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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/07/2014 02:51 PM Pg: 1 of 9

645 NORTH MICHIGAN LLC AND NAKASH 645 NORTH MICHIGAN LLC

- to -

BANKUNITED, N.A.

ASSIGNMENT OF RENTS

Premises: 645 North Michigan Avenue, Chicago, Illinois

The within premises lie in
Tax Identification Number 17-10-114-017-000
in Cook County

Record and Return To:

STARK, AMRON & LINER, LLP
SEVEN PENN PLAZA, SUITE 600
NEW YORK, NEW YORK 10001
ATTENTION: ROBERT F. LINER, ESQ.

NCS - 633497

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ASSIGNMENT OF RENTS

ASSIGNMENT OF RENTS (this "Assignment"), made as of the 26th day of December, 2013, by **645 NORTH MICHIGAN LLC**, a Delaware limited liability company, with offices c/o The Feil Organization, 7 Penn Plaza, Suite 618, New York, New York 10001, as to a seventy-five (75%) percent tenancy-in-common interest, and **NAKASH 645 NORTH MICHIGAN LLC**, a Delaware limited liability company, with offices c/o Robert Speigelman, Esq., 1400 Broadway, New York, New York 10018, as to a twenty-five (25%) percent tenancy-in-common interest (collectively, (the "Mortgagor") to **BANKUNITED, N.A.**, a national banking association, having its principal offices at 14817 Oak Lane, Miami Lakes, Florida 33016 (the "Mortgagee").

RECITALS

The Mortgagor is the owner in fee of the premises set forth in Schedule A (the "Mortgaged Property") and has requested the Mortgagee to loan the Mortgagor the sum of **Sixty Five Million and 00/100 (\$65,000,000.00) Dollars**, which is secured by the Mortgage set forth on the attached Mortgage Schedule.

The Mortgagee is unwilling to loan the Mortgagor such sum unless the Mortgagor, in addition to executing loan documents evidencing its obligation to the Mortgagee in the sum of **Sixty Five Million and 00/100 (\$65,000,000.00) Dollars** and executing and delivering such instruments in order to secure the loan by a first mortgage lien, in like amount, on the Mortgaged Property, any and all Swap Agreements (all of the above documents are hereinafter referred to as the "Loan Documents"), also executes and delivers this Assignment as additional collateral for the repayment of the loan in the amount of **Sixty Five Million and 00/100 (\$65,000,000.00) Dollars**.

NOW, THEREFORE, in order to better secure the payment to the Mortgagee of the principal under the Loan Documents, with interest now due or hereafter to become due thereon, and of all premiums of insurance on policies which the Mortgagor has effected and may effect under the terms of the Loan Documents and of all taxes, assessments, water rates and meter charges, and sewer rents which may now be due and unpaid or which may hereafter become due and a charge against or a lien upon the Mortgaged Property, with interest and penalties thereon, the Mortgagor hereby assigns to the Mortgagee all of the rents, issues and profits due and to become due from the Mortgaged Property, together with all leases, agreements, service contracts and insurance policies affecting the Mortgaged Property.

1. Collection of Rents

Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall have the power and authority to enter upon and take possession of the Mortgaged Property and to demand, collect and receive from the tenants, lessees or other occupants now or at any time hereafter in possession of the Mortgaged Property or from any part thereof, rents now due or to become due to the Mortgagor, to endorse the name of the Mortgagor or any subsequent

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owner of the Mortgaged Property on any checks, notes, or other instruments for the payment of money, to deposit the same in bank accounts, to give any and all acquittances or any other instruments in relation thereto in the name of the Mortgagor or in the name of the Mortgagee and, either in its own name or in the name of the Mortgagor, to institute, prosecute, settle or compromise any summary or legal proceedings for the recovery of such rents or profits or to recover the whole or any part of the Mortgaged Property, and to institute, prosecute, settle or compromise any other proceedings for the protection of the Mortgaged Property, for the recovery of any damages done to the Mortgaged Property, or for the abatement of any nuisance thereon. Upon the occurrence of, and during the continuance of, an Event of Default, the Mortgagee shall also have the power to defend any legal proceedings brought against the Mortgagor or against any subsequent owner arising out of the operation of the Mortgaged Property.

