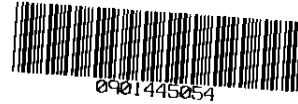


UNOFFICIAL COPY



Doc#: 0901445054 Fee: \$112.25
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/14/2009 09:40 AM Pg: 1 of 38

THIS INSTRUMENT PREPARED BY:

William J. Ralph, Esq.
Burton & Ralph LLP
180 North LaSalle Street
Suite 1820
Chicago, Illinois 60601

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

THIS COLLATERAL ASSIGNMENT OF LEASES AND RENTS (the "Assignment") is made as of this 21st day of DECEMBER, 2008, from KONEN FAMILY TRUST DATED NOVEMBER 24, 1999-JOSEPH A. KONEN AND JUDITH H. KONEN, TRUSTEES ("Borrower"), whose address is 229 E. Lake Shore Drive, Unit 2 E, Chicago, Illinois 60053, and DELAWARE PLACE BANK, whose address is 190 East Delaware Place, Chicago, Illinois 60611 ("Lender").

RECITALS:

WHEREAS, Lender has agreed to make a revolving line of credit loan to Borrower in the original amount of Seven Hundred Fifty Thousand Dollars and No Cents (\$750,000.00) (the "Loan"), which Loan is evidenced by a Loan Agreement between the parties (the "Loan Agreement") and a Note from Borrower payable to Lender (the "Note");

WHEREAS, Borrower has previously entered into a lease with Michigan Building Corporation, Inc. relating to the property commonly known as 229 E. Lake Shore Drive, Unit 2 E, Chicago, Illinois 60053, a copy of which is attached hereto as Exhibit A (the "Lease");

WHEREAS, Borrower has agreed to execute and deliver this Assignment as additional collateral to secure Borrower's payment of the Note;

NOW, THEREFORE, the Borrower, for and in consideration of these presents and the mutual agreements herein contained and for other good and valuable consideration, the receipt whereof is hereby acknowledged, and as further and additional security for payment of the Note; the principal sum, interest, premiums and other indebtedness evidenced thereby; any amendments, extensions or renewals of the Note; and the performance and discharge of each and every obligation, covenant and agreement of Borrower contained in Loan Documents evidencing and/or securing the Loan, does hereby sell, assign and transfer unto the Lender its interest in (i) the Lease and (ii) any and all extensions, renewals and replacements of any of the foregoing, together with all the rents, income, issues and profits now due and which may hereafter become due under or by virtue of the Lease, together with all guaranties of any of the foregoing, it being the intention hereby to establish an absolute transfer and assignment of all the foregoing to Lender.

3/4
Sic
mcy
P-38
VJW

UNOFFICIAL COPY

To protect and further the security of this Assignment, the Borrower agrees as follows:

1. *Agreements Regarding Lease.* Borrower represents and warrants unto Lender as follows:

(a) the Borrower is the sole owner of the entire interest of the lessee in the Lease; without Lender's prior written consent, Borrower will not transfer, sell, assign, pledge, encumber or grant a security interest in any of the Lease; any attempted assignment or subletting without Lender's written consent, by Borrower, shall be null and void;

(b) the Lease is and will be valid and enforceable in accordance with its terms, and shall remain in full force and effect;

(c) the Borrower will promptly notify Lender of any default or claimed default under the Lease of which it becomes aware;

(d) the Borrower shall perform all of its covenants and agreements under the Lease and shall not suffer or permit any release of liability of, or right to withhold payment of rent by, the tenants therein;

Any amounts received by Borrower or its agents for performance of any actions prohibited by the terms of this Assignment, including any amounts received in connection with any cancellation, modification or amendment of any of the Lease prohibited by the terms of this Assignment and any amounts received by Borrower as rents, income, issues or profits from the Premises from and after the date of any Default under the Loan Agreement or under any of the Loan Documents, which default shall not have been cured within the time periods, if any, expressly established therefor, shall be held by Borrower as trustee for Lender and all such amounts shall be accounted for to Lender and shall not be commingled with other funds of the Borrower. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Lender as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith; by way of example and not of limitation, such notice may be given by an instrument recorded with the Recorder of Deeds of the county in which the Premises are located stating that Borrower has received or will receive such amounts in trust for Lender.

2. *Waiver of Liability.* Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provisions hereinafter contained. In the exercise of the powers granted by the Mortgage, no liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by the Borrower.

3. *Further Assurances and Assignments.* The Borrower further agrees to execute and deliver immediately upon the request of Lender, all such further assurances and assignments

UNOFFICIAL COPY

concerning the Leases or the Premises as Lender shall from time to time require.

4. *Exercise of Remedies.* In any case in which under the provisions of the Loan Documents Lender has a right to institute foreclosure proceedings, whether before or after institution of legal proceedings to foreclose the lien thereof or before or after sale thereunder, upon demand of Lender, the Borrower agrees to surrender to Lender and Lender shall be entitled to take actual possession of the Premises or any part thereof personally, or by its agents or attorneys, and Lender in its discretion may, with or without force or notice and with or without process of law, enter upon and take and maintain possession of all or any part of the Premises, and may exclude the Borrower, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment of security of the rents, income, issues and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, and with full power to cancel or terminate any Lease or sublease for any cause or on any ground which would entitle the Borrower to cancel the same, to elect to disaffirm any Lease or sublease, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises that may seem judicious in its discretion, to insure and reinsure the same for all risks incidental to Lender's possession, operation and management thereof and to receive all such rents, income, issues and profits.

5. *Indemnity.* Lender shall not at any time (regardless of any exercise by Lender, or right of Lender to exercise, any powers herein conferred), be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Leases or rental agreements relating to the Premises, and the Borrower shall and does hereby agree to indemnify and hold Lender harmless of and from any and all liability, loss or damage which Lender may or might incur under or by reason of (a) any Leases, (b) the assignment thereof, (c) any action taken by Lender or its agents hereunder, unless constituting willful misconduct or gross negligence, or (d) claims and demands which may be asserted against it by reason of any alleged obligations or undertakings on its part to (or to cause the Borrower to) perform or discharge any of the terms, covenants or agreements contained in the Leases.

6. *Application of Proceeds.* Lender in the exercise of the rights and powers conferred upon it by this Assignment shall have full power to use and apply the rents, income, issues and profits of the Premises to the payment of or on account of the following, in such order as Lender may determine:

(a) operating expenses of the Premises, including costs of management and leasing thereof (including reasonable compensation to Lender and its agents, and lease commissions and other compensation and expenses of seeking and procuring tenants and entering into Leases), establishing any claims for damages, and premiums on insurance hereinabove authorized; it being expressly understood and agreed that Lender in the exercise of such powers may so pay any claims

UNOFFICIAL COPY

purporting to be for any operating expenses of the Premises, without inquiry into, and without respect to, the validity thereof and whether such claims are in fact for operating expenses of the Premises;

(b) taxes and special assessments now due or which may hereafter become due on the Premises;

(c) the costs of all repairs, decorating, renewals, replacements, alterations, additions, or betterments, and improvements of the Premises, including, without limitation, the cost from time to time of installing or replacing such fixtures, furnishings and equipment therein, and of placing the Premises in such condition as will, in the reasonable judgment of Lender, make it readily rentable;

(d) any indebtedness secured or guaranteed by the Loan Documents or any deficiency which may result from any foreclosure sale.

7. *Power of Attorney.* Borrower does hereby appoint irrevocably the Lender its true and lawful attorney in its name and stead and hereby authorizes Lender, with or without taking possession of the Premises, to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all of said rents, income, issues and profits now or hereafter arising from or accruing or due under the Leases with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions hereinafter set forth. Powers of attorney conferred upon Lender pursuant to this Assignment are powers coupled with an interest and cannot be revoked, modified or altered without the written consent of Lender.

8. *Occurrence of Default.* Although it is the intention of the parties that this assignment is a present assignment, Lender shall not exercise any of the rights and powers conferred upon it herein until and unless there shall occur a Default as defined in the Loan Agreement, or a default in the performance and observance by any party other than the Lender of its obligations and agreements under, the Note or the Loan Agreement in each instance after any applicable grace periods shall have expired. Nothing herein contained shall be deemed to affect or impair any rights which the Lender may have under the Note, the Loan Agreement or to affect the impression of a trust upon funds received by a trustee in the manner provided for in Paragraph 1 above.

9. *Election of Remedies.* The provisions set forth in this Assignment shall be deemed a special remedy given to Lender, and shall not be deemed exclusive of any of the remedies granted in the Note or the loan documents but shall be deemed an additional remedy and shall be cumulative with the remedies therein and elsewhere granted Lender, all of which remedies shall be enforceable concurrently or successively. No exercise by Lender of any of its rights hereunder shall cure, waive or affect any default hereunder or Default under the Note or the Mortgage. No inaction or partial exercise of rights by Lender shall be construed as a waiver of any of its such rights and

UNOFFICIAL COPY

remedies, and no waiver by Lender of any such rights and remedies shall be construed as a waiver by Lender of any of its other rights and remedies.

10. *Continual Effectiveness.* No judgment or decree which may be entered on any debt secured or intended to be secured by Lender shall operate to abrogate or lessen the effect of this instrument, but that the same shall continue in full force and effect until the payment, discharge and performance of any and all indebtedness and obligations evidenced by the Note or until such time as this instrument may be voluntarily released.

