

Return Address:

Robert E. Wood
Bradley Arant Boult Cummings LLP
1600 Division Street, Suite 700
Nashville, TN 37203



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Skagit County Auditor

\$82.00

4/18/2016 Page

1 of

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ASSIGNMENT OF RENTS AND LEASES

CHICAGO TITLE
620023065

Document Title(s) (or transactions contained therein):

1. Assignment of Rents and Leases

Grantor(s)

1. MREIC Everett WA, LLC, a Delaware limited liability company

Grantee(s)

1. State Farm Life Insurance Company, an Illinois corporation

Legal Description (abbreviated: i.e., lot, block, plat or section township and range)

Lot 1 of City of Burlington Binding Site Plan No. 1-14, as amended by Revision 1 of Binding Site Plan No. 1-14, being a portion of Section 8, Township 34 North, Range 4 East, W.M.

Additional legal is on Exhibit A of document

Assessor's Property Tax Parcel/Account Number:

P132579/8090-000-000-0001

Additional parcel numbers on Exhibit A of document

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

APR 18 2016

Amount Paid \$
Skagit Co. Treasurer
By Deputy
VAF

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES (the "**Assignment**") made and executed as of 8th day of April, 2016, by **MREIC EVERETT WA, LLC**, a Delaware limited liability company ("**Borrower**"), whose mailing address is c/o Monmouth Real Estate Investment Corporation, Juniper Business Plaza, 3499 Route 9 North, Suite 3-D, Freehold, New Jersey 07728, Attn: Chief Financial Officer, to, in favor of and for the benefit of **STATE FARM LIFE INSURANCE COMPANY**, an Illinois corporation, whose mailing address is One State Farm Plaza, Bloomington, Illinois 61710 ("**State Farm**"),

RECITALS

WHEREAS, State Farm has made a loan to Borrower (the "**Loan**") which is evidenced by that certain Promissory Note executed by the Borrower to and in favor of State Farm of even date herewith in the principal amount of Twenty Million Two Hundred Twenty-One Thousand and No/100 Dollars (\$20,221,000.00) (the "**Note**").

WHEREAS, the Note is secured by (i) a Deed of Trust, Security Agreement and Fixture Filing executed by Borrower and in favor of State Farm of even date herewith (the "**Deed of Trust**") granting to State Farm, among other things, a first priority lien and encumbrance upon the Real Estate (as defined in the Deed of Trust) and Improvements (as defined in the Deed of Trust) legally described in **Exhibit A** attached to this Assignment (the "**Premises**"); and (ii) certain other Loan Documents (as defined in the Deed of Trust), also executed by the Borrower to and in favor of State Farm of even date herewith, the terms and provisions of which Deed of Trust and other Loan Documents are by this reference thereto incorporated herein and made a part hereof.

WHEREAS, as a material inducement to State Farm to make the Loan and as further security for the Loan, Borrower makes this Assignment.

AGREEMENTS

NOW, THEREFORE, for \$10.00 and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

1. Assignment of Rents and Leases.

1.1 Definitions. For purposes of this Assignment, the following definitions shall apply:

1.1.1 "Major Leases". Leases that demise 50,000 square feet or more and have a lease term of at least three (3) years (with no termination options during such term), together with all extensions, renewals, amendments, modifications, replacements and substitutions therefor; provided,

however, a replacement or substitution for a Major Lease shall in turn be deemed a "Major Lease" only if such replacement or substitution demises 50,000 square feet or more and has a lease term of at least three (3) years. As of the date hereof, the Leases listed and described on Exhibit B attached to this Assignment constitute Major Leases.

1.1.2 "Minor Leases". Any lease(s) on or with respect to the Premises other than the Major Leases; provided, however, that if any Minor Lease, after modification, meets the definition of a Major Lease, such Minor Lease shall thereupon become a Major Lease.

1.1.3 "Leases". Collectively, the Major Leases and the Minor Leases.

