

UNOFFICIAL COPY

88562433

Property Address: 549 West Randolph Street, Chicago, Illinois
Permanent Real Estate Tax Index Number: 17-09-332-014

2100

PREPARED BY:

Freeman, Cohen & Kasanov
2 North LaSalle Street
Suite 1400
Chicago, Illinois 60602

RETURN TO:

Freeman, Cohen & Kasanov
2 North LaSalle Street
Suite 1400
Chicago, Illinois 60602

BOX 393

CFC 1105-0 11/16/88 12/3/88(a) 12/13/88

11050XG1.811

71-85-975
03

6805
JLH

**ASSIGNMENT OF RENTS AND LEASES
(Assignor)**

THIS ASSIGNMENT, made this 16th day of December, 1988 is by and between Lester B. Knight International Corporation, a Delaware corporation, (hereinafter called "Assignor") whose address is 549 West Randolph Street, Chicago, Illinois, 60606, and The Fidelity Mutual Life Insurance Company (hereinafter called "Assignee"), whose address is 250 King of Prussia Road, Radnor, Pennsylvania, 19087.

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 of its right, title and interest in, to and under the leases of the real estate described in Exhibit "A" attached hereto and made a part hereof ("Premises") whether now in existence or hereafter entered into including the leases described in the Schedule of Leases attached hereto and made a part hereof and all guaranties, amendments, extensions and renewals of said leases and any of them, all of which are hereinafter called the "Leases" and all rents, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, or on account of the use of the

88562433

UNOFFICIAL COPY

Premises.

This Assignment is made for the purpose of securing:

A. The payment of the indebtedness (including any extensions or renewals thereof) evidenced by a certain Note ("Note") of Assignor of even date herewith in the principal sum of Four Million Five Hundred Thousand and no/100 Dollars (\$4,500,000.00) and secured by a certain Mortgage ("Mortgage") dated 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 any other instrument constituting security for the Note; and

C. The performance and discharge of each and every term, covenant and condition contained in the Note, Mortgage and any other instrument constituting security for the Note.

Assignor covenants and agrees with Assignee as follows:

1. That except for this Assignment given to Assignee as security for the indebtedness evidenced by the Note, the sole ownership of the entire lessor's interest in the Leases is, or, as to future leases, shall be vested in Assignor, and that Assignor has not, and shall not, perform any acts or execute any other instruments which might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.

2. That the Leases are and shall be valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, cancelled, renewed or surrendered nor have any rents thereunder been collected more than one month in advance nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by Assignee.

UNOFFICIAL COPY

3. That none of the Leases shall be altered, modified, amended, terminated, cancelled, extended, renewed or surrendered nor will rental be collected more than one month in advance nor will any term or condition thereof be waived nor shall Assignor consent to any assignment or subletting by any lessee thereunder without the prior written approval of the Assignee; provided, however any lease fo the Premises (i) utilizing Assignor's form lease which lease form has been approved in writing by Assignee, and (ii) which provides for a lease term (including options) of five (5) years or less; and (iii) the size of the leased premises is 1,500 sq. ft. or less, may be executed without the prior consent of Assignee.

4. That there are no defaults now existing under any of the Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.

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

6. That each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

7. That Assignor will not permit any Lease to become subordinate to any lien other than the lien of the Mortgage.

8. There shall be no merger of the Leases, or any of them, by reason of the fact that the same person may acquire or hold directly or indirectly the Leases, or any of them, as well as the fee estate in the Premises or any interest in such fee estate.

The parties further agree as follows:

UNOFFICIAL COPY

This Assignment is absolute and is effective immediately.

Notwithstanding the foregoing, until a notice is sent to the Assignor in writing that a default has occurred under the terms and conditions of the Note, Mortgage or any other instrument constituting additional security for the Note (which notice is hereafter called a "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

In the event of any default at any time in the Note, Mortgage or any other instrument constituting additional security for the Note, Assignee may, at its option after service of a Notice, receive and collect all such rents, income and profits as they become due, 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, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings, and if there is a deficiency, during any redemption period.

Assignor irrevocably appoints Assignee its true and lawful attorney 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 acquittance 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 take any settlement of any claims, either in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Lessees of the Premises are hereby expressly authorized and directed to pay any and all amounts due Assignor pursuant to the Leases to Assignee or such nominee as Assignee may designate in writing delivered to and received by such lessees who are expressly

UNOFFICIAL COPY

relieved of any and all duty, liability or obligation to Assignor in respect of all payments so made.

