

Upon recording return to:
Phillips Lytle LLP
28 E. Main Street, Suite 1400
Rochester, New York 14614
Attention: Victoria L. Grady

RECOGNITION, ATTORNMENT AND ASSENT TO LEASEHOLD MORTGAGE (SENIOR MORTGAGE)

This RECOGNITION, ATTORNMENT AND ASSENT TO LEASEHOLD MORTGAGE (this “Agreement”) is executed as of _____, 2022, by and among BROWARD COUNTY, a political subdivision of the State of Florida and a public housing agency as defined in the United States Housing Act of 1937 (the “Landlord”) and RELATED FATVILLAGE, LLC, a Florida limited liability company (the “Tenant”) in favor of HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, a body corporate and politic organized and existing under the laws of the State of Florida (the “Lender”). Reference is made to that certain Ground Lease dated _____, 20__ by and between Landlord, as lessor, and Tenant, as lessee, with respect to certain premises located at 600 North Andrews Avenue, Fort Lauderdale, Broward County, Florida 33304, as more particularly described on Exhibit A hereto (said Ground Lease, as may be amended, is herein called the “Ground Lease”). As the Lender will lend certain sums to the Tenant which are to be secured, in part, by that certain Leasehold Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, (including any amendments, revisions, modifications, renewals, extensions or replacements thereof, the “Security Instrument”) on the Tenant's interest in the property demised under the Ground Lease and all improvements situated or to be constructed thereon (the “Leasehold”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Assent. The Landlord does hereby assent to such Security Instrument and to any subsequent sale or transfer of the Leasehold as provided in such Security Instrument. The Landlord does hereby further assent to that certain Land Use Restriction Agreement dated as of even date herewith by and among the Housing Finance Authority of Broward County, Florida and Tenant

2. Estoppel. As of the date of this Agreement, the Ground Lease is in full force and effect; no default has occurred by either Landlord or Tenant; and there is no condition which, but for the passage of time or the giving of notice or both, would result in a default by Landlord or Tenant under the terms of the Ground Lease.

3. Limitations on Landlord’s Right to Terminate. Until all obligations of Tenant to Lender (the “Loan Obligations”) shall have been completely paid and performed, and the Security Instrument shall have been discharged, the Landlord shall not take any action to terminate the Ground Lease or exercise any other remedy for default in the obligation of Tenant thereunder without first complying with the requirements of Paragraph 8 hereof.

4. No Modifications. Until the Loan Obligations shall have been completely paid and performed, and the Security Instrument shall have been discharged, neither the Landlord nor the Tenant shall terminate, amend, modify or exclude any parcel from the Ground Lease without the Lender's prior written consent.

5. Removal of Collateral. The Landlord agrees that the Lender shall have the right to remove from the Leasehold any of the Tenant's personal property (as defined in the Ground Lease) which is located at, constructed upon or affixed to the Leasehold (the "Tenant's Property"), whenever the Lender shall elect to enforce the security interests given by the Tenant therein, either during the term of the Ground Lease or within 120 days after the expiration or the early termination thereof, or for such additional period required by the entry of any order prohibiting the Lender's timely enforcement of such rights. This right to remove the Tenant's personal property from the Leasehold will be contingent on the Lender providing the Landlord with advanced notice at least thirty (30) calendar days before removing any of the Tenant's personal property, and if the removal of such property diminishes the value of the Leasehold property and / or diminishes the ability of the property in any material respect to serve the residential households that it was created to serve, then the Landlord has the right to not provide consent for the removal of such personal property and thus the Lender will not have the right to remove such property. Furthermore, the Landlord hereby reaffirms that the Tenant shall be deemed to exclusively own the improvements and the Personal Property (as set forth in Section 5.5 of the Ground Lease) and hereby subordinates to the Lender's security interests therein any landlord's lien, encumbrance or other interest which the Landlord may now or hereafter have or acquire therein under the Ground Lease or applicable law.

6. No Merger. In the event the ownership of the fee and leasehold interests of the Leasehold become vested in the same person or entity, then as long as the Security Instrument shall remain outstanding, such occurrence shall not result in a merger of title. Rather, the Ground Lease and the Security Instrument lien thereon shall remain in full force and effect.

7. New Lease. If the Tenant defaults under the Ground Lease and the Landlord elects to terminate the same after complying with the provisions hereof, then until the Loan Obligations shall have been completely paid and performed, and the Security Instrument shall have been discharged, upon the written request of the Lender within 30 days after such termination, the Landlord agrees to enter into a new lease with the Lender upon the same terms and conditions as the Ground Lease.

