

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-CIV-81205-RAR

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS
GROUP, INC. d/b/a PAR FUNDING, *et*
al.,

Defendants.

_____ /

MOTION TO INTERVENE AND TO MODIFY ASSET FREEZE

John J. Rybinski, pursuant to Rule 24(a) of the Federal Rules of Civil Procedure, moves to intervene for the limited purpose of requesting the Court to modify the asset freeze contained in the Amended Order Appointing Receiver entered on August 13, 2020 (the “Order”), to permit Mr. Rybinski to move forward in the foreclosure case against Salvatore J. Vigliotti, and states:

1. Section I of the Order provides in part, “...all Receivership Assets and Recoverable Assets are frozen until further order of this Court.”

2. Mr. Rybinski filed a foreclosure action against Salvatore J. Vigliotti and others on September 17, 2021 in the State of New York Supreme Court, County of Onondaga (the “Foreclosure Case.”) A copy of the Amended Complaint in the Foreclosure Case is attached as **Exhibit A.**

3. The mortgage Mr. Vigliotti executed and delivered to Mr. Rybinski is superior to any other liens on the subject property.

4. Complete Business Solutions Group, Inc. also has a mortgage on the subject

property; however, that mortgage is inferior to Mr. Rybinski's mortgage. A copy of the Complete Business Solutions Group mortgage is attached as **Exhibit B**.

5. While Mr. Rybinski is not a party to any of the proceedings that resulted in the Order providing for an asset freeze, the Order is preventing Mr. Rybinski from pursuing his Foreclosure Case.

WHEREFORE, John J. Rybinski, respectfully requests that the Court clarify that the Asset Freeze does not apply to John J. Rybinski and/or modify the Order so that John J. Rybinski may pursue his Foreclosure Case.

LOCAL RULE 7.1 (3) CERTIFICATION

Pursuant to Local Rule 3.01(g), counsel for John J. Rybinski has conferred with counsel for the Receiver and counsel for Complete Business Solutions Group, Inc, and they have indicated they will oppose this Motion.

MEMORANDUM OF LAW

The Court's asset freeze is preventing Rybinski from getting a foreclosure judgement, even though the mortgage controlled by the Receiver is inferior.

Rule 54(b) Federal Rules of Civil Procedure provides that a non-final, interlocutory order "is subject to revision at any time before the entry of judgment adjudicating all the claims and rights and liabilities of all the parties." Rule 54(b) does not set forth the specific grounds for revision, but a district court has the inherent power to reconsider and revise its orders in the interests of justice. *CSX Transp., Inc. v. City of Pensacola, Fla.*, 936 F. Supp. 885, 889 (N.D. Fla. 1995); see also *John Simmons Co. v. Grier Brothers Co.*, 258 U.S. 82, 90-91 (1922); *Delta Health Group, Inc. v. United States HHS*, 459 F. Supp. 2d 1207, 1227-28 (N.D. Fla. 2006). Because the Order entered by this Court "did not dispose of all parties and claims in this case" and final

judgment has not yet been entered, the Order is subject to revision under Rule 54.

In considering a motion to modify an asset freeze, the court in *SEC v. Lauer* described a third-party's foreclosure interest as a "compelling" reason to grant the motion. *SEC v. Lauer*, Case No. 03-80612-CIV-MARRA/SELTZER, 2006 WL 2660752 (S.D. Fla. August 2, 2006). The situation in *Lauer* was very similar to the instant case. The court in that case had entered an asset freeze in an SEC action that prevented third parties from exercising their foreclosure rights with respect to the defendant's property. Rybinski's interest is even more compelling because the Defendant in the instant case, Complete Business Solutions Group, did not execute and deliver the mortgage to Rybinski, but instead has an inferior mortgage on the subject property.

CONCLUSION

Based on the foregoing, John J. Rybinski, respectfully requests that this Court enter an Order clarifying that the asset freeze does not apply to him and/or modify the Order so that he may pursue the foreclosure case.

Respectfully submitted,

GRANT FRIDKIN PEARSON, P.A

BY: /s/ D. Keith Wickenden
D. Keith Wickenden
Florida Bar No. 897280
5551 Ridgewood Drive, Suite 501
Naples, Florida 34108
Telephone: (239) 514-1000
Facsimile: (239) 514-0377
kwickenden@gfpac.com
jbookman@gfpac.com
nkusy@gfpac.com

Attorneys for John J. Rybinski

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 13, 2022, I electronically filed the foregoing document with the clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ D. Keith Wickenden

D. Keith Wickenden

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA**

JOHN J. RYBINSKI,

Plaintiff,

v.

SALVATORE J. VIGLIOTTI; ACE FUNDING SOURCE LLC; ADIRONDACK BANK; CAN CAPITAL MERCHANT SERVICES; COMPLETE BUSINESS SOLUTIONS GROUP, INC.; JERRY O'CONNELL, d/b/a SHAMROCK PROP.; KEY BANK, a/k/a KEYBANK NATIONAL ASSOCIATION; NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE; PAUL FALLON, DDS; SAVES AUTOBODY SUPPLY, INC.; YELLOWSTONE CAPITAL LLC; "JOHN DOE" (NUMBERS 1 THROUGH 50); "JANE DOE" (NUMBERS 1 THROUGH 50); AND "XYZ CORPORATION" (NUMBERS 1 THROUGH 50), the latter three listed defendants being fictitious and unknown to the Plaintiff, the persons or parties intended being the tenants, occupants, persons, or corporations, if any, having or claiming an interest in or lien upon the Mortgaged Premises described in the Complaint herein,

Defendants.

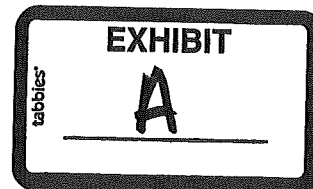
**AMENDED COMPLAINT
FOR FORECLOSURE OF
COMMERCIAL
MORTGAGE**

Index No.:

**Mortgaged Premises:
2132-2136 Erie Boulevard
East, Syracuse, New York
13214**

Plaintiff John J. Rybinski, by and through his attorneys, Mackenzie Hughes LLP, for his Complaint against the above-named Defendants, hereby alleges as follows:

1. This is an action to foreclose a mortgage on real property commonly referred to as 2132-2136 Erie Boulevard East, Syracuse, New York 13214 (the "Mortgaged Premises"), and to determine liability on certain promissory notes, guaranties, and security agreements, all within the jurisdiction of this Court.
2. Plaintiff John J. Rybinski ("Plaintiff") is a domiciliary of the State of New York, residing at 3415 Oran Gulf Road, Manlius, New York 13104.
3. On information and belief, the Defendants set forth in "Exhibit A" reside or have



a place of business at the address set forth therein (any defendant captioned as a corporation being organized and existing under the laws of the State set forth therein) and are made Defendants in this action in the capacities therein alleged and for the purpose of foreclosing and extinguishing any other right, title, or interest Defendants may have in the Mortgaged Premises.

4. On information and belief, the persons set forth in “**Exhibit B**” are made parties solely by reason of the material set forth in “**Exhibit B**” and for no other reason (any defendant captioned as a corporation being organized and existing under the laws of the State set forth therein).

5. Venue is proper in Onondaga County, New York, because the Mortgaged Premises subject to foreclosure herein is located in Onondaga County.

6. All conditions precedent to bringing this action, if any, have been performed, have occurred, or have been waived.

THE LOAN DOCUMENTS

7. On or about December 23, 2014, Salvatore J. Vigliotti (“Borrower” or “Defendant Vigliotti”), for good and valuable consideration, executed and delivered to Plaintiff a promissory note entitled, MORTGAGE NOTE (“Note”), in the principal amount of \$200,000.00, wherein it promised to pay to Plaintiff the principal amount with interest thereon, all as more particularly set forth therein, a true copy of which is attached hereto and made a part hereof and marked as “**Exhibit C**”.

8. On or about December 23, 2014, in order to collaterally secure the aforesaid Note, Defendant Vigliotti executed and delivered to Plaintiff a certain mortgage entitled, MORTGAGE AND SECURITY AGREEMENT (“Mortgage”), whereby Defendant Vigliotti granted and conveyed to Plaintiff a mortgage lien upon the Mortgaged Premises, as more particularly described therein, a true copy of which is attached hereto and made a part hereof

and marked as “**Exhibit D**”.

9. Said Mortgage was duly recorded in the Onondaga County Clerk’s Office on December 24, 2014, in Liber 17652, at Page 51. Any applicable mortgage recording tax was duly paid at the time of recording the Mortgage.

10. As additional security for the Note, Defendant Vigliotti executed and delivered to Plaintiff a CONDITIONAL ASSIGNMENT OF RENTS AND LEASES (“Assignment of Rents”), dated December 23, 2014, which assigned to Plaintiff all of its rights, title, and interest in and to any and all leases of all, or any part of, the Mortgaged Premises together with any and all rents, income, and profits due, or to become due, pursuant to the terms of such leases. Said Assignment of Rents was duly recorded in the Onondaga County Clerk’s Office on December 24, 2014, in Liber 17652, at Page 67, a true copy of which is attached hereto and made a part hereof and marked as “**Exhibit E**”.

11. In order to further induce Plaintiff to enter into the Note, and the aforementioned related documents, and to further secure the payment of obligations in connection with it, on or about December 23, 2014, Defendant Vigliotti executed and delivered to Plaintiff a CONINTUING GENERAL SECURITY AGREEMENT (“Security Agreement”) granting the Plaintiff a security interest in certain property of Defendant Vigliotti, a true copy of which is attached hereto and made a part hereof and marked as “**Exhibit F**”.

12. In order to further induce Plaintiff to enter into the Note, and the aforementioned related documents, and to further secure the payment of obligations in connection with it, on or about December 23, 2014, Defendant Vigliotti executed and delivered to Plaintiff an ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (“Environmental Agreement”), to, amongst other things, indemnify the Plaintiff for certain environmental activities, a true copy of which is attached hereto and made a part hereof and

marked as “**Exhibit G**”.

13. On or about May 23, 2017, following one or more Events of Default, as defined in the Loan Documents, Plaintiff provided notice of default to Borrower and demanded the outstanding payments and gave a notice of intent to accelerate.

14. On or about September 22, 2017, Plaintiff commenced an action in the Supreme Court of New York, County of Onondaga, styled, *John J. Rybinski, Plaintiff vs. Salvatore J. Vigliotti, et al, Defendants*, Index No. 004635/2017 (the “Lawsuit”) seeking the remedy of foreclosure under the terms of the Mortgage and Security Agreement and for other remedies.

15. On or about October 31, 2017, Plaintiff and Borrower entered into a FORBEARANCE AGREEMENT (“Forbearance Agreement”) to, among other things, forbear from exercising certain rights relating to the Lawsuit in order to allow Borrower a certain period of time to cure all regular monthly installment defaults, a true copy of which is attached hereto and made a part hereof and marked as “**Exhibit H**”.

16. On or about September 30, 2019, Plaintiff filed a Notice of Voluntary Discontinuance Pursuant to CPLR 3217(a)(1), a true copy of which is attached hereto and made a part hereof and marked as “**Exhibit I**”.

17. The Note, Mortgage, Assignment of Rents, Security Agreement, Environmental Agreement, and Forbearance Agreement are referred to together herein as the “Loan Documents”.

18. The Loan Documents herein described is a commercial loan and is not based upon a “Home Loan” as defined in § 6-l or six-m of the New York State Banking Law and section thirteen hundred four of New York State Real Property and Proceedings Law. The provisions of section five-hundred ninety-five of the New York State Banking Law and any rules and regulations promulgated thereunder are generally not applicable to the Loan Documents.

19. The proceeds of the loans described were borrowed for the purpose of working capital for Defendant Vigliotti.

20. Plaintiff is the owner and holder of said Loan Documents and possesses all rights set forth in those documents.

DEFAULT UNDER THE LOAN DOCUMENTS

21. Defendant Vigliotti is in default under the terms and conditions of the Loan Documents by failing to pay the monthly installment due to Plaintiff as of March 23, 2020, and each and every subsequent month thereafter.

22. Defendant Vigliotti now owes Plaintiff the accelerated sum of \$152,527.78, plus accrued interest from the date of default at a rate of 6%, plus late charges, that is due and payable under the terms and conditions of the Loan Documents.

23. Pursuant to the terms and conditions of the aforesaid Loan Documents, Defendant Vigliotti is further obligated for the expenses and costs of collection, including reasonable attorneys' fees and costs, in a sum to be approved by the Court.

24. In order to protect its security, Plaintiff may be compelled during the pendency of this action to pay local taxes, assessments, water rates, sewer rates, insurance premiums, inspections, and other charges affecting the Mortgaged Premises or some part thereof, and Plaintiff requests that any such sum or sums to be paid for said purposes, together with interests thereon, be added to the sum otherwise due on the aforesaid Loan Documents and be deemed secured by the Mortgage and be further deemed a valid lien on the Mortgaged Premises.

25. On information and belief, the Defendants herein have, or claim to have, some interest in or lien upon, said premises or some part thereof, which interest or lien, if any, has accrued subsequent to and is subject and subordinate to the lien of said Mortgage.

26. Plaintiff requests that in the event that this action proceeds to judgment of

foreclosure and sale, said Mortgaged Premises be sold subject to the following: (i) any state of facts that an inspection of the Mortgaged Premises would disclose, (ii) any state of facts that an accurate survey of the Mortgaged Premises would show, (iii) covenants, restrictions, easements, and public utility agreements of record, if any, (iv) taxes, assessments, sewer rents, and water charges, if any, (v) building and zoning ordinances of the municipality in which the Mortgage Premises is located and possible violations of same, (vi) any equity of redemption of the United States of America to redeem the Mortgaged Premises within 120 days from the date of sale, and (vii) prior lien(s) of record, if any.

27. On information and belief, there are no pending proceedings at law or otherwise to collect or enforce the Loan Documents and no prior actions have been commenced, other than those previously described, for the recovery of said sum secured by said Loan Documents. No judgment has previously been entered in favor of Plaintiff and against any of the Defendants for any such indebtedness.

28. The Exhibits and other items attached to this complaint are expressly incorporated and made a part of this Complaint for all purposes with the same force and effect as if they were completely and fully set forth herein wherever reference has been made to each of any of them.

29. Plaintiff shall not be deemed to have waived, altered, released, or changed the election hereinbefore made by reason of the payment or performance, after the date of the commencement of this action, of any or all of the defaults mentioned herein; and such election shall continue and remain effective until the costs and disbursements of this action, and all present and future defaults under the Mortgage and occurring prior to the discontinuance of this action are fully paid and cured.

30. Plaintiff specifically reserves its rights to share in any surplus monies arising from the sale of the Mortgaged Premises by virtue of its position as a lien creditor other than by

the Mortgage being foreclosed herein.

WHEREFORE, Plaintiff demands judgment

- a) Determining the amounts due for principal, interest, taxes, insurance costs, reasonable attorneys' fees, and other charges owing in connection with the above-described Loan Documents;
- b) That Defendants and all persons claiming under them or any of them subsequent to the commencement of this action and the filing of a notice of pendency thereof, should it have any liens inferior to those being foreclosed herein, be barred and foreclosed of and from all estate, right, title, interest, claim, lien and equity of redemption of, in and to the Mortgaged Premises more particularly described in this Complaint and each and every part and parcel thereof, including any personal property appurtenant thereto;
- c) That the Mortgaged Premises be ordered sold according to law and subject to the terms set forth in this Complaint, that the monies arising from the sale thereof be brought into Court; that from the net proceeds of such sale Plaintiff be paid (i) the amount due on the Loan Documents, together with accrued interest and late charges thereon as set forth above; (ii) costs, allowances, and disbursements in this action; (iii) a sum in respect to reasonable attorneys' fees incurred by Plaintiff in connection with the enforcement of its rights under the aforesaid Loan Documents and secured by the aforesaid Loan Documents, including the foreclosure thereof and according to the limits set forth in the aforesaid Loan Documents; and (iv) any amounts advanced and paid pursuant to the terms and provisions of the Loan Documents, including without limitation, taxes, water rates, sewer rates, insurance premiums, and all other charges and liens upon the Mortgaged Premises, with interest on said amounts from the dates of the respective advances thereof;

d) That upon Plaintiff's application therefor, this Court forthwith appoint a receiver of the rents and profits of the Mortgaged Premises during the pendency of this action with the usual powers and duties;

e) That the costs, including any transfer taxes required to record the Referee's Deed be permitted by the Judgment of Foreclosure and Sale to be born by the purchaser of the Mortgaged Premises at the foreclosure sale, and not be treated as a cost of sale to be deducted from the proceeds of sale;

f) Declaring that any of the parties to this action may become a purchaser upon the foreclosure sale;

g) That in the event that Plaintiff possesses any other lien(s) against said Mortgaged Premises either by way of judgment, junior mortgage or otherwise, Plaintiff requests that such other lien(s) shall not be merged in Plaintiff's cause(s) of action set forth in this Complaint but that Plaintiff shall be permitted to enforce said other lien(s) and/or seek determination of priority thereof in any independent action(s) or proceeding(s), including, without limitation, any surplus money proceedings, and

h) That the Plaintiff may have such other and additional relief as the Court may deem just and appropriate to render full relief to the Plaintiff in this action.

NYSCEF DOC. NO. 12

RECEIVED NYSCEF: 09/28/2021

Dated: September 28, 2021

MACKENZIE HUGHES LLP

By:

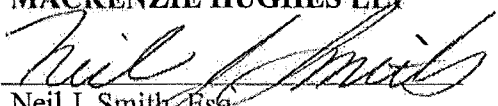

Neil J. Smith, Esq.
Attorneys for Plaintiff
440 S. Warren St., Suite 400
Syracuse, NY 13202
Telephone: 315-233-8226
Facsimile: 315-474-6409

EXHIBIT A

Exhibit A – Defendant

Salvatore J. Vigliotti 128-130 Lamson Street Syracuse, NY 13206	The Borrower under the Note secured by the Mortgage being foreclosed herein and is the fee owner of the Mortgaged Premises.
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EXHIBIT B

Exhibit B – Other Lienholder Defendants

Ace Funding Source LLC 640 S. San Vicente Blvd. Los Angeles, CA 90048	Judgment Creditor
Adirondack Bank 185 Genesee St. Utica, NY 13501	Judgment Creditor
Can Capital Merchant Services 2015 Vaughn Rd NW Ste 500 Kennesaw, GA 30144	Judgment Creditor
Complete Busines Solutions Group, Inc. 20 N. 3rd St. Philadelphia, PA 19106	Judgment Creditor
Jerry O’Connell d/b/a Shamrock Prop. PO Box 138 Nedrow, NY 13120	Judgment Creditor
Key Bank a/k/a KeyBank National Association 201 S. Warren St. Syracuse, NY 13202	Judgment Creditor
New York State Department of Taxation and Finance Attn: Office Of Counsel Building 9 W A Harriman Campus Albany, NY 12227	Judgment Creditor and Warrant Holder
Paul Fallon, DDS 4820 W. Taft Rd. Liverpool, NY 13088	Judgment Creditor
Saves Autobody Supply, Inc. 956 State Fair Blvd. Syracuse, NY 13209	Judgment Creditor
Yellowstone Capital LLC 30 Broad St, Floor 14 New York, NY 10004	Judgment Creditor
“John Doe” (numbers 1 through 50) “Jane Doe” (numbers 1 through 50) “XYZ Corporation” (numbers 1 through 50)	Being fictitious and unknown to the Plaintiff, the persons or parties intended being the tenants, occupants, persons, or corporations, if any, having or claiming an interest in or lien upon the Mortgaged Premises described in the Complaint.