1.1.4 "Guarantees". Any and all guarantees of the payment of rent by and performance of all other obligations of the tenant(s) under the Leases.

1.1.5 Other Definitions. Capitalized terms not otherwise defined in this Assignment shall have the meanings ascribed to such terms in the Note, the Deed of Trust and other Loan Documents.

1.2 Assignment of Rents. Subject to the terms and conditions of this Assignment, Borrower hereby absolutely, unconditionally and irrevocably transfers, conveys, assigns and grants to State Farm all of Borrower's right, title and interest in and to all rents, issues, profits, proceeds, income, revenues, royalties, advantages, avails, claims against guarantors, security and other deposits (whether in cash, letter of credit or other form), advance rentals, damages, insurance and condemnation proceeds and any and all other payments or benefits now or hereafter derived, directly or indirectly, from the Real Estate and Improvements, whether under the Leases or otherwise (collectively, the "**Rents**").

1.3 Assignment of Leases. Subject to the terms and conditions of this Assignment, Borrower hereby absolutely, unconditionally and irrevocably transfers, conveys, assigns and grants to State Farm all of Borrower's right, title and interest as landlord in, to and under all Leases, now or hereafter existing or entered into, together with any and all Guaranties.

1.4 Absolute Assignments. The foregoing assignments of Rents and Leases are present and absolute assignments and not assignments for or as security only. State Farm's right to the Rents and Leases is not contingent upon its possession of the Premises.

1.5 License. State Farm hereby grants to and confers upon Borrower a revocable license to collect and retain the Rents as the same become due and payable under the Leases, but not in excess of 30 days in advance (unless otherwise expressly required by the Existing Lease (as defined in the Deed of Trust) or agreed to by State Farm in writing), so long as, and only so long as, no Event of Default (as herein defined) exists under this Assignment, the Note, the Deed of Trust or any of the other Loan Documents (the "**License**"). Upon the occurrence of an Event of Default under this Assignment, the Note, the Deed of Trust or any of the other Loan Documents, the License granted

and conferred herein may be immediately and automatically revoked upon notice from State Farm to Borrower, and thereupon shall immediately cease and terminate without further notice.

Upon any such revocation and termination of the License, State Farm shall have the right to notify in writing all tenants under the Leases to pay the Rents then due and thereafter coming due directly to State Farm. After such revocation and termination of the License, any and all Rents received by the Borrower shall be remitted to State Farm not later than **three (3) business days** following Borrower's receipt of the same.

Borrower hereby authorizes and directs any tenant under the Leases, upon receipt of written notice from State Farm stating that an Event of Default has occurred or exists under the Note, the Deed of Trust or any of the other Loan Documents, to pay directly to State Farm the Rents then due and thereafter coming due under the Leases. Borrower agrees that any tenant shall have the right to rely upon any such notice from State Farm without any obligation, and without any right, to inquire as to whether any such Event of Default has actually occurred or exists and notwithstanding any claim of Borrower to the contrary. Borrower shall have no claim (and hereby waives any claim) against any tenant for the Rents paid by such tenant directly to State Farm following its receipt of any such notice from State Farm.

1.6 Covenants.

1.6.1 General. All Leases entered into after the date of this Assignment shall be written on Borrower's standard form of lease or on such other form of lease, each of which shall have been approved by State Farm. Borrower shall furnish State Farm with executed copies of all Leases within fifteen (15) days after full execution thereof. All proposed Leases and extensions, renewals, amendments or modifications of existing Leases shall (a) be at rental rates (including rental concessions) that are at least equal to those charged for comparable properties within the submarket area of the Premises; (b) have been negotiated at arm's length with bona fide independent third party tenants; and (c) in Borrower's prudent business judgment, not materially impair the value of the Premises. All Leases entered into after the date of this Assignment shall state that they are subordinate to the Deed of Trust and shall include an agreement by the tenant to attorn to State Farm.

