

UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY AND
RECORDING REQUESTED BY AND WHEN
RECORDED MAIL TO:
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, New York, 10178
Attention: Kathleen M. Martin, Esq.



1633713028

Doc# 1633713028 Fee \$54.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/02/2016 01:33 PM PG: 1 OF 9

Property of Cook County Clerk's Office

(Space Above For Recording Use)

ASSIGNMENT OF LEASES AND RENTS

Dated and effective as of November 21, 2016

between

GFG CHICAGO INDUSTRIAL ML, LLC
as Assignor

and

GFG CI-1 LLC
as Assignee

CCRD REVIEWER

6 OF 6
84182078 ESZOPA.

UNOFFICIAL COPY

THIS ASSIGNMENT OF LEASES AND RENTS (this "*Assignment*") dated and effective as of the 21st day of November, 2016 made by GFG CHICAGO INDUSTRIAL ML, LLC a Delaware limited liability company, having an office at c/o Brennan Investment Group, LLC, 9450 West Bryn Mawr Ave., Suite 750, Rosemont, IL 60018 ("*Assignor*"), to GFG CI-1 LLC, a Delaware limited liability company ("*Assignee*") having an address at c/o Global Securitization Services, LLC, 68 South Service Road, Suite 120, Melville, New York, NY 11747.

WITNESSETH:

WHEREAS, Assignor is the holder of the leasehold interest to that certain parcel of real property described in Exhibit A attached hereto, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and other improvements now or hereafter located thereon (collectively, the "*Property*");

WHEREAS, Assignor and Assignee have entered into a certain Master Lease dated as of the date hereof (as amended, modified, restated, consolidated or supplemented from time to time, the "*Master Lease*") pursuant to which Assignee, as the owner of the Property, intends to lease to Assignor, and Assignor intends to lease from Assignee, the Property in accordance with the terms and conditions set out in the Master Lease.

WHEREAS, this Assignment is being given as additional security for the Rental under the Master Lease and to secure Assignor's obligations thereunder;

WHEREAS, Assignee and Lender have entered into a certain Loan Agreement dated as of the date hereof (as amended, modified, restated, consolidated or supplemented from time to time, the "*Loan Agreement*") pursuant to which Lender has agreed to make a secured loan to Assignee in the maximum principal amount of \$38,500,000 (the "*Loan*");

WHEREAS, Assignee has executed a Promissory Note, dated as of the date hereof, in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "*Note*"), which is secured by, *inter alia*, that certain mortgage, assignment of leases and rents and security agreement (as the same may be amended, modified, consolidated, split, supplemented, replaced or otherwise modified from time to time, the "*Mortgage*") on the Property;

WHEREAS, it is a condition to the obligation of Lender to make the Loan to Assignee pursuant to the Loan Agreement that Assignor execute and deliver this Assignment to Assignee;

WHEREAS, capitalized terms used in this Assignment without definition have the respective meanings assigned to such terms in the Master Lease, the Loan Agreement or the Mortgage, as the case may be, the terms of which are specifically incorporated by reference herein.

NOW, THEREFORE, for good and valuable consideration, receipt of which by the parties hereto is hereby acknowledged, and for the purpose of additionally securing the

UNOFFICIAL COPY

Rental, Assignor hereby assigns, transfers, conveys and sets over unto Assignee, all right, title and interest of Assignor in and to all Tenant Leases and all Rents;

TO HAVE AND TO HOLD the same unto Assignee, and its successors and assigns forever, upon the terms and conditions and for the uses hereinafter set forth.

