

**MORTGAGE**  
**(With Future Advance Clause)**

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between **BLOCK V, LLC**, a North Dakota limited liability company, whose mailing address is 4000 Garden View, Suite 101, Grand Forks, North Dakota 58201-7421, hereinafter referred to as the “Mortgagor;”

and

**GRAND FORKS GROWTH FUND**, a job development authority, a public body, corporate and politic under North Dakota law, whose mailing address is 255 North 4<sup>th</sup> Street, P.O. Box 5200, Grand Forks, North Dakota 58203, hereinafter referred to as the “Lender.”

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**WITNESSETH, FOR GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:**

**1. MORTGAGE.** The Mortgagor, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and to secure the repayment of the “Secured Debt” as defined in Paragraph 2 below, hereby irrevocably **GRANTS, BARGAINS, SELLS, CONVEYS AND MORTGAGES TO THE LENDER**, the following described property lying and being in Grand Forks County, North Dakota (hereafter collectively referred to as the “Premises”):

**A. Real Property.** The real property lying and being in Grand Forks County, North Dakota more particularly described as follows:

The Front 100 feet of Lot 6, in Block 24, Subdivision of Blocks 16, 17, and 24 of the Town of Grand Forks, ND

AND

The Rear 50 feet of the Front 150 feet of Lots 4, 5, and 6, in Block 24, Subdivision of Blocks 16, 17 and 24 of the Town of Grand Forks, ND

(having a street address of 2 North 3<sup>rd</sup> Street, Grand Forks, ND 58202)

**TOGETHER WITH:** (1) All water rights, rights-of-way, easements, tenements, hereditaments, privileges and appurtenances thereunto belonging, now owned or hereafter acquired, however evidenced, used or enjoyed with the Real Property or belonging to the same; and (2) All right, title and interest hereafter acquired in or to any of the Real Property, hereby also releasing, relinquishing and waiving all exemptions, rights of dower and homestead, in or to said Real Property, vested or inchoate.

**B. Improvements and Fixtures.** All buildings, structures, improvements, fixtures and appurtenances now standing, or at any time hereafter constructed or placed upon the Real Property or any part thereof, including all right, title and interest of the Mortgagor in and to all building materials, plants, and landscaping of every kind and nature whatsoever on said Real Property or in any building now or hereafter standing on said Real Property or any part thereof (the “Improvements”).

**C. Rents, Profits and Leases.** All leases, licenses, subleases, or agreements, written or verbal, for the use, occupancy or rental of the Premises, or any part thereof (a “Lease” or the “Leases”), and all rents, issues, royalties, profits, payments, fees and charges now due or which may hereafter become due under or by virtue of any said leases, licenses, subleases, or agreements (the “Rents and Profits”), including, but not limited to, the right to receive and collect all rents, payments, income, profits and issues arising out of, payable from or collected from the Premises (including all moneys owed the Mortgagor under all Leases for services, materials, leasehold improvements or otherwise furnished or installed pursuant to any Lease), all guaranties of the obligations of any tenant or occupant under a Lease, all payments derived from the Leases (including claims for the recovery of damages done to the Premises or for the abatement of any nuisance existing thereon, claims for damages resulting from default under the Leases whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of said Leases or the waiver of

any obligation or term thereof prior to the expiration date), all rights and remedies the Mortgagor may have against a tenant or occupant under a Lease, all proceeds payable by reason of the exercise by a tenant or occupant of any option to purchase the Premises or any first refusal rights of a tenant or occupant contained in a Lease, any award or damages payable to the Mortgagor pursuant to any bankruptcy, insolvency or reorganization proceeding affecting any tenant or occupant, any payments made to the Mortgagor in lieu of rent, and all security deposits paid by any tenant or occupant under a Lease. Said Rents and Profits, together with the Leases, are hereinafter collectively referred to as the "Rents, Profits and Leases."

**D. After-Acquired Property.** All right, title and interest hereafter acquired in or to any of the Real Property and Improvements, as well as renewals, replacements, accessions, proceeds, alterations, accessories, increases, parts, fittings and substitutes thereof (the "After-Acquired Property"), hereby also releasing, relinquishing and waiving all exemptions, rights of a surviving spouse and homestead rights, in or to said property, vested or inchoate.

**E. Proceeds.** All proceeds (including without limitation insurance proceeds) from the Premises, and any and all property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, pledged, assigned or transferred, as and for additional security hereunder by the Mortgagor or by any one in their behalf or with their written consent to the Lender, which the Lender is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof (the "Proceeds").