11. *Notices.* All communications and notices hereunder shall be in writing, and mailed or delivered to such party at the above-referenced or, as to each party, at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section. All notices, requests, demands and other communications provided for hereunder shall be effective when deposited in the mails or when deposited with any overnight carrier, addressed as aforesaid.

12. *Binding Agreements.* This Assignment and all provisions hereof shall be binding upon the Borrower, its successors, assigns, executors, administrators and legal representatives and all other persons or entities claiming under or through them, or either of them, and the word "Borrower," when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Note or this Assignment. The word "Lender," when used herein, shall include Lender's successors, assigns, and legal representatives, including all other holders, from time to time, of the Note.

13. *Miscellaneous.* Neither this Assignment nor any provision hereof may be amended, modified, waived, discharged or terminated orally. The Section headings used herein are for convenience of reference only and shall not define or limit the provisions of this Agreement. As used in this Assignment, the singular shall include the plural and the plural shall include the singular, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

Remainder of page is blank. Signature page follows.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned have caused this Assignment to be executed as of the day and year first above written.

KONEN FAMILY TRUST DATED NOVEMBER 24, 1999

By: Joseph A. Konen
JOSEPH A. KONEN, TRUSTEE

By: Judith H. Konen
JUDITH H. KONEN, TRUSTEE

STATE OF)
)
) ss
COUNTY OF)

I, _____ the undersigned, a Notary Public in and for the County and the State aforesaid, DO HEREBY CERTIFY, that Joseph A. Konen and Judith H. Konen the Trustees of KONEN FAMILY TRUST DATED NOVEMBER 24, 1999, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such he signed and delivered the said instrument, pursuant to authority given by the trust agreement of such trust, as their free and voluntary act, and as the free and voluntary act and deed of trust, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 09 day of November, 2008.

Notary Public: Monique Cruz
My Commission Expires: APRIL 30, 2012

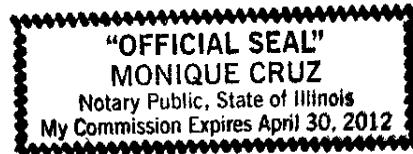


Exhibit A

UNOFFICIAL COPY

SEPARATION COPY

#2E

Proprietary Lease

MICHIGAN BUILDING CORPORATION
LESSOR

TO

Dr. J. Gordon Millichap and
Nancy M. Millichap, as Joint
Tenants with right of survivorship
and not as tenants in common.

Wentz

Clerk's Office of Cook County

UNOFFICIAL COPY

PROPRIETARY LEASE.

THIS LEASE, made and entered into this 1st day of October,
A. D. 1968, between

MICHIGAN BUILDING CORPORATION, INC.

a corporation duly organized and existing under the laws of the State

of Illinois, hereinafter called "Lessor" and Jarvis Hunt &

Florence H. Hunt as joint tenants

of Chicago, Illinois, hereinafter called "Lessee,"

WITNESSETH:

WHEREAS, the Lessor owns and operates an apartment building and the site therefor situated at 229 Lake Shore Drive, in the City of Chicago and State of Illinois; and

WHEREAS, the Lessor has determined that some or all of the apartments in said building shall be leased to co-operative owners who are stockholders of the Lessor to be held under terms and conditions similar to those mentioned in this lease, such leases being hereinafter sometimes referred to as "proprietary leases," and

WHEREAS, the Lessee is the owner and holder of 75 shares of the common capital stock of the Lessor, which number of shares is sufficient to qualify him to own a proprietary lease of the apartment herein described,

Now, THEREFORE,

In consideration of the premises and the covenants and conditions hereinafter set forth, the Lessor has leased and by these presents does hereby lease unto the Lessee, and the Lessee hires and takes as Lessee all that certain space herein sometimes collectively referred to as the "Apartment" on the 2nd floor in the east tier of the building commonly known and described as 229 Lake Shore Drive;

To HAVE AND TO HOLD the above demised premises as a private residential apartment by the Lessee and the Lessee's immediate family, except as hereinafter provided, for and during the term commencing on the 1st day of October, A. D. 1968 and ending on the thirty-first day of May, A. D. 2046, unless said term shall be sooner terminated as hereinafter provided.

The Lessee, in consideration of said demise, and subject to the conditions and limitations herein stated, hereby covenants with the Lessor as follows:

UNOFFICIAL COPY

2

1. The Lessee will pay to the Lessor as rent for said Apartment, in lawful money of the United States of America, at the office of the Lessor, or at such other place in the City of Chicago as the Lessor may from time to time in writing appoint:

A. The sum of One Dollar (\$1.00) per year, in advance on the first day of March of each and every year of the demised term.

B. The amounts of any and all "Further Rents" which may at any time or times be determined and levied against the Lessee or in respect of the Apartment, by the Board of Directors of the Lessor, said "Further Rents" being determined as follows:

The Board of Directors of the Lessor shall, by resolution adopted in or about the month of each year in which the annual meeting of the stockholders of the Lessor is held in accordance with the by-laws of the Lessor, estimate the amount of funds which, in its judgment, will be required by the Lessor during the current or ensuing year or both (in addition to its other prospective income for such period and the surplus, if any, earned during the preceding year or years) for the payment of all prospective expenses and outlays by the Lessor, including, among other things, cost of maintenance of corporate existence, the payment of general taxes, special assessments, water rates, income taxes, insurance premiums, operating expenses, the cost of repairs, additions, improvements, alterations and replacements to said building, interest and principal on any mortgage indebtedness, the expense of refinancing or refunding any encumbrance, the payment of any deficits in previous years, all other costs, expenses and obligations of every nature incurred by the Lessor, and, if deemed advisable, an annual reserve fund as a safeguard against any unexpected or extraordinary expense. If at any time the Board of Directors of the Lessor shall resolve that a special emergency exists requiring additional funds, it may make a supplemental estimate of the amount to be required for the corporation for the purposes above mentioned for the ensuing or the current year or both. The amount of each and every estimate and supplemental estimate so made shall be divided by the aggregate number of shares of the Lessor owned by all of the lessees under propriety leases, and the result thus obtained multiplied by the number of shares owned by the Lessee under this lease shall be the amount of the Further Rent for the period covered by such estimate and shall be paid by the Lessee to the Lessor at such time or times and in such approximately equal monthly installments over the period covered by such estimate, as may be designated from time to time by the Board of Directors of the Lessor. The resolution of the Board of Directors making the estimates and determining the Further Rents above provided for shall not be subject to question or objection by the

UNOFFICIAL COPY

3

Lessee, but may be subsequently changed in amount by said Board or by its successors. The right to establish the amount of and to require payment of any such Further Rents shall be possessed only by the Board of Directors of the Lessor, and shall not pass to any receiver, trustee or creditor of the Lessor. The failure of the Board of Directors of the Lessor to prepare the annual budget as hereinabove provided shall not act as a waiver or release in any manner of the Lessee's obligation to pay the same, whenever determined. So much of assessments collected by the Lessor pursuant to the terms of this paragraph B as shall be devoted to the payment of any capital expenditures shall be credited by the Lessor upon its books to the account of paid-in surplus.

Lessor will furnish Lessee with such information as may be necessary to enable Lessee to take any allowable income tax deductions on account of payment of taxes and interest by Lessor.

C. Additional rent, upon demand, in a sum equal to an amount determined as follows:

(a) The Lessee will, at his own expense, keep the interior of the Apartment, its equipment (including refrigerators, stoves and electrical fixtures which will be maintained by the Lessor) and appurtenances, in good order, condition and repair, in a clean and sanitary condition and do all decorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of said Apartment, and suffer no waste thereof or injury thereto. Unless the Lessor is covered by insurance against such injury, Lessee will repair all injury to said building caused by his act, neglect or carelessness, or that of any sublessee or member of his family or of such sublessee or of any guest, employee or agent of the Lessee or of such sublessee and that all such repairs, redecorating, painting and varnishing shall be of the quality and kind equal to the original work, and all repairs, alterations, additions or improvements made at any time shall be the property of the Lessor without any compensation to the Lessee therefor.

(b) If by reason of the use, misuse, occupancy or abandonment of the Apartment or the improper conduct of the Lessee, the rate of fire insurance on the building or its contents shall be increased, or any fine, bond or penalty shall be imposed on the Lessor, the Lessee shall become personally liable to the Lessor for the increased insurance premiums, fine, bond or penalty, and the Lessor may at its option pay the same or take such steps as may be necessary or desirable to protect itself, and the amount expended therefor is hereby agreed to be additional rent hereunder due and payable upon demand.

UNOFFICIAL COPY

4

(c) If the Lessee shall suffer or permit any lien to be filed or placed against the property of the Lessor, or the Apartment, on account of any material furnished or labor or services rendered in the making of any decorations, repairs, restorations or alterations in the Apartment or the Apartment Building and chargeable to or required to be made by the said Lessee under the terms hereof, then when such lien has been filed or placed the Lessee shall, after notice thereof as hereinafter provided, remove said lien or take such other action in respect thereof as the Lessor may in writing prescribe to protect said building and premises against the same, and if he does not do so the Lessor may at its option pay and discharge the same, and any expenditure of the Lessor for said purpose, together with all costs, expenses and reasonable attorney's fees paid or incurred in connection therewith, is hereby agreed to be additional rent hereunder due and payable upon demand. The Lessor shall not be required to inquire into the validity of any such lien nor to await the entry of any judgment or decree before paying same.

