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## THIRD AMENDMENT TO LOAN AGREEMENT, PROMISSORY NOTE, MORTGAGE AND SECURITY AGREEMENT, GUARANTY AND OTHER LOAN DOCUMENTS

THIS THIRD AMENDMENT TO LOAN AGREEMENT, PROMISSORY NOTE, MORTGAGE AND SECURITY AGREEMENT, GUARANTY AND OTHER LOAN DOCUMENTS is entered into as of October 31, 1989 by and among LASALLE NATIONAL BANK, not personally, but solely as Trustee (the "Trustee") under Trust Agreement dated August 3, 1987 and known as Trust No. 112533 (the "Trust"); CARVER PARTNERSHIP, an Illinois limited partnership (the "Partnership"), being the sole beneficiary of the Trust (the Trust and the Partnership are hereinafter sometimes jointly and severally referred to as "Borrower"); DUNCAN Y. HENDERSON ("Guarantor"); and EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association ("Lender").

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171111 TRAN 4644 01/08/90 14:17:00  
\*0458 \* -90-011617  
COOK COUNTY RECORDER

### RECITALS:

A. Borrower and Lender have heretofore entered into a certain Loan Agreement dated August 13, 1987 (the "Original Loan Agreement"), pursuant to which, among other things, Lender agreed to loan to Borrower an amount not to exceed the sum of Seven Million Five Hundred Fifty Five Thousand and No/100 Dollars (\$7,555,000.00) (the "Original Loan"), for the purposes, upon the terms and subject to the conditions contained in the Original Loan Agreement. The Original Loan Agreement provides, among other things, that the proceeds of the Original Loan are to be used by Borrower for purposes of paying the cost of (i) purchasing the real property and improvements located on the parcel of real estate commonly known as 720 South Dearborn Street, Chicago, Cook County, Illinois and legally described in Exhibit A-3 attached hereto (the real property and the improvements located thereon hereinafter are referred to as the "Premises"); and (ii) improving the thirteen-story building comprising a portion of the Premises (the "Building") with approximately 1,117 net rentable square feet of space in the basement of the Building, approximately 5,845 net rentable square feet of commercial retail space on the first floor of the Building and 64 condominium loft units (the "Units") consisting in the aggregate of not less than 81,041 net square feet on the remaining floors of the Building.

B. The Original Loan is evidenced by a certain Promissory Note (the "Original Note") dated August 12, 1987 in the original principal amount of Seven Million Five Hundred Fifty Five Thousand and No/100 Dollars (\$7,555,000.00) made by the Trust and payable to the order of Lender.

C. The Original Note is secured by, among other things, the following documents:

(i) Mortgage and Security Agreement (the "Original Mortgage") dated as of August 12, 1987 made by the Trust to Lender and recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Office of the Recorder") on August 13, 1987 as Document 87448519, and covering the Land;

(ii) Security Agreement (the "Original Security Agreement") dated as of August 13, 1987 made by the Trust and the Partnership, jointly, as Debtor, to Lender, as Secured Party;

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(iii) Collateral Assignment under Land Trust and Security Agreement (the "Original ABI") dated as of August 12, 1987 made by the Partnership to Lender with respect to the Trust; and

(iv) Assignment of Rents, Leases and Management Agreement (the "Original Assignment of Rents") dated as of August 12, 1987 made by the Trust and the Partnership, jointly, to Lender and recorded in the Office of the Recorder on August 13, 1987 as Document 87448520.

The Original Mortgage, the Original Security Agreement, the Original ABI, the Original Assignment of Rents and any other documents evidencing or securing the Original Loan and any statement or certificate as to facts delivered to Lender in connection with the Original Loan hereinafter are collectively referred to as the "Original Loan Documents").

D. Pursuant to a certain Guaranty (the "Original Guaranty") dated as of August 12, 1987 made by Guarantor in favor of Lender, the Guarantor guaranteed (i) the payment by Borrower of the amounts provided for in the Original Note, the Original Loan Agreement, the Original Mortgage and the other Original Loan Documents, and (ii) the performance by Borrower of the covenants to be performed and observed by Borrower pursuant to the provisions thereof.

