

UNOFFICIAL COPY

86397082

This Instrument was prepared by and after recording should be mailed to:



COFFIELD UNGARETTI HARRIS & SLAVIN  
3500 Three First National Plaza  
Chicago, Illinois 60602  
Attention: Richard A. Ungaretti, Esq.  
(312) 977-4400

86397082

Loan No. 86-239C

ASSIGNMENT OF RENTS AND LEASES  
(BORROWER AND BENEFICIARY)

THIS ASSIGNMENT is made jointly and severally as of this 28th day of August, 1986 by and among First State Bank and Trust Company of Park Ridge

not personally, but as Trustee under Trust Agreement dated July 1, 1986 and known as Trust Number 1683 whose mailing address is

(hereinafter called Borrower) and Vexcell Development Corporation, an Illinois corporation

whose mailing address is 200 West Higgins Road, Suite 317, Schaumburg, Illinois 60195

(hereinafter called "Beneficiary", whether one or more) to Focus Real Estate Finance Co., a Delaware corporation

whose mailing address is 200 West Madison Street, Suite 3000, Chicago, Illinois 60606 (hereinafter called "Assignee"). Borrower and Beneficiary are hereinafter collectively called the "Assignor." Beneficiary owns one hundred percent (100%) of the beneficial interest under said Trust Agreement.

WITNESSETH

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Assignee all right, title and interest of the Assignor and each of them in, to and under all present leases of the Premises described in EXHIBIT "A" attached hereto and made a part hereof ("Premises") (including those leases described on the SCHEDULE OF LEASES (if any) attached hereto and made a part hereof) together with all future leases hereinafter entered into by any lessor affecting the premises, and all guarantys, amendments, extensions and renewals of said leases and each of them (all of which are hereinafter collectively called the "Leases") and all rents, income and profits which may now or hereafter be or become due or owing under the Leases and each of them, or on account of the use of the Premises.

This Assignment is made for the purposes of securing: Loan

A. The payment of the indebtedness (including any extensions and renewals thereof) evidenced by a certain PROMISSORY NOTE of Borrower of even date herewith in the principal sum of \$3,000,000.00 ("Note") and secured by a certain MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage") of Borrower of even date herewith, encumbering the Premises; and

B. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Mortgage and the other Loan Documents, as defined in the

C. The performance and discharge of each and every term, covenant and condition of Borrower contained in the Note, Mortgage Loan Agreement; and

Assignor covenants and agrees with Assignee as follows:

1. That there is no present lease of the Premises not listed on the SCHEDULE OF LEASES (if one is attached hereto).

2. That the sole ownership of the entire landlords' interest in the Leases is vested in Borrower or Beneficiary, or both of them. Borrower and Beneficiary have not, and each shall not: (a) perform any act or execute any other instrument which might prevent Assignee from fully exercising its rights under any term, covenant or condition of this Assignment; (b) execute any assignment or pledge of rents, income, profits or any of the Leases except an assignment or pledge securing the indebtedness secured hereby; (c) accept any payment of any installment of rent more than thirty (30) days before the due date thereof; or (d) make any lease of the Premises except for actual occupancy by the tenant thereunder.

3. That each of those Leases listed on the SCHEDULE OF LEASES (if one is attached hereto) are valid and enforceable in accordance with its terms and none has been altered, modified, amended, terminated, cancelled, renewed or surrendered nor has any term or condition thereof been waived in any manner whatsoever, except as heretofore approved in writing by Assignee.

4. That none of the Leases shall be altered, modified, amended, terminated, cancelled or surrendered nor shall any term or condition thereof be waived without the prior written approval of the Assignee.

5. That there is no default now existing under any of the Leases and there exists no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; and that Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed and, at the sole cost and expense of Assignor, enforce (short of termination of any of the Leases) the performance and observance of each and every covenant and condition of all such Leases by the tenants thereunder to be performed and observed.

