

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Thompson Coburn LLP
10100 Santa Monica Blvd., Suite 500
Los Angeles, CA 90067
Attention: Joshua Mogin
Phone: (310) 282-2520
Email: jmogin@thompsoncoburn.com

IN32AL01

(space above this line for recorder's use only)

ARP HOLDCO LLC, as assignor

(Assignor)

to

MIDFIRST BANK, as assignee

(Lender)

ASSIGNMENT OF LEASES AND RENTS

Dated: As of December 15, 2023

Address: 4501 Valleydale Road
Birmingham, AL 35242

ASSIGNMENT OF LEASES AND RENTS

This Assignment of Leases and Rents (this "**Agreement**") is executed as of December 15, 2023, by **ARP HOLDCO LLC**, a Delaware limited liability company, whose address for notice is 850 Oak Grove Ave., Menlo Park, CA 94025, Attention: Alice Kang Suri ("**Assignor**"), to **MIDFIRST BANK**, a federally chartered savings association, whose address for notice is 501 NW Grand Blvd, Oklahoma City, OK 73118, Attention: Legal Department ("**Lender**").

RECITALS:

A. This Agreement is made in connection with a loan in the principal sum of \$9,630,000.00 (the "**Loan**") made by Lender to Assignor, pursuant to that certain Loan Agreement, dated as of the date hereof between Assignor and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**"), and evidenced by that certain Promissory Note, dated the date hereof, made by Assignor to Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Note**"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

B. The Note is secured by that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Security Instrument**") made by Assignor for the benefit of Lender with respect to the Property (as defined below).

C. Assignor desires to further secure the payment of the Indebtedness and the performance of all of Assignor's Obligations under the Note, the Security Instrument, the Loan Agreement and the other Loan Documents.

D. This Agreement is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Assignor of its obligations thereunder and under the other Loan Documents is secured hereby, and each and every term and provision of the Loan Agreement, the Note and the Security Instrument, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Agreement.

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Agreement:

AGREEMENT:

For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Lender agree as follows:

1. Assignment. Assignor unconditionally assigns to Lender all of Assignor's right, title and interest in and to: (a) all rents, revenues, liquidated damages following defaults under the Leases, issues, profits, income and proceeds due or to become due from tenants of the project located on the real property described on Exhibit A attached to this Agreement (the real property and project, collectively, the "**Property**"),

including rentals and all other payments of any kind under the Leases for using, leasing, licensing, possessing, operating from, rendering in, selling or otherwise enjoying the Property (collectively, the “**Rents**”); (b) all of Assignor’s claims and rights (the “**Bankruptcy Claims**”) to the payment of damages arising from any rejection by a lessee of any Lease under Applicable Bankruptcy Law; and (c) any and all other rights of Assignor in and to the items set forth in subsections (a) through (b) above, and all amendments, modifications, replacements, renewals, proceeds and substitutions thereof. Notwithstanding the foregoing, the assignment contained herein shall not itself reduce the obligations owing to Lender under the Loan Documents unless and until Lender actually receives the Rents, in which event Lender shall apply such Rents to such obligations pursuant to Section 4 below. For purposes of this Agreement, “**Leases**” means all leases, subleases, occupancy agreements, licenses, concessions, rental contracts and other agreements (written or oral) now or hereafter existing relating to the use or occupancy of the Property, together with all guarantees, letters of credit and other credit support, modifications, extensions and renewals thereof (whether before or after the filing by or against Assignor of any petition of relief under Applicable Bankruptcy Law) and all related security and other deposits.

