

# UNOFFICIAL COPY

86179969

ASSIGNMENT OF LEASES AND RENTS

1500

703896903

THIS ASSIGNMENT OF LEASES AND RENTS, is made this <sup>5th</sup> day of May, 1986 by and between LA SALLE NATIONAL BANK, a National Banking Association, not personally, but as Trustee under Trust Agreement dated December 1, 1972 and known as Trust No. 45086 ("Trust"), whose address is 135 South LaSalle, Chicago, Illinois 60690, and ALBERT ZALE and EDWARD ZALE, owners of one hundred percent (100%) of the beneficial interest of Trust ("Beneficiary"), Trust and Beneficiary hereinafter collectively referred to as "Assignor", and GNA LIFE INSURANCE COMPANY, an Oklahoma Corporation whose address is Suite 3300, One Union Square, Seattle, Washington, hereinafter referred to as "Assignee";

W I T N E S S E T H:

That Assignor has simultaneously with the execution of this Assignment of Leases and Rents, executed and delivered to Assignee, its Adjustable Rate Mortgage Note ("Note") of even date herewith, payable to the order of Assignee, in the principal sum of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) ("Loan") and, as security therefor, executed and delivered to Assignee its Mortgage ("Mortgage"), of even date herewith, conveying the land legally described as follows ("Land"):

Unit No. 5 Brandenberry Park East by Zale being a Subdivision of the South East 1/4 of Section 21, Township 42 North, Range 11 East of the Third Principal Meridian (excepting therefrom that part described as follows): Commencing at the South East Corner of said Unit 5, thence West on the South Line of said Unit 25.00 Feet to the Point of Beginning of this exception, thence continuing West on the South Line of said Unit 149.25 Feet to the South West Corner of said Unit, thence Northwesterly on the Southwesterly Line of said Unit 152.0 Feet, thence North at Right Angles to the Southwesterly Line of said Unit 80.0 Feet to its intersection with a Line 160.52 Feet North of and Parallel to the South Line of said Unit, thence East on said Parallel Line 81.89 Feet to its intersection with a Line 134.15 Feet Northeasterly of and Parallel with the Southwesterly Line of said Unit, thence Southerly on said Parallel Line 170.17 Feet thence South 48.0 Feet to the Point of Beginning in Cook County, Illinois.

86179969

Property Address: 2300-2336 Rand Road, Arlington Heights, Illinois  
Permanent Property Tax Number: 03-21-402-013-0000 Volume 232

and the improvements thereon ("Improvements").

That Assignor has executed and delivered a Specific Assignment of Leases and Rents, granting a security interest in and selling, assigning, transferring and setting over unto Assignee one hundred percent (100%) of Assignor's right, title and interest in and to:

- lease agreements therein set forth, executed with occupancy tenants of Land and Improvements, together with all rents, income or other sums payable by the provisions thereof;
- future lease agreements, at the option of Assignee, which may be executed by Assignor, as landlord, at any time

This Instrument Was Prepared By:  
R. I. WALSCHLAGER  
First Interstate Mortgage Company of Illinois  
111 W. Washington Street  
Chicago, Illinois 60602

HV

BOX 347

# UNOFFICIAL COPY

following the date of this Assignment, with occupancy tenants of Land and Improvements, together with all rents, income or other sums payable by the provisions thereof.

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 and, at the option of Assignee, all lease agreements, written or verbal, or any letting of or other agreements for the use and occupancy of Land and Improvements, which may hereafter be made or agreed to by Assignor or which may be made or agreed to by Assignee pursuant to the powers herein granted (collectively "Leases");
- 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.

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 a Monetary Default or Non-Monetary Default (as said terms are defined in Note) shall occur.

7. Agrees, in any instance in which, pursuant to the provisions of Mortgage, Assignee has a right to institute foreclosure

# UNOFFICIAL COPY

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 (except as permitted in Paragraph No. 14 of Mortgage);
- 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 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 Loan Documents but shall be deemed a special and additional remedy granted to Assignee and cumulative with the remedies contained in loan documents.

