

MEZZ PROMISSORY NOTE

\$31,622,858.29

as of May 9, 2022
New York, New York

FOR VALUE RECEIVED, the undersigned, FR-AM Two LLC (the "**Borrower**") promises to pay to the order of 56th and Park (NY) Owner, LLC (hereinafter called the "**Lender**"), with an address 540 Madison Avenue, 8th Floor, New York, New York 10022, or such other office at which the Lender may instruct the Borrower to pay, the principal sum of THIRTY ONE MILLION SIX HUNDRED TWENTY TWO THOUSAND EIGHT HUNDRED FIFTY EIGHT and 29/100 (\$31,622,858.29) DOLLARS together with interest under this Note which shall be computed on the basis of actual number of days elapsed in a year consisting of three hundred and sixty (360) days, at the rate of eight percent (8%) per annum (the "**Stated Rate**") said sum being admittedly due and owing by Borrower to Lender without offset, defense or counterclaim, in consecutive monthly payments of accrued interest only, compounding monthly. Such payment of accrued interest only shall commence on October 1, 2022 and shall continue on the same day of each and every calendar month thereafter through and including March 31, 2023, when the unpaid principal amount hereof, together with all interest accrued and unpaid hereon and all other amounts due by Borrower hereunder, shall be due and payable.

The Borrower further agrees to pay interest on any amount of principal (and to the extent permitted by applicable law, on any amount of interest) which is not paid when due (whether at stated maturity, by acceleration or otherwise), from the date on which such amount is due until such amount is paid in full, payable on demand, at a rate per annum (in lieu of the Stated Rate in effect at such time) equal at all times to the lesser of twenty percent (20%) per annum (the "**Default Rate**"), compounding monthly, or the highest rate permitted by law.

This Note may not be prepaid in part. This Note may only be prepaid in whole and only on the condition that the loans made pursuant to the Loan Documents are being prepaid in whole simultaneously therewith. Notwithstanding anything to the contrary set forth herein, an amount equal to \$46,750.00 shall be deemed made as of August 1, 2022 and shall be applied to the principal sum due hereunder.

Without extending and notwithstanding any grace period contained in this Note or elsewhere, if any installment of principal and/or interest or any other sums required to be paid hereunder is not paid within fifteen (15) days after the same is due, the Borrower shall pay to the Lender upon demand five cents (\$.05) for each dollar so overdue or the maximum amount permitted under applicable law to be charged by the Lender, whichever is less, in order to defray the expenses incurred by it in handling and processing such late payment and to compensate the Lender for the loss of the use of the late payment during its delinquency. In the event that the Borrower fails to so pay such late charges within fifteen (15) days after demand, the same shall bear interest at a rate equal the Default Rate or the maximum rate permitted under applicable law to be charged to the Borrower, whichever is less, from the date of demand until the date of payment.

1. If any of the following (each, an "**Event of Default**") shall occur:

(a) Borrower fails to perform any obligation or pay when due any amount in respect of any of the obligations arising under this Note or the other Loan Documents (the “**Obligations**”) beyond any applicable grace, notice and cure periods; or

(b) an Event of Default occurs and is continuing under that any of the following documents (the “**Loan Documents**”): (i) Mortgage (And Assignment Of Leases And Rents) And Security Agreement And Financing Statement made on the date hereof by 432 FF&E LLC to Lender encumbering the real property located at 432 Park Avenue, Unit Number 78A, New York 10022 or any other document entered into in connection therewith, including, without limitation, that certain Mortgage Note made on the date hereof by 432 FF&E LLC to Lender, (ii) the Pledge and Security Agreement, dated as of the date hereof (the “**Pledge Agreement**”), by and between Borrower and Lender, (iii) Mortgage (And Assignment Of Leases And Rents) And Security Agreement And Financing Statement made on the date hereof by FR-AM One LLC to Lender encumbering the real property located at 432 Park Avenue, Units 78B and 28H New York 10022 or any other document entered into in connection therewith, including, without limitation, that certain Mortgage Note made on the date hereof by FR-AM One LLC to Lender, or (iv) the Pledge and Security Agreement, dated as of the date hereof, by and between 432 FF&E Mezz LLC and Lender, or any other document entered into in connection therewith, including, without limitation, that certain Mezz Promissory Note made on the date hereof by 432 FF&E Mezz LLC and Lender; or