And Assignor hereby further agrees as follows:

1. Certain Representations, Warranties and Covenants. Assignor represents, warrants and covenants to Assignee that:

(a) The payment of the Rents to accrue under any Tenant Lease will not be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor;

(b) Assignor has not performed, and will not perform, any acts, and has not executed, and will not execute, any instrument that would prevent Assignee from exercising its rights under this Assignment; and

(c) Assignor hereby agrees to authorize and direct any tenant under any of the Tenant Leases and any successor to all or any part of the interests of any such tenant to pay directly to the Clearing Account, in accordance with the terms of the Loan Agreement, the Rents due and to become due under such Tenant's Lease, and such authorization and direction shall be sufficient warrant to the tenant to make future payments of Rents directly to the Clearing Account in accordance with the terms of the Loan Agreement without the necessity for further consent by Assignor.

2. Assignment; Deferred Exercise of Rights.

(a) As part of the consideration for Assignee leasing the Property to Assignor, Assignor does hereby absolutely and unconditionally assign to Assignee all right, title and interest of Assignor in and to all present and future Tenant Leases and Rents, and this Assignment constitutes a present and absolute assignment and is intended to be unconditional and not as an assignment for additional security only. It is further intended that it not be necessary for Assignee to institute legal proceedings, absent any requirements of law or regulation to the contrary, to enforce the provisions hereof. Assignor hereby authorizes Assignee or its agents to collect the Rents; provided, however, that so long as an Event of Default (as defined in the Master Lease) is not continuing, and subject at all times to the requirement that payments and deposits of Rents be made directly to the Clearing Account, Assignor shall have a revocable license, but limited as provided in this Assignment and in the Master Lease, to otherwise deal with, and enjoy the rights of the lessor under, the Tenant Leases.

(b) Upon the occurrence and during the continuance of an Event of Default (as defined in the Master Lease), and without the necessity of Assignee entering upon and taking and maintaining full control of the Property in person, by agent or by court-appointed receiver, the license referred to in paragraph (a) above shall immediately be revoked and Assignee shall have the right at its option, to exercise all rights and remedies contained in the Master Lease, or otherwise available at law or in equity.

UNOFFICIAL COPY

3. Rents Held in Trust by Assignor. Rents held or received by Assignor shall be held or received by Assignor as trustee for the benefit of Assignee only and shall immediately be deposited directly to the Clearing Account in accordance with the terms of the Loan Agreement.

4. Effect on Rights Under Other Documents. Nothing contained in this Assignment and no act done or omitted by Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Master Lease, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Master Lease. The rights of Assignee under the Master Lease may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents or grant of a security interest contained in the Master Lease.

5. Event of Default. Upon or at any time after the occurrence and during the continuance of an Event of Default (as defined in the Master Lease), then in addition to and without limiting any of Assignee's rights and remedies hereunder and under the Master Lease and as otherwise available at law or in equity:

(a) Assignee may, at its option, without waiving such Event of Default and without regard to the adequacy of the security for the Rental, either in person or by agent, without bringing any action or proceeding, or by a receiver appointed by a court, without taking possession of the Property in its own name, demand, sue for or otherwise collect and receive all Rents, including those past-due and unpaid, for application to the payment of the Rental in accordance with the terms of the Master Lease, and Assignee may enter into, and to the extent that Assignor would have the right to do so, cancel, enforce or modify any Lease (which cancellation or modification, if any, shall be done in a manner consistent with prudent lending practices utilized by similarly situated lenders; *provided, however,* the foregoing shall not apply in connection with a foreclosure or limit Assignee's rights in connection with a foreclosure, including Assignee's right to name a tenant in a foreclosure proceeding). The exercise by Assignee of the option granted it in this Section and the collection of the Rents and the application thereof as herein provided shall not be considered a waiver of any Event of Default (as defined in the Master Lease).

(b) Assignor hereby acknowledges and agrees that payment of any item of Rent by a Person to Assignee as hereinabove provided shall constitute payment in full of such item of Rent by such Person, as fully and with the same effect as if it had been paid to Assignor.

(c) Assignee in respect of the Tenant Leases and Rents shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the State in which such rights and remedies are asserted as described in Section 12(b) to the extent of such rights thereunder and additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted.

