

# UNOFFICIAL COPY

Doc# 2007155198 Fee: \$98.00  
Edward M. Moody  
Cook County Recorder of Deeds  
Date: 03/11/2020 11:46 AM Pg: 1 of 9

Document Number

Prepared by and Return to:

Michael A. Marx  
Mallery & Zimmerman, S.C.  
731 North Jackson Street  
Suite 900  
Milwaukee, Wisconsin 53202

04-12-112-001

Parcel Identification Number (PIN)

## ASSIGNMENT OF RENTS AND LEASES

**THIS ASSIGNMENT OF RENTS AND LEASES** (this "Assignment") is made as of February 27, 2020, by **MACY HOLDINGS 885 NORTHBROOK LLC**, a Wisconsin limited liability company, has a mailing address of c/o Trike Property Management L.L.C., P.O. Box 11159, Milwaukee, Wisconsin 53211-0159 ("Borrower"), to **JOHNSON BANK**, which has an office at 333 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 ("Lender"; provided that for purposes of any provision contained herein relating to indemnification, cost and expense reimbursement and similar provisions, the term "Lender" shall include any participants with the Lender).

### RECITALS

A. Borrower is the record title owner of the real property described in the attached Exhibit A (the "Property").

B. Borrower has requested a loan from Lender in the original principal amount of Five Million Five Hundred Twelve Thousand Dollars (\$5,512,000.00) (the "Loan") pursuant to the terms of that certain Loan Agreement dated as of the same date as this Assignment between Borrower and Lender (as may be amended, modified, restated, replaced or supplemented from time to time, the "Loan Agreement").

C. Lender, as a condition of making the Loan, has required that Borrower, in addition to executing its note for the principal amount of the Loan (the "Note") and executing and delivering its mortgage of the Property in favor of Lender (the "Mortgage"), execute and deliver an assignment of rents and leases as additional collateral for the repayment of the Note.

### AGREEMENTS

**NOW, THEREFORE**, to better secure all debts, obligations and liabilities of Borrower to Lender arising out of credit previously granted, contemporaneously granted and granted in the

# UNOFFICIAL COPY

future by Lender to Borrower, including, without limitation, the obligations of Borrower under the terms and conditions of the Loan Agreement, the Note, the Mortgage and all other Loan Documents (as defined in the Loan Agreement) and all other obligations secured by the Mortgage, Borrower hereby absolutely and unconditionally assigns to Lender, its successors and assigns, Borrower's interest in all the rents, issues and profits due and to become due from the Property, together with all leases, agreements, guaranties of leases and agreements, service contracts, and insurance policies affecting the Property now or hereinafter existing (the "Assigned Assets"). This Assignment shall be effective upon execution, and Lender's interest in the rents and leases assigned shall be perfected as of the date of recording of this Assignment. As an additional nonexclusive means of perfection of Lender's interest, Lender's interest shall be perfected at the time Lender mails notice to Borrower or any tenant pursuant to this Assignment, advising that person that Lender is exercising its rights under this Assignment, unless perfection occurs, or is deemed to occur, prior to such notice.

Borrower further agrees as follows:

1. Rights of Borrower in Absence of Default. Prior to the occurrence of an Event of Default (as defined in the Loan Agreement), Borrower shall have the right to collect the rents, income and profits from the leases and to retain, use and enjoy the same; provided, however, that even before an Event of Default occurs no more than one month's advance rent shall be collected or accepted without the prior written consent of Lender.

2. Rights of Lender Upon Default. Upon the occurrence of a default under this Assignment or an Event of Default (as defined in the Loan Agreement):

(a) Lender may, at its option, without notice to or demand on Borrower, do any or all of the following:

(1) Enter and take possession of the Property.

(2) Demand, collect and receive from the tenants, lessees or other occupants now or at any time hereafter in possession of the Property or any part thereof, rents due or to become due; endorse the name of Borrower or any subsequent owner of the Property on any check, note or other instrument for the payment of money; and deposit the same in demand accounts; institute, prosecute, settle or compromise any summary or legal proceeding for the recovery of rents or profits pertaining to the Property; recover the whole or any part of the Property; institute, prosecute, settle or compromise any other proceeding for the protection of the Property, the recovery of any damages done to the Property, or the abatement of any nuisance thereon; and defend any legal proceedings brought against Borrower or against owners arising out of the operation of the Property.

