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Register of Deeds, Douglas County, NE  
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**THIS PAGE INCLUDED  
FOR INDEXING**

AFTER RECORDING RETURN TO:

Dain, Torpy, LeRay, Wiest & Garner, P.C.  
745 Atlantic Avenue, 5<sup>th</sup> Floor  
Boston, MA 02111  
Attn: Timothy J. Pecci, Esq.

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**ASSIGNMENT AND ASSUMPTION OF LEASE**

THIS ASSIGNMENT AND ASSUMPTION OF LEASE (this "Assignment"), dated for reference purposes as of August 31, 2015, is made by and between **CAGR, L.L.C.**, a Delaware limited liability company ("Assignor"), and **CRIC CAG Omaha 9 LLC**, a Delaware limited liability company ("Assignee").

R E C I T A L S :

WHEREAS, Assignor is the Landlord under that certain Lease Agreement (Refrigerated Building) dated September 15, 1989, between Assignor (as successor in interest to Opus Corporation, a Minnesota corporation, and to Omaha Real Estate Investment Partnership, a Minnesota general partnership), as landlord, and ConAgra Foods, Inc., a Delaware corporation, as tenant (the "Lease"), with respect to that certain real property described therein, which real property is more fully described on **Exhibit A** hereto (the "Premises");

WHEREAS, a Memorandum of Lease and Option Agreement dated September 15, 1989, was recorded in the Office of the Registrar of Deeds of Douglas County, Nebraska (the "Official Records") on September 18, 1989, in Book 899, Page 33, and was amended by an Amendment to Memorandum of Lease and Option Agreement (Refrigerated Building), recorded in the Official Records on July 26, 1990, in Book 932, Page 283;

WHEREAS, concurrently herewith, Assignor is conveying the Premises to Assignee via a deed to be recorded in the Official Records;

WHEREAS, this Assignment is intended to be effective upon close of escrow of Assignee's acquisition of the Premises (the "Effective Date"); and

WHEREAS, in connection with Assignor's conveyance of the Premises to Assignee, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, the Lease and all of Assignor's rights, interests, duties, obligations and liabilities under the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties agree as follows:

## A G R E E M E N T:

1. Assignment. As of the Effective Date, Assignor hereby assigns, conveys, transfers and sets over unto Assignee all of Assignor's right, title and interest in, to and under the Lease, including, without limitation, all of Assignor's right, title and interest in and to security, cleaning or other deposits and in and to any claims for rent arising on or after the Effective Date, or any other claims arising under the Lease with respect to the period on and after the Effective Date, subject to the rights of the lessee under the Lease.

2. Assumption. Assignee hereby assumes and agrees to pay all sums, and perform, fulfill and comply with all covenants and obligations, which are to be paid, performed, fulfilled and complied with by the lessor under the Lease, from and after the Effective Date.

3. Reciprocal Indemnity. Assignor shall indemnify, defend and hold Assignee harmless from and against any and all claims, demands, actions, causes of action, losses, liabilities, damages, costs and expenses suffered or incurred by or asserted against Assignee in connection with or arising from the Lease with respect to any period prior to and including the Effective Date. Assignee shall indemnify, defend and hold Assignor harmless from and against any and all claims, demands, actions, causes of action, losses, liabilities, damages, costs and expenses suffered or incurred in connection with or arising from the Lease with respect to any period after the Effective Date.

4. Authorization. This Assignment has been duly authorized, executed and delivered by the parties and is enforceable against each of them in accordance with its terms.

5. Counterparts. To facilitate execution, this Assignment may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature or acknowledgment of, or on behalf of, each party, or that the signature of all persons required to bind any party, or the acknowledgment of such party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Assignment to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, and the respective acknowledgments of, each of the parties hereto. Any signature or acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures or acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature or acknowledgment pages.

6. Limitation on Liability. Notwithstanding anything in this Assignment to the contrary, Assignor's liability under this Assignment is expressly subject to certain limitations described in Section 14 of that certain Purchase and Sale Agreement dated as of August 28, 2015 by and between Assignor, as seller, and Assignee, as purchaser.

*[Balance of page left blank/Signature page follows]*





## LEGAL DESCRIPTION

The land referred to is situated in the State of Nebraska, County of Douglas and is described as follows:

### PARCEL 1:

Lot 17, Central Park East, an Addition to the City of Omaha, Douglas County, Nebraska.

### PARCEL 2:

Non-exclusive easements contained in Parking Declaration, filed November 30, 1989, in Book 906, Page 481; amended by the First Supplemental Parking Declaration, filed June 19, 1990, in Book 928, Page 9; amended by the Second Supplemental Parking Declaration, filed November 7, 1990, in Book 944, Page 1; amended by the Amendment to Parking Declaration, filed August 30, 1995, in Book 1155, Page 233; amended by the Third Supplemental Parking Declaration, filed June 7, 1999, in Book 1295, Page 710; all in the Official Records, Douglas County, Nebraska.

### PARCEL 3:

Non-exclusive easements contained in Amended and Restated Driveway Easement Agreement dated May 20, 1998, recorded December 29, 1998 in Book 1275, Page 724, Official Records, Douglas County, Nebraska.

### PARCEL 4:

Easement for storm sewer purposes contained in the Storm Sewer Connection Agreement dated April 16, 1990, recorded July 18, 1990, in Book 931, Page 356, Official Records, Douglas County, Nebraska.