner, the cessation of business by Owner, except following a sale, transfer or other disposition of all or substantially all of the assets of Owner in a transaction permitted under the Loan Documents.

**Section 4. Non-Interference by Subordinate Lender.** Until such time as Subordinate Lender is permitted to take an Enforcement Action in accordance with the terms of Section 3, Subordinate Lender shall not institute any judicial or administrative proceeding against Owner or Lender which directly or indirectly would interfere with or delay the exercise by Lender of its rights and remedies in respect of the Property or any part thereof or under the Loan Documents or this Agreement. Without limiting the generality of the foregoing, in the event of a bankruptcy or insolvency of Owner, Subordinate Lender shall not object to or oppose any efforts by Lender to obtain relief from the automatic stay under Section 362 of the United States Bankruptcy Code or to seek to cause such entity's bankruptcy estate to abandon the Property (or any portion thereof) that is subject to the Lender's Deed of Trust.

**Section 5. Assignment of Voting Rights.** Subordinate Lender hereby, absolutely, irrevocably and unconditionally assigns and sets over to Lender all of Subordinate Lender's Plan Voting Rights in any Insolvency Proceeding respecting Owner. For purposes of this Section 5, "Plan Voting Rights" shall mean, with respect to any Person, the rights of such Person to vote to approve or reject any plan of reorganization in respect of Owner in an Insolvency Proceeding.

**Section 6. Lien Subordination.** Subordinate Lender intentionally and unconditionally waives, relinquishes and subordinates all of Subordinate Lender's right, title and interest in and to the Property to the lien or charge of Lender's Deed of Trust, including any and all Senior Debt Future Advances, upon the Property and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Lender and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

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**Section 7. Payment Subordination.** The payment of any and all of the Subordinated Debt is hereby expressly made subordinate and junior in right of payment to the payment of the principal amount of, and all interest on, and all other amounts in respect of, the Senior Debt (including, without limitation, any prepayment fees or penalties), to the extent and in the manner set forth herein. Notwithstanding any provision contained herein to the contrary, as long as no Event of Default under the Loan has occurred and is continuing, Subordinate Lender may receive and retain monthly payments payable pursuant to the Subordinate Loan Documents with Owner.

**Section 8. Rights Upon Insolvency.** In the event of (1) any insolvency, bankruptcy, receivership, liquidation, reorganization, arrangement, assignment for the benefit of creditors, or other similar proceeding relative to the Owner, its creditors or its property (as defined in the Loan Documents), or (2) any proceeding for the voluntary or involuntary liquidation, dissolution or other winding up of the Owner whether or not involving insolvency or bankruptcy proceedings, then and in any such event:

(a) the principal amount of, and all interest on, and all other amounts in respect of, the Senior Debt (including, without limitation, (i) interest thereon accruing after the commencement of any such proceeding, whether or not such interest shall be allowed in such proceeding, and any prepayment fees or penalties and (ii) Senior Debt Future Advances made by Lender) shall be paid in full before any payment or distribution of any character, whether in cash, securities or other property, shall be made in respect of the Subordinated Debt; and

(b) any payment or distribution of any character, whether in cash, securities or other property, which would otherwise (but for the terms hereof) be payable or deliverable in respect of Subordinated Debt (including any payment or distribution in respect of the Subordinated Debt by reason of any other indebtedness of the Owner being subordinated to the Subordinated Debt), shall be paid or delivered directly to the Lender, or its representatives, until the principal amount of, and all interest and premium on, and all other amounts in respect of, the Senior Debt shall have been paid in full and the Subordinate Lender or any other holder of the Subordinated Debt irrevocably authorizes, empowers and directs all receivers, trustees, liquidators, conservators and others having authority in the premises to effect all such payments and deliveries.

**Section 9. Rights Upon Senior Event of Default.** At any time that Lender notifies Subordinate Lender that an Event of Default is outstanding under the Senior Debt, the Owner shall not make, and the Subordinate Lender shall not receive, accept or retain, any payments of principal or interest or other amount on account of the Subordinated Debt.

**Section 10. Owner Obligations.** Owner agrees that, in the event that any note or other obligation of the Owner not evidencing Senior Debt, or any portion thereof, shall become due and payable before its expressed maturity for any reason, Owner will give prompt notice, in writing, of such occurrence to the Lender.

**Section 11. Rights of Lender.**

(a) Subordinate Lender further declares, agrees and acknowledges for the benefit of the Lender, that Lender, in making disbursement pursuant to any such agreement (whether obligatory or optional), is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part.