EXHIBIT C

MORTGAGE NOTE

\$200,000.00

Syracuse, New York
December 23, 2014

FOR VALUE RECEIVED, Salvatore J. Vigliotti, of 128-130 Lamson Street, Syracuse, New York 13206 (the "Borrower") promises to pay to the order of John J. Rybinski, of 3415 Oran Gulf Road, Manlius, New York 13104 ("Lender"), the principal sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00), together with interest on the outstanding principal balance as described below, from the date of this Note until the loan is paid in full. Payments of principal and interest shall be paid in accordance with the terms of this Note.

1. BORROWER'S PROMISE TO PAY

Borrower promises to pay to Lender the sum of U.S. \$200,000.00 with interest at the rate of nine percent (9%) per year, amortized over ten (10) years from the above date, until December 23, 2024, at which time the principal balance together with accrued interest and all amounts due and owing under this Note shall be paid in full.

2. PAYMENTS

(a) Time and place of payment:

Borrower will pay principal and interest by making payments every month. Borrower will make monthly payments on the 23rd day of each month beginning on January 23, 2015. Borrower will make these payments on the 23rd day of each month thereafter up to and including December 23, 2024, at which time all amounts due and payable under this Note shall be paid in full. The monthly payments will be applied to interest before principal. If on December 23, 2024, Borrower still owes any amounts under this Note, Borrower will pay that amount in full on that date, which is called the "maturity date". Borrower will make monthly payments to Lender at 3415 Oran Gulf Road, Manlius, New York 13104, or at a different place if required by Mortgagee.

(b) Amount of monthly payments:

The amount of the monthly payments Mortgagee will be required to pay is Two Thousand Five Hundred Thirty Three and 52/100 Dollars (\$2,533.52). The interest rate is nine percent (9%) per year.

3. PREPAYMENT

A payment of principal only is known as a "prepayment". When Borrower makes a prepayment, Borrower will tell the Lender in writing that Borrower is doing so. The Lender will use all of the prepayments to reduce the amount of principal that Borrower owes under this Mortgage Note. If Borrower makes a partial prepayment, there will be no changes in the due dates of the remaining principal balance or other charges unless the Lender agrees in writing to those changes.

4. LOAN CHARGES

If a law which sets maximum loan charges applicable to this loan and is finally interpreted so that the interest or other loan charges collected in connection with this loan exceed the permitted limits, then: (i) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (ii) any sums already collected from Mortgagor which exceed permitted limits will be refunded to Mortgagor. The Mortgagee may choose to make this refund by reducing the principal owed under this Note or by making a direct payment to Mortgagor. If a refund reduces principal, the reduction will be treated as a partial prepayment.

5. LATE CHARGE

In the event any payment required under this Note shall become overdue for more than five (5) days, Lender, at its option, may charge a "late charge" of five cents (\$.05) for each dollar (\$1.00) overdue to defray the expenses incident to handling the delinquent payments. The "late charge", if not previously paid, shall be added to and become a part of the next succeeding monthly payment.

6. DEFAULT RATE

In the event of any default by the Borrower under this Note, the interest rate on the outstanding principal balance shall accrue and be payable at the rate of interest payable under this Note as of the date of default plus six percent (6%) per annum until the default is cured (the "Default Rate").

7. RIGHTS AND REMEDIES UPON DEFAULT

Upon the occurrence of an event of default hereunder, or any security agreement or mortgage securing this Note, Lender may without notice to Borrower: (a) declare the entire outstanding principal amount, together with all accrued interest and all other sums due under this Note, to be immediately due and payable, and the same thereupon shall become immediately due and payable; (b) exercise its right of setoff against any money, funds, credits or other property of any nature whatsoever of Borrower now or at anytime hereafter in the possession of, in transit to or from, under the custody or control of or on deposit with, Lender or any affiliate of Lender; (c) terminate any outstanding commitments of Lender to Borrower; and (d) exercise any and all rights, powers and remedies provided for in other loan documents with Lender or now or hereafter existing at law, in equity, by statute or otherwise.

8. PREPAYMENT

Borrower may prepay the loan at any time.

9. COLLATERAL

The payments due under this Note are secured by a Mortgage and Security Agreement of even date covering, among other things, real estate located in the City of Syracuse, County of Onondaga and State of New York (the "Mortgage"). If a default occurs under the Mortgage, the entire unpaid outstanding principal, together with all accrued interest shall, at the option of Lender, become immediately due and payable. All costs and expenses of collection, including reasonable attorneys' fees, shall be added to and become part of the total indebtedness evidenced by this Note.

10. NO WAIVER

In the event of any default, the failure of the holder of this Note to exercise promptly any of its rights shall not constitute a waiver of those rights while that default continues, nor a waiver of those rights in connection with any future default on the part of the undersigned.

11. COSTS OF COLLECTION AND ATTORNEYS FEES

If any action or proceeding is brought by the Lender under this Note or if the Lender appears in any action or proceeding in any way connected with this Note, or if the Lender retains counsel to protect its rights under this Note, then the Borrowers shall pay to the Lender the attorney's fees and disbursements incurred by Lender.

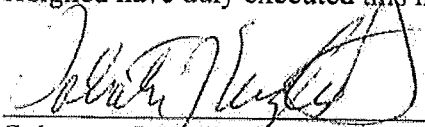
12. WAIVER OF PRESENTMENT AND NOTICE OF DISHONOR

Borrower, any endorsers, guarantors and all other parties who may become liable for all or any part of this Note, severally waive presentment for payment, protest and demand, and notice of protest, demand, dishonor and nonpayment, and expressly consent to any number of renewals or extensions of the time of payment of this Note. Any renewals or extensions may be made without notice to any of those parties and without affecting their liability and the parties shall not be released from liability by reason of any forbearance or extension of time granted to the undersigned or to any subsequent owner or owners of the property mortgaged as security for this Note.

13. MISCELLANEOUS

This Note and liability of all parties hereunder shall be governed by the laws of New York State, where this Note has been delivered for value. This Note may not be changed or terminated orally. This Note has been executed as follows.

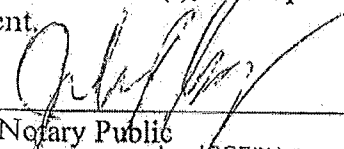
IN WITNESS WHEREOF, the undersigned have duly executed this instrument as of the day and year first above-written.



Salvatore J. Vigliotti

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On the 23rd day of December 2014, before me, the undersigned, personally appeared Salvatore J. Vigliotti, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public
JOSEPH R. BORGONI
Notary Public, State of New York
No. 497213
Qualified in Onondaga County
Commission Expires February 4, 2015

FILED: ONONDAGA COUNTY CLERK 09/28/2021 04:09 PM

INDEX NO. 840102021

NYSCEF DOC. NO. 16

RECEIVED NYSCEF: 09/28/2021

EXHIBIT D

FILED: ONONDAGA COUNTY ONONDAGA COUNTY CLERK'S OFFICE INDEX NO. 1186102021

NYSCEF DOC. NO. 16

SANDRA A SCHEPP - COUNTY CLERK
401 Montgomery St - Room 200
Syracuse, NY 13202

RECEIVED NYSCEF: 09/28/2021

Phone: 315-435-2226
Fax: 315-435-3455

Doc Type: MTG
Mortgagor: VIGLIOTTI SALVATORE J
Mortgagee: RYBINSKI JOHN J

Receipt: 1187666 DP
Book/Page: 17652/0051 Inst: 43507
Date Filed: 12/24/2014 at 12:06PM
Updated: 12/26/2014 MO
Record and Return To:

Legal Desc: SYR FL49 & L1&5 WHITE MAP DEW

JOSEPH P GORGONI ESQ
GERMAIN & GERMAIN SYRACUSE OFFICE
ATTORNEYS PICK UP BOX
COURTHOUSE

Prop Address:

Submitted by: ALLIED - PATTY

Recording Fees		Miscellaneous Fees	
Addl pages:	15 x 5.00 = \$ 75.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 0.00
Addl Refs:	0 x 0.50 = \$ 0.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 0.00
Basic:	\$25.50		
=====		=====	
TOTAL:	\$100.50	TOTAL:	\$ 20.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$200000.00	Consideration	
Basic:	\$1000.00	Transfer Tax:	\$0.00
Ins Fund:	\$500.00	SWIS:	
Net Add:	\$500.00	Map #:	
Misc:	\$0.00		
=====		=====	
TOTAL	\$2000.00	Total Paid	\$ 2120.50
		Control no	DF11583

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

SANDRA A SCHEPP
Onondaga County Clerk

Book/Page 17652 / 0051 Instrument no.: 43507



NYSCEF DOC. NO. 16

BASIC TAX \$ 1000
MTG. INS. FUND TAX \$ 500
NET ADDITIONAL TAX \$ 500
TOTAL MTG. TAX PAID \$ 2000.

RECEIVED NYSCEF: 09/28/2021

After Recording Return To:
Joseph P. Gorgoni, Esq. (07020)
314 East Fayette Street
Syracuse, New York 13202

011583 SY

MORTGAGE AND SECURITY AGREEMENT

This sets forth a Mortgage and Security Agreement (the "Mortgage"), made December 23, 2014 between Salvatore J. Vigliotti, of 128-130 Lamson Street, Syracuse, New York 13206 (the "Mortgagor"), and John J. Rybinski, having a mailing address of 3415 Oran Gulf Road, Manlius, New York 13140 (the "Mortgagee"),

To secure the payment of an indebtedness in the principal sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00), lawful money of the United States, to be paid with interest thereon according to a certain Mortgage Note (the "Note") executed this same day in favor of Mortgagee, and to secure all other sums which become due and payable pursuant to the Note, the Mortgagor hereby mortgages to the Mortgagee all of the Mortgagor's right, title and interest in and to:

All that tract or parcel of land situate in the City of Syracuse, County of Onondaga, and State of New York being more particularly described on **Schedule A** attached (the "Land");

TOGETHER with the buildings and improvements now or hereafter located on the Land (the "Improvements");

TOGETHER with the right, title of the Mortgagor, if any, in and to strips and gores of lands adjacent to or adjoining the Land;

TOGETHER with all right, title and interest of the Mortgagor, if any, in and to the land lying in the streets and roads in front of and adjoining the Land;

TOGETHER also with the appurtenances and all the estate and rights of the Mortgagor in and to the Land;

TOGETHER with all fixtures, chattels and articles of personal property now owned or leased or hereafter acquired by Mortgagor and attached to or used in connection with the Land and Improvements, including but not limited to any furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants, shrubbery and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the Improvements, together with any and all replacements and additions("Building Improvements");

RECORDED IN THE OFFICE OF THE CLERK OF ONONDAGA COUNTY ON 09/28/2021 AT 09:14 AM

TOGETHER with all awards made to the Mortgagor at any time for taking by eminent domain the whole or any part of the Land or Improvements or Building Improvements or any easement, including any awards for changes of grade of streets, which awards are hereby assigned to the Mortgagee who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittance therefor, and to apply the same toward the payment of the indebtedness secured by this Mortgage, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the Mortgagor hereby agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the awards to the Mortgagee free, clear and discharged of any encumbrances of any kind or nature whatsoever;

The Land, the Improvements, and the Building Improvements shall collectively be referred to in this Mortgage as the "Mortgaged Property."

The Note, this Mortgage, the Conditional Assignment of Rents and Leases from the Mortgagor to the Mortgagee, and any other instrument or document evidencing or securing the indebtedness from the Mortgagor to the Mortgagee shall collectively be referred to in this Mortgage as the "Loan Documents."

The Mortgagor covenants with the Mortgagee as follows:

1. (a) Payment. The Mortgagor will pay the indebtedness as provided in the Note which is secured by this Mortgage.
- (b) Additional Indebtedness. Throughout the term of the Note, the Mortgagor shall not incur any additional debt either secured or unsecured relating to the Land secured by this Mortgage without the prior written consent and approval of the Mortgagee.
- (c) Rent Roll. The Mortgagor shall provide an annual rent-roll for the Mortgaged Property upon the request of the Mortgagee.
2. (a) Insurance; Reconstruction. The Mortgagor will keep the buildings and improvements on the Mortgaged Property insured for the benefit of Mortgagee against loss or damage by fire with extended coverage endorsement to an amount to be approved by Mortgagee, not exceeding in the aggregate one hundred percent of their full insurable value and in companies approved by the Mortgagee, that it will assign and deliver the policies to the Mortgagee which policies shall have endorsed on them the standard New York Mortgagee clause in the name of the Mortgagee, and that it will reimburse the Mortgagee on demand, with interest at the rate set forth in the Note, for any premiums paid for insurance made by the Mortgagee on the Mortgagor' default in so insuring the buildings or in so assigning and delivering the policies and any sums so advanced by mortgagee shall be deemed secured by the mortgage. Notwithstanding anything in Section 254(4) of the New York Real Property Law to the contrary, should Mortgagee by reason of this insurance receive any sums of money for damage to the Mortgaged Property by fire or those perils included within the extended coverage endorsement,

those sums may be retained and applied in whole or in part by Mortgagee toward payment of the indebtedness secured by this Mortgage in such order or manner as the Mortgagee shall determine, or may be paid over either wholly or in part for the repair of the buildings and the improvements on the Mortgaged Property or for the erection of new buildings and improvements in their place or for replacement of the fixtures and personal property or may be paid over either wholly or in part to the Mortgagor, all as the Mortgagee at its sole option shall determine.

(b) Additional Insurance. Additionally, the Mortgagor will keep the Mortgaged Property insured against public liability, war risk (if available), business interruption, workers' compensation and any other hazard that may be reasonably required by the Mortgagee, including flood hazard insurance if any portion of the Mortgaged Property is located in a flood hazard area under the Federal Disaster Protection Act of 1973. All of the provisions of subparagraph 2(a) above relating to insurance shall apply to the additional insurance required by this paragraph. Such additional policies shall be in companies and amounts satisfactory to the Mortgagee and shall be held by the Mortgagee. All such policies including those required by paragraph 2(a) shall provide that they cannot be terminated or materially modified without at least 30 days prior written notice to the Mortgagee.

(c) Foreclosure or Deed in Lieu of Foreclosure. In the event of foreclosure of this Mortgage or in the event a deed in lieu of foreclosure shall be given by the Mortgagor, all right, title and interest of the Mortgagor in the policies of insurance referred to herein shall, to the extent permitted by those policies, automatically pass to the Mortgagee or to the successful bidder at the foreclosure sale if other than the Mortgagee.

3. Alterations and Demolition;
Maintenance and Repair.

(a) No material Improvement or no material Building Improvement shall be altered, removed or demolished without the prior written consent of the Mortgagee.

(b) Notwithstanding subparagraph (a) of this paragraph 3, Mortgagor shall maintain the Mortgaged Property in a state of reasonably good repair and shall not make material repairs, alterations, improvements and replacements to the Mortgaged Property without the prior written consent of the Mortgagee.

4. Foreclosure; Appointment of a Receiver. The holder of this Mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver without notice or demand and without regard to the adequacy of any security for the indebtedness secured by this Mortgage or the insolvency of any person or corporation liable for the payment of this Mortgage.

5. Payment of Taxes, Assessments and Insurance; Non-Escrow.

(a) The Mortgagor will promptly pay when due all taxes, assessments, insurance premiums, sewer rents or water rates due on the Mortgaged Premises and shall

thereupon provide Mortgagee with copies for the payment thereof, and in default thereof, the Mortgagee may pay them. The Mortgagor, within 5 days of a demand of the Mortgagee after an occurrence of any event of default by the Mortgagor, shall make an escrow deposit with the Mortgagee which will be sufficient to cover all taxes on the Mortgaged Premises then due and to become due during the year immediately following the date of the demand. Thereafter, if the Mortgagee elects, the Mortgagor shall pay on the first day of each and every month, at the time of payment of and in addition to the monthly payment of principal and interest, until the maturity of this obligation, as it may be extended, an amount equal to 1/12th of the annual taxes, assessments, or charges levied or assessed upon the Mortgaged Premises, that will become due during each year as estimated by Mortgagee. The Mortgagor hereby authorizes the Mortgagee to pay taxes and assessments, and/or other charges levied or assessed against the Mortgaged Premises in the name of the Mortgagor from the monthly payments made pursuant to this paragraph, and the Mortgagor covenants and agrees that if the monthly payments shall not be sufficient to pay any tax or assessment the Mortgagor will, upon notice, pay an additional sum as may be necessary to pay the tax or assessment in full. The Mortgagee shall not in any way be made accountable for any act, either of commission or omission, but shall be required simply to account for all moneys actually credited, and disbursements made under this section. The Mortgagor covenants and agrees that failure to make those payments, as herein specified, shall be a default in the performance of the covenants and conditions of this Mortgage and the Note, and subject Mortgagor to all the liabilities and penalties provided herein and in the Note. Mortgagee shall not be required to inquire into the validity of any tax so levied on said lands but may rely solely on the tax statement, bill or demand of any treasurer or person designated to receive payment of the tax or taxes.

(b) Mortgagor shall have the right, by appropriate proceedings, to protest or contest any assessment or reassessment of the Taxes. Notwithstanding any protest or contest, Mortgagor shall continue to comply with paragraph 5(a) of this Mortgage.

6. Estoppel Certificate and/or Subordination Non-Disturbance Agreement. Mortgagor, within ten (10) days of receipt of a request by Mortgagee, shall furnish Mortgagee with written Estoppel Certificate and/or Subordination Non-Disturbance Agreement for and all tenants of the Mortgaged Premises as of the date of this Mortgage.

7. Notices. Any notice, demand or request, required or agreed to be given by either party, shall be sufficiently given or served if in writing and signed by the party giving it, and delivered by hand with receipt acknowledged (including by national overnight courier, such as Federal Express) or mailed by certified mail, return receipt requested, addressed to the party to be notified as follows:

To Mortgagor:

Salvatore J. Vigliotti
128-130 Lamson Street
Syracuse, New York 13206

To Mortgagee: John J. Rybinski
3415 Oran Gulf Road
Manlius, New York 13104

or to such other address as Mortgagor and Mortgagee, respectively, may from time to time designate by giving notice thereof in writing. If service is made by hand delivery or by overnight courier, service shall be complete upon such delivery. If service is given by certified mail, return receipt requested, service shall be complete three days following such mailing. In the case of a notice to change an address, service shall be complete only when notice is received by the addressee.

8. Title. The Mortgagor warrants he has good and marketable title in fee simple to the real property included within the Mortgaged Property, and good and marketable title and any other personal property included within the Mortgaged Property.

