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Doc#: 2133607053 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 12/02/2021 06:23 AM Pg: 1 of 9

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

Michael R. Brancheau
Higgins & Brancheau LLC
200 West Adams Street, Suite 2220
Chicago, Illinois 60606

Permanent Real Estate Tax Index No.:
See Exhibit A attached hereto

Address:
See Exhibit A attached hereto

This space reserved for Recorder's use only

LEASEHOLD ASSIGNMENT OF LEASES AND RENTS

THIS LEASEHOLD ASSIGNMENT OF LEASES AND RENTS dated as of November 30, 2021 ("**Leasehold Assignment**") is executed by **1419 S. WABASH DEVELOPMENT CORPORATION**, a Delaware corporation ("**Assignor**"), to and for the benefit of **LAKESIDE BANK**, its successors and assigns ("**Assignee**").

RECITALS

A. Pursuant to the terms and conditions of that certain Loan Agreement of even date herewith ("**Loan Agreement**") among Assignor, 1415 Borrower, and Assignee, Assignee has extended to Assignor a loan in the principal amount of Nineteen Million and No/100 Dollars (\$19,000,000.00) ("**Loan**").

B. The Loan is evidenced by that certain Promissory Note ("**Note**") in the principal amount of the Loan, made of even date herewith by Assignor and made payable to the order of and delivered to Assignee.

C. The Note is secured by, *inter alia*, that certain Leasehold Mortgage and Security Agreement ("**Leasehold Mortgage**") of even date herewith executed by Assignor to and for the benefit of Assignee conveying all of Mortgagor's estate, right, title and interest (the "**Leasehold Interest**") as the tenant to that certain Ground Lease dated January 1, 2018 by and between the 1415 Borrower, as landlord, and Mortgagor, as tenant (the "**Ground Lease**"), in connection with the real estate legally described in **Exhibit A** attached hereto and made a part hereof certain real estate ("**Property**"). The Loan Agreement, the Note, the Mortgage, the Leasehold Mortgage, this Leasehold Assignment, and all other documents evidencing or securing the Loan are collectively referred to herein as "**Loan Documents**". All terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

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D. As one of the conditions to make the Loan, Assignee is requiring the execution and delivery of this Leasehold 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:

AGREEMENT:

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 third party to purchase the Leasehold Interest, and other receivables arising out of or from the Leasehold Interest, including without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases, including, without limitation, the Ground Lease (as defined in the Leasehold Mortgage) (each, a "*Lease*", and collectively, "*Leases*"), now or hereafter existing, of all or any part of the Property, together with any other obligations of any tenant or any guarantor of any 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 and fixtures located on the Property. This Leasehold 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 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 Leasehold 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 Leasehold Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) Assignor is owner of the entire Leasehold Interest;

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(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

(d) Assignor has not executed any instrument or performed any act which may prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation.

3. **Covenants of Assignor.** Assignor covenants and agrees that so long as this Leasehold Assignment shall be in effect, Assignor shall not lease any portion of the Leasehold Interest, or sublease any rights to the Property, unless Assignor obtains Assignee's prior written consent to all aspects of such Lease.

4. **Rights Prior to Default.** Unless or until an Event of Default (as defined in Section 5) shall occur, subject to the terms and conditions of the Loan Agreement and the Leasehold Mortgage, 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. 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 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 Leasehold Assignment at any time.

5. **Events of Default.** An "*Event of Default*" shall occur under this Leasehold 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 Leasehold Mortgage; or (b) any other Event of Default described in the Note, the Loan Agreement, the Mortgage, the Leasehold Mortgage or any of the other Loan Documents.

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

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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 Leasehold Interest, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Leasehold Interest and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Leasehold 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 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 Leasehold Assignment.

7. **Application of Proceeds.** All sums collected and received by Assignee out of the rents, issues, income and profits of the Leasehold Interest following the occurrence of any one or more Events of Default shall be applied in accordance with the terms and conditions of the Leasehold Mortgage and the Loan Agreement.

8. **Limitation of Assignee's Liability.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to operate or let the Leasehold Interest or from any other act or omission of Assignee in managing, operating or maintaining the Leasehold Interest 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 thereunder, or any obligation, duty or liability of Assignor under or by reason of this Leasehold 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 Leasehold 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 Leasehold Assignment, or in the defense of any such claim or demand, the amount thereof,

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including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Assignor with interest thereon at the Default Rate and shall be secured by this Leasehold Assignment. This Leasehold Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Leasehold Interest 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 Property by any tenant, occupant or other party, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any guest, tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Leasehold Mortgage, and no exercise by Assignee of any of the rights set forth herein or in the Leasehold Mortgage shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Leasehold Interest, in the absence of the taking of actual possession of the Leasehold Interest by Assignee pursuant to the provisions hereof or of the Leasehold Mortgage. Assignor agrees that it will not assert any claim against Assignee or any other person indemnified under this Leasehold Assignment on any theory of liability for special, indirect, consequential, incidental or punitive damages.

9. **No Waiver.** Nothing contained in this Leasehold 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 Leasehold 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 request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Leasehold Assignment.

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 Leasehold 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 Leasehold 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.

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

14. **Written Modification.** This Leasehold 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 Leasehold Assignment shall 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 and performed all of the other obligations secured hereby and by the other Loan Documents.

16. **Governing Law.** This Leasehold Assignment shall be governed by and construed in accordance with the laws of the state where the Property is located.

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 Leasehold Mortgage.

18. **CONSENT TO JURISDICTION TO INDUCE ASSIGNEE TO ACCEPT THE NOTE, ASSIGNOR IRREVOCABLY AGREES THAT, SUBJECT TO ASSIGNEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS LEASEHOLD ASSIGNMENT WILL BE LITIGATED IN COURTS HAVING SITUS IN COOK COUNTY, ILLINOIS. ASSIGNOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON ASSIGNOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO ASSIGNOR AT THE ADDRESS STATED IN THE LEASEHOLD MORTGAGE AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.**

19. **WAIVER OF TRIAL BY JURY. ASSIGNOR AND ASSIGNEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS LEASEHOLD ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS LEASEHOLD ASSIGNMENT OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS LEASEHOLD ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.**

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[Signatures on the following page]

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EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 20 FEET OF LOT 11 AND ALL OF LOT 12 IN BLOCK 16 IN HERRINGTON'S ADDITION TO CHICAGO IN THE NORTHWEST FRACTIONAL QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Number: 17-22-107-101-0000

Commonly Known As: 1419 S. Wabash, Chicago, Illinois 60605

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