



Doc#: 1212416008 Fee: \$60.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 05/03/2012 09:59 AM Pg: 1 of 12

204

This Instrument Prepared By:  
Martin G. Woosley  
Martin, Rawson & Woosley, P.C.  
#2 Metroplex Drive, Suite 102  
Birmingham, Alabama 35209

**ASSIGNMENT OF RENTS AND LEASES**

THE FOLLOWING meanings are hereby adopted by the undersigned for the following capitalized terms for purposes of this instrument:

a. "Owner" shall mean **CHICAGO TITLE LAND TRUST COMPANY, SUCCESSOR TO AMALGAMATED BANK OF CHICAGO**, as Trustee under Trust Agreement dated June 18, 1991, and known as Trust Number 5517.

b. "Lender" shall mean **PROTECTIVE LIFE INSURANCE COMPANY**, a Tennessee corporation.

c. "Loan Amount" shall mean \$1,500,000.00.

d. "Owner's Notice Address" shall mean c/o National Shopping Plazas, Inc., 200 West Madison Street, Suite 4200, Chicago, Illinois 60606.

e. "Lender's Notice Address" shall mean 2801 Highway 280 South, Birmingham, Alabama 35223, Attention: Investment Department.

f. "State" shall mean the State of Illinois.

1. BY THIS ASSIGNMENT, the Owner, for value received, hereby assigns to the Lender all of Owner's right, title, privileges and interest which Owner has and may have in the leases, operating agreements, management agreements, concession agreements, licenses, and all similar agreements, and all rents, royalties, issues, profits, security deposits, income and other benefits now existing or hereafter made and affecting the real property and the improvements thereon described in Exhibit A attached hereto and incorporated herein by reference (collectively referred to as the "Property"), together with all extensions, renewals, modifications or replacements of said leases and agreements, and together with any and all guarantees of the obligations of the lessees and other obligors thereunder, whether now existing or hereafter executed, and all extensions and renewals of said guarantees. All said leases and all other said agreements described in this Paragraph, together with any and all guarantees, modifications, extensions and renewals thereof are hereinafter collectively and severally referred to as the "Lease", and all said rents, royalties, issues, profits, security deposits, income and other benefits described in this Paragraph are hereinafter collectively and severally referred to as the "Rents and Profits."

8886303  
J2 MS

# UNOFFICIAL COPY

2. OWNER'S PURPOSE in making this assignment is to induce Lender to make the loan in the Loan Amount to Owner by relinquishing to Lender its right to collect and enjoy the Rents and Profits at any time accrued or accruing by virtue of the Lease as additional security for the outstanding indebtedness to Lender as evidenced by the note in favor of Lender (hereinafter called the "Obligation" or "Note") dated this same date in the Loan Amount executed by Owner, and as additional security for the Owner's obligations under the Deed of Trust and Security Agreement, or Deed to Secure Debt and Security Agreement or Mortgage and Security Agreement, as applicable (referred to as the "Indenture") executed to further secure the Obligation and to furnish security for the performance of Owner's obligations contained herein. The Obligation and other said loan documents and all other documents executed in connection with this loan are referred to as the "Loan Documents".

3. THE PARTIES INTEND that this Assignment shall be a present, absolute and unconditional assignment and shall, immediately upon execution, give Lender the right to collect the Rents and Profits and to apply them in payment of the principal and interest and all other sums payable on Owner's Obligation, as well as all other sums payable under the Loan Documents. However, Lender hereby grants to Owner a license to collect, subject to the provisions set forth below and in the Loan Documents, the Rents and Profits as they respectively become due and to enforce the Lease, so long as there is no default (after the expiration of any applicable cure period) by Owner in performance of the terms, covenants or provisions of the Obligation, the Loan Documents or this Assignment. Nothing contained herein, nor any collection of Rents and Profits by Lender or by a receiver, shall be construed to make Lender a "mortgagee-in-possession" of the Property so long as Lender has not itself entered into actual possession of the Property.

4. UPON THE OCCURRENCE OF ANY DEFAULT (and the expiration of any applicable cure period) under the terms and conditions of this Assignment or any of the Loan Documents, this Assignment shall constitute a direction to and full authority to any and all obligors under the Lease and any guarantor of the Lease to pay all Rents and Profits to Lender without proof of the default relied upon. Owner hereby irrevocably authorizes any and all obligors under the Lease and any guarantor to rely upon and comply with any notice or demand by Lender for the payment to Lender of any Rents and Profits due or to become due. Any and all obligors under the Lease and any guarantor shall have no right or duty to inquire whether a default has actually occurred and Owner shall have no claim against any obligor under the Lease or any guarantor for any Rents and Profits paid by such obligor, Lessee or such guarantor to Lender pursuant to Lender's demand or notice.