(d) If the Lessee shall at any time be in default hereunder and the Lessor shall institute an action at law or in equity or a summary proceeding against the Lessee based upon such default in enforcing any of the terms or covenants of this Indenture, the Lessee shall reimburse the Lessor for any and all costs and expenses, including reasonable attorney's fees, expended or incurred, and any and all such sums expended or incurred by the Lessor are hereby agreed to be additional rent hereunder due and payable upon demand.

(e) The Lessee shall pay all telephone, gas, electric and artificial refrigeration bills rendered against him or charged against the Apartment, and in the event that the Lessee does not pay such bills when they become due and payable, the Lessor may pay the same, and the amount so paid by the Lessor is hereby agreed to be additional rent hereunder due and payable upon demand.

(f) Unless the Lessor is covered by insurance against such loss, cost or liability, the Lessee shall at all times during the demised term indemnify and save harmless the Lessor from every and all loss, cost, and liability whatsoever which may arise from or be claimed against the Lessor by any person or persons or any claimant for any injuries to person or property or damage of whatsoever kind or character where the injury or damage arises from the use and occupancy of the Apartment by the Lessee or those holding under the Lessee or arising either wholly or in part from any act or omission of the Lessee, or of any member of the family of the Lessee, or of any invited guest, servant, sublessee or other person or persons claiming

UNOFFICIAL COPY

5

by said Lessor together with all its costs, expenses and reasonable attorney's fees in connection therewith are hereby agreed to be additional rent hereunder due and payable upon demand.

(g) If rent herein reserved or any other sums due hereunder are not paid on or before thirty (30) days after the same shall become due, Lessee agrees that upon demand he will pay interest thereon from the due date thereof until the payment of same at the rate of seven per cent (7%) per annum, and such interest is agreed to be additional rent hereunder, due and payable on demand.

2. The Lessor is hereby given and shall have at all times until the payment in full of all rentals and other sums due hereunder, a first and valid lien upon the interest of the Lessee hereunder, and upon all drapes and attached floor coverings placed in or about the Apartment by the Lessee, whether exempt by law or not, and upon the shares of stock of the Lessor owned by the Lessee, to secure the payment of any and all sums which may at any time become due to the Lessor hereunder, which lien may, at the option of the Lessor, be foreclosed in equity or in any other lawful manner, at any time when such sums or any portion thereof shall become overdue hereunder; and in the event of any such foreclosure, a receiver may, at the option of Lessor, be appointed with the usual powers of receivers in equity to take possession of any or all of the property covered by said lien, and relet all or such portion thereof as such receiver shall, pursuant to order of court, see fit. The shares of stock of the Lessor held by the Lessee are hereby continuously and irrevocably pledged by the Lessee to the Lessor as security for the payment from time to time and as often as the same may become due and payable of any and all obligations of the Lessee to the Lessor pursuant to any provision of this lease. The Lessor shall have and it is hereby irrevocably given the right to sell said shares of stock in the event of a default by the Lessee in the payment of any sum or sums due and owing by the Lessee to the Lessor pursuant to any provisions of this lease and the continuance of any such default for a period of thirty (30) days after written notice from the Lessor to the Lessee specifying such default. Said shares of stock may be sold by the Lessor, at public or private sale, for cash or upon such terms of credit as to the Lessor shall seem reasonable and proper, upon not less than five (5) days' written notice by the Lessor to the Lessee of the time and place of said sale. At any such sale the Lessor or its agents may bid for and purchase such shares of stock.

3. The Lessee will always endeavor in good faith to observe and promote the cooperative purposes for the accomplishment of which this Lessor was incorporated.

UNOFFICIAL COPY

6

4. The Lessee shall permit the Lessor and its agents at any and all reasonable times during the demised term to visit and examine the Apartment for the purpose of ascertaining the condition thereof and for the purpose of exhibiting the same to prospective purchasers of the building of which demised premises are a part, or to prospective purchasers or lessees of the demised premises; also the servants, agents, or employees of the Lessor may enter the Apartment at any time when authorized so to do by the Lessor or Lessor's agents to make or facilitate repairs, alterations, changes or improvements, or to said Apartment or in or to any part of the building in which the Apartment is located.

5. The Lessee will not use the Apartment or any part thereof, or suffer the same or any part thereof to be used for any purpose other than as a private residence for the Lessee and his family or a sublessee occupying the same, with the consent of the Lessor as herein provided, for the same purposes; that said Apartment shall not be used as a boarding or lodging house, or for a school or to give instructions in music or singing or for any purpose of trade, business or entertainment; and none of the rooms shall be offered for rent by placing notices on any door, window, or on any other part of the apartment building or said premises, nor shall any room in the Apartment be offered for rent in any manner or rented without the consent of the Lessor.

6. The Lessee understands that the character of the occupancy of the Apartment is an especial consideration and inducement for the granting of this lease and he agrees that he will be responsible for the conduct of all persons in or about the Apartment hereby leased and shall not permit or suffer anything to be done which will obstruct or interfere with the rights of other tenants, or annoy such tenants by unreasonable noises, or otherwise, or injure the reputation of the Apartment or the building of which it is a part, or obstruct the public halls or stairways of the building; and the Lessee agrees that he, his family and all persons dwelling or visiting in the Apartment, will observe and comply with the House Rules and Regulations annexed hereto and made a part hereof, and such other and further rules and regulations whether similar to or different from the present House Rules, as the Lessor may from time to time deem needful and prescribe for the safety, care and cleanliness of the building, and the preservation of good order, as well as the comfort, quiet, and convenience of the occupants of the building and to the further end that the building of which the demised premises are a part can be operated as a co-operative building of the highest grade and its reputation as such will be preserved; and the Lessee will not permit or suffer anything to be done, brought, or kept, upon said premises, which will vitiate any policy of insurance on the Apartment Building or the

UNOFFICIAL COPY

7

contents thereof, or increase the fire insurance rate thereon, and he shall not use or permit the Apartment to be used for any unlawful purpose, and he, his family and all persons dwelling or visiting in the Apartment, shall promptly comply with all the laws, rules, orders, or regulations applicable to the Apartment, made by any lawful authority, Municipal, State or National, or by the Chicago Board of Underwriters.

7. The Lessee understands and agrees that the taking possession of the Apartment by the Lessee at or subsequent to the commencement of the term hereof shall constitute a conclusive admission by the Lessee that the Apartment at such time was in thoroughly good order, repair and condition, and that no representations as to the condition of the Apartment or of the Apartment Building of which it is a part have been made by the Lessor or by its agents, and that no obligation as to cleaning, repairing, redecorating, improving or adding to the same, or any part thereof, in any manner, has been assumed by the Lessor, or shall hereafter be incurred by the Lessor otherwise than as herein expressly provided.

8. The Lessee shall not make or suffer to be made any alterations, improvements or additions in the Apartment or to the exterior or interior of said building without in each case first procuring the written consent thereto of the Lessor.

9. The Lessee upon the termination of this lease by lapse of time or otherwise, or when the Lessor shall be entitled to the possession of the Apartment under the provisions hereof will quit and surrender the Apartment including all additions, alterations, and improvements, and the equipment hereinabove described, all in the same good order, condition and repair as on the date of the commencement of the demised term, loss by fire or other casualty and ordinary wear and tear which cannot be offset by reasonable repairs, decorations, painting or varnishing herein provided to be done by the Lessee excepted, and the Lessee shall promptly deliver to the Lessor all keys to locks in or about said Apartment whether originally furnished to the Lessee by the Lessor or otherwise procured by the Lessee. If the Apartment is not vacated by the Lessee or his sublessee when the Lessor may become entitled thereto under the provisions hereof, the Lessee agrees to reimburse the Lessor for all damages which the Lessor may suffer by reason thereof or at option of Lessor the amount hereinafter provided to be paid on holding over.

10. Any damage to any other apartment caused by leaky radiators, refrigerators, or other causes from within the Apartment (except the concealed pipes or plumbing not susceptible of inspection by the Lessee) shall if caused by the negligence, omission to act, or misconduct of the Lessee, be paid by the Lessee to the Lessor.

UNOFFICIAL COPY

8

such damage shall be caused. This covenant is included herein not only for the protection of the Lessor but also for the protection of the lessees of the other apartments in the building, and shall be enforceable by them directly against the Lessee.