9. Foreclosure; Sale Parcels. In case of a foreclosure sale, the Mortgaged Property may be sold as one parcel.

10. Actions or Proceedings. If any action or proceeding is commenced (except an action to foreclose this Mortgage or to collect the debt secured by it), to which action or proceeding the Mortgagee is made a party relating to the Mortgaged Property or this Mortgage, or in which it becomes necessary to defend or uphold the lien of this Mortgage or to defend or uphold the rights of the Mortgagor under any other Loan Document, all sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this Mortgage or the rights created by any other Loan Document (including but not limited to reasonable counsel fees), shall be paid by the Mortgagor, and any such sum together with interest thereon at the rate of interest set forth in the Note, shall be a lien on the Mortgaged Property prior to any right, title to, interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage. In any action or proceeding to foreclose this Mortgage, or to recover or collect the indebtedness secured by it, or to enforce any of the Mortgagor rights under any other Loan Document, the Mortgagee shall be entitled to recover, in addition to statutory costs and allowances, all costs Mortgagee incurs including, but not limited to, reasonable architects', engineers' and attorneys' fees and all other disbursements and expenses incurred by Mortgagee in that connection. All sums paid by the Mortgagee for the expense of such an action or proceeding to foreclose or otherwise to enforce the Mortgagee's rights under the Loan Documents, shall be paid by the Mortgagor, together with interest at the rate of interest set forth in the Note, and any such sum and the interest on it shall be a lien on the Mortgaged Property, prior to any right, title to, interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the lien of this Mortgage, and shall be deemed to be secured by this Mortgage.

11. Events of Default. If any one or more of the following events of default (each an "Event of Default") shall occur, the whole of the outstanding principal sum and the accrued interest and all other sums due under the Note and under the other Loan Documents shall become

immediately due and payable at the option of the Mortgagee:

(a) a failure to pay any installment of principal or interest under the terms of the Note and Mortgage for a period of 30 days or more; or

(b) a failure to exhibit to the Mortgagee, within five (5) days after receipt of written demand, receipts showing payment of taxes, insurance and any other assessments or license fees relating to the operation of the Mortgaged Property; or

(c) the alteration, demolition or removal of any material Improvement or material Building Improvement on the Land in violation of the terms and conditions of paragraph 3 of this Mortgage without the prior written consent of the Mortgagee; or

(d) an assignment of the rents of the Mortgaged Property or any part of the Mortgaged Property without the prior written consent of the Mortgagee; or

(e) the Improvements and Buildings Improvements on the Land are not maintained in reasonably good repair in compliance with paragraph 3(b) of this Mortgage within thirty (30) days after written notice and demand; or

(f) a failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the Mortgaged Property within the time period or extended time period required by the governmental entity or otherwise within the time period required by the applicable statute, code, rule or regulation; or

(g) failure to maintain the insurance coverage required by this Mortgage; or

(h) the passage of any law deducting from the value of the Mortgaged Property for the purposes of taxation any lien on it, or changing in any way the taxation of mortgages or debts secured by them for state or local purposes, unless Mortgagor is permitted by law to, and does, pay any sums which would be payable by Mortgagee to nullify any adverse impact of such law on Mortgagee without charge to Mortgagee; or

(i) the failure to keep, observe and perform any condition or agreement contained in any Loan Document or any document concerning the Note beyond the applicable grace period set forth in the applicable Loan Document; or

(j) the entry of final judgment against the Mortgagor and failure to discharge such judgment or to have it stayed pending appeal within sixty (60) days from its entry or if the judgment shall be affirmed on appeal, failure to discharge the judgment within sixty (60) days from the entry of the affirmance; or

(k) the failure of the Mortgagor to observe and timely perform all covenants on the part of the Mortgagor to be performed in any lease or sublease now or hereafter affecting all or any portion of the Mortgaged Property beyond the applicable grace periods set forth in those instruments; or

(l) the filing by or against the Mortgagor of a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or if, by decree of a court of competent jurisdiction, Mortgagor shall be adjudicated a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors or shall admit in writing their inability to pay their debts generally as they become due, or shall consent to the appointment of a receiver or receivers of all or any part of the Mortgaged Property; or

(m) the entry of an order of any court appointing a receiver or trustee for the Mortgagor and failure to have such order vacated or stayed within sixty (60) days after its entry; or

(n) an assignment for the benefit of creditors by the Mortgagor; or

(o) the issuance of a writ or warrant of attachment or similar process against all or any substantial portion of the property of the Mortgagor and failure to have such writ or warrant or similar process released or bonded within sixty (60) days after its issuance; or

(p) insolvency of the Mortgagor or the then owner of the Mortgaged Property; or

(q) a mechanic's or other lien is filed against the Mortgaged Property or any part thereof and such lien is or liens are not discharged of record by bonding or otherwise within sixty (60) days after filing; or

(r) the sale, transfer or other disposition of the Land or Improvements or any substantial part of Land or Improvements or a change in the interest of the Mortgagor in the Mortgaged Property, whether occurring by voluntary or involuntary act of the Mortgagor or by operation of law or otherwise, without the prior written consent of the Mortgagee; or

(s) the granting of any subordinate lien or encumbrance on the Mortgaged Property (including, but not limited to, so-called "wraparound" mortgages), without the prior written consent of the Mortgagee; or

(t) the Mortgagor entering into a lease of all or a substantial part of the Mortgaged Property without the Mortgagee's prior written consent; or

(u) a breach by Mortgagor in any material respect with respect to any warranty, covenant or representation set forth in this Mortgage; or

(v) the filing of an environmental lien against the Mortgaged Property;

or

(w) any change in the ownership interest of the Mortgagor (except by reason of death or judicially declared incapacity or by operation of law) without the prior written consent of the Mortgagee,

then, the whole of the outstanding principal sum and the accrued interest and all other sums due under the Loan Documents shall become immediately due and payable at the option of the Mortgagee, and the Mortgagee shall have the right to enforce its remedies under the Loan Documents including, without limitation, the foreclosure of this Mortgage.

12. Consent of Mortgagee. Any consent of Mortgagee to any transfer of title to the Mortgaged Property or any other matter shall be conditioned upon: (i) Mortgagor and other parties to such transfers or other matters executing and providing such documents and agreements, including without limitation, agreements by transferees to subordinate indebtedness due or to become due the transferees from the Mortgagor to the indebtedness of the Mortgagor to the Mortgagee, assumptions of the indebtedness evidenced by the Note by transferees, modifications of loan documents and title insurance endorsements, as Mortgagee may reasonably require to insure the validity and priority of its liens and security interests on the Mortgaged Property and other collateral and to insure the validity and enforceability of instruments evidencing or securing the indebtedness under the Note and (ii) Mortgagor paying all costs and expenses of Mortgagee in connection with such transfer or any other matter as to which its consent is requested, including reasonable attorneys fees.

13. Grant of Security Interest. This Agreement constitutes the grant of a security interest to Mortgagee in the Building Improvements and all of the products and proceeds of them, whether now owned or hereafter acquired, including but not limited to all architectural, building and/or construction plans, specifications, drawings, renderings and blueprints. Mortgagor will not sell or otherwise transfer title to the Building Improvements or any interest in them nor remove them from the State of New York, except to the extent permitted by paragraph 3 of this Mortgage. No financing statement executed by Mortgagor covering the Building Improvements or any part of them or any proceeds from them is on file in any public office, and at the request of Mortgagee the Mortgagor will join with Mortgagee in executing one or more financing statements in a form satisfactory to Mortgagee and will pay the costs of filing same in all public offices wherever filing is necessary under applicable law to perfect or maintain a security interest in the Building Improvements. In addition, Mortgagor hereby authorize Mortgagee (as Secured Party) to file without the signature of the Mortgagor, one or more financing statements in all public offices wherever Mortgagee considers filing to be necessary or desirable and Mortgagor will pay such filing costs. Mortgagor shall not change its name without the prior written consent of the Mortgagee. Upon the occurrence of any of the events specified in Paragraph 11, Mortgagee shall have the rights and remedies provided by applicable laws, including, but not limited to, the New York Uniform Commercial Code and this Mortgage. All

requirements of reasonable notice shall be met if Mortgagee sends or delivers notice to Mortgagor at least five (5) days prior to the date of sale, disposition or other event giving rise to the required notice. Public sale of the Building Improvements by auction conducted in any county in which the Building Improvements were repossessed or in which the Mortgaged Property is located, after advertisement of the time and place of the sale in a newspaper circulated in the county, city or village in which the sale is to be held, shall be considered to be a commercially reasonable disposition of the Building Improvements. Mortgagee may bid at any sale held pursuant to these provisions after the occurrence of any event specified in Paragraph 11. At the request of Mortgagee, the Mortgagor, if in possession thereof, shall assemble the Building Improvements and make them available to the Mortgagee at such time as Mortgagee reasonably may specify. Mortgagee may sell the Building Improvements or any part of it at any private sale.

14. Covenants of Further Assurance. The Mortgagor further covenants that it will do, execute, acknowledge, deliver, file and/or record or cause to be done, executed, acknowledged, delivered, filed and/or recorded all and every such further acts, deeds, conveyances, advances, mortgages, transfers and assurances in law as the Mortgagee shall reasonably require for the better assuring, conveying, transferring, mortgaging, assigning and confirming to the Mortgagee the Mortgaged Property.

15. Environmental Matters.

(a) Mortgagor represents and warrants to its knowledge, that:

(i) as of the execution of this Mortgage, there has been no release or threatened release of oil or hazardous materials (including polychlorinated biphenyls), hazardous substances or hazardous wastes or any other contaminant or pollutant at, on, to, into, or from the Mortgaged Property, and that no federal, state or local agency or authority has issued any claim, notification, order or violation or instituted any action, suit, or proceeding concerning oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant with respect to the Mortgaged Property or with respect to the release of such oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant on any adjoining property. The Mortgagor, after diligent inquiry, is not aware of any condition or occurrence which could give rise to any such claim, notification, order, violation, action, suit, or proceeding;

(ii) no consent or approval is needed from any governmental agency for the transfer of the Mortgaged Property under any environmental law, code, ordinance, rule or regulation;

(iii) there are no agreements, consent orders, decrees, judgments, licenses or permit conditions, or other directives of government which relate to the future use of the Mortgaged Property, or require any change in the present

conditions of the Mortgaged Property, nor is the Mortgaged Property, listed on either the federal National Priorities List or the New York State Inactive Hazardous Waste Disposal Site Registry;

(iv) the Mortgaged Property has not been used for the treatment, storage or disposal of oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant;

(v) the Improvements and Building Improvements do not contain ureaformaldehyde insulation;

(vi) there is no adverse condition impairing, or which with notice or passage of time or both would impair, the value of the Mortgaged Property, and Mortgagor has no reason to believe any such condition exists relating to oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant;

(vii) it shall not allow or cause any oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant to be released at, on, to, into or from the Mortgaged Property, except in accordance with the terms and conditions of a duly authorized and issued permit, certificate, license or other written approval of a governmental body or within the scope of an exemption or exclusion from any applicable laws and regulations;

(viii) all environmental permits, consents, licenses, certificates or approvals necessary to the operation of any activity on the Land or the Improvements have been obtained and are and shall be kept in full force and effect;

(ix) there are no electrical transformers, capacitors, or other equipment, items or articles on or at the Land, or the Improvements which contain polychlorinated biphenyls;

(x) it has fully complied with all federal, state and local environmental laws, rules, regulations, orders, decrees, ordinances, and codes applicable to the use and condition of the Mortgaged Property;

(xi) it shall promptly notify the Mortgagee in writing of the filing of an environmental lien against the Mortgaged Property, the listing or proposed listing of the Mortgaged Property on the federal National Priorities List, the New York State Inactive Hazardous Waste Disposal Site Registry or comparable state list, or any environmental claim, notification, order, violation, action, suit, or proceeding with respect to the Mortgaged Property or the activities of the Mortgagor thereon.

(b) Without prejudice to any other right, remedy or claim that the Mortgagee may have against the Mortgagor, the Mortgagor shall pay the Mortgagee an amount

equivalent to the costs and expenses of any environmental audit, survey or investigation undertaken by the Mortgagee, its servants or agents prior to and in connection with any foreclosure of this Mortgage.

(c) The Mortgagor shall indemnify, defend, and hold harmless the Mortgagee from and against all loss, cost, liability, claim, damage and expense, including, without limitation, costs associated with administrative and judicial proceedings, engineering, consulting and attorneys fees suffered or incurred by the Mortgagee on account of (i) the Mortgagor's failure or the failure of an agent of the Mortgagor to comply with any federal, state, or local environmental law, code, ordinance, rule or regulation or any interpretation or order of any regulatory or administrative authority with respect thereto, or the common law; (ii) any release or threatened release of oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant at, on, to, or into the Mortgaged Property or from the Mortgaged Property, on, to or into any adjoining property or other property, unless caused by the activities of the Mortgagee; (iii) any and all damage to natural resources or real property and/or harm or injury to any person resulting or alleged to have resulted from (A) such failure to comply with, or otherwise arising under, any federal, state, or local environmental law, code, ordinance, rule or regulation or any interpretation or order of any regulatory or administrative authority with respect thereto, or the common law, unless caused by the activities of the Mortgagee, and/or (B) any release or threatened release of oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant, unless caused by the activities of the Mortgagee; or (iv) the breach of any of the warranties and representations or the terms and conditions contained in this paragraph 15.

(d) In the event that there shall be applied a lien against the Mortgaged Property pursuant to any federal, state or local law, code, ordinance, rule or regulation or under common law, pertaining to oil or hazardous materials, hazardous substances or hazardous wastes or any other contaminant or pollutant, the Mortgagor shall pay the claim and remove the lien from the Mortgaged Property no later than thirty (30) days from the date the Mortgagor receives notice of the lien. Notwithstanding the foregoing, in the event any governmental authority has commenced efforts to cause the Mortgaged Property to be sold pursuant to the lien, the Mortgagee reserves the right to demand that the Mortgagor pay the claim and remove the lien from the Mortgaged Property within the period of time specified by the Mortgagee.

(e) If Mortgagor fails to cause any release of a hazardous substance on, at or from the Mortgaged Property to be contained, removed, cleaned up and otherwise remediated within 90 days after receiving notice thereof, Mortgagee shall have the right (but not the obligation) upon ten days written notice to Mortgagor (or without notice in the case of emergency), to take or complete such action on behalf of Mortgagor. The contractors and/or subcontractors selected by Mortgagee shall have the right to enter the Mortgaged Property with such persons, machinery and equipment, and to undertake such investigative, containment, removal, clean up and other remedial actions as they shall deem necessary and appropriate without thereby incurring any liability to Mortgagor on account thereof. Mortgagor agrees to cooperate with all contractors and/or subcontractors engaged in such investigative, containment,

removal, clean up or other remedial actions. Mortgagor shall be liable to Mortgagee for all costs and expenses, including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements, paid or incurred on account of such actions undertaken on Mortgagor's behalf and shall promptly reimburse Mortgagee therefor on demand. Until paid by Mortgagor, all such costs and expenses, together with the interest thereon at the rate of one percent (1%) in excess of the Contract Rate of interest under the Note, but in no event in excess of the maximum interest rate permitted by law, shall be secured by this Mortgage and may be added to the judgment in any action to foreclose this Mortgage.

(f) In addition to the events set forth in this Mortgage allowing the Mortgagee to accelerate the loan secured by this Mortgage, the whole of the outstanding principal sum and the accrued interest and all other sums due under the Note shall become due at the option of the Mortgagee in the event of Mortgagor's failure to keep, observe or perform any condition or obligation set forth in this paragraph 15 or in the event that any representation or warranty by the Mortgagor contained in this paragraph 15 is an untrue statement.

16. Additional Representations and Warranties and Covenants.

Mortgagor warrants, represents and covenants that (if applicable):

(a) Mortgagor has the power and lawful authority to execute and deliver the Loan Documents and each is the Mortgagor valid and binding obligation enforceable against the Mortgagor in accordance with their terms;

(b) the financial information and other information delivered by the Mortgagor to the Mortgagee with respect to the Mortgagor or the Mortgaged Property are true and correct in all respects and there has not been any material change in the information (financial or otherwise) submitted to the Mortgagee with respect to the Mortgagor or the Mortgaged Property;

(c) no authorization or approval of any public regulatory body is required on the part of the Mortgagor with respect to the execution and delivery of the Loan Documents;

(d) the execution and delivery by the Mortgagor of the Loan Documents and Mortgagor's consummation of the transactions contemplated by these instruments and the Mortgagor's compliance with the terms, conditions and provisions of them do not contravene or constitute a violation of any provision of applicable law or regulation, or of any order, decree, writ or injunction of any court or agency of government and do not require the consent under, and will not result in the breach or default of, any credit agreements, mortgages, indentures, purchase agreements, guaranties or other instruments to which the Mortgagor is a party or by which the Mortgagor may be bound or affected; or

(e) there is no action, suit, proceeding or investigation at law or in equity in respect to the Mortgagor by or before any court, governmental authority, public board or body, or arbitration tribunal, pending or threatened against or affecting the Mortgagor, nor does the Mortgagor know of any basis for any action, suit, proceeding or investigation where an unfavorable decision, ruling or finding on an issue raised by a party would materially and adversely affect the transactions contemplated by or the validity or enforceability of the Loan Documents or the properties, business, prospects, profits or conditions (financial or otherwise) of the Mortgagor;

(f) all permits, licenses and approvals necessary to the operation of the Mortgagor's business or any tenants on the Mortgaged Property have been obtained, and are in full force and effect and not subject to appeal, from the State of New York, the County of Onondaga and/or the City of Syracuse so as not to (i) conflict with any applicable zoning law, planning regulation or land use plan or (ii) violate any health, safety, environmental, water or air pollution law, regulation or ordinance existing as of this date; and

(g) the Improvements and Building Improvements constructed on the Land comply in all material respects with all zoning ordinances and regulations applicable to the Mortgaged Property.

17. Right to Inspect. The holder of this Mortgage or its agents shall have the right to inspect the Mortgaged Property and the books and records pertaining to the operation of the Mortgaged Property from time to time at any reasonable hour of the day, unless a default or an Event of Default has occurred under the Loan Documents in which case the Mortgagee, its agents and employees shall be entitled to inspect at any time. The inspection shall include a meeting between the Mortgagee and Mortgagor to discuss the operations and examine the financial records of the Mortgaged Property.

18. Additional Rights of Mortgagee. The exercise by the Mortgagee of any of its rights, remedies or options under this Mortgage shall not preclude the Mortgagee from thereafter exercising the same or any other rights, remedies and options which it may have under this Mortgage, irrespective of any previous action or proceeding taken by the Mortgagee under this Mortgage.

19. Financing Statements and Continuation Statements. The Mortgagor agrees that at any time or times, during the life of this Mortgage, upon demand by Mortgagee, and at the Mortgagor's sole cost and expense, to execute and deliver to the Mortgagee financing statements and continuation statements with respect to any security interest held by the Mortgagee in any personal property, fixtures, inventory and equipment of the Mortgagor, by reason of the provisions of this Mortgage or any other security agreement. The filing of the continuation statements shall be at Mortgagor sole expense.

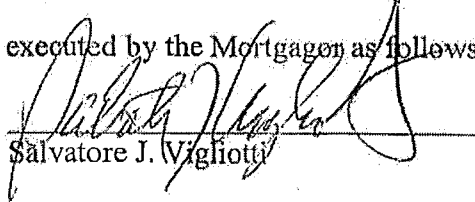
20. Compliance With Lien Law. This Mortgage is subject to the trust fund provisions of Section 13 of the New York Lien Law.