5. OWNER WARRANTS:

(a) that no default exists or will exist on the part of Owner under any Lease;

(b) that no rent or other payment has been or will be collected under any Lease for more than one (1) month in advance of the date on which it is due under the terms of any Lease;

# UNOFFICIAL COPY

(c) that neither the Lease nor any interest therein has been previously or will be assigned or pledged by Owner;

(d) that no concession has been or will be granted to any Lessee in the form of a waiver, release, reduction, discount or other alteration of rent or other payment due or to become due; and

(e) that all unoccupied space, if any, is completed in all respects except for floor and wall coverings.

All the foregoing warranties shall be deemed to be reaffirmed on and as of the time of each Lease executed by Owner on the Property.

## 6. OWNER AGREES:

(a) if the Lease provides for a security deposit paid by lessee to Owner, this Assignment transfers to the Lender all of Owner's right, title and interest in and to the security deposit, provided that Owner shall have the right to retain said security deposit so long as Owner is not in default under this Assignment or the Loan Documents after the expiration of any applicable cure period; and provided further that Lender shall have no obligation to any obligor under the Lease with respect to such security deposit unless and until Lender comes into actual possession and control of said deposit;

(b) before any Lease is executed on the Property (other than Leases approved in writing as of this date) a copy of the same shall be submitted to Lender for its approval, which approval shall not be unreasonably withheld. Owner shall provide executed originals and/or copies of all Leases to Lender upon demand;

(c) that the Lease shall remain in full force and effect despite any merger of the interest of Owner and any obligor under the Lease, and Owner shall not transfer or convey fee title to the leased premises to any obligor under the Lease without the prior written consent of Lender, and where such consent is given or where under applicable law the requirement for such consent is not enforceable, Owner shall require the said obligor under the Lease, in writing, to assume and agree to pay the Obligation in accordance with the terms, covenants and conditions of the Loan Documents; provided, however, that, in no event shall any such transfer or conveyance operate to release or relieve Owner of any liability to Lender unless Lender specifically agrees otherwise in writing;

(d) Owner shall not terminate the Lease or modify or amend the Lease or any of the terms thereof or grant any concessions in connection therewith or accept a surrender thereof without the prior written consent of Lender;

(e) Owner shall not collect any Rents and Profits more than one (1) month in advance of the date on which they become due under the terms of the Lease;

# UNOFFICIAL COPY

- (f) Owner shall not discount any future accruing Rents and Profits;
- (g) Owner shall not consent to assignment of the Lease, or subletting thereunder, except as expressly permitted by any such Lease as of the date hereof, without the prior written consent of Lender;
- (h) Owner shall not execute any further assignment of any of the Rents and Profits or any interest therein or suffer or permit any such assignment to occur by operation of law;
- (i) Owner shall not request, consent to, agree to, or accept a subordination of the Lease to any mortgage or other encumbrance, or any other lease, now or hereafter affecting the Property or any part thereof, or suffer or permit conversion of any Lease to a sublease;
- (j) Owner shall faithfully perform and discharge its obligations under the Lease and shall not default thereunder, and shall give prompt written notice to Lender of any notice of Owner's default received from any obligor under the Lease or any other person and furnish Lender with a complete copy of said notice, Owner shall appear in and defend, at no cost to Lender, any action or proceeding arising under or in any manner connected with the Lease; and if requested by Lender, Owner shall enforce the Lease and all remedies available to Owner against any obligor under the Lease in the case of default under the Lease by any obligor under the Lease;
- (k) Owner shall give Lender written notice immediately upon entering into any lease or other agreement respecting any part of the Property, and shall promptly provide to Lender a true and correct copy of the executed lease or other agreement; each such lease or agreement shall be deemed included in this Assignment automatically as though originally listed herein, and the term "Lease" as used herein shall include such lease or agreement;
- (l) The Property shall at all times be managed by Owner (so long as no default exists under any of the Loan Documents) or Owner shall at all times contract to manage the Property through a qualified manager (and Lender hereby approves National Shopping Plazas, Inc. as a qualified manager), and Owner shall obtain the Lender's prior written consent to and approval of the said management contract and manager before execution of and employing the same, respectively. The said management contract and all of the management, leasing, or other fees under such management contract shall be subordinate to the lien of the Loan Documents;
- (m) Owner shall deliver to Lender, promptly upon request, a duly executed estoppel certificate from any obligor under the Lease as required by Lender, but subject to the terms of the Lease, attesting that the Lease is in full force and effect with no defaults thereunder on the part of any party, that no rental has been paid more than one (1) month in advance, and that said obligor under the Lease claims no defense or offset against the full and timely performance of its obligations under the Lease; and
- (n) Nothing herein shall be construed to impose any liability or obligation on Lender under or with respect to the Lease; Owner shall indemnify and hold Lender harmless from and

