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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 11/02/2018 02:59 PM PG: 1 OF 8

Prepared by and Record and Return to:

Justin Quinn, Esq.
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036

Assignment of Leases and Rents

Dated and effective as of October 31, 2018

by

65 OAK STREET OWNER, LLC
as Assignor

in favor of

ACM CRE FUND I-L, LP
as agent for itself and the Lenders, and its successors and assigns

Property Location: 57-65 East Oak Street
Chicago, Cook County, Illinois

(Legal Description of the Property encumbered by this instrument
is attached hereto as Exhibit A)

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ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "**Assignment**") is made and executed as of October 31, 2018, by **65 OAK STREET OWNER, LLC**, a Delaware limited liability company ("**Assignor**"), having an address at c/o Jenel Management Corp., 275 Madison Avenue, Suite 1100, New York, New York 10016, in favor of **ACM CRE FUND I-L, LP**, a Delaware limited partnership, as agent on behalf of itself as a Lender (as defined below) and the other Lenders (in such capacity, together with its successors and assigns, the "**Agent**"), whose address is 444 Madison Avenue, 19th Floor, New York, New York 10022.

RECITALS:

WHEREAS, simultaneously with the execution and delivery of this Assignment, (i) pursuant to that certain Loan Agreement, dated as of the date hereof (as amended, restated, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), among Agent, and the lenders party thereto from time to time (each a "**Lender**" and collectively, the "**Lenders**"), and Assignor, as "Borrower" thereunder, the Lenders have agreed to make, and Agent as has agreed to administer, a loan in the maximum principal amount of, up to to Sixty Million and No/100 Dollars (\$60,000,000.00) (the "**Loan**") and (ii) Assignor is delivering to Lenders one or more promissory notes in the aggregate maximum principal amount of the Loan (as each of the same may be amended, restated, replaced, supplemented, split or otherwise modified from time to time, collectively, the "**Notes**") to evidence such Loan.

WHEREAS, all capitalized terms that are not otherwise defined shall have the meanings assigned to such terms in the Loan Agreement.

WHEREAS, in order to secure the Loan and the Obligations under and as defined in the Loan Agreement, Assignor has executed, among other documents, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of the date hereof (the "**Security Instrument**"), for the benefit of Agent, encumbering the real property located at 57-65 East Oak Street, Chicago, Cook County, Illinois and more particularly described in **Exhibit A**, attached hereto and made a part hereof, and certain other property described therein (collectively, the "**Property**"). All amounts owing or to be owed from time to time under the Loan Agreement, the Notes, the Security Instrument, or any of the other Loan Documents, together with all other obligations of Assignor in respect thereof and all Obligations are hereinafter collectively referred to as the "**Indebtedness**."

WHEREAS, as a condition precedent to Lenders making and Agent administering the Loan, Assignor has agreed to execute and deliver this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. **Assignment.** Assignor hereby assigns, transfers and conveys to Agent all of Assignor's right, title and interest as lessor or licensor, as the case may be, if any, in, to and under (a) each of the leases relating to the Property in existence on the date hereof (each an "**Existing Lease**" and collectively, the "**Existing Leases**"), as well as any replacement or future lease, sublease or sub-sublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect) to which Assignor is a party and pursuant to which any Person is granted a possessory interest by Assignor or right to use or occupy all or any portion of, any space in the Property, and every modification,

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amendment or other agreement relating to such lease, sublease, sub-sublease, or other agreement entered into by Assignor in connection with such lease, sublease or sub-sublease, or other agreement to which Assignor is a party (each a "**New Lease**" and collectively with the Existing Leases, the "**Leases**") and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto; (b) all rents, income, and profits, including, but not limited to all fixed rent and all additional rent, and any other rent collected for pass-through expenses, including without limitation taxes, insurance, operating and occupancy expenses and common area maintenance expenses, arising from such Leases, as well as all of Assignor's right, title and interest in the right to receive and collect the revenues, income, rents, security deposits, issues, profits, royalties and other benefits payable under any of the Leases, and all revenues, income, rents, issues and profits otherwise arising from the use or enjoyment of all or any portion of the Property (collectively, the "**Rents**"), including all such Rent accrued prior to the date hereof but heretofore not paid to Assignor including, without limitation, all delinquent Rents required to be paid to Assignor by any tenant; and (c) any cash security deposits under the Leases (the "**Security Deposits**") to the extent that same have not been applied to the date hereof to delinquent sums or other amounts owing under the respective Leases.