21. Financial Statements. Within 120 days of the end of each fiscal year the Mortgagor shall furnish the Mortgagee with such financial reports and information relating to the Mortgagor's financial condition and the Mortgaged Premises as the Mortgagee may reasonably request, including without limitation, annual personal and corporate state and federal income tax returns Mortgagor, and any other entity formed by Mortgagor for the purpose of conducting business on Mortgagee's form, or one acceptable to Mortgagee, detailed income and expense statements and balance sheets, certified to be complete and accurate by the Mortgagor, and in a form acceptable to the Mortgagee. A failure to comply with this paragraph within thirty (30) days after notice and demand shall constitute an event of default under this Mortgage. A failure to comply with this paragraph within thirty (30) days after notice and demand shall constitute an event of default under this Mortgage.

22. Amendments. This Mortgage may not be changed or terminated orally.

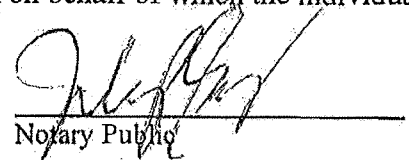
23. Inurement. The covenants contained in this Mortgage shall run with the land and bind the Mortgagor, the heirs, personal representatives, successors and assigns of the Mortgagor and all subsequent owners, encumbrances, tenants and subtenants of the Mortgaged Property, and shall inure to the benefit of the Mortgagee, the personal representatives, successors and assigns of the Mortgagee and all subsequent holders of this Mortgage. The word "Mortgagor" shall be construed as if it read "Mortgagor" and the word "Mortgagee" shall be construed as if it read "Mortgagees" whenever the sense of this Mortgage so requires.

This Mortgage has been duly executed by the Mortgagor as follows.


Salvatore J. Vigliotti

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

On December 23, 2014 before me, the undersigned, a notary public in and for said State, personally appeared Salvatore J. Vigliotti personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.


Notary Public

JOSEPH P. GORGONI
Notary Public, State of New York
No. 4877348
Qualified in Onondaga County
Commission Expires February 4, 2015

2/4/15

SCHEDULE "A"-LEGAL DESCRIPTION

L105
White
MAP

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Farm Lot #49(DeWitt), and being #1 and Lot #5 of the Henry M White lands, as shown on a map filed in the Onondaga County Clerk's Office on November 24, 1919 as Map No. 1664, together with additional lands in said Lot #49 (DeWitt) and more particularly bounded and described as follows:

BEGINNING AT A POINT in the southerly line of Erie Boulevard East, a distance of 395.73 feet easterly, along said southerly line, from its intersection with the easterly line of Bruce Street;

RUNNING THENCE S 05° 58' 42" E, along the westerly line of said Lot #1 and Lot #5, a distance of 375.99 feet to the southwest corner of said Lot #5;

THENCE N 74° 08' 20" E, along the southerly line of said Lot #5 and the easterly continuation thereof, a distance of 89.79 feet to a point;

THENCE N 05° 11' 20" W, a distance of 401.65 feet to a point in said southerly line of Erie Boulevard East;

THENCE S 60° 23' 40" W, along said southerly line, a distance of 102.58 feet TO THE POINT OF BEGINNING.

RESERVED AND EXCEPTED, however, from the property above described is any portion thereof, now included in Erie Blvd. East.

FILED: ONONDAGA COUNTY CLERK 09/28/2021 04:09 PM

INDEX NO. 8847102021

NYSCEF DOC. NO. 17

RECEIVED NYSCEF: 09/28/2021

EXHIBIT E

NYSCEF DOC. NO. 17

ONONDAGA COUNTY CLERK'S OFFICE
 SANDRA A SCHEPP - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

RECEIVED NYSCEF: 09/28/2021

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: A/L&R
 Mortgagor: VIGLIOTTI SALVATORE J
 Mortgagee: RYBINSKI JOHN J

Receipt: 1187666 DP
 Book/Page: 17652/0067 Inst: 43508
 Date Filed: 12/24/2014 at 12:07PM
 Updated: 12/26/2014 MO
 Record and Return To:

Legal Desc: SYR FL49 & L1&5 WHITE MAP DEW

JOSEPH P GORGONI ESQ
 GERMAIN & GERMAIN SYRACUSE OFFICE
 ATTORNEYS PICK UP BOX
 COURTHOUSE

Prop Address:

Submitted by: ALLIED - PATTY

Recording Fees		Miscellaneous Fees	
Addl pages:	6 x 5.00 = \$ 30.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 0.00
Addl Refs:	1 x 0.50 = \$ 0.50	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 5.00
Basic	\$25.50		
	=====		=====
TOTAL:	\$56.00	TOTAL:	\$ 25.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$200000.00	Consideration	
Basic:	\$0.00	Transfer Tax:	\$0.00
Ins Fund:	\$0.00	SWIS:	
Net Add:	\$0.00	Map #:	
Misc:	\$0.00		
	=====		=====
TOTAL	\$0.00	Total Paid	\$ 81.00
		Control no	DF11584

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

SANDRA A SCHEPP
 Onondaga County Clerk

Book/Page 17652 / 0067 Instrument no.: 43508



After Recording Return To:
Joseph P. Gorgoni, Esq. (07020)
314 East Fayette Street
Syracuse, New York 13202

CONDITIONAL ASSIGNMENT OF RENTS AND LEASES

This sets forth a Conditional Assignment of Rents and Leases made December 23, 2014, by Salvatore J. Vigliotti, of 128-130 Lamson Street, Syracuse, New York 13206 (the "Assignor") to John J. Rybinski, of 3415 Oran Gulf Road, Manlius, New York 13104 (the "Assignee").

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by Assignee to Assignor, receipt acknowledged, Assignor hereby GRANTS, TRANSFERS and ASSIGNS to Assignee all of Assignor's right, title and interest in and to:

1. Any and all leases (the "leases") entered into, covering or relating to space in the buildings and improvements now or hereafter constructed on or made to the real property (the "premises") described on the attached Schedule A; and
2. All rents, income and profits arising from the leases, any extension or renewals of them and together with all rents, income and profits for the use and occupation of the premises described in the leases or in the Mortgage hereinafter referred to. (The term "leases" whenever used in this Assignment shall also include any subleases of the premises).

This ASSIGNMENT is made for the purpose of securing:

- A. The payment of indebtedness in the principal sum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00), with interest according to and evidenced by a certain Mortgage Note and Mortgage and Security agreement, each executed this same day ("Note" and "Mortgage").
- B. Payment of all other sums with interest becoming due and payable to the Assignee under the provisions of this Assignment, Note or Mortgage.
- C. The performance and discharge of each and every obligation, covenant and agreement of the Assignor contained in this Assignment or in the Note and Mortgage.

The Assignor warrants that the Assignor is the sole owner of the property described on Schedule A.

The Assignor covenants with the Assignee to observe and perform all the obligations imposed under the leases and not to do or permit to be done anything to impair the security of them; not to collect any of the rent, income and profits arising or accruing from the leases or from the premises described in the Mortgage; not to subordinate the leases to any

mortgage or other encumbrance or permit, consent or agree to such subordination without Assignee's prior written consent; not to alter, modify, or change the terms of leases or give any consent or exercise any option required or permitted by such terms without the prior written consent of the Assignee, which consent shall not be unreasonably withheld, or cancel or terminate the leases, or accept a surrender of the leases, or convey or transfer or suffer or permit a conveyance or transfer of the demised premises or of any interest in them so as to effect directly or indirectly, proximately or remotely a merger of the estates and rights of, or a termination or diminution of the obligations of the lessees thereunder; not to consent to any assignment of the leases, except when in accordance with their terms, without the prior written consent of the Assignee; at the Assignee's request to assign and transfer to the Assignee any and all subsequent leases upon all or any part of the premises described in the leases or the Mortgage and to execute and deliver at the request of the Assignee all such further assurances and assignments in the premises as the Assignee shall from time to time require.

This Assignment is made on the following terms, covenants and conditions:

1. So long as there shall exist no default by the Assignor in the payment of the principal sum, interest or other charge secured hereby or in the performance of any obligation, covenant or agreement in this Assignment or in the Note or Mortgage on the part of the Assignor to be performed, the Assignor shall have the right to collect at the time of, but not prior to, the date provided for the payments thereof, all rents, income and profits arising under the leases or from the premises and to retain, use and enjoy the same.

2. Upon or at any time after default in the payment of the principal sum, interest and indebtedness secured hereby or in the performance of any obligation, covenant or agreement in this Assignment or the Note, Mortgage or leases on the part of the Assignor to be performed, Assignee without in any way waiving such default may, at its option, without notice and without regard to the adequacy of the security for the principal sum, interest and indebtedness secured hereby, either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, take possession of the premises described in the leases and/or Mortgage and have, hold, manage, lease and operate the same on such terms and for such period of time as the Assignee may deem proper and either with or without taking possession of the premises in its own name, demand, sue for or otherwise collect and receive all rents, income and profits of the premises, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements to them as may seem proper to the Assignee and to apply the rents, income and profits or sum to the payment of:

(a) all expenses of managing the premises, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees as the Assignee may deem necessary or desirable and all expenses of operating and maintaining the premises, including, without being limited thereto, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which the Assignee may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the premises; and

(b) the principal sum, interest and indebtedness secured hereby, together with all costs and attorneys' fees, in such order of priority as to any of the items mentioned in this paragraph 2 as the Assignee in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding.

The exercise by the Assignee of the option granted it in this paragraph 2 and the collection of the rents, income, profits or sums and their application as provided above shall not be considered a waiver of any default by the Assignor under the Note, Mortgage, leases or this Assignment. It is not the intention of the parties that any entry by Assignee upon the premises under the terms of this Assignment shall constitute the Assignee as "mortgagee in possession" in contemplation of law, except at the option of Assignee.

3. No security deposited by the tenants with the Assignor under the terms of the leases assigned has been transferred to Assignee who assumes no liability for the security so deposited provided, however, that upon default, Assignee may at its option demand the transfer of the security and assume responsibility for it.

4. If Assignor receives notice that it has breached any covenant or defaulted in the terms of any of the leases, Assignor will promptly notify Assignee in writing and will give Assignee reasonable opportunity to investigate, and Assignee shall have the right but not the responsibility to cure any default and, if possible, to correct the default or other breach and otherwise protect its rights.

5. The Assignee shall not be liable for any loss sustained by the Assignor resulting from the Assignee's failure to let the premises after default or from any other act or omission of the Assignee in managing the premises after default unless the loss is caused by the willful misconduct and bad faith of the Assignee. Nor shall the Assignee be obligated to perform or discharge, nor does the Assignee hereby undertake to perform or discharge, any obligation, duty or liability under the leases, or under or by reason of this Assignment and the Assignor shall, and does hereby agree to indemnify the Assignee for, and to hold the Assignee harmless from, any and all liability, loss or damage which may or might be incurred under the leases, or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against the Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the leases. Should the Assignee incur any such liability under the leases, or under or by reason of this Assignment or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees shall be secured by this Assignment and the Assignor shall reimburse the Assignee therefore immediately upon demand and upon the failure of the Assignor so to do the Assignee may, at its option, declare all sums secured by this Assignment immediately due and payable. And it is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the premises upon the Assignee, nor for the carrying out of any of the terms and conditions of the leases; nor shall it operate to make the Assignee responsible or liable for any waste committed on the premises by the tenants or any other parties, or for any dangerous or defective condition of the premises, or for any negligence

in the management, upkeep, repair or control of the premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

6. Upon payment in full of the principal sum, interest, and indebtedness secured hereby, this Assignment shall become and be void and of no effect but the affidavit, certificate, letter or statement of any officer, agent or attorney of the Assignee showing any part of the principal, interest or indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and is hereby authorized to, rely on it. The Assignor hereby authorizes and directs the lessees named in the leases or any other or future lessee or occupant of the premises described in the leases or in the Mortgage, upon receipt from the Assignee of written notice to the effect that a default exists under the Mortgage, Note or this Assignment, to pay over to the Assignee all rents, income and profits or sums arising or accruing under the leases or from the premises described in the Mortgage and to continue to do so until otherwise notified by the Assignee.

7. The holder of the Note may take or release other security for the payment of the principal sum, interest and indebtedness, may release any party primarily or secondarily liable therefore and may apply any other security held by it to the satisfaction of the principal sum, interest or indebtedness without prejudice to any of its rights under this Assignment.

8. The provisions of the Mortgage shall govern with respect to the disposition of the proceeds of insurance and condemnation or eminent domain awards.

9. The term "leases", or "the leases" as used in this Assignment means the leases hereby assigned and any extension or renewal of them and any lease subsequently executed during the term of this Assignment covering the premises described on Schedule A.

10. Nothing contained in this Assignment and no act done or omitted by the Assignee pursuant to the powers and rights granted it in this Assignment shall be deemed to be a waiver by the holder of the Note of its rights and remedies under the Note or Mortgage, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by the holder of the Note under the terms of the Note and Mortgage. The right of the holder of the Note to collect the principal sum, interest and indebtedness and to enforce any other security therefor held by it may be exercised by the holder of the Note either prior to, simultaneously with, or subsequent to any action taken by Assignee under this Assignment.

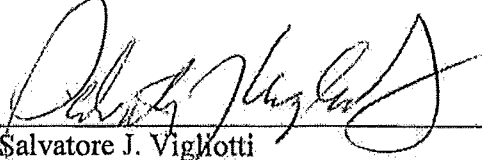
11. This Assignment is made pursuant to Section 291-f of the New York Real Property Law to which reference is made.

12. If more than one Assignor is named in this Assignment, the liability shall be joint and several.

13. This Assignment shall inure to the benefit of the Assignee and all holders

of the Note and Mortgage and shall be binding upon the Assignor, its successors and assigns and all lessees, tenants, subtenants and their assigns and all occupants and subsequent owners of the premises.


This Assignment has been executed as follows.



Salvatore J. Vigliotti

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On December 23, 2014, before me, the undersigned, personally appeared, Salvatore J. Vigliotti, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public

JOSEPH P. GORGONI
Notary Public, State of New York
No. 4977348
Qualified in Onondaga County
Commission Expires February 4, 2015

SCHEDULE "A"-LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Farm Lot #49(DeWitt), and being#1 and Lot #5 of the Henry M. White lands, as shown on a map filed in the Onondaga County Clerk's Office on November 24, 1919 as Map No. 1664, together with additional lands in said Lot #49 (DeWitt) and more particularly bounded and described as follows:

BEGINNING AT A POINT in the southerly line of Erie Boulevard East, a distance of 395.73 feet easterly, along said southerly line, from its intersection with the easterly line of Bruce Street;

RUNNING THENCE S 05° 58' 42" E, along the westerly line of said Lot #1 and Lot #5, a distance of 375.99 feet to the southwesterly corner of said Lot #5;

THENCE N 74° 08' 20" E, along the southerly line of said Lot #5 and the easterly continuation thereof, a distance of 89.79 feet to a point;

THENCE N 05° 11' 20" W, a distance of 401.65 feet to a point in said southerly line of Erie Boulevard East;

THENCE S 60° 23' 40" W, along said southerly line, a distance of 102.58 feet TO THE POINT OF BEGINNING.

RESERVED AND EXCEPTED, however, from the property above described is any portion thereof, now included in Erie Blvd. East.

FILED: ONONDAGA COUNTY CLERK 09/28/2021 04:09 PM

INDEX NO. 8843102021

NYSCEF DOC. NO. 18

RECEIVED NYSCEF: 09/28/2021

EXHIBIT F

CONINUING GENERAL SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "Agreement") is made as of December 23, 2014, by Salvatore J. Vigliotti, 128-130 Lamson Street, Syracuse, New York 13206 (the "Debtor"), in favor of John J. Rybinski (the "Lender").

WITNESSETH:

The Debtor has applied to the Lender for a loan in the principal amount of \$200,000.00 (the "Loan") pursuant to the provisions of a certain Loan Agreement of even date herewith by and between the Lender and the Debtor (the "Loan Agreement"). The Loan is to be evidenced by, and repaid with interest in accordance with provisions of, a Promissory Note of even date herewith from the Debtor payable to the Lender in the principal amount of the Loan (the "Note"). The Lender has required, as a condition to the making of the Loan, the execution of this Agreement by the Debtor.

NOW, THEREFORE, in order to secure (a) the prompt payment of all past, present, and future indebtedness, liabilities, and obligations of the Debtor to the Lender of any nature whatsoever in connection with the Loan, including, without limitation, the Liabilities (as defined in the Loan Agreement) (collectively, the "Debtor's Liabilities"), and (b) the performance by the Debtor of all of the terms, conditions, and provisions of this Agreement, the Loan Agreement, the Note, and of any other note, security agreement, pledge agreement, guaranty agreement, mortgage, deed of trust, loan agreement, hypothecation agreement, subordination agreement, indemnity agreement, letter of credit application, assignment, or any other document previously, simultaneously, or hereafter executed and delivered by the Debtor and/or any other person, singly or jointly with another person or persons, evidencing, securing, guaranteeing, or in connection with any of the Debtor's Liabilities (collectively, the "Loan Documents"), the Debtor agrees with the Lender as follows:

1. Collateral. The Debtor hereby grants to the Lender a security interest in the following property of the Debtor:

(a) Inventory. All of the Debtor's inventory both now owned and hereafter acquired, wherever located, and as the same may now and hereafter from time to time be constituted, together with all cash and noncash proceeds and products thereof.

(b) Accounts. All of the Debtor's accounts (including, without limitation, all notes, notes receivable, drafts, acceptances, and similar instruments and documents) both now owned and hereafter acquired, together with (i) all cash and noncash proceeds thereof, and (ii) all returned, rejected, or repossessed goods, the sale or lease of which shall have given or shall give rise to an account and all cash and noncash proceeds and products of all such goods.

(c) General Intangibles. All of the Debtor's general intangibles (including, without limitation, all things in action, contractual rights, goodwill, literary rights, rights to performance,

copyrights, trademarks, and patents), both now owned and hereafter acquired, together with all cash and noncash proceeds and products thereof.

(d) Chattel Paper. All of the Debtor's chattel paper both now owned and hereafter existing, acquired, or created, together with (i) all moneys due or to become due thereunder, (ii) all cash and noncash proceeds thereof, and (iii) all returned, rejected, or repossessed goods, the sale or lease of which shall have given or shall give rise to chattel paper and all cash and noncash proceeds and products of all such goods. Additionally, the Debtor assigns and grants to the Lender a security interest in all property and goods both now owned and hereafter acquired by the Debtor which are sold, leased, secured, are the subject of, or otherwise covered by, the Debtor's chattel paper, together with all rights incident to such property and goods and all cash and noncash proceeds thereof.

(e) All Equipment and Fixtures. All of Debtor's equipment and fixtures, both now owned and hereafter acquired, (including, without limitation, all books, records and data processing materials in any form documenting, describing or in any way relating to any or all of the items set forth in this Section 1 whether in the possession of the Debtor or any other person), together with (i) all additions, parts, fittings, accessories, special tools, attachments, and accessions now and hereafter affixed thereto and/or used in connection therewith, (ii) all replacements thereof and substitutions therefor, and (iii) all cash and noncash proceeds and products thereof. All such fixtures are or will be attached to the real property described in the Mortgage and Security of even date hereof and executed by Debtor simultaneously herewith, and the Debtor is the record owner of such real property.

