

1988

ASSIGNMENT OF LESSOR'S INTEREST IN LEASES AND RENTS

This Assignment of Lessor's interest in Leases and Rents (the "Assignment") is made as of the 25th day of June, 1987, by OPUS PROPERTIES, INC., a South Dakota corporation (hereinafter called "Assignor") to OPUS CORPORATION, a Minnesota corporation (hereinafter called "Assignee").

1. Assignment. For purposes of securing payment of all indebtedness evidenced by that certain \$ 31,446,000.00 promissory note of even date herewith between Assignor, as maker, and Assignee, as payee (the "Note") and all other sums secured by this Assignment and the Mortgage (as defined below), Assignor does hereby absolutely grant, sell, convey, assign, transfer, set over and deliver unto Assignee the following:

(a) All leases, written or oral, now in existence or hereafter arising and all agreements for the use and occupancy of all or any portion of the property in DuPage County, Illinois described on Exhibit A attached hereto (the "Premises"), including, without limitation, all parking and storage contracts and agreements, together with all the right, power and authority of Assignor to alter, modify or change the terms of such leases and agreements or to surrender, cancel or terminate such leases and agreements and together with any and all extensions and renewals thereof any any and all further leases, including without limitation subleases, upon all or any part of the Premises (all of such leases, agreements, subleases and tenancies being hereinafter collectively called the "Leases");

(b) Any and all guarantees of the lessee's (the "Lessee's") obligations under any of such Leases;

(c) The immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Assignor may now or shall hereafter (whether during any applicable period of redemption, or otherwise) become entitled or may demand or claim, arising or issuing from or out of the Leases, or from or out of the Premises or any part thereof, including without limitation minimum rents, additional rents, percentage rents, parking charges or fees, tax and insurance contributions, proceeds of sale of electricity, gas, chilled and heated water and other utilities and services, deficiency rents and liquidated damages following default or late payment of rent, premiums payable by any Lessee upon the exercise of a cancellation privilege provided for in any Lease and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Premises, together with any and all rights and claims of any kind which Assignor may have against any Lessee under any Lease or any subtenants or occupants of the Premises (all such money, rights and

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claims being hereinafter collectively called the "Rents"), LESS AND EXCEPTING THEREFROM, HOWEVER, any sum which by the express provisions of any Lease are payable directly to any governmental authority or to any other person, firm or corporation other than the lessor under any Lease or any person, firm or corporation which controls or is controlled by or is under common control with the lessor under any Lease.

2. Assignor's Representations and Warranties. Assignor and each signator who signs on its behalf represents and warrants to Assignee as follows:

(a) Assignor is the sole legal and beneficial owner of the Premises in fee simple absolute and has good and marketable title to the Leases and Rents, free and clear of all claims, liens and encumbrances, except those shown in the commitment for title insurance committing to insure the lien of the Mortgage. Assignor has all requisite right, power and authority to assign the Leases and Rents and no other person, firm or corporation has any right, title or interest therein;

(b) Assignor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed; and the Lessees thereunder are not in default of any of the terms or provisions of the respective Leases and no event has occurred and no fact exists thereunder which with notice and/or lapse of time would constitute such a default;

(c) The Leases are valid and unmodified except as indicated herein and are in full force and effect; Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due, except as set forth in the Combination Mortgage, Security Agreement and Fixture Financing Statement of even date herewith which secures payment of the Note (the "Mortgage"), the Rents now due or to become due for any periods subsequent to the date hereof have not been collected and payment thereof has not been anticipated for a period of more than one month in advance, waived or released, discounted, set off or otherwise discharged or compromised; Assignor has not received any funds or deposits from any Lessee for which credit has not already been made on account of accrued rents; and Assignor has not done any thing which might prevent Assignee from or limit Assignee in operating under or enforcing any of the provisions hereof.

3. Affirmative Covenants of Assignor. Assignor covenants and agrees to (i) observe, perform and discharge duly and punctually all and singular the obligations, terms, covenants, conditions and warranties of the "Lessor" under the Leases, (ii) give prompt notice to Assignee of any failure on the part of Assignor to observe, perform and discharge the same or of any claim made by any Lessee of any such failure by Assignor, (iii) notify and direct in writing each and every present or future Lessee or occupant of the Premises or of

