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135

COLLATERAL ASSIGNMENT OF LEASES AND RENTS

138 **THIS ASSIGNMENT** made as of the 26th day of August, 1987, from FIRST
139 NATIONAL BANK AND TRUST COMPANY OF EVANSTON, not personally but solely as
140 Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to
141 such trustee in pursuance of a Trust Agreement dated October 1, 1977 and known as
142 Trust No. R-2117 (the "Assignor") to MDFC LOAN CORPORATION, a Delaware corpo-
143 ration (the "Lender");

145 **WHEREAS**, the Assignor has executed (i) its Mortgage Note of even date here-
146 with to the order of Lender in the principal amount of ONE MILLION THREE HUN-
147 DRED THOUSAND AND NO/100 DOLLARS (\$1,300,000.00) (the "Note"), and (ii) its
148 Mortgage (herein called the "Mortgage"), to secure the Note, conveying the premises
149 (the "Premises") legally described in Exhibit A hereto; and

151 **WHEREAS**, Lender has required Assignor to execute and deliver this Assignment
152 and the beneficiary of the Assignor ("Beneficiary") to execute and deliver a Collateral
153 Assignment of Leases and Rents substantially in the same form as this Assignment as a
154 condition to Lender's making the Loan evidenced by the Note.

156 **NOW, THEREFORE**, the Assignor, for and in consideration of these presents and
157 the mutual agreements herein contained and for other good and valuable consideration,
158 the receipt whereof is hereby acknowledged, and as further and additional security for
159 payment of the Note; the principal sum, interest, premiums and other indebtedness
160 evidenced thereby; any amendments, extensions or renewals of the Note; any other
161 indebtedness or obligation secured or guaranteed by the Mortgage; payment of all other
162 sums with interest thereon becoming due and payable to Lender under the provisions of
163 this Assignment; and the performance and discharge of each and every obligation, cov-
164 enant and agreement of Assignor and Beneficiary contained in this Assignment, the
165 Note, the Mortgage, and all documents ("Loan Documents") securing the Note and
166 described in Exhibit B to the Mortgage, does hereby sell, assign and transfer unto the
167 Lender its interest in (i) the Identified Leases, if any, shown on Schedule I attached
168 hereto; (ii) all leases or tenancies (including the Approved Leases, as hereinafter
169 defined, and concessions) of the Premises or any part thereof, or any letting of or
170 agreement for the use or occupancy of the Premises or any part thereof, whether writ-
171 ten or oral, heretofore or hereafter made or agreed to by any party, including without
172 limitation the Lender in the exercise of the powers herein conferred or otherwise; and
173 (iii) any and all extensions, renewals and replacements of any of the foregoing (all of
174 the leases, tenancies and rights described above are herein referred to as the "Leases"),
175 together with all the rents, income, issues and profits now due and which may hereafter
176 become due under or by virtue of the Leases, together with all guaranties of any of the
177 foregoing, it being the intention hereby to establish an absolute transfer and assignment
178 of all the foregoing to Lender.

180 To protect and further the security of this Assignment, the Assignor agrees as
181 follows:

183 I. Agreements Regarding Leases. The Trustee agrees and represents unto
184 Lender as follows:

187 (a) the Assignor is the sole owner of the entire interest of the lessor in
188 the Leases; without Lender's prior written consent, Assignor will not transfer,
189 sell, assign, pledge, encumber or grant a security interest in any of the Leases;
190 the Assignor shall not hereafter permit any Lease to become subordinate to any
191 lien other than the lien of the Mortgage and any liens to which the Mortgage is
192 now, or may pursuant to its terms, become subordinate; and any attempted
193 transfer, sale, assignment, pledge, encumbrance, grant or subordination shall be
194 null and void;

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5 **THIS INSTRUMENT PREPARED BY:**
6 *✓ MAIL TO:*
7 Peter B. Ross, Esq.
8
9 Rudnick & Wolf
10 30 North LaSalle Street
11 Suite No. 2900
12 Chicago, Illinois 60602
13
14 PBR0111 8/87

PIN No. 20-11-409-019-0000 *TP ALL*
Property Address:
5254 South Dorchester
Chicago, Illinois 60615

HV Box 416

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197 (b) any Leases are and will be, and all Approved Leases, as hereinafter
198 defined, will be, valid and enforceable in accordance with their terms, and shall
199 remain in full force and effect irrespective of any merger of the interest of less-
200 sor and lessee thereunder;

202 (c) the Assignor will promptly notify Lender of any default or claimed
203 default by lessor or lessee under the Leases of which it becomes aware;

