

STATE OF LOUISIANA
PARISH OF JEFFERSON

STATE OF LOUISIANA
PARISH OF ORLEANS

**DEED RESTRICTION AND COVENANT AGREEMENT
(BBSA REQUIREMENT)**

BE IT KNOWN that on the dates set forth below, before the undersigned notaries public, duly commissioned and qualified for the parishes and state aforesaid, and in the presence of the undersigned competent witnesses, personally came and appeared:

DYNASTY PROPERTIES LLC (“Owner/Lessor”), a Louisiana limited liability company organized and existing under the laws of the State of Louisiana, having a mailing address at 916 Transcontinental Drive, Metairie, Louisiana 70001 represented herein by its undersigned authorized representative, duly authorized hereto; and

3500 ST. CHARLES HOLDINGS LLC (“Ground Lessee”), a Louisiana limited liability company organized and existing under the laws of the State of Louisiana, having a mailing address at 3026 Annunciation Street, New Orleans, Louisiana 70115 represented herein by its undersigned authorized representative, duly authorized hereto;

who declared and acknowledged as follows:

WHEREAS, Owner/Lessor is the owner of the following described immovable (real) property located in Orleans Parish, Louisiana (the “**Property**”):

A certain lot of ground, together with all the buildings and improvements thereon and all rights, ways, privileges, servitudes, appurtenances and advantages thereunto belonging or in anywise appertaining, situated in the Sixth District of the City of New Orleans, State of Louisiana, in Square No. 377, bounded by St. Charles Avenue, Aline Street, Prytania Street and Foucher Street, designated as **Lot “C”** and said lot measures 75 feet front on St. Charles Avenue, by a depth and front on Aline Street of 130 feet, a width in the rear and parallel to Prytania Street of 74.3.3 feet actual, 74.4.0 title and thence in the direction of St. Charles Avenue and parallel to Aline Street, 124.10.0 feet. All as will appear by survey of Mandle Surveying, Inc., dated November 19, 1980. Property bears Municipal No. 3500 ST. CHARLES AVENUE, NEW ORLEANS, LA

The above described land is shown on an ALTA/NSPS Land Title Survey of Lot C by the office of Gandolfo Kuhn, LLC dated June 29, 2021 (revised August 18, 2022); drawing number BB-54-1 Lot C, according to which the above described property has the same designation, location and measurement except that the width in the rear is 74.4.0 feet.



WHEREAS, Ground Lessee is the holder of a leasehold interest in the Property pursuant to that certain Triple Net Ground Lease dated effective June 4, 2021 by and between Owner/Lessor, as landlord, and Ground Lessee, as tenant, as amended by First Amendment to Triple Net Ground Lease dated July 30, 2021 by and between Owner/Lessor and Ground Lessee (as amended, the “**Ground Lease**”), which Ground Lease is evidenced by that certain Notice of Triple Net Ground Lease dated and recorded June 4, 2021 in the records of Orleans Parish, Louisiana as N.A. Instrument No. 2021-24509, Conveyance Instrument No. 694368;

WHEREAS, Ground Lessee intends to build a new structure on the Property to be located on the lot line separating the Property from **Lot “B”** in Square 377, bounded by St. Charles Avenue, Aline Street, Prytania Street and Foucher Street, situated in the Sixth District of the City of New Orleans, State of Louisiana (“**Adjacent Lot B**”), which Adjacent Lot B is shown on Exhibit A attached hereto and made a part hereof;

WHEREAS, the 2015 International Building Code, as amended (the “**Building Code**”), currently requires in Paragraph 706.1.1, Section 706 that any walls located on a lot line shall be constructed as a fire wall and without openings;

WHEREAS, in connection with City of New Orleans Building Permit Application No. 21-30635-NEWC, Ground Lessee submitted a BBSA Application for a variation to the Board of Building Standards and Appeals of the City of New Orleans (the “**BBSA**”) docketed as BBSA No. 21-68 to request approval to construct openings in the wall located on the lot line between the Property and Adjacent Lot B (the “**BBSA Waiver**”);

WHEREAS, the BBSA granted the BBSA Waiver subject to the execution of this Deed Restriction and Covenant Agreement (this “**Deed Restriction**”); and

WHEREAS, Owner/Lessor and Ground Lessee have, in connection with the BBSA Waiver, agreed to enter into this Deed Restriction to be effective only until such time as the BBSA Waiver is forfeited in writing by the Ground Lessee or the BBSA Waiver is revoked by the City of New Orleans.