6. That Assignor shall give prompt notice to Assignee of each notice received by Assignor or any of them claiming that a default has occurred under any of the Leases on the part of the landlord, together with a complete copy of each such notice.

7. That each of the Leases shall remain in full force and effect irrespective of any merger of the interest of any landlord and any tenant under any of the Leases.

8. That, without Assignee's prior written consent in each case, Assignor will not suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Mortgage, this Assignment and general real estate taxes not delinquent.

9. That this Assignment is absolute and is effective immediately; however, until notice is sent by Assignee to the Assignor in writing that an event of default has occurred under the Note or under any other instrument at any time constituting security for the Note (each such notice is hereafter called a "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

10. That if any event of default occurs at any time under the Note, Mortgage or any other instrument, Assignee may (at its option after service of a Notice) receive and collect when due all such rents, income and profits from the Premises and under any and all Leases of all or any part of the Premises. Assignee shall thereafter continue to receive and collect all such rents, income and profits until such event of default is cured and during the pendency of any foreclosure proceedings, and (if there is a deficiency) during the redemption period (if any).

11. That Beneficiary hereby irrevocably appoints Assignee its true and lawful attorney-in-fact, with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor (from and after the service of a Notice) to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Premises, and at Assignee's discretion to file any claim or take any other action or proceeding and make any settlement of any claims,

\*see Rider attached hereto and incorporated herein by reference

86397082

# UNOFFICIAL COPY

in its own name or in the name of Beneficiary or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. All present and future tenants of the Premises are hereby expressly authorized and directed to pay to Assignee, or to such nominee as Assignee may designate in a writing delivered to and received by such tenants, all amounts due Assignor or any of them pursuant to the Leases. All present and future tenants are expressly relieved of all duty, liability or obligation to Assignor and each of them in respect of all payments so made to Assignee or such nominee.

12. That after service of a Notice, Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Assignee or its designee to enter upon the Premises, or any part thereof, with or without force and with or without process of law, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor and each of them relating thereto, and may exclude the Assignor and its agents and servants wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and powers herein granted at any and all times (after service of a Notice) without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to payment of the costs of managing and operating the Premises and to payment of all indebtedness and liability of Borrower to Assignee, including but not limited to: (a) the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment; and (b) principal and interest payments due from Borrower to Assignee on the Note and the Mortgage; all in such order and for such time as Assignee may determine.

13. That Assignee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Assignee does not hereby assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Assignor or any of them under any of the Leases.

14. That Assignor hereby agrees to indemnify Assignee and to hold Assignee harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees which may or might be incurred by Assignee under the Leases or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any term, covenant or agreement contained in any of the Leases.

15. That this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for the performance or observance of any term, condition, covenant or agreement contained in any of the Leases, or for any waste of the Premises by any tenant under any of the Leases or any other person, or for any dangerous or destructive condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger.

16. That Assignee may: (a) take or release other security; (b) release any party primarily or secondarily liable for any of the indebtedness secured hereby; (c) grant extensions, renewals or indulgences with respect to such indebtedness; and (d) apply any other security therefor held by Assignee to the satisfaction of such indebtedness; in each case without prejudice to any of Assignee's other rights hereunder or under any other security given to secure the indebtedness secured hereby.

17. That Assignee may, at its option although it shall not be obligated to do so, perform any Lease covenant for and on behalf of the Assignor and each of them, and all monies expended in so doing shall be chargeable to the Borrower, with interest thereon at the rate set forth in the Note applicable to a period when a default exists under the Note, and shall be added to the indebtedness secured hereby, and shall be immediately due and payable.

18. That waiver of, or acquiescence by Assignee in, any default by the Assignor, or failure of the Assignee to insist upon strict performance by the Assignor of any covenant, condition or agreement in this Assignment or otherwise, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

19. That the rights, remedies and powers of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, all other rights, remedies and powers which Assignee has under the Note and all instruments constituting security for the

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against First State Bank and Trust Company of Park Ridge or any of the beneficiaries under said Trust Agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

BFC Form 26204

such liability, if any, being expressly waived by every person now or hereafter claiming any right or security hereunder.