2. **Agent's Rights and Obligations.** The foregoing assignment shall not impose upon Agent any duty to produce rents from the Property, and such assignment shall not cause Agent to be a "mortgagee in possession" for any purpose. This assignment is an absolute and present assignment from Assignor to Agent and not merely the passing of a security interest, subject only to the provisions hereinafter contained pertaining to Assignor's and/or Property Manager's right to collect the Rents and to exercise all rights and remedies of Assignor under all Leases, or otherwise relating to the Leases and/or the Rents. Agent shall not have any liability to Assignor in connection with or as a result of this Assignment, or the exercise of any rights or remedies under this Assignment or under the Leases or by reason of any alleged obligations or undertakings of Agent to perform or discharge any of the terms, covenants, or agreements contained in the Leases.

3. **Collection of Rents.** Agent confers upon Assignor the license to collect and retain the Rents, revenues, issues and profits of the Property as they become due and payable for use in accordance with the Loan Agreement, and to exercise all rights and remedies of Assignor under all of the Leases in accordance with the terms of the Loan Agreement subject, however, to the right of Agent to revoke such license in accordance with the Loan Agreement at any time following the occurrence and during the continuance of an Event of Default in its sole discretion and without notice to Assignor. Assignor agrees to collect, hold and use the Rents in accordance with the Loan Agreement.

4. **Revocation upon Event of Default.** Upon the occurrence and during the continuance of an Event of Default, the license granted to Assignor and/or Property Manager to collect the Rents shall be automatically and immediately revoked, without further notice to or demand upon Assignor, and without taking possession of all or any part of the Property. Agent may, but shall not be obligated to perform any or all obligations of the landlord under any or all of the Leases, and Agent may, but shall not be obligated to, exercise and enforce any or all of Assignor's rights under the Leases. Without limiting the generality of the foregoing, Agent may, upon the occurrence and during the continuance of an Event of Default, notify the tenants under the Leases that all Rents are to be paid to Agent, and following such notice all Rents shall be paid directly to Agent and not to Assignor or any other person other than as directed by Agent, it being understood that a demand by Agent on any tenant under the Leases for the payment of Rent shall be sufficient to warrant payment by such tenant of Rent to Agent without the necessity of further consent by Assignor. Assignor hereby irrevocably authorizes and directs the tenants under the Leases to pay all Rents to Agent instead of to Assignor, upon receipt of written notice from Agent, without the necessity of any inquiry of Assignor and without the necessity of determining the existence or non-existence of an Event of Default. Any Rents received shall be applied in accordance with the Loan Agreement. Collection of any Rents, revenues, issues and profits by Agent shall not cure or waive any

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Event of Default or notice of Event of Default, or invalidate any acts done pursuant to such notice. No *pro tanto* reduction of the Obligations shall occur because of the assignment of Leases and Rents hereunder to Agent, except to the extent (and only to the extent) that Rents are actually applied by Agent to the outstanding Obligations.

5. **Agent as Attorney-in-Fact.** Assignor hereby appoints Agent as Assignor's attorney-in-fact with full power of substitution, which appointment shall take effect only upon the occurrence and during the continuance of an Event of Default, and is coupled with an interest and is irrevocable, in Assignor's name or in Agent's name: (a) to endorse all checks and other instruments received in payment of Rents and to deposit the same in any account selected by Agent; (b) to give receipts and releases in relation thereto; (c) to institute, prosecute and/or settle actions for the recovery of Rents; (d) to modify the terms of any Leases in accordance with the terms thereof (including terms relating to the Rents payable thereunder); (e) to cancel any Leases; (f) to enter into new Leases; and (g) to do all other acts and things with respect to the Leases and Rents which Agent may deem necessary or desirable to protect the security for the Obligations.