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any part thereof that any security deposit or other deposits heretofore delivered to Assignor have been retained by Assignor or assigned and delivered to Assignee, as the case may be, (iv) enforce, short of termination of the Leases, or secure in the name of Assignee, the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any Lessee or any guarantor, (v) appear in and defend any action or proceeding arising under, occurring out of or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and any Lessee thereunder, doing so in the name and on behalf of Assignee upon request by Assignee, but at the expense of Assignor, and pay all costs and expenses of Assignee, including without limitation reasonable attorneys' fees and disbursements, in any action or proceeding in which Assignee may appear, (vi) keep the Premises leased at a good and sufficient rental and on other terms and conditions reasonably acceptable to Assignee, (vii) deliver to Assignee executed copies of all existing and future Leases upon the same terms and conditions as herein contained, and (viii) make, execute and deliver to Assignee upon demand and at any time or times, any and all assignments and other documents and instruments which Assignee may deem advisable to carry out the true purposes and intent of this Assignment.

4. Negative Covenants of Assignor. Unless Assignor first obtains the written consent of Assignee, not to be unreasonably withheld or delayed, Assignor covenants and agrees not to (i) cancel, terminate or consent to any surrender of any Lease, (ii) commence any action of ejectment or any summary proceedings for dispossession of any Lessee under any Lease or exercise any right of recapture provided in any Lease, (iii) materially modify or in any way alter the terms of any Lease, (iv) waive or release any Lessee or any guarantors from any obligations or conditions to be performed by any Lessee or any guarantor, (v) lease any part of the Premises or renew or extend the term of any Lease unless an option therefor was originally so reserved by the Lessee and for a fixed and definite rental, (vi) consent to any modification of the express purposes for which the Premises or any portion thereof have been leased, (vii) consent to any subletting of the Premises or any part thereof, to any assignment of any Lease by the Lessee thereunder, or to any assignment or further subletting of any sublease, (viii) receive or collect any Rents from any Lessee for a period of more than one month in advance (whether in cash or by evidence of indebtedness), (iv) pledge, transfer, mortgage or otherwise encumber or assign future payments of Rents, or (x) waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any Lessee under any Lease of and from any obligations, covenants, conditions and agreements to be kept, observed and performed by such Lessee, including without limitation the obligation to pay Rents thereunder, in the manner and at the time and place specified therein.

5. License. Provided that there exists no Event of Default (as defined in the Mortgage) Assignor shall have the right (but limited by the remedies of Assignee set forth herein) to collect, but

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not more than one month in advance, all of the Rents arising from or out of the Leases or any renewals or extensions thereof, or from or out of the Premises or any part thereof, but only as trustee for the benefit of Assignee. Assignor shall apply the Rents so collected in the manner provided in Paragraph 10 hereof. The license granted hereby shall be revoked automatically upon the occurrence of a default hereunder or an event which with notice and/or lapse of time would constitute a default hereunder.

6. Power of Attorney. Subject to the license described and limited in Paragraph 5 above, Assignor hereby constitutes and appoints Assignee the true and lawful attorney-in-fact, coupled with an interest, of Assignor, empowered and authorized in the name, place and stead of Assignor to demand, sue for, attach, levy, recover and receive all Rents and any premium or penalty payable upon the exercise by any Lessee under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and after deducting expenses of collection, to apply the net proceeds as a credit upon any portion of the indebtedness secured by the Mortgage notwithstanding the fact that such portion of said indebtedness may not then be due and payable or that such portion of said indebtedness is adequately secured, and Assignor does hereby authorize and direct any such Lessee to deliver such payment to Assignee, in accordance with this Assignment, and Assignor hereby ratifies and confirms all that its said attorney, Assignee, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns. A Lessee need not inquire into the authority of Assignee to collect any Rents, and its obligations to Assignor shall be absolutely discharged to the extent of any payment to Assignee. Subject to the license described and limited in Paragraph 5 above, Assignor hereby constitutes and appoints Assignee the true and lawful attorney-in-fact, coupled with an interest, of Assignor empowered and authorized in the name and stead of Assignor to subject any subordinate at any time and from time to time any Lease or any part thereof to the lien and security interest of the Mortgage or any other mortgage, deed of trust or security agreement on or to any ground lease of the Premises, or to request or require such subordination, where such reservation, option or authority was reserved to Assignor under any such Lease, or in any case where Assignor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns, and Assignor hereby warrants that Assignor has not, at any time prior to the date hereof, exercised any such rights or assigned the right to do so, and Assignor hereby covenants not to exercise any such right to subordinate any such Lease to the lien of the Mortgage or to any other mortgage, deed of trust or security agreement or to any ground lease unless requested to do so by Assignee.

