

# UNOFFICIAL COPY

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*First Interstate Title  
111 W. Washington St.  
Chicago, Ill. 60602*

## SPECIFIC ASSIGNMENT OF LEASES AND RENTS

THIS SPECIFIC ASSIGNMENT OF LEASES AND RENTS, is made this 1st day of December, 1987 by and between THE BANK & TRUST COMPANY OF ARLINGTON HEIGHTS, a National Banking Association, not personally, but as Trustee under Trust Agreement dated December 22, 1983 and known as Trust No. 3215, whose address is 900 East Kensington Road, Arlington Heights, Il. 60004, hereinafter referred to as "Assignor", and THE GREAT-WEST LIFE ASSURANCE COMPANY, having its Home Office at 100 Osborne Street North, Winnipeg, Manitoba, Canada, R3C 3A5, hereinafter referred to as "Assignee";

### W I T N E S S E T H:

That Assignor has, simultaneously with the execution of this Specific 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 TWO MILLION NINE HUNDRED THOUSAND AND NO/100 DOLLARS (\$2,900,000.00) ("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"):

See Exhibit "A" attached hereto and made a part hereof and the improvements thereon ("Improvements").

That Assignor is the landlord under lease agreements with occupancy tenants of Land and Improvements ("Tenants"), as follows (collectively "Leases"):

<u>Lessee</u>	<u>Date of Lease</u>	<u>Expiration Date</u>
Northern Illinois Title Company	October 1, 1987	April 30, 1991
Associated Psychologists	October 2, 1987	November 31, 1990
Sun Life Assurance Company of Canada	September 16, 1987	November 30, 1992
Courtyard Development Corporation	February 1, 1987	January 31, 1992
Northwest Insurance Services	April 8, 1987	December 30, 1992
E. William Fahy, Michael Rostenkowski, Arthur R. Meyers	December 18, 1986	November 30, 1990
Regency Savings Bank	August 8, 1986	April 30, 1990
Century 21 - Arlington Realty	April 1, 1986	August 31, 1991
Dr. Thomas Vanbladel	October 29, 1986	December 31, 1987
John Pezl	June 2, 1987	September 30, 1987
Dr. Charles Smith	October 21, 1986	November 30, 1991
Richard D. Thomas, Esq.	October 29, 1986	November 30, 1991
Carlton Lohrentz	February 6, 1987	February 28, 1993
Stuart H. Wolf, Ltd.	June 23, 1987	June 30, 1992
Porikos, Rodes & Economos P.C.		
N. B. Burke & Assoc., Ltd.	April 25, 1986	August 31, 1991
George Woll	June 1, 1987	May 31, 1992
William J. Barnes & Co., Ltd./ Walter Givens & Co., Ltd./ Kent, Givens, Barnes & Co.	March 3, 1987	November 30, 1992
A.S.C., Inc. Architects	September 4, 1987	August 31, 1990

That Assignee, as a condition precedent to making Loan to Assignor has requested Assignor to assign all of its right, title and interest in and to Leases as additional security for the payment of Loan, and the interest and all other sums due and owing to Assignee pursuant to Note (collectively "Indebtedness").

This Instrument Was Prepared By:

R. I. WALSHLAGER

First Interstate Mortgage Company of Illinois  
111 W. Washington Street  
Chicago, Illinois 60602

BOX 347

10005-C-1187

NORTHERN ILLINOIS TITLE INSURANCE

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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. Hereby grants a security interest in and sells, assigns, transfers and sets over unto Assignee one hundred percent (100%) of Assignor's right, title and interest in and to Leases, together with all rents, income or other sums payable by the provisions thereof ("Rents") and, at the option of Assignee, all future lease agreements which may be executed by Assignor, as Landlord, with occupancy tenants of Land and Improvements ("Future Tenants") at any time hereafter ("Future Leases") and all rents, income or other sums payable by the provisions thereof ("Future Rents").

2. Agrees that this Assignment is made for the purpose of securing the payment of Indebtedness and the performance and discharge of each and every obligation, covenant and agreement required of Assignor pursuant to Note, Mortgage and Other Loan Documents (as that term is defined in Note) executed and delivered to secure Indebtedness (collectively "Loan Documents").