205 (d) Assignor will not enter into, amend, or modify any lease demising
206 portions of the Premises, other than an Approved Lease, as hereinafter defined,
207 without Lender's prior written consent, and any attempted lease, demise, amend-
208 ment or modification without Lender's prior written consent shall be null and
209 void. Nothing in this Assignment shall restrict Assignor's ability to enter into,
210 amend or modify any lease demising less than five percent (5%) of the Premises
211 (_____), without Lender's consent, if such new, amended or modified
212 lease (i) is a lease to a single tenant, without structural modification of the
213 Premises (excepting customary partitioning or other tenant work if such parti-
214 tioning or work is completed at tenant's sole expense); (ii) is to be used for resi-
215 dential purposes; (iii) is customarily made in the ordinary course of Assignor's
216 business; (iv) contains no option to purchase any portion of the Premises; and
217 (v) is for a term, including optional renewal or extension periods, of no longer
218 than the term of leases customarily made in the ordinary course of business for
219 similar premises in the locality of the Premises. (Herein, any new, amended or
220 modified lease which meets the requirements of clauses (i) through (v) above
221 shall be referred to as an "Approved Lease");

223 (e) no payment of rent has been or will be made by any lessee or by
224 any person in possession of any portion of the Premises for more than one
225 month's installment in advance or has been or will be waived, released, reduced,
226 or discounted, or otherwise discharged or compromised by the Assignor, and the
227 Assignor waives any right of set-off against any lessee or any person in posses-
228 sion of any portion of the Premises; Assignor has not made and will not make any
229 other or further assignment of the rents, issues, income or profits of the Prem-
230 ises or of the Leases except subsequent to or in connection with the release of
231 this Assignment with respect to such portion of the Premises so released;

233 (f) the Assignor shall perform all of its covenants and agreements
234 under the Leases and shall not suffer or permit any release of liability of, or
235 right to withhold payment of rent by, the lessees therein;

237 (g) the Assignor shall not commence or continue proceedings to evict,
238 remove or dispossess any lessee under any Lease or to terminate any Lease with-
239 out prior written consent of Mortgagee;

241 (h) The Identified Leases, if any, and all other existing Leases are valid
242 and unmodified and in full force and effect, except as indicated herein, and the
243 lessees thereunder are not in default under any of the terms, covenants or condi-
244 tions thereof; and

246 (i) the Assignor shall not waive, cancel, release, modify, excuse, con-
247 done, discount, set-off, compromise or in any manner release or discharge any
248 lessee under any of the Leases from any obligation, covenant, condition or
249 requirement of said Leases, without prior written consent of Lender.

252 Any amounts received by Assignor or its agents for performance of any actions prohib-
253 ited by the terms of this Assignment, including any amounts received in connection
254 with any cancellation, modification or amendment of any of the Leases prohibited by
255 the terms of this Assignment and any amounts received by Assignor as rents, income,
256 issues or profits from the Premises from and after the date of any Default under the
257 Note, the Mortgage, or under any of the Loan Documents, which default shall not have
258 been cured within the time periods, if any, expressly established therefore, shall be held
259 by Assignor as trustee for Lender and all such amounts shall be accounted for to Lender
260 and shall not be commingled with other funds of the Assignor. Any person acquiring or
261 receiving all or any portion of such trust funds shall acquire or receive the same in
262 trust for Lender as if such person had actual or constructive notice that such funds
263 were impressed with a trust in accordance herewith; by way of example and not of lim-
264 itation, such notice may be given by an instrument recorded with the Recorder of
265 Deeds of the county in which the Premises are located stating that Assignor has
266 received or will receive such amounts in trust for Lender.

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269 2. Waiver Of Liability. Nothing herein contained shall be construed as con-
270 stituting Lender a "mortgagee in possession" in the absence of the taking of actual pos-
271 session of the Premises by Lender pursuant to the provisions hereinafter contained. In
272 the exercise of the powers granted by the Mortgage, no liability shall be asserted or
273 enforced against Lender, all such liability being expressly waived and released by the
274 Assignor.

276 3. Further Assurances And Assignments. The Assignor further agrees to
277 execute and deliver immediately upon the request of Lender, all such further assur-
278 ances and assignments concerning the Leases or the Premises as Lender shall from time
279 to time require.

