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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 03/23/2017 08:58 AM Pg: 1 of 11

Duane Morris LLP
190 South LaSalle Street
Suite 3700
Chicago, Illinois 60603
Attn: Daniel Kohn, Esq.

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (hereinafter, this "Assignment") is made as of March 17, 2017, by **MAJ RE LLC**, an Illinois limited liability company, **MOTOR ROW LLC**, an Illinois limited liability company, and **SUPERMAN LLC**, an Illinois limited liability company (each a "Borrower" and collectively "Borrowers"), each with a mailing address of 105 West Madison Street, Suite 1401, Chicago, Illinois 60602, Attention: Milan Rubenstein, to **HINSDALE BANK & TRUST COMPANY**, an Illinois banking corporation ("Lender"), its successors and its assigns, at its office at 25 E. First Street, Hinsdale, Illinois 60521, Attention: Mark Hale.

I RECITALS

WHEREAS, pursuant to the terms of that certain Construction Loan Agreement of even date herewith among Borrowers and Lender (as modified, amended and restated from time to time, the "Loan Agreement"), Borrowers have executed and delivered to Lender a Mortgage Note dated as of even date herewith (together with all renewals, amendments, supplements, restatements, extensions and modifications thereof and thereto, the "Note"), wherein Borrowers jointly and severally promise to pay to the order of Lender the principal amount of Two Million Two Hundred Twenty-Five Thousand and No/100 Dollars (\$2,225,000.00) in repayment of a construction loan in like amount (the "Loan"), together with interest thereon, with interest thereon as set forth in the Note, which Note is due and payable on or before the Maturity Date (as defined in the Note), as such date may be extended or accelerated in accordance with the terms of the Note and the Loan Agreement; and

WHEREAS, as security for the repayment of the Loan, in addition to this Assignment, there has been executed and delivered to Lender by Borrowers a Construction Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Financing Statement (together with all renewals, amendments, supplements, restatements, extensions, and modifications thereof and thereto, the "Mortgage") dated as of even date herewith from Borrowers to Lender, granting to Lender a first lien on the real estate described in Exhibit A attached herein and hereby made a part hereof (the "Premises"), (the Note, the Loan Agreement, the Mortgage, this Assignment and all other documents or instruments given as security for repayment of or additional evidence of the Loan from the Borrowers, whether now or hereafter existing, and all renewals, amendments, supplements, restatements, modifications thereof and thereto are hereinafter referred to collectively as the "Loan Documents"); and

STEWART TITLE
800 E. Diehl Road
Suite 180
Naperville, IL 60563

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WHEREAS, as security for the repayment of the Loan, in addition to the other Loan Documents, Lender requires that Borrowers execute and deliver to Lender this Assignment.

II THE GRANT

NOW, THEREFORE, as further security for the repayment of the Loan and consideration of the matters recited hereinabove, Borrowers do hereby sell, assign and transfer to Lender all of Borrowers' right, title and interest in, to and under, together with all rents, issues, deposits and profits now due and which may hereinafter become due, under or by reason of any lease or any letting of, or any agreement for the use, sale, or occupancy of the Premises or any portion thereof (whether written or verbal) which may have been heretofore or may hereafter be made or agreed to or which may be made or agreed to by Lender under the powers herein granted, including without limitation sale contracts, escrow and other agreements, it being Borrowers' intention hereby to establish an absolute transfer and assignment of all such leases, contracts and agreements pertaining thereto (such leases, contracts and agreements being collectively referred to hereinbelow as "agreements" and any such individual lease, contract, escrow or other agreement being referred to hereinbelow as an "agreement"), and all the avails thereof, to Lender; and

Borrowers do hereby irrevocably appoint Lender as its true and lawful attorney in its name and stead subject to the limitations set forth in Paragraph 4.1 hereof (with or without taking possession of the Premises) to rent, lease, let or sell all or any portion of the Premises to any party or parties at such price and upon such terms as Lender in its sole discretion may determine, and to collect all of such rents, issues, deposits, profits and avails now due or that may hereafter become due under any and all of such agreements or other tenancies now or hereafter existing on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability, and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions set forth hereinbelow.

This Assignment confers upon Lender a power coupled with an interest and it cannot be revoked by Borrowers.