**2. SECURED DEBT.** The term "Secured Debt" includes, but is not limited to the following:

- (a) The promissory note(s), contract(s), guaranty(s), or other evidence of debt described below and all extensions, renewals, modifications or substitutions: (1) PROMISSORY NOTE EXECUTED BY MORTGAGOR TO LENDER IN THE ORIGINAL PRINCIPAL AMOUNT OF \$900,000.00, DATED \_\_\_\_\_, 2022 (2) ANY AND ALL ADDITIONAL OR FUTURE LOANS OR ADVANCES MADE BY THE LENDER PURSUANT TO THE TERMS OF ANY PROMISSORY NOTE, LINE OF CREDIT, CONTRACT, GUARANTY OR OTHER EVIDENCE OF DEBT EXISTING ON THE DATE OF THIS MORTGAGE OR EXECUTED AFTER THE DATE HEREOF, WHICH MAY INCLUDE BUT IS NOT LIMITED TO RENEWALS, EXTENSIONS OR SUBSTITUTIONS OF THE DEBT OBLIGATIONS DESCRIBED HEREIN; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL CONSTITUTE A COMMITMENT BY THE LENDER TO MAKE ADDITIONAL OR FUTURE LOANS OR ADVANCES IN ANY AMOUNT.
- (b) All future advances from the Lender to Mortgagor or other future obligations of Mortgagor to the Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Mortgage whether or not this Mortgage is specifically referred to in the evidence of debt.
- (c) All obligations Mortgagor owes to the Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Mortgagor and the Lender.
- (d) All additional sums advanced and expenses incurred by the Lender for insuring, preserving or otherwise protecting the Premises and its value and any other sums

- advanced and expenses incurred by the Lender under the terms of this Mortgage, plus interest at the highest rate in effect, from time to time, as provided in the Secured Debt.
- (e) Mortgagor's performance under the terms of any instrument evidencing a debt by Mortgagor to the Lender and any mortgage securing, guarantying, or otherwise relating to the debt.

If more than one person signs this Mortgage as Mortgagor, each of the Mortgagor agrees that this Mortgage will secure all future advances and future obligations described above that are given to or incurred by any one or more Mortgagor, or any one or more Mortgagor and others.

**3. FUTURE ADVANCES.** Additional or future loans or advances pursuant to the terms of any promissory note, line of credit, contract, guaranty or other evidence of debt which may include but is not limited to renewals or substitutions of the secured debt, are contemplated and, along with other future obligations, are secured by this Mortgage and shall have priority to the same extent as if made on the date this Mortgage is executed even though all or part may not yet be advanced or the evidence of such debt not having been executed on the date hereof by Mortgagor. Nothing in this Mortgage, however, shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment would need to be agreed to in a separate writing.

**4. WARRANTIES.** Mortgagor represents and warrants to the Lender, as follows:

(a) The Mortgagor is the lawful owner of and have good marketable and merchantable title to the Premises; Mortgagor has good right and lawful authority to grant, bargain, sell, convey, warrant, mortgage, assign and pledge the same as provided herein; and the Premises are free and clear of all mortgages, liens, pledges, charges and encumbrances. Mortgagor warrants and will defend the title to the Premises against all claims and demands whatsoever not specifically excepted herein.

(b) There is no provision in any mortgage, indenture, contract or agreement to which the Mortgagor is a party or by which they are bound or in any order of any court or administrative agency to which the Mortgagor is subject, which prohibits the execution and delivery by the Mortgagor of this Mortgage, or of the Secured Debt, or the performance or observance by the Mortgagor of any of the terms or conditions of this Mortgage or of the Secured Debt.

(c) The Secured Debt and this Mortgage have been validly executed and delivered and are valid and enforceable obligations of the Mortgagor in accordance with their terms.

(d) There are no actions, suits, or proceedings pending or, to the knowledge of the Mortgagor, threatened against the Mortgagor or the Premises in any court or before any federal, state, municipal or other governmental agency, which, if decided adversely to the Mortgagor, would have a materially adverse effect upon the Mortgagor or upon the Premises, and the Mortgagor is not in default with respect to any order of any court or governmental agency.

(e) The Mortgagor is not in default in the payment of the principal of or interest on any indebtedness for borrowed money and are not in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued, and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes or would constitute an event of default thereunder.

5. **PAYMENT OF INDEBTEDNESS.** Mortgagor agrees to promptly pay when due the principal of and interest on the Secured Debt secured hereby, which includes but is not limited to any additional or future loans or advances made by the Lender, and to pay prepayment and late payment charges as provided in this Mortgage or the Secured Debt, and to perform each and every agreement and covenant contained in this Mortgage and the Secured Debt.