6. **Appointment of Receiver.** To the fullest extent permitted by law, and without regard to (a) whether an action or proceeding has been commenced to foreclose the Security Instrument; (b) whether the security is adequate; (c) whether the premises are in danger of being materially injured or reduced in value as security by removal, destruction, deterioration, accumulation of prior liens, or otherwise, so as to render the security inadequate; or (d) whether Assignor has committed waste or there is a danger of waste; Agent may request (upon the occurrence and during the continuance of an Event of Default), and the Assignor agrees that Agent shall as a matter of right be entitled to, the *ex parte* appointment of a receiver or receivers for all or any part of the Property, whether such receivership be incident to a proposed sale of the Property or otherwise. The Assignor agrees that the appointment of such receiver by virtue of any court order, statute or regulation shall not impair or in any manner prejudice the rights of Agent to receive payment of the Rents. Possession of the Property by a receiver appointed by a court of competent jurisdiction shall not be considered possession of the Property by Agent for purposes hereof.

7. **Election of Remedies.** All rights, remedies and powers conferred or granted hereby may be exercised whether or not proceedings to foreclose the Security Instrument are pending or have been concluded and whether or not Agent has exercised or enforced any other right, remedy or power available to them under or with respect to the Security Instrument or the Loan Agreement. The Agent shall not be required to resort first to its rights under this Assignment or under the Security Instrument or the Loan Agreement before resorting to one of the other, or any other security, and Agent may exercise its right hereunder and under the Security Instrument and the Loan Agreement, and any other security concurrently or independently and in such order or preference as they desires.

8. **Survival of Obligation to Comply with Security Instrument and this Assignment.** Assignor acknowledges that it is expressly intended and agreed that any other mortgage, deed of trust, deed to secure debt, assignment, or security agreement from time to time securing any Indebtedness or other Obligations from time to time owing by Assignor to Agent, shall remain in full force and effect and shall not merge with the interest acquired hereunder, but shall remain a separate, distinct and continuing liens and security interests as therein provided. All of Assignor's obligations under this Assignment shall survive foreclosure of the Security Instrument and the Assignor covenants and agrees to observe and comply with all terms and conditions of this Assignment throughout any period of redemption after foreclosure of the Security Instrument.

9. **Leases Subordinate.** All Leases of the Property hereafter entered into by Assignor shall be subordinate to this Assignment and the Security Instrument. Assignor shall, on demand, execute such further

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assignments to Agent of any or all Leases or Rents as Agent may reasonably require. Upon reasonable request of Agent, Assignor shall promptly deliver to Agent a copy of the fully executed original of any or all Leases entered into by Assignor hereunder.

10. **No Liability of Agent.** This Assignment shall not be construed to bind Agent to the performance of any of the covenants, conditions or provisions contained in any Lease or otherwise impose any obligation upon Agent. Agent shall not be liable for any loss sustained by Assignor resulting from (i) Agent's failure to let the Property after an Event of Default or from (ii) any other act or omission of Agent in managing the Property after an Event of Default. Agent shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Assignor shall indemnify Agent for, and hold Agent harmless from and against, any and all liability, actual loss, out of pocket cost, claims, damage and expense whatsoever, which is incurred under the Leases or under or by reason of this Assignment and from any and all claims or demands whatsoever, including the defense of any such claims or demands which may be asserted against Agent by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases excepting however any such liability, loss, cost, claims, damage and expense to the extent finally judicially determined to have arisen out of the fraud, gross negligence, illegal acts or willful misconduct of Agent. Should Agent incur any such liability, loss, cost, claim, damage or expense, the amount thereof, including, without limitation, all costs, expenses and reasonable attorneys' fees and disbursements, shall be secured by this Assignment and by the Security Instrument and the other Loan Documents and Assignor shall reimburse Agent therefor within ten (10) Business Days after written demand and upon the failure of Assignor to reimburse as aforesaid, Agent may, at its option, declare all sums secured by this Assignment and by the Security Instrument and the other Loan Documents immediately due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Agent, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Agent responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property including, without limitation, the presence of any Hazardous Substances, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

11. **Successors and Assigns.** This Assignment shall be binding upon and inure to the benefit of Assignor and Agent and their respective successors and assigns.

12. **Further Assurances.** At any time or from time to time upon the request of Agent, Assignor shall execute such additional documents and instruments and shall do such additional acts and things as Agent may reasonably request in order to fully effectuate the purposes of this Assignment.

13. **Assignor's Continuing Obligation.** Neither this Assignment nor any action (except express written assumption of specified obligations) or inaction on the part of Agent will constitute an assumption by Agent of any obligations of Assignor under the Leases, and Assignor will continue to be liable for all of its obligations thereunder. Assignor agrees to punctually perform all of its obligations under the Leases.