III GENERAL AGREEMENTS

3.1 **Available Rents.** Each Borrower represents and agrees that it will not accept rent for right of future possession paid by any person in possession of any portion of the Premises in excess of two installments thereof paid in advance and that no payment of rents to become due for any portion of the Premises has been or will be waived, conceded, released, reduced, discounted, or otherwise discharged or compromised by Borrowers which would have a material adverse effect on the Loan without the prior written consent of Lender, not to be unreasonably withheld or delayed. Each Borrower waives any right of set-off against any person in possession of any portion of the Premises. Each Borrower agrees that it will not assign any of such rents, issues, profits, deposits or avails, except to a purchaser or grantee of the Premises.

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3.2 Management of Premises. At all times while Lender is not in actual possession of the Premises, Borrowers shall manage the Premises, or cause the Premises to be managed, in accordance with sound business practices.

3.3 Future Assignments. Each Borrower further agrees to assign and transfer to Lender all future leases and agreements pertaining to all or any portion of the Premises and to execute and deliver to Lender, immediately upon demand of Lender, all such further assurances and assignments pertaining to the Premises as Lender may from time to time require.

3.4 Performance of Lease Obligations. Borrowers shall, at their own cost: (i) at all times perform and observe all of the material covenants, conditions and agreements of the lessor under the terms of any or all leases or similar agreements affecting all or any part of the Premises; (ii) at all times enforce and secure the performance and observance of all of the material covenants, conditions and agreements of the lessees under the terms of any or all of said leases or other agreements; (iii) appear in and defend any action or other proceeding arising out of or in any manner connected with said leases and other agreements, and to pay any and all costs of Lender incurred by reason of or in connection with said proceedings, including reasonable attorneys' fees and court costs, and (iv) promptly furnish Lender with copies of any notices of default either sent or received by Borrowers under the terms of or pursuant to any of said leases or other agreements.

3.5 Rent Roll. Borrowers further agree to furnish Lender rent rolls for the Premises at such times and in such detail as required pursuant to Section 6.9 of the Loan Agreement.

IV DEFAULTS AND REMEDIES

4.1 Exercise of Rights. Although it is the intention of Borrowers and Lender that this Assignment be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Lender shall not exercise any of the rights and powers conferred upon it herein unless and until a "Default" has occurred in the payment of interest or principal due under the Note or in the performance or observance of any of the other provisions of the Note, the Mortgage, this Assignment or any of the other Loan Documents and such Default has not been cured within any applicable notice or cure period; provided, however, that nothing contained herein shall be deemed to affect or impair any rights Lender may have under the Note or any of the other Loan Documents.

4.2 Application of Rents. Lender, in the exercise of the rights and powers conferred upon it herein, shall have full power to use and apply the rents, issues, deposits, profits and avails of the Premises to the payment of or on account of the following, in such order as Lender may in its sole discretion determine:

- (a) operating expenses of the Premises (including without limitation all costs of management, sale and leasing thereof, which shall include reasonable compensation to Lender and its agents, if management be delegated thereto, reasonable attorneys' fees and costs, and lease or sale commissions and other compensation and expenses of seeking and

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procuring tenants or purchasers and entering into leases or sales), establishing any claims for damages, and premiums on Insurance authorized hereinabove;

(b) taxes, special assessments, water and sewer charges on the Premises now or that may hereafter become due;

(c) any and all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises;

(d) any indebtedness secured by the Mortgage, or any deficiency that may result from any foreclosure sale pursuant thereto; and

(e) any remaining funds to Borrowers or their successors or assigns, as their interests and rights may appear.

4.3 Authorization to Lessees. Each Borrower does further specifically authorize and instruct each and every present and future lessee or purchaser of all or any portion of the Premises to pay all unpaid rentals or deposits agreed upon in any lease or agreement pertaining to the Premises to Lender upon receipt of demand from Lender to pay the same without any further notice or authorization by Borrowers, and each Borrower hereby waives any rights or claims it may have against any lessee by reason of such payments to Lender.

