

UNOFFICIAL COPY

This instrument was prepared by and, after recording, return to:

Allen C. Balk
Meltzer, Purtill & Stelle LLC
300 South Wacker Drive, Suite 2300
Chicago, Illinois 60606

Permanent Tax Index No.:
See *Exhibit A* attached hereto

Property Address:
See *Exhibit A* attached hereto



1918422034

Doc# 1918422034 Fee \$88.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 07/03/2019 02:22 PM PG: 1 OF 9

This space reserved for Recorder's use only

ASSIGNMENT OF LEASES AND RENTS

THE BENTHAM

THIS ASSIGNMENT OF LEASES AND RENTS dated as of June 28, 2019 ("Assignment"), is executed by **ERIE LASALLE VENTURE LLC**, a Delaware limited liability company ("Assignor"), to **REPUBLIC BANK OF CHICAGO**, an Illinois banking corporation, its successors and assigns ("Assignee").

RECITALS:

A. Pursuant to the terms and conditions of that certain Loan Agreement of even date herewith (as amended, restated or replaced from time to time, "Loan Agreement") among Assignor, Guarantor (as defined therein) and Assignee, Assignee has extended to Assignor a loan in the principal amount of Thirty-Six Million and No/100 Dollars (\$36,000,000.00) ("Loan").

B. The Loan is evidenced by that certain Promissory Note (A) in the amount of \$28,500,000.00 ("Note A") and that certain Promissory Note (B) in the amount of \$7,500,000.00 ("Note B"; together with Note A, each as amended, restated or replaced from time to time, singularly and collectively, the "Note") in the principal amount of the Loan, each made of even date herewith by Assignor and made payable to the order of and delivered to Assignee.

C. The Note is governed and secured by the Loan Documents. All terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

D. As one of the conditions to make the Loan, Assignee is requiring the execution and delivery of this Assignment by Assignor.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

S 1
P 9
S 1
M 1
SC 1
E 1
INT 1

1800036571 2 of 2

UNOFFICIAL COPY

AGREEMENTS:

1. **Grant of Security Interest.** Assignor hereby absolutely and unconditionally grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts, condemnation awards, insurance proceeds, the right to accept or reject any offer made by any tenant pursuant to its lease to purchase all or any portion of that certain real estate (“Property”) legally described in **Exhibit A** attached hereto, and other receivables arising out of or from the Property, which together with the property hereinafter described, is collectively referred to herein as “Premises”, including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (each, a “Lease”, and collectively “Leases”), now or hereafter existing, of all or any part of the Premises, together with any other obligations of any tenant or any guaranty of such Lease and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements, fixtures and equipment located on the Premises. This Assignment is a present and absolute transfer and assignment of the foregoing interests (and not an assignment for additional security only) to Assignee given to secure:

(a) The payment by Assignor when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to Assignee by Assignor under or with respect to the Loan Documents; and (iii) all reasonable and out-of-pocket costs and expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys’ fees; and

(b) The observance and performance by Assignor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Assignor or any other obligor to or benefiting Assignee which are evidenced or secured by or otherwise provided in the Note, this Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

2. **Representations and Warranties of Assignor.** Assignor represents and warrants to Assignee that:

(a) This Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) There is no Lease or any other agreement granting possession to any person concerning the Premises;

(c) There is no other existing assignment of Assignor’s entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has Assignor entered into any agreement to subordinate any of the Leases or Assignor’s right to receive any of the rents, issues, income or profits assigned hereunder; and

UNOFFICIAL COPY

(d) 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.

3. **Covenants of Assignor.** Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) Assignor shall not lease any portion of the Premises, unless Assignor obtains Assignee's prior written consent to all aspects of such Lease;

(b) Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Assignor shall not do or suffer to be done anything to impair the security thereof. Assignor shall not (i) modify the terms and provisions of any Lease, (ii) cancel or terminate any Lease, (iii) release the liability of any tenant or any guarantor under any Lease, (iv) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals, (v) consent to any tenant's claim of a total or partial eviction, (vi) consent to a tenant termination or cancellation of any Lease, except as specifically provided therein, or (vii) enter into any oral leases with respect to all or any portion of the Premises;

(c) Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, nor waive, release, reduce, discount or otherwise discharge or compromise any rents due under any Lease. Assignor shall cause any fee or payment made in connection with the termination of a Lease, whether by right, settlement or judgment, to be paid jointly to Assignor and Assignee; and

(d) Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents.

4. **Rights Prior to Default.** Unless or until an Event of Default (as defined in Section 5) shall occur, Assignor shall have the right and license to collect, at the time (but in no event more than thirty (30) days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same subject to the terms of the Loan Agreement. Upon the occurrence of an Event of Default, Assignor's right to collect such rents, issues, income and profits or to prosecute and collect under any guaranty of a Lease shall immediately terminate without further notice thereof to Assignor. Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

5. **Events of Default.** An "Event of Default" shall occur under this Assignment upon the occurrence of (a) a breach by Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or cure period, if any, set forth in the Loan Agreement, or (b) any other Event of Default described in any of the other Loan Documents.

6. **Rights and Remedies Upon Default.** Upon the occurrence of any Event of Default, Assignee, at its option, may exercise any one or more of the following rights and

UNOFFICIAL COPY

remedies without any obligation to do so, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor of the Note from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by the Loan Documents:

(a) Declare the unpaid balance of the principal sum of the Note, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) Enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which Assignee deems necessary or proper;

(c) Either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder, including under any guaranty of a Lease. This Assignment shall constitute an authorization and direction to the tenants under the Leases and any guarantor to pay all rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases and/or any guaranty of a Lease to be observed or performed by the obligors thereunder, and Assignor shall facilitate in all reasonable ways Assignee's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases or any guarantor to thereafter pay all such rents and other amounts to Assignee; and

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Assignor with interest thereon until paid at the Default Rate and shall be secured by this Assignment.