3. Represents and warrants that as of the date hereof:

- a) Assignor is the sole owner of one hundred percent (100%) of Landlord's right, title and interest in and to Leases;
- b) Leases are valid and enforceable and have not been altered, modified or amended, since the date the Leases were delivered to Assignee;
- c) to the best of its knowledge, Tenants are not in default in the performance of any of the terms, covenants, conditions or agreements required of them pursuant to Leases;
- d) no part of Rents reserved in Leases has been previously assigned, and no part of Rents, for any period subsequent to the date hereof except for the current month, has been collected in advance of the due date thereof.

4. Shall observe and perform all of the obligations imposed upon Assignor, as Landlord, pursuant to Leases and Future Leases and shall:

- a) not do or permit any act or occurrence which would impair the security thereof;
- b) not collect any part of Rents or Future Rents in advance of the time when the same shall become due excluding security deposits;
- c) not execute any other assignment of Assignor's interest, as Landlord, in Leases, Future Leases, Rents or Future Rents, without Assignee's prior written consent;
- d) not alter, modify or change the terms and conditions of Leases or Future Leases, cancel or terminate the same or accept a surrender thereof, other than in the normal course of business, without the prior written consent of Assignee;
- e) at Assignee's request, execute and deliver all such further assurances and assignments as Assignee shall, from time to time, require concerning said Leases and Future Leases.

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5. Shall have the right, so long as there shall exist no Monetary Default or Non-Monetary Default (as said terms are defined in Note) to collect Rents and Future Rents, when due but not prior thereto, and retain, use and enjoy the same.

6. Agrees that, any time following a Monetary or Non-Monetary Default, Assignee may, at its option, either in person or through its agent or a receiver appointed by a court of competent jurisdiction, without notice, without, in any way, waiving such Monetary Default or Non-Monetary Default, and without regard to the adequacy of the security for Indebtedness and with or without instituting any action or proceeding:

- a) take possession of Land and Improvements and hold, manage, lease and operate the same on such terms and for such periods of time as Assignee may deem proper;
- b) with or without taking possession of Land and Improvements, in its own name, institute suit or otherwise collect and receive Rents and Future Rents, including Rents and Future Rents past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto or thereof as Assignee may deem proper;
- c) apply Rents and Future Rents to the payment of:
  - i) all costs and expenses incurred in managing Land and Improvements (including, but not limited to, the salaries, fees and wages of the managing agent thereof and other employees of Assignor);
  - ii) all expenses of operating and maintaining Land and Improvements (including, but not limited to, all taxes, charges, claims, assessments, water rents, sewer rents and other liens and premiums for all insurance coverages which Assignee may deem necessary);
  - iii) all costs of alteration, renovation, repair or replacement of Land and Improvements;
  - iv) all expenses incident to the taking and retaining of possession thereof; and
  - v) Indebtedness and all costs, expenses and attorneys' fees incurred by Assignee by reason hereof;

and apply the same in such order of priority as Assignee, in its sole discretion, may determine, any statute, law, custom or use to the contrary notwithstanding.

7. Agrees that Assignee shall not be:

- a) liable for any loss sustained by Assignor resulting from Assignee's failure to let Land and Improvements following the occurrence of a Monetary Default or Non-Monetary Default by reason of any other act or omission of Assignee in managing Land and Improvements after such Monetary Default or Non-Monetary Default, other than any loss or damage which may be incurred by Assignor by reason of Assignee's negligence or acts and deeds following the exercise of Assignee's rights pursuant hereto or pursuant to leases and Future Leases.

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- b) obligated to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any obligation, duty or liability of Assignor pursuant hereto or pursuant to Leases and Future Leases and Assignor shall, and does hereby agree to indemnify Assignee for, and hold Assignee harmless from, any and all liability, loss or damage which may or might be incurred by reason thereof 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 of the terms, covenants, conditions and agreements required of Assignor pursuant hereto or pursuant to Leases and Future Leases; PROVIDED, HOWEVER, that such indemnification shall not include any liability, loss or damage which may be incurred by Assignee by reason of its negligence or acts and deeds following the exercise of Assignee's rights pursuant hereto or pursuant to Leases and Future Leases.

If Assignee incurs any liability pursuant hereto or pursuant to Leases and Future Leases or in defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees (exclusive of any costs, expenses and attorneys' fees incurred by Assignee by reason of its acts and deeds following the exercise of Assignee's rights pursuant hereto or pursuant to Leases and Future Leases), shall be secured by Mortgage and Assignor shall reimburse Assignee therefor, immediately upon demand. In the event of the failure of Assignor so to do Assignee may, at its option, declare Indebtedness immediately due and payable.