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

If to Assignee: Attention: Mortgage Loan Department, One Union Square, Suite 3300, Seattle, Washington 98101, with a copy to: First Interstate Mortgage Company of Illinois, 111 West Washington Street, Chicago, Illinois 60602;

If to Assignor: 135 South LaSalle, Chicago, Illinois 60690, with a copy to: Jack Herman, Esq., Herman, Glazer & Kessler, One North LaSalle, Suite 2020, Chicago, Illinois 60602

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

85179969



# UNOFFICIAL COPY

- 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.

This Assignment of Leases and Rents is executed by LA SALLE NATIONAL BANK, not personally, but as Trustee under the terms of the Trust Agreement dated December 1, 1972, and known as Trust No. 45086, solely in the exercise of the power and authority conferred upon and vested in it as such Trustee (and the undersigned hereby warrants that it possesses full power and authority to execute this Assignment of Leases and Rents), and it is expressly understood and agreed that nothing herein contained or contained in the Note additionally secured hereby, or Other Loan Documents, shall be construed as creating any personal liability on the undersigned or its agents, employees, nor any person or entity interested beneficially or otherwise in said Trust Agreement to pay the Note or any interest that may accrue thereon or any indebtedness accruing hereunder or to perform any of the conditions herein contained, all such personal liability being expressly waived by Assignee and its successors and assigns, and that so far as the undersigned and its successors in trust personally are concerned, Assignee and its successors and assigns shall look solely to the premises hereby conveyed and to the income, proceeds and avails thereof for the payment of the Note and all sums secured hereby and the enforcement of the lien hereby created in the manner herein and by law provided.

Anything in this Assignment of Leases and Rents to the contrary notwithstanding, it is expressly understood and agreed that this Assignment of Leases and Rents shall be "non-recourse", i.e. nothing herein contained shall be construed as creating any liability on the part of Albert Zale and Edward Zale to pay the Note or any interest that may accrue thereon, or Indebtedness, or other obligation accruing thereunder or hereunder, and that Assignee shall look solely to the Mortgaged Premises and the rents, issues and profits thereof and any other security expressly given to secure Indebtedness.

IN WITNESS WHEREOF, Assignor has caused this Assignment of Leases and Rents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed on the day and year first above written.

LA SALLE NATIONAL BANK, not personally,  
but as Trustee as aforesaid

BY: \_\_\_\_\_  
Title: ASSISTANT VICE PRESIDENT

ATTEST: Pat S. Walter  
Title: ASSISTANT SECRETARY

BY: Albert Zale  
ALBERT ZALE

BY: Edward Zale  
EDWARD ZALE

86179969

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

I, Alicia Yanez, a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that James A. Clark ASS'T VICE President of LA SALLE NATIONAL BANK, as Trustee under Trust No. 45086, and Rita Slimm Welter ASSISTANT Secretary of said Corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such ASS'T VICE President and ASSISTANT 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, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Secretary did also then and there acknowledge that (she) (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, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 5<sup>th</sup> day of May, 1986.

Alicia Yanez  
Notary Public

My commission expires: \_\_\_\_\_ expires August 1, 1987

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

I, VIRGINIA S. MUNN, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Albert Zale 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 severally acknowledged that he/she signed and delivered the said instrument as owner of fifty percent interest of the beneficial interest of Trust and as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 5 day of May, 1986.

Virginia S. Munn  
Notary Public

My Commission Expires: June 16, 1986

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

ILLINOIS  
NOTARY PUBLIC  
1986 MAY -7 AM 10:44 86179969

I, VIRGINIA S. MUNN, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Edward Zale 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 severally acknowledged that he/she signed and delivered the said instrument as owner of fifty percent interest of the beneficial interest of Trust and as his/her free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 5 day of May, 1986.

Virginia S. Munn  
Notary Public

My Commission Expires: June 16, 1986

86179969