1.6.2 Negative Covenants. Borrower hereby covenants and agrees that it shall not, without the prior written consent of State Farm, which consent shall not be unreasonably withheld, (i) enter into any new Major Lease or extend, renew, amend or modify any Major Lease (other than extensions, renewals, amendments or modifications in accordance with the terms of a Major Lease previously approved by State Farm); (ii) consent to or permit the assignment or subletting of any Major Lease (other than assignments or subleases in accordance with the terms of a Major Lease previously approved by State Farm); (iii) amend or modify any Minor Lease so as to cause such Minor Lease to become a Major Lease; (iv) cancel or terminate any Major Lease; (v) cancel or terminate any Minor Lease except in the ordinary course of business; or (vi) alter, amend, modify, change or terminate the terms of any guaranties of any Major Lease.

1.6.3 Affirmative Covenants. So long as no Event of Default is in existence under any of the Loan Documents and subject to **Sections 1.6.1(iii), 1.6.1(iv) and 1.6.3**, Borrower may enter into, extend, renew, amend, modify or permit the assignment or sublease of any of the Minor Leases.

1.6.4 Major Leases. Any Major Lease submitted for State Farm's consent shall be accompanied by (a) a lease abstract; (b) a then-current rent roll for the Premises; (c) the floor plan for the demised premises; and (d) tenant financial statements. State Farm shall require a tenant estoppel certificate and a subordination, non-disturbance and attornment agreement for Major Leases on State Farm's then current form.

1.6.5 Consent. Any consent to be given or denied with respect to any Lease shall be given or denied no later than ten (10) business days after the actual receipt by State Farm of the Lease to be approved and any other additional information reasonably requested by State Farm regarding such Lease, or such consent shall be deemed given; provided, however, such ten (10) business day period shall commence only upon State Farm's receipt of all information reasonably necessary to make an informed decision about the Lease and a written notice from Borrower accompanying such Lease and additional information, which notice includes a statement in capitalized letters substantially as follows:

PURSUANT TO SECTION 1.6 OF THE ASSIGNMENT OF RENTS AND LEASES, STATE FARM HAS TEN (10) BUSINESS DAYS FROM THE RECEIPT OF THIS NOTICE TO APPROVE OR DISAPPROVE THE LEASE AND MATERIALS ACCOMPANYING THIS NOTICE OR SUCH LEASE AND MATERIALS SHALL BE DEEMED APPROVED.

1.6.6 Servicing Fees. State Farm shall have the right to impose a **Servicing Fee** (as defined in the Deed of Trust) in connection with the review of any documentation submitted for State Farm's approval hereunder. Borrower shall also be responsible for the payment of all reasonable fees and expenses of State Farm's outside counsel in the event State Farm, in its sole discretion, shall determine that the assistance of an attorney is necessary.

2. Default and Remedies.

2.1 Default.

2.1.1 It shall constitute an event of default (an "**Event of Default**") of and under this Assignment and under the other Loan Documents if Borrower shall fail to perform or observe any of the covenants, agreements or conditions of this Assignment and such failure shall remain uncured for thirty (30) days after notice to Borrower of the occurrence of such failure.

2.1.2 It shall constitute an Event of Default of and under this Assignment if there shall occur under the Note, Deed of Trust and other Loan Documents an Event of Default as defined in those Loan Documents.

2.2 Remedies.

2.2.1 Upon the occurrence of an Event of Default, the License may be revoked upon notice from State Farm to Borrower, whereupon such License shall immediately cease and terminate without further notice to the Borrower and without regard to the adequacy or inadequacy of State Farm's security under this Assignment, the Deed of Trust or the other Loan Documents. Thereupon, State Farm shall be entitled to exercise any and all rights and remedies provided in this Assignment, the Deed of Trust and the other Loan Documents. The application of any Rents collected by State Farm shall be in accordance with the terms of the Deed of Trust.

