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Cook County Recorder

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PREPARED BY AND UPON
RECORDATION RETURN TO:

Ariel Weissberg, Esq.
Weissberg and Associates, Ltd.
401 S. LaSalle St., Ste. 403
Chicago, IL 60605



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02-2269

ASSIGNMENT OF LEASES AND RENTS

MARCIA AZAR, as Lender
("Lender")

To

GUS DOMENECH, as Borrower
("Borrower")

8 pgs

Box 156

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THIS ASSIGNMENT OF LEASES AND RENTS (the "Assignment") made as of November 26, 2002, by Marcia Azar, 5653 N. Ashland, Chicago, Illinois 60660 ("Lender") to Gus Domenech, c/o Carl P. Palladinetti, 4024 W. Monroe Ave., Chicago, Illinois 60641 (the "Borrower"):

RECITALS

Borrower is the legal title holder of the Property commonly known as 6600 S. Kenwood, Chicago, Illinois, which property is legally described on Exhibit "A" (the "Property"), attached hereto and made a part hereof.

On even date herewith, the Borrower has executed and delivered to Lender a Promissory Note ("Note") in the principal amount of \$150,000.00 by Borrower to the Lender, plus interest and all other sums due thereunder (the "Indebtedness"). To secure the obligations of Borrower under the terms of the Note, Borrower is granting the rights to Lender contained herein, as well as a mortgage in the Property ("Mortgage").

CONSIDERATION

Consideration. This Assignment is made in consideration of the Indebtedness of Borrower evidenced by the Note, in the principal sum of \$150,000.00 covering the Property.

ARTICLE 1 – ASSIGNMENT

Section 1.1. PROPERTY ASSIGNED. Borrower hereby irrevocably, and unconditionally assigns and grants to Lender the right, title and interest of Borrower, in and to all of the following property, rights, interests and estates, whether now owned, or hereafter acquired (the "Assignment Property"):

(a) Leases and Other Agreements. All existing leases and all other agreements, whether or not in writing, affecting the use, enjoyment or occupancy of the Property or any portion thereof now or hereafter made, together with any extension, renewal or replacement of the same (collectively the "Leases"). This Assignment of all such other present and future leases and present and future agreements is effective without further or supplemental assignment.

(b) Rents. All rents, additional rents, revenues, income, issues and

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profits; (including all oil and gas or other mineral royalties and bonuses), deposits, accounts and other benefits arising from the Leases and renewals and replacements thereof or otherwise from the use, enjoyment and occupancy of the Property and any cash or security deposited in connection therewith. (collectively the "Rents").

(c) Proceeds. All proceeds from any sale or other disposition of the Leases and the Rents.

(d) Other Rights. All rights, powers, privileges, options and other benefits of Borrower as lessor under the Leases, including without limitation the immediate and continuing right to make claim for, receive, collect and apply all Rents payable or receivable under the Leases (and to apply the same to the payment of the Indebtedness), and to do all other things which Borrower or any lessor is or may become entitled to do under the Leases.

(e) Entry. The right, at Lender's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents and enforce the Leases.

(f) Power of Attorney. Borrower's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 3.1 of this Assignment and any or all other actions designated by Lender for the proper management and preservation of the Property.

(g) Other Rights and Agreements. Any and all other rights of Borrower in and to the Items set forth in subsections (a) through (g) above, and all amendments modifications, replacements, renewals, extensions, supplements, restatements and substitutions thereof.

Section 1.2. TERMINATION OF ASSIGNMENT. Upon payment in full of the Indebtedness, this Assignment shall become null and void and shall be of no further force and effect.

ARTICLE 2 – TERMS OF ASSIGNMENT

Section 2.1. PRESENT ASSIGNMENT AND LICENSE BACK. It is intended by Borrower that this Assignment constitute a present, irrevocable, absolute and unconditional assignment of the Assignment Property, and not an assignment for additional security only. Nevertheless, subject to the terms of this Assignment, Lender grants to Borrower a revocable license to collect and receive the Rents and other sums payable with respect to the Assignment Property unless and until an Event of Default shall occur. Borrower shall hold the Rents and all sums received pursuant to any Assignment Property, or a portion thereof sufficient to discharge all current sums due on the Indebtedness, in trust for the benefit of Lender for use in the payment to such sums.

Section 2.2. NOTICE TO LESSEES. Borrower hereby agrees to authorize and

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direct the lessees named in the Leases or any other or future lessees or occupants of the Property to pay over to Lender or to such other party as Lender directs all Rents upon receipt from Lender of written notice to the effect that an Event of Default exists, and to continue so to do until otherwise notified by Lender.

Section 2.3. INCORPORATION BY REFERENCE. All representations, warranties, covenants, conditions and agreements contained in the Mortgage as same may be modified, renewed, substituted or extended are hereby made a part of this Assignment to the same extent and with the same force as if fully set forth herein.