(f) Leases. All of the Debtor's right, title, and interest, including, without limitation, all of the Debtor's accounts, with respect to any and all leases executed by the Debtor, as lessor or lessee of any part or parcel of the premises described in the Mortgage and Security Agreement bearing even date hereof and executed simultaneously herewith and the improvements thereon located, whether now in existence or hereafter created, and the proceeds thereof.

The term "Collateral" as used herein means each and all of the items of Collateral described above and the term "proceeds" as used herein includes, without limitation, the proceeds of all insurance policies covering all or any part of such items of Collateral.

2. Payment and Performance. The Debtor will pay the Debtor's Liabilities as and when due and payable and will perform, comply with, and observe the terms and conditions of the Loan Documents to be performed, complied with, and observed by the Debtor.

3. Title to Collateral. The Debtor represents and warrants that it is the owner of the Collateral and has good and marketable title to the Collateral free and clear of all liens, security interests, and other encumbrances except those in favor of the Lender and those previously disclosed in writing to the Lender.

4. Further Assurances. The Debtor will defend its title to the Collateral against all persons and will, upon request of the Lender, (a) furnish such further assurances of title as may be required by the Lender, and (b) deliver and execute or cause to be delivered and executed, in

form and content satisfactory to the Lender, any financing, continuation, termination, or security interest filing statement, security agreement, or other document as the Lender may request in order to perfect, preserve, maintain, or continue the perfection of the Lender's security interest in the Collateral and/or its priority. The Debtor will pay the costs of filing any financing, continuation, termination, or security interest filing statement as well as any recordation or transfer tax required by law to be paid in connection with the filing or recording of any such statement. A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement.

5. Transfer and Other Liens. The Debtor will not sell, lease, transfer, exchange, or otherwise dispose of the Collateral, or any part thereof, without the prior written consent of the Lender and will not permit any lien, security interest, or other encumbrance to attach to the Collateral, or any part thereof, other than those in favor of the Lender or those permitted by the Lender in writing, except that the Debtor may, in the ordinary course of its business, and in the absence of an Event of Default hereunder, collect its accounts and chattel paper and sell its inventory.

6. Financial Statements, Books, and Records. The Debtor will (a) at all times maintain, in accordance with generally accepted accounting principles, accurate and complete books and records pertaining to the operation, business, and financial condition of the Debtor and pertaining to the Collateral and any contracts and collections relating to the Collateral, (b) furnish to the Lender promptly upon request, and in form and content and at the intervals specified by the Lender, such financial statements, reports, schedules, and other information with respect to the operation, business, affairs, and financial condition of the Debtor as the Lender may from time to time require, (c) at all reasonable times and without hindrance or delay, permit the Lender or any person designated by the Lender to enter any place of business of the Debtor or any other premises where any books, records, and other data concerning the Debtor and/or the Collateral may be kept and to examine, audit, inspect, and make extracts from and photocopies of any such books, records, and other data, (d) furnish to the Lender promptly upon request and in the form and content specified by the Lender lists of purchasers of inventory, aging of accounts, aggregate cost or wholesale market value of inventory, schedules of equipment, and other data concerning the Collateral as the Lender may from time to time specify, and (e) mark its books and records in a manner satisfactory to the Lender so that the Lender's rights in and to the Collateral will be shown.

7. Name of Debtor, Places of Business, and Location of Collateral. The Debtor represents and warrants that its correct legal name is as specified on the signature lines of this Agreement, and each legal or trade name of the Debtor for the previous twelve (12) years (if different from the Debtor's current legal name) is as specified below the signature lines of this Agreement. Without the prior written consent of the Lender, the Debtor will not change its name, dissolve, merge, or consolidate with any other person. The Debtor warrants that the address of the Debtor's chief executive office and the address of each other place of business of the Debtor are as specified below the signature lines of this Agreement. Except for mobile equipment and motor vehicles, the Collateral and all books and records pertaining to the Collateral have been, are, and will be located at the Debtor's chief executive office specified below or at any other place of business which may be specified below. The Debtor will immediately advise the Lender in writing of the opening of any new place of business and of any change in the location of the

places where the Collateral, or any part thereof, or the books and records concerning the Collateral, or any part thereof, are kept.

8. Care of Collateral. The Debtor will maintain the Collateral in good condition and will not do or permit anything to be done to the Collateral that may impair its value or that may violate the terms of any insurance covering the Collateral or any part thereof. The Lender shall have no duty to, and the Debtor hereby releases the Lender from all claims for loss or damage caused by the failure to, collect or enforce any account or chattel paper or to preserve rights against prior parties to the Collateral.

9. Insurance. The Debtor will insure such of the Collateral as specified by the Lender against such casualties and risks in such form and amount as may from time to time be required by the Lender. All insurance proceeds shall be payable to the Lender and all policies of insurance shall be furnished to the Lender. The Debtor will pay all premiums due or to become due for such insurance and hereby assigns to the Lender any returned or unearned premiums which may be due upon cancellation of insurance coverage. The Lender is hereby irrevocably (a) appointed the Debtor's attorney-in-fact (which appointment is coupled with an interest) to endorse any draft or check which may be payable to the Debtor in order to collect such returned or unearned premiums or the proceeds of insurance and (b) authorized to apply such insurance proceeds in the same manner and order as the proceeds of sale or other disposition of the Collateral are to be applied pursuant to paragraph 19 hereof.

10. Taxes. The Debtor will pay as and when due and payable all taxes, levies, license fees, assessments, and other impositions levied on the Collateral or any part thereof or for its use and operation.

11. Equipment Not Fixtures. The Debtor warrants that all equipment which constitutes a part of the Collateral is personalty and is not and will not be affixed to real estate in such manner as to become a fixture or part of such real estate. If, in the opinion of the Lender, any such equipment is or may become part of any real estate, the Debtor will furnish to the Lender a written waiver by the record owner of such real estate of all interest in such equipment and a written subordination to the Lender's security interest and lien by any person who has a lien on or security interest in such real estate which is or may be superior to the Lender's security interest hereunder.

12. Specific Assignments. Promptly, upon request by the Lender, the Debtor will execute and deliver to the Lender written assignments, endorsements, and/or schedules, in form and content satisfactory to the Lender, of specific chattel paper and accounts or groups of accounts or chattel paper, but the security interest of the Lender hereunder shall not be limited in any way by such assignments. Such accounts and chattel paper are to secure payment of the Debtor's Liabilities and performance of the Loan Documents and are not sold to the Lender whether or not any assignment thereof which is separate from this Agreement is in form absolute.

13. Delivery, etc., of Chattel Paper. The Debtor will promptly upon request by the Lender deliver, assign, and endorse to the Lender all chattel paper and all other documents held by the Debtor in connection therewith.

14. Government Contracts. If any account or chattel paper arises out of a contract or contracts with the United States of America or any department, agency, or instrumentality thereof, the Debtor shall immediately notify the Lender thereof in writing and execute any instruments or take any steps required by the Lender in order that all moneys due or to become due under such contract or contracts shall be assigned to the Lender and notice thereof given under the Federal Assignment of Claims Act.

15. Collateral Account. If all or any part of the Collateral at any time consists of inventory, accounts, or chattel paper, the Debtor will, upon the request of the Lender at any time and from time to time both prior to and after the occurrence of an Event of Default hereunder, deposit or cause to be deposited to a bank account designated by the Lender and from which the Lender alone has the power of access and withdrawal (the "Collateral Account") all checks, drafts, cash, and other remittances in payment or on account of payment of such inventory, accounts, or chattel paper and the cash proceeds of any returned goods, the sale or lease of which gave rise to an account or chattel paper (all of the foregoing herein collectively referred to as "Items of Payment"). The Debtor shall deposit the Items of Payment for credit to the Collateral Account within two (2) business days of the receipt thereof, and in precisely the form received, except for the endorsement of the Debtor where necessary to permit the collection of the Items of Payment, which endorsement the Debtor hereby agrees to make. Pending such deposit, the Debtor will not commingle any of the Items of Payment with any of its other funds or property but will hold them separate and apart. At least once a week, the Lender will apply the whole or any part of the collected funds credited to the Collateral Account against the Debtor's Liabilities or credit such collected funds to a banking account of the Debtor with the Lender, the order and method of such application to be in the sole discretion of the Lender.

16. Rights of Lender and Duties of Debtor. If all or any part of the Collateral at any time consists of inventory, accounts, or chattel paper, (a) the Lender may at any time and from time to time both prior to and after the occurrence of an Event of Default hereunder, and the Debtor hereby irrevocably appoints the Lender as its attorney-in-fact (which appointment is coupled with an interest), with power of substitution, in the name of the Lender or in the name of the Debtor or otherwise, for the use and benefit of the Lender, but at the cost and expense of the Debtor and without notice to the Debtor, to (i) notify the account debtors obligated on any of the Collateral to make payments thereon directly to the Lender, and to take control of the cash and noncash proceeds of any such Collateral; (ii) compromise, extend, or renew any of the Collateral or deal with the same as it may deem advisable; (iii) release, make exchanges or substitutions for, or surrender all or any part of the Collateral; (iv) remove from the Debtor's place of business all books, records, ledger sheets, correspondence, invoices, and documents relating to or evidencing any of the Collateral or, without cost or expense to the Lender, make such use of the Debtor's places of business as may be reasonably necessary to administer, control, and collect the Collateral; (v) repair, alter or supply goods, if any, necessary to fulfill in whole or in part the purchase order of any account debtor; (vi) demand, collect, receipt for, and give renewals, extensions, discharges, and releases of any of the Collateral; (vii) institute and prosecute legal and equitable proceedings to enforce collection of, or realized upon, any of the Collateral; (viii) settle, renew, extend, compromise, compound, exchange, or adjust claims with respect to any of the Collateral or any legal proceedings brought with respect thereto; (ix) endorse the name of the Debtor upon any Items of Payment relating to the Collateral or upon any proof of claim in bankruptcy against an account debtor; and (x) receive and open all mail addressed to the Debtor

and, if an Event of Default exists hereunder, notify postal authorities to change the address for the delivery of mail to the Debtor to such address as the Lender may designate; and (b) the Debtor will (i) make no material change to the terms of any sale or lease of inventory or of any account or chattel paper without the prior written permission of the Lender; (ii) on demand, make available in form acceptable to the Lender shipping documents and delivery receipts evidencing the shipment of goods which gave rise to the sale or lease of inventory or of an account or chattel paper, completion certificates, or other proof of the satisfactory performance of services which gave rise to the sale or lease of inventory or of an account or chattel paper, copies of the invoices arising out of the sale or lease of inventory or for an account, and the Debtor's copy of any written contract or order from which the sale or lease of inventory, an account, or chattel paper arose; and (iii) when requested, regularly advise the Lender whenever an account debtor returns or refuses to retain any goods, the sale or lease of which gave rise to an account or chattel paper, and of any delay in delivery or performance, or claims made, in regard to any sale or lease of inventory, account, or chattel paper, and will comply with any instructions which the Lender may give regarding the sale or other disposition of such returns.

17. Performance by Lender. If the Debtor fails to perform, observe, or comply with any of the conditions, terms, or covenants contained in this Agreement, the Lender, without notice to or demand upon the Debtor and without waiving or releasing any of the Debtor's Liabilities or any Event of Default, may (but shall be under no obligation to) at any time thereafter perform such conditions, terms, or covenants for the account and at the expense of the Debtor, and may enter upon any place of business or other premises of the Debtor for that purpose and take all such action thereon as the Lender may consider necessary or appropriate for such purpose. All sums paid or advanced by the Lender in connection with the foregoing and all costs and expenses (including, without limitation, attorney's fees and expenses) incurred in connection therewith (collectively, the "Expense Payments") together with interest thereon at a per annum rate of interest which is equal to the then highest rate of interest charged on the principal of any of the Debtor's Liabilities, plus one percent (1%) per annum, from the date of payment until repaid in full, shall be paid by the Debtor to the Lender on demand and shall constitute and become a part of the Debtor's Liabilities secured hereby.

18. Default. The occurrence of any one or more of the following events shall constitute an event of default (an "Event of Default") under this Agreement: (a) failure of the Debtor to pay any of the Debtor's Liabilities as and when due and payable; (b) failure of the Debtor to perform, observe, or comply with any of the provisions of this Agreement or of the other Loan Documents; (c) the occurrence of an event of default (as defined therein) under any of the other Loan Documents; (d) if any information contained in any financial statement, application, schedule, report, or any other document given by the Debtor or by any other person in connection with the Debtor's Liabilities, with the Collateral, or with any of the Loan Documents is not in all respects true and accurate or if the Debtor or such other person omitted to state any material fact or any fact necessary to make such information not misleading; (e) if the Debtor is generally not paying debts as such debts become due; (f) the filing of any petition for relief under the Bankruptcy Code or any similar Federal or state statute by or against the Debtor; (g) an application for the appointment of a receiver for, the making of a general assignment for the benefit of creditors by, or the insolvency of the Debtor; (h) the dissolution, merger, consolidation, or reorganization of the Debtor; (i) the determination in good faith by the Lender that a material adverse change has occurred in the financial condition of the Debtor from the

condition set forth in the most recent financial statement of the Debtor heretofore furnished to the Lender, or from the financial condition of the Debtor as heretofore most recently disclosed to the Lender in any other manner; or (j) the determination in good faith by the Lender that the prospect of payment of any of the Debtor's Liabilities is impaired for any reason.

19. Rights and Remedies upon Default. Upon the occurrence of an Event of Default hereunder (and in addition to all of its other rights, powers, and remedies under this Agreement), the Lender may, at its option, and without notice to the Debtor, declare the unpaid balance of the Debtor's Liabilities to be immediately due and payable. The occurrence or nonoccurrence of an Event of Default shall in no manner impair the ability of the Lender to demand payment of any portion of the Debtor's Liabilities which are payable on demand. The Lender shall have all of the rights and remedies of a secured party under the Uniform Commercial Code and other applicable laws. Upon the occurrence of an Event of Default hereunder, the Debtor, upon demand by the Lender, shall assemble the Collateral and make it available to the Lender at a place designated by the Lender which is mutually convenient to both parties. Upon the occurrence of an Event of Default hereunder, the Lender or its agents may enter upon the Debtor's premises to take possession of the Collateral, to remove it, to render it unusable, or to sell or otherwise dispose of it, all without judicial process or proceedings. Any written notice of the sale, disposition, or other intended action by the Lender with respect to the Collateral which is required by applicable laws and is sent by certified mail, postage prepaid, to the Debtor at the address of the Debtor's chief executive office specified below, or such other address of the Debtor which may from time to time be shown on the Lender's records, at least ten (10) days prior to such sale, disposition, or other action, shall constitute reasonable notice to the Debtor. The Debtor shall pay on demand all costs and expenses, including, without limitation, attorney's fees and expenses, incurred by or on behalf of the Lender (a) in enforcing the Debtor's Liabilities, and (b) in connection with the taking, holding, preparing for sale or other disposition, selling, managing, collecting, or otherwise disposing of the Collateral. All of such costs and expenses (collectively, the "Liquidation Costs") together with interest thereon at a per annum rate of interest which is equal to the then highest rate of interest charged on the principal of any of the Debtor's Liabilities, plus one percent (1%) per annum, from the date of payment until repaid in full, shall be paid by the Debtor to the Lender on demand and shall constitute and become a part of the Debtor's Liabilities secured hereby. Any proceeds of sale or other disposition of the Collateral will be applied by the Lender to the payment of the Liquidation Costs and Expense Payments, and any balance of such proceeds will be applied by the Lender to the payment of the remaining Debtor's Liabilities in such order and manner of application as the Lender may from time to time in its sole discretion determine.

20. Deficiency. If the sale or other disposition of the Collateral fails to fully satisfy the Debtor's Liabilities, the Debtor shall remain liable to the Lender for any deficiency.

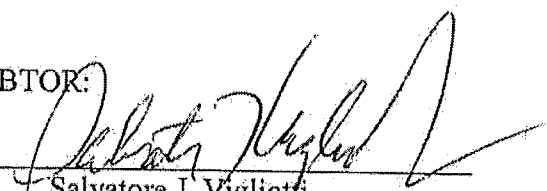
21. Remedies Cumulative. Each right, power, and remedy of the Lender as provided for in this Agreement or in the other Loan Documents or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy provided for in this Agreement or in the other Loan Documents or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by the Lender of any one or more of such rights, powers, or

remedies shall not preclude the simultaneous or later exercise by the Lender of any or all such other rights, powers, or remedies.

22. Waiver. No failure or delay by the Lender to insist upon the strict performance of any term, condition, covenant, or agreement of this Agreement or of the other Loan Documents, or to exercise any right, power, or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition, covenant, or agreement or of any such breach, or preclude the Lender from exercising any such right, power, or remedy at any later time or times. By accepting payment after the due date of any of the Debtor's Liabilities, the Lender shall not be deemed to have waived the right either to require payment when due of all other Debtor's Liabilities or to declare an Event of Default for failure to effect such payment of any such other Debtor's Liabilities. The Debtor waives presentment, notice of dishonor, and notice of nonpayment with respect to accounts and chattel paper.

23. Miscellaneous. The paragraph headings of this Agreement are for convenience only and shall not limit or otherwise affect any of the terms hereof. Neither this Agreement nor any term, condition, covenant, or agreement hereof may be changed, waived, discharged, or terminated orally but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought. This Agreement shall be governed by the laws of the State of [name of state] and shall be binding upon the heirs, personal representatives, successors, and assigns of the Debtor and shall inure to the benefit of the successors and assigns of the Lender. As used herein, the singular number shall include the plural, the plural the singular, and the use of the masculine, feminine, or neuter gender shall include all genders, as the context may require, and the term "person" shall include an individual, a corporation, an association, a partnership, a trust, and an organization. Unless varied by this Agreement, all terms used herein which are defined by the Uniform Commercial Code shall have the same meanings hereunder as assigned to them by the Uniform Commercial Code.

The signature and seal of the Debtor are subscribed to this Agreement the day and year written above.

DEBTOR: 
By: Salvatore J. Yigliotti

NYSCEF DOC. NO. 19

RECEIVED NYSCEF: 09/28/2021

EXHIBIT G

**ENVIRONMENTAL COMPLIANCE AND
INDEMNIFICATION AGREEMENT**

THIS AGREEMENT dated as of December 23, 2014, is given by Salvatore J. Vigliotti, of 128-130 Lamson Street, Syracuse, New York 13206 ("Mortgagor and/or Indemnitor") to John J. Rybinski ("Mortgagee").