E. The Original Loan Agreement, the Original Note, the Original Mortgage, the Original Guaranty and the other Original Loan Documents have each been amended by that certain First Amendment to Loan Agreement, Promissory Note, Mortgage and Security Agreement, Guaranty and Other Loan Documents (the "First Amendment") dated February 22, 1989 made by and among the Trust, the Partnership, Guarantor and Lender and recorded in the Office of the Recorder on February 22, 1989 as Document 89080256, pursuant to which, among other things, Lender agreed to (i) loan to Borrower an additional \$445,000, subject to the terms and conditions set forth in the Original Loan Agreement as amended by the First Amendment, (ii) extend the maturity date under the Original Note from December 31, 1988 to March 31, 1989, and (iii) grant to Borrower an option to further extend said maturity date from March 31, 1989 to June 30, 1989. The Original Loan as modified by the First Amendment is hereinafter referred to as the "First Amended Loan". The Original Loan Agreement, the Original Note, the Original Mortgage, the Original Guaranty and the other Original Loan Documents, each as amended by the First Amendment, are hereinafter referred to as the "First Amended Loan Agreement", the "First Amended Note", the "First Amended Mortgage", the "First Amended Guaranty" and the "First Amended Loan Documents", respectively.

F. The Trust and the Partnership, jointly, have executed in favor of Lender that certain Assignment of Condominium Sales Contracts (the "Assignment of Sales Contracts") dated as of February 22, 1989 and recorded in the Office of the Recorder on February 22, 1989 as Document 89080257. Pursuant to the Second Amendment, each reference to the "Loan Documents" contained in the First Amended Loan Agreement, the First Amended Note, the First Amended Mortgage, the First Amended Guaranty, the other First Amended Loan Documents, the First Amendment and the Second Amendment includes reference to the Assignment of Sales Contracts.

G. Pursuant to that certain Letter Agreement dated April 17, 1989 between the Partnership and Lender, Lender agreed to extend the maturity date under the First Amended Note (the "Maturity Date") from March 31, 1989 to April 30, 1989.

H. The First Amended Loan Agreement, the First Amended Note, the First Amended Mortgage, the First Amended Guaranty and the other First Amended Loan Documents have each been amended by that certain Second Amendment to Loan Agreement, Promissory Note, Mortgage and Security Agreement, Guaranty and Other Loan Documents (the "Second Amendment") dated May 31, 1989 by and among the Trust, the Partnership, Guarantor and Lender and recorded in the Office of the Recorder on June 7, 1989 as Document 89258349, pursuant to which, among other things, Lender agreed to (i) loan to Borrower an additional \$517,342, subject to the terms and conditions set forth in the First Amended Loan Agreement as amended by the Second Amendment, and (ii) extend the Maturity Date from April 30, 1989 to October 31, 1989. The First Amended Loan as modified by the Second Amendment is hereinafter referred to as the "Loan". The First Amended Loan Agreement, the First Amended Note, the First Amended Mortgage, the First Amended Guaranty and the other First Amended Loan Documents, each as amended by the Second Amendment, are hereinafter referred to as the "Loan Agreement", the "Note", the "Mortgage", the "Guaranty" and the "Loan Documents", respectively.

I. As of the date hereof the outstanding balance of the Loan is \$5,471,380 with \$232,101 of the proceeds of the Loan yet to be disbursed.

J. Borrower has requested that Lender (i) loan to Borrower an additional \$160,600 subject to the terms and conditions set forth in the Loan Agreement as amended by this Third Amendment and (ii) extend the Maturity Date from October 31, 1989 to February 28, 1990.

K. Lender is unwilling to grant such requests unless the Loan Agreement, the Note, the Guaranty, the Mortgage and the other Loan Documents are amended as herein provided.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Guarantor and Lender hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and made a part hereof.

2. Increase in Amount of Loan.

(a) The principal sum of the Note is changed to \$5,864,081 and all references in the Note to "\$8,517,342" are changed to "\$5,864,081".

(b) The amount of the Loan is changed to \$5,864,081 and said amount shall be disbursed by Lender to Borrower as provided in the Loan Agreement, as herein amended.

(c) All references in the Loan Agreement, the Note, the Guaranty, the Mortgage and the other Loan Documents to the principal sum of the Note, the amount of the Loan or the amount of the indebtedness owed to Lender being "\$8,517,342" are changed to "\$5,864,081".

3. Extension of Maturity Date.

(a) The Maturity Date is extended from October 31, 1989 to February 28, 1990.

(b) All references in the Loan Agreement, the Note, the Guaranty, the Mortgage and the other Loan Documents to the Maturity Date being "October 31, 1989" are changed to "February 28, 1990".