6. **MAINTENANCE.** Mortgagor agrees to keep and maintain the Premises in good condition, repair and operating condition free from any nuisance, waste or misuse, and to comply with all requirements of law, federal, state or municipal statutes, ordinances and regulations, restrictions and covenants affecting the Premises and their use, and will promptly repair or restore any buildings, improvements or structures now or hereafter on the Premises and all fixtures therein which may become damaged or destroyed to their condition prior to any such damage or destruction and to pay when due all claims for labor performed and materials furnished therefor, including but not limited to agricultural supplies used for the production of crops, agricultural products or livestock on the Premises. Mortgagor further agrees that they will not, without first obtaining the Lender's prior consent: (a) remove, alter, or demolish any building thereon, nor sever or remove any fixtures or appliances from said buildings; nor (b) make any additions, alterations, or expansions to the Premises which will alter the basic structure, affect the market value or change the existing architectural character of the Premises; nor (c) acquiesce in any rezoning classification, modification or restrictions affecting the Premises; nor (d) abandon or vacate the Premises. With respect to Lender's consent to any of the foregoing, the Mortgagor shall submit a written notice of such building modification, alteration, addition, expansion or other proposal to the Lender, and the Lender shall have sixty (60) days from receipt of such notice to review and either approve or disapprove the same; provided, however, that the Lender shall be deemed to have approved the modification, alteration, addition, expansion or other proposal if it does not respond to said written notice within said sixty (60) day period. Lender may enter upon and inspect the Premises at any reasonable time and effect whatever repairs or replacements the Lender may reasonably require to maintain the Premises in good condition (provided the Lender shall have no duty to make such inspections and shall not incur any liability or obligation for making or not making any such inspections).

7. **INSURANCE.** Mortgagor agrees to provide, continuously maintain and deliver to the Lender, insurance of such type or types and amounts as Lender may require, on the Premises, including but not limited to comprehensive general liability insurance for any accident on the Premises, business interruption insurance, hazard insurance and flood insurance. Such insurance policies shall be carried in companies approved by the Lender with loss payable clause in favor of and in form acceptable to the Lender. In the event of loss, Mortgagor shall give immediate notice to Lender, who may make proof of loss and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to the Lender instead of to Mortgagor and the Lender jointly, and the insurance proceeds, or any part thereof, may be applied by Lender, at its option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged.

8. **EVIDENCE OF TITLE.** Mortgagor agrees to deliver to, pay for and maintain with Lender until the Secured Debt hereby secured is paid in full, such evidence of title as Lender may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

**9. PAYMENT OF IMPOSITIONS, CONTEST OF LIENS AND IMPOSITIONS.**

Mortgagor agrees to pay when due and before any penalty all taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever assessed or charged against or constituting a lien on the Premises or any interest therein or the indebtedness secured hereby ("Impositions"); and will upon demand furnish to the Lender proof of the payment of any such Impositions. In the event of a court decree or an enactment after the date hereof by any legislative authority of any law imposing upon a bank under a mortgage the payment of the whole or any part of the Impositions herein required to be paid by the Mortgagor, or changing in any way the laws relating to the taxation of debts secured by mortgages or a mortgagee's interest in premises conveyed as security, so as to impose such Imposition on the Lender, then, in any such event, Mortgagor shall bear and pay the full amount of such Imposition, provided that if for any reason payment by Mortgagor of any such Imposition would be unlawful, or if the payment thereof would constitute usury or render the Secured Debt secured hereby wholly or partially usurious, the Lender, at its option, may declare the whole sum secured by this Mortgage, with interest thereon, to be immediately due and payable, without prepayment premium, or the Lender at its option, may pay that amount or portion of such Imposition as renders the indebtedness secured hereby unlawful or usurious, in which event Mortgagor shall concurrently therewith pay the remaining lawful and non-usurious portion or balance of said Imposition. In addition to the payments due in accordance with the terms of the Secured Debt hereby secured, Mortgagor shall, at the option and on demand of the Lender, pay to the Lender monthly and concurrently with payment of principal and interest, a sum equal to one-twelfth (1/12) of the annual taxes, assessments, insurance premiums, maintenance and other charges upon the Premises, as estimated by the Lender, in trust nevertheless for Mortgagor's use and benefit and for payment by the Lender of any such items when due. The failure of Mortgagor to make any of such payments shall constitute a default under this Mortgage. Mortgagor shall not be in default hereunder in respect to the payment of any taxes, payments in lieu of taxes, assessments, levies or other charges which Mortgagor shall be required by any provision hereof to pay so long as Mortgagor shall first notify the Lender in writing at least thirty (30) days prior to the due date thereof of its intention to contest such payment and shall thereafter, in good faith and with all possible promptness, contest such payment; provided, however, that Mortgagor shall furnish to the Lender, prior to commencing of any such protest or other contest, cash or other security satisfactory to the Lender to indemnify the Lender against any loss or liability by reason of any such protest or other contest and to pay any such taxes, assessments, levies or other charges, together with interest and penalty thereon, if any, if said contest should fail. Upon a final adjudication of any such protest or other contest, and in any event prior to the date on which the interest of the Lender in the Premises will forfeit by reason of the nonpayment of any such taxes, special assessments, levies or other charges, the Mortgagor shall pay the amount thereof then due. Lender may, at its option, make such payment from the security deposited by Mortgagor.