11. The Lessor will not be liable for any injury or damage caused by any latent defect in the Apartment or in or about the Apartment Building nor any injury or damage done or occasioned by the elements or by other tenants or persons therein or resulting from steam, gas, electricity, water, rain or snow which may leak or flow from any part of said building, except that the Lessor shall be responsible for any damage caused to the decorations in the Apartment because of leaks in the roof of said building, but the Lessor shall not be responsible for any injury or damage done or occasioned by any defect in plumbing, electric wiring, or insulation thereof, gas pipes, water pipes or steam pipes, or from broken stairs, porches, railings or walks, or from the breaking of any sewer pipe or downspout, or from the bursting, leaking or running of any tank, in, upon or about the Apartment or Apartment Building, or for the failure of water supply, gas supply, or electric current, or any damage or injury done or occasioned by the falling of any fixtures, plaster or stucco, or for the presence of water bugs, vermin, or insects, if any, nor shall their presence in any way affect this lease, or for interference with light or other incorporeal hereditaments by anyone other than the Lessor and it is expressly understood and agreed that the foregoing enumeration is not intended to be all inclusive, but that the Lessor will not be liable for any repairs or damage or injury to person or property in or about the Apartment or Apartment Building except to the extent of paying for the cost of making such repairs as are specifically required to be made by the Lessor hereunder. The Lessor shall not be responsible for any package or articles left with or entrusted to an employee or agent of the Lessor. If the Lessor shall furnish to the Lessee as appurtenant to the Apartment any storage or garage space use of laundry or any other facility outside of the Apartment, it is understood and agreed that the same is furnished gratuitously by the Lessor, and that if the Lessee or any other person shall use the same, such person does so at his or her own risk and upon the express stipulation that the Lessor shall not be liable for any loss of property therein, or any damage or injury whatever to person or property. The Lessor shall not be liable to the Lessee or to any other person claiming through or under the Lessee for any damage or injury arising from any act, omission or negligence of co-tenants or other persons, or occupants of the building or of adjoining or contiguous property, or from any act, omission, or negligence of the Lessor's agents or servants all claims for any such damage

UNOFFICIAL COPY

9

12. This lease is made, executed and delivered by the Lessor and made, executed, delivered to and accepted by the Lessee upon the following express covenants, agreements, conditions and limitations, to-wit:

A. That this lease and the interest of said Lessee, his spouse, heirs, executors, administrators and assigns, in said premises shall at all times and under all circumstances be and remain subject and subordinate to the lien of each, every and all mortgages or trust deeds and the indebtedness and charges thereby secured to be paid according to the respective tenors thereof whether such mortgage or mortgages, trust deed or trust deeds now exist or shall be hereafter placed upon said premises, provided that with respect to any mortgage or trust deed hereafter placed thereon the consent thereto of the holders of at least two-thirds in amount of the shares of stock of the Lessor at the time outstanding shall have been procured either in writing signed by them or by vote at a meeting of the shareholders of the Lessor, and provided further that this lease is not to be construed as being made for the benefit of the mortgagee or any other person except the Lessor and Lessee.

B. That in the event that the Lessor shall at any time or times hereafter during the life of the last to survive of the persons who at the date hereof are lessees of apartments in said Apartment Building, or within twenty-one (21) years thereafter, desire to mortgage said premises and building of which the Apartment is a part, for its corporate purposes, and shall with the consent of the owners of at least two-thirds in amount of the shares of stock of the Lessor at the time outstanding, obtained at a regular meeting or a special meeting of the shareholders called for that purpose, make, execute and deliver any mortgage, mortgages, trust deed, trust deeds or agreements, pledging or conveying said premises and building, or any part thereof, as security for any corporate debt hereafter contracted or incurred, then and in every such case the estate and interest herein granted and demised to the Lessee, together with any estate or interest created by virtue of the laws of the State of Illinois relating to homestead or dower, shall vest immediately in and inure to the benefit of such mortgagee, or trustee, named in any such mortgage or trust deed, or person entering into such agreement, for the same purposes and to and upon the same trusts and subject to all powers, covenants, agreements and provisions in such mortgage, trust deed or agreement mentioned, to the same extent and in like manner as though said Lessee herein and his spouse and all persons claiming by, through or under said Lessee had joined with the said Lessor in making, signing, sealing, delivering and acknowledging such mortgage, trust deed or agreement, it being the intention hereof that the lien of each such mortgage

UNOFFICIAL COPY

10

or trust deed shall become and remain superior to this lease and to the rights of the Lessee, his spouse, heirs, executors, administrators and assigns.

C. That the Lessee, for himself and all persons claiming by, through or under him, hereby covenants and agrees with the Lessor that upon the making, executing and delivering by the said Lessor of any such mortgage, trust deed or agreement, the Lessee, his spouse, and all persons, rightfully claiming any estate or interest in or to the Apartment by, through or under said Lessee, shall from time to time, and at all times, at the request of the Lessor or at the request of such mortgagee, trustee or party to any such agreement, execute all such conveyances, assignments, releases, including the release and waiver of the right of homestead, or further assurances for the purpose of more fully vesting and confirming in such mortgagee, trustee or party to any such agreement, all the right, title and interest herein granted and demised to the Lessee, as the Lessor or any said mortgagee, trustee or party to any such agreement shall require and as shall be tendered to be done and executed.

13. It is expressly understood and agreed that the character of and restriction upon the occupancy of the Apartment, as hereinafter expressed and limited, is an especial consideration and inducement for the granting of this lease and, therefore, the Lessee shall not assign, or attempt to assign this lease or any part thereof, or permit the same to be assigned by operation of law; nor let, nor sublet all or any part of the Apartment, without in each case obtaining the consent in writing to the proposed assignment or subletting, either of the Lessor pursuant to resolution of its Board of Directors, or of a majority of the individuals who are directors of the Lessor, or of the holders of record of a majority of the capital stock of the Lessor; provided, however, that on the happening of any of the following events, it shall not be necessary to secure such consent to the transfer and assignment of this lease:

(a) In the event that the Lessee shall make an assignment of this lease and said qualifying shares of the stock of the Lessor as collateral for a loan, and said assignment shall contain an agreement or provision that the assignee shall have no right to occupy said apartment without the previous consent of the Lessor as herein provided;

(b) In the event that the Lessee shall die, and by virtue of any law of inheritance or of a valid will, the ownership of said qualifying shares and the Lessee's interest in this lease shall be transferred to the surviving spouse, parent or parents, or child or children of the Lessee.

UNOFFICIAL COPY

11

14. No assignment of this lease, whether permitted by the terms hereof or consented to by the Lessor, shall be valid unless the assignee shall acquire the ownership of the Lessee's qualifying shares of the stock of the Lessor and shall within thirty (30) days after the execution and delivery of such assignment or within thirty (30) days after such assignee acquires title by descent or devise, execute and deliver to the Lessor an instrument in writing executed under seal, wherein and whereby such assignee shall expressly accept in writing such assignment and agree to assume and be bound by all of the covenants of the Lessee herein contained and all of the obligations of the Lessee thereafter accruing hereunder.

15. The permission of the Lessor to sublet the Apartment in whole or in part shall not relieve the Lessee hereunder of any of his obligations under this lease, but shall only be an approval of the sublessee as an acceptable occupant of the Apartment at the time of the giving of such approval.

16. It is further covenanted and agreed that all subleases shall expressly be made subject to all of the covenants, conditions and provisions of this lease and that upon the termination of this lease, all subleases shall *ipso facto* terminate.

17. Any attempted assignment or subletting of this lease in violation of the provisions herein contained shall be void and shall not vest in the assignee or sublessee any right, title or interest herein or hereunder or in the Apartment.

18. If the Lessor shall consent to any assignment hereof or subleasing hereunder, there shall be no further assignment or subletting without in each case obtaining the express written consent of the Lessor, except as herein otherwise provided, and if an assignment is made in accordance with the provisions of this lease the assignee shall be subject to the same terms and conditions as to future assignments.

19. Whenever the Lessee under the provisions hereof, shall be entitled to assign this lease, and shall so assign it, and the assignee shall acquire the ownership of the Lessee's qualifying shares of the stock of the Lessor and deliver to the Lessor said instrument in writing assuming all of the covenants and obligations thereafter accruing hereunder, then and in that event such Lessee assignor shall be forever released and discharged of any and all of the covenants and obligations of this lease thereafter accruing.

UNOFFICIAL COPY

12

20. This lease is made, executed, delivered and accepted by the Lessee upon the express conditions and agreement that this lease and the estate hereby created shall cease, determine and the term hereof come to an end:

A. In the event that the Lessor, at any time during the demised term, with the consent of the owners of at least two-thirds in amount of its shares of stock at the time outstanding, given at a shareholders' meeting, duly called for that purpose, upon notice given in accordance with the by-laws and the laws of Illinois, shall sell the said premises and the building situated thereon.

B. In the event the building of which the demised premises are a part shall be injured or damaged by fire or other casualty to the extent of fifty per cent (50%) or more of its then full insurable value, unless within thirty (30) days from the settlement of the fire or other loss insurance the Lessor or the mortgage trustee or mortgagee, if any there be, shall elect to rebuild the same and give notice of such election within said time to the Lessee herein, in which case the Lessor or said mortgage trustee or mortgagee shall rebuild the same with due diligence, subject to delays caused by strikes, lockouts, acts of God or the public enemy.

C. In the event that the building of which the demised premises are a part, or any part thereof shall be condemned for public use.

21. This lease is made, executed, delivered and accepted by the Lessee upon the express condition and agreement that this lease and the estate hereby created shall, at the option of the Lessor, cease, determine, and the term hereof come to an end, or that at the option of the Lessor the Lessor may re-enter the demised premises without terminating the term hereof as in paragraph 23 of this lease set forth:

A. In the event that the Lessee shall at any time during the term of this lease cease to have standing of record in his name on the books of the Lessor a number of shares of the stock of the Lessor at least equal to the number owned by the Lessee at the date of the execution of this lease and above specified, in addition to the shares required to be owned by the Lessee under any other lease which the Lessee may have with the Lessor hereunder; provided, however, in the event that the Lessee shall die at any time during the term of this lease, either testate or intestate, and thereupon, by virtue of any law of inheritance or of a valid will, the ownership of said shares of stock shall be transferred, said right of the Lessor to terminate this lease by virtue of the above clause shall not be exercised for a period of eighteen (18) months from the death of the Lessee to enable the person or persons so acquiring the shares to present evidence of ownership satisfactory to the Lessor.