2. Authority to Lease

Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall have the power to lease or rent the Mortgaged Property or any part thereof, to employ an agent to rent and manage the Mortgaged Property, to make any changes or improvements deemed by it, in its sole discretion, to be necessary or expedient for the leasing or renting of the Mortgaged Property, to keep and maintain the Mortgaged Property in tenantable and rentable condition, as well as in a good state of repair, to purchase all equipment or supplies necessary or desirable in the operation and maintenance of the Mortgaged Property, to pay for all gas, electricity, power, painting, repairs, wages of employees and other items for maintenance of the Mortgaged Property, to pay taxes, assessments, water rates and meter charges and sewer rents now due and unpaid or which may hereafter become due and a charge or lien against the Mortgaged Property, to pay the principal and/or interest required to be paid under the Loan Documents now due or hereafter to become due, to pay the premiums on all policies of insurance now or hereafter effected by the Mortgagor, to comply with orders of any governmental departments having jurisdiction against the Mortgaged Property, to remove any mechanic's liens, security interests or other liens against the Mortgaged Property and, in general, to pay all charges and expenses incurred in the operation of the Mortgaged Property.

3. Payment of Expenses

Upon the occurrence and during the continuance of an Event of Default, the Mortgagee shall have the authority to pay the cost of all of the matters herein mentioned out of the rents and other revenues received from the Mortgaged Property. The cost of any such expenditures and of any payments which may be made by the Mortgagee under the provisions of this Assignment, including expenses and charges for counsel fees, shall be charged to the Mortgagor and for all purposes shall be deemed to be secured hereby and such costs may be retained by the Mortgagee out of the rents and other revenues received from the Mortgaged Property.

4. Liability of the Mortgagee

Except for its acts or failure to act due to its gross negligence, bad faith or willful malfeasance, the Mortgagee shall in no way be liable for any act done or anything omitted by it but shall be liable only to account for all moneys that it may receive hereunder and nothing

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herein contained shall be construed so as to prejudice its right to institute or to prosecute any proceedings to foreclose the Mortgage securing the Mortgaged Property or to enforce any lien on any other collateral which the Mortgagee may have or to prejudice any right which the Mortgagee may have by reason of any default, present or future, under the terms of the Loan Documents.

5. Transfer of Leases

Effective upon the occurrence of an Event of Default, the Mortgagor assigns, transfers and sets over to the Mortgagee all leases or subleases made to the various tenants in the buildings at the Mortgaged Property and all of its right, title and interest therein as security and, upon the occurrence of and during the continuance of, an Event of Default, the Mortgagor authorizes and empowers the Mortgagee to continue present leases or to demise any one or more spaces therein upon such terms and conditions as the Mortgagee may, in its sole discretion, deem just and proper and, if necessary, to execute, acknowledge and deliver any and all instruments in writing necessary to effectuate this Assignment. The Mortgagee shall have full power and authority to do and perform all acts or things necessary and requisite to be done in and about the Mortgaged Property as fully, and to all intents and purposes, as the Mortgagor might or could do if present, with full power of substitution and revocation. The Mortgagor ratifies and confirms all that the Mortgagee shall lawfully do or cause to be done by virtue hereof.

6. Modification of Leases

Except as permitted by the terms of the Loan Documents, the Mortgagor will not, without the prior written consent of the Mortgagee: (i) cancel, modify or surrender any lease now existing with respect to any portion of the Mortgaged Property; (ii) reduce any rents or change, modify or waive any provision of any existing lease; and (iii) enter into any lease on any portion of the Mortgaged Property.

7. Failure to Account

Except for its acts or failure to act due to its gross negligence, bad faith or willful malfeasance, the Mortgagee shall in no way be responsible or liable for any defalcation or failure to account for any rents collected by any agent or collector of the Mortgaged Property whom it may designate or appoint to collect or manage the Mortgaged Property, nor shall the Mortgagee be in any way liable for the failure or refusal on its part to make repairs to the Mortgaged Property. The Mortgagee shall in no way be personally responsible for any debt incurred with respect to the Mortgaged Property.