8. Additional Lender Protection Provisions. The terms and conditions set forth below in this Paragraph 8 shall be binding upon the Landlord as if fully set forth in the Ground Lease, and to the extent of any inconsistency between the terms and provisions contained in the Ground Lease and the terms and conditions set forth below in this Paragraph 8, the terms and conditions set forth below in this Paragraph 8 shall govern and control:

(a) Notices to Lender; Lender's Right to Cure.

(i) Landlord shall send to Lender a true, correct and complete copy of any notice to Tenant of a default by Tenant under the Ground Lease at the same time as and whenever any such notice of default shall be given by Landlord to Tenant, addressed to Lender at the address

specified in Paragraph 10 hereof or, if different, the address, if any, last furnished to Landlord by such Lender as provided in Paragraph 10 hereof. No notice by Landlord shall be deemed to have been given unless and until a copy thereof shall have been so given to and received by Lender. Tenant irrevocably directs that Landlord accept, and Landlord agrees to accept, performance and compliance by Lender of and with any term, covenant, agreement, provision, condition or limitation on Tenant's part to be kept, observed or performed under the Ground Lease with the same force and effect as though kept, observed or performed by Tenant.

(ii) Notwithstanding anything provided to the contrary in the Ground Lease, the Ground Lease shall not be terminated because of a default or breach thereunder on the part of Tenant until and unless:

(A) Written notice of any such default or breach shall have been delivered to the Lender in accordance with the provisions of Paragraph 8(a)(i) above;

(B) With respect to a default or breach that is curable solely by the payment of money, Lender has not cured such default or breach within sixty (60) days following the expiration of any of Tenant's notice and cure period set forth herein; and

(C) With respect to a breach that is not curable solely by the payment of money, Lender has not cured such default or breach within one hundred twenty (120) days following the expiration of any of Tenant's notice and cure periods set forth therein or, if such default or breach is curable but cannot be cured within such time period, (w) Lender has not notified Landlord within such time period that it intends to cure such default or breach, (x) Lender has not diligently commenced to cure such default or breach, (y) Lender does not prosecute such cure to completion or (z) Lender has not commenced an action to foreclose the Security Instrument.

(b) Landlord's Consents. Landlord hereby consents to, and agrees that the Security Instrument may contain provisions for any or all of the following:

(i) An assignment of Tenant's share of the net proceeds from available insurance coverage or from any award or other compensation resulting from a total or partial taking of the Leasehold by condemnation;

(ii) The entry by the Lender upon the Leasehold during business hours, without notice to Landlord, to view the state of the Leasehold;

(iii) A default by Tenant under the Ground Lease being deemed to constitute a default under the Security Instrument;

(iv) An assignment of Tenant's right, if any, to terminate, cancel, modify, change, supplement, alter, or amend the Ground Lease, including without limitation Tenant's right under Section 365(h)(1) of the Federal Bankruptcy Code to elect to treat the Ground Lease as terminated, and an assignment of all of Tenant's other rights under the Federal Bankruptcy Code;

(v) An assignment of any sublease; and

(vi) The following rights and remedies (among others) to be available to the Lender upon the default under any Security Instrument:

(A) The foreclosure of the Security Instrument pursuant to a power of sale, by judicial proceedings, deed in lieu of foreclosure or other lawful means and the sale of the Leasehold to the purchaser at the foreclosure sale and a subsequent sale or sublease of the Leasehold by such purchaser if the purchaser is the Lender or its nominee or designee;

(B) The appointment of a receiver, irrespective of whether the Lender accelerates the maturity of all indebtedness secured by the Security Instrument;

(C) The right of the Lender or the receiver appointed under subparagraph (B) above to enter and take possession of the Leasehold, to manage and operate the same, consistent with the ground lease or sub-ground lease(s) and that certain Master Development Agreement executed between Tenant and Landlord, to collect the subrentals, issues and profits therefrom and any other income generated by the Leasehold or the operation thereof and to cure any default under the Security Instrument or any default by Tenant under the Ground Lease; or

(D) An assignment of Tenant's right, title and interest under the Ground Lease in and to any deposit of cash, securities or other property which may be held to secure the performance of the Loan Obligations, including without limitation the covenants, conditions and agreements contained in the Security Instrument, in the premiums for or dividends upon any insurance provided for the benefit of any Lender or required by the terms of the Ground Lease, as well as in all refunds or rebates of taxes or assessments upon or other charges against the Leasehold, whether paid or to be paid.

