

# UNOFFICIAL COPY

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## ASSIGNMENT OF LEASES AND RENTS

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THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made this 11th day of April, 1988 by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as trustee under a Trust Agreement dated February 17, 1988 and known as Trust No. 104691-04 ("Assignor") to CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO ("Assignee").

### RECITALS:

A. Assignor has executed and delivered (i) its Mortgage Note, dated of even date herewith (the "Note") in the principal sum of THREE HUNDRED NINETY-SIX THOUSAND AND NO/100 DOLLARS (\$396,000.00), payable to the order of Assignee, and (ii) its Mortgage, dated of even date herewith (the "Mortgage"), to secure the Note, the Mortgage and as set forth below;

NOW, THEREFORE, Assignor, for and in consideration of these presents and the mutual agreements contained in this Assignment and as further and additional security for the payment of the Note; the principal sum, interest, premiums and other indebtedness evidenced by the Note; any amendments, extensions, or renewals of the Note; any other indebtedness secured by the Mortgage; payment of all other sums with interest becoming due and payable to Assignee under the provisions of this Assignment, and the performance and discharge of each and every obligation, covenant, and agreement of Assignor contained in this Assignment, the Note, or the Mortgage, or any other documents securing the payment of the Note, or the debt evidenced by the Note and in consideration of the sum of TEN DOLLARS (\$10.00) to Assignor in hand paid, the receipt of which is hereby acknowledged, hereby sells, assigns and transfers unto Assignee all leases relating to all or any part of that certain property located in Cook County, Illinois and legally described on Exhibit "A" attached hereto (the "Premises"), together with all of the rents, issues and profits now due and which may at any time become due under or by virtue of any lease, whether written or verbal, or any letting or of any agreement for the use or occupancy of all or any portion of the Premises, which may have been or which may be made or agreed to or which may be made or agreed to by Assignee under the powers granted by this Assignment, together with all guarantees of any of the foregoing, and any security deposits held by Assignor in connection with any such leases, it being the intention to establish an absolute transfer and assignment of all the said leases and agreements, and all the avails thereof, to Assignee, and Assignor authorizes Assignee (with or without taking possession of the Premises), to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time, and all now due, or that may become due under each and all of the leases and agreements, written or verbal, or other tenancy existing or which may exist on the Premises, with the same rights and power and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Assignee would have upon taking possession of the Premises pursuant to the provisions set forth below:

1. Assignor represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced, or discounted, or otherwise discharged or compromised by Assignor. Assignor waives any right of set-off against any person in possession of any portion of the Premises. The Assignor agrees not to make any other or further assignment of the rents or profits or leases prior to the release of this Assignment.

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2. Assignor agrees, represents and ~~warrants~~ unto Assignee, its successors and assigns, as follows:

- (i) attached as Exhibit "B" is a schedule of all leases existing as of the present date with respect to all or any part of the Premises (the "current leases"); all amendments to the current leases are also designated on Exhibit B; Assignor is the sole owner of the entire lessor's interest in the current leases;
- (ii) no default exists on the part of the lessor or lessee named in the current leases, or their successors and assigns, under the terms, covenants, provisions or agreements contained in the current 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 current leases;
- (iii) the current leases are valid and enforceable in accordance with their terms and shall remain in full force and effect irrespective of any merger of the interest of lessor and lessee;
- (iv) if any of the current leases provides for the abatement of rent during repair of the demised premises by reason of fire or other casualty, Assignor shall furnish rental insurance to Assignee in an amount and form and written by insurance companies as shall be satisfactory to Assignee;
- (v) Assignor shall perform all of Assignor's covenants and agreements as lessor under each of the current leases and shall not suffer or permit to occur, any release of liability of the lessee under the current leases, or any right of the lessee to withhold payment of rent;
- (vi) if requested by Assignee after default under the current leases, Assignor shall enforce any one or several of the current leases and all remedies available to Assignor against the lessee named.

3. Nothing contained in this Assignment shall be construed as constituting Assignee a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions contained below. In the exercise of the powers granted in this Assignment to Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived or released by Assignor.

4. Assignor agrees to execute and deliver immediately upon the request of Assignee, all such further assurances and assignments of the Premises as Assignee shall from time to time reasonably require.

