

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

BY: JAS  
PG #: 10  
RECORDED AS PRESENTED

Everwise Credit Union  
110 S. Main Street  
South Bend, Indiana 46601  
Attention: Tim Landry

IN2309172C

Space above this line for Recorder's Use

**ASSIGNMENT OF LEASES AND RENTS**

This ASSIGNMENT OF LEASES AND RENTS ("Assignment"), is made as of May 21, 2024, by RIM HOSPITALITY LLC, an Indiana limited liability company ("Assignor"), to and for the benefit of EVERWISE CREDIT UNION, its successors and assigns ("Assignee").

**RECITALS:**

A. Lender has agreed to make a loan to Borrower in the original principal amount of THREE MILLION FOUR HUNDRED THOUSAND AND 00/100 DOLLARS U.S. (\$3,400,000.00) (the "Conventional Loan"), and a U.S. Small Business Association loan in the original principal amount of FIVE MILLION AND 00/100 DOLLARS U.S. (\$5,000,000.00) ("SBA Loan", and collectively with the Conventional Loan, the "Loans").

B. The Loans are evidenced by, among other things, (i) that certain Construction Loan Agreement dated as of even date herewith, by and between Assignor and Assignee; (ii) that certain Loan Agreement dated as of even date herewith, by and between Assignor and Assignee (collectively, the "Loan Agreements"); (iii) that certain Promissory Note dated as of even date herewith, in the original principal amount of \$3,400,000.00, made payable by Assignor to the order of Assignee ("Conventional Note"); and (iv) that certain U.S. Small Business Association Note dated as of even date herewith, in the original principal amount of \$5,000,000.00, made payable by Assignor to the order of Assignee ("SBA Note" and collectively the Conventional Note, the "Notes"). All terms not otherwise defined herein shall have the meanings set forth in the Loan Agreements.

C. The Notes are governed and secured, among other things, that certain Security Agreement dated as of even date herewith from Assignor in favor of Assignee and that certain Construction Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the "Mortgage") of even date herewith executed by Assignor, in favor of Assignee encumbering

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property legally described on Exhibit A attached hereto and made a part hereof.

D. As one of the conditions to make the Loans, Assignee is requiring the execution and delivery of this Assignment by Assignor.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

## AGREEMENTS:

### Grant of Security Interest.

(a) Assignor hereby absolutely and unconditionally grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor in and to all of the following:

(i) All leases, assignments, sub-leases and other agreements or arrangements affecting the use or occupancy of all or any portion of that certain real estate ("Property") legally described in Exhibit A attached hereto, now in effect or hereafter entered into (including all lettings, subleases, licenses, concessions, tenancies and other occupancy agreements covering or encumbering all or any portion of the Property), together with any guarantees, supplements, amendments, modifications, extensions and renewals of the same (each, a "Lease", and collectively, "Leases");

(ii) All of the rents, revenues, issues, profits, proceeds, receipts, income, accounts, condemnation awards, insurance proceeds, and other receivables arising out of or from the Property, including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any Lease (collectively, "Rents");

(iii) The right to accept or reject any offer made by any Tenant pursuant to its Lease to purchase all or any portion of the Property;

(iv) All security deposits delivered by Tenants pursuant to a Lease, whether in cash or letter of credit;

(v) All rights and claims for damage against Tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Bankruptcy Code or any replacement Section thereof; and

(vi) All tenant improvements and fixtures located on the Property.

(b) This Assignment is a present and absolute transfer and assignment of the foregoing interests (and not an assignment for additional security only) to Assignee given to secure:

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(i) The payment by Borrower when due of (1) the Indebtedness; and (2) all costs and expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

(ii) The observance and performance by Borrower of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Borrower or any other obligor to or benefiting Assignee which are evidenced or secured by or otherwise provided in the Notes, this Assignment or any of the other Loan Documents.

2. **Representations and Warranties of Assignor.** Assignor represents and warrants to Assignee that:

(a) This Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) Assignor is or will be the lessor under all Leases, in each case either directly or as successor in interest to the named lessor thereunder;

(c) There is no other existing assignment of Assignor's entire or any part of its interest in or to any of the Leases, or any of the Rents, nor has Assignor entered into any agreement to subordinate any of the Leases or Assignor's right to receive any of the Rents;

(d) Assignor has not executed any instrument or performed any act which may prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation;

(e) Assignor has entered into the Existing Leases, and true and correct copies of each Existing Lease have been delivered to Assignee;

(f) Assignor acknowledges that Assignee has not received for its own account any security deposited by any Tenant pursuant to the terms of the Leases and that Assignee assumes no responsibility or liability for any security so deposited; and

(g) There are no defaults by Assignor and, to Assignor's knowledge, there are no material defaults by Tenants under any of the Existing Leases.

3. **Rights Prior to Default.** Unless or until an Event of Default (as defined in Section 4) shall occur, Assignor shall have the right and license to collect, at the time (but in no event more than thirty (30) days in advance) provided for the payment thereof, all Rents, and to retain, use and enjoy the same subject to the terms of the Loan Agreements. Upon the occurrence of an Event of Default, Assignor's right to collect such Rents or to prosecute and collect under any Lease shall immediately terminate without further notice thereof to Assignor. Assignee shall have the right to notify the Tenants under the Leases of the existence of this Assignment at any time.

