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KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/15/2020 02:56 PM PG: 1 OF 11

## ASSIGNMENT OF LEASES AND RENTS

by and between

**WBA PORTFOLIO OWNER FUND V GALAXY LLC** a Delaware limited liability company, as Assignor

and

**BBVA USA**, an Alabama banking corporation as Administrative Agent and Assignee

Dated: October 21, 2020

**RECORD AND RETURN TO:**

Akerman LLP  
71 South Wacker Drive, 47<sup>th</sup> Floor  
Chicago, Illinois 60606  
Attention: Joel V. Sestito, Esq.

When Recorded Return To: Kim McBride  
First American Title Insurance Company  
National Commercial Services  
30 N LaSalle St., Suite 2700 1480 Birdie Way  
Chicago, IL 60602  
File No: NCS 101551-24 Chesterton, IN 46304

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INT A

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## ASSIGNMENT OF LEASES AND RENTS

**THIS ASSIGNMENT OF LEASES AND RENTS** (as it may be from time to time amended, modified, renewed, extended, substituted, and/or supplemented, this "Assignment"), is made this 21<sup>st</sup> day of October, 2020, by and between **WBA PORTFOLIO OWNER FUND V GALAXY LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, having an office at 125 South Wacker Drive, Suite 1220, Chicago, Illinois 60606 ("Assignor"), and **BBVA USA**, an Alabama banking corporation, as Administrative Agent for the Lenders, having an office at 311 South Wacker Drive, Suite 2590, Chicago, Illinois 60606, its successors and assigns ("Assignee").

### WITNESSETH:

**WHEREAS**, Assignor is the owner of fee simple title to that certain parcel of real property described in Exhibit A attached hereto, together with the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and other improvements now or hereafter located thereon (collectively, the "Premises");

**WHEREAS**, Assignee, as Administrative Agent and a Lender, and certain other Lenders have agreed to make available to Assignor and to each of the other parties listed on Schedule I attached hereto (individually and/or collectively, as the context may require, "Borrower") a commercial mortgage loan in the original principal amount of Fifty Six Million Nine Hundred Thousand and No/100 Dollars (\$56,900,000.00) (as it may be from time to time amended, modified, extended, substituted, and/or supplemented, the "Loan");

**WHEREAS**, the Loan is evidenced by that certain Loan Agreement dated the date hereof, executed by Borrower in favor of Assignee and certain other Lenders, in the original principal amount of Fifty Six Million Nine Hundred Thousand and No/100 Dollars (\$56,900,000.00) (as it may be from time to time amended, modified, extended, renewed, substituted, and/or supplemented, the "Loan Agreement");

**WHEREAS**, Borrower has executed Notes in such principal amounts, which are secured by, *inter alia*, the Security Instruments (as defined in the Loan Agreement) on the Premises and such other property defined therein;

**WHEREAS**, it is a condition to the obligation of the Lenders to make the Loan to Assignor pursuant to the Loan Agreement that Assignor execute and deliver this Assignment;

**WHEREAS**, this Assignment is being given as additional security for the Loan;  
and

**WHEREAS**, capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

**NOW, THEREFORE**, for good and valuable consideration, receipt of which the parties hereto acknowledge, and additionally for the purpose of additionally securing the Obligations, Assignor hereby assigns, transfers, conveys and sets over unto Assignee, all right, title and interest of Assignor in and to the following:

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all leases and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises, including any extensions, renewals, modifications or amendments thereof (hereinafter collectively referred to as the "Leases") and all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a bankruptcy proceeding or in lieu of rent or rent equivalents), royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, proceeds of rental and business interruption insurance, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Assignor or its agents or employees from any and all sources arising from or attributable to the Premises, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Premises, or rendering of services by Assignor or any of its agents or employees, and proceeds, if any, from business interruption or other loss of income insurance (hereinafter collectively referred to as the "Rents"), together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Obligations;

**TO HAVE AND TO HOLD** the same unto Assignee, and its successors and assigns forever, upon the terms and conditions and for the uses hereinafter set forth.

