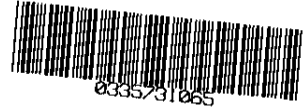


# UNOFFICIAL COPY



Doc#: 0335731065  
Eugene "Gene" Moore Fee: \$32.00  
Cook County Recorder of Deeds  
Date: 12/23/2003 10:21 AM Pg: 1 of 5

8174392 5/5am

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## ASSIGNMENT OF LEASES AND RENTS

OCTOBER 22, 2003

NOW ALL MEN BY THESE PRESENTS, that S RALPH GERBIE, AND JODY L GERBIE,  
HUSBAND AND WIFE

(the "Assignor"), in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, does hereby assign, transfer and set over unto MidAmerica Bank, a Federal Savings Bank at 1001 South Washington Street, Naperville, Illinois (hereinafter referred to as the "Assignee"), all right, title and interest of the Assignor in, under or pursuant to any and all present or future leases or sub-leases, whether written or oral, or any lettings of possession of, or any agreements for the use or occupancy of, the whole or any part of the real estate and premises hereinafter described which the Assignor may have heretofore made or agreed to or may hereafter make or agree to, or which may be made or agreed to by the Assignee under the powers hereinafter granted, including all amendments and supplements to and renewals thereof at any time made (collectively the "Leases") relating to those certain parcels of real estate situated in the County of COOK

State of Illinois, described below and made a part hereof and the improvements now or hereafter erected thereon (the "Premises"), including, without limiting the generality of the foregoing, all right, title and interest of Assignor in and to all the rents (whether fixed or contingent), earnings, renewal rents and all other sums due or which may hereafter become due under or by virtue of the Leases.

THE NORTH 110 FEET OF THE EAST HALF OF LOT 3 IN J.W. SCOVILLE'S  
SUBDIVISION OF THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 7,  
TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT  
THAT PART TAKEN FOR ALLEY) IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS: 813 N FOREST, OAK PARK, IL 60302

PERMANENT INDEX NUMBER: 16063020280000

This Assignment is made and given as collateral security for, and shall secure the payment in full and the performance of all obligations, covenants, promises and agreements contained herein in the Mortgage ("Mortgage"), and in any and all security agreements from the Assignor to the Assignee dated contemporaneously herewith ("Security Agreements").

1175 (Page 1 of 5) 7/96



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The Assignor does hereby irrevocably constitute and appoint the Assignee the true and lawful attorney of the Assignor with full power of substitution for Assignor and in Assignor's name, place and stead to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all sums due or to become due under the Leases, with full power to settle, adjust or compromise any claim thereunder as fully as the Assignor could do, and to endorse the name of the Assignor on all commercial paper given in payment or in part payment thereof, and in the Assignee's discretion to file any claim or take any other action or proceeding, either in the Assignee's name or in the name of the Assignor or otherwise, which the Assignee may deem necessary or appropriate to protect and preserve the right, title and interest of the Assignee in and to such sums and the security intended to be afforded hereby.

The Assignor warrants to the Assignee that the Assignor has good right, title and interest to make this Assignment and that the Assignor has not heretofore alienated, assigned, pledged, hypothecated or otherwise disposed of any of the rights, rents and other sums due or which may hereafter become due and which are intended to be assigned hereunder.

This Assignment includes and establishes a present, absolute and primary transfer and assignment of all rents, earnings, income, issues and profits of the premises, but so long as no event of default shall exist under the Mortgage or the other security agreements, and no event shall exist which by lapse of time or service of notice, or both, has or would become an event of default thereunder, the Assignor shall have the right and license to collect, use and enjoy all rents and other sums due or to become due under and by virtue of the Leases as they respectively become due, but not in excess of one month's installment thereof paid in advance.

The Assignor hereby irrevocably consents to and authorizes and directs that the tenants or other obligor under the Leases upon demand and notice from the Assignee of the Assignee's right to receive rents and other sums hereunder, shall pay such rents and other sums to the Assignee without any obligation on the part of such tenant or other obligor to determine the actual existence of any default or event claimed by the Assignee as the basis for the Assignee's right to receive such rents or other sums and notwithstanding any notice from or claim of the Assignor to the contrary. The Assignor hereby waives any right or claim against any tenant or other obligor for any such rents and other sums paid by any tenant or other obligor to the Assignee.

Without limiting any legal rights of the Assignee as the absolute assignee of the rents, issues and profits of the premises and in furtherance thereof, Assignor agrees that in the event of default under said Mortgage or any other of the loan documents, the Assignee may, at its option, (i) take actual possession of the Premises hereinabove described, or of any part thereof, personally or by agent or attorney, and with or without force and with or without process of law, enter upon, take and maintain possession of all or any part of said premises together with all documents, books, records, papers and accounts relating thereto, and exclude the Assignor, its agents or servants, therefrom and hold, operate, manage and control the premises, and at the expense of the premises, from time to time, cause to be made all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments and improvements to the premises as may seem judicious, and pay taxes, assessments and prior or proper charges on the premises, or any part thereof, and insure and reinsure the same, and lease the premises in such parcels and for such times and on such terms as Assignee may deem fit, including leases for terms expiring beyond the maturity of the indebtedness secured by said Mortgage, and cancel any lease or sublease for any cause or on any ground which would entitle the Assignor to cancel the same and in such case have the right to manage and operate the said premises and to carry on the business thereof as the Assignee shall deem proper or (ii) with or without taking possession of the premises, Assignee may proceed to enforce the Leases and collect all sums due or to become due thereunder and by so doing Assignee shall not be deemed a mortgagee in possession nor to have assumed or become responsible or liable for any obligations of Assignor arising thereunder or in respect thereof.

