

# UNOFFICIAL COPY

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2017-05085-PT

Prepared By and Return To:

Small Business Growth Corporation  
2401 West White Oaks Drive  
Springfield, IL 62704

(Loan No. 1109047004)



Doc# 1736249138 Fee \$50.00

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

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/28/2017 04:09 PM PG: 1 OF 7

## ASSIGNMENT OF LEASES AND RENTS AND REASSIGNMENT

THIS ASSIGNMENT OF LEASES AND RENTS AND REASSIGNMENT (as the same may be amended, modified or supplemented from time to time, the "Assignment") dated as of the 11<sup>th</sup> day of December, 2017 from EM Partners LLC, ("Borrowers" or "Assignors") an Illinois Limited Liability Company, in favor of Small Business Growth Corporation, (the "Assignee"), for further assignment by Assignee to the U.S. SMALL BUSINESS ADMINISTRATION, an agency of the United States (the "SBA"), recites and provides:

Assignee has agreed to make a loan to the Borrowers, in the principal amount of Five Hundred and Sixty-Nine Thousand Dollars (\$569,000.00) (the "Loan") to provide financing for the real property described herein and the improvements thereon situated at 330 North Ashland Ave., Chicago, IL 60607-1002, in the County of Cook State of Illinois, legally described on Exhibit "A", attached hereto and incorporated herein (collectively, the "Premises"). The Loan is evidenced by a promissory note of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Note") made by Borrowers, and payable to the order of Assignee in the principal amount of \$569,000.00. The Note is secured, in part, by a mortgage of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Mortgage") from Borrowers, to Small Business Growth Corporation, as mortgagee. Terms defined in the Note and Mortgage shall have the same defined meanings when used with this Assignment. As a condition to making the Loan, the Assignee has required an assignment to the Assignee and any subsequent holder of the Note of all leases (individually, a "Lease", and collectively, the "Leases"), now or hereafter existing, and all rents, issues and profits (the "Rents") now or hereafter arising from Assignors' interest in the Premises or any part thereof, all in accordance with the terms and conditions set forth herein.

NOW THEREFORE, for and in consideration of the agreement of Assignee to make the Loan and as ADDITIONAL SECURITY for the payment of the Note, Assignors agree as follows:

I. Assignment of the Leases. Assignors hereby assign, transfer and set over to Assignee, and any subsequent holder of the Note, all Assignors' rights, title and interest in and to all Leases and all renewals or extensions thereof, together with all the Rents, now existing or hereafter arising. Prior to the election of Assignee to collect the Rents upon the Occurrence of an Event of Default under the Mortgage, Assignors shall have the right to collect and dispose of the Rents without restriction.

II. Delivery of the Leases. All Leases currently in effect with respect to the Premises have been delivered to Assignee, are in full force and effect as of the date of this Assignment and neither Assignors nor any tenant is in default thereunder. Assignors shall not make any subsequent agreement for the lease of the Premises or any part thereof except in the ordinary course of business in accordance with the provisions of the Mortgage. All such subsequent Leases shall be subject to the prior written approval of Assignee, which approval shall not be unreasonably withheld, in accordance with the provisions of the Mortgage.

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III. No Modification of the Leases. Without the prior written consent of the Assignee, which consent shall not be unreasonably withheld, Assignors will not

- A. Cancel, terminate or accept any surrender of the Leases;
- B. Accept any prepayments for more than thirty (30) days of installments of rent under any of the Leases;
- C. Modify or abridge any of the terms, covenants and conditions of any of the Leases so as to reduce the terms thereof or the renewal payments thereunder; or
- D. Change any renewal privileges contained in any of the Leases.

IV. Representations and Warranties. Assignors represent and warrant that

- A. Except for any assignment made by Assignor, EM Partners LLC, to the first mortgage lender, Gold Coast Bank prior to this Assignment, Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due;
- B. The Rents now due or to become due for any periods subsequent to the date hereof have not been collected and payment thereof has not been anticipated for a period of more than one (1) month in advance, waived or released, discounted, set off or otherwise discharged or compromised except as set forth in the Leases;
- C. It has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued income other than the security deposits provided for in the Leases;
- D. It has not received a bona fide and acceptable offer to purchase the Premises or any part thereof which would in any way effect any right or option of first refusal to purchase all or any portion of the Premises now contained in any Lease; and
- E. It has not done anything which might prevent Assignee from or limit Assignee in operating under or enforcing any of the provisions hereof

Assignors shall act in good faith to enforce or secure the performance of each and every obligation, covenant, condition and agreement to be performed by any tenants under all the Leases.