IN WITNESS WHEREOF, the said Assignor has caused this instrument to be signed and sealed as of the date first above written.

FIRST STATE BANK & TRUST COMPANY OF PARK RIDGE,

\*see Rider attached hereto and incorporated herein by reference

Not personally, but as Trustee as aforesaid

ATTEST:  
By: [Signature]  
Name: Tom Olen  
Title: Assistant Trust Officer

By: [Signature]  
Name: Eugene A. Bensingger  
Title: Assistant Trust Officer

ATTEST:  
By: [Signature]  
Name: Kenneth Smith  
Title: Sec.

Vexcel Development Corporation, an Illinois corporation  
By: [Signature]  
Name: James E. Kelly  
Title: Pres.

Subject to the exculpatory provisions attached hereto and made a part thereof.

86397082

86397082

ATTEST: [Signature]  
Name: Tom Olen  
Title: Assistant Trust Officer

By: [Signature]  
Name: Eugene A. Bensinger  
Title: Assistant Trust Officer

ATTEST: [Signature]  
Name: Eugene A. Bensinger  
Title: Assistant Trust Officer

Note, and at law and in equity.  
If any provision contained in this Assignment or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the application of such provisions to persons or circumstances (other than those as to which it is invalid or unenforceable) shall not be affected, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.  
Each Notice given pursuant to this Assignment shall be sufficient and shall be deemed served if mailed postage prepaid, certified or registered mail, return receipt requested, to the above-stated address of the parties hereto, or to such other address as a party may request in writing. Any time period provided in the giving of any Notice hereunder shall commence upon the date such Notice is deposited in the mail.  
The term "Assignor," "Assignee," "Borrower" and "Beneficiary" shall be construed to include the heirs, personal representatives, successors and assigns thereof. The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.  
This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.  
THIS ASSIGNMENT is executed by Borrower, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and each of the undersigned hereby warrants that each possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on Assignor or any of them personally to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by every person now or hereafter claiming any right or security hereunder.  
IN WITNESS WHEREOF, the said Assignor has caused this instrument to be signed and sealed as of the date first above written.  
FIRST STATE BANK & TRUST COMPANY OF PARK RIDGE,  
Not personally, but as Trustee as aforesaid

12. That after service of a Notice, Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rent, income and profits assigned hereunder, including the right of Assignee or its designee to enter upon the Premises, or any part thereof, with or without force and with or without process of law, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor and each of them relating thereto, and may exclude the Assignor and its agents and servants wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and powers herein granted at any and all times (after service of a Notice) without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to payment of the costs of managing and operating the Premises and to payment of all indebtedness and liability of Borrower to Assignee, including but not limited to: (a) the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment; and (b) principal and interest payments due from Borrower to Assignee on the Note and the Mortgage; all in such order and for such time as Assignee may determine.  
13. That Assignee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Assignee does not hereby assume any of the liabilities in connection with or arising out of the covenants and agreements of Assignor or any of them under any of the Leases.  
14. That Assignor hereby agrees to indemnify Assignee and to hold Assignee harmless from any liability, loss or damage including, without limitation, on reasonable attorney's fees which may or might be incurred by Assignee under the Leases or by reason of

86397082

6 3 9 7 0 8 2



86397082

Loan No. 86-239C

CORFIELD UNGARETTI HARRIS & SLAVIN  
3500 Three First National Plaza  
Chicago, Illinois 60602  
Attention: Richard A. Ungaretti, Esq.  
(312) 977-4400

ASSIGNMENT OF RENTS AND LEASES  
(BORROWER AND BENEFICIARY)