(3) Lease or rent the Property, or any part thereof; employ an agent to rent and manage the Property; make any change or improvement it deems reasonably necessary or expedient for leasing or renting of the Property; keep and maintain the Property in a tenantable and rentable condition, as well as in a good state of repair; purchase all equipment or supplies reasonably necessary or desirable in the operation and maintenance of the Property; pay for all

# UNOFFICIAL COPY

fuel, electricity, power, painting, repairs, wages of employees, and other items for the maintenance of the Property; pay interest or principal on any prior mortgages on the Property now due or to become due; pay any taxes, assessments, water or sewage charges, and meter charges now due and unpaid, or which may hereinafter become due and constitute a charge or lien against the Property; pay the principal and/or the interest of the Note and Mortgage, now due or hereafter to become due; pay the premiums on all policies of insurance now or hereinafter effected by Borrower; comply with the orders of any governmental body or entity having jurisdiction against the Property; remove any mechanic's lien, security interest or other lien against the Property; and, in general, pay all charges and expenses incurred in the management and operation of the Property.

(b) Lender may pay the cost of all the matters provided for under this Section 2 out of the rents or revenues received from the Property. Any payments advanced by Lender under any of the provisions of this Assignment, including expenses and attorneys' fees, shall be charged to Borrower, and shall for all purposes be deemed secured hereby and be payable to Lender out of the rents of the Property.

(c) Notwithstanding any other provision of this Assignment, Borrower hereby assigns to Lender: (1) any award made hereafter to it in any court proceeding involving any of the lessees in any bankruptcy, insolvency or reorganization proceeding in any state or federal court; and (2) any and all payments made by lessees in lieu of rent. Borrower irrevocably appoints Lender as its attorney in fact to appear in any action and/or to collect any such award or payment.

### 3. Obligations of Lender.

(a) Lender shall in no way be liable for any act done or anything omitted by it but shall be liable to account for all monies that it may receive hereunder. Nothing in this Assignment shall be construed to: (1) prejudice Lender's right to institute or prosecute any proceeding to foreclose the Mortgage or to enforce any lien on any other collateral which Lender may have; or (2) prejudice any right which Lender may have by reason of any present or future default under the terms of the Loan Agreement, the Note, the Mortgage or any other Loan Documents.

(b) Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Borrower under any lease or Assigned Asset. Borrower hereby agrees to indemnify Lender for, and to save Lender harmless from, any and all liability arising from any Assigned Asset or from any act or omission under this Assignment. This Assignment shall not place responsibility for the control, care, management or repair of the Property upon Lender, or make Lender responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in damage, loss, injury or death to any property, tenant, lessee, employee, agent, invitee, licensee, or stranger except for Lender's willful misconduct.

(c) Lender shall not be responsible or liable for any misuse of or failure to account for any rents collected by any agent, employee or representative of Borrower.

# UNOFFICIAL COPY

(d) Lender shall not be obligated to borrow or advance funds for any debt or obligation incurred in connection with the Property.

(e) Lender may (but shall not be obligated to) turn over to Borrower any surplus which Lender may have after paying all expenses in connection with the operation and maintenance of the Property and after setting up a necessary reserve for contingencies and emergencies and for the payment, upon the due date, of fixed charges against the Property, including real estate taxes and assessments. Turning over any surplus to Borrower shall not obligate Lender to turn over such surplus in the future.

4. Modification of Leases. Borrower will not, without the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed:

(a) Cancel, modify, terminate or surrender any lease now existing in respect to any portion of the Property;

(b) Reduce any rents, or change, modify or waive any provision of any existing lease;

(c) Exercise any option which might lead to a termination or change of any lease;

(d) Consent to the release of any party liable under any lease or to the assignment of the lessee's interest under any lease; or

(e) Enter into or renew a lease for any portion of the Property, except as specifically contemplated in the Assigned Assets.