(c) No Voluntary Surrender; Subordination; Modification. Without the written consent of Lender, Landlord agrees not to accept a voluntary surrender of the Ground Lease or to amend or modify the Ground Lease at any time while the Security Instrument shall remain a lien on the Leasehold; and any such attempted surrender or modification of the Ground Lease without the written consent of Lender shall be null and void and of no force or effect. Landlord and Tenant further agree for the benefit of Lender that, so long as any such Security Instrument shall remain a lien on said Leasehold, Landlord and Tenant will not subordinate the Ground Lease, or any new lease entered into pursuant to Paragraph 8(i) below, to any mortgage or deed of trust (to the extent permitted pursuant to the provisions of Paragraph 8(j) below) that may hereafter be placed on Landlord's reversionary fee interest in the real property described in Exhibit A, or consent to any prepayment of any rent, without securing the prior written consent of such Lender.

(d) Permitted Transfers.

(i) It is acknowledged that the Security Instrument may be assigned by Lender in accordance with its terms. Notwithstanding anything stated to the contrary in the Ground Lease, the following transfers shall be permitted and shall not require the approval or consent of Landlord:

(A) A transfer of the Leasehold at foreclosure sale under the Security Instrument, whether pursuant to the power of sale contained therein or a judicial foreclosure decree, or by an assignment in lieu of foreclosure, or

(B) Any subsequent transfer by the Lender or its nominee or designee if the Lender, or such nominee or designee, is the purchaser at such foreclosure sale or under such assignment in lieu of foreclosure.

(ii) Any such transferee shall be liable to perform the obligations of Tenant under the Ground Lease only so long as such transferee holds title to the Leasehold, provided that upon any conveyance of title, such transferee's transferee expressly assumes and agrees to perform all of the obligations under the Ground Lease; provided further, that the liability of any Lender that obtains title to the Leasehold shall be limited to the Lender's interest in the Leasehold.

(iii) Following the transfer, if any, described in Paragraph 8(e)(i) above, all non-curable defaults existing under the Ground Lease prior to such transfer shall be deemed waived without further notice or action of any party.

(e) Estoppel Certificates. Landlord shall execute and/or deliver to any person, firm or entity specified by Tenant (i) provided that such be the case, a certificate stating that the Ground Lease is in full force and effect, that Tenant is not in default under the Ground Lease, that the Ground Lease has not been modified or supplemented in any way and containing such other certifications (including, without limitation, the certifications contained herein) and agreements as such person, firm or entity may reasonably request, and (ii) copies of the documents creating or evidencing the Ground Lease certified by Landlord as being true, correct and complete copies thereof.

(f) Waiver of Subrogation. Any policy of hazard insurance insuring Landlord shall contain an endorsement waiving the insurer's right of subrogation as against the Lender and Tenant.

(g) New Lease to Lender. If the Ground Lease is terminated because of Tenant's default thereunder or for any other reason or is extinguished for any reason (including, without limitation, rejection of the Ground Lease by a trustee in bankruptcy), then Lender may elect to demand a new lease of the Leasehold by written notice to Landlord within thirty (30) days after receipt of notice of such termination. Upon any such election, the following provisions shall apply:

(i) The new lease shall be for the remainder of the term of the Ground Lease, effective on the date of termination, at the same rent and shall contain the same covenants, agreements, conditions, provisions, restrictions and limitations as are then contained in the Ground Lease. Such new lease shall be subject to all existing subleases.

(ii) The new lease shall be executed by Landlord within thirty (30) days after receipt by Landlord of written notice of the Lender's or such other acquiring person's election to enter into a new lease.

(iii) If Tenant refuses to surrender possession of the Leasehold, Landlord shall, at the request of the Lender or such other acquiring person, institute and pursue diligently to conclusion the appropriate legal and/or equitable remedy or remedies to dispose or remove Tenant and all subtenants actually occupying the Leasehold or any part thereof who are not authorized to remain in possession hereunder. Any such action taken by Landlord at the request of the Lender or such other acquiring person shall be at the Lender's or such other acquiring person's sole expense.

(h) No Fee Mortgages. Notwithstanding anything to the contrary contained in the Ground Lease, Landlord represents and warrants that there are no mortgages on, and that Landlord shall not hereafter encumber Landlord's reversionary fee interest in, the real property described in Exhibit A or any part thereof with a deed of trust, mortgage or other security instrument without the prior written consent of Tenant and Lender, which consent may be withheld unless such encumbrance contains or is accompanied by recognition agreements which adequately protect Tenant's and Lender's interests in the Ground Lease and the Leasehold.

