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2000-05-12 15:02:25
Cook County Recorder 37.00



00342197

SECOND AMENDMENT TO ASSIGNMENT OF RENTS AND LEASES
LaSalle Bank National Association,
successor trustee

THIS SECOND AMENDMENT TO ASSIGNMENT OF RENTS AND LEASES

("Amendment") is made as of April 19, 2000, by and among AMERICAN NATIONAL BANK AND TRUST COMPANY, not personally, but solely as Trustee (the "Trustee") under a certain Trust Agreement dated September 18, 1986, and known as Trust No. 100055-02 (the "Trust"), KENNETH J. GENENDER, (the "Beneficiary; the Trustee and the Beneficiary being collectively referred to herein as the "Assignor") and LASALLE BANK NATIONAL ASSOCIATION, a national banking association, formerly known as LaSalle National Bank ("Lender").

RECITALS:

A. Lender has loaned to the Trust the principal sum of \$1,250,000 (the "Mortgage Loan"). The Mortgage Loan is evidenced by a certain Note dated December 20, 1993 (the "First Note"), made by the Trustee in the original principal amount of \$1,250,000 payable to Lender. The Mortgage Loan is guaranteed by the Company. The Mortgage Loan is secured by that certain Mortgage, Security Agreement and Financing Statement dated as of December 20, 1993 (the "Original Mortgage") relating to certain owned real property which is described legally under the heading Parcel 1 (Fee Premises) on Exhibit A hereto and by that certain Assignment of Rents and Leases dated as of December 20, 1993 by the Trust and the Beneficiary (the "Original Assignment of Rents"), relating to certain owned real property and leased real property which is

This instrument was prepared by and, after recording, return to:
Schwartz, Cooper, Greenberger & Krauss
180 North LaSalle Street, Suite 2700
Chicago, Illinois 60601
Attn: Michael D. Rothstein, Esq.

Permanent Real Estate Tax Index Nos.:
03-11-407-017-0000
03-11-407-018-0000
03-11-407-019-0000
03-11-407-015-0000

Common Address:
44 Century Drive
Wheeling, IL 60090

BOX 333-CTI

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described legally under the headings Parcel 1 (Fee Premises) and Parcel 2 (Leasehold Premises) on Exhibit A hereto.

B. Pursuant to a certain First Amendment to Mortgage, Security Agreement and Financing Statement (the "First Mortgage Amendment") dated as of October 31, 1997, by and between the Trust and Lender, and a certain First Amendment to Assignment of Rents and Leases, dated as of October 31, 1997, by and among the Trust, the Beneficiary and the Lender, (the "First Amendment to Assignment of Rents") the Original Mortgage and the Original Assignment of Rents were each amended to also secure the indebtedness owed to Lender pursuant to that certain Construction Loan Agreement dated as of October 31, 1997 as evidenced by that certain Mortgage Note dated as of October 31, 1997 executed by the Trustee and Genender International, Inc., an Illinois corporation (the "Company"), jointly and severally, in the original principal amount of \$1,386,476 (the "Construction Note"). The Original Mortgage and the First Mortgage Amendment are hereinafter referred to as the "Mortgage". The Original Assignment of Rents and the First Amendment to Assignment of Rents are hereinafter referred to as the "Assignment of Rents".

C. The Company and Lender are parties to that certain Note dated March 1, 1998 in the original principal amount of \$5,000,000, which was amended by that certain Revolving Extension Note dated as of January 31, 2000 (the "Extension Note") in the original principal amount of \$7,000,000 and pursuant to which Lender increased its revolving loan commitment to the Company up to the maximum aggregate principal amount of \$7,000,000 (the "Revolving Facility").

D. The Company and Lender are also parties to that certain Installment Note dated July 1, 1998 in the original principal amount of \$1,100,000 (the "Installment Note") under which Lender made a loan to the Company in such amount.

E. The Trust and the Beneficiary and the Company have requested Lender to increase its revolving loan commitment to the Company under the Revolving Facility from \$7,000,000 to \$9,000,000 and to make certain other changes to the Revolving Facility and the Installment Note, all pursuant to that certain Credit Agreement dated as of the date hereof (the same as it may be amended, restated, modified or supplemented and in effect from time to time, being herein referred to as the "Credit Agreement"), and in connection therewith the Company will execute and delivery to the Lender the "Restated Revolving Note" and the "Restated Installment Note" as such terms are defined in the Credit Agreement. Lender is willing to grant such requests, on the condition that, among other things, the Assignment of Rents be amended to secure the obligations of the Company under the Credit Agreement and such Restated Revolving Note and Restated Installment Note, subject to the terms and conditions set forth below.