V. Remedies upon Default. Immediately upon the occurrence of an Event of Default under the Mortgage and the expiration of any applicable cure period, Assignee is hereby expressly and irrevocably authorized to enter and take possession of the Premises by actual physical possession, or by written notice served personally upon, or sent by registered or certified mail, postage prepaid, to Assignors, as Assignee may elect, and no further authorization shall be required. Following any such entry and taking possession, Assignee may:

- A. Manage and operate the Premises or any part thereof;
- B. Lease any part or parts of the Premises for such periods of time, and upon such term; and conditions as Assignee may, in its discretion, deem proper;
- C. Enforce any of the Leases;
- D. Demand, collect, sue for, attach, levy, recover, receive, compromise and adjust, and make, execute and deliver receipts and releases for all Rents that may then or may thereafter become due, owing or payable with respect to the Premises, or any part thereof, from any present or future lessees, tenants, subtenants or occupants thereof;
- E. Institute, prosecute to completion or compromise and settle, all summary proceedings and actions for rent or for removing any and all lessees, tenants, subtenants or occupants of the Premises or any part or parts thereof;
- F. Enforce or enjoin or restrain the violation of any of the terms, provisions and conditions of any of the Leases;
- G. Make such repairs and alterations to the Premises as Assignee may, in its discretion, deem proper;
- H. Pay from and out of the Rents collected or from or out of any other funds, the insurance premiums and any other taxes, assessments, water rates, sewer rates or other governmental charges levied, assessed or imposed against the Premises or any portion thereof, and also any and all other charges, costs and expenses which it may deem necessary or advisable for Assignee to pay in the management or operation of the Premises, including (without limiting the generality of any rights, powers, privileges and authorities conferred in this Assignment) the cost of such repairs and alterations, commissions for renting the Premises,

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or any portions thereof, and legal expenses in enforcing claims, preparing papers or for any other services that may be required; and

- I. Generally, do, execute and perform any other act, deed, matter or thing whatsoever that ought to be done, executed and performed in and about with respect to the Premises as fully as Assignors might do.

Assignee shall apply the net amounts of any Rents received by it from the Premises, after payment of proper costs and charges (including any loss or damage hereinafter referred to in Section VII hereof) to the reduction and payment of the indebtedness evidenced by the Note and secured by the Mortgage (the "Secured Indebtedness"). Assignors agrees not to seize or detain any property hereby assigned, transferred or set over to Assignee.

VI. Attornment. To the extent not provided by applicable law, each Lease of the Premises or any part thereof shall provide that in the event of the enforcement by Assignee of the remedies provided for by law or by this Assignment, the tenant thereunder will, upon request of any person succeeding to the interest of Assignors as a result of such enforcement, automatically become the tenant of such successor-in-interest, without change in the terms or other provisions of such lease; provided, however, that the successor-in-interest shall not be bound by:

- A. Any payment of rent or additional rent for more than one (1) month in advance, except prepayments in the nature of its obligations under the Lease; or
- B. Any amendment or modification of the Lease made without the consent of Assignee or such successor-in-interest.

Each Lease also shall provide that, upon request by the successor-in-interest, the tenant shall execute and deliver an instrument or instruments confirming such attornment.

VII. Indemnification. Assignors hereby agree to indemnify and hold Assignee harmless from and against any and all liabilities, losses, damages and expenses, including reasonable attorneys' fees, which it may incur under any of the Leases, or by reason of this Assignment or by reason of any action taken by Assignee or Assignors hereunder, and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants and conditions contained in any of the Leases. Should Assignee incur any such liabilities, losses, damages or expenses, the amount thereof, together with interest thereon at the rate set forth in the Note, shall be payable by Assignors to Assignee immediately upon demand therefor, or at the option of Assignee, Assignee may reimburse itself therefore out of any rents collected by Assignee. Nothing contained herein shall operate or be construed to obligate Assignee to perform any of the terms, covenants and conditions contained in any of the Leases or otherwise to impose any obligation upon Assignee with respect to any of the Leases. This Assignment shall not operate to place upon Assignee any responsibility for the operation, control, care, management or repair of the Premises, and the execution of this Assignment by Assignor shall constitute conclusive evidence that all responsibility for the operation, control, care, management and repair of the Premises is and shall be that of Assignor.

VIII. Further Assurances. Assignor agrees to execute and deliver to Assignee, at any time or times during which this Assignment may be in effect, such further instruments as Assignee may deem necessary to make effective or more effective this Assignment and the covenants of Assignors herein contained.

IX. No Waiver. Failure of Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time, shall not be construed or deemed to be a waiver of any of its rights hereunder. The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights and remedies which Assignee shall have under or by virtue of any of the Loan Documents. The rights and remedies of Assignee hereunder may be exercised from time to time and as often as such exercise is deemed expedient.

