

UNOFFICIAL COPY

Doc#: 1924017160 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 08/28/2019 01:46 PM Pg: 1 of 11

CT

19ST03101NB
3sf 4 clb.

Property of Cook County Clerk's Office

Collateral Assignment

Of

Leases and Rents

Prepared By

And

Mail To:

Loan Funder LLC, Series 8938

645 Madison Avenue

Floor 19

New York, NY 10022

CT

195T03101NB
 CB 3 of 4

UNOFFICIAL COPY

Page 1 of 8

After Recording Return to:

BACKHAUS CONSTRUCTION MANAGEMENT LLC
\$416,975.00
August 15, 2019

Loan Funder LLC, Series 8938
 645 Madison Avenue, Floor 19
 New York, NY 10022

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT made by **BACKHAUS CONSTRUCTION MANAGEMENT LLC**, an Illinois limited liability company having its principal place of business at **4915 W Elm Street Ste. B, McHenry IL 60050** (the "Assignor") in favor of **LOAN FUNDER LLC, SERIES 8938**, a Delaware limited liability company having its principal place of business at **645 Madison Avenue, Floor 19, New York, NY 10022** (the "Assignee").

WITNESSETH

FOR VALUE RECEIVED, Assignor hereby grants, transfers, and assigns to Assignee, any and all leases or leases, with amendments, if any, and all month-to-month tenancies with respect to portions or all of the real property known **3413 North Ridgeway Avenue, Chicago IL 60618**, and more particularly described on **SCHEDULE A**, attached hereto and made a part hereof (the "Premises"), and any extensions and renewals thereof and any guarantees of the lessee's obligations thereunder, and all rents, income, and profits arising from the leases and extensions and renewals thereof, if any, and together with all rents, income, and profits due or to become due from the Premises and from any and all of the leases or tenancies for the use and occupancy of the Premises or any part thereof which are now in existence or which may be created in the future during the term of this Assignment, whether or not recorded; together with and including, the Assignor's entire interest in any lease, tenancy, rental, or occupancy agreement now existing or which may be made hereafter affecting the Premises, including but not limited to those leases listed on **SCHEDULE B** attached hereto and made a part hereof (all of the aforementioned leases and tenancies, now or hereafter existing, are hereinafter referred to as the "Lease" or "Leases") and together with all the right, power, and authority of the Assignor to alter, modify, or change or to terminate the term thereof or accept a surrender thereof or to cancel the same or to waive or release the lessee from the performance or observance by the lessee of any obligation or condition thereof or to accept rents or any other payments thereunder for more than thirty (30) days prior to accrual, for the purposes of securing (a) payment of all sums now or at any time hereunder due the Assignee as evidenced by that certain Commercial Promissory Note from Assignor, in the amount of up to **Four Hundred Sixteen Thousand Nine Hundred Seventy Five and 00/100 dollars (\$416,975.00)** of even date herewith, including any extensions or renewals thereof (the "Note"), and secured by an Commercial Mortgage, Security Agreement and Fixture Filing from Assignor, of even date herewith (the "Mortgage"), which Mortgage will be recorded on the date that this instrument is recorded, and (b) performance and discharge of each and every obligation, covenants, and agreement contained herein and in the Mortgage, the Note, and any and all other documents executed and/or delivered in connection therewith.

Assignor and Assignee further hereby agree as follows:

(1) **Performance of Leases.** Assignor shall at all times keep, perform, and observe all of the covenants, agreements, terms, provisions, conditions, and limitations of each lease affecting the Premises on its part to be kept, and performed thereunder. Assignor shall not, without the written consent of Assignee, directly or indirectly cancel, terminate, waive or release any lessee from the performance or observance of any obligation or condition thereof, or accept any surrender or modify or amend any lease

UNOFFICIAL COPY

affecting the Premises, or accept rents or any payments thereunder for more than thirty (30) days prior to accrual.

(2) Prohibition of Transfer. So long as the Note shall remain unpaid or the Mortgage unreleased, Assignor shall not convey the Premises to any lessee or to anyone else.

(3) Rental Information. Assignor shall, during the term of the Note, at the request of Assignee, deliver to Assignee annually a completed rent roll of the Premises listing the names of all tenants, the term of each Lease, and the monthly rental of same.

(4) Subsequent Leases. All subsequent Leases and tenancies for the use and occupation of the Premises or any part thereof shall be and are hereby made subject to all of the terms of this Assignment. Assignor agrees to deliver copies of all subsequent Leases to Assignee promptly upon their execution.