4. Sale or Refinancing of Commercial Area. Contemporaneously with and as a condition to Lender's consent to the sale or refinancing of the non-condominium portion of the Premises, including the Commercial Area as set forth on that certain Plat of Survey or the Premises dated November 28, 1988, or any portion thereof, Borrower shall pay to Lender an amount equal to the greater of (a) \$600,000 less the cost of any item of the Project Budget relating to the Commercial Area which Lender has yet to fund and which Borrower is not obligated to perform or provide pursuant to such sale or refinancing, or (b) the net closing proceeds of such sale or refinancing less (i) reasonable and documented closing costs, (ii) build-out costs held back by the title company at the closing of such sale or refinancing, and (iii) the cost of any item of the Project Budget relating to the Commercial Area which Lender has yet to fund and which Borrower is not obligated to perform or provide pursuant to such sale or refinancing.

5. Representations and Warranties; Project Budget. Borrower hereby confirms and certifies to Lender that each representation and warranty contained in Article I of the Loan Agreement is true, complete and correct in all respects, except that the budget attached as Exhibit D-2 to the Second Amendment is hereby deleted and the budget attached hereto as Exhibit D-3 is hereby substituted in lieu thereof. For all purposes under the Loan Agreement, the "Project Budget" shall be deemed to refer to the budget attached hereto as Exhibit D-3.

6. Obligations Secured. The Mortgage, the other Loan Documents and the Guaranty are hereby amended to secure the obligations and liabilities evidenced by the Note, as amended by this Second Amendment.

7. Conditions Precedent. The obligation of Lender to (i) loan to Borrower an additional \$160,600, and (ii) extend the Maturity Date from October 31, 1989 to February 28, 1990 shall be subject to Borrower, Guarantor and others having delivered or causing to be delivered to Lender the following, all of which shall be in form and substance acceptable to Lender:

(a) This Third Amendment;

(b) An opinion of the attorney for Borrower and Guarantor covering the legal status of the Trust and the Partnership and stating that this Third Amendment, the Note, the Mortgage, the Guaranty and the Loan Documents (each as amended by this Third Amendment) have been duly authorized, executed and delivered by the Trust, the Partnership and Guarantor, as the case may be, and constitute legal, valid and binding obligations of the Trust, the Partnership and Guarantor, as the case may be, enforceable in accordance with its terms, subject only to applicable bankruptcy, insolvency and other laws affecting creditors' rights;

(c) An endorsement to the Title Policy issued by the Title Company describing the insured Mortgage thereunder as including this Third Amendment, extending the effective date of the Title Policy to the date of the recording of this Third Amendment and changing the face amount of the Title Policy to \$5,864,081;

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(d) An extension fee in the amount of \$19,558, which sum shall be funded out of the proceeds of the Loan;

(e) A certified copy of the letter of direction from the Partnership to the Trustee authorizing the Trustee to execute this Third Amendment;

(f) Such other documents as Lender may reasonably require.

8. Payment of Expenses. In addition to the Loan Expenses described in Paragraph 5.01 of the Loan Agreement, the Additional Loan Expenses described in Paragraph 15 of the First Amendment and the Second Additional Loan Expenses described in Paragraph 10 of the Second Amendment, Borrower hereby agrees to pay all expenses, charges, costs and fees relating to this Third Amendment, including Lender's reasonable attorneys' fees in connection with the negotiation and documentation of the agreements contained in this Third Amendment, all recording fees and charges, title insurance charges and premiums, and all other expenses, charges, costs and fees referred to in or necessitated by the terms of this Third Amendment (collectively, the "Third Additional Loan Expenses"). In the event the Third Additional Loan Expenses are not paid to Lender within five (5) days after written demand therefor by Lender, the Third Additional Loan Expenses shall bear interest from the date so incurred until paid at the annual rate of three and one half percent (3-1/2%) plus the Reference Rate (as that term is defined in the Note), or may be paid by Lender at any time following said five (5) day written demand by disbursement of proceeds of the Loan.

## 9. References.

(a) All references to the "Loan Agreement" contained in the Note, the Guaranty, the Mortgage and the other Loan Documents, each as amended by this Third Amendment, shall be deemed to refer to the Loan Agreement, as amended by this Third Amendment.

(b) All references to the "Note" contained in the Loan Agreement, the Guaranty, the Mortgage and the other Loan Documents, each as amended by this Third Amendment, shall be deemed to refer to the Note, as amended by this Third Amendment.

(c) All references to the "Mortgage" contained in the Loan Agreement, the Note, the Guaranty and the other Loan Documents, each as amended by this Third Amendment, shall be deemed to refer to the Mortgage, as amended by this Third Amendment.

(d) All references to the other "Loan Documents" contained in the Loan Agreement, the Note, the Guaranty and the Mortgage, each as amended by this Third Amendment, shall be deemed to refer to the Loan Documents, as amended by this Third Amendment.