4. **Events of Default.** An "Event of Default" shall occur under this Assignment upon the occurrence of (a) a breach by Borrower of any of the covenants, agreements, representations, warranties or other provisions contained herein that is not cured within the

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applicable grace or cure period, if any, set forth in the Loan Agreements, or (b) any Event of Default described in the Loan Agreements or any of the other Loan Documents. An Event of Default under this Assignment shall constitute an Event of Default under the other Loan Documents.

5. **Rights and Remedies Upon an Event of Default.** At any time upon or following the occurrence of any Event of Default, Assignee, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Borrower or any guarantor of the Notes from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other Lien or security interest granted by the Loan Documents:

(a) Declare the unpaid balance of the principal sum of the Notes, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) Enter upon and take possession of the Property, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of Leases, to obtain and evict Tenants, to fix or modify Rents, and to do any other act which Assignee deems necessary or proper;

(c) Either with or without taking possession of the Property, demand, sue for, settle, compromise, collect, and give acquittances for all Rents of and from the Property and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the Tenants under the Leases and any guarantor thereof to pay all Rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such Rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the obligors thereunder, and Assignor shall facilitate in all reasonable ways Assignee's collection of such Rents, and upon request will execute written notices to the Tenants under the Leases or any guarantor thereof to thereafter pay all such Rents and other amounts to Assignee, and

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Borrower with interest thereon until paid at the Default Rate and shall be secured by this Assignment.

6. **Application of Proceeds.** All sums collected and received by Assignee out of the Rents following the occurrence of any one or more Events of Default shall be applied in accordance with the Loan Documents.

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7. **Limitation of Assignee's Liability.** Assignee shall not be liable for any loss sustained by Borrower resulting from Assignee's failure to let the Property or from any other act or omission of Assignee in managing, operating or maintaining the Property following the occurrence of an Event of Default. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Borrower under or by reason of this Assignment. Assignor shall and does hereby agree to indemnify, defend (using counsel reasonably satisfactory to Assignee) and hold Assignee harmless from and against any and all liability, loss or damage which Assignee may incur under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignee incurs as a result of Assignee's gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Borrower with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Property or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Property by any Tenant, occupant or other party, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Mortgage, and no exercise by Assignee of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Property, in the absence of the taking of actual possession of the Property by Assignee pursuant to the provisions hereof or of the Mortgage.

8. **No Waiver.** No waiver of any provision of this Assignment shall be effective unless set forth in writing signed by Assignee, and any such waiver shall be effective only to the extent therein set forth. Failure by Assignee to insist upon full and prompt performance of any provisions of this Assignment, or to take action in the event of any breach of any such provision or Event of Default, shall not constitute a waiver of any rights of Assignee, and Assignee may at any time thereafter while such breach or Event of Default remains uncured exercise all rights specified herein or provided by Applicable Law with respect to such breach or Event of Default. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

9. **Further Instruments.** Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as

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Assignee may request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.

10. **Enforceability**. In the event any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall, at the option of Assignee, not affect any other provision of this Assignment, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11. **Successors and Assigns**. This Assignment is binding upon Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns.

12. **Amendments**. This Assignment may only be amended, modified or supplemented by the written agreement of Assignor and Assignee.

13. **Duration**. This Assignment shall become null and void at such time as Borrower shall have paid the principal sum of the Notes, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan Documents.

14. **Notices**. All notices required under this Assignment will be in writing and will be transmitted in the manner and to the addresses required by the Loan Agreements.

15. **Governing Law**. This Assignment shall be governed by and construed in accordance with the substantive laws of the State of Indiana; provided that to the extent any of such laws may now or hereafter be preempted by Federal law, Federal law shall so govern and be controlling.

16. **CONSENT TO JURISDICTION**. TO INDUCE ASSIGNEE TO ACCEPT THE NOTES, ASSIGNOR IRREVOCABLY AGREES THAT, SUBJECT TO ASSIGNEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS ASSIGNMENT WILL BE LITIGATED IN COURTS HAVING SITUS IN THE COUNTY WHERE THE PROPERTY IS LOCATED. ASSIGNOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN THE COUNTY WHERE THE PROPERTY IS LOCATED, WAIVES PERSONAL SERVICE OF PROCESS UPON ASSIGNOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY NOTICE TO ASSIGNOR IN ACCORDANCE WITH THE LOAN AGREEMENTS AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

17. **WAIVER OF TRIAL BY JURY**. ASSIGNOR AND ASSIGNEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE

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FUTURE BE DELIVERED IN CONNECTION WITH THIS ASSIGNMENT OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

[Signatures on the following page]

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I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Margaret M. Salinas

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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1

LOT 5-3 IN THE RESUBDIVISION OF LOT 5 OF HOLIDAY PLAZA, UNIT 2, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 60, PAGE 12, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

#### PARCEL 2

LOT 1 AND THE EAST 31.69 FEET OF LOT 2 OF THE SECOND AMENDMENT TO THE PLAT OF SUBDIVISION OF PRIME CENTER PROPERTY, IN THE TOWN OF MERRILLVILLE AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 69, PAGE 58 IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

Address: 8018 Delaware Pl, Merrillville, IN 46410

APN/Parcel ID(s): 45-12-22-177-001.000-030 and 45-12-22-153-004.00-030