1. **Representations, Warranties and Covenants.** Assignor represents, warrants and covenants to Assignee and the Lender that:

(a) Except as permitted under the Loan Agreement, the payment of the Rents to accrue under any Leases will not be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor;

(b) 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; and

(c) Assignor hereby authorizes and directs any tenant under any of the Leases and any successor to all or any part of the interests of any such tenant to pay directly to the Clearing Account, in accordance with the terms of the Loan Agreement, the Rents due and to become due under such tenant's Lease, and such authorization and direction shall be sufficient warrant to the tenant to make future payments of Rents directly to the Clearing Account in accordance with the terms of the Loan Agreement without the necessity for further consent by Assignor.

2. **Assignment; Deferred Exercise of Rights.**

(a) As part of the consideration for the Obligations, Assignor does hereby absolutely and unconditionally assign to Assignee all right, title and interest of Assignor in and to all present and future Leases and Rents, and this Assignment constitutes a present and

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absolute assignment and is intended to be unconditional and not as an assignment for additional security only. It is further intended that it not be necessary for Assignee to institute legal proceedings, absent any requirements of law or regulation to the contrary, to enforce the provisions hereof. Assignor hereby authorizes Assignee or its agents to collect the Rents; provided, however, that except during the continuance of an Event of Default, and subject at all times to the requirement that payments and deposits of Rents be made directly to the Clearing Account, Assignor shall have a revocable license, but limited as provided in this Assignment and in any of the other Loan Documents, to otherwise deal with, and enjoy the rights of the lessor under, the Leases.

(b) Upon the occurrence and during the continuance of an Event of Default, and without the necessity of Assignee entering upon and taking and maintaining full control of the Premises in person, by agent or by court-appointed receiver, the license referred to in Paragraph (a) above shall immediately be revoked and Assignee shall have the right at its option, to exercise all rights and remedies contained in the Loan Documents, or otherwise available at law or in equity.

3. **Rents Held in Trust by Assignor.** Rents held or received by Assignor shall be held or received by Assignor as trustee for the benefit of Assignee only and shall immediately be deposited directly to the Clearing Account in accordance with the terms of the Loan Agreement.

4. **Effect on Rights Under Other Documents.** Nothing contained in this Assignment and no act done or omitted by Assignee and/or the Lenders pursuant to the powers and rights granted them hereunder shall be deemed to be a waiver by Assignee and/or the Lenders of their rights and remedies under any of the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee and/or the Lenders under the terms of the other Loan Documents. The rights of Assignee and/or the Lenders under the other Loan Documents may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents or grant of a security interest contained in any of the other Loan Documents.

5. **Event of Default.** Upon the occurrence and during the continuance of an Event of Default, then in addition to and without limiting any of Assignee's and/or the Lenders' rights and remedies hereunder and under the other Loan Documents and as otherwise available at law or in equity:

(a) Assignee may, at its option, without waiving such Event of Default and without regard to the adequacy of the security for the Obligations, either in person or by agent, without bringing any action or proceeding, or by a receiver appointed by a court, without taking possession of the Premises in its own name, demand, sue for or otherwise collect and receive all Rents, including those past-due and unpaid, for application to the payment of the Obligations in accordance with the terms of the Loan Documents, and Assignee may enter into, and to the extent that Assignor would have the right to do so, cancel, enforce or modify any Lease. The exercise by Assignee of the option granted it in this Section 5 and the collection of

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the Rents and the application thereof as herein provided shall not be considered a waiver of any Event of Default.

(b) Assignor hereby acknowledges and agrees that payment of any item of Rent by a Person to Assignee as hereinabove provided shall constitute payment in full of such item of Rent by such Person, as fully and with the same effect as if it had been paid to Assignor.

(c) Assignee in respect of the Leases and the Rents shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the State in which such rights and remedies are asserted as described in Section 12(b) below to the extent of such rights thereunder and additional rights and remedies to which a secured party is entitled under the laws in effect in any jurisdiction where any rights and remedies hereunder may be asserted.

6. **Application of Rents.** After the occurrence and during the continuance of an Event of Default, Rents received or held by Assignor or Assignee shall be applied in accordance with the terms of the Loan Documents.