NOW, THEREFORE, in order to induce Lender to increase its revolving loan commitment to the Company, and for other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the Trust, the Beneficiary and Lender hereby agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are incorporated herein and made a part hereof.

2. **Obligation Secured.** In addition to the Assignment of Rents securing the obligations of the Company and the Trust under the First Note and Construction Note and the loans evidenced thereby, the Assignment of Rents is hereby amended to secure the Company's obligations under the Credit Agreement, including without limitation, the Revolving Facility and the Restated Revolving Note and the Restated Installment Note as such terms are defined in the Credit Agreement.

3. **Cross Defaults: Integration of Loan Documents.**

(a) Any "Event of Default" (as defined in the Credit Agreement) under the Credit Agreement shall, at Lender's election, be deemed a Default under the Assignment of Rents, as amended hereby.

(b) Any Default under the Assignment of Rents, as amended hereby, shall at Lender's election, be deemed an Event of Default under the Credit Agreement.

(c) It is the intention of the parties that the cross-collateralization arrangements provided for in this Amendment shall be subject and subordinate to the existing security interests of Lender and that nothing herein shall be deemed to merge the Assignment of Rents with the Credit Agreement. Notwithstanding the foregoing, the parties intend that, in the event that either of the First Note or the Construction Note (or the loans evidenced thereby) shall be retired prior to the retirement of the other loans governed by the Credit Agreement, the lien of the Assignment of Rents and all other security interests securing the remaining loans shall continue in full force and effect and shall advance in priority.

4. **Required Deliveries.** The Beneficiary shall furnish lender with an additional endorsement to Ch. 1234 Title Insurance Company Loan Policy No. 747064 (the "Title Policy") which (i) amends the description of the Mortgage insured under the Title Policy to include this Amendment, (ii) amends the description of the Assignment of Rents to include this Amendment, (iii) extends the effective date of the Title Policy to the date of the recording of this Amendment, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender, (v) states that all real estate taxes and assessments applicable to the Property which are due and payable as of the date of such endorsement have been paid in full and (vi) increases the amount of the Loan Policy to at least \$~~9,000,000~~ 9,000,000

5. **Defaults.** The Trust represents and the Beneficiary represents and warrants to Lender that, to the best knowledge of such person or entity, as of the date hereof no Default or

event or condition which could become a Default with the giving of notice or passage of time, or both, exists under the Mortgage, the Assignment of Rents, the First Note or the Construction Note. The Beneficiary and the Trust further acknowledge and agree that a Default under the Mortgage, the Assignment of Rents, the First Note or the Construction Note shall be deemed to exist upon the occurrence of a breach of any of the representations, warranties or covenants set forth in this Amendment.

6. **Performance of Obligations.** The Beneficiary represents and warrants and the Trust represents to Lender there is not any condition, event or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending or threatened affecting the Company, the Beneficiary or the Trust or the property, or which would prevent the Trust, the Company or the Beneficiary from complying with or performing his or its respective obligations under the Mortgage, the Assignment of Rents, the First Note or the Construction Note, and no basis for any such matter exists.

7. **Authority to Execute Amendment; No Conflict.** The Beneficiary represents and warrants and the Trust represents to Lender that they have full power and authority to execute and deliver this Amendment and to perform their respective obligations hereunder. Upon the execution and delivery hereof, this Amendment will be valid, binding and enforceable upon the obligors in accordance with its terms. Execution and delivery of this Amendment does not and will not contravene, conflict with, violate or constitute a default under any applicable law, rule, regulation, judgment, decree or order or any agreement, indenture or instrument to which any obligor is a party or is bound.

8. **Ratification of Liability.** Each party hereby ratifies and confirms his or its respective liabilities and obligations under the Mortgage, the Assignment of Rents, the First Note and Construction Note and the liens and security interests created thereby, and acknowledges that he or it has no defenses, claims or set-offs to the enforcement by Lender of their respective obligations and liabilities thereunder.

9. **Amendment Binding.** This Amendment shall be binding on the Beneficiary and the Trust and their respective heirs, legatees, successors and permitted assigns, and shall inure to the benefit of Lender and its successors and assigns.