**10. PRIOR LIENS.** Mortgagor agrees to keep the Premises free from mortgages, encumbrances, charges, pledges or liens of every and any kind including, but not limited to any statutory lien under Title 35, North Dakota Century Code, and shall pay promptly and discharge all mortgages, encumbrances, charges, pledges and liens on the Premises, whether inferior or superior to the lien of this Mortgage; and further shall keep and maintain the Premises free from the claims of all persons supplying labor or materials which will enter into the construction, repair, alteration or improvement of any and all Improvements now on, now being erected, or which hereafter may be erected on said Premises.

**11. CONDEMNATION AND INSURANCE ACTIONS AND PROCEEDS.** Mortgagor agrees to immediately notify the Lender of the commencement of any condemnation proceedings, actual or threatened, affecting the Premises or of any loss that may be covered by insurance. Mortgagor hereby assigns to the Lender any insurance proceeds and any award for property taken and for damages to remaining property, in connection with an actual or threatened condemnation proceeding, whether fully adjudicated or settled, and such proceeds and awards (less expenses of collection) shall, at the option of the Lender, be applied to the Secured Debt secured hereby then most remotely to be paid, whether due or not, without the application of any prepayment premium, or shall be applied to the restoration or repair of the Premises. Lender shall have full authority, but shall not be obligated, to make proof of loss and adjust and collect insurance and to intervene in any condemnation proceeding in the name of Mortgagor and settle, collect and receive any award from the condemning authorities. Any insurer or condemning authority is hereby authorized and directed to make payment directly to the Lender. Any expenses incurred by the Lender in intervening in any action or collecting such proceeds shall be reimbursed to the Lender first out of the proceeds. Should proceeds be applied to restoration or repair of the Premises, the restoration or repair shall be pursuant to plans and specifications approved by the Lender, and the proceeds shall be disbursed by the Lender under such safeguards as the Lender may reasonably require to assure completion in accordance with such plans and specifications.

**12. INDEMNIFICATION.** Mortgagor agrees to indemnify, save and hold the Lender harmless from all costs and expenses (including reasonable attorneys' fees and costs of a title search, continuation of abstract and preparation of survey) incurred by reason of any action or proceeding before any court or administrative body and appeals therefrom (excepting an action to foreclose or to collect the Secured Debt secured hereby) in which the Lender may be or become a party by reason hereof, including but not limited to condemnation, bankruptcy, probate and administration proceedings, as well as any other of the foregoing wherein proof of claim is by law required to be filed or in which it becomes necessary to defend or uphold the terms of the lien created by this Mortgage, and all money paid or expended by the Lender in that regard, together with interest thereon from the date of such payment at the rate specified in the Secured Debt secured hereby, shall be so much additional indebtedness secured hereby and shall be immediately and without notice due and payable by Mortgagor.

**13. COSTS AND EXPENSES.** Except as otherwise expressly provided herein, Mortgagor agrees to pay, without demand, all costs, fees and expenses of this Mortgage, including costs of search and evidence on title, advertising and recording expense, documentary taxes and attorneys' fees as allowed by law, and all other sums expended hereunder by the Lender with interest from date of expenditure at the rate provided in the Secured Debt.

**14. PROTECTION OF SECURITY.** Should Mortgagor default hereunder in any respect, or if the Lender in its sole judgment and discretion deems it necessary to disburse funds, appear in actions or take other action to protect the full security interest intended to be created by this instrument, then Lender, without obligation to do so, without notice to or demand upon Mortgagor, and without releasing Mortgagor from any obligation hereof, may make such appearances, disburse such funds and take such action as either may deem necessary to protect the security hereof, the Lender being authorized to enter upon the Premises for such purposes. Mortgagor shall, on demand, reimburse the Lender for all amounts expended, including reasonable attorneys' fees, pursuant to this paragraph, together with interest thereon at the rate stated in the Secured Debt, and shall be so much additional

indebtedness secured hereby and shall be immediately and without notice due and payable by Mortgagor.