# UNOFFICIAL COPY

against any and all liabilities, losses and damages which Lender may incur under the Lease or by reason of this Assignment, and Owner shall immediately upon demand reimburse Lender for the amount thereof together with all costs and expenses and attorneys' fees incurred by Lender; all of the foregoing sums shall bear interest until paid at the rate set forth in the Obligation; and any Rents and Profits collected by Lender may be applied by Lender in its discretion in satisfaction of any such liability, loss, damage, claim, demand, costs, expense or fees.

7. OWNER HEREBY GRANTS TO LENDER THE FOLLOWING RIGHTS:

(a) Lender shall be deemed to be the creditor of any obligor under the Lease in respect of any assignments for the benefit of creditors and any bankruptcy, arrangement, reorganization, insolvency, dissolution, receivership or other debtor-relief proceedings affecting such obligor (without obligation on the part of Lender, however, to file timely claims in such proceedings or otherwise pursue creditor's rights therein);

(b) Lender shall have the right to assign Owner's right, title and interest in the Lease to any subsequent holder of the indenture or any participating interest therein or to any person acquiring title to all or any part of the Property through foreclosure or otherwise, and any subsequent assignee shall have all the rights and powers herein provided to Lender;

(c) Lender shall have the right (but not the obligation), upon any failure of Owner to perform any of its agreements hereunder, to take any action as Lender may deem necessary or appropriate to protect its security, including but not limited to appearing in any action or proceeding and performing any obligations of the lessor under any Lease, and Owner agrees to pay, on demand, all costs and expenses (including without limitation Lender's attorneys' fees) incurred by Lender in connection therewith, together with interest thereon at the After-Maturity Rate set forth in the Obligation;

(d) upon default by Owner under any Lease, the Lender shall have the right, but not the obligation, to cure the same, upon failure of Owner to cure, and Lender shall have the right to add all costs necessary to cure such defaults, including Lender's attorney's fees to the Obligation.

(e) upon any default by Owner under this Assignment which is not cured within thirty (30) days after written notice from Lender to Owner, or upon any default under the Loan Documents and the expiration of any applicable cure period thereunder, and without further notice to or consent of Owner, Lender shall have the following rights (none of which shall be construed to be obligations of the Lender):

(i) Lender shall have the right under this Assignment to use and possess, without rental or charge, all personal property of the Owner located on the Property and used in the operation or occupancy thereof. Lender shall have the right to apply any of the Rents and Profits to pay installments due for personal property rented or purchased on credit, insurance premiums on personal property, or other charges relating to personal property on the Property. However, this Assignment shall not

# UNOFFICIAL COPY

make Lender responsible for the control, care, management or repair of the Property or any personal property or for the carrying out of any of the terms or provisions of the Lease;

(ii) Lender shall have the right to apply the Rents and Profits and any sums recovered by Lender hereunder to Owner's outstanding indebtedness to Lender secured hereby or by any of the Loan Documents, as well as to charges for taxes, insurance, improvements, maintenance and other items relating to the operation of the Property;

(iii) Lender shall have the right to take possession of the Property, manage and operate the Property and Owner's business thereon, and to take possession of and use all books of account and financial records of Owner and its property managers or representatives relating to the Property;

(iv) Lender shall have the right to execute new Leases of any part of the Property, including Leases that extend beyond the term of the Indenture;

(v) Lender shall have the right to cancel or alter any existing Lease; and

(vi) Lender shall have the authority, as Owner's attorney-in-fact, such authority being coupled with an interest and irrevocable, to sign the name of Owner and to bind Owner on all papers and documents relating to the operation, leasing and maintenance of the Property.

All of the foregoing rights and remedies of Lender are cumulative, and Lender shall also have upon the occurrence of any such default all other rights and remedies provided under the Loan Documents or otherwise available at law or in equity or by statute.

8. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents contained in the Loan Documents. Failure of the Lender to avail itself of any terms, covenants or conditions of this Assignment for any period of time or for any reason shall not constitute a waiver thereof.

