

# UNOFFICIAL COPY



Eugene "Gene" Moore Fee: \$50.00  
Cook County Recorder of Deeds  
Date: 07/02/2003 10:56 AM Pg: 1 of 14

WHEN RECORDED MAIL TO:  
BankFinancial, F.S.B.  
1200 INTERNATIONALE  
PARKWAY  
SUITE 101  
WOODRIDGE, IL 60517

FOR RECORDER'S USE ONLY

81242885123048713 2062

This Assignment of Rents prepared by:

Janis A. Anderson, Vice President (1900025157 csl)  
BankFinancial, F.S.B.  
1200 Internationale Parkway, Suite 101  
Woodridge, IL 60517

## ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS dated May 9, 2003, is made and executed between 7513 Lake Street, LLC, whose address is 9933 N Lawler Ave Ste 516, Skokie, IL 60077-4302 (referred to below as "Grantor") and BankFinancial, F.S.B., whose address is 1200 INTERNATIONALE PARKWAY, SUITE 101, WOODRIDGE, IL 60517 (referred to below as "Lender").

**ASSIGNMENT.** For valuable consideration, Grantor hereby assigns, grants a continuing security interest in, and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Cook County, State of Illinois:

LOT 2 IN CENTRAL SUBDIVISION OF PART OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT #98991839 IN COOK COUNTY, ILLINOIS

The Property or its address is commonly known as 7513 East Lake Street, River Forest, IL 60305. The Property tax identification number is 15-12-219-040-0000

**CROSS-COLLATERALIZATION.** In addition to the Note, this Assignment secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE

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## ASSIGNMENT OF RENTS (Continued)

**OF ANY AND ALL OBLIGATIONS OF GRANTOR UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Assignment or any Related Documents, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

**GRANTOR'S REPRESENTATIONS AND WARRANTIES.** Grantor warrants that:

**Ownership.** Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

**Right to Assign.** Grantor has the full right, power and authority to enter into this Assignment and to assign and convey the Rents to Lender.

**No Prior Assignment.** Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

**No Further Transfer.** Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Assignment.

**LENDER'S RIGHT TO RECEIVE AND COLLECT RENTS.** Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

**Notice to Tenants.** Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

**Enter the Property.** Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

**Maintain the Property.** Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

**Compliance with Laws.** Lender may do any and all things to execute and comply with the laws of the State of Illinois and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

**Lease the Property.** Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

**Employ Agents.** Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

**Other Acts.** Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

**No Requirement to Act.** Lender shall not be required to do any of the foregoing acts or things, and the fact

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## ASSIGNMENT OF RENTS (Continued)

that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

**APPLICATION OF RENTS.** All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

**FULL PERFORMANCE.** If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law.

**REINSTATEMENT OF SECURITY INTEREST.** If payment is made by Grantor, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (A) to Grantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (B) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (C) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor), the Indebtedness shall be considered unpaid for the purpose of enforcement of this Assignment and this Assignment shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Assignment or of any note or other instrument or agreement evidencing the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Assignment.

**LENDER'S EXPENDITURES.** If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Assignment or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Assignment or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Rents or the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

**DEFAULT.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Other Defaults.** Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Assignment or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Grantor.

**Default on Other Payments.** Failure of Grantor within the time required by this Assignment to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

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## ASSIGNMENT OF RENTS (Continued)

**False Statements.** Any warranty, representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Assignment or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

**Defective Collateralization.** This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The dissolution of Grantor's (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Creditor or Forfeiture Proceedings.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against the Rents or any property securing the Indebtedness. This includes a garnishment of any of Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and if Grantor gives Lender written notice of the creditor or forfeiture proceeding and deposits with Lender monies or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

**Property Damage or Loss.** The Property is lost, stolen, substantially damaged, sold, or borrowed against.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Adverse Change.** A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

**Insecurity.** Lender in good faith believes itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender shall have all the rights provided for in the Lender's Right to Receive and Collect Rents Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Mortgagee in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the



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## ASSIGNMENT OF RENTS

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appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

**Election of Remedies.** Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Assignment, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Assignment:

**Amendments.** This Assignment, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

**Caption Headings.** Caption headings in this Assignment are for convenience purposes only and are not to be used to interpret or define the provisions of this Assignment.

**Governing Law.** This Assignment will be governed by, construed, and enforced in accordance with federal law and the laws of the State of Illinois. This Assignment has been accepted by Lender in the State of Illinois.