2. Rights of Lender. Lender shall have the right, power and authority, during the continuation of an Event of Default, subject to compliance with the California law to: (a) notify any person that all Rents are to be paid directly to Lender, whether or not Lender has commenced or completed foreclosure or taken possession of the Property; (b) settle, compromise, release, extend the time of payment of, and make allowances, adjustments and discounts of any Rents; (c) enforce payment of Rents, prosecute any action or proceeding, and defend against any claim with respect to Rents; (d) following a Transfer Event, enter upon, take possession of and operate the Property; (e) following a Transfer Event, lease all or any part of the Property; and/or (f) following a Transfer Event, perform any and all obligations of Assignor under the Leases and exercise any and all rights of Assignor therein contained to the full extent of Assignor’s rights and obligations thereunder. At Lender’s request, Assignor shall deliver a copy of this Agreement to each tenant under a Lease and to each manager and managing agent or operator of the Property. Assignor irrevocably directs any tenant, manager, managing agent, or operator of the Property, without any requirement for notice to or consent by Assignor, upon Lender’s compliance under the law to comply with all demands of Lender under this Agreement and to turn over to Lender on demand all Rents which it receives.

3. No Obligation or Liability. Notwithstanding Lender’s rights hereunder, Lender shall not be obligated to perform, and Lender does not undertake to perform, any obligation, duty or liability with respect to the Leases, Rents or Property on account of this Agreement. Prior to any Transfer Event, Lender shall have no responsibility on account of this Agreement for the control, care, maintenance or repair of the Property, for any waste committed on the Property, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property, except to the extent caused by the gross negligence, intentional or willful misconduct, fraud, by Lender. Lender shall not be liable for any loss sustained by Assignor resulting from Lender’s failure to let the Property during an Event of Default Period or from any other act or omission of Lender in managing the Property during an Event of Default Period prior to any Transfer Event (other than for gross negligence, intentional or willful misconduct, or fraud by Lender its employees and agents). Nothing herein contained shall be construed as constituting Lender a “mortgagee in possession” in the absence of the taking of actual possession of the Property by Lender. Neither the acceptance by Lender of this Agreement, nor the granting of any other right, power, privilege or authority in this Agreement, nor the exercise of any of the aforesaid, will at any time thereafter, obligate Lender (a) to appear in or defend any action or proceeding relating to the Leases, the Rents or the remainder of the Property, (b) to take any action hereunder, (c) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability with respect to any Lease, (d)

to assume any obligation or responsibility for any deposits which are not physically delivered to Lender or (e) to assume any obligation or responsibility for any injury or damage to person or property sustained in or about the Property. In the exercise of the powers herein granted Lender, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Assignor, except for gross negligence, intentional or willful misconduct, or fraud by Lender.

4. Right to Apply Rents. At any time during an Event of Default Period, Lender shall have the right, but not the obligation, to use and apply any Rents received by Lender pursuant to the terms hereof in such order and such manner as Lender may determine for:

(a) Enforcement or Defense. The payment of costs and expenses of enforcing or defending the terms of this Agreement or the rights of Lender hereunder, and collecting any Rents;

(b) Loan Payments. Interest, principal or other amounts payable pursuant to (i) the Loan Agreement; (ii) the Note in the original principal amount of \$9,630,000.00; (iii) the Security Instrument; (iv) all other documents and instruments evidencing, governing and securing the loan evidenced by the Note, and (v) any and all modifications, amendments or extensions thereof or replacements or substitutions therefor (the Loan Agreement, the Note, the Security Instrument, such other documents and instruments, and such modifications, amendments, extensions, replacements, and substitutions thereof being herein collectively called the "*Loan Documents*"); and

(c) Operating Expenses. Payment of costs and expenses of the operation and maintenance of the Property, including (i) rentals and other charges payable by Assignor under any ground lease or other agreement affecting the Property; (ii) electricity, telephone, water and other utility costs, taxes, assessments, water charges and sewer rents and other utility and governmental charges levied, assessed or imposed against the Property; (iii) insurance premiums; (iv) costs and expenses with respect to any litigation affecting the Property, the Leases or the Rents; (v) wages and salaries of employees, commissions of agents and reasonable attorneys' fees and expenses; and (vi) all other carrying costs, fees, charges, reserves, and expenses whatsoever relating to the Property.

After the payment of all such costs and expenses and after Lender has established such reserves as it, in its sole and absolute discretion, deems necessary for the proper management of the Property, Lender shall apply all remaining Rents received by it to the reduction of the Loan.