14. **Unenforceable Provisions Severable.** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law, and are intended to be limited to the extent necessary so that they will not render this Assignment invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. In the event that any provision or clause of this Assignment conflicts with applicable law, or the application thereof under any particular circumstance to any particular person or entity conflicts with applicable law, such conflict shall not affect other provisions of this Assignment which can be given effect without the

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conflicting provisions or the applicability of such provisions to other persons or entities or to such persons or entities under other circumstances and to this end the provisions of this Assignment are declared to be severable.

15. **Captions; Amendments; Notices; Governing Law.** The captions and headings of the paragraphs of this Assignment are for convenience only and shall not be used to interpret or define the provisions of this Assignment. This Assignment may be amended only in writing signed by Assignor and Agent. Any notice under this Assignment shall be deemed to have been given when given in accordance with the requirements for notice under the Loan Agreement. THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAW OF THE STATE OF NEW YORK, EXCEPT THAT THE INTERNAL LAWS OF THE STATE OF IN WHICH THE PROPERTY IS LOCATED SHALL GOVERN THE PROCEDURES CONTROLLING TITLE TO THE PROPERTY AND THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS PROVIDED FOR HEREIN AND THE FORECLOSURE OF THIS ASSIGNMENT AND SUCH LIENS AND SECURITY INTERESTS. NOTHING IN THIS PARAGRAPH 15 SHALL IMPAIR THE CHOICE OF NEW YORK LAW AS THE GOVERNING LAW OF THE NOTE, THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS WHICH SUCH LAW IS EXPRESSED TO BE THE GOVERNING LAW.

16. **Joint and Several Liability.** Each the undersigned shall have joint and several liability for the obligations and liabilities of Assignor hereunder.

17. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

18. **Incorporation of Recitals.** The recitals set forth above are true and correct and are hereby incorporated into the body of this Assignment by reference.

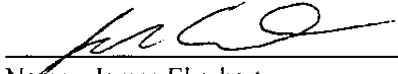
[Remainder of page intentionally blank; signature page follows.]

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IN WITNESS WHEREOF, Assignor has caused this Assignment to be duly executed and delivered as a sealed instrument as of the date first written above.

ASSIGNOR:

65 OAK STREET OWNER, LLC, a Delaware limited liability company

By: 
Name: James Eberhart
Title: Authorized Signatory

Property of COOK COUNTY Clerk's Office

ACKNOWLEDGMENT

County of Fairfield
State of Connecticut

I HEREBY CERTIFY, that on this 30th day of October, 2018, before me, the undersigned Notary Public of said State, personally appeared James Eberhart, the Authorized Signatory of 65 Oak Street Owner, LLC, a Delaware limited liability company, on behalf of said limited liability company, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same in his authorized capacity, and that by her/his signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: 1/31/21

[NOTARIAL SEAL]

Danielle L. Trudeau
Notary Public
State of Connecticut
My Commission Expires 1/31/2021

[SIGNATURE PAGE TO ASSIGNMENT OF LEASES AND RENTS]

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EXHIBIT A

Legal Description of Property

PARCEL 1:

LOT 6 IN THE NORTH 1/2 OF BLOCK 8 IN THE SUBDIVISION BY THE COMMISSIONERS OF THE ILLINOIS AND MICHIGAN CANAL OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 17-03-207-017-0000

PARCEL 2:

LOT 1 IN LAWRENCE'S SUBDIVISION OF PART OF LOT 7 IN SUBDIVISION OF THE NORTH HALF OF BLOCK 8 IN CANAL TRUSTEES SUBDIVISION OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF BLOCK 8 IN CANAL TRUSTEES SUBDIVISION AFORESAID, COMMENCING AT A POINT ON THE NORTH LINE OF SAID BLOCK 340.2 FEET EAST OF THE NORTHWEST CORNER, THENCE EAST ON SAID LINE TO THE NORTHWEST CORNER OF LOT 1 IN LAWRENCE'S SUBDIVISION AFORESAID; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID LOT TO SOUTHWEST CORNER THEREOF; THENCE WEST 33 FEET 9 5/8 INCHES; THENCE NORTHERLY PARALLEL TO THE WEST LINE OF LOT 1 TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 17-03-207-018-0000