5. Authorization to Give Notice. Borrower authorizes Lender to give notice of this Assignment in writing at any time to any tenant under any of the leases covered by this Assignment.

6. Default.

(a) Borrower's violation of any covenant, representation or other provision of this Assignment shall be deemed a default under the terms of the Loan Agreement, the Note and the Mortgage.

(b) Borrower's default under the terms of any of the leases or other Assigned Assets, beyond any applicable notice and cure period, shall be deemed an Event of Default under the terms of the Loan Agreement, the Note and the Mortgage. Borrower agrees that it will perform and comply with all agreements, covenants, terms and conditions imposed upon or assumed by it under the Assigned Assets, and that if Borrower fails to perform or comply, Lender may (but shall not be obligated to) take any action it deems necessary or desirable to prevent or cure such failure. Borrower further agrees that Lender may take any such action even

# UNOFFICIAL COPY

though the existence of such default or the nature thereof may be questioned or denied by Borrower or by any party on behalf of Borrower. Borrower grants to Lender the right to enter in and upon the Property to such an extent and as often as Lender in its sole discretion deems necessary or desirable in order to prevent or cure any such default by Borrower. Lender may pay and expend such sums of money as it in its sole discretion deems necessary for any such purpose, and Borrower agrees to pay to Lender, immediately and upon demand, all such sums so paid and expended by Lender, together with interest thereon from the date of each such payment at the default rate of interest set forth in the Note. All sums so paid and expended by Lender and the interest thereon shall be added to and shall become a part of the debt secured by this Assignment and the lien of the Mortgage.

(c) A default under the Loan Agreement, the Note, the Mortgage or any of the other Loan Documents shall constitute a default under this Assignment.

7. Further Assignment Permitted. Lender may assign all of its right, title and interest in and to this Assignment to any person or entity to whom the Note and Mortgage are assigned, in such a manner as to provide that assignee all the rights and privileges afforded to Lender by this Assignment to the same extent as if that assignee were originally the Lender.

8. Authority to Assign. Borrower covenants and represents that Borrower has full right and title to assign the Assigned Assets and the rent, income and profits due or to become due thereunder, and that no other assignment of any interest therein has been or will be made.

9. Void Upon Full Performance. The full performance of the Loan Agreement, the Note and the Mortgage and the duly recorded release or satisfaction of the Mortgage shall render this Assignment void.

10. Benefit of This Assignment. This Assignment shall inure to the benefit of and bind Borrower and Lender and their respective successors and assigns, as well as any subsequent owner of the Property and any assignee of the Note and Mortgage.

11. Confirmation of Assignment. At the request of Lender, Borrower will execute confirmation of the assignment of any future leases, agreements, service contracts and insurance policies affecting any part of the Property. Upon request of Lender, any existing management, vending or other service contract shall be unconditionally subordinated to the Mortgage, and Borrower shall deliver to Lender a written, fully executed subordination agreement in a form acceptable to Lender.

12. Governing Law. This Assignment shall be construed and enforced in accordance with the laws of the State of Wisconsin, except that the creation of this Assignment, and the rights and remedies of Lender with respect to the Property, as provided in this Assignment and by the laws of the state in which the Property is located, shall be governed by the laws of the state in which the Property is located.

[Signatures on the following page.]


# UNOFFICIAL COPY

## SIGNATURE PAGE TO ASSIGNMENT OF RENTS AND LEASES

Borrower has executed this Assignment as of the day and year first written above.

### BORROWER:

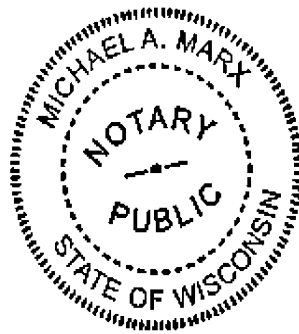
MACY HOLDINGS 885 NORTHBROOK LLC


By:   
Michael A. Askotzky, Manager

### ACKNOWLEDGEMENT

STATE OF WISCONSIN     )  
  ) SS  
COUNTY OF MILWAUKEE    )

This instrument was acknowledged before me on February 26, 2020, by Michael A. Askotzky, as Manager of Macy Holdings 885 Northbrook LLC.