(e) All references to the "Guaranty" contained in the Loan Agreement, the Note, the Mortgage and the other Loan Documents, each as amended by this Third Amendment, shall be deemed to refer to the Guaranty, as amended by this Second Amendment.

10. Authority to Execute Amendment. The Trust, the Partnership and Guarantor represent and the Partnership and Guarantor warrant to Lender that each has full power and

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authority to execute and deliver this Third Amendment and to perform their respective obligations hereunder. Upon the execution and delivery hereof, this Third Amendment will be valid, binding and enforceable upon the Trust, the Partnership and Guarantor in accordance with its terms. Execution and delivery of this Third Amendment does not and will not contravene, conflict with, violate or constitute a default under (i) the Partnership Agreement creating the Partnership, or (ii) any applicable law, rule, regulation, judgment, decree or order or any agreement, indenture or instrument to which the Trust, the Partnership or Guarantor is a party or is bound or which is binding upon or applicable to the Project, or any portion thereof.

11. No Default. The Trust, the Partnership and Guarantor represent and the Partnership and Guarantor warrant to Lender that no default or event or condition which could become a default with the giving of notice or passage of time, or both, exists under the Loan Agreement, the Note, the Mortgage, any of the Loan Documents or the Guaranty.

12. No Litigation. There is not any condition, event or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending or threatened affecting the Trust, the Partnership, Guarantor or the Premises, or which would prevent the Trust, the Partnership or Guarantor from complying with or performing his or its respective obligations under the Loan Agreement, the Note, the Guaranty, the Mortgage and the other Loan Documents, each as amended by this Third Amendment, within the time limits set forth therein for such compliance or performance, and no basis for any such matter exists.

13. Ratification of Liability. Each Borrower hereby ratifies and confirms its respective liabilities and obligations under the Loan Agreement, the Note, the Mortgage and the other Loan Documents, each as amended by this Third Amendment, and the liens and security interests created thereby, and acknowledges that it has no defenses, claims or set-offs to the enforcement by Lender of the obligations and liabilities of each Borrower under the Loan Agreement, the Note, the Mortgage and the other Loan Documents, each as amended by this Third Amendment.

14. Guarantor Consent. Guarantor hereby consents to the execution and delivery by Borrower of this Third Amendment. Guarantor hereby ratifies and confirms his liabilities and obligations under the Guaranty, as amended by this Second Amendment, with respect to the Loan Agreement, the Note, the Mortgage and the other Loan Documents, all as amended by this Third Amendment, and acknowledges that he has no defenses, claims or set-offs to the enforcement by Lender of the liabilities and obligations of Guarantor under the Guaranty, as amended by this Third Amendment.

15. Amendment Binding. This Third Amendment shall be binding on the Trust, the Partnership, Guarantor and their respective general partners, heirs, legatees, administrators, personal representatives, successors and permitted assigns, and shall inure to the benefit of Lender, its successors and assigns. The obligations and liabilities of the Trust, the Partnership and Guarantor under this Third Amendment shall be joint and several.

16. Continued Effectiveness. Except as expressly provided herein, the Loan Agreement, the Note, the Guaranty, the Mortgage

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and the other Loan Documents shall remain in full force and effect in accordance with their respective terms.

17. Trustee Exculpation. This Third Amendment is executed by LASALLE NATIONAL BANK, not personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in said Trustee, and it is expressly understood and agreed that nothing in this Third Amendment shall be construed as creating any personal liability on said Trustee to perform any covenant, either express or implied herein contained, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder.

IN WITNESS WHEREOF, this Third Amendment has been entered into as of the date first above written.

LENDER:

EXCHANGE NATIONAL BANK OF CHICAGO, a national banking association

By: [Signature]  
Title: 1770 [Signature]

TRUST:

LASALLE NATIONAL BANK, not personally, but solely as Trustee as aforesaid

By: [Signature]  
Title: Assistant Vice President

Attest: [Signature]  
Title: Assistant Secretary

PARTNERSHIP:

CARVER PARTNERSHIP, an Illinois limited partnership

By: [Signature]  
Duncan Y. Henderson, a general partner

GUARANTOR:

[Signature]  
DUNCAN Y. HENDERSON

This instrument prepared by and after recording shall be returned to:

Michael G. Rogers, Esq.  
Greenberger, Krauss & Jacobs,  
Chartered  
180 North LaSalle Street  
Suite 2700  
Chicago, Illinois 60601

Permanent Real Estate  
Tax Index No.:  
17-16-406-018-0000

Street Address:  
720 South Dearborn Street  
Chicago, Cook County, Illinois

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## TRUSTEE'S ENDORSEMENT

LASALLE NATIONAL BANK, not personally, but solely as Trustee under Trust Agreement dated August 3, 1987 and known as Trust No. 112533, hereby acknowledges receipt of the foregoing First Amendment to Loan Agreement, Promissory Note, Mortgage and Security Agreement, Guaranty and Other Loan Documents and agrees to be bound by the terms thereof.

