

# UNOFFICIAL COPY

THIS INSTRUMENT WAS PREPARED BY  
AND SHOULD BE RETURNED TO:

John H. Mays  
GOULD & RATNER  
222 North LaSalle Street  
Suite 800  
Chicago, Illinois 60601

09206729

9932/0036 04 001 Page 1 of 9  
1999-12-30 09:35:25  
Cook County Recorder 37.00



## ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS is made this 27<sup>TH</sup> day of December, 1999, by and between 2727 HIGGINS LLC, an Illinois limited liability company hereinafter referred to as "Assignor" and LaSalle Bank National Association, hereinafter referred to as "Assignee";

*9  
BNA*

### WITNESSETH:

That Assignor has, simultaneously with the execution of this Assignment of Leases and Rents, executed and delivered to Assignee, its Mortgage Note ("Note") of even date herewith, payable to the order of Assignee, in the principal sum of TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) ("Loan") and, as security therefor, executed and delivered to Assignee its Mortgage ("Mortgage"), of even date herewith, conveying the land legally described on Exhibit "A" attached hereto ("Land") and the improvements thereon ("Improvements").

NOW, THEREFORE, in consideration of the disbursement of the proceeds of Loan by Assignee and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Assignor:

1. Sells, assigns and transfers unto Assignee:

(a) all lease agreements, written or verbal, or any letting of or other agreements for the use or occupancy of Land and Improvements, which may have heretofore been made (including those specifically set forth on Exhibit "B" attached hereto and incorporated herein) and all lease agreements, written or verbal, or any letting of or other agreements for the use and occupancy of Land and Improvements, and all rights to any and all guaranties of the foregoing, which may hereafter be made or agreed to by Assignor or in favor of Assignor or which may be made or agreed to by Assignee pursuant to the powers herein granted (collectively "Leases");

*7813510 D2 case 383*

(b) all of the rents, issues and profits now due or which may hereafter become due pursuant to or by virtue of Leases ("Rents");

it being the intention of Assignor hereby to establish an absolute transfer and assignment of Leases and Rents to Assignee.

2. Appoints, irrevocably, Assignee its true and lawful attorney-in-fact, in its name and stead (with or without taking possession of Land and Improvements), to hereafter execute Leases, at such rentals and upon such terms and conditions as may be satisfactory to it and to collect all Rents now due or arising from or accruing at any time hereafter, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Assignee would have upon a taking of possession of Land and Improvements pursuant to the provisions hereof.

3. Represents and covenants that no Rents have been or will be paid by any person or entity in possession of any part of Land and Improvements in advance excluding security deposits and that the payment of Rents to accrue has not and will not be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor, other than in the normal course of business, except with the prior written consent of Assignee. Assignor shall not terminate, modify or amend any of the Leases without Assignee's prior written consent.

4. Agrees that nothing herein contained shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of Land and Improvements by it pursuant to the provisions hereof. In the exercise of the powers herein granted to Assignee, no personal liability shall be asserted or enforced against it, all such liability being hereby expressly waived and released by Assignor.

5. Agrees to execute and deliver to Assignee, immediately upon its request, all such further assurances and assignments of Leases and Rents as Assignee may, from time to time, require.

6. Expressly understands and agrees, anything herein contained to the contrary notwithstanding (although it is Assignor's intention that this Assignment be a present Assignment) that Assignee shall not exercise any of the rights and powers conferred upon it herein until and unless an Event of Default (as said term is defined in Note and Mortgage) shall occur.

7. Agrees, in any instance in which, pursuant to the provisions of Mortgage, Assignee has a right to institute foreclosure proceedings, and after indebtedness is declared to be immediately due or legal proceedings to foreclose the lien thereof have been instituted, forthwith upon demand of Assignee, to surrender to Assignee and Assignee shall be entitled to take actual possession of Land and Improvements, or any part thereof personally or through its agents or attorneys. Assignee, in its discretion, either personally or through its agents and attorneys, may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of Land and Improvements (together with all documents, books,

records, papers and accounts of Assignor or the then owner of Land and Improvements relating thereto) excluding Assignor, its agents or servants, wholly therefrom and, as attorney-in-fact or agent of Assignor, or in its own name as mortgagee and:

(a) hold, operate, manage and control Land and Improvements and conduct the business, if any, thereon;

(b) implement such measures, legal or equitable, as in its discretion, may be deemed proper or necessary to enforce the payment of Rents and the performance of all of the terms, covenants, conditions and agreements contained in Leases, including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent;

Assignor hereby granting to Assignee full power and authority to exercise each and every right, privilege and power herein granted at any and all times hereafter. Without notice to Assignor and with full power and authority, Assignee may:

(i) cancel or terminate any Lease or sublease thereof, for any cause or reason which would entitle Assignor to cancel the same;

(ii) elect to disaffirm any Lease or sublease of all or any part of the Land and/or Improvements made subsequent to this Assignment without Assignee's prior written consent;

(iii) make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to Land and Improvements which may seem judicious, in Assignee's reasonable discretion;

(iv) insure and re-insure Land and Improvements for all risks incidental to the possession, operation and management thereof; and

(v) collect and receive all Rents.