  
Michael A. Marx  
Notary Public, State of Wisconsin  
My commission is permanent.

Drafted by:  
Michael A. Marx  
Mallery & Zimmerman, S.C.  
731 North Jackson Street, Suite 900  
Milwaukee, Wisconsin 53202

# UNOFFICIAL COPY

## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1

LOT 1 OF OWNER'S CONSOLIDATION OF PART OF THE LOTS AND BLOCKS IN HUGHES-BROWNMOORE CORPORATION'S SECOND ADDITION AND HUGHES-BROWN-MOORE CORPORATION'S THIRD ADDITION IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 12, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH PART OF THE VACATED STREETS LYING BETWEEN AND ADJOINING SAID LOTS AND BLOCKS AND PART OF SAID NORTHWEST QUARTER OF THE NORTHWEST QUARTER LYING NORTH OF SAID HUGHES-BROWN-MOORE CORPORATION'S SECOND ADDITION, ALL LYING SOUTHERLY AND WESTERLY OF THE EDENS EXPRESSWAY, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2

EASEMENT FOR INGRESS AND EGRESS OVER THE PROPERTY SET FORTH IN INSTRUMENT RECORDED AS DOCUMENT NO. 85-341184 FOR THE BENEFIT OF PARCEL 1.

#### PARCEL 3

EASEMENT FOR PARKING AND INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 AS CREATED IN INSTRUMENT RECORDED AS DOCUMENT NO. 95364680 OVER THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF LOT 1 IN EVELYN MICHELS' CONSOLIDATION IN SECTIONS 11 AND 12, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON JUNE 5, 1995 AS DOCUMENT NO. 95363638, DESCRIBED AS FOLLOWS:

BEGINNING AT THAT CERTAIN CORNER OF LOT 1 DEFINED BY THE INTERSECTION OF THOSE TWO SIDES OF SAID LOT WHICH ARE 55.02 FEET AND 33.00 FEET IN LENGTH; THENCE SOUTHWARD ALONG AN EXTENSION OF THE AFOREMENTIONED SIDE 55.02 FEET IN LENGTH, A DISTANCE OF 76.35 FEET TO AN INTERSECTION WITH THE EASTWARD EXTENSION OF A LINE DRAWN PARALLEL WITH AND 20.00 FEET SOUTHERLY FROM THAT CERTAIN SIDE OF LOT 1 WHICH IS 208.52 FEET IN LENGTH; THENCE WESTWARD AT RIGHT ANGLES TO THE LAST DESCRIBED LINE ALONG SAID EASTWARD EXTENSION AND ALONG SAID PARALLEL LINE, A DISTANCE OF 236.27 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF AN EASEMENT FOR INGRESS AND EGRESS RECORDED DECEMBER 12, 1985 AS DOCUMENT NO. 85-341184; THENCE NORTHEASTWARDLY

# UNOFFICIAL COPY

ALONG SAID EASTERLY LINE A DISTANCE OF 22.15 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED LINE 208.52 FEET IN LENGTH, SAID INTERSECTION BEING 34.59 FEET EASTERLY OF THE WESTERLY TERMINUS OF SAID LINE; THENCE EASTWARD ALONG SAID LINE A DISTANCE OF 173.93 FEET TO THE EASTERLY TERMINUS THEREOF; THENCE EASTWARD, NORTHEASTWARD AND NORTHWARD ALONG AN EXTERIOR LINE OF LOT 1 BEING HERE A CURVED LINE, TANGENT TO THE LAST DESCRIBED LINE, CONVEXED SOUTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET, A DISTANCE OF 31.33 FEET TO THE NORTHERLY TERMINUS OF SAID LINE; THENCE NORTHWARD ALONG AN EXTERIOR LINE OF LOT 1, TANGENT TO THE LAST DESCRIBED CURVED LINE, A DISTANCE OF 36.43 FEET TO THE NORTHERLY TERMINUS OF SAID LINE; THENCE EASTWARD ALONG THE AFOREMENTIONED SIDE 33.00 FEET IN LENGTH TO THE POINT OF BEGINNING.