Any sums received by Assignee under or by virtue of this Assignment shall be applied to the payment of or on account of the following in such order and manner as Assignee may elect:

(a) to the reduction of the indebtedness hereby secured, whether or not the same may then be due or be otherwise adequately secured;

(b) to the payment of all proper charges and expenses including the just and reasonable compensation for the services of Assignee, its attorneys, agents, clerks, servants and others employed in connection with the operation, management and control of the premises and the conduct of the business thereof and, if the Assignee shall elect, to the establishment of a reserve which shall be sufficient in Assignee's judgment to indemnify it against any liability, loss or damage on account of any matter or thing done in good faith and in pursuance of the rights and powers contained herein;

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- (c) to the payment of any sum secured by a lien or encumbrance upon the premises; and
- (d) to the cost of completing any improvements being constructed on or about the premises.

The manner of application of such sums and the items which shall be credited or paid out of same shall be within the sole discretion of Assignee and nothing herein contained shall obligate Assignee to use any such sums for a purpose other than reducing the indebtedness hereby secured unless it shall elect so to do. Assignee shall be subrogated to any lien discharged out of the rents, income and profits of the premises.

The Assignor hereby further covenants that the Assignor will upon request of the Assignee, execute and deliver such further instruments and do and perform such other acts and things as the Assignee may reasonably deem necessary or appropriate to more effectively vest in and secure to the Assignee the rights and rents which are intended to be assigned to the Assignee hereunder. Assignor irrevocably waives any right it now or hereafter may have to off-set any claim or liability owing from it to any obligor on any Lease against sums due or to become due from such obligor under any Lease.

Assignor covenants and agrees to observe and perform all of the obligations imposed on it under the Leases and not to do or permit to be done anything to impair the security thereof, not to execute any Lease on terms and conditions less satisfactory to the lessor than are usual and customary in leases with a similar term and for similar types of space in the general market area where the premises are located, not to further assign or encumber its rights under any Lease to be subordinated to any other liens or encumbrances whatsoever, any such subordination to be null and void unless done with the written consent of Assignee. Assignor further covenants and agrees not to amend, modify or terminate any Lease without the prior written consent of Assignee. Assignor further covenants and agrees that it will, at the request of Assignee, submit the executed originals of the Leases to Assignee.

Assignor warrants that it has heretofore delivered to Assignee a true and correct copy of the Leases, that the Leases have not been amended or modified in any respect, that the same continue in full force and effect and that both the lessor and the lessee thereunder are in full compliance with all of their respective covenants therein contained and that no event for terminating any Lease by either the lessor or the lessee thereunder exists,

The acceptance by the Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking of actual physical possession of the premises by the Assignee, be deemed or construed to constitute the Assignee as a mortgagee in possession nor impose any obligation whatsoever upon the Assignee, it being understood and agreed that the Assignee does not hereby undertake to perform or discharge any obligation, duty or liability of the landlord under the Leases or under or by reason of this Assignment. Assignee shall have no liability to Assignor or any one for any action taken or omitted to be taken by it hereunder, except for its willful misconduct. Should the Assignee incur any liability, loss or damage under or by reason of this Assignment or for any action taken by the Assignee hereunder, or in defense against any claim or demand whatsoever which may be asserted against the Assignee arising out of any Lease, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the rate applicable to the Mortgage at the time of incurrence shall be secured by this Assignment and by the Mortgage, and the Assignor shall reimburse the Assignee therefore immediately upon demand, Assignor's obligation to so pay to survive payment of the indebtedness hereby secured and the release of this Assignment,

The rights and remedies of the Assignee hereunder are cumulative and are not secondary to or in lieu of but are in addition to any rights or remedies which the Assignee shall have under the said Mortgage, or any other instrument or document or under applicable law and the exercise by Assignee of any rights and remedies herein contained shall not be deemed a waiver of any other rights or remedies of Assignee, whether arising under the Mortgage, or otherwise, each and all of which may be exercised whenever Assignee deems it in its interest to do so. The rights and remedies of the Assignee may be exercised from time to time and as often as such exercise is deemed expedient and the failure of the Assignee to enforce any of the terms, provisions and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof.

The right of the Assignee to collect and receive the rents assigned hereunder or to exercise any of the rights or powers herein granted to the Assignee shall, to the extent not prohibited by law, extend also to the period from and after the filing of any suits to foreclose the liens of the Mortgage, including any period allowed by law for the redemption of the premises after any foreclosure sale.

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This Assignment shall be assignable by the Assignee and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of each of the parties hereto. All provisions hereof are severable and if any provisions hereof shall be invalid or unenforceable, the validity and enforceability of the remaining provisions hereof shall in no way be affected thereby.

IN WITNESS WHEREOF, the undersigned have caused these presents to be signed as of the day and year first above

Property of Cook County Clerk's Office

THIS INSTRUMENT WAS PREPARED BY:  
KENNETH KORANDA, PRESIDENT  
MID AMERICA BANK, FSB.  
1823 CENTRE POINT CIRCLE  
P.O. BOX 3142  
NAPERVILLE, ILLINOIS 60566-7142