(i) No Liability for Tenant Defaults. Notwithstanding anything to the contrary contained in the Ground Lease, the Security Instrument or this Agreement, in the event that Lender, or any successor or assign of Lender, exercises any of its rights or remedies under the Security Instrument to possession of the Mortgaged Premises, either by foreclosure or otherwise, neither Lender nor any successor or assign of Lender shall be liable to Landlord for any unpaid or unperformed obligations of Tenant under the Ground Lease through the date possession is taken.

9. Bankruptcy Provisions. (a) So long as the Security Instrument shall remain outstanding, the right of election arising under Section 365 (h)(1) of the Bankruptcy Code, 11 U.S.C. §101 et seq. (the "Bankruptcy Code") shall be exercised by the Lender and not by the Tenant. Any exercise or attempted exercise by the Tenant of such right of election in violation of the preceding sentence shall be void.

(b) However, if despite the foregoing provision the Lender is not permitted to exercise such right of election and the Landlord (or any trustee of the Landlord) shall reject the Ground Lease pursuant to Section 365(h) of the Bankruptcy Code, (i) the Tenant shall without further act or deed be deemed to have elected under Section 365(h)(1) of the Bankruptcy Code to remain in possession of the Leasehold for the balance of the term of the Ground Lease; (ii) any exercise or attempted exercise by the Tenant of a right to treat the Ground Lease as terminated under Section 365(h)(1) of the Bankruptcy Code shall be void; (iii) the Security Instrument shall not be affected or impaired by such rejection of the Ground Lease; and (iv) the Ground Lease shall continue in full force and effect in accordance with its terms, except that the Tenant shall have the rights conferred under Section 365(h)(2) of the Bankruptcy Code.

(c) For purposes of Section 365(h) of the Bankruptcy Code, the term "possession" shall mean the right to possession of the Leasehold granted to the Tenant under the Ground Lease whether or not all or part of the Leasehold has been subleased.

(d) If the Tenant shall reject the Ground Lease pursuant to Section 365(a) of the Bankruptcy Code, the Landlord shall serve on the Lender written notice of such rejection, together

with a statement of all sums at the time due under the Ground Lease (without giving effect of any acceleration) and of all other defaults under the Ground Lease then known to the Landlord. The Lender shall have the right, but not the obligation, to serve on the Landlord within thirty (30) days after service of the notice provided in the proceeding sentence, a notice that the Lender elects to (i) assume the Ground Lease, and (ii) cure all defaults outstanding thereunder (x) concurrently with such assumption as to defaults in the payment of money, and (y) within sixty (60) days after the date of such assumption as to other defaults, except for defaults of the type specified in Paragraph 365(b)(2) of the Bankruptcy Code. If the Lender serves such notice of assumption, then, as between the Landlord and the Lender (i) the rejection of the Lease by the Tenant shall not constitute a termination of the Ground Lease, (ii) the Lender may assume the obligations of the Tenant under the Ground Lease without any instrument or assignment of transfer from the Tenant, (iii) the Lender's rights under the Ground Lease shall be free and clear of all rights, claims and encumbrances of or in respect of the Tenant, and (iv) the Lender shall consummate the assumption of the Ground Lease and the payment of the amounts payable by it to the Landlord pursuant to this Section at a closing to be held at the offices of the Landlord (or its attorneys) within thirty (30) days after the Lender shall have served the notice of assumption hereinabove provided. Upon a subsequent assignment of the Ground Lease by the Lender, the Lender shall be relieved of all obligations and liabilities arising from and after the date of such assignment.

10. Notices. Any notice, request, demand, statement, authorization, approval, consent or acceptance made hereunder shall be in writing and shall be hand-delivered, sent by Federal Express or other reputable overnight courier service, in a Portable Document Format (“PDF”) by electronic mail provided that if the sender received notice that the electronic mail is undeliverable, notice must be sent as otherwise provided in this Section 10, or via certified first class mail, postage prepaid, return receipt requested, and addressed as follows if sent by courier service or certified mail:

If to Tenant:

Related FATVillage, LLC
c/o The Related Group
2850 Tigertail Avenue, Suite 800
Miami, Florida 33133
Attention: Tony Del Pozzo
Email Address: td@relatedgroup.com
with a copy to:

Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
Museum Tower
150 W. Flagler Street, Suite 2200
Miami, Florida 33130
Attention: Brian J. McDonough, Esq.

Bilzin Sumberg Baena Price & Axelrod LLP
1450 Brickell Avenue, 23rd Floor
Miami, Florida 33131

Attention: Terry M. Lovell, Esq.