UNOFFICIAL COPY

6. Application of Rents and Proceeds. After the occurrence and during the continuance of an Event of Default (as defined in the Master Lease), Rents received or held by Assignor or Assignee shall be applied in accordance with the terms of the Master Lease.

7. Attorney-in-Fact. Upon the occurrence and during the continuance of any Event of Default (as defined in the Master Lease), Assignor hereby appoints Assignee the attorney-in-fact of Assignor to take any action and execute any instruments that Assignor is obligated, or has covenanted and agreed under the Master Lease to take or execute, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing provisions of this Section 7, upon the occurrence and during the continuance of an Event of Default (as defined in the Master Lease), Assignor does hereby irrevocably appoint Assignee as its attorney-in-fact with full power, in the name and stead of Assignor to demand, collect, receive and give complete acquittance for any and all of the Rents now due or that may hereafter become due, and at Assignee's discretion, to file any claim, to take any other action, to institute any proceeding or to make any settlement of any claim, either in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of Rents.

8. Termination. Assignee, by the acceptance of this Assignment, agrees that when all of the Rental shall have been paid in full, this Assignment shall terminate, and Assignee shall execute and deliver to Assignor, upon such termination such instruments of termination or re-assignment and Uniform Commercial Code termination statements, all without recourse and without any representation or warranty whatsoever, as shall be reasonably requested by Assignor.

9. Expenses. Assignor agrees to pay to Assignee all out-of-pocket documented and reasonable expenses (including expenses for reasonable attorneys' fees and costs of every kind) of, or incident to, the enforcement of any of the provisions of this Assignment or performance by Assignee of any obligation of Assignor hereunder which Assignor has failed or refused to perform.

10. Further Assurances. Assignor agrees that, from time to time upon the written request of Assignee, it will give, execute, deliver, file and/or record any financing statements, notice, instrument, document, agreement or other papers and do such other acts and things that may be reasonably necessary and desirable to create, preserve, perfect or validate this Assignment, to enable Assignee to exercise and enforce its rights hereunder with respect to this Assignment or to otherwise carry out the purposes and intent of this Assignment.

11. No Obligation by Assignee. By virtue of this Assignment, Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Tenant Leases. This Assignment shall not operate to constitute Assignee as a lender in possession of the Property or to place responsibility for the control, care, management or repair of the Property upon Assignee, nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by any tenant or other party in possession or for any dangerous or defective condition of the Property or for any negligence in the management, upkeep, repair or control thereof.

UNOFFICIAL COPY

12. Miscellaneous.

(a) No failure on the part of Assignee or any of its agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by Assignee or any of its agents of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

(b) WITH RESPECT TO MATTERS RELATING TO REMEDIES AND THE VALIDITY, CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS ASSIGNMENT, THIS ASSIGNMENT AND THE MASTER LEASE SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES SHALL GOVERN ALL MATTERS RELATING TO THIS ASSIGNMENT AND THE MASTER LEASE AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

(c) All rights and remedies set forth in this Assignment are cumulative, and Assignee may recover judgment thereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby; and no such right or remedy set forth in this Assignment shall be deemed exclusive of any of the remedies or rights granted to Assignee in the Master Lease. Nothing contained in this Assignment shall be deemed to limit or restrict the rights and remedies of Assignee under the Master Lease.

(d) Until the term of the Master Lease has expired or otherwise terminated as provided therein, Assignor will, upon request, deliver from time to time to Assignee executed originals to the extent available, otherwise photocopies certified by Assignor as true, correct and complete, of executed originals, of any and all existing Tenant Leases to which Assignor is a party, and executed originals, or photocopies of executed originals, so certified by Assignor, if an executed original is not available, of all other and future Tenant Leases to which Assignor is a party, and upon request of Assignee, will specifically transfer and assign to Assignee such other and future Tenant Leases upon the same terms and conditions as herein contained.