ARTICLE 3 – REMEDIES

Section 3.1 REMEDIES OF LENDER.

(a) Upon or at any time after the occurrence of an Event of Default, the license granted to Borrower in Section 2.1 of this Assignment shall automatically be revoked, and Lender shall immediately be entitled to possession of all Rents and sums due and payable pursuant to any of the Assignment Property, whether or not Lender enters upon or takes control of the Property. In addition, upon or at any time after an Event of Default, without waiving such Event of Default, to the extent permitted by law, without notice and without regard to the adequacy of the security for the Indebtedness, with or without bringing any action or proceeding, either in person or by agent, nominee or attorney, or a receiver appointed by a court, Lender, at her option, may dispossess Borrower and her agents and servants from the Property, and exclude Borrower and her agents or servants wholly therefrom and take possession of the Property and all books, records and accounts relating thereto without liability for trespass damages or otherwise. Thereafter, Lender may have, hold, manage, lease and operate the Property on such terms and for such period of time as Lender may deem proper and either with or without taking possession of the Property in its own name, demand, sue for or otherwise collect and receive all Rents and other sums payable pursuant to any of the Assignment Property including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereof or thereof as may seem proper to Lender. Lender may apply the Rents and sums received pursuant to any of the Assignment Property to the payment of the following in such order and proportion as Lender in its sole discretion may determine: (i) all expenses of managing and securing the Property, including, without limitation, the salaries, fees and wages of a managing agent and such other employees or agents as Lender may deem necessary or desirable; (ii) all expenses of operating and maintaining the Property, including, without limitation, all utility charges, Taxes and other charges and any other liens, charges and expenses which Lender may deem necessary or desirable; (iii) the cost of all alterations, renovations, repairs or replacements; (iv) all expenses incident to taking and retaining possession of the Property; and (v) the Indebtedness, together with all costs and reasonable attorneys' fees.

(b) In addition, upon the occurrence of an Event of Default, Lender, at

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its option, may (i) complete any construction on the Property in such manner and form as Lender deems advisable; (ii) exercise all rights and powers of Borrower, including, without limitation, the right to make, negotiate, execute, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents from the Property and all sums payable under the Assignment Property; (iii) either require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in possession of Borrower or (iv) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, Borrower may be evicted by summary proceedings or otherwise.

Section 3.2. OTHER REMEDIES. Nothing contained in this Assignment and no act done or omitted by Lender pursuant to the power and rights granted to Lender hereunder shall be deemed to be a waiver by Lender of its rights and remedies under the Note or the Mortgage and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Lender under the terms thereof. The right of Lender to collect the Indebtedness and to enforce any other security therefor held by it may be exercised by Lender either prior to simultaneously with, or subsequent to any action taken by it hereunder.

Section 3.3. NON-WAIVER. The exercise by Lender of the option granted it in Section of this Assignment and the collection of the Rents and other sums payable pursuant to the Assignment Property and the application thereof as herein provided shall not be considered a waiver of any default by Borrower under the Note, the Mortgage or this Assignment. The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment.

ARTICLE 4 – NO LIABILITY, FURTHER ASSURANCES

Section 4.1. NO LIABILITY OF LENDER. This Assignment shall not be construed to bind Lender to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Lender. Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Property after an Event of Default or from any other act or omission of Lender in managing the Property after an Event of Default unless such loss is caused by the willful misconduct and bad faith or gross negligence of Lender. Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Borrower shall, hereby agrees, to indemnify Lender for, and to hold Lender harmless from, any and all liability, loss or damage which may or might be incurred under the Assignment Property or under or by reason of this Assignment and from any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Lender by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Lender incur any such liability, the amount thereof, including costs,

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expenses and reasonable attorney's fees, shall be secured by this Assignment and Borrower shall reimburse Lender therefor immediately upon demand and upon the failure of Borrower so to do Lender may, at its option, declare all sums secured by this Assignment and due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor for the carrying out of any of the terms and conditions of the Leases; nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property, including without limitation the presence of any Hazardous Materials, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 4.2. NO LENDER IN POSSESSION. Nothing herein contained shall be defined as constituting Lender a "Lender in possession" in the absence of the taking of actual possession of the Property by Lender. In the exercise of the powers herein granted Lender, no liability will be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower.

ARTICLE 5 – MISCELLANEOUS PROVISIONS

Section 5.1. CONFLICT OF TERMS. In case of any conflict between the terms of this Assignment and the terms of the Note and Mortgage, the terms of the Mortgage and Note shall prevail.

Section 5.2. NO ORAL CHANGE. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 5.3. AUTHORITY. Borrower represents and warrants that he has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Borrower or the Property.