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7. No Merger. Unless Assignee otherwise consents in writing, the fee and the leasehold estates in and to the Premises shall not merge but shall always remain separate and distinct, notwithstanding the union of such estates either in Assignor, Assignee, any Lessee or any third party by purchase or otherwise.

8. Defaults An Event of Default as defined in the Mortgage shall constitute a default hereunder.

9. Remedies. Upon or at any time after the occurrence of a default hereunder, Assignee at its option shall have the complete right, power and authority hereunder then or thereafter to exercise and enforce any or all of the following rights and remedies:

(a) Without taking possession of the Premises, in Assignee's own name, to demand, collect, receive, sue for, attach and levy the Rents, give proper receipts, releases and acquittances therefor and after deducting all necessary and proper costs and expenses of operation and collection, as determined by Assignee, including without limitation reasonable attorneys' fees, apply the net proceeds thereof together with any funds of Assignor deposited with Assignee, in reduction or payment of any obligation secured by the Mortgage in such order of priority as Assignee may determine in its sole discretion;

(b) As a matter of strict right of Assignee, and without regard to the adequacy of the security or solvency of Assignor and whether or not waste has occurred, with or without any action or proceeding, through any person or by any agent, or by a receiver to be appointed on ex parte motion to any court of competent jurisdiction, and irrespective of Assignor's possession, then or thereafter enter upon, take possession of, manage and operate the Premises or any part thereof; make, modify, enforce, cancel or accept surrender of any Lease now in effect or hereinafter in effect on the Premises or any part thereof; remove and evict any Lessee; increase or decrease Rents under any Lease; decorate, clean and repair, and otherwise do any act or incur any cost or expense which Assignee may deem reasonably necessary to protect its interest hereunder, as fully and to the same extent as Assignor could do if in possession; and in such event to apply the Rents so collected as provided in Paragraph 10 below.

(c) Make or do any payments or acts which Assignor fails to make or do in such manner and to such extent as Assignee may deem necessary to protect the Premises or any Lease, including without limitation the right to appear in and defend any action or proceeding purporting to affect the Premises or any Lease or the rights or powers of Assignee and also the right to perform and discharge each and every obligation, covenant and agreement of Assignor contained in any Lease and in exercising any such powers to pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees.

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Any remedy provided herein may, if not exercised prior to foreclosure sale pursuant to the Mortgage, be exercised at any time during the period of redemption from foreclosure sale whether or not a default exists.

10. Application of Rents. All Rents collected by or on behalf of Assignee each month shall be applied as follows:

(a) First, to payment of all reasonable fees of any receiver approved by the court;

(b) Second, to payment of all prior or current real estate taxes and special assessments with respect to the Premises;

(c) Third, to payment of all premiums then due for the insurance required by the provisions of the Mortgage;

(d) Fourth, to payment of expenses incurred for normal maintenance and operation of the Premises in such order of priority as Assignee shall deem proper, including without limitation the payment of reasonable management, brokerage and attorneys' fees and disbursements and establishment and maintenance, without interest, of a reserve for replacement;

(e) Fifth:

(i) If received prior to any foreclosure sale of the Premises, then to Assignee for payment of the interest on the indebtedness secured by the Mortgage and then to the principal of the indebtedness secured by the Mortgage then due and payable, but no such payment made after acceleration of the indebtedness secured by the Mortgage shall affect such acceleration; and

(ii) If received during or with respect to the period of redemption after a foreclosure sale of the Premises then:

(1) If the purchaser at the foreclosure sale is not Assignee, first to Assignee to the extent of any deficiency of the sale proceeds to repay the indebtedness secured by the Mortgage, second to the purchaser as a credit to the redemption price, but if the Premises are not redeemed, then to the purchaser of the Premises;

(2) If the purchaser at the foreclosure sale is Assignee, to Assignee to the extent of any deficiency of the sale proceeds to repay the indebtedness secured by the Mortgage and the balance to be retained by Assignee as a credit to the redemption price, but if the Premises are not redeemed, then to Assignee, whether or not such deficiency exists.

The rights and powers of Assignee under this Assignment and the application of Rents under this Paragraph 10 shall continue until expiration of the redemption period from any foreclosure sale, whether or not any deficiency remains after a foreclosure sale.

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11. Exculpation of Assignee. The acceptance by Assignee of this Assignment with all of the rights, powers, privileges and authority created hereby shall not, prior to entry upon and taking possession of the 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, the Rents or the Premises or to take any action hereunder or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any Lease, or to collect any Rents or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any Lessee and not assigned and delivered to Assignee, nor shall Assignee 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.