5. Although it is the intention of the parties that this Assignment is a present assignment, it is expressly understood and agreed, despite anything contained in this Assignment to the contrary, that Assignee shall not exercise any of the rights and powers conferred upon it by this Assignment until and unless one of the following events shall occur, which shall constitute "events of default"; (a) default shall be made in the payment of interest or principal due under the Note; (b) an Event of Default shall occur in performance or observance of any of the agreements or conditions in the Mortgage (as defined in the Mortgage); (c) default shall be made in the performance or observance of any of the conditions or agreements contained in

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this Assignment; or (d) a default shall be made under any instrument now or at any time guaranteeing or securing the Note or the debt evidenced by the Note and, in each instance, all applicable grace periods, if any, shall have expired. Nothing contained in this Assignment shall be deemed to affect or impair any rights which Assignee may have under the Note and Mortgage or any other instrument referred to in this Assignment.

6. In any case in which under the provisions of the Mortgage, Assignee has a right to institute foreclosure proceedings, whether before or after the entire principal sum secured by the Mortgage is declared to be immediately due and payable, or whether before or after institution of legal proceedings to foreclose the lien of the Mortgage or before or after sale thereunder, Assignor agrees, upon demand of Assignee, to surrender to Assignee and Assignee shall be entitled to take actual possession of all of any part of the Premises personally, or by its agents or attorneys, and Assignee in its discretion may, with or without force and with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all the documents, books, records, papers and accounts of Assignor or the then owner of the Premises relating to the Premises, and may exclude Assignor, its agents or servants, wholly from the Premises and may as attorney in fact or agent of Assignor, or in its own name as Assignee and under the powers granted by this Assignment, hold, operate, manage and control the Premises and conduct the business, if any, of the Premises either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of security of the avails, rents, issues and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent, granting full power and authority to exercise each and every of the rights, privileges and powers granted in this Assignment at any time, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same, to elect to disaffirm any lease or sublease made subsequent to the Mortgage or subordinated to the lien of the Mortgage, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises that may seem judicious, in its discretion and reinsure the same for all risks to insure's possession, operation and management incidental to Assignee of the Premises and to receive all such avails, rents, issues and profits.

7. Assignee shall not be obligated to perform or discharge, nor does it undertake to perform or discharge, any obligation, duty or liability under any leases or rental agreements relating to the Premises, and Assignor agrees to indemnify and hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under any leases or under or by reason of the assignment of such leases and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Assignee incur any such liability, loss or damage, under said leases or under or by reason of this Assignment, or in the defense of any claims or demands in connection therewith, Assignor agrees to reimburse Assignee for the amount thereof, including direct costs, direct expenses and reasonable attorney's fees, immediately upon demand.

8. Assignee in the exercise of the rights and powers conferred upon it by this Assignment shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Assignee may determine:

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(a) To the payment of the operating expenses of the Premises, including the cost of management and leasing (which shall include reasonable compensation to Assignee and its agent or agents, if management be delegated to an agent or agents, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), damage claims, if any, and premiums on insurance above authorized;

(b) To the payment of taxes and special assessments now due or which may become due on the Premises;

(c) To the payment of all repairs, decorating, renewals, replacements, alterations, additions, or betterments, the cost from time to time of installing or replacing such fixtures, furnishings and equipment in the Premises, and of placing the Premises in such condition as will, in the reasonable judgment of Assignee, make it readily rentable; and

(d) To the payment of any indebtedness secured by the Mortgage or any deficiency which may result from any foreclosure sale.

9. Assignor specifically and irrevocably authorizes and instructs each and every present and future lessee or tenant of any part of the Premises to pay all unpaid rental agreed upon in any tenancy to Assignee upon receipt of demand from Assignee to pay such rent, without inquiry as to whether or not said demand has been made in compliance with Paragraph 5 of this Assignment.

10. It is understood and agreed that the provisions set forth in this Assignment shall be deemed a special remedy given to Assignee, and shall not be deemed exclusive of any of the remedies granted in the Mortgage, but shall be deemed an additional remedy and shall be cumulative with the remedies granted in the Mortgage and the other instruments securing the Note, all of which remedies shall be enforceable concurrently or successively.

11. Whenever the term "Assignor" is used in this Assignment, it is understood that the term includes and shall be binding upon successors and assigns (including successors by consolidation) of the Trustee, and any party or parties holding any right, title or interest in the Premises by, through or under the Trustee. All of the rights, powers, privileges and immunities granted and assigned to Assignee by this Assignment shall also inure to its successors and assigns, including any and all holders of the Note.