**15. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES.** As used in this section, (1) “Environmental Law” means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) “Hazardous Substance” means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to public health, safety, welfare or environment. The term includes, without limitation, any substances defined as “hazardous material,” “toxic substances,” “hazardous waste” or “hazardous substance” under any Environmental Law. Mortgagor represents, warrants and agrees that, except as previously disclosed and acknowledged in writing:

- (a) No Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Premises, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- (b) Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Premises.
- (c) Mortgagor will immediately notify the Lender if (1) a release or threatened release of a Hazardous Substance occurs on, under or about the Premises or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Premises. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.
- (d) Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Premises; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, the Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- (e) Mortgagor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
- (f) There are no underground storage tanks, private dumps or open wells located on or under the Premises and no such tank, dump or well will be added unless the Lender first consents in writing.
- (g) Mortgagor will regularly inspect the Premises, monitor the activities and operations on the Premises, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
- (h) Mortgagor will permit, or cause any tenant to permit, the Lender or the Lender’s agent to enter and inspect the Premises and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Premises; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Premises; or (3)

whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

- (i) Upon the Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Premises and to submit results of such audit to the Lender. The choice of the environmental engineer who will perform such audit is subject to the Lender's approval.
- (j) The Lender has the right, but not the obligation, to perform any of the Mortgagor's obligations under this paragraph at Mortgagor's expense.
- (k) As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify, save and hold the Lender and the Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which the Lender and the Lender's successors or assigns may sustain; and (2) at the Lender's discretion, the Lender may release this Mortgage and in return Mortgagor will provide the Lender with collateral of at least equal value of the Premises secured by this Mortgage without prejudice to any of the Lender's rights under this Mortgage.
- (l) Notwithstanding any of the language contained in this Mortgage to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Mortgage regardless of any passage of title to the Lender or any disposition by the Lender of any or all of the Premises. Any claims and defenses to the contrary are hereby waived.

**16. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Mortgagor will provide to the Lender upon request, any financial statement or information the Lender may deem necessary. Mortgagor warrants that all financial statements and information Mortgagor provides to the Lender are, or will be, accurate, correct, and complete. Upon failure of Mortgagor to furnish such financial statements or information, the Lender may cause an audit of the respective books and records, at Mortgagor's sole cost and expense, and the Lender may also treat such failure as a default hereunder, entitling the Lender to exercise the remedies described herein. If Mortgagor fails to do so, the Lender may sign, deliver, and file such documents or certificates in Mortgagor's name and Mortgagor hereby irrevocably appoints the Lender or the Lender's agent as attorney in fact to do the things necessary to comply with this paragraph.

**17. POWERS OF LENDER.** Without affecting the liability of any person, including Mortgagor, for the payment of any Secured Debt secured hereby, or the lien of this Mortgage on the remainder of the Premises for the full amount of the Secured Debt unpaid, the Lender is empowered as follows: Lender may from time to time and without notice:

- (a) Release any person liable for payment of any of the Secured Debt,
- (b) Extend the time or otherwise alter the terms of payment of any of the Secured Debt,
- (c) Alter, substitute or release any property securing the Secured Debt; or
- (d) Accept any additional security or resort to any security in such order as the Lender may determine.

**18. DUE ON SALE OR ENCUMBRANCE.** If all or any part of the Premises or any interest therein is sold, conveyed, transferred or further mortgaged, encumbered, charged or pledged or if the Rents, Profits and Leases of the Premises or any part thereof are assigned, or if any person other than Mortgagor or the Lender obtains any interest in or right to acquire the Premises, without the prior written consent of the Lender, then the Lender may, at the Lender's option, declare all Secured Debt secured hereby immediately due and payable, in full, together with any applicable prepayment premiums. Failure by Mortgagor to pay such sums within such time shall constitute an event of default hereunder. Consent as to any one transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions.

**19. INSURANCE FOR NON-PAYMENT.** Both parties agree that the Lender may, if the Lender so elects, procure and thereafter continue during the term of this Mortgage, for as long as the Lender desires, a form of insurance acceptable to the Lender insuring the Lender against any loss sustained by the Lender by reason of any default in payment by the Mortgagor of the Secured Debt hereby secured. If the Lender elects to procure such insurance, Mortgagor shall promptly reimburse the Lender the full amount of the initial premium for such insurance. During the term of this Mortgage, at the Lender's option, Mortgagor shall each month deposit in escrow with the Lender one-twelfth (1/12) of the next following anticipated annual premium for such insurance, said deposit to be made at the same time and place as Mortgagor make monthly payments on the Secured Debt. The Lender may thereafter pay all annual renewal premiums from such escrow. Should the amount deposited in escrow be insufficient to pay any renewal premium in full as the same become due, Mortgagor shall immediately upon demand deposit with or pay to the Lender such additional amount as may be sufficient to pay the renewal premium in full. Failure of Mortgagor to pay or deposit any of the amounts referred to herein shall constitute a default of the terms of this Mortgage.