(5) Indemnification. Assignee shall not be obligated to perform or discharge any obligation under any Lease, or under or by reason of this Assignment, and Assignor hereby agrees to indemnify Assignee against and hold it harmless from any and all liability, loss, or damage which it 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 it by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms of any Lease; should Assignee incur any such liability, loss, or damage under any Lease or under or by reason of this Assignment, or in defense against any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, together with interest thereon at the rate set forth in the Note, shall be secured hereby and by the Mortgage, and Assignor shall reimburse Assignee therefor immediately upon demand.

(6) Right to Enter and Possess.

(a) Upon or at any time after default in the payment of any indebtedness secured hereby or in the performance of any obligation, covenant, or agreement herein or in the Mortgage or the Note, or in any other document, instrument, or agreement executed and/or delivered in connection herewith or therewith, or in Assignor's covenants in any Lease, Assignee may, at its option, without notice, and without regard to the adequacy of the security for the indebtedness hereby secured, in person or by agent, with or without bringing any action, suit, or proceeding: (1) enter upon and take possession of the Premises, and have, hold, manage, lease, and operate the same on such terms, employing such management agents, and for such period of time as Assignee may deem proper; (2) collect and receive all rents, issues, and profits of the Premises, including those past due, with full power to make from time to time all alterations, renovations, repairs, or replacements thereto as it may deem proper and make, enforce, modify, and accept the surrender of any Leases; (3) fix or modify rents; (4) do all things required of or permitted to Assignor under any Lease; (5) do any acts which Assignee deems proper to protect the security hereof until all indebtedness secured hereby is paid in full; (6) either with or without taking possession of the Premises, in its own name, sue for or otherwise collect and receive all rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, management agents' fees, and, if Assignee manages the Premises with its own employees, an amount equal to the customary management agents' fees charged for similar property in the area where the Premises are located, upon any indebtedness secured hereby in such order as Assignee may actually receive from the Premises.

(b) Assignee shall not be accountable for more monies than it actually receives from the Premises; nor shall it be liable for failure to collect rents for any reason whatsoever. It is not the intention of the parties hereto that an entry by Assignee upon the Premises under the terms of this

UNOFFICIAL COPY

instrument shall constitute Assignee as a "Mortgagee in possession" in contemplation of law, except at the option of Assignee. Assignor shall facilitate, in all reasonable ways, any action taken by Assignee under this Section 6 and Assignor shall, upon demand by Assignee, execute a written notice to each lessee and occupant directing that rent and all other charges be paid to Assignee.

(7) Representations and Warranties. Assignor hereby represents and warrants that:

(a) Assignor has not executed any prior assignment or pledge of any of its rights as lessor under any Lease, nor are its rights encumbered with respect to any Lease, or any of the rents, income, or profits due or to become due from the Premises, except that they are encumbered by the Mortgage and herein;

(b) Assignor has good right to assign any Lease and the rents, income, and profits due or to become due, from the Premises;

(c) Assignor has not done anything that might prevent Assignee from or limit Assignee in acting under the provisions hereof;

(d) Assignor has not accepted rent under any Lease or under any rental or occupancy agreement more than thirty (30) days in advance of its due date;

(e) All present Leases, together with all amendments and modifications thereto and all collateral agreements, letter agreements, waivers, and other documents affecting said Leases are valid, enforceable, and unmodified, and copies thereof have been furnished to Assignee, and there is no present default by any party thereto.

(8) Assignor's Rights Prior to Default. So long as there is no default in the payment of any indebtedness secured hereby or in the performance of any obligation, covenant, or agreement herein or in the Mortgage, Note, or any other document, instrument, or agreement executed and/or delivered in connection therewith or evidencing or securing said indebtedness, Assignor shall have the right to collect, but not more than thirty (30) days prior to accrual, all rents, issues, and profits from the Premises and to retain, use, and enjoy the same.

(9) Successors and Assigns. In addition to all other rights Assignee may have at law or equity, Assignee may assign its rights hereunder to any subsequent holder of the Note. This Assignment shall be binding on Assignor, and its successors, legal representatives, and assigns and shall inure to the benefit of Assignee, its successors, and assigns.

(10) Release of Mortgage. Upon the payment in full of all indebtedness secured hereby, as evidenced by the recording or filing of a full release of the Mortgage executed by the then holder of the Mortgage, this Assignment shall become and be void and of no effect.

(11) Modification. This Assignment may not be changed orally, but only by an agreement in writing and signed by the party or parties against whom enforcement of any waiver, change, modification, or discharge is sought.

(12) Miscellaneous. Assignee may take or release other security, may release any party primarily or secondarily liable for any indebtedness secured hereby, may grant extensions, renewals, or indulgences with respect to such indebtedness, and may apply any other security therefor held by it to the satisfaction of such indebtedness without prejudice to any of the rights and remedies under the Note and the

UNOFFICIAL COPY

Mortgage, but this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by the Assignee under the terms thereof. The right of Assignee to collect said indebtedness and to enforce any other security therefor held by it may be exercised by Assignee prior to, simultaneously with, or subsequent to any action taken by it hereunder. Any failure by Assignee to insist upon the strict performance by Assignor of any of the terms and provisions hereof shall not be deemed a waiver of any of the terms and provisions hereof, and Assignee may thereafter insist upon strict performance.