281 4. Exercise Of Remedies. In any case in which under the provisions of the
282 Mortgage Lender has a right to institute foreclosure proceedings, whether before or
283 after institution of legal proceedings to foreclose the lien thereof or before or after
284 sale thereunder, upon demand of Lender, the Assignor agrees to surrender to Lender
285 and Lender shall be entitled to take actual possession of the Premises or any part
286 thereof personally, or by its agents or attorneys, and Lender in its discretion may, with
287 or without force or notice and with or without process of law, enter upon and take and
288 maintain possession of all or any part of the Premises, together with all the documents,
289 books, records, papers and accounts of the Assignor or the then owner of the Premises
290 relating thereto, and may exclude the Assignor, its agents, or servants, wholly there-
291 from and may act as attorney in fact of the Beneficiary or agent of the Assignor, or in its
292 own name as mortgagee and under the powers herein granted, hold, operate, manage
293 and control the Premises and conduct the business, if any, thereof either personally or
294 by its agents, with full power to use such measures, legal or equitable, as in its discre-
295 tion may be deemed proper or necessary to enforce the payment of security of the
296 rents, income, issues and profits of the Premises, including actions for the recovery of
297 rent, actions in forcible detainer and actions in distress of rent, hereby granting full
298 power and authority to exercise each and every of the rights, privileges and powers
299 herein granted at any and all times hereafter, and with full power to cancel or termi-
300 nate any Lease or sublease for any cause or on any ground which would entitle the
301 Assignor to cancel the same, to elect to disaffirm any Lease or sublease made subse-
302 quent to the Mortgage or subordinated to the lien thereof, to make all necessary or
303 proper repairs, decorating, renewals, replacements, alterations, additions, betterments
304 and improvements to the Premises that may seem judicious, in its discretion, to insure
305 and reinsure the same for all risks incidental to Lender's possession, operation and man-
306 agement thereof and to receive all such rents, income, issues and profits.

308 5. Application Of Proceeds. Lender in the exercise of the rights and powers
309 conferred upon it by this Assignment shall have full power to use and apply the rents,
310 income, issues and profits of the Premises to the payment of or on account of the fol-
311 lowing, in such order as Lender may determine:

314 (a) operating expenses of the Premises, including costs of management
315 and leasing thereof (including reasonable compensation to Lender and its agents,
316 and lease commissions and other compensation and expenses of seeking and
317 procuring tenants and entering into Leases), establishing any claims for damages,
318 and premiums on insurance hereinabove authorized; it being expressly understood
319 and agreed that Lender in the exercise of such powers may so pay any claims
320 purporting to be for any operating expenses of the Premises, without inquiry
321 into, and without respect to, the validity thereof and whether such claims are in
322 fact for operating expenses of the Premises;

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

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

333 (d) any indebtedness secured or guaranteed by the Mortgage or any
334 deficiency which may result from any foreclosure sale.

338 6. Occurrence Of Default. Although it is the intention of the parties that
339 this assignment is a present assignment, it is expressly understood and agreed, anything

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341 herein contained to the contrary notwithstanding, that Lender shall not exercise any of
342 the rights and powers conferred upon it herein until and unless there shall occur a
343 Default as defined in the Note, the Mortgage or any of the Loan Documents in each
344 instance after any applicable grace periods shall have expired. Nothing herein con-
345 tained shall be deemed to affect or impair any rights which the Lender may have under
346 the Note, Mortgage or Loan Documents or to affect the impression of a trust upon
347 funds received by a trustee in the manner provided for in Paragraph 1 above.

349 7. **Instruction To Lessees.** The Assignor further specifically and irrevocably
350 authorizes and instructs each and every present and future lessee or tenant under any
351 Lease of the whole or any part of the Premises to pay all unpaid rental agreed upon in
352 any Lease or other agreement for occupancy of any part of the Premises to Lender
353 upon receipt of demand from Lender so to pay the same, without any inquiry as to
354 whether or not said demand is made in compliance with the immediately preceding
355 paragraph hereof. Lender has not received or been transferred any security deposit
356 with respect to any Lease, and assumes no responsibility for any such security deposit
357 until such time such security deposit (specified as such with specific reference to the
358 Lease pursuant to which deposited) may be transferred to Lender and accepted by
359 Lender by notice to the tenant under said Lease.

361 8. **Election Of Remedies.** It is understood and agreed that the provisions set
362 forth in this Assignment shall be deemed a special remedy given to Lender, and shall
363 not be deemed exclusive of any of the remedies granted in the Note or the Mortgage but
364 shall be deemed an additional remedy and shall be cumulative with the remedies therein
365 and elsewhere granted Lender, all of which remedies shall be enforceable concurrently
366 or successively. No exercise by Lender of any of its rights hereunder shall cure, waive
367 or affect any default hereunder or Default under the Note or the Mortgage. No inaction
368 or partial exercise of rights by Lender shall be construed as a waiver of any of its such
369 rights and remedies, and no waiver by Lender of any such rights and remedies shall be
370 construed as a waiver by Lender of any of its other rights and remedies.