THIS ASSIGNMENT is made jointly and severally as of this 28th day of August, 1986 by and among: First State Bank and Trust Company of Park Ridge

not personally, but as Trustees under Trust Agreement dated July 1, 1986 and known as Trust Number 1683

whose mailing address is: Vexcel Development Corporation, an Illinois corporation

200 West Higgins Road, Suite 317, Schaumburg, Illinois 60195

whose mailing address is: 200 West Madison Street, Suite 3000, Chicago, Illinois 60606

hereinafter called "Assignee", Borrower and Beneficiary are hereinafter collectively called the "Assignor." Beneficiary owns one hundred percent (100%) of the beneficial interest under said Trust Agreement, hereinafter called "Trust Agreement."

WITNESSETH

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver with all right, title and interest of the Assignor and each of them in, to and under all present leases of the Premises described in EXHIBIT "A" attached hereto and made a part hereof ("Premises"), including those leases described on the SCHEDULE OF LEASES (if any) attached hereto and made a part hereof, together with all future leases hereafter entered into by any lessor affecting the premises, and all guaranties, amendments, extensions and renewals of said leases and each of them (all of which are hereinafter collectively called the "Leases"), and all rents, income and profits which may now or hereafter be or become due or owing under the Leases and each of them, for an account of the use of the Premises.

A. The payment of the indebtedness (including any extensions and renewals thereof) evidenced by a certain PROMISSORY NOTE of Borrower of even date herewith in the principal sum of \$3,000,000.00 ("Note"), and secured by a certain encumbering the Premises; and

B. The payment of all other sums with interest thereon bearing due and payable to Assignee under the provisions of the Mortgage and other documents and conditions of Borrower contained in the Note, Mortgage Loan Agreement; and

1. That there is no present lease of the Premises not listed on the SCHEDULE OF LEASES (if one is attached hereto).

2. That the sole ownership of the entire landlord's interest in the Leases (as set forth in Borrower or Beneficiary, or both of them, Borrower and Beneficiary have not, and each shall not: (a) perform any act or execute any other instrument which might prevent Assignee from fully exercising its rights under any term, covenant or condition of the Assignment; (b) execute any assignment or pledge of rents, income, profit or any of the Leases except an assignment or pledge securing the indebtedness secured hereby; (c) accept any payment of any installment of rent more than thirty (30) days before the due date thereof; or (d) make any lease of the Premises except for actual occupancy by the tenant thereunder.

3. That each of those Leases listed on the SCHEDULE OF LEASES (if one is attached hereto) are valid and enforceable in accordance with its terms and none has been altered, modified, amended, terminated, cancelled, renewed or surrendered nor has any term or condition thereof been waived in any manner whatsoever, except as heretofore approved in writing by Assignee.

4. That none of the Leases shall be altered, modified, amended, terminated, cancelled or surrendered nor shall any term or condition thereof be waived without the prior written approval of the Assignee.

5. That there is no default now existing under any of the Leases and there exists no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; and that Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed and, at the sole cost and expense of Assignor, enforce (short of termination of any of the Leases) the performance and observance of each and every covenant and condition of all such Leases by the tenants thereunder to be performed and observed.

6. That Assignor shall give prompt notice to Assignee of each notice received by Assignor or any of them claiming that a default has occurred under any of the Leases on the part of the landlord, together with a complete copy of such notice.

7. That each of the Leases shall remain in full force and effect irrespective of any merger of any landlord and any tenant under any of the Leases.

8. That, without Assignor's prior written consent in each case, Assignor will not suffer or permit any of the Leases to become subordinated to any lien other than the lien of the Mortgage, this Assignment and general real estate taxes not delinquent.

9. That the Assignment is absolute and is effective immediately; however, until notice is sent by Assignor in writing that an event of default has occurred under the Note or under any other instrument at any time constituting security for the Note, Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

10. That if any event of default occurs at any time under the Note, Mortgage or any other instrument, Assignor shall thereafter continue to receive and collect all such rents, income and profits until such event of default is cured and during the pendency of any foreclosure proceedings, and (if there is a deficiency) during the redemption period (if any).