**20. ASSIGNMENT OF RENTS.** As additional security, Mortgagor hereby assigns to Lender, during the continuance of this Mortgage, all Rents and Profits of the Premises affected by this Mortgage. Until Mortgagor shall default in the payment of any Secured Debt secured hereby or in the performance of any agreement hereunder, or under any other agreement with the Lender, including but not limited to the Secured Debt, Mortgagor shall have the right to collect all such Rents and Profits earned prior to default as they become due and payable. If Mortgagor shall default as aforesaid, Mortgagor's right to collect any of such monies shall cease and the Lender shall have the right, with or without taking possession of the Premises affected hereby, to collect all Rents and Profits. Failure or discontinuance of the Lender at any time or from time to time to collect any such monies shall not in any manner affect the subsequent enforcement by the Lender of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by the Lender to collect, shall be, or be construed to be, an affirmation by the Lender of any tenancy, lease or option, nor an assumption of liability under, nor subordination of the lien or charge of this Mortgage to any such tenancy, lease or option.

**21. COLLECTION OF RENTS.** Upon any default by Mortgagor hereunder, the Lender may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Mortgagor hereby consenting to the appointment of the Lender as such receiver), and without regard to the adequacy of any security for the Secured Debt hereby secured, enter upon and take possession of the Premises or any part thereof, in its own name sue for or otherwise collect said Rents and Profits, including those past due and unpaid, and apply the same, less cost and expenses of operation and

collection, including reasonable attorneys' fees, upon the Secured Debt secured hereby, and in such order as the Lender may determine.

**22. NON-WAIVER.** The entering upon and the taking possession of the Premises, the collection of Rents and Profits, or the application thereof to the Secured Debt hereby secured shall not cure or waive any default or notice of default, invalidate any act done pursuant to such notice, nor extend or postpone the due date of any payment secured hereby.

**23. APPLICATION OF PAYMENTS.** Except as otherwise required by law, all payments made to the Lender and any amounts applied to the Secured Debt secured hereby shall be applied to the various amounts secured hereby in any order the Lender may determine.

**24. EVENTS OF DEFAULT.** The occurrence of any one or more of the following events shall be an "Event of Default" hereunder:

- (a) Mortgagor shall fail to make any payment or installment of principal or interest when due pursuant to the terms of the Secured Debt or under this Mortgage, or shall fail to pay when due any other sum or amount due under this Mortgage or the Secured Debt; or
- (b) Mortgagor shall fail to observe and perform any other covenant, condition or agreement on their part hereunder, under the terms of any Secured Debt or under the terms of any other agreement with the Lender; or
- (c) An event of default occurs under that certain Payment in Lieu of Property Tax Development Agreement, dated October \_\_, 2021 by and between the Mortgagor, Lender and the City of Grand Forks, a North Dakota municipal corporation (the "PILOT Development Agreement").
- (d) Any of the Mortgagor, whether individually or jointly, shall: (i) admit in writing Mortgagor's inability to pay his/her/their debts generally as they become due; or (ii) admit in writing the fact that Mortgagor's debts exceed a fair valuation of Mortgagor's property; or (iii) commence a voluntary proceeding under any applicable federal or state bankruptcy, insolvency or other similar law; or (iv) make an assignment for the benefit of Mortgagor's creditors; or (v) consent to the entry of an order for relief in an involuntary proceeding under any applicable federal or state bankruptcy, insolvency or other similar law; or (vi) have entered against Mortgagor by a court of competent jurisdiction a decree or order granting relief in any involuntary case under any applicable federal or state bankruptcy law, or appointing, with or without the consent of the Mortgagor, individually or jointly as the case may be, a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of the Mortgagor or for any substantial part of their property, or approving a plan for reorganization of the Mortgagor, or ordering the winding up or liquidation of their affairs, and such decree or order shall not be vacated, set aside or stayed for a period of thirty (30) consecutive days; or