(c) the Borrower (i) fails to observe or perform any other term or agreement of any of the Loan Documents which continues beyond any applicable grace, notice and cure periods; (ii) makes any materially incorrect or misleading representation to the Lender; (iii) fails to pay when due (whether by scheduled maturity, acceleration, demand or otherwise, and after giving effect to any applicable notice and/or cure periods) any of its indebtedness (including, but not limited to, indebtedness for borrowed money) owing to parties other than the Lender or its affiliates or any interest or premium thereon when due; or (iv) fails to comply with, or perform under any agreement (other than the Loan Documents), now or hereafter in effect, with the Lender and such failure continues beyond applicable grace, notice and cure periods; or

(d) the Borrower: (i) becomes insolvent or unable to pay its debts as they become due, (ii) makes an assignment for the benefit of creditors, (iii) commences any proceeding under any bankruptcy, reorganization, liquidation, insolvency or similar laws, (iv) has had any such petition filed, or any such proceeding has been commenced against it, in which an adjudication is made or order for relief is entered or which remains undismissed for a period of sixty (60) days, (v) has had a receiver, custodian or trustee appointed for all or a substantial part of its property, or (vi) takes any action effectuating, approving or consenting to any of the events described in clauses (i) through (v); or

(e) the Borrower fully distributes, divides its assets, liabilities and/or obligations (whether pursuant to a “plan of division” or similar arrangement), dissolves or for any reason ceases to be in existence or merges or consolidates, or if there is a change in the direct or indirect beneficial ownership of the Borrower; or

(f) the Borrower is involved in a proceeding which is likely to result in a forfeiture of all or a substantial part of its assets or a material judgment is entered against the Borrower; or

(g) any Loan Document granting a security interest at any time and for any reason ceases to create a valid and perfected first priority security interest in and to the property purported to be subject to the Loan Document or ceases to be in full force and effect or is declared null and void, or the validity or enforceability of any Loan Document is contested by any party to the Loan Document, or such signatory to the Loan Document denies it has any further liability or obligation under the Loan Document; or

(h) the Borrower creates, incurs, assumes or permits to exist any indebtedness or contingent obligations, other than indebtedness and contingent obligations owing to, or in favor of, the Lender. As used in this clause, "contingent obligations" means obligations under, or with respect to, any guaranty, financial support agreement, letter of credit, or any swap, option or other derivative contract;

THEN, the Lender may, by notice to the Pledgor, declare this Note to be due and payable, without presentment, demand, protest, notice of acceleration or intention to accelerate or further notice of any kind, all of which are expressly waived, provided that in the case of an Event of Default described in clause (d) above, this Note shall be immediately due and payable without notice. The rights and remedies provided herein shall be cumulative and not exclusive of any rights or remedies provided by applicable law or otherwise.

Notwithstanding any of the provisions contained herein to the contrary, if the Borrower is in default in the payment to the Lender of any sum or amount of money which may fall due or be payable from time to time under the terms of this Note (a "Monetary Default"), the Borrower shall have a period of five (5) days after the Lender's giving of notice to the Borrower within which time such default must be cured. If the Borrower is in default other than a Monetary Default, the Borrower shall have a period of thirty (30) days after the Lender's giving of notice within which time such default must be cured. Any such default not cured within said period shall be subject to all of the other terms and provisions contained in this Note.

