

UNOFFICIAL COPY



Doc#: 0435039071
Eugene "Gene" Moore Fee: \$38.50
Cook County Recorder of Deeds
Date: 12/15/2004 03:11 PM Pg: 1 of 8

This Document Prepared By
and After Recording Return To:

Mark R. O'Meara
Chapman and Cutler LLP
111 West Monroe Street
Chicago, Illinois 60603

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S
USE ONLY

ASSIGNMENT OF LEASES AND RENTS

KNOW ALL MEN BY THESE PRESENTS, that A-Z Ventures, L.L.C., an Illinois limited liability company with its principal place of business and mailing address at 3651 Commercial Avenue, Northbrook, Illinois 60062 (the "Assignor"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, does hereby assign, transfer and set over unto HARRIS TRUST AND SAVINGS BANK, an Illinois banking corporation of 333 Park Avenue, Glencoe, Illinois 60022 (hereinafter referred to as the "Assignee", all right, title and interest of Assignor in, under or pursuant to any and all present or future leases or subleases, whether written or oral, or any letting 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 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 (individually a "Lease" and collectively the "Leases"), relating to that certain real estate situated in the County of Cook, State of Illinois described in Schedule 1 attached hereto 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 and all rights under or against guarantors of the obligations of lessees and obligors under the Leases.

This Assignment is made and given as collateral security for, and shall secure (1) the payment in full of all principal of and interest on that certain promissory note of Assignor (as defined in the Note hereinafter described) bearing even date herewith, payable to the order of Assignee in the face principal sum of \$2,875,000 expressed to bear interest prior to maturity at the rate per annum of 5.73% (the "Fixed Rate") and after maturity until paid at the rate per annum determined by adding two percent (2%) thereto and having a final maturity of all principal and interest not required to be sooner paid of December 31, 2014 (said promissory

1784962.01.11
1601822/MRO

Near North National Title Corp
222 North LaSalle Street
Chicago, Illinois 60601

Handwritten initials and circled number 3

Handwritten signature

Handwritten signature

Handwritten text: NNNT 010 42101

Property of Cook County Recorder of Deeds

UNOFFICIAL COPY

note, and any notes issued, in whole or in part, in extension or renewal thereof or in substitution therefore, as the same may be amended or modified from time to time, being hereinafter referred to as the "Note"), (ii) the performance of all obligations, covenants, promises and agreements contained herein or in that certain Mortgage and Security Agreement with Assignment of Rents bearing even date herewith from Assignor to Assignee (such Mortgage, as it may be amended or modified from time to time, being referred to herein as the "Mortgage"), conveying and mortgaging the premises as security for the Note and any and all other indebtedness intended to be secured thereby, (iii) the performance of all obligations, covenants, promises and agreements of the Assignor contained in any loan or other agreement setting forth terms and conditions applicable to the loan evidenced by the Note or providing collateral security therefor, and (iv) the payment of all expenses and charges, legal or otherwise, paid or incurred by Assignee in realizing upon or protecting the indebtedness referred to in the foregoing clauses (i), (ii) and (iii) or any security therefor, without limitation, including this Assignment (the Note and the other indebtedness, obligations and liabilities referred to in clauses (i), (ii), (iii) and (iv) above being hereinafter collectively referred to as the "indebtedness hereby secured").

The Assignor does hereby irrevocably constitute and appoint Assignee the true and lawful attorney of 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 any Lease, with full power to settle, adjust or compromise any claim thereunder as fully as Assignor could do, and to endorse the name of Assignor on all commercial paper given in payment or in part payment thereof, and in Assignee's discretion to file any claim or take any other action or proceeding, either in Assignee's name or in the name of Assignor or otherwise, which 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, *provided, however*, Assignee shall only exercise its rights under this paragraph after the occurrence of an event of default under the Note or the Mortgage.

Assignor warrants to Assignee that Assignor has good right to make this Assignment and that Assignor has not heretofore alienated, assigned, pledged 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 Note or the Mortgage 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, 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 any Lease as they respectively become due, but not more than 30 days in advance and to enjoy all of the rights and privileges of the lessor under each Lease, including, without limitation, the right to enforce the obligations of any lessee under any Lease.

Assignor hereby irrevocably consents to and authorizes and directs that the lessee or tenant or other obligor under any Lease upon demand and notice from Assignee of Assignee's

UNOFFICIAL COPY

right to receive rents and other sums hereunder, shall pay such rents and other sums to Assignee without any obligation on the part of such lessee or tenant or other obligor to determine the actual existence of any default or event claimed by Assignee as the basis for Assignee's right to receive such rents or other sums and notwithstanding any notice from or claim of Assignor or any of them to the contrary. Assignor hereby waives any right or claim against any lessee or tenant or other obligor for any such rents and other sums paid by lessee or tenant or other obligor to Assignee.

