

LOAN AND CONSTRUCTION AGREEMENT

This Loan and Construction Agreement (herein "Agreement") is made this ____ day of _____, 2018, by and among _____, trustee of the **Arnold A Olson Trust Agreement dated October 24, 2007**, under the laws of Minnesota, and _____, trustee of the **Shirley A Olson Trust Agreement dated October 24, 2007** under the laws of Minnesota, (collectively referred to herein as "Borrower"), **Grand End, LLC, a Minnesota limited liability company**, with its offices located at _____ (herein "Lender"), and Jay Olson, an individual residing at _____, (herein "Guarantor").

WITNESSETH:

WHEREAS, Borrower seeks to obtain a loan from Lender in the aggregate amount of One Hundred Thousand and NO/100 (\$100,000.00) Dollars to be used to finance a certain construction costs, fees, and taxes on property located in Ramsey County, Minnesota, which property is legally described as follows:

See Exhibit A attached hereto

(herein "Construction Premises");

w.c.

WHEREAS, the Construction Premises is currently in level three condemnation by order of the City of St. Paul.

WHEREAS, the Borrower is willing to secure said loan against both the Construction Premises, and an additional property, legally described as follows:

See Exhibit B attached hereto

(herein, the Construction Premises, and the additional property are collectively referred to as the "Mortgaged Premises");

WHEREAS, the Lender desires to loan to Borrower up to One Hundred Thousand and NO/100 (\$100,000.00) Dollars pursuant to the terms and conditions set forth below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. The Loan.

(a) The Lender shall loan to Borrower the sum of up to \$100,000.00 for the

financing of a portion of the costs of construction of the Construction Premises, located in St. Paul, Minnesota. Borrower's indebtedness shall be evidenced by a single promissory note in the face amount of \$100,000.00 ("Note").

- (b) The proceeds of the Note shall be disbursed pursuant to the terms and conditions of this Agreement, and only for payment of construction costs, taxes and fees as set forth in this agreement. No direct disbursements shall be made to Borrower.
- (c) Except as provided above, the parties acknowledge and agree that the sole purpose of the loan from Lender is the construction on the Construction Premises, located in St. Paul, Minnesota, to repair the Construction Premises to the satisfaction of the City of St. Paul, thereby removing restrictions relating to the sale of the Construction Premises. In addition, Borrower shall be in default under this Agreement if any of the proceeds from the Note are used for any other purpose.
- (d) The Lender may maintain from time to time, at its discretion, liability records as to any and all loans made or repaid and interest accrued or repaid under this Agreement. All entries made on any such record shall be presumed correct until Borrower establishes the contrary. Any billing statement or accounting rendered by the Lender shall be presumed to be correct unless specific written notice of exception is given to the Lender at _____, _____ thirty (30) days after its receipt by Borrower.
- (e) Borrower shall, without demand, reimburse Lender for all of Lender's attorneys' fees and costs incurred by the Lender in drafting this Agreement and related documents or negotiating its terms with the parties hereto. The parties hereto acknowledge and agree that such fees and costs (excluding mortgage registration tax, title, appraisal and filing fees) shall not exceed Three Thousand Five Hundred and 00/100 (\$3,500.00) Dollars through the date of execution hereof. Borrower agrees that Lender may at any time or from time to time, without further request by or notice to Borrower, make a loan to Borrower in the sum of such attorneys' fees and costs and add such indebtedness to other indebtedness of Borrower under the Note or the Lender may apply proceeds of the Note directly to pay such attorneys' fees and costs.

2. Representations and Warranties. Borrower and Guarantor represent and warrant to the Lender that:

(a) **The Arnold A Olson Trust Agreement dated October 24, 2007**, is a trust duly organized and existing in good standing under the laws of the State of Minnesota. It has the power to own, convey and mortgage its property and to carry on all business related to such property. _____ further represents that _____ is the sole trustee of the trust, and that he has the authority as trustee to enter into all agreements contemplated by the parties, and empowered to execute deliver, and perform this Agreement and to borrow money from the Lender.