From and 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 relating thereto, and may exclude the Assignor, 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 the payment of the costs of managing and operating the Premises and of any indebtedness or liability of Borrower to Assignee, including but not limited to 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 of principal and interest payments due from Borrower to Assignee on the Note and the Mortgage, all in such order as Assignee may determine. Unless and until Assignee shall actually take possession of the Premises, 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 the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants

UNOFFICIAL COPY

and agreements of Assignor in the Leases. It is further understood 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 of any of the terms and conditions of any of the Leases, or for any waste of the Premises by any lessee under any of the Leases or any other person, or for any dangerous or defective 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 lessee, licensee, employee or stranger.

Assignor hereby agrees to indemnify, hold harmless and defend Assignee from and against any liability, loss or damage incurred by Assignee under the Leases until such time as Assignee shall actually take possession of the Premises. Nothing herein contained shall be construed as constituting the Assignee a mortgagee in possession of the Premises in the absence of the actual taking of possession of the Premises by the Assignee.

Waiver of or acquiescence by Assignee of any default by the Assignor, or failure of the Assignee to insist upon strict performance by the Assignor of any covenants, conditions or agreements in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Assignee shall have under the Note, Mortgage or any other instrument constituting security for the Note, or at law or in equity.

If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the

UNOFFICIAL COPY

remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

All Notices required or permitted under this instrument shall be in writing and shall be either by: (i) hand delivery to the addresses for notices; (ii) delivery by overnight courier service to the addresses for notices; (iii) by certified mail, return receipt requested, addressed to the addresses for notice by United States Mail, postage prepaid.

All notices shall be deemed received upon the earlier to occur of: (i) the hand delivery of such notice to the addresses for notice; (ii) one day after the deposit of such notice with an overnight courier service addressed to the addresses for notice; or (iii) three days after depositing the notice in the United States Mail as set forth in (iii) above. All notices shall be addressed to the following addresses:

Assignor: Lester B. Knight International
549 West Randolph Street
Chicago, Illinois 60606
ATTN: DeForest F. Davis

With a copy to: McDermott, Will & Emery
115 West Monroe Street
Chicago, Illinois 60603
ATTN: Charles E. Hussey, Esq.
and Stephen E. Tomlinson, Esq.

Assignee: The Fidelity Mutual Life Insurance Company
250 King of Prussia Road
Radnor, Pennsylvania 19087

With a copy to: Freeman, Cohen & Kasanov
2 North LaSalle Street
Suite 1400
Chicago, Illinois 60602

or to such other person or at such other place as any party hereto may by notice

UNOFFICIAL COPY

designate as a place for service of notice.

The term "Assignor" and "Assignee" 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 provisions 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.

It is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on Assignor personally to perform any covenant either expressed 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 Assignor has caused this instrument to be signed and sealed as of the date first above written.

Lester B. Knight International
Corporation, a Delaware corporation

By: [Signature]
Its: President

ATTEST:

By: [Signature]
Its: Secretary

COOK COUNTY, ILLINOIS
PUBLIC RECORDS

1988 DEC 19 AM 11: 35

88582433

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

Sub LOT 1 IN THE SUBDIVISION OF LOTS 1, 4, 5, AND 8 (EXCEPT THE SOUTH 50 FEET OF LOT 8) OF BLOCK 46 IN ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

88582433

UNOFFICIAL COPY

SCHEDULE OF LEASES

<u>Tenant</u>	<u>Date of Lease:</u>
D & B Food Distributors, Inc.	November 28, 1986
Leasing Corporation International	May 25, 1988
David M. Berman d/b/a Merritt Credit Bureau	October 9, 1987
Siegel Trading Company	January 1, 1983
Cone & Kalb Architects, AIA	November 1, 1987
Vance Becheili, d/b/a Hubbard Studios	August 3, 1987
Lester B. Knight & Associates, Inc.	December <u>15</u> , 1988
Cenflo Inc.	July 16, 1987

Property of Cook County Clerk's Office

88582433

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Stephen G. Tamblyn, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT DeForest Davis, Jr., personally known to me to be the President of Lester B. Knight International Corporation, a corporation of the State of Delaware, and Frank Riska, personally known to me to be the Secretary of said Corporation, whose names are subscribed to the within instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said Instrument of writing as President and Secretary of said corporation and caused the corporate seal of said corporation to be thereunto affixed, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 16th day of December, A.D. 1988.

Stephen G. Tamblyn
Notary Public

My Commission expires:

5-20-88

COOK COUNTY Clerk's Office
88582433