On the terms and conditions hereinafter set forth, with the foregoing recitals incorporated by this reference, Owner/Lessor and Ground Lessee hereby agree as follows:

1. In order to satisfy the conditions of the BBSA approval, Owner/Lessor and Ground Lessee establish, dedicate and impose the following deed restriction affecting the Property in accordance with the terms and conditions set forth in this Deed Restriction (the “**Restrictive Covenant**”):

Any opening in the party wall between the Property and the Adjacent Lot B shall be infilled with fire-rated equivalent construction materials to the extent any improvement is constructed on the Adjacent Lot B that is: (i) on the same floor as such opening and (ii) within 6 feet of such opening.

2. The agreements, including the Restrictive Covenant, set forth herein shall run with the Property, and each and every portion thereof, as covenants running with the land, shall be binding upon the Property, future owners, future tenants and any persons having or acquiring any right, title, interest or estate in and to Property or any portion thereof, and shall inure to the benefit of the City of New Orleans and shall be enforceable only by the City of New Orleans. By acceptance of a deed or by acquiring any right, title, interest or estate, including, without limitation, a leasehold estate, in or to the Property, or any portion thereof, each person hereby agrees that the Property or such portion thereof as to which such person is acquiring any right, title, interest or estate shall be owned and held subject to this Deed Restriction.

3. This Deed Restriction shall automatically terminate when the BBSA Waiver is either forfeited in writing by the then owners of the Property or revoked by the City of New Orleans, provided that the owner may not forfeit the BBSA without the written consent of the Ground Lessee. Nothing in this Deed Restriction is intended to modify the BBSA Waiver or allow the City of New Orleans to revoke the BBSA Waiver except as specifically permitted by applicable law.

[Signature Pages Follow]

THUS DONE, SIGNED AND PASSED by Owner/Lessor in Jefferson Parish, Louisiana on the 13th day of September, 2022 in the presence of the undersigned competent witnesses and me, notary, after due reading of the whole.

WITNESSES:
(as to all signatories)

David Newman
Name: David Newman

Trinh Davis
Name: Trinh Davis

OWNER/LESSOR:

DYNASTY PROPERTIES LLC,
a Louisiana limited liability company

By: George Chin
Name: George Chin
Its: Sole Member
and Authorized Signatory

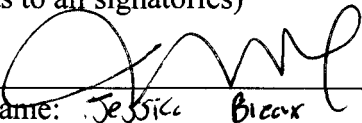
Jessica Lynn Breaux
Notary Public
Print Name: _____
Bar Roll #: _____
My Commission Expires: _____

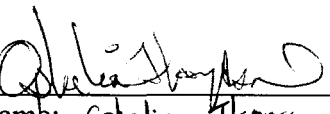
JESSICA LYNN BREAU
Notary Public
Notary ID No. 157461
Jefferson Parish, Louisiana

THUS DONE, SIGNED AND PASSED by Ground Lessee in Orleans Parish, Louisiana on the 13 day of September, 2022 in the presence of the undersigned competent witnesses and me, notary, after due reading of the whole.

WITNESSES:

(as to all signatories)


 Name: Jessica Bicar


 Name: Aphelia Thompson

Ground Lessee:

3500 ST. CHARLES HOLDINGS LLC,
 a Louisiana limited liability company

By: 3500 ST. CHARLES MANAGER LLC,
 a Louisiana limited liability company

Its: Sole Manager and Authorized Signatory


By: FORMWORK DEVELOPMENT LLC,
 a Louisiana limited liability company

Its: Manager and Authorized Signatory

By: 

Name: David Hecht

Its: Sole Manager
 and Authorized Signatory


 Notary Public
 Print Name: Jeffrey P. Good
 Bar Roll #: 33155
 My Commission is For Life

1340 Poydras Street, 4th Floor
New Orleans, Louisiana 70112



Land Records Division
Telephone (504) 407-0005

Chelsey Richard Napoleon
Clerk of Court and Ex-Officio Recorder
Parish of Orleans

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201 ST CHARLES AVE
50TH FLOOR
NEW ORLEANS LA 70170

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