4.4 Right of Possession. In the event Lender is authorized under Paragraph 4.1 hereof to exercise its rights hereunder (whether before or after declaration of the entire principal amount secured thereby to be immediately due, before or after institution of legal proceedings to foreclose the lien of the Mortgage, or either one of them, or before or after sale thereunder), each Borrower agrees, immediately upon demand of Lender, to surrender to Lender and Lender (personally or by its agents or attorneys) shall be entitled to take actual possession of the Premises or any portion thereof, and in any such case Lender in its sole discretion may enter upon and take and maintain possession of all or any portion of the Premises, together with all the documents, books records, papers and accounts of Borrowers or the then owner of the Premises relating thereto may exclude Borrowers and their employees and agents wholly therefrom and may, as attorney-in-fact or agent of Borrowers, or in its own name as Lender and under the powers herein granted, hold, operate, manage and control the Premises and conduct business thereon either personally or by its agents, with full power to use such measures, legal or equitable, as in its sole discretion may be deemed proper or necessary to enforce the payment of security of such rents, issues, deposits, profits and avails of the Premises (including without limitation actions for the recovery of rent, actions in forcible detainer and actions in distress for rent). Each Borrower hereby grants Lender full power and authority to exercise each and every one of the rights, privileges and powers herein granted at any and all times thereafter, without notice to Borrowers, and with full power to cancel or terminate any lease (and any sublease) or agreement pertaining to the Premises or any cause or on any ground that would entitle Borrowers to cancel the same, to disaffirm any such lease (and any sublease) or agreement made subsequent to the Mortgage or subordinated to the liens thereof, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises that Lender in its sole discretion deems appropriate, to insure (and reinsure) the same for all risks incidental to Lender's possession, operation and management thereof, and to receive

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all such rents, issues, deposits, profits and avails. Each Borrower further agrees to cooperate and facilitate Lender's collection of said funds and, upon Lender's request, shall promptly execute written notice to all lessees to make all rental payments to Lender.

4.5 Indemnity. Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge any obligations, duty or liability under any leases or agreements pertaining to the Premises, and Borrowers shall and do hereby agree to indemnify and hold Lender harmless from and against any and all liability, loss and damage that Lender may or might incur under any such leases or agreements or under or by reason of the assignment thereof, as well as any and all claims and demands whatsoever which be asserted against Lender by reason of any alleged obligations or undertakings on Lender's part, to perform or discharge any of the terms, covenants or conditions contained in such leases or agreements, except if any of the aforementioned arise solely out of Lender's gross negligence or willful misconduct. Should Lender incur any such liability, loss or damage under such leases or agreements, or under or by reason of the assignment thereof, or in the defense of any claims or demands relating thereto, Borrowers shall reimburse Lender for the amount thereof (including without limitation reasonable attorneys' fees and expenses and court costs) immediately upon demand.

4.6 Limitation of Liability. Nothing herein contained shall be construed as making or constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provisions set forth herein. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrowers.

4.7 Nature of Remedies. It is understood and agreed that the provisions set forth herein shall be deemed a special remedy given to Lender and shall not be deemed exclusive of any of the remedies granted in the Note, the Mortgage or any of the other Loan Documents, but shall be deemed an additional remedy and shall be cumulative with the remedies therein granted.

4.8 Continual Effectiveness. It is expressly understood that no judgment or decree entered on any debt secured or intended to be secured by any of the other Loan Documents shall operate to abrogate or lessen the effect of this Assignment, but that the same shall continue in full force and effect until the payment and discharge of any and all indebtedness secured thereby, in whatever form such indebtedness may be, and until the indebtedness secured thereby shall have been paid in full and all bills incurred by virtue of the authority contained herein have been fully paid out of the rents, issues, deposits, profits and avails of the Premises, by Borrowers, or by any guarantor of payment of the Note, or until such time as this Assignment may be voluntarily released. This Assignment shall also remain in full force and effect during the pendency of any foreclosure proceedings pursuant to the Mortgage, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the indebtedness secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

V

MISCELLANEOUS

5.1 Notices. Any notice that Lender or Borrowers may desire or be required to give to the other shall be in writing and shall be mailed or delivered in accordance with the terms of

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Paragraph 5.1 of the Mortgage to the intended recipient thereof at its address hereinabove set forth as such intended recipient may, from time to time, by notice in writing, designate to the sender pursuant hereof. Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Lender by this Assignment is not required to be given.

5.2 Governing Law; Litigation. This Assignment shall be construed and enforced according to the laws of the State of Illinois. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH BORROWER HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS ASSIGNMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURT LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH BORROWER HEREBY EXPRESSLY WAIVES ANY RIGHT THEY MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH 5.2.

5.3 Rights and Remedies. All rights and remedies set forth in this Assignment are cumulative, and the holder of the Note and of every other obligation secured hereby 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. Unless expressly provided in this Assignment to the contrary, no consent or waiver, whether express or implied, by any interested party referred to herein regarding any breach or default by any other interested party referred to herein, in the performance by such other party of any obligations contained herein shall be deemed a consent to or waiver of the party of any obligations contained herein or waiver of the performance by such Party of any other obligations hereunder or the performance by any other interested party referred to herein of the same, or of any other obligations hereunder.