RECITALS

WHEREAS, Mortgagor is the owner of certain real property located in the City of Syracuse, County of Onondaga and State of New York, commonly known as 2132-2136 Erie Boulevard East, Syracuse, New York 13224, and more particularly described in Schedule A attached hereto (the "Premises"); and

WHEREAS, Mortgagor has requested a loan from Mortgagee (the "Loan"); and

WHEREAS, the Loan will be evidenced by one or more notes (collectively, the "Note") and will be secured by one or more mortgages covering the Premises (collectively, the "Mortgage"); and

WHEREAS, the Note and the Mortgage are hereafter collectively referred to as the "Loan Documents"; and

WHEREAS, Mortgagee is unwilling to make the Loan to Mortgagor unless Mortgagor and Indemnitor executes and deliver this Agreement;

NOW, THEREFORE, in order to induce Mortgagee to make the Loan and for other good and valuable consideration, Mortgagor and Indemnitor hereby covenant and agree with Mortgagee as follows:

1. **DEFINITIONS:** All capitalized terms used in this Agreement and not heretofore defined shall have the meanings set forth below.

"Environment" means any water or water vapor, any land including land surface or subsurface, air, fish, wildlife, biota and all other natural resources.

"Environmental Laws" mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

"Environmental Permits" mean all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the ownership, use and/or operation of the Premises for the storage, treatment, generation,

transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Premises.

"Hazardous Substance" means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea-formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum based products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Sections 1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, et seq.), Articles 15 and 27 of the New York State Environmental Conservation Law or any other applicable Environmental Law and in the regulations promulgated thereunder.

"Improvements" mean the buildings, structures and other improvements (if any) presently located on the Premises.

"Indemnitees" means the Mortgagee, its participants in the Loan and all subsequent holders of the Mortgage, their respective successors and assigns, their respective officers, directors, employees, agents, representatives, contractors and subcontractors and any subsequent owner of the Premises who acquires title thereto from or through the Mortgagee.

"Release" has the same meaning as given to that term in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), and the regulations promulgated thereunder.

2. REPRESENTATIONS AND WARRANTIES: Mortgagee represents and warrants to Mortgagee that, to the best of its knowledge:

(a) Neither the Premises nor any property adjacent to or within the immediate vicinity of the Premises is being or has been used for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products.

(b) Underground storage tanks are not and have not been located on the Premises.

(c) The soil, subsoil, bedrock, surface water and groundwater of the Premises are free of any Hazardous Substances.

(d) There has been no Release nor is there the threat of a Release on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises which through soil, subsoil, bedrock, surface water and groundwater migration could come to be

located on the Premises, and Mortgagor has not received any form of notice or inquiry from any federal, state or local governmental agency or authority, any operator, tenant, subtenant, licensee or occupant of the Premises or any property adjacent to or within the immediate vicinity of the Premises or any other person with regard to a Release or the threat of a Release on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) All Environmental Permits have been obtained and are in full force and effect.

(f) No event has occurred with respect to the Premises which, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable Environmental Law or non-compliance with any Environmental Permit.

(g) There are no agreements, consent orders, decrees, judgments, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority relating to the past, present or future ownership, use, operation, sale, transfer or conveyance of the Premises which require any change in the present condition of the Premises or any work, repairs, construction, containment, clean up, investigations, studies, removal or other remedial action or capital expenditures with respect to the Premises.

(h) There are no actions, suits, claims or proceedings pending or threatened, which could cause the incurrence of expenses or costs of any name or description or which seek money damages, injunctive relief, remedial action or any other remedy that arise out of, relate to or result from (i) a violation or alleged violation of any applicable Environmental Law or non-compliance or alleged non-compliance with any Environmental Permit, (ii) the presence of any Hazardous Substance or a Release or the threat of a Release on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises or (iii) human exposure to any Hazardous Substances, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof.

3. COVENANTS OF MORTGAGOR: Mortgagor covenants and agrees with Mortgagee as follows;

(a) Mortgagor shall keep, and shall cause all operators, tenants, subtenants, licensees and occupants of the Premises to keep the Premises free of all Hazardous Substances and shall not cause or permit the Premises or any part thereof to be used for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substances.

(b) Mortgagor shall comply with, and shall cause all operators, tenants, subtenants, licensees and occupants of the Premises to comply with, all applicable Environmental Laws and shall obtain and comply with, and shall cause all operators, tenants,

subtenants, licensees and occupants of the Premises to obtain and comply with all Environmental Permits.

(c) Mortgagor shall not cause or permit any change to be made in the present or intended use of the Premises which would (i) involve the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or the use of the Premises as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (ii) violate any applicable Environmental Law, (iii) constitute non-compliance with any Environmental Permit or (iv) increase the risk of a Release.

(d) Mortgagor shall promptly provide Mortgagee with a copy of all notifications which it gives or receives with respect to any past or present Release or the threat of a Release on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) Mortgagor shall undertake and complete all investigations, studies, sampling and testing and all removal and other remedial actions necessary to contain, remove and clean up all Hazardous Substances that are determined to be present at the Premises in accordance with all applicable Environmental Laws and all Environmental Permits.

(f) Mortgagor shall at all times allow Mortgagee and its officers, employees, agents, representatives, contractors and subcontractors reasonable access to the Premises for the purpose of ascertaining site conditions, including, but not limited to, subsurface conditions.

(g) If at any time Mortgagee obtains any evidence or information which suggests that potential environmental problems may exist at the Premises, Mortgagee may require that a full or supplemental environmental inspection and audit report with respect to the Premises of a scope and level of detail satisfactory to Mortgagee be prepared by an environmental engineer or other qualified person acceptable to Mortgagee, at Mortgagor's expense. Said audit may include a physical inspection of the Premises, a visual inspection of any property adjacent to or within the immediate vicinity of the Premises, personnel interviews and a review of all Environmental Permits. If Mortgagee requires, such inspection shall also include a records search and/or subsurface testing for the presence of Hazardous Substances in the soil, subsoil, bedrock, surface water and/or groundwater. If said audit report indicates the presence of any Hazardous Substance or a Release or the threat of a Release on, at or from the Premises, Mortgagor shall promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean up and other remedial actions, using methods recommended by the engineer or other person who prepared said audit report and acceptable to the appropriate federal, state and local agencies or authorities.

4. INDEMNIFICATION PROVISIONS: Mortgagor and Indemnitor hereby jointly and severally covenant and agree, at their sole cost and expense, to indemnify, protect, defend and save harmless each and every Indemnitee from and against any and all

damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, attorneys' and experts' fees, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee relating to, resulting from or arising out of (a) the use of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (b) the presence of any Hazardous Substances or a Release or the threat of a Release on, at or from the Premises, (c) the failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean up and other remedial actions with respect to a Release or the threat of a Release on, at or from the Premises, (d) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof, (e) a violation of any applicable Environmental Law, (f) non-compliance with any Environmental Permit, or (g) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by Mortgagor in this Agreement (collectively, the "Indemnified Matters").

The liability of Mortgagor and Indemnitor to each Indemnitee hereunder shall in no way be limited, abridged, impaired or otherwise affected by (i) any amendment or modification of the Loan Documents by or for the benefit of Mortgagor or any subsequent owner of the Premises, (ii) any extensions of time for payment or performance required by any of the Loan Documents, (iii) the release of Mortgagor, any Indemnitor, any guarantor of the Loan or any other person from the performance or observance of any of the agreements, covenants, terms or conditions contained in any of the Loan Documents or this Agreement by operation of law, Mortgagee's voluntary act or otherwise, (iv) the invalidity or unenforceability of any of the terms or provisions of the Loan Documents, (v) any exculpatory provision contained in any of the Loan Documents limiting Mortgagee's recourse to property encumbered by the Mortgage or to any other security or limiting Mortgagee's rights to a deficiency judgment against Mortgagor, (vi) any applicable statute of limitations, (vii) any investigation or inquiry conducted by or on the behalf of Mortgagee or any other Indemnitee or any information which Mortgagee or any other Indemnitee may have or obtain with respect to the environmental or ecological condition of the Premises, (viii) the sale, assignment or foreclosure of the Note or the Mortgage, (ix) the sale, transfer or conveyance of all or part of the Premises, (x) the dissolution or liquidation of Mortgagor, (xi) the death or legal incapacity of any Indemnitor, (xii) the release or discharge, in whole or in part, of Mortgagor or any Indemnitor in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding or (xiii) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of Mortgagor under the Note or of any Indemnitor under this Agreement.

The indemnification agreement contained herein is wholly independent of and in addition to any indemnification agreement heretofore given to Mortgagee or any other Indemnitee as part of the application process for the Loan.

5. TERMINATION OF AGREEMENT: Notwithstanding anything to the contrary contained herein, this Agreement shall terminate and be of no further force and effect when all of the following conditions are satisfied in full:

(i) all principal, interest and other sums evidenced or secured by the Loan Documents and any other costs and expenses incurred by Mortgagee in connection with the Loan are paid in full by Mortgagor or by any guarantor of the Loan;

(ii) neither Mortgagee nor any affiliate of Mortgagee has at any time or in any manner participated in the management or control of, taken possession of or title to the Premises or any portion thereof, whether by foreclosure of the Mortgage, deed in lieu of foreclosure or otherwise; and

(iii) between the date of this Agreement and the date on which the Loan is paid in full, as provided in clause (i) above, there has been no change in any applicable Environmental Law which would make a lender or mortgagee liable in respect of the Indemnified Matters notwithstanding the fact that no event, circumstance or condition of the nature described in clause (ii) above ever occurred; and

(iv) there exist no Indemnified Matters which are then pending.

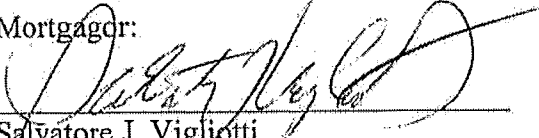
6. GOVERNING LAW: This Agreement shall be governed by, construed in accordance with and enforceable under the laws of the State of New York.

7. COUNTERPARTS: This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

8. SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon Mortgagor, its successors and assigns and Indemnitor and their respective successors, assigns, executors, administrators, legal representatives, distributees and fiduciaries and shall inure to the benefit of each Indemnitee.

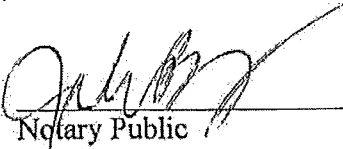
IN WITNESS WHEREOF, Mortgagor and Indemnitor have caused this Agreement to be duly executed as of the day and year first above written.

INDEMNITOR:

Mortgagor:

Salvatore J. Vigliotti

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

On December 23, 2014 before me, the undersigned, personally appeared, Salvatore J. Vigliotti, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

JOSEPH P. GORGONI
Notary Public, State of New York
10/19/2015
Notary Public, Onondaga County
2015

SCHEDULE "A"-LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Farm Lot #49(DeWitt), and being #1 and Lot #5 of the Henry M. White lands, as shown on a map filed in the Onondaga County Clerk's Office on November 24, 1919 as Map No. 1664, together with additional lands in said Lot #49 (DeWitt) and more particularly bounded and described as follows:

BEGINNING AT A POINT in the southerly line of Erie Boulevard East, a distance of 395.73 feet easterly, along said southerly line, from its intersection with the easterly line of Bruce Street;

RUNNING THENCE S 05° 58' 42" E, along the westerly line of said Lot #1 and Lot #5, a distance of 375.99 feet to the southwesterly corner of said Lot #5;

THENCE N 74° 08' 20" E, along the southerly line of said Lot #5 and the easterly continuation thereof, a distance of 89.79 feet to a point;

THENCE N 05° 11' 20" W, a distance of 401.65 feet to a point in said southerly line of Erie Boulevard East;

THENCE S 60° 23' 40" W, along said southerly line, a distance of 102.58 feet TO THE POINT OF BEGINNING.

RESERVED AND EXCEPTED, however, from the property above described is any portion thereof, now included in Erie Blvd. East.

COMPLIANCE AGREEMENT

Mortgagor: Salvatore J. Vigliotti
Mortgagee: John J. Rybinski
Property: 2132-2136 Erie Boulevard East, Syracuse, NY 13224
Amount: \$200,000.00
Date: December 23, 2014

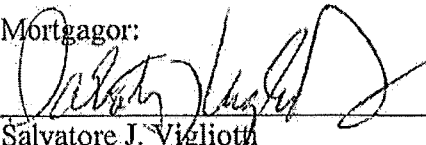
The undersigned covenants and agrees as follows:

Corrections: That in the event corrections, additions or amendments are required to be made to the Loan Documents including but not limited to the balloon mortgage note, mortgage and security agreement and related mortgage documents at the request of the mortgagee or the mortgagee's attorneys in order to conform said note, mortgage and related mortgage documents to applicable law and regulations and/or to the agreement and understanding of the parties thereto as concerns terms of said note, mortgage and related mortgage documents, the undersigned will execute or initial said corrections, additions or amendments within three (3) days after receiving notice thereof.

Additional Sums Due Further, the undersigned agrees to pay to the mortgagee and/or its attorneys, following closing any sums of money the undersigned are obligated to pay, or agreed to pay in accordance with the mortgagor's mortgage commitment and disclosure statement. Said payment must be made within three (3) days after receipt of notice thereof. Any such payment lawfully due and owing may be added to the indebtedness secured by the mortgage.

Dated: December 23, 2014

Mortgagor:



Salvatore J. Vigliotti

EXHIBIT H

Fully signed

FORBEARANCE AGREEMENT

This **FORBEARANCE AGREEMENT** (this "Agreement") is entered into as of October 31, 2017 by and among Salvatore J. Vigliotti ("Borrower") and John J. Rybinski ("Lender").

RECITALS

A. On or about December 23, 2014, Borrower received a loan from Lender in the amount of \$200,000.00 (the "Loan") evidenced by, among other things, that certain Mortgage Note dated December 23, 2014 (the "Note").

B. The Loan is secured by, among other things, a mortgage and security interest in and to the premises ("mortgaged premises") described in a Mortgage and Security Agreement ("Mortgage") dated December 23, 2014, and recorded in the Onondaga County Clerk's Office on December 24, 2014 in Liber 17652 at page 51&c, and by a Conditional Assignment of Rents and Leases ("Assignment of Rents") assigning all present and future leases affecting the mortgaged premises, recorded in the Onondaga County Clerk's Office on December 24, 2014 in Liber 17652 of Mortgages at page 67&c.

C. The Note, Mortgage and Assignment of Rents are referred to together herein as the "Loan Documents."

D. One or more Events of Default have occurred and are continuing under the terms of the Loan Documents, and by letter dated May 23, 2017, Lender provided notice of default, demanded the outstanding payments, and gave a notice of intent to accelerate.

E. Lender commenced an action in the Supreme Court of New York, County of Onondaga styled, *John J. Rybinski, Plaintiff, vs. Salvatore J. Vigliotti, et al, Defendants*, Index No. 004635/2017, seeking the remedy of foreclosure under the terms of the Mortgage and for other remedies (the "Lawsuit").

F. Borrower has requested that Lender enter into this Agreement to, among other things, forbear from exercising certain rights relating to the Lawsuit in order to allow the Borrower a certain period of time to: (i) enter into and perform under the terms of a tax trust agreement; (ii) cure all regular monthly installment defaults; and (iii) reimburse Lender's attorneys' fees and disbursements. Lender is willing to enter into this Agreement, but only under the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and agreements contained herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Affirmation of Recitals. Borrower hereby acknowledges and agrees that the recitals set forth above are true and correct. Said recitals are incorporated herein by this reference.
2. Acknowledgment of Default, Applications and Acceleration. Borrower hereby acknowledges and agrees that (a) an Event of Default has occurred and continues to exist as of

the date of this Agreement, and (b) as a result of the Event of Default, the Loan indebtedness was properly accelerated and is now fully due and payable.

3. Forbearance. In consideration of the payments, obligations, agreements, waivers, releases, representations and warranties of Borrower in this Agreement, Lender hereby agrees, subject to the conditions set forth in this Agreement and the right to take any actions that may be allowed or required by law to preserve its rights and remedies, to forbear from pursuing Lender's claims in the Lawsuit (the "Forbearance"). All obligations of Lender to forbear will automatically terminate on the occurrence of a Forbearance Termination Event under paragraph 7 of this Agreement.

4. No Defenses. As of the date of this Agreement, Borrower acknowledges and agrees that Borrower has no defenses, offsets, or counterclaims to any of Borrower's obligations under the Loan Documents. To the extent that any such defenses, claims, or offsets of Borrower exist as of the date hereof, they are hereby waived and released in consideration of Lender's execution of this Agreement. Borrower represents and warrants that this Agreement and the Loan Documents are valid, binding and enforceable obligations against Borrower in accordance with their terms.

5. Forbearance Fees; Costs and Expenses. As part of the consideration for Lender entering into this Agreement, concurrently with Borrower's execution of this Agreement, Borrower shall pay to Lender \$5,850 as reimbursement of Lender's attorneys' fees incurred in this matter.

6. Conditions Precedent. Each of the following shall be an express condition precedent to the effectiveness of this Agreement, and Lender shall not have any obligations under this Agreement, or any extended forbearance obligations under this Agreement, unless and until all of the conditions listed below are satisfied to Lender's sole satisfaction:

(a) Borrower and Lender shall have executed this Agreement and all other documents contemplated hereby in form and substance acceptable to Lender.

(b) Borrower shall have paid to Lender \$12,667.60, which will bring the Loan current for all monthly payments of principal and interest through and including the payment due October 23, 2017.

(c) Borrower shall have paid to Lender reimbursement of Lender's attorneys' fees incurred in this matter.

(d) Borrower shall have entered into a tax trust agreement with the City of Syracuse with respect to the mortgaged premises upon terms acceptable to Lender.

(e) Representations and warranties of Borrower contained in this Agreement, the other Loan Documents shall be true and correct in all material respects as of the date hereof.

7. Termination of Agreement and Conditions Subsequent. In the event that any of the following events occur (each, a "Forbearance Termination Event"), the forbearance obligations of Lender hereunder shall immediately and without notice to any other Party

terminate and Lender may proceed with prosecution of the Lawsuit and may exercise any and all remedies set forth in the Loan Documents:

- (a) Failure to timely and properly pay reimbursement of Lender's attorneys' fees.
- (b) Any other default by Borrower under this Agreement.
- (c) Any default under the tax trust agreement.
- (d) Any representation or warranty of Borrower contained in this Agreement or the Loan Documents being untrue in any material respect as of the date hereof; or the existence of a material misrepresentation of fact or fraud contained in this Agreement or in any document or information heretofore or hereafter submitted or communicated to Lender by Borrower as of the date of this Agreement or the date of such document or information, as the case may be.
- (e) Any Default or Event of Default occurs under the Loan Documents) after the date hereof.

8. Performance by Borrower and Reinstatement of Loan. Effective upon performance in full of Borrower's obligations under the tax trust agreement, no Forbearance Termination Event having occurred, the Loan shall be deemed to have been deaccelerated, the Note shall be deemed payable according to its regular terms, and the Lawsuit shall be discontinued, without prejudice and without costs to any party thereto.