- (e) Any representation or warranty made by the Mortgagor herein or in the Secured Debt, or in any document or certificate furnished to the Lender in connection herewith or therewith or pursuant hereto or thereto, shall prove at any time to be incorrect or misleading in any material respect as of the date made; or
- (f) A default shall occur with respect to any of the covenants, conditions or agreements under the Secured Debt, or any one of them, and the time for cure of such default pursuant thereto shall have expired, and such default shall not have been waived in writing by Lender; or
- (g) A good faith belief by the Lender at any time that the Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Premises is impaired; or
- (h) A material adverse change in the Mortgagor's business ownership, management or financial conditions, which the Lender in its opinion believes impairs the value of the Premises or repayment of the Secured Debt; or
- (i) The Mortgagor issue additional shares of stock, membership interests, partnership interests or other equity interests, as the case may be; or
- (j) Use of the Premises in violation of any law, statute, ordinance, regulation or any judicial or non-judicial interpretation thereof; or
- (k) A default by Mortgagor under the terms and conditions of any agreement, understanding and/or obligation with any third party(ies); or
- (l) The dissolution or termination of existence, whether voluntary or involuntary, of Mortgagor.

then, in any such case, the Lender or its attorney, may, at the Lender's option, without further written notice to the Mortgagor, declare the principal of and the accrued interest on all of the Secured Debt and all sums advanced or due hereunder, with interest, to be forthwith due and payable, and thereupon the Secured Debt, including both principal and all interest accrued thereon, and including any prepayment premium or late payment penalty then applicable, and all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind.

**25. LENDER'S REMEDIES.** In the event of the happening of any Event of Default entitling the Lender to accelerate the maturity of the Secured Debt, or in case the principal of the Secured Debt shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case the Lender may:

- (a) Proceed to protect and enforce its rights by a suit or suits in equity or at law, either by (i) the specific performance of any covenant or agreement contained herein or in the Secured Debt, or (ii) in aid of the execution of any power herein or therein granted, or (iii) the foreclosure of this Mortgage by the foreclosure of a mortgage by action or by

advertisement as provided under North Dakota law and to sell the Premises as provided by such foreclosure by action or by advertisement, to a purchaser, in fee simple, as provided under North Dakota law, and if such sale occurs, Mortgagor agree that the Premises may be sold as one parcel, or (iv) for the enforcement of any other appropriate legal or equitable remedies; or

- (b) Whether before or after the institution of legal proceedings, the Lender shall have the right, with or without taking possession of the Premises, to collect all Rent and Profits from the Premises, whether due or to hereafter become due. At any time after an Event of Default, without regard to whether the Premises are in danger of being lost or materially damaged or injured, or to the adequacy of the Secured Debt hereby secured, or to the solvency or insolvency of the Mortgagor, the Lender may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (the Mortgagor hereby consenting to the appointment of any person or corporation, including the Lender, as such receiver) enter upon and take possession of the Premises or any part thereof. The Lender or its agent or receiver shall apply all Rents and Profits collected, including those past due and unpaid, to the cost and expenses of collection, including reasonable attorneys' fees, to the payment of taxes, assessments, insurance premiums and expenditures for the upkeep of the Premises and to any indebtedness secured hereby, all in such order as the Lender may determine. After taking such possession, the Lender, its agent or receiver, shall have full authority to hold, operate, manage and control the Premises and enforce any such Leases or agreements for use and occupancy with full power to cancel and terminate any Lease for cause or on grounds which would entitle the Mortgagor to cancel the same and to elect to disaffirm any Lease subordinate to the lien hereof. The Lender shall not be obligated to perform or discharge any obligation under any of the Leases or agreements and the Mortgagor shall and do hereby agree to indemnify and hold the Lender harmless of and from any and all expenses, liability, loss or damage which it might incur under the Leases or agreements or under or by reason of this assignment, but only to the extent provided by and subject to the limitation of the Mortgage. Neither anything contained herein, nor the exercise of rights hereunder by the Lender, shall be construed or considered to waive any defaults of the Mortgagor hereunder, or as an affirmation of any tenancy, occupancy, lease or option, or a subordination of the lien or charge of this Mortgage to such tenancy, occupancy, lease or option, or as in any way operating to prevent the Lender from pursuing any other remedy which it may not or hereafter have under the terms of this Mortgage or as in any way constituting the Lender a mortgagee in possession. The rights contained herein are in addition to and shall be cumulative with the rights given in a separate instrument, if any, assigning any leases, rents, royalties or profits of the Premises and shall not amend or modify the rights in any such separate agreement.