If to Landlord:

Broward County
c/o Broward Public Housing and Community Development
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301
Attention: Executive Director

with a copy to:

Broward County Attorney's Office
115 S. Andrews Avenue, Suite 423
Fort Lauderdale, Florida 33301
Attention: County Attorney

If to Lender:

Housing Finance Authority of Broward County, Florida
110 NE 3rd Street, Suite 300
Fort Lauderdale, Florida 33301
Attention: Executive Director
Email Address: _____
with copies to:

Bryant Miller Olive
1 S.E. 3rd Avenue, Suite 2200
Miami, Florida 33606
Attention: _____
Email Address: _____

and

JPMorgan Chase Bank, N.A.
Community Development Banking
100 North Tampa Street, Suite 3300
Mail Code: FL2-6001
Tampa, Florida 33602
Attention: Tammy Haylock-Moore, Executive Director

or to such other address as any party may designate by notice to the other parties.

11. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of each party's respective successors and assigns.

12. Continued Effectiveness of this Agreement. The terms of this Agreement, the subordination effected hereby, and the rights of the Lender, and the obligations of the Landlord and the Tenant arising hereunder shall not be affected, modified or impaired in any manner or to any extent by: (a) any renewal, replacement, amendment, extension, substitution, revision, consolidation, modification or termination of or any of the Loan Obligations; (b) the validity or enforceability of any document evidencing or securing the Loan Obligations; (c) the release, sale, exchange or surrender, in whole or in part, of any collateral security, now or hereafter existing, for any of the Loan Obligations; (d) any exercise or nonexercise of any right, power or remedy under or in respect of the Loan Obligations; or (e) any waiver, consent, release, indulgence, extension, renewal, modification, delay or other action, inaction or omission in respect of the Loan Obligations, all whether or not any Landlord all have had notice or knowledge of any of the foregoing and whether or not it shall have consented thereto.

13. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

[Signature Pages Follow]

Doc #4211145.1

Executed as a sealed instrument under the laws of the state in which the real property described in Exhibit A is located, as of the date first above written.

Witnesses:

LANDLORD:

BROWARD COUNTY, FLORIDA, a political subdivision of the State of Florida and a “public housing agency” as defined in the United States Housing Act of 1937 (42 USC 1437 et seq., as amended)

Print Name: _____

By: _____
Name: _____
Title: _____

Print Name: _____

Approved as to form and legal sufficiency:

Deputy County Attorney

STATE OF FLORIDA

COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of physical presence or on notarization this ____ day of _____, 2022, by _____, as _____ of BROWARD COUNTY, a political subdivision of the State of Florida and a “public housing agency” as defined in the United Housing Act of 1937 (42 USC 1437 et seq., as amended), who is personally known to me or has produced _____, as identification.

Notary Public
State of Florida at Large
My Commission Expires:

[signatures continued on next page]

LANDLORD SIGNATURE PAGE TO RECOGNITION, ATTORNMENT AND
ASSENT TO LEASEHOLD MORTGAGE

Witnesses:

TENANT:

Print Name: _____

RELATED FATVILLAGE, LLC
a Florida limited liability company
By: Related FATVillage Manager, LLC
a Florida limited liability company
its manager

Print Name: _____

By: _____
Tony Del Pozzo, Vice President

STATE OF FLORIDA)
)
COUNTY OF _____)

ss.:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2022 by **Tony Del Pozzo**, as Vice President of Related FATVillage Manager, LLC, a Florida limited liability company, the manager of Related FATVillage, LLC on behalf of the limited liability company, who is personally known to me or has produced a valid driver's license as identification.

Notary Public

TENANT SIGNATURE PAGE TO RECOGNITION, ATTORNMENT AND
ASSENT TO LEASEHOLD MORTGAGE

LENDER:

HOUSING FINANCE AUTHORITY OF BROWARD
COUNTY, FLORIDA, a body corporate and politic
organized and existing under the laws of the State of
Florida

By: _____
Name: _____
Title: _____

STATE OF FLORIDA)

SS:

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2021 _____, as _____ of HOUSING FINANCE AUTHORITY OF BROWARD COUNTY, FLORIDA, on behalf of the Authority, who is personally known to me or has produced a valid driver's license as identification.

[Notary Seal]

(Name typed, printed or stamped)
(Title or rank)
(Serial number, if any)

LENDER SIGNATURE PAGE TO RECOGNITION, ATTORNMENT AND
ASSENT TO LEASEHOLD MORTGAGE

Exhibit A

Legal Description