9. General Release of Known and Unknown Claims. Borrower, on behalf of himself and his successors, heirs, distributees, beneficiaries, and assigns (collectively, "Releasors"), hereby irrevocably and unconditionally releases and forever discharges Lender and his successors, heirs, distributees, beneficiaries, and assigns (collectively, "Releasees"), from and against any and all causes of action, suits, debts, liens, obligations, liabilities, claims, demands, damages, judgments, losses, orders, penalties, costs and expenses, including, without limitation, attorneys' fees, of any kind or nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, liquidated or unliquidated, which any of the Releasors now have, own, hold, or claim to have, own, or hold, or at any time heretofore have had, owned, held or claimed to have had, owned, or held against any of the Releasees arising from, based upon, or related to, whether directly or indirectly (collectively, "Claims"): (i) the Loan; (ii) the Note; (iii) the Mortgage; (iv) the Loan Documents; (v) the Lawsuit; (vi) any and all other agreements, documents or instruments referenced herein or in the Loan Documents or related hereto or thereto; (vii) any defenses as to the enforcement of the Loan Documents; or (viii) any act, omission, negligence or breach of duty by Lender under or related to the Mortgage or the other Loan Documents.

It is understood and agreed by Borrower that the claims released hereunder include all claims of every nature and kind whatsoever, known or unknown, suspected or unsuspected, arising out of or related to any and all of the matters referred to in the immediately preceding paragraph.

Borrower acknowledges that he may hereafter discover facts different from, or in addition to, those which it now knows or believes to be true with respect to the claims released hereunder, and agrees that the foregoing release shall be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof, and waives application of any applicable law including any limitation on such a release with respect to the claims released hereunder.

10. No Waiver. No provision of this Agreement shall be deemed to constitute a waiver of any or all of Borrower's defaults under the Loan Documents. Subject to the terms of this Agreement, Lender expressly reserves any and all rights and remedies available to it under this Agreement, the Loan Agreement, the Note, the Mortgage, and all other Loan Documents; or at law or in equity for any past, present or future defaults of Borrower. Subject to the terms of this Agreement, no failure to exercise, or any delay by Lender in exercising, any right, power or privilege hereunder or under the Loan Documents shall preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided Lender in this Agreement and in the Loan Documents are cumulative and not exclusive of each other or of any right and remedy provided Lender by law or in equity. Except as otherwise expressly provided in the Loan Documents, no notice to or demand upon Borrower in any instance shall, in itself, entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstance without notice or demand. Acceptance by Lender of any payments or reimbursements referred to in this Agreement shall not constitute a waiver by Lender of any of its rights under the Loan Documents or at law or equity whatsoever, except that Lender agrees to forbear to the extent specifically provided in this Agreement.

This Agreement does not alter or amend any of the Loan Documents.

11. Additional Representations and Warranties. Borrower hereby makes the following additional representations and warranties:

- (a) Borrower has not made an assignment for the benefit of creditors.
- (b) This Agreement, the entering into hereof and the performance of any and all obligations hereunder by any party hereto shall not constitute a modification or amendment to the Loan Documents, and shall not affect the enforceability, lien or priority thereof.
- (c) Borrower has reviewed this Agreement with his independent legal advisors as to the advisability of making the agreements, waivers, and releases provided for herein, and with respect to the advisability of executing this Agreement, and with respect to the meaning and operation of every waiver contained herein.
- (d) Except as expressly set forth herein, neither Lender, nor any agent, employee, representative, or attorney of or for Lender, has made any statement or representation to Borrower regarding any fact relied upon in entering into this Agreement. Except as expressly set forth herein, Borrower acknowledges and agrees that he has not relied upon any statement, representation or promise of any other party or of any agent, employee, representative, or attorney for Lender, in executing this Agreement, or in making the agreements, waivers and releases provided for herein.

(e) Borrower has made such investigation of the facts pertaining to this Agreement and of all the matters pertaining hereto as he deems necessary.

(f) No representation, warranty or statement of Borrower in this Agreement contains or will contain any untrue statement of a material fact.

(g) Borrower has the requisite power and authority to execute and deliver this Agreement. Borrower is authorized and has the power to bind himself to the terms and conditions of this Agreement.

Borrower's covenants, agreements, representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date hereof and shall survive the termination of this Agreement and shall survive any release of the Mortgage or the exercise by Lender of any or all of his rights and remedies under the Loan Documents, or at law or in equity.

12. Notices. Any notices or other communications required or permitted hereunder shall be in writing and shall be given as follows:

If to Borrower, to:

Salvatore J. Vigliotti
128-130 Lamson Street
Syracuse, NY 13206

With a copy to:

Scott A. Lickstein, Esq.
Newman & Lickstein
109 South Warren Street
Suite 404
Syracuse, NY 13202
Telephone: (315) 422-1172
Facsimile: (315) 422-1400
Email: ScottLickstein@newmanlickstein.com

If to Lender, to:

John J. Rybinski
4314 Oran Gulf Road
Manlius, NY 13104

With a copy to:

J. Eric Charlton, Esq.
Barclay Damon LLP
Barclay Damon Tower
125 East Jefferson Street

Syracuse, NY 13202
Telephone: (315) 425-2716
Facsimile: (315) 425-8576
Email: ECharlton@barclaydamon.com

13. Ratification.

(a) This Agreement constitutes a Loan Document.

(b) Borrower acknowledges and agrees that all of the Loan Documents are intended to and shall continue to secure the Loan.

(c) Borrower acknowledges and agrees that the Loan Documents evidence and/or secure (i) Borrower's obligations with respect to the repayment of all principal, interest, late charges, costs, expenses, attorneys' fees and other amounts due under the Note and all other Loan Documents, and (ii) the Borrowers' respective obligations with respect to the performance of all agreements, covenants, and obligations of the Borrowers under the Loan Agreement, the Note, and all other Loan Documents.

(d) The Loan Agreement, the Note, the Mortgage, and all of the other Loan Documents are ratified and confirmed in all respects. All liens, security interests, mortgages and assignments granted or created by, or existing under, the Loan Documents, as amended hereby, remain unchanged and continue, unabated, in full force and effect, to secure Borrower's obligation to repay the Note and all other amounts under the other Loan Documents. Nothing herein shall be deemed to release or discharge the parties hereto from any obligations or liabilities under the Loan Documents, and nothing in this Agreement shall affect or impair any rights, remedies or powers which the Lender may have under the Loan Documents.

14. Miscellaneous.

(a) Capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Loan Documents.

(b) Borrower waives any claim contesting the existence and the adequacy of the consideration given with respect to this Agreement.

(c) This Agreement shall be interpreted and construed in accordance with the law of the State of New York.

(d) The parties hereto specifically agree that time is of the essence of this Agreement.

(e) Borrower agrees that neither this Agreement nor any interest herein may be assigned by it without the prior written consent of Lender, which consent may be withheld in Lender's sole and absolute discretion.

(f) This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, and successors of the parties hereto, but nothing contained in this Agreement shall be construed as a consent by Lender to any assignment by Borrower.

(g) The Loan Documents and this Agreement, together, represent a complete integration of all prior and contemporaneous agreements and understandings of the parties hereto relating to the Loan.

(h) In the event of any ambiguity and/or dispute regarding interpretation of this Agreement, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the draftsman.

(i) The terms and provisions of this Agreement may be modified or amended only by a writing executed by Borrower and Lender.

(j) The headings contained in this Agreement have been inserted for convenience only and in no way define or limit the scope of interpretation of this Agreement.

(k) It is understood and agreed that this Agreement may be executed in several counterparts, each of which shall, for all purposes, be deemed an original and all of such counterparts, when taken together, shall constitute one and the same Agreement, even though all of the parties hereto may not have executed the same counterpart of this Agreement.

(l) Facsimile signatures will be given the same force and effect as originals.

(m) If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions hereof shall remain in full force and effect to the maximum extent permitted by applicable law.

(n) Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine or neuter, as the case may be, and vice versa.

(o) All covenants, obligations, agreements, representations, warranties, and waivers of Borrower set forth in the Loan Documents shall fully survive the expiration of the Forbearance Period.

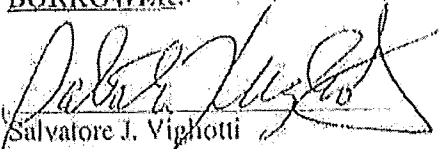
(p) EACH PARTY ACKNOWLEDGES AND AGREES THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO THIS AGREEMENT, THE LOAN DOCUMENTS OR THE OBLIGATIONS.

NYSCEF DOC. NO. 20

RECEIVED NYSCEF: 09/28/2021

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first above written.

BORROWER:


Salvatore J. Vighotti

LENDER:


John J. Rybinski

NYSCEF DOC. NO. 21

RECEIVED NYSCEF: 09/28/2021

EXHIBIT I

STATE OF NEW YORK
SUPREME COURT COUNTY OF ONONDAGA

JOHN J. RYBINSKI,

Plaintiff,

-vs-

**SALVATORE J. VIGLIOTTI;
COMPLETE BUSINESS SOLUTIONS GROUP, INC.;**
SAVES AUTOBODY SUPPLY, INC.;
**PEOPLE OF THE STATE OF NEW YORK BY THE
DEPARTMENT OF TAXATION AND FINANCE and
'JOHN DOE'** (said name being fictitious, it being the
intention of plaintiff to designate any and all occupants,
tenants, persons or corporations, if any, having or claiming
an interest in or lien upon the premises being foreclosed
herein),

Defendants.

**NOTICE OF VOLUNTARY
DISCONTINUANCE
PURSUANT TO
CPLR 3217(a)(1)**

Index No.: 004635/2017

Property Address:
2132-2136 Erie Boulevard
East Syracuse, NY 13214
SBL # 036.-03-02.0 and
036.-03-03.0

PLEASE TAKE NOTICE, that the Plaintiff, John J. Rybinski, by his attorneys, Barclay Damon LLP, hereby discontinues this action pursuant to CPLR 3217(a)(1), and provides notice of such discontinuance, stating as follows:

1. This present action was commenced to foreclose a mortgage on real property known as 2132-2136 Erie Boulevard, East Syracuse, New York.
2. The Summons and Complaint were filed in the Office of the Clerk of the County of Onondaga on September 22, 2017.
3. All the defendants were served with the summons and complaint, and no responsive pleading has been served.
4. No party herein is an infant or incompetent person for whom a committee has been appointed or conservatee, and no person not a party has any interest in the subject matter of this action.

5. No judgment of foreclosure and sale has been granted in this action.

6. Plaintiff is requesting that the action be discontinued and the Notice of Pendency be cancelled because the borrower entered into and complied with a forbearance agreement, and pursuant thereto the subject loan is deemed to have been deaccelerated and reinstated according to its regular terms.

7. Based on the foregoing, the Plaintiff hereby discontinues this action, without prejudice, pursuant to CPLR 3217(a)(1).

Dated: September 30, 2019

BARCLAY DAMON, LLP

By: 
J. Eric Charlton

Attorneys for Plaintiff
Barclay Damon Tower
125 East Jefferson Street
Syracuse, New York 13202
Telephone: (315) 425-2716

ONONDAGA COUNTY CLERK'S OFFICE
 LISA DELL - COUNTY CLERK
 401 Montgomery St - Room 200
 Syracuse, NY 13202

Phone: 315-435-2226
 Fax: 315-435-3455

Doc Type: MTG
 Mortgagor: VIGLIOTTI PROPERTIES LLC
 VIGLIOTTI SALVATORE
 Mortgagee: COMPLETE BUSINESS SOLUTIONS
 Legal Desc: SYR/DEW/NW MANY PARS SEE INST

Receipt: 1292474 CP
 Book/Page: 18045/0829 Inst: 21635
 Date Filed: 07/01/2016 at 2:18PM
 Updated: 07/05/2016 MO
 Record and Return To:

RAPID TITLE
 2785 WERHLE DR
 WILLIAMSVILLE NY 14221

Prop Address:

Submitted by: FLESSA

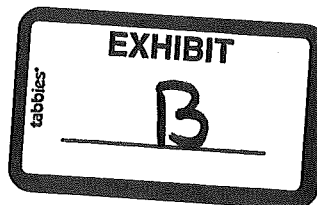
Recording Fees		Miscellaneous Fees	
Addl pages:	7 x 5.00 = \$ 35.00	RMI:	\$ 20.00
Addl Names:	0 x 0.50 = \$ 0.00	TP 584:	\$ 0.00
Addl Refs:	4 x 0.50 = \$ 2.00	RP5217:	\$ 0.00
Misc:	0.00	AFFTS:	\$ 0.00
Basic	\$25.50		
	=====		=====
TOTAL:	\$62.50	TOTAL:	\$ 20.00

MORTGAGE TAX		DEED TRANSFER TAX	
Mortgage:	\$1258275.00	Consideration	
Basic:	\$6291.50	Transfer Tax:	\$0.00
Ins Fund:	\$3145.75	SWIS:	
Net Add:	\$3145.75	Map #:	
Misc:	\$0.00		
	=====		=====
TOTAL	\$12583.00	Total Paid	\$ 12665.50
		Control no	DH3785

WARNING - This sheet constitutes the Clerk's endorsement, required by Section 319 of the Real Property Law of the State of New York. Do not detach. Taxes imposed on this instrument at time of recording were paid. Certain information contained in this document is not verified by this office.

LISA DELL
 Onondaga County Clerk

Book/Page 18045 / 0829 Instrument no.: 21635



THIS MORTGAGE HAS BEEN APPROVED BY THE BAR ASSOCIATION OF ERIE COUNTY. IT IS RECOMMENDED THAT ANY PERSON NAMED IN THIS MORTGAGE CONSULT HIS/HER ATTORNEY BEFORE SIGNING.

BAR ASSOCIATION OF ERIE COUNTY

MORTGAGE



DH 003785 SH

1. WORDS USED OFTEN IN THIS DOCUMENT.

- (A) "Mortgage" - This document which is dated 07/01/2016 will be called the "Mortgage."
(B) "Borrower" - VIGLIOTTI PROPERTIES LLC and SALVATORE VIGLIOTTI

sometimes will be called the "Borrower" and sometimes simply "I" or "me." Borrower's address is the Property Address unless otherwise stated in this paragraph, 8775 DELL CENTER DRIVE LIVERPOOL NY 13090

- (C) "Note Holder" - COMPLETE BUSINESS SOLUTIONS GROUP, INC. or anyone who takes this Mortgage by transfer will be called "Note Holder." Note Holder's address is 141 N. SECOND STREET, PHILADELPHIA PA 19106

- (D) "Note" - The note signed by Borrower and dated 07/01/2016 will be called the "Note." The Note shows that I owe Note Holder One Million Two Hundred Fifty-Eight Thousand Two Hundred Seventy-Five Dollars (U.S. \$ 1,258,275.00) plus interest. I have promised to pay this debt in full by 09/11/2017

- (E) "Property" - The property that is described below in this section entitled "Description of the Property" will be called the "Property."

87802

2. BORROWER'S TRANSFER TO NOTE HOLDER OF RIGHTS IN THE PROPERTY.

I hereby mortgage the Property to Note Holder subject to the terms of this Mortgage. By signing this Mortgage I am giving Note Holder the rights contained in this Mortgage and also the rights that the law gives to Note Holders who hold mortgages on real property. I am doing this to protect Note Holder from possible losses that might result if I fail to:

- (A) Pay all the amounts that I owe Note Holder under the Note;
(B) Pay, with interest, any amounts that Note Holder may advance under this Mortgage to protect the value of the Property and Note Holder's rights in the Property; and
(C) Keep my other promises and agreements under this Mortgage.

3. DESCRIPTION OF THE PROPERTY.

I give Note Holder rights in the Property described in A through I below:

- (A) The Property address is SEE BELOW "Property Address". This Property is in ONONDAGA COUNTY County. It has the following legal description: ATTACHED HERETO

1135 W. GENESEE STREET, SYRACUSE, NY (SBL #108.2-06-07.0)

1201-1203 W. GENESEE STREET, SYRACUSE, NY (SBL #108.2-06-06.0)

1207 W. GENESEE STREET, SYRACUSE, NY (SBL #108.2-06-05.0)

2136 ERIE BLVD., SYRACUSE, NY (SBL #036-03-03.0 and #036-03-02)

ONONDAGA COUNTY
BASIC TAX \$6291.70
MTG. INS. FUND TAX \$3145.75
NET ADDITIONAL TAX \$3145.75
TOTAL MTG. TAX PAID \$12583

This Property is or will be:

- [] principally improved by a one or two family residence.
[] improved by three to six residential dwelling units each with their own separate cooking facilities.
[X] vacant land or improved by a commercial building with no residential dwelling units.
[] other:

This Mortgage:

- [] is a purchase money mortgage. This Mortgage is given to secure part of the purchase price of the Property and is intended to be recorded at the same time as the deed to the Borrowers.
[X] is not a purchase money mortgage.

- (B) All buildings and other improvements that are located now or in the future on the Property.
(C) All rights in other property that I have as owner of the Property including strips and gores of land adjoining the Property. These rights are known as "easements, rights and appurtenances attached to the Property."
(D) All rents or royalties from the Property.

14:18 07/01/16 2168516 CP ME--16345F-638

- (E) All timber, mineral, oil and gas rights and profits, water rights and stock that I own and that are part of the Property.
- (F) All rights that I have in the land which lies in the streets or roads in front of, or next to, the Property.
- (G) All fixtures that are now or in the future will be on the Property.
- (H) All of the rights and property described in Subparagraph B through G of this Paragraph that I acquire in the future; and
- (I) All replacements of or additions to the Property described in Subparagraphs B through H of this Paragraph.

4. BORROWER'S RIGHT TO MORTGAGE THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY.

I promise that: (A) I lawfully own the Property; (B) I have the right to mortgage, grant and convey the Property to Note Holder; and (C) there are no outstanding claims or charges against the Property except for those which are of public record. I give a warranty of title to the Note Holder. I will be responsible to Note Holder for any losses which Note Holder suffers because someone other than myself has some rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of such rights.

5. BORROWER'S PROMISE TO PAY.

I will pay to Note Holder, on time, principal and interest due under the Note and any prepayment and late charges under the Note.

6. BORROWER TO EXHIBIT TAX RECEIPTS.

Upon request, I will present to the Note Holder within ten (10) days after written notice paid current tax bills and water assessments affecting the Property.

7. APPLICATION OF BORROWER'S PAYMENTS.

Note Holder will apply my payments under the Note and this Mortgage (A) first to any prepayment charges due under the Note; (B) next to any escrow payments required under Paragraph 8 of this Mortgage; (C) next to pay interest then due under the Note; (D) next, to pay late charges under the Note; (E) next, to pay principal then due under the Note; and (F) next, to any other amount due Note Holder under this Mortgage.

8. BORROWER'S OBLIGATION TO PAY TAXES, CHARGES, ASSESSMENTS AND CLAIMS.

I will pay, when due, all taxes, assessments, and any other charges and fines that may be imposed on the Property and that may be superior to this Mortgage. Unless previously recognized by Borrower and Note Holder in writing, if Note Holder determines that any part of the Property is subject to a superior lien, Note Holder may give Borrower notice identifying the superior lien. Borrower shall pay or satisfy the lien within thirty (30) days of the giving of notice and if this is not done it shall be considered a default under the terms of the Note and Mortgage.