372 9. **Continual Effectiveness.** It is expressly understood that no judgment or
373 decree which may be entered on any debt secured or intended to be secured by Lender
374 shall operate to abrogate or lessen the effect of this instrument, but that the same shall
375 continue in full force and effect until the payment, discharge and performance of any
376 and all indebtedness and obligations evidenced by the Note or secured or guaranteed by
377 the Mortgage, in whatever form, and until all bills incurred by virtue of the authority
378 herein contained have been fully paid out of rents, income, issues and profits of the
379 Premises, or by the Assignor, or until such time as this instrument may be voluntarily
380 released. This instrument shall also remain in full force and effect during the pendency
381 of any foreclosure proceedings, both before and after sale, until the issuance of a deed
382 pursuant to a foreclosure decree, unless all indebtedness secured or guaranteed by the
383 Mortgage is fully satisfied before the expiration of any period of redemption.

385 10. **Bankruptcy.** In the event any lessee under the Leases should be the sub-
386 ject of any proceeding under the Federal Bankruptcy Code, as amended from time to
387 time, or any other federal, state, or local statute which provides for the possible termi-
388 nation or rejection of the Leases assigned hereby, the Assignor covenants and agrees
389 that if any of the Leases is so terminated or rejected, no settlement for damages shall
390 be made without the prior written consent of Lender, and any check in payment of
391 damages for termination or rejection of any such Lease will be made payable both to
392 the Assignor and Lender. The Assignor hereby assigns any such payment to Lender and
393 further covenants and agrees that upon the request of Lender, it will duly endorse to
394 the order of Lender any such check, the proceeds of which will be applied to whatever
395 portion of the indebtedness secured by this Assignment Lender may elect.

397 11. **Release Of Mortgage.** To the extent, if any, that any provisions of the
398 Mortgage may provide for the partial release thereof upon conditions therein stated,
399 the Leases of any portion of the Premises which may be released from the lien of the
400 Mortgage pursuant to such provisions, and any rents, issues and profits thereafter
401 accruing with respect thereto, shall ipso facto be immediately released from this
402 Assignment without the necessity of further action or instrument.

404 12. **Notices.** Any notice which any party hereto may desire or may be
405 required to give to any other party hereto shall be in writing, and shall be deemed given
406 if and when personally delivered, or on the second (2d) business day after being depos-
407 ited in United States registered or certified mail, postage prepaid, addressed to a party
408 at its address set forth below, or at such other place as such party may have designated
409 to all other parties by notice in writing in accordance herewith:

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414 (a) If Assignor
416 First National Bank and Trust Company
417 of Evanston
418 800 Davis Street
419 Evanston, Illinois 60204
420 Attention: Land Trust Department

422 with a copy to:

424 Harry Adelman
425 Adelman & Gettleman, Ltd.
426 53 W. Jackson Blvd., Suite 1050
427 Chicago, IL 60604

430 (b) MDFC Loan Corporation
431 c/o McDonnell Douglas Finance Corporation
432 340 Golden Shore
433 Long Beach, California 90802-4296
434 Attention: Dr. Darwin Saxton

436 with a copy to:

438 Rudnick & Wolfe
439 30 North LaSalle Street
440 Suite No. 2900
441 Chicago, Illinois 60602
442 Attention: Thomas H. Fraerman, Esq.
443 Peter B. Ross, Esq.

446 Except as otherwise specifically required herein, notice of the exercise of any right or
447 option granted to Lender by this Assignment is not required to be given.

449 13. Binding Agreements. This Assignment and all provisions hereof shall be
450 binding upon the Assignor, its successors, assigns, and legal representatives and all
451 other persons or entities claiming under or through it, and the word "Assignor", when
452 used herein, shall include all such persons and entities and any others liable for the pay-
453 ment of the indebtedness secured hereby or any part thereof, whether or not they have
454 executed the Note or this Assignment. The word "Lender", when used herein, shall
455 include Lender's successors, assigns, and legal representatives, including all other hold-
456 ers, from time to time, of the Note.

458 14. Governing Law; Interpretation. This Assignment shall be governed by the
459 laws of the State of Illinois in which State the Note and this Assignment were executed
460 and delivered, the premises are located, the proceeds of the Loan were disbursed by
461 Lender, and the principal and interest due under the Note are to be paid. Wherever
462 possible each provision of this Assignment shall be interpreted in such manner as to be
463 effective and valid under applicable law, but if any provision of this Assignment shall
464 be prohibited by or invalid under such law, such provision shall be ineffective to the
465 extent of such prohibition or invalidity, without invalidating the remainder of such pro-
466 vision or the remaining provisions of this Assignment. Time is of the essence of this
467 Assignment.