B. In the event that at any time the Lessor, acting pursuant to a majority vote of its Board of Directors, shall deem the tenancy of the Lessee an undesirable one by reason of objection-

UNOFFICIAL COPY

able or improper conduct on the part of the Lessee, or any person dwelling in or visiting the demised premises (and it is agreed that among other things repeatedly to violate or disregard the House Rules herein referred to, or to permit or tolerate, with or without the knowledge or consent of the Lessee, a person of dissolute, loose or immoral character to remain in the demised premises, shall be deemed to be objectionable conduct); provided, however, that in the event that the Lessee shall feel that the Board of Directors was not justified in terminating this lease on such account he shall at his election be privileged to have the matter considered by the shareholders of the Lessor. Unless the Lessee shall file a written notice of appeal with the Secretary of the Lessor before the expiration of thirty days after the receipt of notice of the termination of this lease by the Board of Directors of the Lessor he shall be deemed to have elected to waive this right of appeal. If the Lessee elects to appeal as herein provided, a special meeting of the shareholders shall be called as soon as practicable for the purpose of considering the appeal and in such case the vote or action taken at such meeting by a majority in amount of the shares of stock of said corporation shall be final and conclusive. In the event of an appeal by said Lessee to the shareholders of said corporation the right to terminate this lease shall be suspended until said shareholders have acted on this matter as herein provided. If the shareholders at the aforesaid shareholders' meeting determine as herein provided that the tenancy of the Lessee is undesirable, this lease and the term hereby created shall come to an end immediately or the Lessor may at its option re-enter the demised premises without terminating the term hereof, all in the same manner and with the same effect as if no appeal had been taken.

C. In the event that at any time during the term of this lease the Lessee (a) shall be adjudicated a bankrupt under the laws of the United States; or (b) shall make a general assignment for the benefit of his creditors; or (c) if a receiver for the interest of the Lessee hereunder or of all of the Lessee's property shall be appointed by any court of competent jurisdiction, which appointment shall not be vacated within thirty (30) days after the appointment of such receiver; or (d) the Lessee's interest hereunder shall be levied upon by virtue of an execution and offered for sale pursuant thereto; or (e) if Lessee shall fail, for a period of 15 days after written demand therefor, to pay the rent herein reserved or other moneys due hereunder; or (f) if the Lessee shall violate any of the terms, covenants and conditions herein contained to be by the Lessee kept and performed, or fail or refuse to comply with any demand which Lessor by the terms hereof is permitted to make, and such violation or failure or refusal as the case may be shall continue for a period of 30 days after written notice thereof to him.

D. In the event of any attempted assignment or subletting in violation of the terms hereof, or in the event the Lessee shall abandon said demised premises.

22. The Lessee hereby waives any and all other notices, whether required by statute or otherwise, of any default or demand for possession and agrees in the event of the termination of this lease...

UNOFFICIAL COPY

14

suant to or by virtue of any of the events or contingencies mentioned in the subparagraphs designated A to C of paragraph 20 of this lease, or in the event of the termination of this lease or the re-entry of the Lessor pursuant to or by virtue of any of the events or contingencies mentioned in the subparagraphs designated A to D of paragraph 21 hereof, and, in any case, upon the service of notice (if any) expressly required thereby and the expiration of the time (if any) therein expressly given for the curing of such default, to quit and surrender up possession of the demised premises to the Lessor, and agrees that the mere retention of possession thereof by Lessee of the demised premises shall constitute a forcible detainer, and that it shall be lawful for the Lessor, at its election at any time thereafter and without further demand or notice, either to declare said term ended or not as it may see fit, and to re-enter the demised premises or any part thereof, either with or without process of law, and remove any and all persons and property therefrom, and the Lessee may use such force as may reasonably be necessary in expelling and removing the Lessee or other occupants of the demised premises without being liable to indictment, prosecution or damage therefor, and such entry shall not constitute a trespass or forcible entry or detainer, nor shall it cause a forfeiture of rents due, nor a waiver of any covenant, agreement or promise in this lease contained to be kept and performed by the Lessee.

23. In the event of re-entry by the Lessor under the terms hereof, the Lessor may at its option and without terminating the term hereof, relet the demised premises or any part or parts thereof for such rent and upon such terms as shall be satisfactory to the Lessor, and may collect the rents therefor and for the purpose of such reletting may make any decorations, repairs or alterations or additions in and to said demised premises as may in its judgment be necessary and convenient, and is hereby authorized to deduct from the rentals so collected on such reletting, the cost of same as well as any expenses of reletting, such as commissions and advertising, and apply the net amount so received *pro tanto* in payment of the rent herein reserved. If the Lessee sublets the demised premises with the consent of the Lessor and Lessee makes default in the payment of the rents herein reserved, the Lessor may at its option and without terminating this lease, collect the rent from such sublessee and apply the same *pro tanto* in payment of the rent herein reserved. Collection of rents in case of reletting by the Lessor or in case of subletting by the Lessee shall not be deemed a waiver by the Lessor of any covenant herein or a release of the Lessee from the performance of the covenants herein contained to be by the Lessee performed, and in each case the

UNOFFICIAL COPY

15

Lessee agrees to pay the deficiency in the rents collected, if any there be.

24. In the event of the termination of this lease by lapse of time or otherwise, the Lessee agrees to surrender possession of the demised premises in good condition, loss by fire or other casualty, reasonable wear and tear which cannot be remedied by repairs and redecoration as herein provided excepted, and deliver the keys to the Lessor without any demand or notice whatsoever, and the mere retention of possession thereafter shall constitute a forcible detainer, and the Lessee hereby agrees to pay, as liquidated damages for the whole time that such possession is withheld, a sum equal to four times the amount of the Further Rent due and payable during the time of said withholding under the terms of this lease, prorated for each and every day of such withholding.

25. In the event of a re-entry by the Lessor under any of the provisions of the subparagraphs designated A to D of paragraph 21 hereof, the Lessee shall have thirty (30) days after the date of such termination (and all such additional time during which the Lessee shall continue to pay to the Lessor each month a sum equivalent to the rent and all other payments herein reserved or required to be paid by the Lessee during such month, as and when they become due and payable hereunder) within which to sell his qualifying shares of stock of the Lessor to an applicant for a proprietary lease of the Apartment acceptable to the Lessor as an occupant thereof and during such time the Lessor will not lease the Apartment to any one else, and the Lessor agrees in such case also that if the Lessee shall thus pay all of such amounts promptly as aforesaid and shall procure a bona fide purchaser of his said qualifying shares of the stock of the Lessor who shall be approved by the Board of Directors of the Lessor as an acceptable occupant of the Apartment, the Lessor will on request execute and deliver a new proprietary lease of the Apartment similar in terms and form to this lease to such approved purchaser for the then unexpired portion of the original term hereof; provided that if the Lessee shall in any month before the execution and delivery of such new lease fail to make payment of any such amount on the date when the same thus would have become due hereunder had this lease not been canceled or within ten (10) days after demand in writing therefor from the Lessor, all obligations of the Lessor under this section shall without further notice or demand cease and terminate.

26. The Lessor, subject to the limitations of liability hereinafter stated, hereby covenants with the Lessee as follows:

(a) The Lessee, upon paying the rents and performing the covenants of the Lessee as herein set forth, shall at all times during the

UNOFFICIAL COPY

16

term hereby granted be entitled to the use of such facilities in or about the Apartment Building as may be provided generally for the use of the other tenants of similar apartments therein, and shall quietly have, hold and enjoy the Apartment without any suit, trouble or hindrance from the Lessor, its successors or assigns; provided, however, that the Lessor shall have full power to determine the manner of maintaining and operating the Apartment Building.

(b) The Lessor shall at its own expense: maintain and operate the Apartment Building as a first class apartment building and faithfully endeavor to furnish heat to the Apartment when it may be necessary, and an ample supply of hot and cold water; maintain reasonable passenger and freight elevator service, and a reasonable number of attendants for the proper care and service of the Apartment Building; make proper connections for supplying to the Lessee at his own expense and charge, electricity, gas and telephone for use in the Apartment; and use reasonable diligence to keep the sidewalks and courts clean, free from obstructions and lighted.

(c) The Lessor shall keep in good order, condition and repair the foundations, walls, supports, beams, roofs, gutters, cellars, fences, sidewalks, fire escapes, chimneys, boilers, pumps, tanks, front and rear entrances, main halls, stairways, porches, elevators and all main and principal pipes for carrying water, gas or steam through the said building and the main drain pipes and electrical conduits, together with all plumbing apparatus intended for the general service of the building, and all plumbing and heating apparatus in the Apartment, it being agreed that the Lessee shall give the Lessor prompt notice of any disorders or defects requiring repairs to be made, and shall at all reasonable times allow the representatives of the Lessor to enter and inspect the Apartment for the purpose of determining the necessity and character of any such repairs and of making the same, and upon reasonable notice to permit the Lessor or its agents to remove such portions of the walls, floors and ceiling of the Apartment as may be required for the purpose of making such repairs, all portions so removed to be replaced by the Lessor as soon as reasonably can be done, in as good condition as before removal. If the Lessee shall fail or refuse, or not be personally present to open and permit an entry into the Apartment when for any reason an entry therein shall be necessary or permissible hereunder, the Lessor or its agents may forcibly enter the Apartment without rendering the Lessor or such agents liable for any claim or cause of action for damages by reason thereof and/or by reason of the making of such repairs after entry (if during such entry the Lessor shall accord reasonable care to the Lessee's property), and without in any manner affecting the obliga-

UNOFFICIAL COPY

17

tions and covenants of this lease. It is, however, expressly understood that the right and authority hereby reserved does not impose, nor does the Lessor assume, by reason thereof, any responsibility or liability whatsoever for the care or supervision of the Apartment, or any of the pipes, fixtures, appliances or appurtenances therein contained or therewith in any manner connected, except as herein expressly provided. All repairs and replacements which the Lessor agrees to make shall be paid for by the Lessor unless rendered necessary by the act, neglect or carelessness of the Lessee or any of his family or his or their guests, employees, or agents, in which event the expense shall be borne by the Lessee.