**Merger.** There shall be no merger of the interest or estate created by this assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Interpretation.** (1) In all cases where there is more than one Borrower or Grantor, then all words used in this Assignment in the singular shall be deemed to have been used in the plural where the context and construction so require. (2) If more than one person signs this Assignment as "Grantor," the obligations of each Grantor are joint and several. This means that if Lender brings a lawsuit, Lender may sue any one or more of the Grantors. If Borrower and Grantor are not the same person, Lender need not sue Borrower first, and that Borrower need not be joined in any lawsuit. (3) The names given to paragraphs or sections in this Assignment are for convenience purposes only. They are not to be used to interpret or define the provisions of this Assignment.

**No Waiver by Lender.** Lender shall not be deemed to have waived any rights under this Assignment unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Assignment shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Assignment. No prior waiver by Lender,

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(Continued)**

nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

**Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

**Powers of Attorney.** The various agencies and powers of attorney conveyed on Lender under this Assignment are granted for purposes of security and may not be revoked by Grantor until such time as the same are renounced by Lender.

**Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment shall not affect the legality, validity or enforceability of any other provision of this Assignment.

**Successors and Assigns.** Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the Indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Assignment.

**Waive Jury.** All parties to this Assignment hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**WAIVER OF HOMESTEAD EXEMPTION.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all Indebtedness secured by this Assignment.

**WAIVER OF RIGHT OF REDEMPTION.** NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS ASSIGNMENT, GRANTOR HEREBY WAIVES ANY AND ALL RIGHTS OF REDEMPTION FROM SALE UNDER ANY ORDER OR JUDGMENT OF FORECLOSURE ON GRANTOR'S BEHALF AND ON BEHALF OF EACH AND EVERY PERSON, EXCEPT JUDGMENT CREDITORS OF GRANTOR, ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS ASSIGNMENT.

**DEFINITIONS.** The following capitalized words and terms shall have the following meanings when used in this Assignment. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code:

**Assignment.** The word "Assignment" means this Assignment of Rents, as this Assignment of Rents may be amended or modified from time to time, together with all exhibits and schedules attached to this Assignment of Rents from time to time.

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## ASSIGNMENT OF RENTS

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**Borrower.** The word "Borrower" means 7513 Lake Street, LLC.

**Default.** The word "Default" means the Default set forth in this Assignment in the section titled "Default".

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Assignment in the default section of this Assignment.

**Grantor.** The word "Grantor" means 7513 Lake Street, LLC.

**Guarantor.** The word "Guarantor" means any guarantor, surety, or accommodation party of any or all of the Indebtedness.

**Guaranty.** The word "Guaranty" means the guaranty from Guarantor to Lender, including without limitation a guaranty of all or part of the Note.

**Indebtedness.** The word "Indebtedness" means all principal, interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Assignment, together with interest on such amounts as provided in this Assignment.

**Lender.** The word "Lender" means BankFinancial, F.S.B., its successors and assigns.

**Note.** The word "Note" means the promissory note dated May 9, 2003, in the original principal amount of **\$530,000.00** from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Note is a variable interest rate based upon an index. The index currently is 4.250% per annum. Payments on the Note are to be made in accordance with the following payment schedule: in one payment of all outstanding principal plus all accrued unpaid interest on May 9, 2004. In addition, Grantor will pay regular monthly payments of all accrued unpaid interest due as of each payment date, beginning June 9, 2003, with all subsequent interest payments to be due on the same day of each month after that. If the index increases, the payments tied to the index, and therefore the total amount secured hereunder, will increase. Any variable interest rate tied to the index shall be calculated as of, and shall begin on, the commencement date indicated for the applicable payment stream. Notwithstanding the foregoing, the variable interest rate or rates provided for in this Assignment shall be subject to the following minimum and maximum rates. **NOTICE:** Under no circumstances shall the interest rate on this Assignment be less than 4.000% per annum or more than the maximum rate allowed by applicable law.

**Property.** The word "Property" means all of Grantor's right, title and interest in and to all the Property as described in the "Assignment" section of this Assignment.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

**Rents.** The word "Rents" means all of Grantor's present and future rights, title and interest in, to and under any and all present and future leases, including, without limitation, all rents, revenue, income, issues, royalties, bonuses, accounts receivable, cash or security deposits, advance rentals, profits and proceeds from the Property, and other payments and benefits derived or to be derived from such leases of every kind and nature, whether due now or later, including without limitation Grantor's right to enforce such leases and to receive and collect payment and proceeds thereunder.