10. **Continued Effectiveness.** Except as expressly provided herein, the Assignment of Rents and the other amended documents shall remain in full force and effect in accordance with their respective terms.

11. **Counterparts.** This Amendment may be executed in counterparts, and all said counterparts when taken together shall constitute one and the same Amendment.
LaSalle Bank National Association,
successor trustee

12. **Trustee Exculpation.** This Amendment is executed by American National Bank and Trust Company of Chicago not personally but solely as Trustee as aforesaid, in the exercise

of the power and authority conferred upon and vested in it as such Trustee, and it is expressly understood and agreed that nothing in this Amendment shall be construed as creating any liability on such Trustee personally to perform any express or implied covenant, condition or obligation under this Amendment, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under this Amendment; provided, however, that the foregoing exculpation of the Trustee shall not impair or otherwise affect any of Lender's rights or remedies against the assets held by the beneficiary of the Trust other collateral now or hereafter pledged to Lender as security for the obligations of the Trust or such beneficiary, or against any other person or entity liable for the obligations of the Trust or the Company.

[signature page follows]

Property of Cook County Clerk's Office

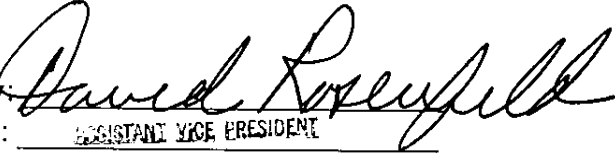
UNOFFICIAL COPY

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IN WITNESS WHEREOF, this Amendment has been entered into as of the date first above written.

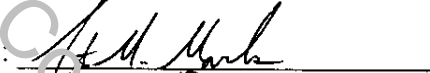
LaSalle Bank National Association,
successor trustee

**AMERICAN NATIONAL BANK AND TRUST
COMPANY OF CHICAGO**, as Trustee of Trust
No. 100055-02

By: 
Its: ASSISTANT VICE PRESIDENT


Kenneth J. Genender

LASALLE BANK NATIONAL ASSOCIATION,
national banking association

By: 
Its: First VP

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Property of Cook County Clerk's Office

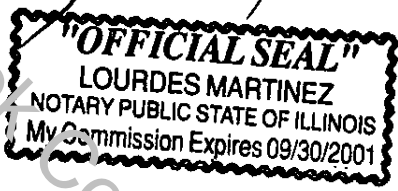
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

LaSalle Bank National Association,
successor trustee

I, LOURDES MARTINEZ, a Notary Public in and for said County, in the State aforesaid, do hereby certify that DAVID S. ROSENFELD, the ASSISTANT VICE PRESIDENT of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this MAY 05 2000 day of ~~April~~, 2000.

LOURDES MARTINEZ
NOTARY PUBLIC
(SEAL)

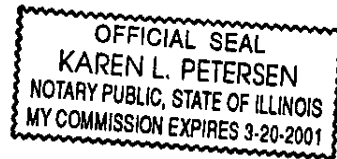


STATE OF ILLINOIS)
) SS.
COUNTY OF Lake COOK)

I, Karen Petersen, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Steven Marks, the First VP of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such First VP appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 19th day of April, 2000.

Karen Petersen
NOTARY PUBLIC
(SEAL)



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Fredric Prohov, a Notary Public in and for said County, in the State aforesaid, do hereby certify that KENNETH J. GENENDER, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 19th day of April, 2000.



NOTARY PUBLIC
(SEAL)



Property of Cook County Clerk's Office

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Parcel 1 (Fee Premises)

LOTS 54, 55 AND 56 IN PALWAUKEE BUSINESS CENTER UNIT THREE, BEING A SUBDIVISION IN THE SOUTH EAST QUARTER OF SECTION 11, TOWNSHIP 42, NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Parcel 2 (Leasehold Premises)

LOTS 52 IN PALWAUKEE BUSINESS CENTER UNIT THREE, BEING A SUBDIVISION IN THE SOUTH EAST QUARTER OF SECTION 11, TOWNSHIP 42, NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PROPERTY ADDRESS OF REAL ESTATE:

44 Century Drive
Wheeling, Illinois 60090

PERMANENT TAX IDENTIFICATION NUMBER:

03-11-017-0000 (affects Lot 54)
03-11-018-0000 (affects Lot 55)
03-11-019-0000 (affects Lot 56)
03-11-015-0000 (affects Lot 52)