11. That Beneficiary hereby irrevocably appoints Assignee its true and lawful attorney-in-fact, with full power of substitution and with full power for Assignee in its own name and capacity (from and after the service of a Notice) to demand, collect, receive and give complete accounts for any and all rents, income and profits accruing from the Premises, and at Assignee's discretion to file any claim or take any action or proceeding and make any settlement of any claims, \*see Rider attached hereto and incorporated herein by reference.

UNOFFICIAL COPY

86397082

86397082

S-111 2940 pm

This instrument was prepared by and after recording should be mailed to:

RIDER TO THAT CERTAIN  
ASSIGNMENT OF RENTS AND LEASES  
(BORROWER AND BENEFICIARY)  
DATED AUGUST 28, 1986 BY AND BETWEEN  
FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE,  
NOT PERSONALLY, BUT AS TRUSTEE UNDER  
TRUST AGREEMENT DATED JULY 1, 1986  
AND KNOWN AS TRUST NO. 1683,  
VEXCELL DEVELOPMENT CORPORATION,  
AN ILLINOIS CORPORATION, AND  
FOCUS REAL ESTATE FINANCE CO., A DELAWARE CORPORATION

1. pursuant to that certain Building Loan Agreement of even date herewith by and between Borrower and Assignee, as Lender (hereinafter referred to as the "Loan Agreement")
2.
  20. That Assignor has not previously sold, assigned, transferred, mortgaged, or pledged the Rents from the Premises, whether they are now due or to become due hereafter;
  21. That Assignor shall observe, perform, and fulfill, duly and punctually, all the obligations, terms, covenants, conditions, and warranties of the Note, the Mortgage, the other Loan Documents, and all existing and future Leases affecting the Premises that Assignor is to keep, observe, and perform, and give prompt notice to Assignee of any failure on the part of Assignor to observe, perform, and discharge the same;
  22. That Assignor shall enforce or secure the performance of each and every material obligation, term, covenant, condition, and warranty in the Leases to be performed or fulfilled by any tenant, and notify Assignee of the occurrence of any default under the Leases;
  23. That Assignor shall appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases of the obligations, duties, or liabilities of Assignor and any tenant thereunder;
  24. That Assignor shall pay all costs and expenses of Assignee, including attorneys' fees, in any action or proceeding in which Assignee may appear in connection herewith;
  25. That Assignor shall neither create nor permit any lien, charge, or encumbrance upon its interest in the Premises, Leases, or Rents, or as lessor of the Leases, except for the lien of the Mortgage or as provided in the Mortgage;
  26. That, except in compliance with the Leasing Guidelines set forth in the Loan Agreement and with Assignee's prior written consent, Assignor shall not waive, excuse, condone, abate, concede, discount, set off, compromise, or in any manner release or discharge any tenant under any Lease of the Premises, of and from any material obligation, covenant, condition or warranty to be observed, performed or fulfilled by the tenant, including the obligation to pay the rents thereunder in the manner and at the place and time specified therein; or
  27. That, except in compliance with the Leasing Guidelines set forth in the Loan Agreement and with Assignee's prior written consent, Assignor shall not lease any part of the Premises, or renew or extend the term of any Lease of the Premises (unless an option therefor was originally reserved by the tenant in the Lease for a fixed and definite rental)

86397082

or modify or alter any material term of any Lease. In the event any lessee under the Leases should be the subject of any proceeding under the Federal Bankruptcy Act or any other federal, state, or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that if any of the Leases is so rejected and if an Event of Default under the Loan Agreement or the other Loan Documents has occurred, no settlement for damages shall be made without the prior written consent of the Assignee, and any check in payment of damages for rejection of any such Lease will be made payable both to the Assignor and Assignee. Provided the above-described events have occurred, Assignor hereby assigns any such payment to Assignee and further covenants and agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to whatever portion of the indebtedness secured by this Assignment as Assignee may elect.