5. No Waiver. The exercise or nonexercise by Lender of the rights granted in this Agreement or the collection and application of Rents by Lender or its agent shall not be a waiver of any default by Assignor under this Agreement or any other Loan Document. No action or failure to act by Lender with respect to any obligations of Assignor under the Loan Documents, or any security or guaranty given for the payment or performance thereof, shall in any manner affect, impair or prejudice any of Lender's rights and privileges under this Agreement, or discharge, release or modify any of Assignor's duties or obligations hereunder.

6. Term. This Agreement shall continue in full force and effect until (a) all amounts due under the Loan Documents are paid in full, and (b) all other obligations of Assignor under the Loan Documents are fully satisfied.

7. Intentionally Omitted.

8. Liability of Lender. Lender shall not in any way be liable to Assignor for any action or inaction of Lender, its employees or agents under this Agreement (other than for gross negligence, intentional or willful misconduct, or fraud by Lender, its employees and agents).

9. Indemnification. Assignor shall indemnify, defend and hold harmless Lender from and against all liability, loss, damage, out-of-pocket cost or expense which it may incur under this Agreement or under any of the Leases, accruing prior to any Transfer Event, including any claim against Lender by reason of any alleged obligation, undertaking, action, or inaction on its part to perform or discharge any terms, covenants or conditions of the Leases or with respect to Rents, and including reasonable attorneys' fees and expenses, **INCLUDING LIABILITY, LOSS, DAMAGE, COST OR EXPENSE ARISING OR ALLEGED TO HAVE ARISEN FROM LENDER'S NEGLIGENCE OR STRICT LIABILITY**, but excluding any claim arising from Lender's gross negligence, intentional or willful misconduct, or fraud. Any amount covered by this indemnity shall be payable on demand, and shall bear interest from the date of demand until the same is paid by Assignor to Lender at a rate equal to the Default Rate.

10. Modification. This Agreement may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of such change is sought.

11. Bankruptcy.

(a) Upon or at any time after the occurrence of a Event of Default, Lender shall have the right to proceed in its own name or in the name of Assignor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Assignor a petition under the Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Assignor shall give Lender not less than ten (10) days' prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject the Lease. Lender shall have the right, but not the obligation, to serve upon Assignor within such ten-day period a notice stating that (i) Lender demands that Assignor assume and assign the Lease to Lender pursuant to Section 365 of the Bankruptcy Code and (ii) Lender covenants to cure or provide adequate assurance of future performance under the Lease. If Lender serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Lender of the covenant provided for in clause (ii) of the preceding sentence.

12. Authority. Assignor represents and warrants that it has full power and authority to execute and deliver this Agreement and the execution and delivery of this Agreement has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Assignor or the Property.