(b) **The Shirley A Olson Trust Agreement dated October 24, 2007**, is a trust duly organized and existing in good standing under the laws of the State of Minnesota. It has the power to own, convey and mortgage its property and to carry on all business related to such property. _____ further represents that _____ is the sole trustee of the trust, and that he has the authority as trustee to enter into all agreements contemplated by the parties, and empowered to execute deliver, and perform this Agreement and to borrow money from the Lender.

(c) The execution and delivery of this Agreement and the performance by Borrower of its obligations hereunder do not and will not violate or conflict with any provisions of either the Shirley A. Olson or the Arnold A Olson trusts, any sub trust created thereunder, the rights of the beneficiaries, or any law or agreement and/or covenant of Borrower and do not and will not violate or conflict with or cause any default or event of default to occur under any agreement binding upon Borrower.

(d) The execution and delivery of this Agreement have been duly approved by all necessary action of the trustees of Borrower; and this Agreement has in fact been duly executed and delivered by Borrower and constitutes its lawful and binding obligation, legally enforceable against it in accordance with its terms (subject to laws generally affecting the enforcement of creditors' rights).

(e) To the best knowledge of Borrower, no litigation, tax claims, or governmental proceedings are pending or are threatened against Borrower or any of its officers or order of any court or administrative agency is outstanding against Borrower or any of its managers.

(f) The authorization, execution, delivery and performance of this Agreement are not and will not be subject to the jurisdiction, approval, or consent of or to any requirement of registration with or notification to any federal, state or local regulatory body or administrative agency.

(g) Payment of present and future debts, liabilities, and obligations of Borrower to the Lender has been guaranteed by the Guarantor pursuant to one or more

instruments of guaranty duly executed and delivered and legally enforceable by the Lender, without further act and without condition, in accordance with the stated terms (subject to laws generally affecting the enforcement of creditors' rights). Guarantor acknowledges and agrees that the Guaranty is in addition to and not in lieu of any other guaranties it may have executed in favor of the Lender. Furthermore, Guarantor acknowledges that he has read and fully understand the terms of each such Guaranty, including but not limited to the terms which allow the Lender to collect the indebtedness evidenced by the Note (or other indebtedness of the Borrower) directly from the Guarantor without first resorting to the liquidation of any collateral which may secure repayment of the Note or the repayment of said Guaranty.

(h) To the best knowledge of Borrower based upon reasonable inquiry, no officer, employee, or agent of or consultant to Borrower is prohibited by law, by regulation, by contract, or by the terms of any license, franchise, permit, certificate, approval, or consent from participating in the business of Borrower as manager, employee, or agent of or as consultant to Borrower or is the subject to any pending or, to Borrower's best knowledge, threatened proceeding which, if determined adversely, would or could result in such a prohibition.

(i) Borrower and Guarantor have filed all federal and state tax returns which are required to be filed, and all taxes shown as due thereon have been paid.

3. Breach of Representations and Warranties. The breach of any of the representations or warranties contained in section two of this Agreement or any of the covenants or other promises contained in this Agreement, the Note, the Mortgage, the Assignment of Leases, Rents and Profits, Guaranty, or any instrument executed in conformity herewith, shall constitute a condition of default under this Agreement, and all other such documents entitling the Lender to pursue any of its rights and remedies under the terms and conditions of any such documents or instruments or as otherwise allowed by law.

4. Construction and Disbursement. Borrower desires to undertake construction on the Construction Property to make repairs to the property, bring the property into compliance with the ordinances of the City of St. Paul, and to ultimately resell the property to the Lender. Borrower is restricted from making the sale to the Lender until such construction is completed.

(a) Approvals and Compliance. Upon executing this Agreement, and the other documents related to and required by this agreement:

- a. Borrower shall cooperate in obtaining any federal, state, and local approval necessary to authorize construction on the Construction Property.
- b. Borrower shall make application to the City of St. Paul to obtain approval for construction, including any condemnation related approvals, and building compliance approvals.

- c. Borrower shall apply for a Code Compliance Inspection, and comply with any requirements of the City of St. Paul, including but not limited to the conditions of the Letter from the City of St. Paul, dated February 20, 2018, attached hereto as Exhibit C.
- d. Upon Completion of the Code Compliance Inspection, the Borrower and Lender shall complete a detailed work plan for construction, including but not limited to the items noted on the Code Compliance Inspection report, which shall be signed by Lender and Borrower and made part of this agreement.