**If the Lender is required to commence any action against Mortgagor to enforce any provision of this Mortgage the venue for such action shall be in Grand Forks County, North Dakota District Court, by a Judge alone and without a trial by jury. The Mortgagor, having had an opportunity to consult with independent counsel of their choosing, hereby knowingly and voluntarily waive their right to a trial by jury in any manner relating to this Security Agreement, the Secured Debt or any other agreement, document or instrument related thereto. Further, the**

**Mortgagor acknowledges and agrees that Grand Forks County, North Dakota District Court shall have complete and full personal jurisdiction over the Mortgagor and subject matter jurisdiction with respect to any such action.**

**26. LATE PAYMENT CHARGE.** In addition to and without limiting the remedies described in Paragraph 25 above, Mortgagor agrees to pay the Lender a late payment charge in the amount of described in the Secured Debt in the event Mortgagor fails to make any payment or installment of principal or interest when due pursuant to the terms of this Mortgage or the Secured Debt.

**27. TIME OF THE ESSENCE.** Time is of the essence hereof.

**28. SURRENDER OF POSSESSION AFTER SALE.** Mortgagor agrees to surrender possession of the Premises to the purchaser at any foreclosure sale on the date the applicable redemption period expires, in the event such possession has not previously been delivered by Mortgagor.

**29. TITLE EVIDENCE AND INSURANCE POLICIES.** Each abstract of title, title insurance policy and all other evidences of title, and all hazard insurance policies placed or deposited with the Lender shall be deemed an incident to the title to the Premises and upon foreclosure by exercise of power of sale, or otherwise, shall pass to the purchaser and the same are hereby pledged as additional security for payment of the indebtedness secured hereby.

**30. COLLECTION COSTS.** Mortgagor agrees to pay the Lender, all costs and expenses, including attorneys' fees, incurred by the Lender in collecting, enforcing or protecting the Lender's rights and remedies under this Mortgage or the Secured Debt, including but not limited to all such costs and expenses incurred from any foreclosure sale, litigation, bankruptcy or insolvency proceeding or action.

**31. EFFECT OF DISCONTINUANCE OF PROCEEDINGS.** Lender shall have the unqualified right, after invoking any remedy permitted under this Mortgage, to discontinue the same, and in such event Mortgagor and Lender shall be restored to their former positions with respect to the Secured Debt secured hereby; and this Mortgage, the Premises and all rights, remedies and recourse of the Lender shall continue as if the same had not been invoked.

**32. WAIVER, CUMULATIVE RIGHTS.** Waiver by the Lender of any default by Mortgagor, or acceptance of payment in default or partial payment, shall not constitute a waiver by the Lender of any continuing or subsequent default. Failure by the Lender to exercise any right, power, privilege or remedy which the Lender may have by reason of a default by the Mortgagor shall not preclude the exercise of such right, power, privilege or remedy so long as such default remains uncured or if a subsequent default occurs. Each right, power, privilege and remedy herein conferred upon the Lender is cumulative and in addition to every other right, power, privilege and remedy available to Lender at law or in equity, or under any other agreement, and each and every right, power, privilege and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Lender and such exercise shall not be a waiver of the right to exercise at any time thereafter any other right, power, privilege or remedy.

33. **FURTHER ASSURANCES.** Mortgagor agrees upon reasonable request by Lender to execute and deliver such further mortgages, security agreements, financing statements and other agreements as may be necessary or proper to perfect, continue and preserve Mortgagor's obligations hereunder and the Lender's lien on the Premises or otherwise to carry out more effectively the purposes of this Mortgage or any property intended to be subjected hereto. If Mortgagor fails to do so, the Lender may sign, deliver and file such documents in Mortgagor's names and Mortgagor hereby irrevocably appoint the Lender or Lender's agent as attorney in fact to do the things necessary to comply with this paragraph.

34. **BINDING ON SUCCESSORS.** This Mortgage shall apply to, inure to the benefit of and bind all parties hereto, their heirs, legatees, devisees, personal representatives, successors and assigns. All obligations of the Mortgagor hereunder are joint and several. The term "Lender" shall mean the owner and holder, including any pledge, of the Secured Debt secured hereby. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

35. **HEADINGS.** The headings of the paragraphs are for convenience only and shall not be construed as limiting in any way the scope of the provisions hereof.

36. **SEVERABILITY.** If any portion or provision of this Mortgage is held to be void, unenforceable or invalid, the balance of this Mortgage shall nevertheless be effective and enforceable.

37. **GOVERNING LAW.** This Mortgage has been made and entered into in the State of North Dakota and shall be governed and interpreted by the laws of the State of North Dakota.

**IN WITNESS WHEREOF**, the Mortgagor has executed this Mortgage the day and year first hereinabove written.

**BLOCK V, LLC,**  
a North Dakota limited liability company

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

STATE OF \_\_\_\_\_ )  
: ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022,  
by \_\_\_\_\_ as the \_\_\_\_\_ of Block V, LLC, on behalf  
of said entity.

\_\_\_\_\_  
Notary Public for the State of \_\_\_\_\_