LASALLE NATIONAL BANK, not personally, but solely as Trustee as aforesaid

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: December 24, 1989

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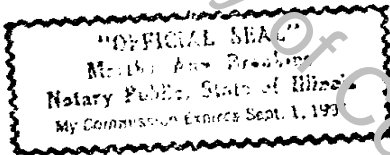
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STATE OF ILLINOIS     )  
                               )  
 COUNTY OF COOK         )     SS.

I, MAMTHA ANN BROOKS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT J. KIT SILVER and Rosemary Collins, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and Assistant Secretary, respectively, of LaSalle National Bank (the "Bank"), appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth; and the said    then and there acknowledged that he, as custodian of the seal of said Bank, did affix the seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 26<sup>th</sup> day of December, 1989.



*Mamtha Ann Brooks*  
Notary Public

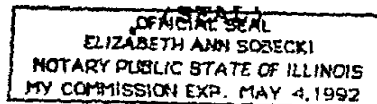
(SEAL)

STATE OF ILLINOIS     )  
                               )  
 COUNTY OF COOK         )     SS.

I,   , a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Duncan Y. Henderson, a general partner of Carver Partnership, an Illinois limited partnership (the "Partnership"), 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 signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of the Partnership for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 22 day of December    , 1989.

*Elizabeth Ann Sobecki*  
Notary Public



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11/15/2013

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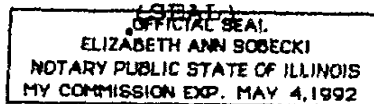
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STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK    )

I, ELIZABETH ANN SOBIECKI, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Duncan Y. Henderson, 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 signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 22 day of December, 1989.

Elizabeth Ann Sobiecki  
Notary Public

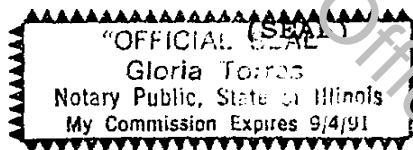


STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF COOK    )

I, GLORIA TORRES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT SALLY T. NLETO, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VICE PRESIDENT of Exchange National Bank of Chicago (the "Bank") appeared before me this day in person and acknowledged that he signed and delivered the said instrument pursuant to authority given by the Board of Directors of said Bank as her own free and voluntary act, and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 22<sup>nd</sup> day of December, 1989.

Gloria Torres  
Notary Public



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## SCHEDULE OF EXHIBITS

EXHIBIT A-3

LEGAL DESCRIPTION OF PREMISES

EXHIBIT D-3

PROJECT BUDGET

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Lot 13, (except those parts taken for streets) in Block 126 in School Section Addition to Chicago, also that part of Lot 12 in Block 126 in the School Section Addition to Chicago lying East of the East line of Federal Street and West of the West line of Dearborn Street and South of the center line of the party wall erected pursuant to the agreement made by Stephen W. Rawson with Joseph E. Otis, dated November 12, 1889 and recorded January 20, 1890 as Document Number 1211776 and being the center line of the South wall of an 8 story brick building now situated partially upon Lot 7 in Block 126 aforesaid, also all of that part of the North 1/2 of Lot 18 in Block 126, in the School Section Addition to Chicago described as follows:

Commencing on the North line of said Lot, at its intersection with the West line of Dearborn Street, and running South along the said West line of Dearborn Street, 24 feet 9 5/8 inches to the North face of the North wall of the 3 story brick building now situated partly upon the South 1/2 of said Lot 18, running thence west, along the North face of the said 3 story brick building and the extension thereof, to its intersection with the East line of Federal Street, said intersection being a point 25 feet 2 3/8 inches South of the North line of said Lot 18; thence North along the East line of Federal Street to the North line of said Lot 18, and thence East along the North line of said Lot 18, to the point of beginning, being in Section 16, Township 39 North, Range 14, East of the Third Principal meridian, in Cook County, Illinois.

Permanent Tax Number: 17-17-106-018

Volume: 511

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EXHIBIT D-3

Exhibit D-3 has been delivered by Borrower to Lender and is satisfactory to Lender.

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