(b) Construction. Upon the completion of the Code Compliance Inspection, detailed work plan, and obtaining necessary permits, Lender agrees to commence construction as follows:

- a. Lender shall have the sole responsibility and sole right to act as general contractor for construction on the property.
- b. Lender may hire sub-contractors, employees, and agents as necessary to complete construction per the detailed work plan.
- c. Lender estimates that the construction will be completed according to the schedule in the detailed work plan, but within 180 days after commencement of construction, which shall be commenced within 21 days of receiving necessary approvals from the City of St. Paul, and any other necessary federal, state or local governmental body.

(c) Construction Costs, Fees, Taxes.

- a. All costs of any kind related to the construction will be the responsibility of the Borrower. Lender agrees to lend Borrower funds, according to the terms of this agreement, the promissory note, and related agreements for the cost of construction. Said loan is capped at a maximum of \$100,000.00. Costs of construction shall include:
 - i. Expenses necessary to comply with the terms and conditions imposed by the City of St. Paul, or any other governmental requirements, permits or conditions of any kind;
 - ii. Costs incurred by lender for materials, employees, sub-contracted labor, and other expenses necessary, in the Lender's sole discretion, to complete construction of the detailed work plan;
 - iii. Real estate taxes if required to be paid as a condition of completing construction;
 - iv. Fees related to bonds and insurance policies necessary for approval or construction;
 - v. Attorney's fees related to loan and construction documents, review of title and compliance issues, and obtaining City of St. Paul approval; and

vi. Any and all other costs paid by the Lender related to construction;

5. Reservation of Right to Make Demand. Borrower and the Guarantor acknowledge that the Lender reserves the right to accelerate and demand immediate payment of any or all loans and the interest thereon and of all other obligations of Borrower upon the failure of Borrower or the Guarantor to comply with any aspect of this Agreement, the Note, the Mortgage, the Assignment of Lease, the Guaranties or any other document or instrument executed in conformity herewith.

6. Miscellaneous. Borrower and the Guarantor agree that prior to the Lender advancing any sums to Borrower under the Note, Borrower shall furnish to Lender the following at Borrower's sole cost and expense:

- (a) original copies of the **Arnold A Olson Trust Agreement dated October 24, 2007, along with any amendments and restatements thereto.**
- (b) original copies of the **Shirley A Olson Trust Agreement dated October 24, 2007, along with any amendments and restatements thereto.**
- (c) a Certificate of Trust and Affidavit of Trustee from Borrower.
- (d) an Affidavit of Borrower regarding no judgments, bankruptcies or tax liens.
- (e) UCC searches on the Borrower from the Minnesota Secretary of State, in the form and content satisfactory to Lender.
- (f) the \$100,000.00 Note.
- (f) a Mortgage and Security Agreement and Fixture Financing Statement, ("Mortgage"), partially securing the Note.
- (g) the personal guaranty of Jay Olson, partially securing the Note ("Olson Guaranty").
- (h) a mortgagee's policy of title insurance insuring Lender that the Mortgage is a first mortgage prior and superior to any other liens or encumbrances upon the Mortgaged Premises, with all standard exceptions deleted and with a zoning endorsement.
- (i) a detailed construction plan providing for total project costs of not more

than \$100,000.00.

- (j) Evidence of insurance on the Mortgaged Premises satisfactory to the Lender and containing mortgagee loss payable clauses and a builder's risk endorsement in favor of the Bank.

7. **Other Automatic Events of Default.** In addition to and not in lieu of other events of default specified previously within this Agreement, the following shall also constitute automatic events of default entitling the Lender to exercise any or all of its rights under this Agreement or any instrument executed in conformity herewith:

- (a) Any manager of Borrower, or any personal guarantors under the Guaranties or any officer, director, or shareholder under the Guaranties shall die.

- (b) A petition is filed by or against the Borrower or any Guarantor under the United States Bankruptcy Code.

- (c) Borrower fails to pay when due any sums owed to the Lender.

- (d) A garnishment summons or a writ of attachment is issued against or served upon the Lender for the attachment of any of the Borrower's or any of the Guarantor's property in the Lender's possession or any indebtedness owing by the Lender to the Borrower or the Guarantor, and the same is not released or bonded over within forty-five (45) days.