Section 5.4. NOTICES. Any notice which any party hereto may desire or may be required to give to any other party shall be in writing, and the mailing thereof by registered or certified mail, postage prepaid, return receipt requested, to the respective addresses of the parties set forth below, or to such other place as any party may by notice in writing designate for itself.

- (a) If to Lender: Ariel Weissberg, Esq.
401 S. LaSalle, St., Ste. 403

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Chicago, IL 60605

(b) If to Borrower: Carl P. Palladinetti, Esq.
4024 W. Monroe Ave.
Chicago, IL 60641

Any such other notice may be served by personal delivery thereof to the other party, which delivery shall constitute service of notice hereunder on the date of such delivery.

Section 5.5. LIABILITY. This Assignment shall be binding upon and inure to the benefit of Borrower and Lender and their respective and assigns forever.

Section 5.6. SEVERABILITY. If any term, covenant or condition of this Assignment is held to be invalid, illegal or unenforceable in any respect, this Assignment shall be construed without such provision.

ARTICLE 6 – SPECIAL ILLINOIS PROVISIONS

Section 6.1. WAIVER OF REDEMPTION. The Borrower acknowledges that the Property does not constitute agricultural Property, as said term is defined in Section 5.15-1201 of the Act or residential Property as defined in Sections 5/15-1219 of the Act. Pursuant to Section 5/15-1601(b) of the Act, the Borrower hereby waives any and all right to redemption. Borrower waives all rights of reinstatement under 735 ILCS 5/15-1602 to the fullest extent permitted by Illinois law.

Section 6.2. APPOINTMENT OF RECEIVER. Upon the occurrence of an Event of Default (or to the extent permitted by applicable law, at any time prior thereto), the Lender shall be entitled, without additional notice and without regard to the adequacy of any security for the Indebtedness, or the solvency of any party bound for its payment, to make application for the appointment of a receiver to take possession of and to operate the Property, and to collect the Rents, all expenses of which shall be added to the Indebtedness and secured hereby. The receiver shall have all the rights and powers described in section 15-1704 of the Act including without limitation, the power to execute leases, and the power to collect the rents, sales, proceeds, issues, profits and proceeds of the Property during the pendency of such foreclosure suit, as well as during any further times when the Borrower, his successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, sales proceeds, issues, proceeds and profits and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. All costs and expenses (including receiver's fees, reasonable attorney's fees and costs incurred in connection with the appointment of a receiver) shall be secured by the Mortgage. Notwithstanding the appointment of any receiver, trustee or other custodian, the Lender shall be entitled to retain possession and control of any cash or other instruments, at the time held by or payable

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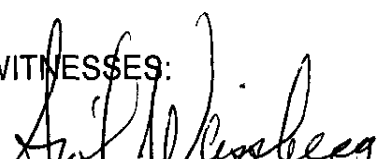
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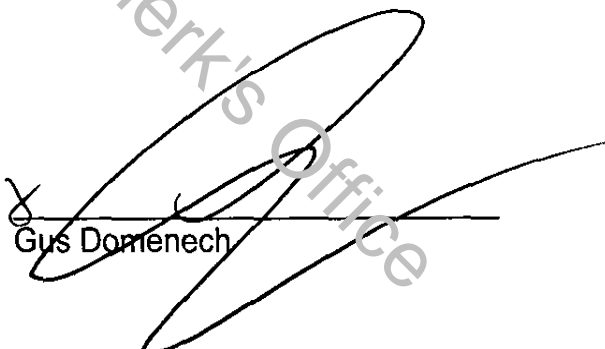
or deliverable under the terms of this Assignment or Mortgage, to the Lender to the fullest extent permitted by law. In addition to any provision herein authorizing the Lender to take or be placed in possession of the Property, for the appointment of a receiver, the Lender shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or the Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Assignment, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

Section 6.3. ILLINOIS RESPONSIBLE PROPERTY TRANSFER ACT. The Borrower covenants and agrees that, if the disclosure requirements of the Illinois Responsible Property Transfer Act, 765 ILCS 90/1 et seq. ("RPTA"), apply to the transaction contemplated by this Assignment, the Borrower will comply with RPTA and will timely execute and deliver to the Lender such disclosure documents as may be required by RPTA. The Borrower agrees to place of record simultaneously with the recording of this Assignment, any disclosure statement furnished to the Lender pursuant to this Section and also to file simultaneously therewith a true and correct copy of said disclosure statement with the Illinois Environmental Protection Agency, as and if required by applicable law.

THIS ASSIGNMENT, together with the covenants and warranties therein contained, shall inure to the benefit of Lender and shall be binding upon Borrower, and their respective its heirs, executors, administrators and assigns and any subsequent owner of the Property.

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

WITNESSES:

Print Name: Ariel Weissberg


Gus Domenech

Print Name: _____

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