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## ASSIGNMENT OF RENTS (Continued)

THE UNDERSIGNED ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND NOT PERSONALLY BUT AS AN AUTHORIZED SIGNER, HAS CAUSED THIS ASSIGNMENT TO BE SIGNED AND EXECUTED ON BEHALF OF GRANTOR ON MAY 9, 2003.

GRANTOR:

7513 LAKE STREET, LLC

CHITOWN DEVELOPMENT L.L.C., Member of 7513 Lake Street, LLC

By: [Signature]  
Seymour Taxman, Manager of Chitown Development L.L.C.

### LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Illinois

COUNTY OF Lake

On this 9 day of May, 2003, before me, the undersigned Notary Public, personally appeared **Seymour Taxman, Manager of Chitown Development L.L.C.**, and known to me to be a member or designated agent of the limited liability company that executed the Assignment of Rents and acknowledged the Assignment to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Assignment and in fact executed the Assignment on behalf of the limited liability company.

By [Signature] Residing at Deerfield

Notary Public in and for the State of Illinois

My commission expires





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## RIDER AGREEMENT

This Rider Agreement (this "**Agreement**"), dated as of May 9, 2003 (the "**Effective Date**"), is by and among BANKFINANCIAL, F.S.B. ("**Lender**"), 7513 LAKE STREET, LLC, an Illinois limited liability company ("**Borrower**"), and SEYMOUR TAXMAN ("**Guarantor**").

## RECITALS

**A.** Lender, Borrower and Guarantor are, respectively, entering into the following instruments, agreements and documents, each dated May 9, 2003, as the same may be amended, supplemented, renewed, extended, or modified from time to time (collectively, the "**Transaction Documents**"):

1. Promissory Note made by Borrower payable to the order of Lender in the original principal amount of \$530,000.00 (the "**Note**");
2. Commercial Guaranty made by Guarantor in favor of Lender ("**Guaranty**");
3. Construction Mortgage made by Borrower in favor of Lender (the "**Mortgage**");
4. Assignment of Rents made by Borrower in favor of Lender (the "**Assignment**");
5. Construction Loan Agreement executed by Borrower and Lender (the "**Loan Agreement**");
6. Agreement to Provide Insurance made by Borrower in favor of Lender; and
7. Any and all other instruments, agreements and/or documents between Lender, Borrower and/or Guarantor executed or delivered in connection with or pursuant to any of the foregoing instruments, agreements and documents.

**B.** The Transaction Documents contain standard boilerplate integration provisions that provide that such documents represent the entire, complete and integrated understanding between Lender and Borrower and/or Guarantor, as applicable, pertaining to the terms and subject matter of those documents (such provisions, hereinafter collectively referred to as the "**Integration Clauses**").

**C.** Notwithstanding the Integration Clauses, and anything to the contrary contained in any of the Transaction Documents, the parties are entering into this Agreement in order to evidence their mutual agreement to certain changes to the Transaction Documents.

**NOW, THEREFORE**, in consideration of the foregoing and the terms of this Agreement, and in lieu of inserting separate riders to each of the Transaction Documents, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Notwithstanding the Integration Clauses, and anything to the contrary contained in any of the Transaction Documents:
  - a. The annual interest rate for the Note will be computed on the basis of a 360-day calendar year;