12. It is expressly understood that no judgment or decree entered on any debt secured or intended to be secured by the Mortgage shall operate to abrogate or lessen the effect of this instrument, but that the same shall continue in full force and effect until the payment and discharge of any and all indebtedness secured by the Mortgage, in whatever form said indebtedness may be until the indebtedness secured by the Mortgage shall have been paid in full and all bills incurred by virtue of the authority contained in this Assignment have been fully paid out of rents, issues and profits of the Premises, or by Assignor, or until such time as this instrument may be voluntarily released. This instrument shall also remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the indebtedness secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

13. In the event any lessee under said leases should be the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time or any other federal, state, or local

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statute which provides for the possible termination or rejection of a particular lease assigned by this Assignment, Assignor covenants and agrees that if any of said leases is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Assignee. Any check in payment of damages for termination or rejection of any such lease will be made payable both to Assignor and Assignee. Assignor agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to whatever portion of the indebtedness secured by this Assignment Assignee may elect.

This Assignment of Leases and Rents is executed by American National Bank and Trust Company of Chicago, not personally but as trustee as aforesaid in the exercise the power and authority conferred upon and invested in it as such trustee (and said trustee in its personal and individual capacity hereby warrants that it as trustee possesses full power and authority to execute this instrument), and it is expressly understood and agreed by every person now or hereafter claiming any right or security hereunder that nothing contained herein shall be construed as creating any liability on said trustee in its individual capacity, all such liability, if any, being expressly waived. However, this waiver shall in no way effect the personal liability of any guarantor hereof.

IN WITNESS WHEREOF the undersigned has executed this Assignment as of the day and year first above written.

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO  
as trustee under a trust agreement  
dated February 17, 1988 and known  
as Trust No. 104691-04

By: [Signature]

Its: VICE PRESIDENT

Attest: [Signature]

This Instrument was prepared by  
and should be returned to:

Sherri F. Wolff, Esq.  
Law Department - 105/9  
Continental Illinois National Bank  
and Trust Company of Chicago  
231 South LaSalle Street  
Chicago, Illinois 60697

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## EXHIBIT A

### LEGAL DESCRIPTION

LOTS 26, 27, 28, 29 AND 30 IN DILLARDS RESUBDIVISION OF LOTS 70 TO 87 INCLUSIVE AND LOTS 99 TO 116 INCLUSIVE IN J.G. KENNAN'S SUBDIVISION OF BLOCK 24 IN SHEFFIELD'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index No.: 14-31-422-002-0000 30  
Common Street Address: 1737-39 N. Paulina  
Chicago, Illinois

-003-0000 26 TO 29

ALL

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## EXHIBIT B

1737-39 N. PAULINA  
CHICAGO, ILLINOIS

| Tenant               | Space                          | Rent       | Security Deposit |
|----------------------|--------------------------------|------------|------------------|
| Expert Corporation   | Part of Basement<br>1E, 2E, 3W | \$3,907.00 | \$2,315.00       |
| Homestead Antiques   | Part of 3rd Floor              | \$210.00   | \$0.00           |
| Finishing Arts       | Part of 3rd Floor              | \$450.00   | \$0.00           |
| Sculpture Industries | Part of 2nd Floor<br>(2W)      | \$485.00   | \$0.00           |

Gordon Stepanek, the Seller, will be a tenant of 1W and part of Basement, as of closing. Monthly rent will be \$2,000.00, and there will be no security deposit.

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## JOINDER TO ASSIGNMENT OF LEASES AND RENTS

FOR VALUE RECEIVED the undersigned, being the sole owners of one hundred percent (100%) of the beneficial interest in and being sole beneficiaries of the land trust which is the Assignor under the foregoing Assignment of Leases and Rents, have joined in the execution of and hereby consents to and joins in said Assignment of Leases and Rents, intending thereby to bind any interest it or any of its successors and assigns may have in the Premises described in said Assignment of Leases and Rents, and any rents, profits, avails, or any leases or any other agreements relating thereto as fully and with the same effect as if the undersigned was named as Assignor in said Assignment of Leases and Rents.

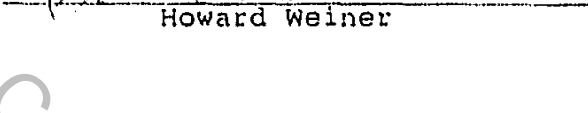
IN WITNESS WHEREOF, the undersigned has executed this Joinder to Assignment of Leases and Rents this 11<sup>th</sup> day of April, 1988.



William C. Moran



Bernard Leviton



Howard Weiner

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