9. Notwithstanding any future modification of the terms of the Loan Documents, this Assignment and the rights and benefits hereby assigned and granted shall continue in favor of Lender in accordance with the terms of this Assignment.

10. This Assignment shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors and assigns of the parties hereto (including without limitation, in the case of Lender, any third parties now or hereafter acquiring any interest in the Obligation or any part thereof, whether by virtue of assignment, participation or otherwise). The words "Owner", "Lender", "obligor under the Lease", and "guarantor", wherever used herein, shall include the persons and entities named herein or in the Lease or any guaranty and designated as such

# UNOFFICIAL COPY

and their respective heirs, legal representatives, successors and assigns, provided that any action taken by the named Lender or any successor designated as such by an instrument recorded in the appropriate office of the county in which the Property is located referring to this Assignment shall be sufficient for all purposes notwithstanding that Lender may have theretofore assigned or participated any interest in the Obligation to a third party. All words and phrases shall be taken to include the singular or plural number, and the masculine, feminine, or neuter gender, as may fit the case.

11. Any change, amendment, modification, abridgement, cancellation, or discharge of this Assignment or any term or provision hereof shall be invalid without the written consent of Lender.

12. Upon payment to Lender of the full amount of all indebtedness and obligations secured hereby and by the Loan Documents, as evidenced by a recorded satisfaction or release of the Indenture, note, and guarantees, this Assignment shall be void and of no further effect.

13. All notices given hereunder shall be given in the manner set forth in the Indenture.

14. If any provision hereof is determined to be illegal or unenforceable for any reason, the remaining provisions hereof shall not be affected thereby.

15. This Assignment shall be governed by and construed in accordance with the laws of the State.

16. This Assignment shall terminate upon the satisfaction of the Indenture by Lender.

17. **After consultation with counsel and recognizing that any dispute hereunder will be commercial in nature and complex, and in order to minimize the costs and time involved in any dispute resolution process, the undersigned knowingly, voluntarily, and intentionally waive any right to a trial by jury with respect to any litigation based upon this transaction or this instrument, or arising out of, under, or in connection with any of the other Loan Documents executed in connection with this transaction, or respecting any course of conduct, course of dealing, statement (whether verbal or written) or action of any party and acknowledge that this provision is a material inducement for entering into this loan transaction by all parties.**

# UNOFFICIAL COPY

18. Trustee Exculpation. This instrument is executed by **CHICAGO TITLE LAND TRUST COMPANY, SUCCESSOR TO AMALGAMATED BANK OF CHICAGO**, not personally or individually but as Trustee under Trust Agreement dated June 18, 1991, and known as Trust Number 5517, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by **CHICAGO TITLE LAND TRUST COMPANY** are undertaken by it solely as Trustee, as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly and no personal liability shall be asserted or enforceable against **CHICAGO TITLE LAND TRUST COMPANY** by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument.

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

IN WITNESS WHEREOF, this instrument has been executed by the undersigned intending the same to be under seal on this 27<sup>th</sup> day of April, 2012.

**"OWNER:"**



**CHICAGO TITLE LAND TRUST COMPANY,  
SUCCESSOR TO AMALGAMATED BANK OF  
CHICAGO**, not personally but as Trustee under  
Trust Agreement dated June 18, 1991, and known as  
Trust Number 5517

By: [Signature] [SEAL]  
Name: KAREN MICHEL  
Its: ASST VP

STATE OF ILLINOIS )

COUNTY OF COOK

I, GRACE MARIN, a Notary Public in and for the said County, in the State aforesaid, do hereby certify that KAREN MICHEL, as ASST VP of **CHICAGO TITLE LAND TRUST COMPANY, SUCCESSOR TO AMALGAMATED BANK OF CHICAGO**, not personally but as Trustee under Trust Agreement dated June 18, 1991, and known as Trust Number 5517, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such ASST SEC. of said corporation, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her 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 27<sup>th</sup> day of April, 2012.