(d) If the Lessor shall make any repairs or improvements or do any other work in or about the Apartment Building or the Apartment, the Lessor will execute such repairs and replacements and other work with due diligence and with as little interference as possible with the use of the Apartment by the Lessee, and when reasonably necessary the Lessor may omit or interrupt the service provided for the Lessee until all necessary repairs or improvements shall have been made and completed, without in any manner or respect affecting or modifying the obligations or covenants of the Lessee herein contained. The foregoing undertakings of the Lessor are upon the express condition that there shall be no diminution or abatement of rent nor shall there be any other compensation for failure to perform the same or for interruption or curtailment of service, when such failure, interruption or curtailment shall be due to accident, alterations or repairs desirable or necessary to be made, or to inability or difficulty in securing supplies or labor, or to some cause other than gross negligence on the part of the Lessor, and no diminution or abatement of rent or other compensation shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Apartment Building or to its appliances nor for any space taken to comply with any law, ordinance or order of a government authority, and that the sole liability of the Lessor hereunder shall be limited to the cost of making such repairs, replacements, or other work.

(e) In the event that the building of which the demised premises are a part shall be injured or damaged by fire or other casualty to an extent less than fifty per cent (50%) of its then full insurable value, or in the event the Lessor or a mortgage trustee or mortgagee, if any there be, elects to repair or rebuild under the provisions of subparagraph B of paragraph 20 hereof, then the Lessor, mortgage trustee or mortgagee shall repair or rebuild the same at the expense of the Lessor, the mortgage trustee or mortgagee, as the case may be, so as to conform substantially to the plans and general specifications in

UNOFFICIAL COPY

18

accordance with which the same was erected, as speedily as possible, delays caused by strikes, lockouts, acts of God and the public enemy being excused. During the time that the demised premises shall be rendered untenable by such fire, explosion or other casualty, the rent herein reserved shall be abated.

27. The Lessor or its agent will keep full and correct books of account, and the same shall be open to inspection by the Lessee, or a duly authorized representative of the Lessee, at such reasonable times as may be fixed by the Board of Directors of the Lessor. The Lessor shall also at the end of each of its fiscal years, have available for examination by the Lessee a statement of the income and disbursements of the Lessor for that year.

28. The Lessor shall at all times keep the Apartment Building insured in a reasonable amount against loss or damage by fire, against liability under the Workman's Compensation Law, and shall maintain a reasonable amount of public liability, elevator and boiler insurance.

29. The Lessor will not hereafter execute any mortgage or trust deed on said premises without the previous consent thereto of the holders of at least two-thirds in amount of the shares of stock of the Lessor at the time outstanding.

30. In the event of the death of the Lessee at any time during the term of this lease or any extension thereof, or of the death of the husband of the Lessee if the Lessee be a married woman living with her husband, then the executors or administrators of the Lessee or the Lessee if a married woman, shall have the right to terminate this lease on the last day of any month following such death during the period of nine months from and after the date of such death, provided at least six (6) months' prior notice in writing shall have been given to the Lessor by said executors or administrators or said Lessee if a married woman, provided that all rentals and other indebtedness due to the Lessor shall be paid up to the date of such termination and the premises shall have been maintained in good and tenantable condition. Upon the death of any joint lessee, the surviving lessee or lessees shall have the same right to terminate this lease upon the same terms and conditions as are herein provided for an individual lessee. Anything in this paragraph 30 contained to the contrary notwithstanding, the right herein given to terminate this lease shall also be contingent upon the surrender to the Lessor at or prior to the date of such termination (properly endorsed and bearing all stock transfer stamps which may be required by law) of the certificate or certificates

UNOFFICIAL COPY

19

for all of the shares of the stock of the Lessor which shall have been owned and held by the Lessee to qualify him to own this proprietary lease.

31 The Lessee shall have the right to terminate this lease on the last day of any month after the expiration of the first year of the term hereof, provided that he shall have given to the Lessor not less than six (6) months prior notice in writing of intention so to terminate it being the intention that such notice can not be given until on or after the expiration of the first year of the term hereof and provided that all rentals and other indebtedness due to the Lessor shall be paid up to the date of such termination and the premises shall have been maintained in good and tenantable condition. At or prior to the date of such termination the Lessee will surrender to the Lessor (properly endorsed bearing all stock transfer stamps which may be required by law) a certificate or certificates for all shares of stock of the Lessor which shall have been owned and held by the Lessee to qualify him to own this proprietary lease.

The right of cancellation provided for in paragraphs 30 and 31 hereof shall not be taken away from the Lessee by any amendment or modification of this lease without the written consent of the Lessee.

32. It is expressly understood and agreed and is a condition of this lease:

(a) That none of the owners, present or future, of the stock of the Lessor, nor any directors or officers, present or future, of the Lessor, shall be personally liable upon any of the covenants or agreements of the Lessor contained in this instrument.

(b) That the Lessee hereby waives the giving of any and all notices required by the statutes or laws of Illinois, except as herein provided, and agrees that in every case where under any of the provisions of this lease, or in the opinion of the Lessor, it shall or may become necessary or desirable for the Lessor to serve on the Lessee any demand or notice of any kind or character, service thereof shall be sufficient if (a) personally served on the Lessee or any member of his family above the age of fifteen (15) years or if (b) mailed by the Lessor to the Lessee by United States registered mail, postage prepaid, addressed to the Lessee at such address as the Lessee shall theretofore have furnished to the Lessor in writing, or if no such address shall have been furnished the Lessor then at the premises hereby demised, and the giving or serving of such notice or demand in any one or more of the ways above specified shall constitute a good

UNOFFICIAL COPY

20

and sufficient notice or demand for any and all purposes, whether under the terms and provisions hereof or otherwise.

(c) That all proprietary leases on the apartments of the Apartment Building entered into between the Lessor and shareholders of the Lessor shall contain substantially the same covenants and agreements as herein set forth; provided, however, that the form and substance of this lease (except the right to cancel the lease in the manner herein provided for or the terms of the lease) may be changed with the consent of the holders of at least two-thirds in amount of the capital stock of the Lessor at the time outstanding through an apt resolution to that effect adopted at a meeting of the shareholders of the Lessor duly called for such purpose. In the event that the form of proprietary leases shall be changed in accordance with the above provision, the Lessee covenants and agrees that he will at the option of the Lessor surrender and cancel this lease and will execute said new form of lease for the balance of the demised term, upon the tender thereof in form as aforesaid.

(d) That the failure of the Lessor to insist in any one or more instances upon a strict performance of any of the covenants of this lease, or to exercise any option herein contained or the waiver of any breach of covenant, shall not be construed as a waiver of any succeeding breach of such covenant or a relinquishment for the future of such option, but the same shall continue and remain in full force and effect. The receipt by the Lessor of rent from the Lessee or from any subtenant to be applied toward the payments due to the Lessor with or without knowledge of the breach of any covenant hereof, or the giving or making of any notice or demand, whether according to any statutory provision or not, or any act or series of acts after each breach shall not be deemed a waiver of such breach, and none of the covenants herein contained shall be waived, modified or forfeited by any act of any collector, employee or agent of the Lessor or in any other manner except by the action of the Lessor in writing.

(e) That the Lessor may pursue any of its remedies in this lease provided, or which may be allowed at law or in equity, either separately or concurrently, and that any and all of its rights and remedies are cumulative and not alternative, and shall not be exhausted by the exercise thereof on one or more occasions. It is also covenanted and agreed by the Lessee that after the service of notice or the commencement of suit, or after final judgment for the possession of the Apartment, the Lessor may collect and receive any rent then due, and the payment of such rent shall not waive nor affect such notice, suit, judgment, or any other right of the Lessor.

UNOFFICIAL COPY

21

(f) That all covenants and agreements, conditions and undertakings in this lease contained, shall extend and inure to and be binding upon the parties hereto, and the heirs, executors, administrators, successors and permitted assigns of the respective parties hereto, the same as if they were in every case named and expressed, and that the same shall be construed as covenants running with the land, and wherever in this lease reference is made to the Lessor or the Lessee, it shall be held to include and apply to the heirs, legal representatives, successors or permitted assigns of such party, the same as if in each and every case so expressed and although the above terms are expressed in the singular number, it shall nevertheless be taken to apply to the persons appearing as the actual lessees hereunder, whether one or more, male or female, provided that the Lessee may not assign except as herein provided.