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

476 16. Exculpation. This Assignment is executed and delivered by the under-
477 signed trustee, not personally but as trustee as aforesaid, in the exercise of the power
478 and authority conferred upon and vested in it as such trustee, provided that said trustee
479 hereby personally warrants that it possesses full power and authority to execute and
480 deliver the same. It is expressly understood and agreed that nothing contained in this
481 Assignment shall be construed as creating any liability on said trustee personally to pay
482 the indebtedness secured by this Assignment or any interest that may accrue thereon or
483 to perform any covenant, express or implied, contained herein, all such personal liabili-

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485 ty, if any, being expressly waived by Assignee and by every person now or hereafter
486 claiming any right or security hereunder.

490 IN WITNESS WHEREOF, the undersigned has caused this Assignment to be exe-
491 cuted as of the day and year first above written.

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ASSIGNOR:
FIRST ILLINOIS BANK of EVANSTON, N.A. #/K/A
FIRST NATIONAL BANK AND TRUST
COMPANY OF EVANSTON, not
personally, but as Trustee as
aforesaid

503
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505

By: Scnia Mahmood
Name: SCNIA MAHMOOD
Title: CLIENT REPRESENTATIVE

509
510
511

Attest: [Signature]
Name: L. R. REMIEN
Title: ADMINISTRATIVE ASSISTANT

RIDER CONTAINING EXONERATION
CLAUSE ATTACHED BEFORE EXECUTION

ASSIGNMENT OF RENTS

This assignment of rents is executed by First Illinois Bank of Evanston, N.A. not personally but as Trustee as aforesaid in the exercise of the power an authority conferred upon and vested in it as Trustee and it is expressly understood and agreed that nothing herein or in said note contained shall be construed as creating any liability on the Trustee, either individually or as Trustee aforesaid, personally to pay the said note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by the Assignee and by every person now or hereafter claiming any right or security hereunder, and that so far as said First Illinois Bank of Evanston, N.A., either individually or as trustee aforesaid, or its successors, personally are concerned, the legal holder or holders of said note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed to the payment thereof, by the enforcement of the lien hereby created in the manner herein and in said note provided or by action to enforce the personal liability of the guarantor, if any.

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518 STATE OF ILLINOIS)
519) SS.
520 COUNTY OF COOK)

524 I, MARGARET F. MIERKIEWICZ, a Notary Public, in and for
525 said County, in the State aforesaid, DO HEREBY CERTIFY that SONIA MAHMUD, CLERK REP
526 ~~Vice President~~ of FIRST NATIONAL BANK AND TRUST COMPANY OF EVANTSON, an
527 Illinois banking association, personally known to me to be acting not personally but as
528 Trustee under Trust Agreement dated October 1, 1977 and known as Trust No. R-2117,
529 and LORI R. REMIEN, ADMINISTRATIVE ASSISTANT
530 ~~Trust Officer~~ of said Bank/Trust Company, are personally known to me to be the same
531 persons whose names are subscribed to the foregoing instrument as such Vice President
532 and Trust Officer, respectively, appeared before me this day in person and acknowl-
533 edged that they signed and delivered said instrument as their own free and voluntary
534 act and as the free and voluntary act of said Bank/Trust Company, as Trustee as afore-
535 said, for the uses and purposes therein set forth; and said Trust Officer then and there
536 acknowledged that he, as custodian of the corporate seal of said Bank/Trust Company,
537 did affix the corporate seal of said Bank/Trust Company to said instrument as his own
538 free and voluntary act and as the free and voluntary act of said Bank/ Trust Company,
539 as Trustee as aforesaid, for the uses and purposes therein set forth.

541 GIVEN under my hand and Notarial Seal, this 4th day of ~~August~~ ^{SEPTEMBER}, 1987.

545 Margaret F. Mierkiewicz
546 Notary Public

549 My Commission Expires:

551 August 14, 1988

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EXHIBIT A

560

To

562

Collateral Assignment of Leases and Rents

564

The Premises

567 LOT 14 AND THE EAST 1/2 OF LOT 13 IN BLOCK 23 IN KIMBARK'S ADDITION TO
568 HYDE PARK, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF THE SOUTH
569 EAST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD
570 PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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SCHEDULE 1

579

The Identified Leases

582 Name of Lessee

Date of Lease

Term of Lease

All Existing Leases

Property of Cook County Clerk's Office

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