(NOTARY SEAL)

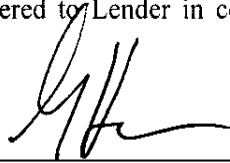
[Signature]  
NOTARY PUBLIC  
My commission expires:



# UNOFFICIAL COPY

## JOINDER

The undersigned, being the owner of One Hundred Percent (100%) of the beneficial interest in, and being the sole beneficiary of said trust designated as Owner herein, hereby consents to and joins in the foregoing instrument, intending hereby to bind any interest it and its respective heirs, executors, administrators, successors or assigns may have in the Property described in the foregoing instrument, or any leases or other agreements relating thereto, as fully and with the same effect as if the undersigned were named as Owner in said instrument. Nothing herein contained shall be deemed to render the undersigned personally liable upon any obligation provided in any of the Loan Documents, except to the extent of personal liability that may be imposed upon George D. Hanus, as an individual, by the Borrower's Affidavit, Environmental Indemnification and Guaranty of even date herewith and delivered to Lender in connection with this instrument.



[SEAL]

**George D. Hanus**, as Trustee of the Sibley Torrence Plaza Trust, as beneficiary of Trust Number 5517

STATE OF ILLINOIS )

COUNTY OF COOK )

I, Thomas H. Page, a Notary Public in and for the said County, in the State aforesaid, do hereby certify that **George D. Hanus**, who is 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 he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said trust for the uses and purposes therein set forth.

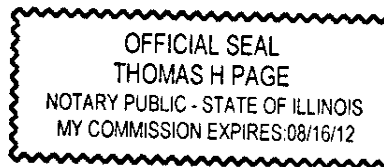
Given under my hand and notarial seal this 25<sup>th</sup> day of April, 2012.

( NOTARY SEAL)



NOTARY PUBLIC

My commission expires:



# UNOFFICIAL COPY

## EXHIBIT A

**STREET ADDRESS: 480 W. SIBLEY ROAD**

**CITY: CALUMET CITY COUNTY: COOK**

**TAX NUMBER: 29-12-407-001-0000; 29-12-407-002-0000; 29-12-407-003-0000; 29-12-407-004-0000; 29-12-407-018-0000; 29-12-407-019-0000; 29-12-407-020-0000; 29-12-407-021-0000; 29-12-407-022-0000; 29-12-407-023-0000; 29-12-407-024-0000; 29-12-407-036-0000 AND 29-12-407-037-0000**

**LEGAL DESCRIPTION:**

**PARCEL 1:**

**LOTS 28 TO 34 (EXCEPT THE EAST 5 FEET OF SAID LOTS) IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**PARCEL 2:**

**LOTS 1 TO 5, BOTH INCLUSIVE, (EXCEPT THAT PART OF SAID LOTS LYING NORTHEASTERLY OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 1, DISTANCE 19.99 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHEASTERLY IN A STRAIGHT LINE A DISTANCE OF 119.96 FEET TO A POINT IN THE LAST LINE OF SAID LOT 5, DISTANCE 31.75 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 5), TOGETHER WITH THE WEST 1/2 OF THE VACATED ALLEY LYING EAST OF AND ADJOINING THAT PART OF LOT 5 DESCRIBED ABOVE, ALL IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

**PARCEL 3:**

**LOT 35 (EXCEPT THE EAST 5 FEET OF SAID LOT AND ALSO EXCEPT THAT PART THEREOF LYING NORTHEASTERLY AND EASTERLY OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 35, DISTANCE 33.08 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE A DISTANCE OF 40.69 FEET TO A POINT, DISTANCE 37 FEET SOUTH OF AND MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID LOT 35, SAID POINT BEING ALSO A POINT OF CURVATURE OF A CURVE HAVING A RADIUS OF 80 FEET CONVEX TO THE NORTHEAST; THENCE SOUTHEASTERLY ALONG SAID CURVE A DISTANCE OF 125.6 FEET TO**

# UNOFFICIAL COPY

A POINT DISTANCE 5 FEET WEST AND MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID LOT 35, SAID PART BEING ALSO A POINT OF TANGENCY ON SAID CURVE; THENCE SOUTH A DISTANCE OF 8 FEET TO A POINT IN THE SOUTH LINE THEREOF, DISTANCE 5 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT 35), TOGETHER WITH THE EAST 1/2 OF THE VACATED ALLEY LYING WEST OF AND ADJOINING THAT PART OF LOT 35 DESCRIBED ABOVE, ALL IN BLOCK 1 IN FORD CALUMET TERRACE SUBDIVISION IN THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 12, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

NON EXCLUSIVE AND/OR PERPETUAL EASEMENTS FOR THE BENEFIT OF PARCELS 1, 2, AND 3 ESTABLISHED PURSUANT TO A DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS DATED MARCH 21, 2001 AND RECORDED MARCH 21, 2001 IN COOK COUNTY, ILLINOIS AS DOCUMENT NO. 0010221048.

Property of Cook County Clerk's Office