9. BORROWER'S OBLIGATION TO MAINTAIN HAZARD INSURANCE.

- (A) I will obtain hazard insurance to cover all buildings and other improvements that now are or in the future will be located on the Property. The insurance must cover loss or damage caused by fire, hazards normally covered by "extended coverage" hazard insurance policies and other hazards for which Note Holder requires coverage. The insurance must be in the amounts and for the periods of time required by Note Holder. Note Holder may not require me to obtain hazard insurance in an amount greater than the replacement value of the improvements of the Property. In no event shall the coverage be less than the amount of this Mortgage when first recorded. I may choose the insurance company, but my choice is subject to Note Holder's approval. Note Holder may not refuse my choice unless the refusal is reasonable.
- (B) All of the insurance policies and renewals of those policies must include what is known as a "standard mortgage clause" to protect Note Holder. The form of all policies and renewals must be acceptable to Note Holder. Note Holder will have the right to hold the policies and renewals.
- (C) If there is a loss or damage to the Property, I will promptly notify the insurance company and Note Holder. If I do not promptly prove to the insurance company that the loss or damage occurred, then Note Holder may do so. The amount paid by the insurance company is called "proceeds." The proceeds will be used to repair or to restore the damaged Property unless: (i) it is not economically feasible to make the repairs or restoration; or (ii) the use of the proceeds for that purpose would lessen the protection given to Note Holder by this Mortgage; or (iii) Note Holder and I have agreed in writing not to use the proceeds for that purpose. If the repair or restoration is not economically feasible or if it would lessen Note Holder's protection under this Mortgage, then the proceeds will be used to reduce the amount that I owe to Note Holder under the Note and under this Mortgage. Any decision as to whether or not it is economically possible to make repairs or restorations to the Property shall be made solely by the Note Holder, whose decision shall be conclusive. I hereby assign all rights I have under any insurance policy, together with my entitlement to any insurance proceeds thereunder, to the Note Holder, upon foreclosure of this Mortgage. Each insurance company is hereby authorized and directed to make payment for any loss directly to the Note Holder instead of to me and the Note Holder jointly. Unless Note Holder and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the payments referred to in the Note or this Mortgage or change the amount of such installments. If any of the proceeds remain after the amount that I owe to Note Holder has been paid in full, the remaining proceeds will be paid to me.

10. BORROWER'S OBLIGATION TO MAINTAIN PROPERTY.

I will keep the Property in good repair. I will not myself and will not allow others to destroy, damage or substantially change the Property without Note Holder's prior written consent and I will not (i) allow the Property to deteriorate or (ii) use or store hazardous substances at the Property except as permitted by law. I will not change the use of the Property or seek a rezoning of the Property.

11. NOTE HOLDER'S RIGHT TO INSPECT THE PROPERTY.

Note Holder, and others authorized by Note Holder, may enter on and inspect the Property. They must do so in a reasonable manner and at reasonable times. Before or at the time an inspection is made, Note Holder must give me a written notice stating a reasonable purpose for the inspection.

- 12. AGREEMENTS ABOUT CONDEMNATION OF THE PROPERTY.**
- (A) A taking of property by any governmental authority by eminent domain is known as "condemnation." I give to Note Holder my right: (i) to proceeds of all awards or claims for damages resulting from condemnation or other governmental taking of the Property; and (ii) to proceeds from a sale of the Property that is made to avoid condemnation. All of those proceeds will be paid to Note Holder.
- (B) If all of the Property is taken, the proceeds will be used to reduce the amount that I owe to Note Holder under the Note and under this Mortgage. If any of the proceeds remain after the amount that I owe to Note Holder has been paid in full, the remaining proceeds will be paid to me. Unless Note Holder and I agree otherwise in writing, if only a part of the Property is taken, the amount that I owe to Note Holder will be reduced only by the amount of proceeds multiplied by the following fraction: (i) the total amount of the sums secured immediately before the taking, divided by (ii) the fair market value of the Property immediately before the taking. The remainder of the proceeds will be paid to me.
- (C) If I abandon the Property, or if I do not answer, within thirty (30) days, a notice from Note Holder stating that a governmental authority has offered to make a payment or to settle a claim for damages, Note Holder has the authority to accept payment and to settle a claim for damages and collect the proceeds. Note Holder may then use the proceeds to repair or restore the Property or reduce the sums secured. The thirty (30) day period will begin when the notice is given.
- (D) If any proceeds are used to reduce the amount of principal which I owe to Note Holder under the Note, that use will not delay the due date or change the amount of any installment payment due under the Note or this Mortgage. However, Note Holder and I may agree in writing to those delays or changes.
- 13. NOTICES REQUIRED UNDER THIS MORTGAGE.**
Any notice that must be given to me under this Mortgage and for purposes of service of process in any foreclosure proceeding will be given by mailing it by first class mail or personally delivering it to me at the Property Address (or other address if listed in Paragraph 1(B) of this Mortgage), or at a different address if I have given the Note Holder prior written notice of my different address.
- 14. LAW THAT GOVERNS THIS MORTGAGE.**
This Mortgage is governed by New York State Law.
- 15. BORROWER'S COPY.**
I acknowledge receipt of one conformed copy of the Note and of this Mortgage.
- 16. AGREEMENTS ABOUT NOTE HOLDER'S RIGHT IF THE PROPERTY IS SOLD OR TRANSFERRED.**
Note Holder may require immediate payment in full of all sums secured by this Mortgage if either the legal or equitable title of the Property is transferred without Note Holder's prior written permission. Note Holder also may require immediate payment in full if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person. If the Note Holder requires immediate payment in full under this paragraph, Note Holder shall give Borrower a notice which states this requirement. The notice shall provide a period of not less than fifteen (15) days from the date the notice is mailed or delivered to me within which Borrower must pay all sums secured by this Mortgage. If Borrower fails to make the required payment during that period, Note Holder may act to enforce its rights under this Mortgage without giving me any further notice or demand for payment.
- 17. NOTE HOLDER'S RIGHTS IF BORROWER FAILS TO KEEP PROMISES AND AGREEMENT.**
- (A) If I fail to keep any promise or agreement made in this Mortgage within any applicable cure period, including the promises to pay when due the amounts I owe to Note Holder, or if I default in any of the conditions and covenants of the Note, Mortgage or any other mortgage which is a lien against the Property within any applicable cure period, then the Note Holder may demand the full amount of the indebtedness then due by requiring payment in full. If Note Holder so declares, Note Holder may (i) bring a lawsuit on the Note to seek enforcement of the debt, or (ii) bring a foreclosure action and sell the Property in one or more parcels to enforce the debt or (iii) seek any other remedy provided by law. If applicable, Note Holder may seek a deficiency judgment against me should the Property not bring sufficient funds at foreclosure sale to satisfy the debt due to Note Holder. If applicable, Note Holder shall also have the right to sell the Property pursuant to Article 14 of the New York Real Property Actions and Proceedings Law.
- (B) If I am in default, I agree to pay all costs and disbursements incurred by Note Holder, whether or not a lawsuit is brought, to the extent not prohibited by applicable law. These costs and disbursements may include, but are not limited to, appraisals, broker's price opinions, property inspections and property maintenance, in addition to customary foreclosure disbursements. I also agree to pay reasonable attorney's fees.
- (C) If I fail to pay all taxes, assessments and any other charges and fines that may be imposed on the Property or any required insurance premiums when due, Note Holder may in its discretion require the establishment of a tax and insurance escrow funded by the Borrower in a manner reasonably acceptable to Note Holder.
- 18. RECEIVER.**
In any lawsuit for foreclosure and sale, Note Holder will have the right to have a Receiver appointed by a Court without first giving notice to me and without regard to the value of the Property.
- 19. WRITTEN STATEMENT.**
Within ten (10) days of the mailing or delivery of written request, I will furnish to Note Holder a written statement duly acknowledged of the amount then secured by this Mortgage and whether any offsets against the amount secured by this Mortgage or any defenses to the enforcement of the Note and/or this Mortgage exist.
- 20. ASSIGNMENT OF LEASES AND RENTALS.**
In the event of default, I hereby assign to the Note Holder all existing and future leases, rents, issues and profits of the Property as further security for the payment of said indebtedness, and I grant to the Note Holder the right to enter upon and to take possession of the Property for the purpose of collecting the same to let the Property or any part thereof and to apply the rents, issues and profits after payment of all necessary charges and expenses in account of the indebtedness secured by this Mortgage which assignment shall continue in effect until the indebtedness is paid in full. Note Holder will not be under any obligation to exercise any right under this Paragraph 20.

21. AGREEMENTS ABOUT NEW YORK LIEN LAW.

I will receive all amounts lent to me by Note Holder subject to the trust fund provisions of Section 13 of the New York Lien Law.

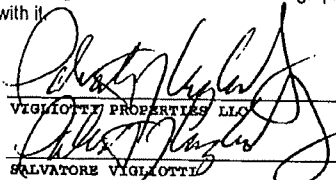
22. OBLIGATIONS OF PERSONS UNDER THIS MORTGAGE.

If more than one person signs this Mortgage, each person is fully and personally obligated to keep all the promises made in this Mortgage.

23. FURTHER ASSURANCES.

Upon request of the Note Holder, I will execute, acknowledge and deliver to Note Holder any supplemental instrument Note Holder may reasonably request in order to accomplish the intended purpose of this Mortgage.

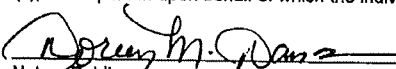
By signing below, I accept and agree to the promises and agreements contained in Paragraph 1 through 22 of this Mortgage and in any rider(s) signed by me and recorded with it


 _____ Borrower
 SALVATORE VIGLIOTTI
 _____ Borrower
 _____ Borrower
 _____ Borrower

USE WHEN EXECUTED WITHIN THE STATE OF NEW YORK

STATE OF NEW YORK :
COUNTY OF ONONDAGA : SS:

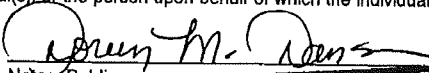
On the 1st day of July in the year 2016 before me, the undersigned a Notary Public in and for said State, personally appeared VIGLIOTTI PROPERTIES LLC BY SALVATORE VIGLIOTTI, MEMBER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

DOREEN M. DANSON, NOTARY PUBLIC
State of New York, Erie County
My Commission Expires 1/11/2019

STATE OF NEW YORK :
COUNTY OF ONONDAGA : SS:

On the 1st day of July in the year 2016 before me, the undersigned a Notary Public in and for said State, personally appeared SALVATORE VIGLIOTTI, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

DOREEN M. DANSON, NOTARY PUBLIC
State of New York, Erie County
My Commission Expires 1/11/2019

USE WHEN EXECUTED OUTSIDE OF NEW YORK STATE

STATE OF :
COUNTY OF : SS:

On the _____ day of _____ in the year _____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the _____

(Insert the city or other political subdivision and the state or country or other place the acknowledgment was taken.)

Notary Public

Issued By:
CHICAGO TITLE INSURANCE COMPANY

Schedule A (Continued)

No. 16CT12866

The land referred to in this Commitment is described as follows:

Parcel A:

ALL THAT TRACT OR PARCEL OF LAND, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York, being all of Lots Nos. 8-9 and 16 and part of Lots No. 18, 20 and 21, Block No. 111 of the Sackett-Tract and being more particularly described as follows:

Farm
NW

BEGINNING at a point in the westerly line of Liberty Street said point being North 1 degree 25' 30" east measured along said westerly line a distance of 152.09 feet from the northerly line of Park Avenue; thence north 88 degrees 34' 30" west a distance of 194.48 feet to a point; thence north 3 degrees 33' 00" east a distance of 20.23 feet to a point; thence north 86 degrees 27' 00" west measured along the southerly line of said Lots No. 8-9 and 10 a distance of 141.70 feet to a point; thence north 15 degrees 22' 40" west measured along the westerly line of Lot No. 8 a distance of 229.97 feet to a point in the southerly line of West Genesee Street; thence north 74 degrees 37' 20" east measured along said southerly line a distance of 150 feet to a point; thence south 15 degrees 22' 40" east measured along the easterly line of said Lot No. 10 a distance of 189.48 feet to a point; thence south 86 degrees 27' 00" east measured along the northerly line of said Lot No. 18, a distance of 65.0 feet to a point; thence south 1 degree 25' 30" west a distance of 60.0 feet to a point; thence south 86 degrees 27' 00" east a distance of 138.0 feet to a point in the westerly line of Liberty Street; thence south 1 degree 25' 30" west measured along said westerly line a distance of 40.0 feet to the place of beginning.

ALSO, a right of way over a driveway 9.0 feet wide, being the southerly 9.0 feet of lands conveyed to Ruth E. Van DeWalker by deed recorded in Onondaga County Clerk's Office in Liber 1428 at page 548.

Parcel B:

FL 49 + 6 105
White MAP

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, being part of Farm Lot No. 49 (Dewitt) and being Lot No. 1 and Lot No. 5 of the Henry M. White lands, as shown on a map filed in the Onondaga County Clerk's Office on November 24, 1919 as Map No. 1664, together with additional lands in said Lot No. 49 (Dewitt) and more particularly bounded and described as follows:

BEGINNING at a point in the southerly line of Erie Boulevard East, a distance of 395.73 feet easterly, along said southerly line, from its intersection with the easterly line of Bruce Street; running thence S05 degrees 58' 42" E, along the westerly line of said Lot No. 1 and Lot No. 5; thence N 74 degrees 08' 20" E, along the southerly line of said Lot No. 5 and the easterly continuation thereof, a distance of 89.79 feet to a point; thence N 05 degrees distance of 401.65 feet to a point in said southerly line of Erie Boulevard East; thence S 60 degrees 23' 40" W, along said southerly line, a distance 102.58 feet to the point of beginning.

Parcel C:

Farm
NW

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York and distinguished as Lot 4, Block 11, of the Sackett-Tract, as distinguished on a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895. Said lot being fifty (50) feet front on the southerly side of West Genesee Street in said City.

BEING the same premises conveyed to the grantor by warranty deed dated the 14th day of January 1944 from Gorwin Realty Corporation, and filed in the Onondaga County Clerk's Office at Book of Deeds 1088, page 550 & c on the 1st day of March, 1944.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known as Lot No. five (5) in Block No. one hundred eleven (111) of the Sackett Farm,



according to a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, said lot being fifty (50) feet front on the southerly side of West Genesee Street in said City of Syracuse, New York.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known as Lot No. six (6) of Block one hundred eleven (111) of the Sackett-Tract, as distinguished on a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, said lot being fifty (50) feet front on the southerly side of West Genesee Street in the City of Syracuse, New York.

BEING the same premises conveyed to the grantor herein by Warranty Deed dated the 15th day of June, 1943 from Patrick D. Skahen and Winifred T. Skahen, his wife, and recorded in the Onondaga County Clerk's Office at Book of Deeds 1055 at page 290 & c on the 16th day of June, 1943.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known and distinguished on a map of the Sackett Tract made by Rhesa Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, as being Lot Number seven (7) in Block Number one hundred eleven (111) according to said map, in said City and bounded and described as follows, viz: said lot being fifty (50) feet front on West Genesee Street, two hundred thirteen and three one-hundredths (213.03) feet deep on its west line, and two hundred thirty and fourteen one-hundredths (230.14) feet on its east line, and the east and west line being parallel.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, and being the northerly twenty-five (25) feet of Lot Number twenty-eight (28) of Block Number one hundred eleven (111) of the Sackett-Tract, according to the said map referred to in the last above description measured across said lot from west to east and parallel with the north line of said lot.

BEING the same premises conveyed to the grantor herein by warranty deed dated the 30th day of June, 1939 from Wojciech Stempien and Bessie Stempien, his wife, and recorded in the Onondaga County Clerk's Office at Book of Deeds 903, page 484 & c on the 6th day of July, 1939.

Sackett Farm NW

Parcel D:

ALL THAT CERTAIN plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Syracuse, County of Onondaga and State of New York and distinguished as Lot 4, Block 11, of the Sackett-Tract, as distinguished on a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895. Said lot being fifty (50) feet front on the southerly side of West Genesee Street in said City.

BEING the same premises conveyed to the grantor by warranty deed dated the 14th day of January 1944 from Gorwin Realty Corporation, and filed in the Onondaga County Clerk's Office at Book of Deeds 1088, page 550 & c on the 1st day of March, 1944.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known as Lot No. five (5) in Block No. one hundred eleven (111) of the Sackett Farm, according to a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, said lot being fifty (50) feet front on the southerly side of West Genesee Street in said City of Syracuse, New York.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known as Lot No. six (6) of Block one hundred eleven (111) of the Sackett-Tract, as distinguished on a map made by R. Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, said lot being fifty (50) feet front on the southerly side of West Genesee Street in the City of Syracuse, New York.

BEING the same premises conveyed to the grantor herein by Warranty Deed dated the 15th day of June, 1943 from Patrick D. Skahen and Winifred T. Skahen, his wife, and recorded in the Onondaga County Clerk's Office at Book of Deeds 1055 at page 290 & c on the 16th day of June, 1943.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, known and distinguished on a map of the Sackett Tract made by Rhesa Griffin, C.E. and filed in the Onondaga County Clerk's Office July 26, 1895, as being Lot Number seven (7) in Block Number one hundred eleven (111) according to said map, in said City and bounded and described as follows, viz: said lot being fifty (50) feet front on West Genesee Street, two hundred thirteen and three one-hundredths (213.03) feet deep on its west line, and two hundred thirty and fourteen one-hundredths (230.14) feet on its east line, and the east and west line being parallel.

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga and State of New York, and being the northerly twenty-five (25) feet of Lot Number twenty-eight (28) of Block Number one hundred eleven (111) of the Sackett-Tract, according to the said map referred to in the last above description measured across said lot from west to east and parallel with the north line of said lot.

BEING the same premises conveyed to the grantor herein by warranty deed dated the 30th day of June, 1939 from Wojciech Stempien and Bessie Stempien, his wife, and recorded in the Onondaga County Clerk's Office at Book of Deeds 903, page 484 & c on the 6th day of July, 1939.

Sackett Farm NW

Issued By:
CHICAGO TITLE INSURANCE COMPANY

Schedule A (Continued)

No. 1413-42034

*Lot 4A
Block 111
Sackett-
Tract
NW*

ALSO, ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Syracuse, County of Onondaga, and State of New York, known and distinguished as lots 4, 5, 6, 7 and being the northerly 25 feet of Lot 28 in Block 111 of Sackett-Tract, according to a map made by R. Griffin, C.E., and filed in the Onondaga County Clerk's Office July 26, 1985 currently bounded and described as follows:

BEGINNING at a point located on the south line of West Genesee Street a distance of 420.0 feet west from the west line of Liberty Street; running thence S 74 degrees 37' 20" W along the south line of West Genesee Street a distance of 200.0 feet to a point; running thence S 15 degrees 22' 40" E a distance of 161.70 feet to a point; running thence S 86 degrees 27' E a distance of 153.42 feet to a point; running thence 83 degrees 33' W a distance of 25 feet to a point; running thence S 86 degrees 27' E a distance of 50 feet to a point; running thence N 3 degrees 33' E a distance of 25 feet to a point; running thence S 86 degrees 27' E a distance of 8.02 feet to a point; running thence N 15 degrees 22' 40" W a distance of 230.14 feet to the point and place of beginning, being known as New Lot 4A and a map of Lot 4A Sackett-Tract, Block 111 made by Jon J. Dussing, Sr. dated February 10, 1989 and revised March 12, 1994.

10/21/2014 3:10:26 PM A-Perry