(b) Except as otherwise provided herein, so long as any of the Senior Debt shall remain unpaid, Lender may at all times exercise any and all powers and rights which it now has or may hereafter acquire with respect to the Loan Agreement, and any other security instrument, including, but not limited to a deed of trust or mortgage, Collateral Security Agreement, or Membership Interest Pledge Agreement



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(collectively, "Security Document"), or any of the collateral subject to the Note or any Security Document without having to obtain any consent or approval of the Subordinate Lender and without any accountability to the Subordinate Lender, nor shall it have any liability to the Subordinate Lender for any action taken or failure to act with respect to this Agreement, the Note, any other Security Document or the aforesaid collateral.

## Section 12. Covenants:

Subordinate Lender hereby further covenants and agrees with Lender as follows:

(a) Subordinate Lender shall not pledge, assign, hypothecate, transfer, convey or sell the Subordinate Debt or any interest in the Subordinate Debt without the prior written consent of Lender.

(b) After request by Lender, Subordinate Lender shall within ten (10) days furnish Lender with a statement duly acknowledged and certified setting forth the original principal amount of the note evidencing the indebtedness of the Subordinate Debt, the unpaid principal balance, all accrued but unpaid interest and any other sums due and owing thereunder, the rate of interest, the monthly payment amount and that to the best knowledge of Subordinate Lender there exists no defaults under the Subordinate Lender's Deed of Trust or any other Subordinate Loan Document, or if any such defaults exist, specifying the defaults and the nature thereof.

(c) If Subordinate Lender shall acquire by indemnification, subrogation or otherwise, any lien, estate, right or other interest in the Property, that lien, estate, right or other interest shall be subordinate to the Lender's Deed of Trust as provided herein, and Subordinate Lender hereby waives any and all rights it may acquire by subrogation or otherwise to the lien of the Subordinate Lender's Deed of Trust or any portion thereof.

(d) The principal amount of the Subordinate Debt shall not be increased or re-advanced after any reduction of the principal balance of the Subordinate Lender's Deed of Trust.

(e) Without limiting the generality of any other provisions of this Agreement, Lender may at any time and from time to time without the consent of, or notice to Subordinate Lender, and without incurring responsibility to Subordinate Lender, upon or without any terms or conditions and in whole or in part:

(1) change the manner, place or terms of payment or performance of, and/or change or extend the time of payment or performance of, renew or alter, any portion of the Senior Debt or any other obligations of any Person evidenced or secured by the Loan Documents, any security therefor, or any liability incurred directly or indirectly in respect thereof;

(2) sell, exchange, release, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Senior Debt or any other obligations of any Person evidenced or secured by the Lender's Deed of Trust, or any liabilities incurred directly or indirectly in respect thereof, and/or any offset there against;

(3) exercise or refrain from exercising any rights against Owner or others or otherwise act or refrain from acting;

(4) settle or compromise any portion of the Senior Debt or any other obligations of any Person evidenced or secured by the Lender's Deed of Trust, any security therefor or any liability incurred directly or indirectly in respect thereto;

(5) apply any sums by whomsoever paid or howsoever realized to any

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liability or liabilities of Owner to Lender regardless of what liability or liabilities of Owner remain unpaid or unperformed; and/or

(6) consent to or waive any breach of, or any act, omission or default under, the Lender's Deed of Trust or any of the other Loan Documents, or otherwise amend, modify or supplement the Lender's Deed of Trust or any of the other Loan Documents or any other instruments or agreements executed and delivered in connection therewith or otherwise relating thereto.

**Section 13. Constructive Trust.** If, notwithstanding the provisions of this Agreement, any payment or distribution of any character (whether in cash, securities or other property) shall be received by the Subordinate Lender in contravention of the terms of this Agreement, such payment or distribution shall not be commingled with any asset of the Subordinate Lender, but shall be held in trust for the benefit of, and shall be paid over or delivered and transferred to, the Lender, or its representatives or agents, for application to the payment of all Senior Debt remaining unpaid, until the principal amount of (including any Senior Debt Future Advances), and all interest and premium (including interest thereon accruing after the commencement of any proceedings described herein) on, and all other amounts in respect of, the Senior Debt shall have been paid in full.

**Section 14. Successors and Assigns.** This Agreement, without further reference, shall pass to and may be relied on and enforced by any transferee or subsequent holder of the Senior Debt and the Subordinated Debt.

**Section 15. Modification.** The terms of this Agreement, the subordination effectuated hereby, and the rights of the Lender and the obligations of the Subordinate Lender arising hereunder, shall not be affected, modified or impaired in any manner or to any extent by: (i) any amendment or modification of or supplement to the Note, any Security Document or any other instrument or document executed or delivered pursuant thereto, (ii) the lack of validity, legality or enforceability of any of such documents; (iii) any exercise or non-exercise of any right, power or remedy under or in respect of the Senior Debt or any of such instruments or documents referred to in clause (i) above or arising at law; or (iv) any waiver, consent, release, indulgence, extension, renewal, modification, delay or other action, in action or omission in respect of the Senior Debt or any of the instruments or documents referred to in clause (i) above, whether or not the Subordinate Lender shall have had notice or knowledge of any of the foregoing and whether or not it shall have consented thereto.

