

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MICHAEL D. BROWN  
RECORDER

**RECORDATION REQUESTED BY:**  
HORIZON BANK, NATIONAL ASSOCIATION  
MERRILLVILLE (361)  
Branch Location: 8590 Broadway,  
Merrillville, IN 46410  
Corporate Location: 515 Franklin St.  
Michigan City, IN 46360

**WHEN RECORDED MAIL TO:**  
HORIZON BANK, NATIONAL ASSOCIATION  
502 Franklin Square  
Michigan City, IN 46360

**SEND TAX NOTICES TO:**  
Marina District Development LLC  
3592 North Hobart Road  
Hobart, IN 46342

Document is  
**NOT OFFICIAL**  
ASSIGNMENT OF RENTS 14029284ccm

This Document is the property of  
the Lake County Recorder!

**THIS ASSIGNMENT OF RENTS** dated September 24, 2014, is made and executed between Marina District Development, LLC, an Indiana Limited Liability Company, whose address is 3592 North Hobart Road, Hobart, IN 46342 (referred to below as "Grantor") and HORIZON BANK, NATIONAL ASSOCIATION, whose address is Branch Location: 8590 Broadway, Merrillville, IN 46410, Corporate Location: 515 Franklin St., Michigan City, IN 46360 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Lake County, State of Indiana:

**Parcel I:** Intentionally omitted

**Parcel II:** Intentionally omitted

**Parcel III:**

Lot Two (2) in New Roby 1st Addition, to the City of Hammond, as per plat thereof, recorded in Plat Book 104 page 70 in the Office of the Recorder of Lake County, Indiana.

**Parcel IV:**

Part of the West Half of the Northeast Quarter of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, in the City of Hammond, Indiana, Lake County, Indiana, described as follows;

Beginning at the intersection of the South line of 110th Street and the East line of 5th Avenue; thence South on the East line of 5th Avenue, 120 feet; thence East parallel with 110th Street, 172 feet to the East line of a vacated alley, 20 feet in width; thence North along the East line of said alley 120 feet to the South line of 110th Street; thence West along the South line of 110th Street, 172 feet to the place of beginning, as described in Decree Rendered in Cause No. 55523 in the Gary Superior Court on January 13, 1942 and filed in Order Book 42, page 94.

Also:

Part of the West half of the Northeast Quarter of Fractional Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, formerly embraced within the boundaries of Lots 1 and 2 Block 10, Roby, Plat Book 3 page 15 (now vacated), described as follows: Commencing at the point of intersection of the

CHICAGO TITLE INSURANCE COMPANY

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**ASSIGNMENT OF RENTS  
(Continued)**

South line of 110th Street and the East line of vacated 6th Avenue; thence West along the South line of 110th Street, 218 feet to a vacated alley; thence South on the East line of said alley 48 feet; thence East parallel to the South line of said 110th Street a distance of 218 feet to the East line of 6th Avenue; thence North on the East line of 6th Avenue 48 feet to the place of beginning, in the City of Hammond, Lake County, Indiana.

**Parcel V:**

Part of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, being described as follows:

Beginning at the intersection of the East line of 5th Avenue (a 66-foot street) and the North line of 110th Street, (a 66-foot street); thence North along said East line of 5th Avenue, 417.2 feet to the Southwesterly line of Indianapolis Boulevard; thence Southeasterly along the Southwesterly line of Indianapolis Boulevard, 511.8 feet to the West line of 6th Avenue, (a 66-foot street); thence South along the West line of 6th Avenue, 20.7 feet to the North line of 110th Street; thence West along the North line of 110th Street, 324.0 feet to the point of beginning, in the City of Hammond, Lake County, Indiana.

**Parcel VI: Intentionally omitted**

**Parcel VII Tract I:**

A part of the Northeast Quarter of Section 1, Township 37 North, Range 10 West of the Second Principal Meridian, located in North Township, Lake County, Indiana, described as follows:

Commencing at the Southeast corner of the Southeast Quarter of Section 1, Township 37 North, Range 10 West; thence North 00 degrees 00' 00" East (assumed bearing) 2,180.44 feet along the East line of said Section 1 to its point of intersection with the original centerline of the 80 foot wide right of way of Indianapolis Boulevard; thence North 39 degrees 07' 01" West, 2,689.03 feet along said original centerline of the 80 foot wide right of way of Indianapolis Boulevard to its point of intersection with the centerline of 112th Street (80 foot wide right of way); thence South 50 degrees 52' 59" West, 190.00 feet along the centerline of 112th Street; thence South 34 degree 15' 02" West, 497.85 feet along the centerline of 112th Street; thence North 55 degrees 44' 58" West, 40.00 feet perpendicular to the centerline of 112th Street to the Southeastern corner of the 1.419 acre tract of land described in Warranty Deed recorded as Instrument 507068 on December 14, 1978 in the Office of the Recorder of Lake County, Indiana and the point of beginning of this description; thence North 13 degrees 20' 38" East, 227.01 feet; thence North 36 degrees 54' 32" West, 43.83 feet to the South right of way of the Marina Access Road Special Warranty Deed 94-21860 dated March 23, 1994 and a point on a curve, said curve being concave to the Northeast and having a radius of 346.48 feet; thence Easterly along said curve, a distance of 127.17 feet (chord distance 126.46 feet, chord bearing South 70 degrees 07' 47" East) to a point on said Westerly right of way of 112th Street; thence South 34 degrees 15' 02" West, 257.63 feet along said Westerly right of way of 112th Street to the point of beginning.

**Parcel VII Tract II:**

A part of the Northeast Quarter of Section 1, Township 37 North, Range 10 West of the 2nd Principal Meridian, located in North Township, Lake County, Indiana, being bounded as follows:

Commencing at the Southeast Corner of the Southeast Quarter of Section 1, Township 37 North, Range 10 West; thence North 00 degrees 00' 00" (assumed bearing) 2,180.44 feet along the East line of said Section 1 to its point of intersection with the original centerline of the 80-foot wide right-of-way of Indianapolis Boulevard; thence North 39 degrees 07' 01" West 2,689.03 feet along said original centerline of the 80-foot-wide right-of-way of Indianapolis Boulevard to its point of intersection with the centerline of 112th Street (80-footwide right-of-way); thence South 50 degrees 52' 59" West 190.00 feet along the centerline of 112th Street; thence South 34 degrees 15' 02" West 497.85 feet along the centerline of 112th street to the Southeastern corner of the 1.419 acre tract of land described in Warranty Deed recorded as instrument no. 507068 on December 14, 1978 in the Office of the Recorder of Lake County, Indiana, to a point on the boundary (terminus of the third course) of the 4,793 acre tract of land described in special warranty deed recorded as instrument no. 94021860 on March 23, 1994 in said Recorder's Office, and to the point of beginning of this description; thence South 34 degrees 15' 02" West 205.33 feet along the Northwestern right-of-way line of 112th Street; thence North 89 degrees 51' 46" West 336.05 feet along the Northern right-ofway line of 112th Street to the Eastern right-of-way 5th Avenue (66 foot-wide-right-of-way); thence North 00 degrees 04' 19" East 1,127.57 feet along the Eastern right-of-way line of 5th Avenue to a point being South 00 degrees 04' 19" West 120.00 feet from the Southeastern corner of the intersection of 5th Avenue and 110th Street (66-foot-wide right-of-way); thence South 89 degrees 37' 25" East 172.00 feet; thence North 00 degrees 04 minutes 19 seconds East 72.00 feet; thence South 89 degrees 37' 25" East, 218.00 feet; thence North 00 degrees 04' 19" East 57.74 feet to the Southwestern right of way line of Indianapolis Boulevard; thence South 39 degrees 07' 01" East 180.04 feet along the Southwestern right-of-way of Indianapolis Boulevard to the Northwestern boundary of said 4.793 acre tract of land, the next eight courses are along the boundary of said 4.793 acre tract of land; 1) thence South 50 degrees 43' 23" West 135.68 feet (measured, 155.27 feet deeded); 2) thence South 36 degrees 14' 30" West 136.32 feet; 3) thence South 11 degrees 49' 05" West 132.22 feet; 4) thence South 04 degrees 06' 03" East 125.93 feet; 5) thence South 24 degrees 13' 40" East 122.46 feet

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(Continued)**

to a point on a non-tangent curve concave to the Northeast, said point being South 60 degrees 23' 05" West 346.48 feet from the radius point of said curve; 6) thence Southeasterly 181.42 feet along said curve to a point being South 30 degrees 23' 06" West 346.48 feet from the radius point of said curve; 7) thence South 36 degrees 54' 32" East 43.83 feet; 8) thence South 13 degrees 20' 38" West 227.01 feet to the point of beginning.