8. Agrees that unless and until Assignee shall exercise the rights and powers conferred upon it pursuant hereto, Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases. Assignor shall indemnify and hold Assignee harmless of and from any and all liability, loss or damage, including costs, expenses and reasonable attorneys' fees, which it may incur pursuant to Leases or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings, on its part, to perform or discharge any of the terms, covenants, conditions and agreements required of Assignor pursuant to Leases. Notwithstanding the foregoing, Assignor shall not indemnify or hold Assignee harmless of and from any and all liability, loss or damage (including costs, expenses and reasonable attorneys' fees) which Assignee, its employees or agents may incur by reason of any obligation, undertaking, act or

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deed on their part following the exercise of Assignee's rights and powers pursuant to this Assignment.

9. Agrees that Assignee, in the exercise of the rights and powers conferred upon it pursuant hereto, shall have the full power to use and apply Rents to the payment or on account of the following, in such order of priority as it may determine:

(a) operating expenses of Land and Improvements, including the costs of management and leasing thereof (which shall include reasonable compensation to Assignee and its agents or contractors, if management be delegated to such agents or contractors, and leasing commissions and other compensation and expenses in seeking and procuring tenants and entering into Leases), establishing claims for damages relating to the operation of Land and Improvements, if any, and premiums on insurance coverages hereinabove authorized;

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

(c) cost of repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements to Land and Improvements, including the costs, from time to time, incurred in placing Land and Improvements in such condition as will, in the reasonable judgment of Assignee, make the same readily rentable; and

(d) indebtedness secured hereby.

10. Authorizes and instructs each and every present and future tenant of any part of Land and Improvements to pay all unpaid Rents agreed upon in any tenancy to Assignee, upon receipt of demand therefor from Assignee.

11. Agrees that the provisions set forth herein shall not be deemed exclusive of any of the remedies granted to Assignee in the Note, the Mortgage or any other document evidencing or securing the Loan, but shall be deemed a special and additional remedy granted to Assignee and cumulative with the remedies contained in such documents.

12. Agrees that any notices served pursuant hereto shall be deemed received (a) three (3) business days following the postmark dates thereof and shall be sufficient if in writing and mailed, postage prepaid, by United States mail as first class certified mail, return receipt requested, or registered mail, or (b) when delivered if sent by overnight courier express addressed as follows:

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If to Assignee: LaSalle Bank National Association  
135 South LaSalle Street  
Chicago, Illinois 60603  
Attention: Steven M. Marks

with a copy to: Gould & Ratner  
222 North LaStreet  
Eighth Floor  
Chicago, Illinois 60601  
Attention: John H. Mays

If to Assignor: 2727 HIGGINS LLC  
320 West Illinois Street  
Chicago, Illinois 60610

with copies to: Bell, Boyd & Lloyd  
Three First National Plaza  
Suite 3300  
Chicago, Illinois 60602  
Attention: Randall Johnson

13. Agrees that this Assignment shall be binding upon Assignor, its successors, assigns, grantees and legal representatives and shall inure to the benefit of Assignee, its successors, assigns, grantees and legal representatives.

14. Agrees that:

(a) until this Assignment is voluntarily released by Assignee, no judgment or decree which may be entered with respect to indebtedness shall operate to abrogate or lessen the effect hereof but the same shall continue in full force and effect until indebtedness and all costs and expenses which may be incurred by Assignee by virtue of the power and authority herein contained have been paid in full; and

(b) this Assignment shall remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale and until the issuance of a deed pursuant to a foreclosure decree, unless indebtedness is paid in full prior to the expiration of any period of redemption.

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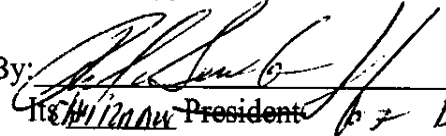
IN WITNESS WHEREOF, Assignor has executed this Assignment of Leases and Rents on the day and year first above written.

BORROWER:

2727 HIGGINS LLC  
an Illinois limited liability company

By: CARON, INC.

Its sole member

By:   
Its ~~William~~ President ~~of~~ BOARD

ATTEST:   
Its \_\_\_\_\_ Secretary

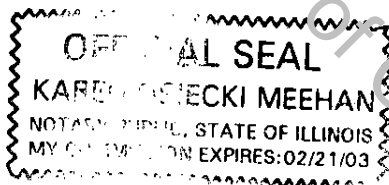
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STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF COOK        )

I, KAREN DSIECKI MEEHAN, a Notary Public in and for said County, in the State aforesaid, do hereby certify that PHIL SUDAKOFF and ANITA SUDAKOFF, personally known to me as the CHAIRMAN OF THE BOARD President and Secretary, respectively, of CARON INC., an Illinois corporation, sole member of 2727 HIGGINS LLC, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the same instrument, as their free and voluntary act and as the free and voluntary act and deed of said corporation as the sole member of 2727 HIGGINS LLC, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 27<sup>th</sup> day of December, 1999.



Karen Dsiecki Meehan  
Notary Public

My Commission expires: \_\_\_\_\_

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## EXHIBIT A

### Legal Description

Lot 32 and 33 in Antex Industrial Park Unit No. 6, being a subdivision in Sections 26 and 35, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois

P.I.N. #08-26-410-003-0000

08-35-200-014-0000

08-35-200-028-0000

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## EXHIBIT B

<u>Lessee</u>	<u>Lease Date</u>	<u>Termination Date</u>
Continental Plastics Containers LLC, successor in interest to Continental Plastics Containers, Inc., successor in interest to Continental Can Company, Inc.	4/25/62	2/28/11

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