2.2.2 The rights and remedies provided in this Assignment shall not be deemed exclusive of any rights or remedies granted to State Farm in the Deed of Trust or by law, but shall be deemed special and additional rights and remedies and shall be cumulative with those rights and remedies granted in the Deed of Trust or by law.

3. Miscellaneous.

3.1 Perfection. This Assignment shall be perfected upon its recordation in the official public records of Skagit County, Washington. Neither possession of the Rents nor the appointment of a Receiver of the Premises shall be required for such perfection.

3.2 Assignment. State Farm may assign its rights in and under this Assignment to any subsequent holder of the Note and Deed of Trust and to any person acquiring title to the Premises through foreclosure of the Deed of Trust or otherwise.

3.3 Obligations. State Farm shall not be obligated to perform or discharge, nor, by its acceptance of this Assignment, does it undertake to perform or discharge, any obligation, duty or liability of Borrower, as landlord under the Leases, or otherwise. Nothing herein contained shall be construed as causing State Farm to be a "Mortgagee in Possession" and State Farm shall have no liability of a Mortgagee in Possession by exercising its rights under this Assignment, all such liability being expressly waived and released by Borrower.

3.4 Ownership. Borrower represents and warrants that (a) it is the absolute owner of the Rents and Leases with full right, power and authority to execute and deliver this Assignment and (b) there is no outstanding assignment or pledge of the Rents or Leases or any one thereof.

3.5 Notices. Any Notice required to be given hereunder shall be given in the manner specified in the Deed of Trust.

3.6 Conflict. In the event of a conflict between the provisions of this Assignment and any other Loan Documents, this Assignment shall control.

3.7 Cooperation. Borrower agrees to cooperate with any reasonable request of State Farm to implement the provisions of this Assignment.

3.8 Successors and Assigns. Whenever the word "Borrower" is used herein, it is agreed and understood that the same includes and shall be binding upon the Borrower's successors and assigns and any party holding title to the Premises by, through or under the Borrower. All of the rights, powers, privileges and immunities herein granted and assigned to State Farm shall also inure to its successors and assigns, including all holders of the Note and Deed of Trust. This Assignment shall be governed by the laws of the State in which the Real Estate is located.

3.9 Limitation on Liability. Borrower's liability under this Assignment is subject to the limitation of liability provisions set forth in Article V of the Note, which are incorporated into this Assignment by this reference.

3.10 Waiver of Trial by Jury. Borrower hereby waives, to the fullest extent permitted by Applicable Law (as defined in the Note), the right to trial by jury in any action, proceeding or counterclaim filed by any party, whether in contract, tort or otherwise, relating, directly or indirectly to this Assignment or any acts or omissions of the Borrower in connection therewith or contemplated thereby.

[Signature on following page]

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

BORROWER:

MREIC EVERETT WA, LLC,
a Delaware limited liability company

By: Monmouth Real Estate Investment
Corporation, a Maryland corporation
Its Sole Member

By: 

Name: Kevin Miller

Title: CFO

State of New Jersey)
ss.
County of Monmouth)

I certify that I know or have satisfactory evidence that Kevin Miller is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the CFO of Monmouth Real Estate Investment Corporation, a Maryland corporation, the sole member of MREIC Everett WA, LLC, a Delaware limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: 3/15/16

Name Printed: Ashley Tripodi

Notary Public in and for the State of

~~Washington~~, residing at Monmouth County

My appointment expires: 4/11/19

EXHIBIT A

Legal Description of Real Estate

Lot 1 of City of Burlington Binding Site Plan No. 1-14, recorded under Auditor's File No. 201411130039, as amended by Revision 1 of Binding Site Plan No. 1-14, recorded under Auditors File No. 201512230077, Records of Skagit County, Washington, being a portion of Section 8, Township 34 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington

EXHIBIT B

Major Leases

<u>Termination Date</u>	<u>Sq. Footage</u>	<u>Tenant</u>
August 31, 2030	210,417 rentable sf	FedEx Ground Package System Inc.