In the event any representation or warranty of Assignor made herein shall be found to be untrue, or Assignor shall default in the performance or fulfillment of any obligation, term, covenant, condition, or warranty herein, the Assignee may, at its option, declare each such instance to be an Event of Default under the Note, Mortgage and this Assignment, thereby entitling Assignee to declare all sums secured hereby immediately due and payable and to exercise any and all of the rights and remedies provided thereunder and herein, as well as by law if such default shall remain uncured for a period of five (5) days after written notice thereof from Assignee to Assignor in the case of monetary defaults, or shall remain uncured for a period of twenty (20) days after written notice thereof from Assignee to Assignor in the case of non-monetary defaults; provided, however, that if such default is curable but requires work to be performed, acts to be done or conditions to be remedied which, by their nature cannot be performed, done or remedied, as the case may be, within such twenty (20) day period, no Event of Default shall be deemed to have occurred if Assignor commences to cure such default immediately after notice and thereafter diligently and continuously prosecutes the same to completion within thirty (30) days after such notice.

Upon or at any time after default in the payment of any indebtedness secured hereby or in the performance or fulfillment of any obligation, term, covenant, condition, or warranty contained herein, in the Note, the Mortgage, the other Loan Documents, or in the Leases, Assignee shall have, at its option and without further notice, the complete right, power and authority to exercise and enforce any or all of the following rights and remedies at any time:

(a) To terminate the right granted to Assignor to collect the Rents without taking possession, and to demand, collect, receive, sue for, attach, and levy against the rents in Assignee's own name; to give proper receipts, releases, and acquittances therefor; and after deducting all necessary costs and expenses of operation and collection, including attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby and in such order as Assignee may determine, and this Assignment shall constitute a direction to and full authority to any lessee, tenant, or other third-party who has heretofore dealt or may hereafter deal with Assignor or Assignee, upon notice of such default and at the request and direction of Assignee, to pay all Rents owing under any lease or other agreement to the Assignee without proof of the default relied upon, and any such lessee, tenant, or third-party is hereby irrevocably authorized to rely upon and comply with any request, notice or demand by

# UNOFFICIAL COPY

5 6 3 9 7 0 0 2

the Assignee for the payment to the Assignee of any Rents or other sums which may be or may thereafter become due under its lease or other agreement, or for the performance of any undertakings under any such lease or other agreement, and shall have no duty to inquire as to whether any default hereunder or under the Loan Documents has actually occurred or is then existing;

(b) To declare all sums secured hereby immediately due and payable and, at its option, exercise all or any of the rights and remedies contained in the Note, the Mortgage, and other the Loan Documents;

(c) Without regard to the adequacy of the security or the solvency of Assignor, with or without any action or proceeding through any person, by agent, or by a receiver to be appointed by a court, and without regard to Assignor's possession, to enter upon, take possession of, manage, and operate the Premises or any part thereof; remove and evict any lessee, subject to the rights and remedies contained in the Leases; increase or decrease rents; clean, maintain, repair or remodel the Premises; otherwise do any act or incur any costs or expenses that Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession; and apply the Rents so collected in such order as Assignee shall deem proper to the payment of costs and expenses incurred by Assignee in enforcing its rights and remedies hereunder, including court costs and attorneys' fees, and to the payment of the operation and management of the Premises, including management and brokerage fees and commissions and to the payment of the indebtedness evidenced by the Note and secured by the other Loan Documents; and

(d) Require Assignor to transfer all security deposits to Assignee, together with all records evidencing these deposits.