5.4 Interpretation. If any provision of this Assignment or any paragraph, sentence, clause, phrase or word, or the application thereof, is held invalid in any circumstance, the validity of the remainder of this Assignment shall be construed as if such invalid part were never included herein. The headings of sections and paragraphs in this Assignment are for convenience or reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof. As used in this Assignment, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires. Whenever the words "including", "include" or "includes" are used in this Assignment, they should be interpreted in a non-exclusive manner as though the words "without limitation," immediately followed the same.

5.5 Successors and Assigns. This Assignment and all provisions hereof shall be binding upon Borrowers, their successors, assigns and legal representatives, and all other persons or entities claiming under or through Borrowers and the words "Borrower," and "Borrowers" when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have

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executed the Note or this Assignment. The word "Lender," when used herein, shall include Lender's successors, assigns and legal representatives, including all other holders, from time to time, of the Note. This Assignment shall run with the land constituting the Premises.

5.6 Jury Waiver. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF BORROWERS AND LENDER HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS ASSIGNMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF BORROWERS AND LENDER WITH RESPECT TO THIS ASSIGNMENT, OR THE TRANSACTIONS RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OF BORROWERS AND LENDER HEREBY AGREES THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT BORROWERS OR LENDER MAY FILE A COPY OF THIS ASSIGNMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OF BORROWERS AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

[Signature Page Follows]

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IN WITNESS WHEREOF, Borrowers have caused this Assignment to be executed as of the day and year first above written.

MAJ RE LLC, an Illinois limited liability company

By: Windy City RE LLC, an Illinois limited liability company, its manager

By: 

Amy Rubenstein, its manager

MOTOR ROW LLC, an Illinois limited liability company

By: Windy City RE LLC, an Illinois limited liability company, its manager

By: 

Amy Rubenstein, its manager

SUPERMAN LLC, an Illinois limited liability company

By: Windy City RE LLC, an Illinois limited liability company, its manager

By: 

Amy Rubenstein, its manager

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, William D Oney-Paige, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that **Amy Rubenstein**, personally known to me to be the Manager of Windy City RE LLC, an Illinois limited liability company, the Manager of **MAJ RE LLC**, an Illinois limited liability company, is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 10 day of March, 2017.



William D Oney-Paige
Notary Public

My commission expires: October 15, 2018

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, William D Oney-Paige, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that **Amy Rubenstein**, personally known to me to be the Manager of Windy City RE LLC, an Illinois limited liability company, the Manager of **MOTOR ROW LLC**, an Illinois limited liability company, is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 10 day of March, 2017.



William D Oney-Paige
Notary Public

My commission expires: October 15, 2018

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, William D Oney-Paige, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Amy Rubenstein, personally known to me to be the Manager of Windy City RE LLC, an Illinois limited liability company, the Manager of SUPERMAN LLC, an Illinois limited liability company, is the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her free and voluntary act as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 10 day of March, 2017.



William D Oney-Paige
Notary Public

My commission expires: October 15, 2018

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EXHIBIT "A" **LEGAL DESCRIPTION**

Lot 6 in William L. Butterfields Butterfield's Subdivision of the Southwest 1/4 of and the North 25.25 feet of the Southeast 1/4 of Block 5 in Canal Trustees' Subdivision of the West 1/2 of Section 27, Township 39 North, Range 14 , East of the Third Principal Meridian, in Cook County, Illinois

and

the North 50.00 feet of the South 75.00 feet of the East 1/2 of Block 5, (except the East 14.00 feet taken for widening Michigan Avenue) in Canal Trustees' Subdivision of the West 1/2 of Section 27, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, more particularly described as follows:

Beginning at the Northeast corner of said tract and running thence South along the West Line of South Michigan Avenue (as widened) 49.75 feet; thence West on the center line of an existing party wall 90.0 feet; thence North on said center line 1.0 feet; thence West on said center line 98.08 feet to the West Line of the aforesaid tract of land; thence north on said West line 48.75 feet to the North Line of said tract; Thence East on the North line of said tract 188.08 feet to the Point of Beginning, all in Cook County, Illinois.

PIN Nos: 17-27-101-029-0000
 17-27-101-030-0000
 17-27-101-031-0000

Common Address: 2210-2216 S. Michigan Avenue, Chicago, IL 60616