



Subject Property

Condominium Unit Nos.
101, 102, 201, 301, 302 & 402
The 1449 N. Wicker Park
Condominiums, Chicago, Illinois

Doc#: 0430241051
Eugene "Gene" Moore Fee: \$38.00
Cook County Recorder of Deeds
Date: 10/28/2004 10:28 AM Pg: 1 of 8

PIN: 17-06-208-020, & -021

M.G.R. TITLE

Prepared By and
To Be Mailed To:

John J. Turner, Esq.
527 South Wells Street
Chicago, IL 60607
(312) 987-1900

ASSIGNMENT OF RENTS AND LEASES
(MCM)

This Assignment of Rents and Leases ("**Assignment**"), dated as of October 22, 2004, is made to and in favor of **LAKESIDE BANK**, an Illinois banking corporation (the "**Lender**"), 55 West Wacker Drive, Illinois 60601, by and from the following assignor ("**Obligor**"):

MCM PROPERTIES, INC., an Illinois corporation

1. For Value received, and to secure the payment and performance of the "**Obligations**" hereinafter defined, Obligor does hereby sell, assign and transfer to the Lender all of the following described Leases, and all rents, avails, issues and profits now and hereafter due (collectively, the "**Rents**") under or by virtue of any such Leases (including without limitation the rights to all security therefor given by tenants thereunder, including guaranties, cash or proceeds of letters of credit); as used herein, the term "**Leases**" means and includes any and all written or verbal leases of, or agreements for the use or occupancy of, all or any part of the real estate described in attached Exhibit A (the "**Premises**"), heretofore or hereafter made or agreed to by Obligor (or by the Lender in the exercise of the powers herein granted). It is the intention of Obligor to establish an absolute transfer and assignment to the Lender of all the Leases and Rents, and Obligor hereby appoints the Lender as its true and lawful attorney in Obligor's name and stead (with or without taking possession of the Premises) to lease or let all or any portion of the Premises to such parties and at such rentals and upon such terms as the Lender in its reasonable discretion may determine, and to collect all Rents now or hereafter due, and with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as the Lender would have upon taking possession of the Premises pursuant to the provisions hereof.

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2. Although, as provided above, this Assignment constitutes a present assignment, it is expressly understood and agreed that Borrower shall retain the right to manage and operate the Premises and to collect and receive the rents therefrom, and the Lender shall not exercise any of its rights and powers hereunder, unless and until an "Event of Default" occurs under, and as the term is used in, that certain **\$9,900,000.00** promissory note of even date herewith and executed and delivered by the Obligor's affiliate 3000 North LLC, an Illinois limited liability company ("**3000 North**"), to and in favor of the Lender (the "**Note**"), which together with those certain documents described and referred to therein as Loan Documents are hereinafter collectively referred to as the "**Loan Documents**", and hereby incorporated herein by reference).

3. As used herein, the term "**Obligations**" means the indebtedness and obligations owed to the Lender by (a) 3000 North under the Loan Documents, and (b) by Obligor under that certain mortgage of the Premises (the "**Mortgage**") and that certain Guaranty of Payment and Completion, each of even date herewith and executed and delivered by Obligor to and in favor of the Lender as further security for the Note.

4. Immediately upon demand of the Lender following any such Event of Default, Obligor shall surrender the Premises to the Lender and the Lender shall be entitled to take actual possession of part or all of the Premises personally or by its agents, and in its discretion may enter upon and take and maintain possession of all or any part of the Premises, together with all the documents, books, records, papers and accounts of Obligor relating thereto, and may exclude Obligor and its agents or servants wholly therefrom and may as attorney-in-fact or agent of Obligor or in the Lender's own name and under the powers herein granted, hold, operate, manage and control the Premises and conduct any business thereof, either personally or by the Lender's agents, with full power to use legal or equitable measures, as in the Lender's reasonable discretion may be deemed proper or necessary to enforce the payment or security of the Rents or the Premises. Obligor hereby grants the Lender full power and authority (during the continuance of an Event of Default) to exercise each and every of the rights, privileges and powers herein granted, without notice to Obligor, and with full power to: cancel or terminate any Lease for any cause or on any ground which would entitle Obligor to cancel the same; elect to disaffirm any Lease made subsequent to or subordinated to the lien of the Mortgage; make necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises that may seem judicious to the Lender in its reasonable discretion (collectively, the "**Repairs**"); and insure and reinsure the Premises for all risks and incidental to the Lender's possession, operation and management thereof.