12. No Waiver or Election of Remedies.

(a) Waiver. Neither the collection of the Rents and application as provided for in this Assignment nor the entry upon and taking possession of the Premises by Assignee shall be deemed to cure or waive any default or waive, modify, or affect any notice of default hereunder or under the Mortgage or invalidate any act done pursuant to any such notice. The enforcement of any such right or remedy by Assignee once exercised shall continue for so long as Assignee shall elect notwithstanding that the collection and application of the Rents may have cured the original default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

(b) Election of Remedies. The failure of Assignee to assert any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times shall not be construed or deemed to be a waiver of any such right and nothing herein contained nor anything done or omitted to be done by Assignee pursuant to this Assignment shall be deemed to be an election of remedies or a waiver by Assignee of any of its rights and remedies under the Mortgage or under the law. The right of Assignee to collect and enforce the payment and performance of the obligations under the Mortgage may be exercised by Assignee either prior to or simultaneously with or subsequent to any action taken hereunder.

13. Assignor's Indemnities. Assignor hereby agrees to indemnify and defend Assignee and hold Assignee free and harmless from and against any and all liability, loss, cost, damage or expense which Assignee may incur under or by reason of this Assignment, or for any action taken by Assignee hereunder, or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Assignee arising out of the Leases, including without limitation any claim by any Lessee of credit for Rents paid to and received by Assignor but not delivered to Assignee for any

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period under any Lease more than one month in advance of the due date thereof. In the event Assignee incurs any such liability, loss, cost, damage or expense, the amount thereof including without limitation reasonable attorneys' fees, with interest thereon at the default rate provided in the Note, shall be payable by Assignor to Assignee immediately without demand and shall be secured by the Mortgage.

14. Continuation - Termination. Upon payment and discharge in full of the obligations secured by the Mortgage, as evidenced by a full release of record of the Mortgage, this Assignment shall become and be void and of no force or effect.

15. Demand Upon Lessees. Written demand by Assignee delivered to any Lessee for payment of Rents by reason of the occurrence of any default claimed by Assignee shall be sufficient evidence of each such Lessee's obligation and authority to make all future payments of Rents to Assignee without the necessity for further consent by the Assignor. Assignor hereby indemnifies and agrees to hold each Lessee free and harmless from and against all liability, loss, cost, damage or expense suffered or incurred by such Lessee by reason of its compliance with any demand for payment of Rents made by Assignee contemplated by the preceding sentence.

16. Notices. All notices or other communications required or permitted to be given pursuant to the provisions of this Assignment shall be in writing and shall be considered as properly given if mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested, or by delivering the same in person to the intended addressee, or by prepaid telegram or telex. Notice so mailed shall be effective upon its deposit. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notice, the addresses of the parties shall be as set forth in the Mortgage, provided however, that either party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

17. Parties Bound. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, legal representatives, successors and permitted assigns.

18. Joint and Several Liability. All obligations of each Assignor hereunder shall be joint and several.

19. Modifications. No provision hereof shall be modified or limited except by a written agreement expressly referring hereto and to the provision so modified or limited and signed by both Assignor and Assignee.

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20. Severability. In case any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

21. Headings. The headings contained in this Assignment are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

22. Applicable Law. This Assignment shall be construed according to the laws of the State of Illinois.

23. Time of Essence. Time is of the essence of this Assignment and each provision hereof of which time is an element.

24. Attorneys' Fees. If Assignee finds it necessary to obtain the services of an attorney or to incur any other expenses to enforce any of its rights hereunder, Assignor shall pay reasonable attorneys' fees and costs to Assignee in connection with such enforcement, whether or not a suit to enforce such rights is brought or, if brought, prosecuted to judgment.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the day and year set forth above.

SOUTH DAKOTA COUNTY
FILED FOR RECORD

OPUS PROPERTIES, INC.

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Mark Rauenhorst
Its Senior Vice President

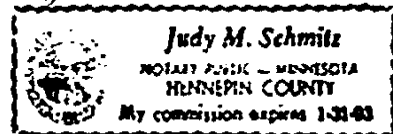
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

I, Judy M. Schmitz do hereby certify that Mark Rauenhorst, personally known to me to be the Senior Vice President of Opus Properties, Inc., a South Dakota corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Sr. Vice Pres., he signed and delivered said instrument on behalf of the corporation. Given under my hand and official seal this 25th day of June, 1987.

Prepared by + mail to:

Mark L. Kruger
P.O. Box 156
Minneapolis, Minn. 55440

Judy M. Schmitz
Notary Public



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