Property            1007 and 1129 5th Avenue, Hammond, IN  
Address:

Property            10956 and 902-52 Indianapolis Blvd, Hammond, IN  
Address:

The Property or its address is commonly known as 1007 and 1129 5th Avenue and 10956 and 902-52 Indianapolis Blvd., Hammond, IN 46320. The Property tax identification number is 45-02-01-126-008.000-023, 45-02-01-204-001.000-023, 45-02-01-201-001.000-023 and 45-02-01-251-001.000-023.

**FUTURE ADVANCES.** In addition to the Note, this Assignment secures all future advances made by Lender to Grantor whether or not the advances are made pursuant to a commitment. Specifically, without limitation, this Assignment secures, in addition to the amounts specified in the Note, all future obligations and advances which Lender may make to Grantor, together with all interest thereon, whether such future obligations and advances arise under the Note, this Assignment or otherwise; however, in no event shall such future advances (excluding interest) outstanding at any time exceed in the aggregate \$ \_\_\_\_\_. This Assignment also secures all modifications, extensions and renewals of the Note, the Assignment, or any other amounts expended by Lender on Grantor's behalf as provided for in this Assignment.

**THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Indiana and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms

**ASSIGNMENT OF RENTS  
(Continued)**

and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Default in Favor of Third Parties.** Any guarantor or Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of any guarantor's or Grantor's property or ability to perform their respective obligations under this Assignment or any of the Related Documents.

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any

**ASSIGNMENT OF RENTS  
(Continued)**

governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Cure Provisions.** If any default, other than a default in payment is curable and if Grantor has not been given a notice of a breach of the same provision of this Assignment within the preceding twelve (12) months, it may be cured if Grantor, after Lender sends written notice to Grantor demanding cure of such default: (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**ADDITIONAL APPRAISAL AND MINIMUM VALUE COVERAGE. ADDITIONAL APPRAISAL.** Borrower agrees to pay the cost of any additional or supplemental appraisal of the Real Property as Lender from time to time, in its sole reasonable discretion, deems necessary or prudent to comply with the requirements or recommendations of the Office of the Comptroller of the Currency or any other federal or state regulatory agency having

supervisory authority with respect to the Lender, the Loan or the Real Property. Such expenses shall be part of the Indebtedness secured by this Mortgage and shall be payable on demand and shall bear interest at the Note rate until paid.

**MINIMUM VALUE COVERAGE.** In the event the outstanding balance of the Indebtedness exceeds seventy-five percent (75%) of the appraised value of the Real Property (the "Minimum Value") as determined by the most recent appraisal obtained by Lender Borrower shall, within fifteen (15) business days after receipt of written notice from Lender, either i) pay to Lender an amount sufficient to reduce the outstanding balance of the Indebtedness to an amount equal to the Minimum Value as of the date of such payment; or (ii) grant to or deposit with Lender (collectively "Pledge") additional collateral determined by Lender, in its sole reasonable discretion, to have a current market value sufficient when added to the appraised value of the Real Property to increase the Minimum Value as of the date of such Pledge to an amount equal to or greater than the outstanding amount of the Indebtedness; or (iii) any combination of payments and Pledges which would result in the outstanding amount of the Indebtedness being equal to or less than the Minimum Value as of the date of such payment and Pledge. Failure of Borrower to take such action within fifteen (15) business days after receipt of written notice from Lender shall be deemed an Event of Default under this Mortgage and no additional cure period shall be allowed.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Indiana without regard to its conflicts of law provisions. This Assignment has been accepted by Lender in the State of Indiana.

**Choice of Venue.** If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of LaPorte County, State of Indiana.

**Merger.** There shall be no merger of the interest or estate created by this assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Waive Jury.** All parties to this Assignment hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Right of Redemption.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Assignment.** The word "Assignment" means this ASSIGNMENT OF RENTS, as this ASSIGNMENT OF RENTS may be amended or modified from time to time, together with all exhibits and schedules attached to this ASSIGNMENT OF RENTS from time to time.

**Borrower.** The word "Borrower" means Marina District Development LLC.

**Default.** The word "Default" means the Default set forth in this Assignment in the section titled "Default".

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

**Grantor.** The word "Grantor" means Marina District Development LLC.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, including, but not limited to, attorneys' fees, costs of collection and costs of foreclosure, together with interest on such amounts as provided in this Assignment. Specifically, without limitation, Indebtedness includes the future advances set forth in the Future Advances provision of this Assignment, together with all interest thereon.

**Lender.** The word "Lender" means HORIZON BANK, NATIONAL ASSOCIATION, its successors and assigns.

**Note.** The word "Note" means the promissory note dated September 24, 2014, in the original principal amount of \$5,500,000.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds





**RECORDING PAGE**