13. Liability. If Assignor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several.

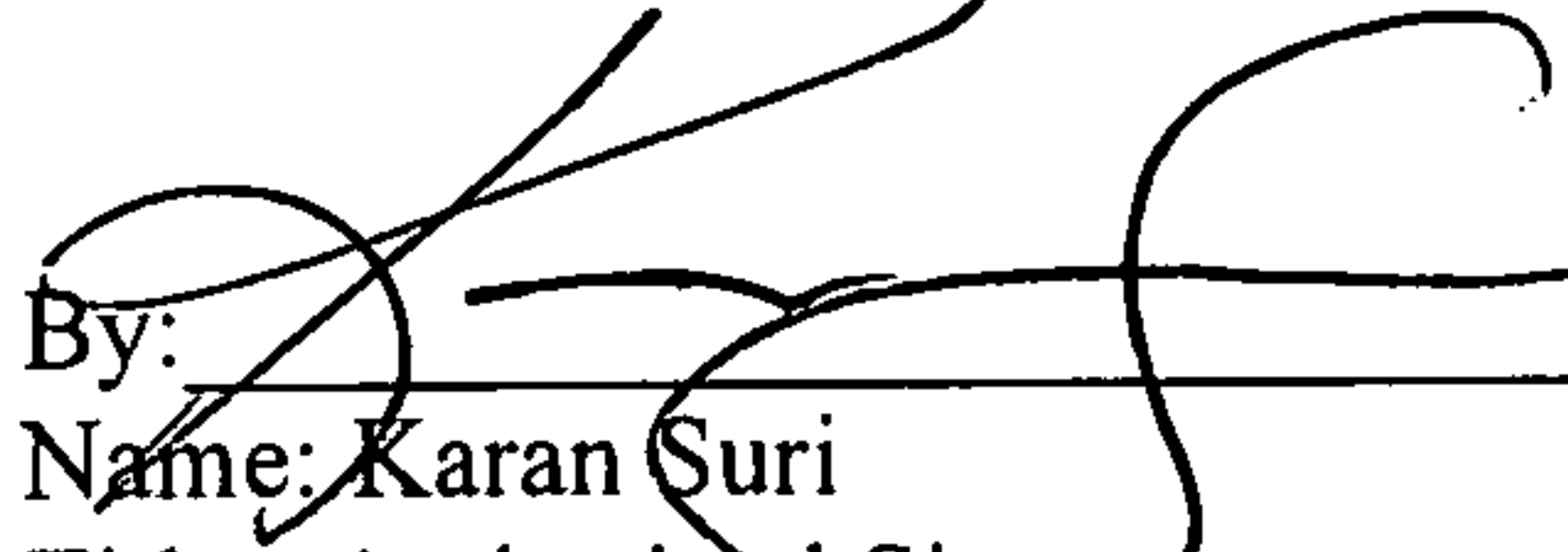
14. Headings, Etc. The headings and captions of various paragraphs of this Agreement are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.
15. Notices. Any notice required or permitted to be given under this Agreement shall be (a) in writing, (b) sent in the manner set forth in the Loan Agreement, and (c) effective in accordance with the terms of the Loan Agreement.
16. Successors and Assigns. This Agreement shall inure to the benefit of Lender and its successors and assigns and shall be binding on Assignor and its successors and assigns.
17. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State where the Property is located and the applicable laws of the United States of America.
18. Conflict. If any conflict or inconsistency exists between the absolute assignment of the Rents and the Leases in this Agreement and the assignment of the Rents and Leases as security in the Security Instrument, the terms of this Agreement shall control.
19. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one document.
20. **NO ORAL AGREEMENTS. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**
21. Termination. Upon the payment in full of the Loan secured hereby, as evidenced by the delivery of a full release or satisfaction of the Security Instrument executed by the then holder of the Security Instrument, this Agreement shall become and be void and of no effect.

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EXECUTED as of the date first written above.

ASSIGNOR:

ARP HOLDCO LLC,
a Delaware limited liability company

By: 
Name: Karan Suri
Title: Authorized Signatory

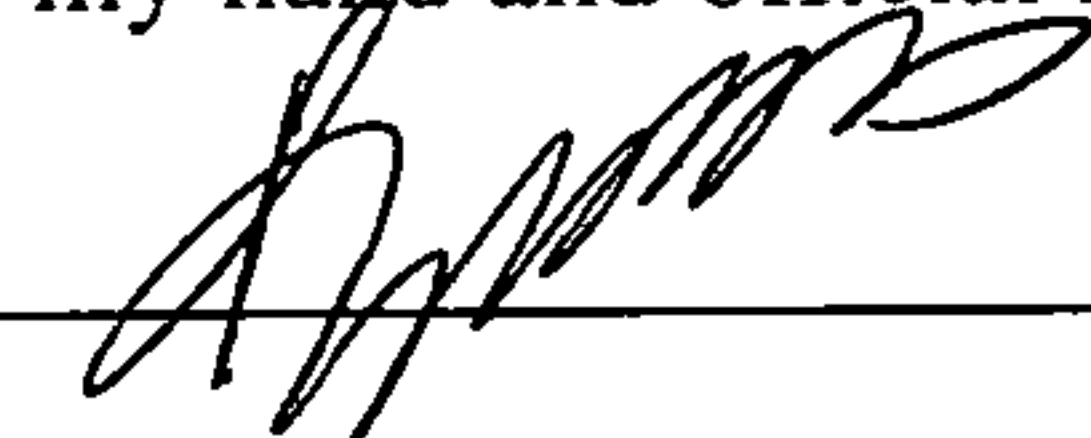
Notary

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA
COUNTY OF Los Angeles :