(g) That the invalidity of any one or more phrases, clauses, sentences and/or paragraphs hereof shall not affect the remaining portions of this indenture, or any part thereof, all of said phrases, clauses, sentences and/or paragraphs of this indenture being inserted conditionally upon their being held valid in law, and in the event that any one or more of the phrases, clauses, sentences and/or paragraphs contained herein should be held invalid, this indenture shall be construed as if such invalid phrases, clauses, sentences and/or paragraphs had not been inserted.

(h) That the said shares of stock of the Lessor held by the Lessee to qualify him to own this proprietary lease have been acquired and are owned subject to the following additional conditions:

(1) The shares allocated as qualifying shares to each proprietary apartment are transferable only as an entirety except where the Board of Directors by resolution shall approve the division of such shares into separate certificates.

(2) The shares may be transferred upon the books of the Lessor only by the Lessee in person or by attorney upon surrender of the certificate therefor properly endorsed, and only if all obligations from the Lessee to the Lessor under this lease have been paid in full.

(3) Each shareholder of the Lessor is entitled, solely by reason of his ownership of shares of the Lessor, to occupy for dwelling purposes the apartment in the building owned by the Lessor to which his shares are allocated, such occupancy to be under and in accordance with the terms of a proprietary lease containing substantially the same covenants and agreements as herein set forth and at a rental to be determined in accordance with the terms hereof. The Lessee shall transfer his shares only to a permitted assignee of this lease or to the Lessor.

UNOFFICIAL COPY

(4) The certificate or certificates evidencing said shares shall contain a statement or legend on the face thereof substantially as follows:

"The shares of stock represented by this certificate have been issued to qualify the owner hereof as lessee under a proprietary lease of an apartment in the building owned by the corporation, and the holder of this certificate accepts it subject to the following conditions: The lessee under such proprietary lease may be assessed by the board of directors of the corporation from time to time for his share of operating expenses and capital contributions. The corporation shall have a first and valid lien upon the shares represented by this certificate, and the shares represented hereby are continuously and irrevocably pledged to the corporation for debts due it by the owner of this certificate or any occupant or lessee under said proprietary lease, and for the purpose of enforcing such lien the corporation may sell the shares pursuant to the provisions of the proprietary lease and in the manner and upon the notice therein set forth. The right to terminate said proprietary lease, under certain circumstances therein set forth, is contingent upon the surrender of this certificate to the corporation. The shares represented by this certificate are transferable only in the manner and subject to the conditions set forth in said proprietary lease."

(5) The note and mortgage executed by the lessor in connection with the purchase of the building and site therefor situated at 229 Lake Shore Drive in the City of Chicago, Illinois, shall contain a provision substantially as follows:

No recourse under or upon any obligation, covenant or agreement contained in this promissory note or in the trust deed securing the payment hereof or because of the creation of any indebtedness evidenced hereby, shall be had against any subscriber to the capital stock, incorporator, stockholder, officer, director or lessee, as such, in any lease for a term of ninety-nine (99) years or longer, that shall be subordinated to the lien of such trust deed, past, present or future, of the undersigned or of any successor corporation, either directly or through the undersigned, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or constitution or otherwise; it being expressly agreed and understood that this note and the obligations evidenced hereby are solely corporate obligations and that no personal liability whatever shall attach to or be incurred by the subscribers, incorporators, stockholders, officers, directors or the aforescribed lessees of the undersigned or of any successor corporation, or any of them, because of the incurring of the indebtedness evidenced hereby or under or by reason of any of the obligations, covenants or agreements contained in this note or in the trust deed securing the payment hereof or implied therefrom, and that any and all personal liability of every name and nature and any and all rights and claims against every such subscriber, incorporator, stockholder, officer, director or lessee, whether arising at common law or in equity, or created by statute or constitution, are expressly released and waived as a condition of and as part of the consideration of the execution of this note

UNOFFICIAL COPY

and the trust deed securing the payment hereof; provided, however,

(1) nothing herein contained shall give any lessee or other person, firm or corporation the right to occupy or use any portion of the premises hereby conveyed from and after the date of any default hereunder unless a fair and reasonable compensation for such use and occupancy, as determined by the holder of this promissory note, shall be paid to the holder hereof;

(2) nothing herein contained shall be deemed to affect the right of the holder hereof to have any of the assets of the undersigned, including any accrued indebtedness of lessees to the undersigned, applied in partial satisfaction of said indebtedness.

IN WITNESS WHEREOF, the Lessor has caused this instrument to be executed by its President, attested by its Secretary and its corporate seal to be hereunto affixed, and the Lessee has hereunto set his hand and seal, the day and year first above written.

MICHIGAN BUILDING CORPORATION, INC.,

By *Edward J. Barborke*
President.

Attest:

A. Sullivan
Asst. Secretary.

X *Jarvis Hunt* (SEAL)
Florence G. Hunt (SEAL)

County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, Scott Harrison, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY that C. J. Barbocka, President of Michigan Building Corporation, Inc. and Louis C. Sudler, Jr. ASST., Secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Secretary respectively, 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 corporation for the uses and purposes therein set forth; and said President did then and there say that he signed said instrument by authority of the Board of Directors of said corporation and in its behalf, and said Secretary did then and there acknowledge that he, as custodian of the corporate seal of said corporation, did affix the said corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

Given under my hand and notarial seal this 10th day of October, A. D. 1968

Scott Harrison
Notary Public.

My commission expires on the 17 day of May, A. D. 1969

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

I, Scott Harrison, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY that James Hunt & Florence S. Hunt personally known to me to be the same person... whose name... is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/they signed, sealed and delivered the said instrument as his/their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal this 10th day of October, A. D. 1968

Scott Harrison
Notary Public.

My commission expires on the 17 day of May, A. D. 1969

UNOFFICIAL COPY

25

ASSIGNMENT BY LESSEE.

FOR VALUE RECEIVED the undersigned Lessee hereby assigns all his right, title and interest in and to the within lease from and after _____ unto _____

of the City of Chicago, Illinois.

..... (SEAL)

..... (SEAL)

ACCEPTANCE BY ASSIGNEE.

In consideration of the above assignment and the written consent of the Lessor thereto, the undersigned hereby assumes and agrees to keep and perform all the covenants, promises, conditions and agreements of the within lease by the Lessee therein to be kept and performed and to make all payments provided by said lease from and after _____ and agree that no further assignment or subletting of the premises described in said lease, or any part thereof, will be made except in the manner therein recited.

..... (SEAL)

..... (SEAL)

CONSENT TO ASSIGNMENT.

The Michigan Building Corporation, Inc., by its President and Secretary, pursuant to authority of a resolution of its Board of Directors, hereby consents to the assignment of the within lease to the assignee above described, in consideration of the covenants, promises and agreements set forth in the above assignment and acceptance.

Dated at Chicago, Illinois _____, 19.....

MICHIGAN BUILDING CORPORATION, INC.,

By.....

President.

Attest:

.....
Secretary.

UNOFFICIAL COPY

To be attached to and made a part of the proprietary lease pertaining to Apt. 2-E, 229 Lake Shore Drive, Chicago, Illinois.

ASSIGNMENT BY LESSEE

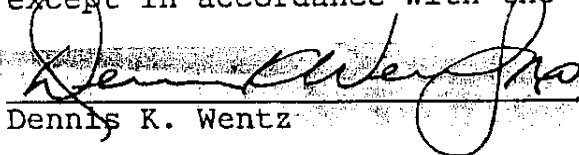
FOR VALUE RECEIVED, the undersigned Lessee hereby assigns all their right, title and interest in and to the within Lease from and after April 14, 1989 unto Dennis K. Wentz and Anne C. Wentz, husband and wife, as joint tenants with right of survivorship and not as tenants in common.

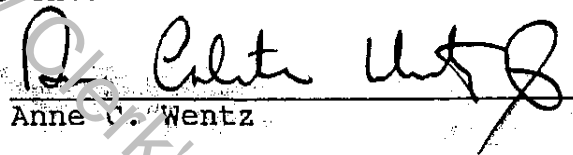

Orin A. Steinhaus


Constance Steinhaus

ACCEPTANCE BY LESSEE

In consideration of the foregoing Assignment and the written consent of the Lessor thereto, the undersigned hereby assumes and agrees to keep and perform all the covenants, promises, conditions and agreements of the within Lease by Lessee therein to be kept and performed and agrees to make all payments provided by said Lease from and after April 14, 1989 and further agrees that no further assignment or subletting of the premises described in said Lease, or any part thereof, shall be made, except in accordance with the terms thereof.



Dennis K. Wentz


Anne C. Wentz


CONSENT TO ASSIGNMENT

MICHIGAN BUILDING CORPORATION, INC., by its President and Secretary, pursuant to authority of a resolution of its Board of Directors, hereby consents to the assignment of the within Lease to the assignees hereinbefore named, in consideration of the covenants, promises and agreements set forth in the foregoing assignment and acceptance.

Michigan Building Corporation, Inc.

By 
as its _____

ATTEST:

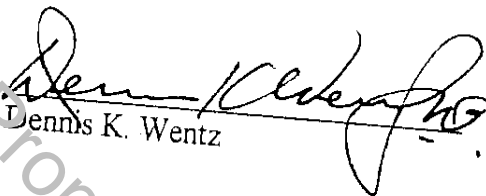

Secretary

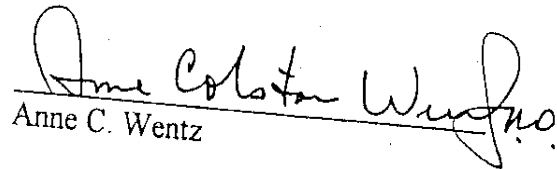
UNOFFICIAL COPY

To be attached to and made a part of the proprietary lease pertaining to Apt. 2-E, 229 East Lake Shore Drive, Chicago, Illinois.