8. Events of Default

Anything in this Assignment to the contrary notwithstanding, the amount due to the Mortgagee under the Loan Documents shall, at the option of the Mortgagee, become immediately due and payable upon the occurrence of, and during the continuance of, an Event of Default under the Loan Documents.

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9. Rights of the Mortgagee in Collateral

This Assignment is intended for use in connection with the Loan secured by the Loan Documents. It is understood and agreed by the parties that this Assignment shall in no manner prejudice the Mortgagee or estop the Mortgagee in any way in the exercise of its rights as the mortgagee or as the plaintiff in any foreclosure action which may be instituted or in connection with the enforcement of any lien which the Mortgagee may have upon the corporate shares of the Mortgagor (if the Mortgagor is a corporation) and upon any other collateral which may be held by the Mortgagee and this Assignment shall at all times be subject to the exercise of any such rights which the Mortgagee may be entitled to take in connection therewith.

10. Surplus Funds

The Mortgagee may (but shall be under no obligation to do so, except as required by law) turn over to the Mortgagor any surplus which the Mortgagee may have on hand after paying all expenses incurred in connection with the operation and maintenance of the Mortgaged Property and after setting up the necessary reserve for the payment, upon the due date, of fixed charges against the Mortgaged Property, it being agreed that the Mortgagee shall not have the right to incur such expenses or set up such reserve unless and until an Event of Default shall exist. The turning over of any surplus by the Mortgagee to the Mortgagor shall in no way obligate the Mortgagee to continue to turn over such surplus.

11. Further Assignment

The Mortgagee is given the privilege of assigning all of its right, title and interest in and to this Assignment to any person, firm or corporation to whom the Loan Documents are assigned and in such manner so that the holder of the Loan Documents shall have all of the rights and privileges given herein to the Mortgagee as if such assignee were originally named herein as the mortgagee.

12. Sanction for Assignment

If the Mortgagor is a corporation, the Mortgagor certifies and represents that this Assignment was authorized by the board of directors of the Mortgagor and there is no requirement under its certificate of incorporation or its by-laws for consent of shareholders to this transaction. If the Mortgagor is a partnership, the execution and delivery of this Assignment has been duly authorized by the partners of the Mortgagor pursuant to its partnership agreement. If the Mortgagor is a limited liability company, the execution and delivery of this Assignment has been duly authorized pursuant to its operating agreement.

13. Description

The Mortgaged Property is more particularly described on Schedule A annexed hereto.

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14. **Conflict**

Whenever the terms, provisions, covenants and conditions of this Assignment conflict in any way with the terms, provisions, covenants or conditions of that certain Mortgage of even date herewith entered into between the Mortgagor and the Mortgagee (the "Mortgage"), the terms, provisions, covenants and conditions of the Mortgage shall control and prevail. All terms not expressly defined herein shall have the meaning ascribed thereto in the Mortgage.

15. **Exculpation.**

The provisions of paragraph 39 of the Mortgage are hereby incorporated by reference, as if fully set forth herein.

16. **Governing Law.**

This Assignment shall be construed by the laws of the State of Illinois.

17. **No Oral Modifications.**

This Assignment may not be changed orally, but only in writing by the party to be charged.

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SCHEDULE A

Description of Property located in the County of Cook, State of Illinois, to wit:

The West 200 feet of the North $\frac{1}{2}$ of block 33 in Kinzie's addition to Chicago, being a subdivision of the North fraction of Section 10, Township 39 North Range 14, East of the third principal meridian, (except therefrom the South 9.00 feet thereof used as a public alley) in Cook County, Illinois.

Property Address: 645 North Michigan Avenue, Chicago, IL 60611

Tax Identification No: 17-10-114-017-000

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MORTGAGE SCHEDULE

Mortgage dated December 26, 2013 made by 645 NORTH MICHIGAN LLC AND NAKASH 645 NORTH MICHIGAN LLC to BANKUNITED, N.A. in the principal sum of \$65,000,000.00, which mortgage is to be submitted for recording in the Office of the City Register, Cook County.

Property of Cook County Clerk's Office