5. Nothing herein contained shall be construed as constituting the Lender a "mortgagee in possession" in the absence of its taking actual possession of the Premises pursuant to the provisions hereof. In its exercise of the powers herein granted (and except for the Lender's gross negligence or willful misconduct), no liability shall be asserted or enforced against the Lender, all such liability being expressly waived and released by Obligor.

6. In the exercise of its rights and powers hereunder, the Lender may use and apply any Rents collected by it to the payment of or on account of the following with respect to the Premises and in such order as it determines: operating, management and leasing fees, expenses and commissions; reserves for insurance premiums, taxes and assessments; alterations, additions, and improvements; and the Repairs.

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7. The Lender shall not be obligated, and does not hereby undertake, to perform or discharge any obligation, duty or liability under any Leases, and, except for the Lender's gross negligence or willful misconduct, Obligor shall and does hereby agree to indemnify and hold the Lender harmless from any and all liability, loss or damage which the Lender may or might incur under any Lease by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligations or undertakings on the Lender's part to perform or discharge any of the terms, covenants or agreements contained in the Leases or in the defense of any claims or demands arising prior to the Lender taking possession of the Premises. Obligor hereby agrees to immediately reimburse the Lender upon demand for any amount due the Lender by reason of this paragraph, including its reasonable costs, expenses and legal fees.

8. Obligor covenants and agrees that so long as this Assignment shall be in effect:

(a) Obligor shall not enter into any Lease of the Premises unless the form and terms thereof substantially conform with the form of lease and rent schedule approved by Lender on or about the date hereof.

(b) Obligor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Obligor shall not do or suffer to be done anything to impair the security thereof. Obligor shall not (i) release the liability of any tenant under any Lease, (ii) consent to any tenant's withholding of rent or making monetary advances and offsetting the same against future rentals, (iii) consent to any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease, except as specifically provided therein, or (v) enter into any oral leases with respect to all or any portion of the Premises;

(c) Obligor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty days in advance of the time when the same shall become due, except for security or similar deposits;

(d) Obligor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) Obligor shall not modify the terms and provisions of any Lease, nor shall Obligor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease without Lender's prior written consent; provided, however, that Obligor may cancel or terminate any Lease as a result of a material default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease;

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(f) Obligor shall not accept a surrender of any Lease or convey or transfer, or suffer or permit a conveyance or transfer of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Obligor and Lender;

(g) Obligor shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything which would terminate any such guaranty as a matter of law;

(h) Obligor shall not waive or excuse the obligation to pay rent under any Lease;

(i) Obligor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of Lender, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Lender may appear;

(j) Obligor shall give prompt notice to Lender of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder;

(k) Obligor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors thereunder and shall immediately notify Lender of any material breach by the tenant or guarantor under any such Lease;

(l) Obligor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby, liens for general real estate taxes not delinquent;

(m) Obligor shall not execute hereafter any Lease without the prior consent of Lender, which consent shall not be unreasonably withheld;

(n) If any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Obligor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Lender, and any check in payment of damages for termination or rejection of any such Lease will be made payable to Obligor (and, if an Event of Default is then continuing, to Lender). Obligor hereby assigns any such payment to Lender and further covenants and agrees that upon the request of Lender, it will duly endorse to the order of Lender any such check, the proceeds of which shall be applied in such order as Lender shall elect; and

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(o) Not later than thirty (30) days after the end of each calendar quarter, Obligor shall deliver to Lender a certified rent roll for the Premises as of the last day of such period in a form reasonably satisfactory to Lender.

9. As used herein, the term "Obligor" includes, and this Assignment shall be binding upon, the successors and assigns of each of the parties Obligor and any party holding title to the Premises by, through or under them. All of the Lender's rights, powers, privileges and immunities herein shall inure to its successors and assigns.