8. Agrees that this Assignment shall not operate to place upon Assignee any responsibility, prior to the exercise of Assignee's rights pursuant hereto, for the control, care, management or repair of Land and Improvements or for the performance of any of the terms, covenants, conditions and agreements required of Assignor, as Landlord, pursuant to Leases and Future Leases nor is the same intended to make Assignee responsible or liable for any:

- a) waste committed on Land and Improvements by Tenants, Future Tenants or any other party;
- b) dangerous or defective condition of Land and Improvements; or
- c) negligence in the management, upkeep, repair or control of Land and Improvements resulting in loss, injury or death to any Tenant, Future Tenant, licensee, employee or stranger.

9. Agrees that any affidavit, certificate, letter or statement of any officer, agent or attorney of Assignee, setting forth that any part of Indebtedness remains unpaid, shall be and constitute conclusive evidence of the validity, effectiveness and continuing force and effect of this Assignment (all persons being hereby authorized to rely thereon). Assignor hereby authorizes and directs Tenants, Future Tenants or other occupants of Land and Improvements, upon receipt from Assignee of written notice to the effect that Assignee is then the holder of Loan Documents and that a Monetary Default or Non-Monetary Default exists pursuant thereunder or pursuant thereto, to pay Rents and Future Rents to Assignee until otherwise notified by Assignee, in writing, to the contrary.

10. Agrees that Assignee may take or release any other security given for the payment of Indebtedness, release any party primarily or secondarily liable therefor and apply any other security, in its possession, to the satisfaction of Indebtedness, without prejudice to any of its rights pursuant hereto.

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11. Agrees that the terms "Leases" and "Future Leases" shall include any subleases thereof and all extensions or renewals of Leases, Future Leases and subleases thereof.

12. Agrees that nothing contained herein and no act done or omitted to be done by Assignee pursuant to the powers and rights granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies pursuant to Loan Documents and this Assignment is made without prejudice to any of the rights and remedies possessed by Assignee thereunder. The right of Assignee to collect Indebtedness and to enforce any security therefor in its possession may be exercised by Assignee either prior to, concurrently with or subsequent to any action taken by it pursuant hereto.

13. Agrees that any notices to be served pursuant hereto shall be deemed received seven (7) days following the postmark dates thereof and shall be sufficient if in writing and mailed, postage prepaid, by United States or Canadian mail as first class certified mail, return receipt requested, or registered mail, addressed as follows:

If to Assignee: 100 Osborne Street North, Winnipeg, Manitoba, Canada R3C 3A5, with a copy to:

First Interstate Mortgage Company of Illinois, 111 West Washington Street, Chicago, Illinois 60602.

If to Assignor: 900 East Kensington Road, Arlington Heights, Il. 60004, with copies to:

Peter A. Hess, Esq., Hess, Kaplan & McDowell, Ltd., 180 N. LaSalle, Suite 2525, Chicago, Il. 60601 and David A. Mitroff & Co., 1605 North Arlington Heights Road, Arlington Heights, Illinois 60045.

14. Agrees that in the event of any conflict between the terms hereof and the terms of Mortgage, the terms of Mortgage shall prevail.

15. Agrees that this Assignment and all covenants and warranties herein contained shall inure to the benefit of Assignee, its successors, assigns, grantees and legal representatives and shall be binding upon Assignor, its successors, assigns, grantees and legal representatives.

This Specific Assignment of Leases and Rents is executed by the Assignor, not personally, but solely as trustee under the terms of the aforesaid Trust Agreement, solely in the exercise of the power and authority conferred upon and vested in it as such trustee (and Assignor hereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that:

- (1) Nothing herein or in Mortgage or Other Loan Documents contained shall be construed as establishing any personal liability upon Assignor, personally, to pay Indebtedness or to perform any of the terms, covenants, conditions and agreements herein or therein contained, all such personal liability being hereby expressly waived by Assignee; Assignee's only recourse against Assignor being against Mortgaged Premises (as said term is defined in the Mortgage) and other property given as security for the payment of Indebtedness ("Other Security"), in the manner herein, in Mortgage and Other Loan Documents and by law provided;
- (2) In the event a Monetary Default or Non-Monetary Default shall occur or upon maturity of Indebtedness, whether by acceleration, passage of time or otherwise, the recourse of Assignee shall be limited to judicial foreclosure of