2. The Borrower agrees to pay on demand all reasonable costs and out of pocket expenses in connection with the preparation, execution, delivery, administration, modification, amendment and enforcement (whether through legal proceedings, negotiations or otherwise) of this Note and the Pledge Agreement (such costs and expenses shall include without limitation, the reasonable fees and expenses of legal counsel.) The Borrower agrees to indemnify and hold harmless the Lender and each of its directors, officers, employees, agents, affiliates and advisors from and against any and all claims, damages, actual losses, liabilities and out of pocket expenses (including, without limitation, reasonable fees and disbursements of counsel) actually incurred by or asserted against the Lender or any such director, officer, employee, agent, affiliate or advisor in connection with or arising out of any investigation, litigation or proceeding related to or arising out of this Note or the Pledge Agreement or any transaction contemplated hereby or thereby (but in any case excluding any such claims, damages, losses, liabilities or expenses incurred by reason of the gross negligence or willful misconduct of any indemnitee). In the event that the Borrower fails to so pay, reimburse and satisfy such cost and expenses or indemnify in accordance with the terms hereof within ten (10) Business Days after written demand, the same shall bear interest at a rate equal to the Default Rate or

the maximum rate allowed by law to be charged to the Borrower, whichever is less. The obligations of the Borrower under this Paragraph 2 shall survive the payment in full of this Note.

3. Without limiting the effect of paragraph 1 above, and except as specifically and expressly provided for herein, the Borrower hereby waives presentment for payment, demand, notice of dishonor and protest of this Note. This Note shall be governed by, and construed in accordance with, the laws of the State of New York, including matters of construction, validity and performance. None of the terms or provisions of this Note may be waived, altered, modified or amended except as the Lender may consent thereto in writing duly signed by an authorized officer thereof.

4. The Borrower hereby irrevocably submits to the jurisdiction of any New York State or Federal Court sitting for New York County, and the Borrower hereby irrevocably agrees that any Action may be heard and determined in such New York State court or in such Federal court. The Borrower hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of any action in such jurisdiction. The Borrower may be served in any manner permitted by law, in which event the Borrower's time to respond shall be the time provided by law.

5. Upon the occurrence and during the continuance of any Event of Default the Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law and subject to the terms of the Pledge Agreement, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Lender to or for the credit or the account of the Borrower (but excluding any deposits maintained by the Borrower in a fiduciary or other representative capacity) against any and all of the obligations of the Borrower now or hereafter existing under this Note, to the extent that the Lender has elected to declare such amounts to be due and payable. The rights of the Lender hereunder are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Lender may have.

6. It is not intended hereby to charge interest at a rate in excess of the maximum rate of interest permitted to be charged to the Borrower under applicable law, but if, notwithstanding, interest in excess of said maximum rate shall be paid hereunder, the excess shall, at the option of the Lender, either (i) be retained by the holder of this Note as additional cash collateral for the payment of said principal sum, or the amount thereof outstanding, and shall be returned to the Borrower upon full repayment of said principal sum and all accrued and unpaid interest thereon and all other sums due hereunder, (ii) be applied to the reduction of the unpaid principal balance under this Note and not to the payment of interest or (iii) be returned to the Borrower.

7. All payments of principal, interest, fees and other sums due the Lender pursuant to this Note and/or the Pledge Agreement shall be made in immediately available funds by 4:30 p.m. (New York City time) on the date payment is due to the Lender at its offices first above written, or as otherwise instructed by the Lender.

8. Should any payment under this Note become due and payable on a day other than a Business Day, the maturity of such payment shall be extended to the next succeeding Business Day, and, in the case of any payment of principal, interest shall be payable thereon at the then applicable

rate per annum specified in this Note during such extension, but such payment shall not be considered overdue during any such extension.