- (e) Borrower or any of the Guarantor furnish to the Lender any credit application or financial statement containing any information which shall prove to have been materially incorrect in any respect when made.

- (f) Borrower or Guarantor cease to be actively engaged in the business currently engaged in.

8. **Additional Covenants.** Borrower, Lender and Guarantor agree that:

- (a) Borrower shall pay or reimburse the Lender and its participants for all expenses, including all reasonable fees and disbursements of legal counsel, incurred by the Lender or any of the Lender's participants in connection with the enforcement of this Agreement or any document contemplated hereby, or in connection with the protection or enforcement of the interest and collateral security of the Lender in any litigation or bankruptcy or insolvency proceeding or the prosecution or defense of any action or proceeding relating in any way to the transactions contemplated by this Agreement.

(b) The performance or observance of any promise or condition set forth in this Agreement may be waived in writing by the Lender, but not otherwise. No delay in the exercise of any power, right, or remedy of the Lender shall operate as a waiver thereof nor shall any signer or partial exercise thereof or the exercise of any other power, right, or remedy.

(c) The Lender and its participants, if any, are not partners or joint venturers with Borrower and/or the Guarantor and the Lender shall not have any liability or responsibility for any obligation, act, or omission of any of its participants.

(d) As long as any sums are owed by Borrower to Lender, Borrower shall maintain its general demand deposit accounts at Lender.

(e) Any notices required to be given to Borrower or any Guarantor by this Agreement or any of the Exhibits hereto shall be provided at the addresses listed below:

To: _____

With a
Copy to: _____

All such notices shall be deemed received upon mailing, regular or certified mail, to the parties at the addresses listed above.

(g) This Agreement is being executed in and is intended to be enforced in the State of Minnesota. This Agreement and the transaction evidenced hereby shall be construed and enforced in accordance with the laws of the State of Minnesota in the State of Minnesota.

(h) All Exhibits to this Agreement are deemed part of the Agreement and all terms and conditions of such Exhibits are to be deemed incorporated by reference into the Agreement.

(i) This Agreement shall be binding upon Borrower and the Guarantor and their heirs, successors and assigns, and shall inure to the benefit of the Lender and its participants, successors, and assigns. This Agreement shall be effective when executed by

Borrower and the Guarantor and delivered to the Lender, whether or not this Agreement is executed by the Lender. All rights and powers specifically conferred upon the Lender may be transferred or delegated by the Lender to any of its participants, successors, or assigns. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect, and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement or in any other agreement between Borrower and/or the Guarantor and the Lender shall survive the execution, delivery, and performance of this Agreement and the creation and payment of any indebtedness to the Lender. Borrower and the Guarantor waive notice of the acceptance of this Agreement by the Lender.

(j) This instrument may be executed in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one instrument.

(k) No failure or delay on the part of the Bank in exercising any right, power or remedy hereunder or under the Security Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right power or remedy hereunder or under the Security Agreement. The remedies herein and in the Security Agreement provided are cumulative and not exclusive of any remedies provided by law.

(l) No amendment, modification, termination or waiver of any provision of this Agreement, the Security Agreement or the Notes or consent by the Borrower to any departure therefrom shall be effective unless the same shall be in writing and signed by the Bank and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the proper officers thereunto duly authorized on the day and year first above written.

By: _____
Its: _____

By: _____
Its: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this ___ day of _____, 20__, before me appeared _____,
the _____, a _____ organized and existing under
the laws of the State of Minnesota, to me personally known to be the person described in and
who executed the foregoing instrument and acknowledged that he executed the same as the free
act and deed of the bank.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

On this ___ day of _____, 20__, before me appeared _____,
the _____, a _____ organized and existing under
the laws of the State of Minnesota, to me personally known to be the person described in and
who executed the foregoing instrument and acknowledged that he executed the same as the free
act and deed of the bank.

Notary Public

Notary Public

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

On this _____ day of _____, 20__ , before me appeared _____, to me personally known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

Notary Public

EXHIBIT A

LEGAL DESCRIPTION

RAMSEY COUNTY, MINNESOTA