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Mortgaged Premises or the exercise of other remedies set forth herein and in Other Loan Documents and, subject to the limitations expressly set forth herein and therein, there shall be no personal liability of Assignor, Beneficiary, or the general or limited partners of Beneficiary ("Partners") for the payment of Indebtedness; and

(3) Except as herein, in Mortgage and in Other Loan Documents provided, Assignee shall look solely to Mortgaged Premises and Other Security upon foreclosure of the lien of this Mortgage and no deficiency judgment for Indebtedness (following the application of Mortgaged Premises, Other Security and the proceeds thereof) shall be instituted, sought, taken or obtained against Assignor, Beneficiary, Partners or any successor in title to Assignor, PROVIDED THAT, nothing contained herein shall be deemed to prejudice the rights of Assignee to recover from Beneficiary and others, except Assignor:

- (a) all funds, damages or costs (including, without limitation, attorney's fees) incurred by Assignee as a result of fraud or material misrepresentation by or on behalf of Assignor or Beneficiary; or
- (b) all condemnation awards or insurance proceeds which are not utilized in accordance with the terms and conditions of the Mortgage; or
- (c) all rents, revenues, income, issues, proceeds or profits of Mortgaged Premises held or collected by or on behalf of Assignor or Beneficiary following the occurrence of a Monetary Default or Non-Monetary Default and not applied to Indebtedness; or
- (d) all funds, damages or costs incurred by Assignee as a result of any material waste of Mortgaged Premises; or
- (e) any and all costs, expenses, damages or liabilities incurred by Assignee, including, but not limited to, all reasonable attorney's fees, directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal or presence on, under or about the Mortgaged Premises of any materials, wastes or substances defined or classified as hazardous or toxic pursuant to federal, state or local laws or regulations.

Nothing contained herein or in Mortgage and Other Loan Documents to the contrary notwithstanding shall be deemed to release, affect or impair Indebtedness or the rights of Assignee to enforce its remedies pursuant hereto and to Mortgage and Other Loan Documents, including without limitation, the right to pursue any remedy for injunctive or other equitable relief.

IN WITNESS WHEREOF, Assignor has caused this Specific 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.

THE BANK & TRUST COMPANY OF ARLINGTON HEIGHTS, not personally, but as Trustee as aforesaid

BY:

*William H. Keenan*  
Title: VICE PRESIDENT & TRUST OFFICER

ATTEST:  
Title:

*Leonia M. Miller*  
ASSISTANT VICE PRESIDENT & TRUST OFFICER

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STATE OF ILLINOIS )  
 ) SS:  
COUNTY OF COOK )

I, Susan M. Amyotte, a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that WILLIAM H. KILIAN, Vice President and Trust Officer ~~President~~ of THE BANK & TRUST COMPANY OF ARLINGTON HEIGHTS, as Trustee under Trust No. 3215, and LEONIDAS MADA, Assistant Vice Pres. & Trust Officer ~~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 Vice Pres. & Trust ~~President~~ and Asst. Vice Pres. & ~~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 Asst. Vice Pres. & ~~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 10 day of December, 1987.

Susan M. Amyotte  
Notary Public

My commission expires: 12/6/89

Notary Public of Cook County Clerk's Office

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## Exhibit "A"

Lot 2 in Courtyards of Arlington, a Subdivision of the South 250.00 feet of the Northeast 1/4 of the Northwest 1/4 of Section 20, Township 42 North, Range 11 East of the Third Principal Meridian (except the West 400.00 feet of the South 115.0 feet of the South 250 feet of the Northeast 1/4 of the Northwest 1/4 of Section 20, Township 42 North, Range 11 East of the Third Principal Meridian, in Cook County, Illinois, recorded February 24, 1984 as document 26981640.

1655 North Arlington Heights Road, Arlington Heights, Illinois  
Permanent Index No: 03-20-101-013 *DDO m*

DEPT-01 RECORDING \$18.00  
1#2222 TRHN 6982 12/23/87 15:35:00  
#3724 # 15 \* 07-673160  
COOK COUNTY RECORDER

Property of Cook County Clerk's Office

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