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- b. The defined term "Event of Default" includes any and all grace or cure periods;
- c. Borrower shall not be in default under any Transaction Document for failure to make any payment of principal or interest owing to Lender until the expiration of five (5) days after any such payment is due;
- d. Neither Borrower nor Guarantor shall be in default under any Transaction Document for failure to pay any costs, expenses and/or fees when due or declared due and payable until after written notice provided by Lender to Borrower and the expiration of ten (10) days thereafter in which to cure or remedy such default the expiration of ten (10) days after such payment is due. However, this subparagraph does not apply to any cost, expense or fee required to be paid by Borrower in connection with any real estate taxes or insurance for the Property;
- e. Neither Borrower nor Guarantor shall be in default under any Transaction Document for failure to perform any of its or his respective non-monetary obligations, agreements or covenants, until after written notice provided by Lender and the expiration of thirty (30) calendar days thereafter. However, such 30-day period will be extended if Borrower and/or Guarantor has commenced to cure such default or breach and is using diligent efforts to effectuate such cure;
- f. Neither Borrower nor any Guarantor shall be in default under any Transaction Document as a result of an involuntary bankruptcy proceeding or filing made against any of them unless such proceeding is not dismissed within sixty (60) days of the date of its filing;
- g. Borrower shall not be in default under any Transaction Document if a member withdraws from Borrower, so long as Seymour Taxman either remains as the manager of Borrower or retains a majority interest in and to Borrower;
- h. An Event of Default may only occur under the Transaction Documents relating to an untrue or incorrect material statement, report or certificate made or delivered to Lender by Borrower, any of Borrower's members, officers or agents or Guarantor; provided, that no such Event of Default shall be permissible as a result of such statement, report or certificate being provided by an employee (who is not an authorized signor or a member or officer of Borrower) of Borrower unless such employee was directed to furnish such statement, report or certificate to Lender by a director or officer of Borrower;
- i. Lender may not declare a default under the Transaction Documents for the reason that Lender deems itself insecure;
- j. Any obligation of Borrower or Guarantor to pay for attorneys fees and costs and expenses in accordance with the terms of the Transaction Documents shall be limited in all cases to only reasonable attorneys' fees and out-of-pocket costs and expenses actually incurred;
- k. No "confession of judgment" provisions in any Transaction Document shall be binding or enforceable;
- l. Any "power of attorney" or "attorney-in-fact" type provision provided to Lender shall not be enforceable until the existence of an Event of Default under the Transaction Documents;

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m. Neither Borrower nor Guarantor shall indemnify, hold harmless or release Lender or any of its directors, shareholders, officers, employees and/or agents from or against, in any respect or manner for, any claim, damage, liability, demand, obligation, penalty, action, suit, proceeding, loss, fee, attorneys' fees, cost, or expense resulting from or in connection with the gross negligence, bad faith, or willful misconduct of Lender or any of its directors, shareholders, officers or agents;

n. Only after the existence of an Event of Default under the Transaction Documents shall Lender be entitled to in any way notify or contact any account debtor of Borrower or direct any account debtor of Borrower or other third party to pay to Lender any indebtedness or obligation owing to Borrower and constituting Bank collateral;

o. Borrower agrees to comply promptly with all laws, ordinances, rules and regulations of all governmental authorities applicable to it, the failure of which shall create a material adverse effect on either (i) Borrower's ability to repay the indebtedness owing to Lender under the Note, or (ii) Borrower's business and assets;

p. If there is any loss or damage to the Property and no Event of Default then exists, Lender shall permit Borrower to decide whether the insurance proceeds shall be used either to (i) repair, replace and/or restore the Property, or (ii) repay the indebtedness owing to Lender under the Note;

q. Guarantor shall not be restricted from selling, leasing, assigning, encumbering, hypothecating, transferring or otherwise disposing of all or substantially all of Guarantor's assets, so long as it does not have a material adverse effect on Guarantor's financial condition or his ability to perform his obligations under the Guaranty;

r. Under no circumstances will either Borrower or Guarantor be required to provide Lender with audited financial statements;

s. Guarantor only authorizes Lender to take such action to perfect and preserve its rights under the Transaction Documents as is necessary or appropriate as reasonably determined by Lender in good faith;

t. Any notice required or desired to be served, given or delivered to Borrower or Guarantor by Lender under or pursuant to any Transaction Document shall be delivered not only to Borrower in order to be effective but a copy of such notice must also be forwarded to Much Shelist, 2030 Main Street, Suite 1200, Irvine, California 92614, Attention: Glenn D. Taxman, Telephone No. 949.851.7475, Facsimile No. 312.521.2100;

u. This Agreement shall be deemed to be one of the "Related Documents" (as defined in the Transaction Documents);

v. The Mortgage is revised as follows:

i. in the paragraph entitled Compliance with Environmental Laws on page 2, Borrower's representations and warranties are limited to Borrower's actual knowledge and do not include anything disclosed to Lender in environmental reports delivered to or obtained by Lender,