(e) Assignor represents that it: (i) has been advised that Assignee engages in the business of real estate financings and other real estate transactions and investments which may be viewed as adverse to or competitive with the business of Assignor or its affiliates; (ii) is represented by competent counsel and has consulted counsel before

UNOFFICIAL COPY

executing this Assignment; and (iii) has relied solely on its own judgment and on its counsel and advisors in entering into the transaction(s) contemplated hereby without relying in any manner on any statements, representations or recommendations of Assignee or any parent, subsidiary or affiliate of Assignee.

13. No Oral Change. This Assignment may not be amended except by an instrument in writing signed by Assignor and Assignee.

14. Successors and Assigns. Assignor may not assign its rights under this Assignment except as permitted under the Master Lease. Subject to the foregoing, this Assignment shall be binding upon, and shall inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

15. Notices. All notices, requests and other communications provided for herein shall be given or made in writing in the manner specified in the Master Lease.

[NO FURTHER TEXT ON THIS PAGE]

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Assignment has been duly executed by Assignor as of the day and year first above written.

ASSIGNOR:

GFG CHICAGO INDUSTRIAL ML, LLC, a Delaware limited liability company

By: *Michael Brennan*
Name: MICHAEL BRENNAN
Title: PRESIDENT

Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF ILLINOIS
COUNTY OF COOK

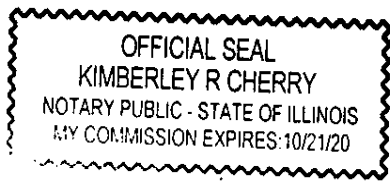
) SS:

I, *Kimberley R Cherry* Notary Public in and for and residing in said County, in the State aforesaid, do hereby certify that MICHAEL BRENNAN, the PRESIDENT of GFG CHICAGO INDUSTRIAL ML, LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as her/his own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Seal of Office this *7th* day of November, 2016.

Kimberley R Cherry
Notary Public

My Commission Expires: *10/21/20*



UNOFFICIAL COPY

EXHIBIT A

Legal Description

THAT PART OF LOT 1 IN CONRAD MOEHLING'S SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 7 AND PART OF THE WEST 1/2 OF SECTION 8, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE NORTH ON THE EAST LINE OF SAID LOT 1 A DISTANCE OF 349.64 FEET TO A POINT IN THE SOUTHWESTERLY LINE OF PROPERTY OF THE COMMONWEALTH EDISON COMPANY; THENCE NORTHWESTERLY ON A LINE FORMING AN ANGLE OF 38 DEGREES 32 MINUTES 33 SECONDS TO THE WEST FROM LAST DESCRIBED COURSE EXTENDED; A DISTANCE OF 337.03 FEET TO A POINT IN A LINE 210 FEET WEST OF AND MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE EAST LINE OF SAID

LOT 1; THENCE NORTH ON A LINE PARALLEL WITH SAID EAST LINE A DISTANCE OF 548.98 FEET TO A POINT 537.13 FEET SOUTH OF THE NORTH LINE OF SAID LOT 1 (MEASURED IN SAID PARALLEL LINE), SAID POINT BEING THE POINT OF BEGINNING; THENCE WESTERLY PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 431.45 FEET TO A POINT IN THE EAST LINE OF THIRD AVENUE IN DES PLAINES TERRACE UNIT NO. 3 SUBDIVISION (AS RECORDED MARCH 13, 1963 AS DOCUMENT 18741707), SAID POINT BEING 508.66 FEET SOUTH OF THE NORTHEAST CORNER OF SAID SUBDIVISION (AS MEASURED ON SAID EAST LINE) OF THIRD AVENUE; THENCE NORTHERLY ALONG SAID EAST LINE OF THIRD AVENUE 308 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 432.15 FEET TO A LINE 210 FEET WEST OF AND MEASURED AT RIGHT ANGLES AND PARALLEL WITH THE EAST LINE OF SAID LOT 1; THENCE SOUTH 308 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

P.I.N.: 09-08-101-006-0000

Commonly known as: 461 North Third Avenue, Des Plaines, Illinois 60016