

UNOFFICIAL COPY

88594948

Original

ASSIGNMENT OF LEASES AND RENTS

\$17.00

THIS ASSIGNMENT, made this 9th day of December, 1988 by BURBANK STATE BANK, not personally, but as Trustee under Trust Agreement dated November 22, 1988 and known as Trust No. 928 (hereinafter called "Trust") and U.S. FRONTIER, INC., an Illinois corporation (hereinafter called "Beneficiary"), the sole beneficiary of such Trust (said Trust and Beneficiary being hereinafter collectively called "Assignor") in favor of INLAND-MART LIMITED PARTNERSHIP (hereinafter called "Assignee").

W I T N E S S E T H:

FOR VALUE RECEIVED, Assignor does hereby sell, assign, transfer, set over and deliver unto the Assignee all leases, written or oral, and all agreements for use or occupancy of any portion of the premises together with buildings and improvements thereon (hereinafter called "said premises"), situated in the City of Chicago, County of Cook, State of Illinois, and more particularly described in Exhibit A attached hereto and in the Mortgage or Deed of Trust hereinafter identified;

TOGETHER with any and all extensions and renewals thereof and any and all further leases, lettings or agreements (including subleases thereof and tenancies following attornment) upon or covering use or occupancy of all or any part of the said premises (all such leases, agreements, subleases and tenancies heretofore mentioned are hereinafter collectively included in the designation "said leases");

TOGETHER with any and all guaranties of lessee's performance under any of said leases, and

TOGETHER with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits, escrows, deposits and security deposits now due or which may become due or to which Assignor may now or shall hereafter (including the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the said leases or from or out of the said premises or any part thereof, including but not by way of limitation: minimum rents, additional rents, percentage rents, parking maintenance, tax and insurance contributions, deficiency rents and liquidated damages following default, the premium payable by any lessee upon the exercise of a cancellation privilege originally provided in any said lease, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the said premises together with any and all rights and claims of any kind which Assignor may have against any lessee under such leases or any subtenants or occupants of the said premises (all such moneys, rights and claims in this paragraph described being hereinafter called "rents");

SUBJECT, however, to a license hereby granted by Assignee to Assignor, but limited as hereinafter provided, to collect and receive all of the said rents.

TO HAVE AND TO HOLD the same unto the Assignee, its successors and assigns forever, or for such shorter period as hereinafter may be indicated.

FOR THE PURPOSE OF SECURING the payment of the indebtedness evidenced by that certain Note bearing even date herewith in the principal sum of \$700,000.00 made by Trust payable to the order of INLAND-MART LIMITED PARTNERSHIP, and presently held by Assignee, including any extensions and renewals thereof and any note or notes supplemental thereto, as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions and warranties contained in the Mortgage or Deed of Trust to be recorded therein immediately prior in time to

71 155 11 02

88594948

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

the recording hereof, and in any extensions, supplements and consolidations thereof, covering the said premises and securing the said Note or Notes (hereinafter collectively called "the said Note and Mortgage or Deed of Trust").

TO PROTECT THE SECURITY OF THIS ASSIGNMENT, IT IS COVENANTED AND AGREED AS FOLLOWS:

1. That Assignor represents and warrants: That Trust is the owner in fee simple absolute of the said premises and that Trust and/or Beneficiary has good title to the leases and rents hereby assigned and good right to assign the same, and that no other person, firm or corporation has or will be allowed to have (without Assignee's prior written consent) any right, title or interest therein; that Assignor has not previously sold, assigned, transferred, mortgaged or pledged the said rents, from said premises, whether now due or hereafter to become due.

2. That Assignor covenants and agrees as follows: To observe, perform and discharge, duly and punctually, all and singular the obligations, terms, covenants, conditions and warranties of the existing leases and of all future leases affecting the said premises, on the part of the Assignor to be kept, observed and performed, and to give prompt notice to Assignee of any failure on part of Assignor to observe, perform and discharge same; to enforce or secure the performance of each said lease by any lessee to be performed; to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the said leases or the obligations, duties or liabilities of the Assignor and any lessee thereunder, and, upon request by Assignee, will do so in the name and behalf of the Assignee but at the expense of the Assignor, and to pay all costs and expenses of the Assignee, including attorney's fees in a reasonable sum, in any action or proceeding in which the Assignor and/or Assignee may appear.

3. That Assignor further covenants and agrees as follows: not to receive or collect any rents from any present or future lessee of said premises or any part thereof for a period of more than one month in advance (whether in cash or by promissory note), nor pledge, transfer, mortgage or otherwise encumber or assign future payments of said rents.