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- ii. in the paragraph entitled Due on Sale on page 4, Lender shall not object to any transfers of interests in Borrower between the members of Borrower or persons comprising a member of Borrower, or to immediate family members of the members of Borrower for estate planning purposes (immediate family members meaning spouses, children and/or grandchildren of said individuals), provided Guarantor or an entity controlled by Guarantor remains the manager of Borrower, and
- iii. in the paragraph entitled Compliance with Laws on page 6, Borrower will only represent and warrant that it has not received any written notice of any violations that have not been cured;
- w. The Assignment is revised as follows:
- i. in the paragraph entitled Lender's Right to Receive and Collect Rents on page 2, Lender will not exercise this right until the existence of an Event of Default, and
- ii. the paragraph entitled Property Damage or Loss is deleted in its entirety;
- x. The Loan Agreement is revised as follows:
- i. in the paragraph entitled Hazardous Substances on page 2, Borrower's representations and warranties are limited to Borrower's actual knowledge and do not include anything disclosed to Lender in environmental reports delivered to or obtained by Lender,
- ii. the paragraph entitled Bond on page 2 is deleted in its entirety,
- iii. in the paragraph entitled Payments on page 3, payments will be made as provided for in the disbursing agreement entered into among Lender, Borrower and Chicago Title Insurance Company,
- iv. in the paragraph entitled Projected Cost Overruns on page 3, Lender must use reasonable discretion in its determination,
- v. in the paragraph entitled Construction Default on page 3, (1) Borrower's failure to comply relates to only material provisions of the Loan Agreement, (2) cessation of work is subject to force majeure events, and (3) the cessation of work must be for at least 15 consecutive days,
- vi. in the paragraph entitled Cessation of Advances on pages 3 and 4, (1) deleted the words "or any other agreement that Borrower or any Guarantor has with Lender", and (2) subparagraph (E) is deleted in its entirety,
- vii. the paragraph entitled Additional Requirements on page 4 is deleted in its entirety,
- viii. in the paragraph entitled Insurance Reports on page 4, Borrower will not be required to deliver such reports to Lender more than 1 time per calendar year, and



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ix. in the paragraph entitled Cessation of Construction on page 6, the cessation of work is subject to force majeure events and the cessation of work must be for 15 consecutive days; and

y. Lender acknowledges and agrees that the terms offered by Lender to convert the Loan into an end loan with a 10-year term, as set forth in that certain Loan Commitment Letter issued by Lender on February 26, 2003 and accepted by Borrower and Guarantor, will remain in full force and effect throughout the term of the Loan.

2. All capitalized terms not otherwise defined in this Agreement, have the meanings ascribed to them in the Transaction Documents.

3. Each of the parties hereto agrees to execute and deliver such other agreements, instruments, and documents as are reasonably required to more fully carry out the intent of this Agreement.

4. This Agreement shall be binding upon and be for the benefit of the parties hereto and their successors and assigns and heirs and legal beneficiaries, as applicable.

5. This Agreement may not be amended or modified unless pursuant to a writing signed by each of the parties hereto.

6. This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same document.

7. A facsimile copy of a signature hereto by a party hereto shall be deemed to be as legally effective as an original signature.

8. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

**[SIGNATURE PAGE FOLLOWS]**

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IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Rider Agreement as of the Effective Date.

LENDER:

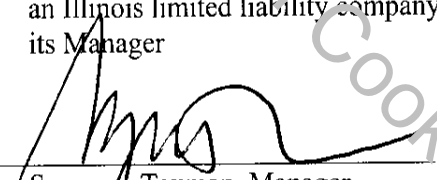
**BANKFINANCIAL, F.S.B.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

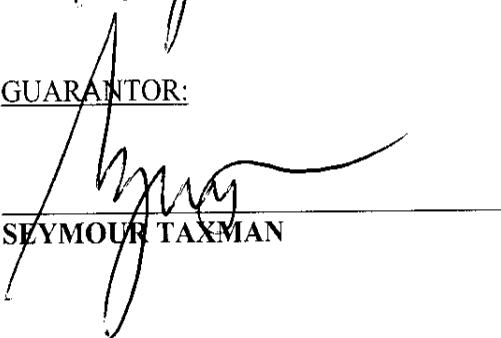
BORROWER:

**7513 LAKE STREET, LLC,  
an Illinois limited liability company**

By: Chitown Development, L.L.C.,  
an Illinois limited liability company,  
its Manager

By:   
Seymour Taxman, Manager

GUARANTOR:

  
SEYMOUR TAXMAN

Property of Cook County Clerk's Office