**Section 16. Notices.** All notice, consents, approvals, requests, demands, instruments or other communications to be made, given or furnished pursuant to, under or by virtue of this Agreement (each, a "Notice") shall be in writing and shall be deemed given or furnished if addressed to the party intended to receive the same at the address of such party as set forth below (i) upon receipt when personally delivered at such address, (ii) three (3) business days after the same is deposited in the United States mail as first class registered or certified mail, return receipt requested, postage prepaid, or (iii) one (1) business day after the date of delivery of such notice to a nationwide, reputable commercial courier service:

Lender: KIAVI FUNDING, INC  
2 Allegheny Center, Nova Tower 2  
Suite 200  
Pittsburgh, PA 15212  
Attn.: Legal Department

Subordinate Lender: Caspita Properties LLC  
PO Box 4284  
Oak Park, IL 60304

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Owner:

Big Homes LLC - Series 3838  
1658 N Milwaukee Ave, Suite 502  
Chicago, IL 60647

Any party may change the address to which any notice is to be delivered to any other address within the United States of America by furnishing written notice of such change at least fifteen (15) days prior to the effective date of such change to the other parties in the manner set forth above, but no such notice of change shall be effective unless and until received by such other parties. Notices may be given on behalf of any party by its attorneys.

**Section 17. Miscellaneous.** This Agreement may not be amended or modified orally but may be amended or modified only in writing, signed by all parties hereto. No waiver of any term or provision of this Agreement shall be effective unless it is in writing, making specific reference to this Agreement and signed by the party against whom such waiver is sought to be enforced. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. This Agreement shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Property is located.

**Section 18. Definitions.** Terms used in this Agreement and not defined herein shall have the respective meanings ascribed to them in the Loan Documents. The recitals hereto shall be a part of this Agreement.

**Section 19. Termination.** This Agreement shall terminate upon the final and indefeasible payment in full of the principal amount of (including any and all Senior Debt Future Advances), and all interest and premium on, and all other amounts in respect of, the Senior Debt.

**Section 20. Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereof.

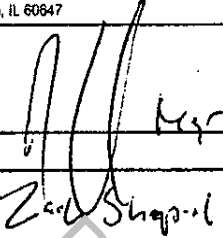
NOTE: THIS AGREEMENT MAY BE EXECUTED IN COUNTERPARTS.

[SIGNATURES COMMENCE ON THE FOLLOWING PAGE.]

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OWNER:

Big Homes LLC - Series 3838  
 1658 N Milwaukee Ave, Suite 502  
 Chicago, IL 60647

  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Zach Shepard

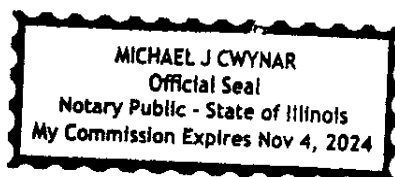
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Illinois )

County of Cook )

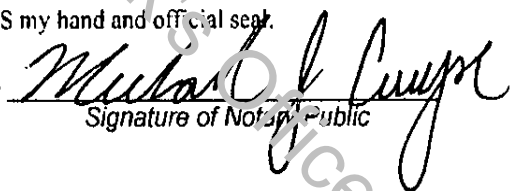
On 06-22-23 before me, Michael Cwynar - AVP Retail Banking  
 Date Here Insert Name and Title of the Officer  
 Personally Appeared Stephen Shepard - Stephen Zach Shepard  
 Name(s) of Signer(s)

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.

Signature

  
 Signature of Notary Public



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## SUBORDINATE LENDER:

Caspi Properties LLC

Rosa Berardi  
Manager

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.

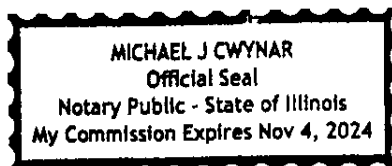
State of Illinois )

County of Cook )

On 06-22-23 before me Michael Cwynar - AVP Retail Banking  
 Date Here Insert Name and Title of the Officer

Personally Appeared Rosa Berardi  
 Name(s) of Signer(s)

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.

Signature

Michael Cwynar  
 Signature of Notary Public

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## EXHIBIT "A"

### PROPERTY DESCRIPTION

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE  
RECORDING DIVISION  
118 N. CLARK ST. ROOM 120  
CHICAGO, IL 60602-1387