9. No failure on the part of the Lender to exercise, and no delay in exercising, any right or remedy hereunder or under the Pledge Agreement shall operate as a waiver thereof; nor shall any single or partial exercise by the Lender of any right or remedy hereunder or under the Pledge Agreement preclude any other or further exercise thereof or the exercise of any other right or remedy that the Lender may have under this Note, the Pledge Agreement, applicable law or otherwise. The receipt by the Lender of payments of interest or principal hereunder or any other sums due hereunder or under the Pledge Agreement with knowledge on the part of the Lender of the existence of a default hereunder or thereunder shall not be deemed a waiver of such default. No payment by the Borrower or receipt by the Lender of less than the full amount of interest, principal and/or other sums due hereunder or under the Pledge Agreement shall be deemed to be other than on account of all such interest, principal and other sums and shall be applied against such interest, principal and/or other sums in such manner and order as the Lender shall choose in its sole and absolute discretion. The rights and remedies provided in this Note, the Pledge Agreement and the other Loan Documents are cumulative and not exclusive and are in addition to all others that may be provided by other agreements and documents and applicable law.

10. The Borrower represents that the Borrower has full power, authority and legal right and capacity to execute and deliver this Note and the Pledge Agreement pertaining to the loan evidenced by this Note.

11. The terms and provisions of this Note are severable, and if any term or provision shall be determined to be superseded, illegal, invalid or otherwise unenforceable in whole or in part pursuant to applicable law by a governmental authority having jurisdiction, such determination shall not in any manner impair or otherwise affect the validity, legality or enforceability of any of the remaining terms and provisions of this Note in any jurisdiction.

12. Nothing contained in this Note shall be deemed or construed to create a partnership or joint venture or any other relationship between the Lender and the Borrower, or cause the Lender to be responsible in any way for the debts or obligations of the Borrower, it being the intention that the only relationship hereunder is solely that of lender and borrower. The Borrower and the Lender expressly disclaim any sharing of the liabilities, capital or operating losses or costs or expenses of owning, holding, operating, maintaining, managing, repairing or disposing of the mortgaged property, and further disclaim any right of the Lender to control, manage or operate the mortgaged property except in the capacity of lender pursuant to and under the Pledge Agreement prior to the appointment of a receiver or foreclosure of the Pledge Agreement and the expiration of any redemption period.

13. This Note and the terms and provisions hereof may not be changed, waived, extended, discharged or terminated orally or by any act or failure to act on the part of the Borrower or the Lender. If the Borrower consists of more than one person, or party, the obligations and liabilities of each person or party shall be joint and several. Furthermore, if this Note is signed by more than one person or party, references to the "Borrower" wherever used in this Note shall be construed to refer separately to each of the signers of this Note and collectively to any two or more of the signers, and this Note shall not be or be deemed to be revoked or impaired as to any one or more of the signers hereof by

the revocation or release of any obligations hereunder of any other(s) of the signers. This Note shall bind the heirs, legal representatives, successors and assigns of each of the Borrower and shall inure to the benefit of the holder hereof and its successors and assigns.

14. Notwithstanding anything to the contrary contained herein or in the Pledge Agreement or in any other Loan Document, no person or entity in any way affiliated with the Lender, nor any general or limited partner of the Lender and no officer, director, stockholder or partner of any partner (general or limited) of the Lender, if the Lender is a partnership or membership association, nor any officer, director, stockholder or subsidiary of the Lender, if the Lender is a corporation, shall have any personal liability with respect to the Lender's obligations, if any, hereunder, or under the Pledge Agreement or under any document pertaining to the loan evidenced by this Note or any collateral now or hereafter given for said loan, nor shall the property or assets of any of the foregoing parties be subject to attachment, levy, execution or other judicial process. In addition to and without limiting the foregoing, the Borrower hereby expressly waives any and all claims and actions (other than those attributable to a person's own acts or omissions amounting to gross negligence or willful misconduct as finally determined pursuant to applicable law by a governmental authority having competent jurisdiction) against any person or entity described in the immediately preceding sentence, their respective employees, attorneys and agents (collectively, the "exempted parties") arising out of or related directly or indirectly to any acts or omissions by any of the exempted parties in respect of this Note, the Pledge Agreement, any documents pertaining to the loan evidenced by this Note or any collateral now or Pledge Agreement given for said loan; and (ii) agrees to indemnify, reimburse, hold harmless, and at the request of the respective indemnified parties, defend, each of the indemnified parties from and against any and all claims, liabilities, losses and expenses (including attorneys' fees and disbursements) that may be imposed upon, incurred by or asserted against any of the indemnified parties arising out of or related directly or indirectly to this Note, the Pledge Agreement, any other document pertaining to the loan evidenced by this Note or any collateral now or hereafter given for said loan, except such as are occasioned by the indemnified parties own gross negligence or willful misconduct as finally determined pursuant to applicable law by a governmental authority having competent jurisdiction.