Provided, however, that the acceptance by Assignee of this Assignment, with all of the rights, powers, privileges, and authority so created, shall not, prior to entry upon and taking possession of said Premises by Assignee, be deemed or construed to constitute assignee a "Mortgagee in Possession," nor thereafter or at any time or in any event obligate Assignee to appear in or defend any action or proceeding relating to the Leases or to the Premises, to take any action hereunder, to expend any money, incur any expenses, or perform or discharge any obligation, duty or liability under the Leases, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any lessee thereunder and not assigned and delivered to Assignee. Furthermore, Assignee shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm, or corporation in or about the Premises.

Provided further, that the collection of the rents and their application as aforesaid and/or the entry upon and taking possession of the Premises shall not cure or waive any default; waive, modify, or affect any notice of default required under the Note or Mortgage; or invalidate any act done pursuant to such notice.

Until the indebtedness secured hereby shall have been paid in full, Assignor shall deliver to Assignee executed copies of any and all Leases and all future Leases upon all or any part of the Premises, and will, if Assignee requests, specifically transfer and assign such Leases upon the same terms and conditions as herein contained, but Assignor acknowledges and agrees that such specific assignment and transfer shall not

be required to make this Assignment operative with respect to such futures Leases. Assignor hereby covenants and agrees to make, execute, and deliver to Assignee upon demand and at any time any and all further or additional assignments, documents and other records and instrument, including, but not limited to, rent rolls and books of account sufficient for the purpose, that Assignee may deem to be necessary or advisable for carrying out the purposes and intent of, or otherwise to effectuate, this Assignment.

Upon payment in full of all of the indebtedness secured by the Note, Mortgage and other Loan Documents and all sums payable hereunder, Assignee shall execute and deliver a release of this Assignment. No judgment or decree entered as to said indebtedness shall operate to abrogate or lessen the effect of this Assignment until the indebtedness has actually been paid. The affidavit, certificate, letter, or statement or any officer of Assignee showing that any part of said indebtedness has remained unpaid shall be and constitute conclusive evidence of the validity, effectiveness, and continuing force of this Assignment. Any person, firm, or corporation may, and is hereby authorized to, rely on such affidavit, certificate, letter or statement. A demand by Assignee to any tenant for payment of rents by reason of any default claimed by Assignee shall be sufficient direction to said tenant to make future payments of Rents to Assignee without the necessity for further consent by, or notice to, Assignor.

In addition to, but not in lieu of, any other rights hereunder, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction against Assignor to prevent a breach or default, or to enforce the observance, of the agreements, covenants, terms, and conditions contained herein, as well as the right to ordinary and punitive damages occasioned by any breach or default by Assignor.

- 5. Nothing herein shall be construed as creating any personal liability on Assignor with respect to any of Assignor's obligations hereunder, all such personal liability being expressly waived, but this waiver shall not affect the liability of Assignor under the Loan Agreement or the liability of the guarantor, nor limit Assignee's right of recourse against the assets held by Borrower.

FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE, as trustee as aforesaid, and not personally.

By: [Signature]  
Name: [Name]  
Title: [Title]

By: [Signature]  
Name: Eugene A. Bensinger  
Title: Assistant Trust Officer

ATTEST:

By: [Signature]  
Name: Tom Oler  
Title: Assistant Trust Officer

86397082



UNOFFICIAL COPY

Property of Cook County Clerk's Office

00300025

# UNOFFICIAL COPY

VEXCELL DEVELOPMENT CORPORATION, an Illinois corporation

By: 1 James F. [Signature]  
Name: JAMES F. [Signature]  
Title: pres

ATTEST:

By: 1  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Property of Cook County Clerk's Office

86397082

UNOFFICIAL COPY

Property of Cook County Clerk's Office

20170802

UNOFFICIAL COPY

86397082 7 3 2

STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF C O O K )

I, Barbara Nidetz, a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that James Freiberg, President of VEXCELL DEVELOPMENT CORPORATION, and \_\_\_\_\_ Secretary of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as said President and \_\_\_\_\_ Secretary, respectively, appeared before me in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for uses and purposes therein set forth; and the said \_\_\_\_\_ Secretary did also then and there acknowledge that \_\_\_\_\_, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as \_\_\_\_\_ 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 20 day of ~~September~~, 1986.  
August