(13) Headings. The headings of the sections of this Assignment are for convenience of reference only, are not to be considered a part hereof and shall not limit or expand or otherwise affect any of the terms hereof.

(14) Severability. If any term, clause, or provision hereof shall be adjudged to be invalid or unenforceable, the validity or enforceability of the remainder shall not be affected thereby and each such term, clause, and provision shall be valid and enforceable to the fullest extent permitted by law.

(15) Jurisdiction. AT LENDER'S ELECTION, TO BE ENTERED IN ITS SOLE DISCRETION, ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST BORROWER OR LENDER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS SHALL BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN NEW YORK, AND BORROWER WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

[This space intentionally left blank]

UNOFFICIAL COPY

IN WITNESS WHEREOF, the Collateral Assignment of Leases and Rents has been duly signed, sealed, and acknowledged and delivered August 15, 2019

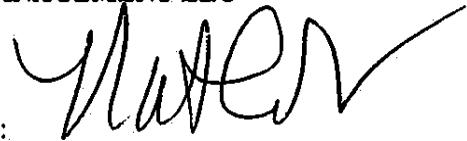
ASSIGNOR HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A TRUE COPY OF THIS ASSIGNMENT WITHOUT CHARGE.

Signed, Sealed, and Delivered in the Presence of:

Name:

Name:

ASSIGNOR:
**BACKHAUS CONSTRUCTION
MANAGEMENT LLC**



By: _____
Name: Nathaniel C. Backhaus
Title: Manager

By: _____
Name: Andrew A. Backhaus
Title: Manager

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, the Collateral Assignment of Leases and Rents has been duly signed, sealed, and acknowledged and delivered August 15, 2019

ASSIGNOR HEREBY ACKNOWLEDGES THAT IT HAS RECEIVED A TRUE COPY OF THIS ASSIGNMENT WITHOUT CHARGE.

Signed, Sealed, and Delivered in the Presence of:

ASSIGNOR:
BACKHAUS CONSTRUCTION
MANAGEMENT LLC

Name: _____

By: _____
Name: Nathaniel C. Backhaus
Title: Manager

Name: _____

By: 
Name: Andrew A. Backhaus
Title: Manager

Property of Cook County Clerk's Office

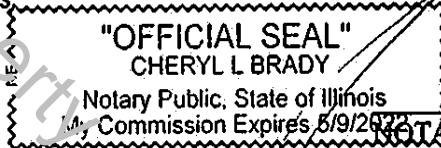
UNOFFICIAL COPY

STATE OF ILLINOIS)
)ss.:
COUNTY OF Cook)

I certify that on August 15 2019, Nathaniel C. Backhaus, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager of BACKHAUS CONSTRUCTION MANAGEMENT LLC (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by its operating agreement and members.



[Handwritten Signature]

STATE OF)
)ss.:
COUNTY OF)

I certify that on August 15 2019, Andrew A. Backhaus, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager of BACKHAUS CONSTRUCTION MANAGEMENT LLC (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by its operating agreement and members.

NOTARY PUBLIC

UNOFFICIAL COPY

STATE OF)
)ss.:
COUNTY OF)

I certify that on August 15 2019, Nathaniel C. Backhaus, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager of BACKHAUS CONSTRUCTION MANAGEMENT LLC (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by its operating agreement and members.

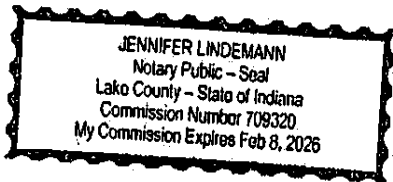
NOTARY PUBLIC

STATE OF IN)
)ss.:
COUNTY OF LAKP)

I certify that on August 15 2019, Andrew A. Backhaus, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager of BACKHAUS CONSTRUCTION MANAGEMENT LLC (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by its operating agreement and members.



Jennifer Lindemann
NOTARY PUBLIC

UNOFFICIAL COPY

SCHEDULE A
PROPERTY DESCRIPTION

LAND DESCRIPTION

Lot 30 in Block 3 in Wichersham's Resubdivision of Blocks 5 and 6 in K. K. Jones Subdivision of the North 1/2 of the SouthWest 1/4 of Section 23, Township 40 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

Property address commonly known as: 3413 North Ridgeway Avenue, Chicago IL 60618

Property of Cook County Clerk's Office

UNOFFICIAL COPY

SCHEDULE B
LEASES

NONE

Property of Cook County Clerk's Office