## PARCEL 4

EASEMENT FOR SIGN AS CREATED IN DOCUMENT RECORDED AS DOCUMENT 95364681 FOR THE BENEFIT OF PARCEL 1 OVER THE FOLLOWING DESCRIBED PROPERTY: THAT PART OF LOT 1 IN EVELYN MICHELS' CONSOLIDATION IN SECTIONS 11 AND 12, TOWNSHIP 42, NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS, ON JUNE 5, 1995 AS DOCUMENT 95363638, DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST WESTERLY CORNER OF LOT 1 IN EVELYN MICHELS' CONSOLIDATION AFORESAID; THENCE NORTHEASTWARDLY ALONG A WESTERLY LINE OF SAID LOT, A DISTANCE OF 101.54 FEET; THENCE SOUTHWARDLY ALONG A LINE FORMING AN ANGLE OF 19 DEGREES 10 MINUTES 44 SECONDS WITH THE LAST DESCRIBED LINE, AS MEASURED COUNTER-CLOCKWISE FROM SOUTHWARDLY TO SOUTHWARDLY, A DISTANCE OF 133.15 FEET TO A POINT ON A WESTERLY LINE OF LOT 1 AFORESAID; THENCE NORTHWESTWARDLY ON SAID WESTERLY LINE, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; AND AN ELECTRIC EASEMENT CREATED BY THE SAME INSTRUMENT OVER THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND IN LOT 1 IN EVELYN MICHELS' CONSOLIDATION IN SECTIONS 11 AND 12, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS ON JUNE 5, 1995 AS DOCUMENT NO. 95363638 WHICH STRIP OF LAND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 1 IN EVELYN MICHELS' CONSOLIDATION AFORESAID; THENCE NORTHEASTWARDLY ALONG A WESTERLY LINE OF SAID LOT, A DISTANCE OF 101.54 FEET TO THE POINT OF BEGINNING; THENCE NORTHEASTWARDLY ALONG A WESTERLY LINE OF LOT 1, A DISTANCE OF 102.00 FEET TO AN ANGLE POINT IN SAID LINE; THENCE NORTHWESTWARDLY ALONG A WESTERLY LINE OF LOT 1, A DISTANCE OF 48.00 FEET TO AN ANGLE POINT IN SAID LINE; THENCE NORTHWARD ALONG A WEST LINE OF LOT 1 A DISTANCE OF 65.80 FEET TO THE NORTHWEST CORNER OF SAID



# UNOFFICIAL COPY

LOT; THENCE EASTWARD ALONG A NORTH LINE OF SAID LOT, A DISTANCE OF 10.00 FEET; THENCE SOUTHWARD ALONG A LINE DRAWN PARALLEL WITH AND 10.00 FEET EAST FROM THE AFOREMENTIONED LINE 65.80 FEET IN LENGTH, A DISTANCE OF 59.46 FEET TO AN INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 10.00 FEET NORTHEASTERLY FROM THE AFOREMENTIONED LINE 48.00 FEET IN LENGTH; THENCE SOUTHEASTWARDLY ALONG THE LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 51.65 FEET TO AN INTERSECTION WITH THE NORTHWARD EXTENSION OF A LINE DRAWN PARALLEL WITH AND 10.00 FEET EASTERLY FROM THE AFOREMENTIONED LINE 102.00 FEET IN LENGTH; THENCE SOUTHWARDLY ALONG THE LAST DESCRIBED PARALLEL LINE AND THE SOUTHWARD EXTENSION THEREOF, A DISTANCE OF 170.36 FEET TO A POINT ON A WESTERLY LINE OF THAT PART OF SUNSET RIDGE ROAD VACATED BY DOCUMENT NO. 85-125294 RECORDED JULY 30, 1985; THENCE NORTHEASTWARDLY ALONG SAID WESTERLY LINE A DISTANCE OF 59.21 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

property address: 885 Sunset Ridge Rd.  
Northbrook, IL 60062