7. **Application of Proceeds.** All sums collected and received by Assignee out of the rents, issues, income and profits of the Premises following the occurrence of any Event of Default shall be applied in accordance with the Illinois Mortgage Foreclosure Law and, unless otherwise specified in such act, in such order as set forth in the Note.

8. **Limitation of Assignee's Liability.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Premises or from any other act or omission of Assignee in managing, operating or maintaining the Premises following the occurrence of an Event of Default. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor

UNOFFICIAL COPY

thereunder, or any obligation, duty or liability of Assignor under or by reason of this Assignment. Assignor shall and does hereby agree to indemnify, defend (using counsel reasonably satisfactory to Assignee) and hold Assignee harmless from and against any and all liability, loss or damage which Assignee may incur under any Lease or under or by reason of this Assignment and of and from 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 observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignee incurs as a result of Assignee's gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment or in the defense of any such claim or demand, the amount thereof, including reasonable and out-of-pocket costs, expenses and reasonable attorneys' fees, shall become due and payable by Assignor within ten (10) days of written demand with interest thereon at the then applicable interest rate under the Note (and if not timely paid, then at the Default Rate) and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Mortgage, and no exercise by Assignee of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions hereof or of the Mortgage. Assignor agrees that it will not assert any claim against Assignee or any other person indemnified under this Assignment on any theory of liability for special, indirect, consequential, incidental or punitive damages.

9. **No Waiver.** Nothing contained in this Assignment and no act done or omitted to be done by Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of Assignee under the terms and provisions of such instruments, and Assignee may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

10. **Further Assurances.** Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as Assignee may reasonably request in writing, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.

UNOFFICIAL COPY

11. **Security Deposits.** Assignor acknowledges that Assignee has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that Assignee assumes no responsibility or liability for any security so deposited.

12. **Severability.** If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Assignee and Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

13. **Successors and Assigns.** This Assignment is binding upon Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns.

14. **Written Modifications.** This Assignment shall not be amended, modified or supplemented without the written agreement of Assignor and Assignee at the time of such amendment, modification or supplement.

15. **Duration.** This Assignment shall automatically become null and void at such time as Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid all of the other obligations secured hereby and by the other Loan Documents.

16. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

17. **Notices.** All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of Assignor and Assignee, as the case may be, as specified in the Mortgage.

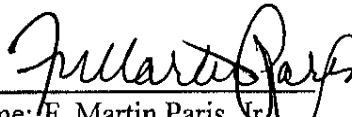
[Signatures on the following page]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment of Leases and Rents as of the day and year first above written.

ASSIGNOR:

ERIE LASALLE VENTURE LLC, a Delaware limited liability company

By: 
Name: F. Martin Paris, Jr.
Its: Authorized Signatory

Property of Cook County Clerk's Office

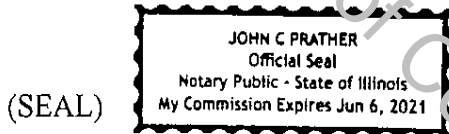
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that F. Martin Paris, Jr., the Authorized Signatory of ERIE LASALLE VENTURE LLC, a Delaware limited liability company ("Assignor"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of said Assignor, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 5th day of June, 2019.

John C Prather
Notary Public



My Commission Expires: June 6, 2021

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOT 7 IN THE ASSESSOR'S DIVISION OF LOTS 1 TO 6 IN BLOCK 28 IN WOLCOTT'S ADDITION TO CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

ALSO DESCRIBED AS:

THE WEST 30 FEET OF LOT 2 AND THAT PART OF LOT 3 LYING EAST OF THE WEST 20 FEET THEREOF IN BLOCK 28 IN WOLCOTT'S ADDITION TO CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, SITUATED IN THE CITY OF CHICAGO, IN THE COUNTY IN THE STATE OF ILLINOIS.

PARCEL 2:

THE EAST 25 FEET OF LOT 12 IN BLOCK 3 IN NEWBERRY ADDITION TO CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 4, 5 AND 6 (EXCEPT THAT PART OF SAID LOTS TAKEN FOR WIDENING OF LASALLE STREET AND CONVEYED TO THE CITY OF CHICAGO) IN THE ASSESSOR'S DIVISION OF LOTS 1 TO 6 BOTH INCLUSIVE IN BLOCK 28 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 8 IN THE ASSESSOR'S DIVISION OF LOTS 1 TO 6 IN BLOCK 28 IN WOLCOTT'S ADDITION TO CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 3 (EXCEPT THAT PART THEREOF LYING BETWEEN THE WEST LINE OF NORTH LASALLE STREET AND A LINE 14 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF NORTH LASALLE STREET) IN ASSESSOR'S DIVISION OF LOTS 1 TO 6 INCLUSIVE IN BLOCK 28 OF WOLCOTT'S ADDITION TO CHICAGO IN THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN NOS.:	17-09-217-010-0000	17-09-217-011-0000	17-09-217-012-0000
	17-09-217-013-0000	17-09-217-014-0000	17-09-217-015-0000
	17-09-217-016-0000		

ADDRESS: 146 WEST ERIE STREET, CHICAGO, ILLINOIS 60654