4. That in the event any representation or warranty herein of Assignor shall be found to be untrue or Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein, then, in each such instance, the same shall constitute and be deemed to be a default under the said Note and Mortgage or Deed of Trust hereby entitling Assignee to declare all sums secured thereby and hereby immediately due and payable and to exercise any and all of the rights and remedies provided thereunder and hereunder as well as by law.

5. That so long as there shall exist no default by Assignor in the payment of any indebtedness secured hereby or in the observance and performance of any obligation, term, covenant or condition or warranty herein or in said Note and Mortgage or Deed of Trust or in said leases contained, Assignor shall have the right under a license granted hereby (but limited as provided in the following paragraph) to collect upon, but not prior to accrual, as aforesaid all of said rents, arising from or out of the said leases or any renewals or extensions thereof, or from or out of the said premises or any part thereof, and Assignor shall receive such rents, and shall hold same, as well as the right and license to receive same, as a trust fund to be applied, and Assignor hereby covenants to so apply same, to the payment of interest and principal and the payments for taxes and insurance becoming due on the said Note and Mortgage or Deed of Trust, before using any part of the same for any other purpose.

6. That upon or at any time after default in the payment of any indebtedness secured hereby or in the observance or performance of any obligation, term, covenant, condition or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

warranty herein or in the said Note and Mortgage or Deed of Trust or in the said leases contained, 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) to terminate the license granted to Assignor to collect as aforesaid the said rents, and then and thereafter, without taking possession, in Assignee's own name, to demand, collect, receive, sue for, attach and levy the said rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and proper costs and expenses of collection, as determined by Assignee, including reasonable 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; (b) to declare all sums secured hereby immediately due and payable and, at its option, exercise all of the rights and remedies contained in said Note and Mortgage or Deed of Trust; and (c) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by the trustee(s) under the Deed of Trust secured hereby, or by a receiver to be appointed by court and irrespective of said Assignor's possession, then or thereafter, to enter upon, take possession of, manage and operate said premises or any part thereof, make, modify, enforce, cancel or accept surrender of any lease now in effect or hereafter in effect on said premises or any part thereof; remove and evict any lessee; increase or reduce rents; decorate, clean and make repairs; and otherwise do any act or incur any costs or expense as Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession, and in such event to apply the rents so collected to the operation and management of said premises, but in such order as Assignee shall deem proper, and including payment of reasonable management, brokerage and attorney's fees, payment of the indebtedness under the said Note and Mortgage or Deed of Trust and maintenance, without interest thereon, of a reserve for replacement and for the purposes of this paragraph. Assignor does hereby irrevocably constitute and appoint Assignee the true and lawful attorney of Assignor with full power of substitution for Assignor and in Assignor's name, place and stead to ask, demand, collect, receive, receipt for, use for, compound and give acquittance for, any and all sums due or to become due under any lease, with full power to settle, adjust or compromise any claim thereunder as fully as Assignor could do, and to endorse the name of Assignor or any of them on all commercial paper given in payment or in part payment thereof, and in the Assignee's discretion to file any claim or take any other action or proceeding, either in the Assignee's name or in the name of Assignor or any of them or otherwise, which the Assignee may deem necessary or appropriate to protect and preserve the right, title and interest of the Assignee in and to such sums and the security intended to be afforded hereby.

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 of 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 the Assignee to appear in or defend any action or proceeding relating to the said leases or to the said 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 said 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, 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 said premises.

And provided further that the collection of said rents and application as aforesaid and/or the entry upon and taking possession of the said premises shall not cure or waive any default or waive, modify or affect any notice of default under said Note and Mortgage or Deed of Trust or invalidate any act done pursuant to such notice, and the enforcement of such right

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, notwithstanding that the collection and application aforesaid of such rents may have cured for the time 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.

And provided further that the right of Assignee to collect and receive the rents assigned hereunder or to exercise any of the rights or powers herein granted to the Assignee shall, to the extent not prohibited by law, extend also to the period from and after the filing of any suit to foreclose the lien of the Mortgage or Deed of Trust, including any period allowed by law for the redemption of said premises after any foreclosure sale.

7. That Assignor hereby agrees to indemnify and hold the Assignee harmless of and from any and all liability, loss, damage or expense which it may or might incur under or by reason of this Assignment, or for any action taken by the 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 said lease, including, but without limitation thereto, any claim by any lessee of credit for rental paid to and received by Assignor, but not delivered to Assignee, for any period under any said lease more than one month in advance of the due date thereof and any claim which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to be performed or discharged under any of the terms and conditions contained in said leases: should the Assignee incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorney's fees) with interest thereon at the default rate set forth in said Note and Mortgage or Deed of Trust shall be payable by Assignor immediately without demand, and shall be secured hereby and by said Mortgage or Deed of Trust.