X. Assignment of Assignee's Rights. Any holder of the Secured Indebtedness shall have the right to assign to any subsequent holder of the Secured Indebtedness, the right, title and interest of Assignors hereby assigned, subject, however, to the provisions of this Assignment. In the event all the right, title and interest of Assignors in the Premises are barred or foreclosed, no assignee of the interest of Assignors shall be liable to account to Assignors for any Rents thereafter accruing.

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XI. Release. Upon payment in full of the Secured Indebtedness, as evidenced by a recorded satisfaction or release of the Mortgage, as well as any sums which may be payable hereunder, this Assignment shall become and be void and of no effect.

XII. Amendments and Discharge. No change, amendment, modification, cancellation or discharge of this Assignment, or any part hereof, shall be valid unless Assignee shall have consented thereto in writing.

XIII. Successors and Assigns. The terms, covenants and conditions contained herein shall inure to the benefit of, and bind Assignors, Assignee and their successors and assigns.

XIV. Severability. If any provision of this Assignment, or the application hereof to any person, entity or circumstance, shall to any extent be invalid or unenforceable, the remainder of the provisions of this Assignment, or the application of such provision to other persons, entities or circumstances, shall be valid and enforceable to the fullest extent permitted by law.

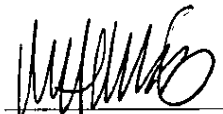
XV. The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

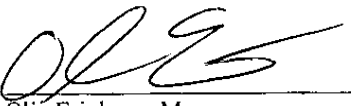
- a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.
- b) Assignee or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

IN WITNESS WHEREOF, the undersigned has executed this Assignment as of the date first above written.

EM Partners LLC  
Assignors

By:   
Matthew Makris, Manager

By:   
Olin Erickson, Manager

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STATE OF ILLINOIS )  
COUNTY OF COOK )

The undersigned, a notary public in and for said County, in the State aforesaid, does hereby certify that Oliverickson, 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 he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 18<sup>th</sup> day of December, 2017



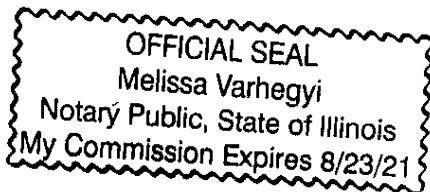
Melissa Varhegyi

My Commission Expires: 8/23/21

STATE OF ILLINOIS )  
COUNTY OF COOK )

The undersigned, a notary public in and for said County, in the State aforesaid, does hereby certify that Matthew Malins 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 he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 18<sup>th</sup> day of December, 2017



Melissa Varhegyi

My Commission Expires: 8/23/21

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## RE-ASSIGNMENT

Assignee does hereby sell, assign and transfer unto the U.S. Small Business Administration (SBA), all of its right, title and interest to this Assignment of Leases and Rents and Reassignment.

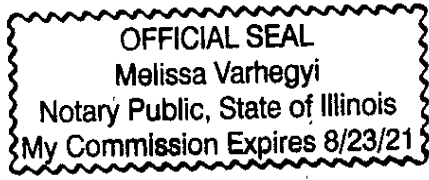
Small Business Growth Corporation

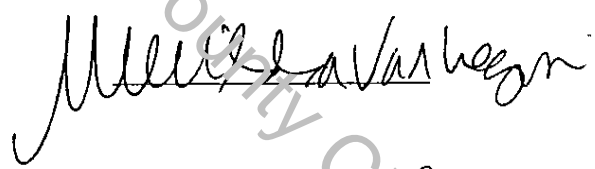
By:   
Phil Maton, Chief Credit Officer

STATE OF ILLINOIS )  
COUNTY OF COOK )

The undersigned, a notary public in and for said County, in the State aforesaid, does hereby certify that Phil Maton, 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 he signed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 8<sup>th</sup> day of December 2017





My Commission Expires: 8/23/21

**PREMIER TITLE**  
1000 JORIE BLVD., SUITE 100  
OAK BROOK, IL 60523  
630-571-2111

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EXHIBIT "A"  
Legal Description

THE SOUTH 41 FEET OF LOT 27 (EXCEPT THAT PART THEREOF LYING EAST OF A LINE 50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SECTION 7) AND THE SOUTH 41 FEET OF LOTS 28, 29, AND 30 AND OF THE EAST 14 FEET OF LOT 31 IN THE SUBDIVISION OF THE EAST HALF OF THE SOUTHWEST QUARTER OF BLOCK 33 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN#: 17-07-407-009-0000

COMMON ADDRESS: 330 NORTH ASHLAND AVE. CHICAGO, IL 60607

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