Barbara Nidetz  
Notary Public

My Commission expires: 11-29-89

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

86397082

86397082

I, Mildred Nosko, a Notary Public in and for Cook County in the State of Illinois, DO HEREBY CERTIFY THAT Eugene A. Bensinger, Assistant Trust Officer of FIRST STATE BANK AND TRUST COMPANY OF PARK RIDGE, and Tom Olen, Assistant Trust Officer of said Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Trust Officers, 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 Bank, as Trustee as aforesaid, for the uses and purposes therein set forth, and the said Assistant Trust Officer, as custodian of the corporate seal of said Bank, did affix the seal of said Bank to said instrument as said Assistant Trust Officer's own free and voluntary act and as the free and voluntary act of said Bank, as Trustee as aforesaid for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28th day of August, 1986.

Mildred Nosko  
Notary Public

My Commission Expires June 28, 1997

EXHIBIT A

THE NORTH 677 FEET OF THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE EAST 40 ACRES (EXCEPTING THEREFROM THE WEST 10 RODS THEREOF, AND THE NORTH 5 ACRES OF THE WEST 230 FEET OF THAT PART OF SAID WEST 1/2 LYING EAST OF THE WEST 10 RODS THEREOF), TOGETHER WITH THE NORTH 1 ACRE OF THE EAST 100 FEET OF THE NORTH 5 ACRES OF THE WEST 230 FEET OF THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 LYING EAST OF THE WEST 10 RODS OF SAID WEST 1/2 OF THE NORTHWEST 1/4 (EXCEPTING FROM THE ABOVE DESCRIBED PROPERTIES, THAT PART OF SAID WEST 1/2 OF THE NORTHWEST 1/4 BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST 1/4 OF THE EAST 40 ACRES OF THE WEST 1/2 OF THE NORTHWEST 1/4; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 40 ACRES AFORESAID, 132 FEET; THENCE WEST ALONG A STRAIGHT LINE TO A POINT IN THE WEST LINE OF THE NORTH 1 ACRE OF THE EAST 100 FEET OF THE NORTH 5 ACRES OF THE WEST 230 FEET OF THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 LYING EAST OF THE WEST 10 RODS OF SAID NORTHWEST 1/4; WHICH IS 134.60 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE NORTH ALONG SAID LINE 134.60 FEET TO THE NORTH LINE OF SAID NORTHWEST 1/4; THENCE EAST TO THE PLACE OF BEGINNING), AND EXCEPTING THEREFROM THAT PART DESCRIBED AS FOLLOWS: THAT PART OF THE NORTH 677.0 FEET OF THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE EAST 40 ACRES (EXCEPTING THEREFROM THE WEST 10 RODS THEREOF, AND THE NORTH 5 ACRES OF THE WEST 230.00 FEET OF THAT PART OF SAID WEST 1/2 LYING EAST OF THE WEST 10 RODS THEREOF), DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER THEREOF; THENCE EAST 281.71 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE NORTH 44.94 FEET ALONG THE EAST LINE THEREOF; THENCE SOUTHWESTERLY 282.25 FEET TO A POINT ON THE WEST LINE THEREOF WHICH IS 27.86 FEET NORTH OF SAID SOUTHWEST CORNER; THENCE SOUTH 27.86 FEET TO THE POINT OF BEGINNING. IN COOK COUNTY, ILLINOIS.

P.I.N. 03-24-100-010, Volume 233

97

DEPT-01 RECORDING \$19.30  
 TR333 TRAN 0975 09/05/86 14:35:00  
 #1605 \* -86-397082  
 COOK COUNTY RECORDER

86397082

19

86397082

UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE  
111 W. WASHINGTON ST. CHICAGO, ILL. 60601  
TELEPHONE (312) 321-2000

2000000000

0000000000