On December 13, 2023, before me, Tomas Prada (a notary public), personally appeared Karan Suri, the Authorized Signatory of **ARP HOLDCO LLC**, a Delaware limited liability company, a Delaware limited liability company, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)

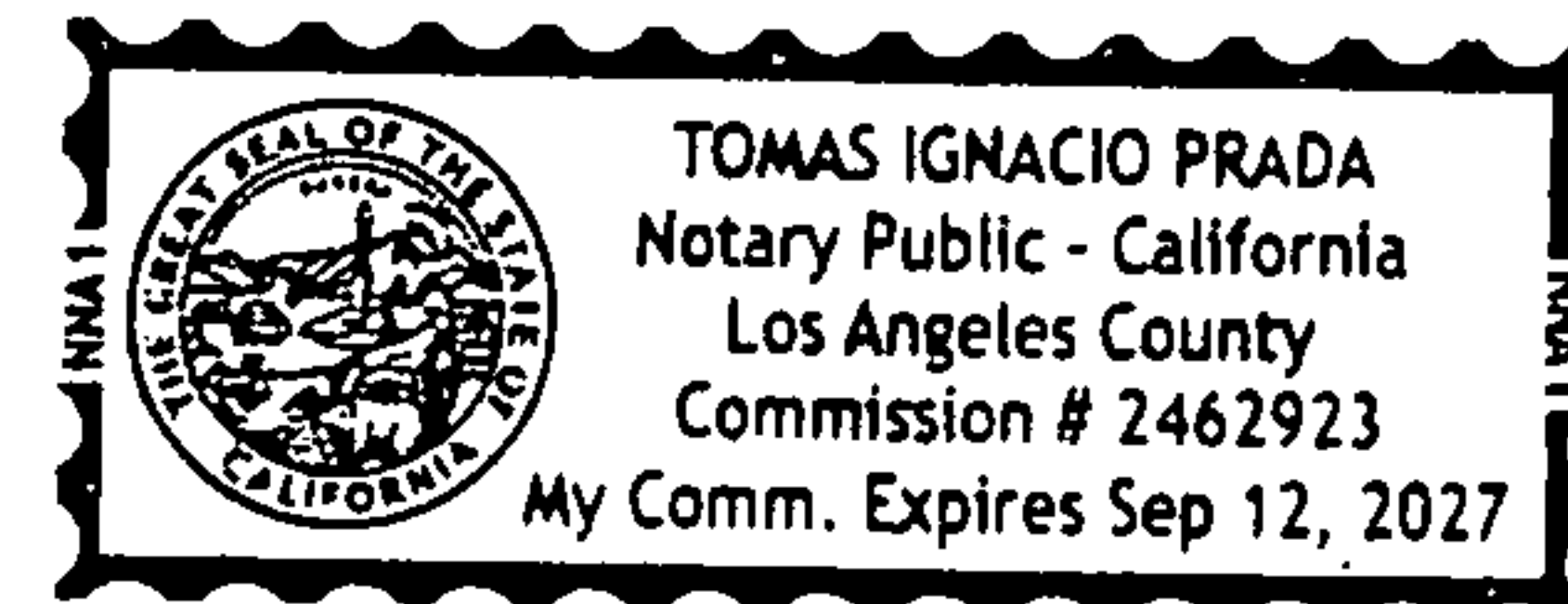


EXHIBIT A

Legal Description

The Land referred to herein below is situated in the County of Shelby, State of Alabama, and is described as follows:

LOT 1, ACCORDING TO THE MAP OF VALLEYDALE RITE AID SURVEY AS RECORDED IN MAP BOOK 36, PAGE 21, IN THE OFFICE OF THE JUDGE OF PROBATE OF SHELBY COUNTY, ALABAMA.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
01/08/2024 08:09:11 AM
\$43.00 JOANN
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Allen S. Bayl