ASSIGNMENT BY LESSEE

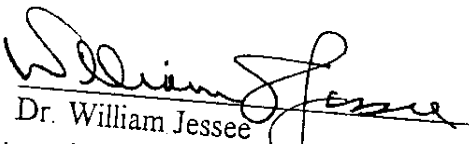
FOR VALUE RECEIVED, the undersigned Lessee hereby assigns all their right, title and interest in and to the within Lease from and after (date) unto Dr. William Jessee and Sarah Jessee, husband and wife, (as joint tenants with right of survivorship and not as tenants in common).

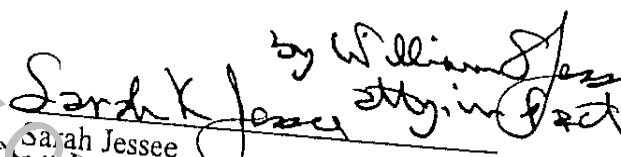

Dennis K. Wentz


Anne C. Wentz

ACCEPTANCE BY LESSEE

In consideration of the foregoing Assignment and the written consent of the Lessor thereto, the undersigned hereby assumes and agrees to keep and perform all the covenants, promises, conditions and agreements of the within Lease by Lessee therein to be kept and performed and agrees to make all payments provided by said Lease from and after (date) and further agrees that no further assignment or subletting of the premises described in said Lease, or any part thereof, shall be made, except in accordance with the terms thereof.


Dr. William Jessee


Sarah K. Jessee

wf skj
tenants

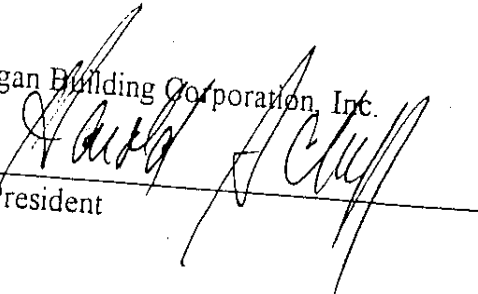
by William Jessee
stg in fact

by the entirety with rights of survivorship and not joint tenants.
nor tenants in common.

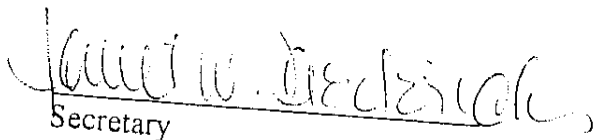
CONSENT TO ASSIGNMENT

MICHIGAN BUILDING CORPORATION, INC., by Harold Schiff, its President and Janet Diederichs, Secretary, pursuant to authority of a resolution of its Board of Directors, hereby consents to the assignment of the within Lease to the assignees hereinbefore named, in consideration of the covenants, promises and agreements set forth in the foregoing assignment and acceptance.

Michigan Building Corporation, Inc.

By 
as its President

ATTEST:


Secretary

UNOFFICIAL COPY

TO BE ATTACHED TO AND MADE A PART OF THE PROPRIETARY LEASE ATTRIBUTABLE TO APARTMENT #2 E 229 EAST LAKE SHORE DRIVE, CHICAGO, ILLINOIS.

ASSIGNMENT BY LESSEE

FOR VALUE RECEIVED, the undersigned Lessee hereby assigns all his/her right, title and interest in and to the within Lease from and after October 15, 1999 unto Anthony F. LaPorta and Diane LaPorta, as joint tenants.

Dr. William Jessee by Sarah Jessee, his Attorney in Fact
Dr. William Jessee - Lessee

Sarah Jessee
Sarah Jessee

ACCEPTANCE BY ASSIGNEE

In consideration of the foregoing assignment and the written consent of the Lessor thereto, the undersigned hereby assumes and agrees to keep and perform all the covenants, promises, conditions and agreements of the within Lease by Lessee therein to be kept and performed and agrees to make all payments provided by said Lease from and after October 15, 1999 and further agrees that no further assignment or subletting of the premises described in said Lease, or any part thereof, shall be made, except in accordance with the terms thereof.

Anthony F. LaPorta
Anthony F. LaPorta

Diane LaPorta
Diane LaPorta

as joint tenants.

CONSENT TO ASSIGNMENT

MICHIGAN BUILDING CORPORATION, INC. by its President, Janet Diederichs and William Gardner, Secretary, pursuant to authority of a resolution of its Board of Directors, hereby consents to the assignment of the within Lease to the assignee(s) hereinbefore named, in consideration of the covenants, promises and agreements set forth in the foregoing assignment and acceptance.

Janet Diederichs
President

ATTEST:

William Gardner
Secretary

UNOFFICIAL COPY

CONSENT TO ASSIGNMENT

The MICHIGAN BUILDING CORPORATION, INC., A Corporation, of the State does hereby consent to the foregoing Assignment and Acceptance between Anthony LaPorta and Diane LaPorta, as Assignors, and Konen Family Trust dated November 24, 1999, Joseph A. Konen and Judith H. Konen, Trustees, as Assignee in consideration of the agreements set forth therein.

WITNESS my hand and seal this 28 day of August, 2008.

MICHIGAN BUILDING CORPORATION, INC.

By: [Signature]
Name: William D. Rose
President

Attest:

[Signature]
Secretary

STATE OF ILLINOIS)
) SS
COUNT OF COOK)

This instrument was acknowledged before me on August 28, 2008 by the aforesaid President and Secretary for the Michigan Building Corporation, Inc., a Corporation of the State of Illinois.

Stamp

[Signature]
Notary Public



Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County, Illinois
2078607MFLaSalle

(To be attached and made a part of the proprietary lease for Apartment 2E 229 E. Lake Shore Drive, Chicago, Ill.)

ASSIGNMENT OF LEASE

FOR VALUABLE CONSIDERATION, the undersigned Anthony LaPorta and Diane LaPorta, as Assignors, do hereby sell, set over, transfer and assign unto Konen Family Trust dated November 24, 1999, Joseph A. Konen and Judith H. Konen, Trustees, as Assignees, all of their right, title, and interest in and to that certain lease dated October 1, 1968 from Michigan Avenue Building Corporation to George Spatta, Spatta Properties and with the last assignment recorded October 29, 1999 as Document No. 09019986; collectively referred to herein as the "Lease", covering the following described real property:

APARTMENT 2E IN THE APARTMENT BUILDING COMMONLY KNOWN AS 229 EAST LAKE SHORE DRIVE, WHICH BUILDING IS LOCATED ON THE FOLLOWING DESCRIBED REAL ESTATE:

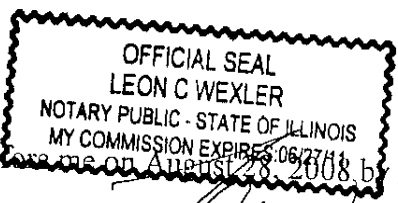
THE EAST 16 FEET OF LOT 9, ALL OF LOTS 10 AND 11 IN HOLBROOK AND SHEPARD'S SUBDIVISION OF LOTS 1 TO 6 IN FITZ-SIMON'S ADDITION TO CHICAGO, A SUBDIVISION OF PART OF BLOCK 8 OF CANAL TRUSTEE'S SUBDIVISION OF THE SOUTH FRACTIONAL 1/4 OF FRACTIONAL OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

17-03-208-007-0000

Anthony J. LaPorta
Anthony LaPorta

Diane LaPorta
Diane LaPorta

ILL
STATE OF FLORIDA)
COUNT OF *COOK*) SS



This instrument was acknowledged before me on August 28, 2008, by Anthony LaPorta and Diane LaPorta.

My Commission expires:
SEAL

Leon C. Wexler
Notary Public

Instrument Prepared by Leon C. Wexler, 77 W. Washington St. 1618, Chicago, Illinois 60602

UNOFFICIAL COPY

ACCEPTANCE OF ASSIGNMENT

The undersigned Assignee, Konen Family Trust dated November 24, 1999, Joseph A. Konen and Judith H. Konen, Trustees, designated in the foregoing Assignment of the therein described Lease, hereby accept and approve the same and unconditionally agree to be bound by and comply with all the terms, conditions and covenants thereof.

By Accepting this Assignment, Assignees unconditionally agree to assume and perform all the responsibilities, duties and obligations of the Assignors under said Lease.

Witness my hand and seals this 28 day of August, 2008.

KONEN FAMILY TRUST dated 11-24-99

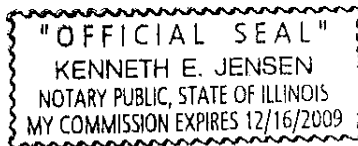
By: Joseph A. Konen
Joseph A. Konen, Trustee

Judith H. Konen
Judith H. Konen, Trustee

STATE OF ILLINOIS)
) SS
COUNT OF COOK)

This instrument was acknowledged before me on August 28, 2008 by Konen Family Trust dated November 24, 1999, Joseph A. Konen and Judith H. Konen, Trustees.

Stamp



Kenneth E. Jensen
Notary Public