15. "Business Day", as used above, means a day of the year on which banks are not required or authorized to close in New York City.

16. BOTH THE BORROWER AND THE LENDER HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO ANY OBLIGATION OR THIS NOTE.

17. The Borrower may not assign or otherwise transfer any of their rights or obligations under this Note or any other Loan Document without the prior written consent of the Lender, which may be withheld or granted in its sole and absolute discretion. The Lender may, at Lender's sole cost and expense, assign, without the consent of or prior notice to the Borrower, to one or more banks or other entities all or a portion of its rights under this Note and the other Loan Documents. In the event of an assignment of all of its rights, the Lender may transfer this Note to the assignee. In the event of an assignment of a portion of its rights under this Note, the Lender shall prepare and deliver to the Borrower a new Note to the order of the assignee in an amount equal to the

principal amount assigned to the assignee and a new Note to the order of the Lender in an amount equal to the principal amount retained by the Lender (collectively, the "New Notes"). Such New Notes shall be in an aggregate principal amount equal to the principal amount of this Note, shall be dated the effective date of the assignment and otherwise shall be identical to this Note. Upon receipt of the New Notes from the Lender, the Borrower shall execute such New Notes and, at the expense of the Borrower, promptly deliver such New Notes to the Lender. Upon receipt of the executed New Notes from the Borrower, the Lender shall return this Note to the Borrower. The Lender and the assignee shall make all appropriate adjustments in payments under this Note for periods prior to such effective date directly between themselves. In the event of an assignment of all or any portion of its rights hereunder, the Lender may transfer and deliver all or any of the property then held by it as security for the Borrower's obligations hereunder and the assignee shall thereupon become vested with all the powers and rights herein given to the Lender with respect thereto. After any such assignment or transfer, the Lender shall be forever relieved and fully discharged from any liability or responsibility in the matter, and the Lender shall retain all rights and powers hereby given with respect to property not so transferred. The Lender may also sell, without the consent of or prior notice to the Borrower, at its sole costs and expense, participations to one or more banks or other entities in or to all or a portion of its rights under this Note; provided, however, that in such case the Lender shall remain the holder of this Note and accordingly the Borrower shall continue to deal solely and directly with the Lender in connection with the Lender's rights under this Note. The Lender may, in connection with any assignment or participation or proposed assignment or proposed participation, disclose to the assignee or participant or proposed assignee or proposed participant any information relating to the Borrower furnished to the Lender by or on behalf of the Borrower, provided that, except in connection with a pledge or assignment of a security interest, the assignee or participant or proposed assignee or proposed participant shall agree to preserve the confidentiality of any confidential information related to the Borrower received by it from the Lender. Notwithstanding anything herein to the contrary, the Lender (including any participants) may at any time pledge or assign a security interest in all or any portion of its rights under this Note and the other Loan Documents to secure obligations of the Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank.

[Remainder of page left intentionally blank]

[Signature Page to Follow]

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed by its duly authorized officer as of the day and year first above written.

FRAM TWO LLC
By: 
Name: Harry MacClure
Title: Manager

STATE OF NEW YORK
COUNTY OF NEW YORK

On the 6th day of May 2022 before me, the undersigned, a notary public in and for said State, personally appeared Harry MacClure, 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 upon behalf of which the individual acted, executed the instrument.


Notary Public