Without limiting any legal rights of 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, whether before or after the Note is declared due in accordance with its terms or under the terms of said Mortgage and whether before or after satisfaction of any requirement of the lapse of time or the giving of notice or both on which acceleration after default may be conditioned, Assignee may, at its option, to the extent permitted by applicable law (i) take actual possession of the premises hereinabove described, or of any part thereof, personally or by agent or attorney, as for condition broken, and with or without force and with or without process of law (but not in violation of applicable 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 Assignor, its agents or servants, therefrom and hold, operate, manage and control the premises, and at the expense of Assignor, all of which to constitute indebtedness hereby secured, 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 hereby secured, and cancel any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same, and in every such case have the right to manage and operate the premises and to carry on the business thereof as Assignee shall deem proper or (ii) with or without taking possession of the premises, 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 or (iii) have a receiver appointed of all or any portion of the premises and the rents, issues, and profits thereof, with such power as the court making such appointment shall confer, and Assignor hereby consents to the appointment of such receiver and shall not oppose any such appointment.

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 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

UNOFFICIAL COPY

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;

(b) to the payment of any sum secured by a lien or encumbrance upon the premises;

(c) to the cost of completing any improvements being constructed on or about the premises; and

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

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.

Assignor hereby further covenants that Assignor will upon request of Assignee execute and deliver such further instruments and do and perform such other acts and things as Assignee may reasonably deem necessary or appropriate to more effectively vest in and secure to Assignee the rights and rents which are intended to be assigned to Assignee hereunder. Assignor irrevocably waives any right it now or hereafter may have to offset any claim or liability owing from any it to any obligor on a Lease against sums due or to become due from such obligor under a 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 is located, not to further assign or encumber its rights under the Leases or its rights to the rents or other sums due or to become due thereunder and not suffer or permit any of the Leases 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 of the Leases without the prior written consent of Assignee, provided that unless and until an event of default or any event which with the lapse of time, the giving of notice, or both would constitute such an event of default has occurred under the terms of the Mortgage or the Note, Assignor may enter into amendments and modifications to Leases which do not adversely affect the security thereof and may terminate Leases if substantially concurrent with such termination, it shall have entered into a new Lease of the space which was the subject of the terminated Lease upon terms and conditions no less beneficial to it than those contained in the terminated Lease and with a lessee of at least equal creditworthiness to the terminated lessee. Assignor further covenants and agrees that it will, at the request of Assignee, submit the executed originals of all Leases to Assignee.

UNOFFICIAL COPY

The acceptance by 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 Assignee, be deemed or construed to constitute Assignee a mortgagee in possession nor impose any obligation whatsoever upon Assignee, it being understood and agreed that Assignee does not hereby undertake to perform or discharge any obligation, duty or liability of the landlord under any Leases or under or by reason of this Assignment. Assignee shall have no liability to Assignor or anyone for any action taken or omitted to be taken by it hereunder, except for its gross negligence or willful misconduct. Should Assignee incur any liability, loss or damage under or by reason of this Assignment or for any action taken by Assignee hereunder, or in defense against any claim or demand whatsoever which may be asserted against Assignee arising out of any Lease, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon at the Default Rate (as defined in the Mortgage), shall be secured by this Assignment, and Assignor shall reimburse 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 Assignee hereunder are cumulative and are not secondary to or in lieu of but are in addition to any rights or remedies which Assignee shall have under the Note, the 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 Assignee may be exercised from time to time and as often as such exercise is deemed expedient and the failure of 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.

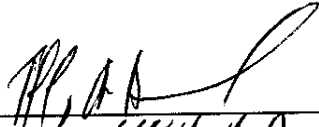
The right of the Assignee to collect and receive the rents assigned hereunder or to exercise any of the rights or powers herein granted to the Assignee shall, to the extent not prohibited by law, extend also to the period from and after the filing of any suit to foreclose the lien of the Mortgage, including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


This Assignment shall be assignable by Assignee and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective executors, administrators, legal representatives, 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.

UNOFFICIAL COPY

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered this 13th day of December, 2004.

A-Z VENTURES, L.L.C.

By 
Name: ROBERT H. AMMERBERG
Title: Manager

By 
Name: JAMES R. ANITEX
Title: Manager

Property of Cook County Clerk's Office

UNOFFICIAL COPY

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said County in the State aforesaid, does hereby certify that Jerry Bradenby, manager and James R. Hixte, manager of A-Z Ventures, L.L.C., an Illinois limited liability company, personally known to me to be the same persons whose name are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said limited liability company for the purposes therein set forth.

Given under my hand and notarial seal this 17th day of December, 2004.

(Notary Seal)



[Signature]
 Notary Public

Keith Ross
 (Type or Print Name)

My commission expires: _____

Office of Cook County Clerk's Office

UNOFFICIAL COPY

SCHEDULE I

LEGAL DESCRIPTION

LOTS 18, 19 AND 20 IN NORTHBROOK EDENS INDUSTRIAL PARK SUBDIVISION UNIT NO. 4, A SUBDIVISION OF THAT PART OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 17, 1968, AS DOCUMENT 20462314, IN COOK COUNTY, ILLINOIS.

Property Address: 3631-3655 Commercial Avenue
Northbrook, Illinois 60062

P.I.N. 04-06-203-002
04-06-203-003
04-06-203-004

Property of Cook County Clerk's Office