8. That until the indebtedness secured hereby shall have been paid in full, Assignor will deliver to Assignee executed copies of any and all other and future leases upon all or any part of the said premises and will transfer and assign to Assignee, upon the same terms and conditions as herein contained, such other and future leases and Assignor hereby covenants and agrees to make, execute and deliver unto Assignee upon demand and at any time or times, any and all assignments and other instruments sufficient for the purpose or that the Assignee may deem to be advisable for carrying out the true purposes and intent of this Assignment (including assignment of the rent under any lease with the United States Government after allowance of the rental claim, ascertainment of the amount due and issuance of the warranty for payment thereof).

9. That the failure of the Assignee to avail itself of 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 by Assignee of any of its rights and remedies under said Note and Mortgage or Deed of Trust, or under the laws of the state in which the said premises are situated. The right of the Assignee to collect the said indebtedness and to enforce any other security therefor may be exercised by Assignee, either prior to, simultaneously with, or subsequent to any action taken hereunder.

10. That as of the date hereof, Assignee has not received nor been transferred any security deposited by any lessee with the lessor under the terms of any lease, that Assignee assumes no responsibility or liability for any security so deposited and that Assignee shall be accountable only for such cash as it actually receives under the terms of this Assignment.

11. That upon payment in full of all of the indebtedness accrued by said Note and Mortgage or Deed of Trust and of all sums payable hereunder, this assignment shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer of Assignee showing any part of said indebtedness to remain unpaid shall be and constitute conclusive

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

evidence of the validity, effectiveness and continuing force of this Assignment, and any person, firm or corporation, may and is hereby authorized to rely thereon. A demand on any lessee made by Assignee for payment of rents by reason of any default claimed by Assignee shall be sufficient warrant to said lessee to make future payments of rents to Assignee without the necessity for further consent by the said Assignor.

12. That all notices, demands or documents of any kind which Assignee may be required or may desire to serve upon Assignor hereunder shall be sufficiently served by delivering same to Assignor as provided and, at the address appearing in the Mortgage or Deed of Trust for the service of notice.

13. That 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, successors and assigns, and all lessees, sub-tenants and assigns of same, and all occupants and subsequent owners of the said premises, and all subsequent holders of the said Note and Mortgage or Deed of Trust. In this Assignment, whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case. All obligations of each Assignor hereunder shall be joint and several.

14. This instrument is executed by BURBANK STATE BANK, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by said Trustee, are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against said Trustee, by reason of any of the covenants, statements, representations or warranties contained in this instrument.

IN WITNESS WHEREOF, this Assignment has been duly executed by the Assignor the day and year first above written.

TRUST:

BURBANK STATE BANK
Not personally, but as
Trustee as aforesaid,

BY: [Signature]
~~Vice President~~ Trust Officer

Attest: [Signature]
~~Assistant Secretary~~
Assistant Vice President

BENEFICIARY:

U.S. FRONTIER, INC.
an Illinois corporation

BY: [Signature]
~~Secretary~~

Attest: [Signature]
~~Secretary~~

Exemption provision restricting
any liability of Burbank State Bank
attached hereto, is hereby expressly
made a part hereof.

COPY COUNTY CLERK
1933 DEC 27 11 12 AM '33

18 5 2 4 3 4 8

UNOFFICIAL COPY

This Agreement is signed by BURBANK STATE BANK individually but solely as Trustee under a certain trust known as Trust No. 228, said Trust being a trust created by will, and any of the assets of said trust are hereby irrevocably assigned to the trust by the undersigned, and the undersigned hereby irrevocably assigns to the trust the right to hold the same, and the undersigned, BURBANK STATE BANK, or any of its successors or otherwise in said property, shall be bound by the parties hereto and their respective successors and assigns.

All representations and undertakings of BURBANK STATE BANK as to the nature of said trust and the validity of the assignment hereby made shall be deemed to be made by the undersigned personally as a result of the signing of this instrument.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

6122-36 N. SEELEY
CHICAGO, ILLINOIS

LOTS 3 TO 8 BOTH INCLUSIVE IN IRVING H. FLAMM AND OTHERS ADDITION TO NORTH EDGEWATER, A SUBDIVISION OF THAT PART OF THE SOUTH 60 RODS OF THE EAST 65 2/3 RODS OF THE SOUTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 6, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING NORTH OF THE CENTER OF NORWOOD STREET (EXCEPT THE WEST 5 ACRES THEREOF AND EXCEPT THE EAST 4 ACRES THEREOF AND EXCEPT THAT PART OF SAID TRACT HERETOFORE DEDICATED FOR PUBLIC STREET) IN COOK COUNTY, ILLINOIS.

P.I.N. 14-06-119-007

Property of Cook County Clerk's Office

88594948

This negative print is not valid for any transfer of interest in the land attached hereto, is hereby expressly made a part hereof.

UNOFFICIAL COPY

Property of Cook County Clerk's Office