7. **Attorney-in-Fact.** Upon the occurrence and during the continuance of an Event of Default, Assignor hereby appoints Assignee the attorney-in-fact of Assignor to take any action and execute any instruments that Assignor is obligated, or has covenanted and agreed under the Loan Agreement or the other Loan Documents to take or execute, which appointment as attorney-in-fact is irrevocable and coupled with an interest. Without limiting the generality of the foregoing provisions of this Section 7, upon the occurrence and during the continuance of an Event of Default, Assignor does hereby irrevocably appoint Assignee as its attorney-in-fact with full power, in the name and stead of Assignor to demand, collect, receive and give complete acquittance for any and all of the Rents now due or that may hereafter become due, and at Assignee's discretion, to file any claim, to take any other action, to institute any proceeding or to make any settlement of any claim, either in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of Rents.

8. **Termination.** Assignee, by the acceptance of this Assignment, agrees that when all of the Obligations shall have been indefeasibly paid in full, this Assignment shall terminate, and Assignee shall execute and deliver to Assignor, upon such termination such instruments of termination or re-assignment and Uniform Commercial Code termination statements, all without recourse and without any representation or warranty whatsoever, as shall be reasonably requested by Assignor.

9. **Expenses.** Assignor agrees to pay to Assignee all reasonable out-of-pocket expenses (including reasonable out-of-pocket expenses for attorneys' fees and costs of every kind) of, or incident to, the enforcement of any of the provisions of this Assignment or performance by Assignee and the Lenders of any obligation of Assignor hereunder which Assignor has failed or refused to perform.

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10. **Further Assurances.** Assignor agrees that, from time to time upon the written request of Assignee, it will give, execute, deliver, file and/or record any financing statements, notice, instrument, document, agreement or other papers and do such other acts and things that may be reasonably necessary and desirable to create, preserve, perfect or validate this Assignment, to enable Assignee to exercise and enforce its rights hereunder with respect to this Assignment or to otherwise carry out the purposes and intent of this Assignment.

11. **No Obligation of Assignee.** By virtue of this Assignment, Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases. This Assignment shall not operate to constitute Assignee as a lender in possession of the Premises or to place responsibility for the control, care, management or repair of the Premises upon Assignee or the Lenders, nor shall it operate to make Assignee or the Lenders responsible or liable for any waste committed on the Premises by any tenant or other party in possession or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control thereof.

12. **Miscellaneous.**

(a) No failure on the part of Assignee or any of its agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by Assignee or any of its agents of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

(b) **THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIEN OF THIS ASSIGNMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS SUBJECT TO THE FOREGOING, IN ALL OTHER RESPECTS, THIS ASSIGNMENT SHALL BE GOVERNED BY THE SUBSTANTIVE LAWS OF THE STATE OF ILLINOIS (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF THAT WOULD APPLY THE LAWS OF ANOTHER JURISDICTION).**

(c) **ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST ASSIGNOR OR ASSIGNEE ARISING OUT OF OR RELATING TO THIS ASSIGNMENT MAY, AT ASSIGNEE'S OPTION, BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE STATE OF ILLINOIS, AND ASSIGNOR HEREBY WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND ASSIGNOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.**

(d) All rights and remedies set forth in this Assignment are cumulative, and Assignee may recover judgment thereon, issue execution therefor, and resort to every other right, power or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right, power or remedy afforded hereby; and no such right, power or remedy set forth in this Assignment shall be deemed exclusive of any of



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the remedies or rights granted to Assignee and/or the Lenders in any of the Loan Documents. Nothing contained in this Assignment shall be deemed to limit or restrict the rights and remedies of Assignee and/or the Lenders under the Loan Agreement or any of the other Loan Documents.

13. **No Oral Change.** This Assignment may not be amended except by an instrument in writing signed by Assignor and Assignee.

14. **Successors and Assigns.** Assignor may not assign its rights under this Assignment except as permitted under the Loan Agreement. Subject to the foregoing, this Assignment shall be binding upon, and shall inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

15. **Notices.** All notices, requests and other communications provided for herein shall be given or made in writing in the manner specified in the Loan Agreement.