10. The provisions set forth herein shall be deemed as a special remedy given to the Lender in addition to and cumulative with the remedies granted in the Mortgage.

11. No judgment which is entered with respect to any of the Obligations shall operate to abrogate or lessen the effect of this Assignment, which shall continue in full force and effect during the pendency of any foreclosure of the Mortgage and until the payment and discharge of all of the Obligations and all bills incurred by virtue of the authority granted herein.

12. At the option of the Lender, the Mortgage shall become subject and subordinate in whole or in part (but not with respect to priority to entitlement to insurance proceeds or any award in condemnation) to any or all of the Leases, upon the recording of the Lender's unilateral declaration of such subordination with the appropriate County Recorder(s) of Deeds.

13. Obligor agrees to promptly execute and deliver such further assurances and acknowledgments consistent with the terms hereof that the Lender may from time to time require. Obligor hereby waives notice of the Lender's acceptance hereof.

14. If any provision of this Assignment or the application thereof to any person, party or circumstance shall be invalid or unenforceable under applicable law, such event shall not affect, impair or render invalid or unenforceable the remainder of this Assignment nor any other provision hereof, nor shall it affect the application of any provision hereof to other persons, parties or circumstances. This Assignment is executed and delivered at Chicago, Illinois and shall be governed by and construed in accordance with the laws of the State of Illinois. Actions for all disputes shall, at the Lender's option (but subject to any non-waivable venue or forum provisions of applicable law), be commenced in or transferred to such Department (and such Division or District thereof) of the Circuit Court of Cook County as the Lender may select. Obligor hereby waives, and the Lender hereby reserves, any right now or in the future to remove any such action to the Courts of the United States of America.

15. **Instructions to Tenants.** Obligor hereby specifically and irrevocably authorizes, instructs and directs each present and future lessee or tenant under each of the Leases to pay directly to the Lender, upon its written demand therefor (if during the continuance of an Event of Default) and without any inquiry as to the Lender's rights thereto, all Rents then and thereafter due under each Lease. By making such demand the Lender assumes no responsibility for, nor shall any tenant have a claim or setoff against the Lender for, any security deposit under any Lease.

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16. **Notices.** Any notice, demand or other communication intended for Obligor or the Lender with respect to this Assignment, shall be addressed and given in the same manner as provided in the "Notices" Paragraph of the Mortgage.

17. **Subordination Provisions** Notwithstanding any of the foregoing provisions to the contrary, it is expressly understood, and by its acceptance of this Assignment the Lender is deemed to acknowledge and agree, that this Assignment and all liens hereby created are and shall be subordinate and junior to that certain mortgage of the subject real estate from the Obligor to and in favor of Midwest Bank and Trust, dated December 19, 2002 and recorded on January 6, 2003 as Document Number 0030021215.

**(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK,
AND THE FOLLOWING PAGE IS THE SIGNATURE PAGE)**

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IN WITNESS WHEREOF, Obligor has caused this Assignment to be duly executed.

MCM PROPERTIES, INC.

By: X 
Krzysztof Karbowski, its President

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing Instrument was acknowledged before me on October 22, 2004, by Krzysztof Karbowski, President of MCM Properties, Inc., an Illinois corporation, on behalf of the corporation.



John E. Lovestrand
NOTARY PUBLIC

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EXHIBIT A Legal Description

UNITS 101, 102, 202, 301, 302 AND 402 IN THE 1449 N. WICKER PARK CONDOMINIUM AS DELINEATED A SURVEY OF THE FOLLOWING DESCRIBED PROPERTY:

LOT 39 AND 40 IN BLOCK 6 IN D. S. LEE'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 BEING IDENTICAL WITH LOTS 6, 7 AND 15 OF THE ASSESSOR'S DIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0413934081, TOGETHER WITH AN UNDIVIDED PERCENTAGE INTEREST ON THE COMMON ELEMENTS.

PIN 17-05-208-020 & -021

Commonly known as: 1449 N. Wicker Park,
Chicago, Illinois

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