16. **Credit Support Document.** This Assignment is intended to act (i) as a "Credit Support Document" (as such term is defined in any Lender Hedging Contract), with respect to the Assignor and is hereby made a part of the "Schedule" (as such term is defined in any Lender Hedging Contract) of any Lender Hedging Contract entered into by the Assignor in connection with the Loan Agreement, which Lender Hedging Contract shall include the Schedules thereto and all "Confirmations" (as such term is defined in the Lender Hedging Contract) exchanged between the parties confirming transactions thereunder, and (ii) as a "transfer" under a swap agreement made by or to a swap participant, in connection with a swap agreement, within the meaning of Section 546(g) of the Federal Bankruptcy Code, as amended and modified from time to time.

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, this Assignment has been executed by Assignor as of the day and year first above written.

**ASSIGNOR:**

**WBA PORTEOLIO OWNER FUND V GALAXY LLC**, a Delaware limited liability company

By: \_\_\_\_\_

Name: James Hennessey

Title: Authorized Signatory

**STATE OF ILLINOIS:**

: ss.

**COUNTY OF COOK:**

15 The foregoing instrument was acknowledged before me in the jurisdiction aforesaid, this day of October, 2020, by James Hennessey, as Authorized Signatory of, WBA PORTFOLIO OWNER FUND V GALAXY LLC a Delaware limited liability company, on behalf of such companies. Such person is personally known to me or produced a state issued driver's license as identification.

Notary Public

My commission expires: 02/10/2024

Notary Registration No.: 908267

[NOTARY SEAL]





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## EXHIBIT A

**ATTACHED TO AND MADE A PART OF THAT CERTAIN ASSIGNMENT OF LEASES AND RENTS BY WBA PORTFOLIO OWNER FUND V GALAXY LLC A DELAWARE LIMITED LIABILITY COMPANY, AS ASSIGNOR, IN FAVOR OF BBVA USA, AN ALABAMA BANKING CORPORATION, AS ADMINISTRATIVE AGENT AND ASSIGNEE, DATED AS OF OCTOBER 21, 2020, AS AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME.**

Real property in the City of Hillside, County of Cook, State of Illinois, described as follows:

PARCEL 1: LOT 1 IN BGP HILLSIDE SUBDIVISION BEING A PART OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS PURSUANT TO PLAT THEREOF RECORDED AUGUST 23, 2000 AS DOCUMENT 00651765.

PARCEL 2: EASEMENT FOR INGRESS, EGRESS AND PARKING FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS MADE BY BGP HILLSIDE, L.L.C. DATED DECEMBER 26, 2000 AND RECORDED JANUARY 10, 2001 AS DOCUMENT NUMBER 0010023949, AS AFFECTED BY AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED JULY 12, 2001 AS DOCUMENT NO. 0010616870 AND AS GRANTED IN THE PLAT OF BGP HILLSIDE SUBDIVISION, RECORDED AUGUST 23, 2000 AS DOCUMENT NO. 00651765 AFORESAID.

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2151 South Wolf Road  
Hillside, Illinois, Store No. 6046

## Legal Description

Real property in the City of Hillside, County of Cook, State of Illinois, described as follows:

PARCEL 1: LOT 1 IN BGP HILLSIDE SUBDIVISION BEING A PART OF THE SOUTHWEST 1/4 OF SECTION 20, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS PURSUANT TO PLAT THEREOF RECORDED AUGUST 23, 2000 AS DOCUMENT 00651765.

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Address: 2151 South Wolf Road, Hillside, Illinois

Tax Parcel Number: 15-20-300-044-0000 Vol. 169

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## SCHEDULE 1

1. WBA Portfolio Owner Fund V Galaxy LLC, a Delaware limited liability company
2. WBMIFL001 LLC, a Delaware limited liability company
3. WBPLTX001 LLC, a Delaware limited liability company
4. WBSATX001 LLC, a Delaware limited liability company
5. WFKITX001 LLC, a Delaware limited liability company
6. WBSAFL001 LLC, a Delaware limited liability company
7. WBNAFL001 LLC, a Delaware limited liability company
8. WBA Project Venus Fund V LLC, a Delaware limited liability company