

UNOFFICIAL COPY

89076603

MEMORANDUM OF LEASE

20 00

This Memorandum of Lease is made as of February 17, 1989 among Glenview State Bank, not personally but solely as Trustee under a certain Trust Agreement dated July 27, 1979 and known as Trust Number 2231 (the "Lessor"), and LaSalle National Bank, not personally, but solely as Trustee under a certain Trust Agreement dated February 16, 1989 and known as Trust No. 114160 (the "LaSalle Trust"), Edward H. Palmer, Donald M. Phares, Melvin M. Kaplan, Irving S. Gerick and James E. Lamson, jointly and severally (the above individuals and LaSalle Trust are collectively, the "Lessee").

Lessor and Lessee mutually agree as follows:

1. PREMISES AND TERM

Pursuant to a lease of even date herewith executed by Lessee and Lessor (the "Lease"), and subject to the terms and conditions thereof, Landlord has demised and leased, and does hereby demise and lease, to the Lessee the following property (the "Real Estate"):

The South 1/2 of Lot 18 except that part taken for Dearborn Street in Block 126 of School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

Also

The North 1/2 of Lot 19 except that part taken for Dearborn Street in Block 126 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

Also

The South 1/2 of Lot 19 except that part taken for Dearborn Street in J. C. Goodhue's Subdivision of Block 126 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly known as 738-748 S. Dearborn Street, Chicago, Illinois with Permanent Index Numbers of 17-16-406-019-0000, 17-16-406-020-0000 and 17-16-406-024-0000.

TO HAVE AND HOLD unto the Lessee the above described premises together with the rights, privileges, easements and appurtenances thereunto belonging or pertaining, subject to all matters of record, for and during the term of two (2) years, commencing on the seventeenth day of February, 1989 and ending on the 16th day of February, 1991 (the "term"), unless said term shall be sooner terminated, as elsewhere in the Lease provided.

71-81-753 D3

all

1300013

89076603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

2. ADDITIONAL PROVISIONS

Among other things, the Lease contains the following provisions:

ARTICLE 14

LESSEE'S OPTION TO PURCHASE

Section 14.1. In consideration of one hundred twenty thousand dollars (\$120,000) (the "Option Price") Lessee is hereby granted the option (the "Option") to purchase the Real Estate in its entirety, and not in separate sections or portions, pursuant to the terms of the Contract. Lessor and Lessee agree that the Option Price has been earned by Lessor, and Lessee's liability for the payment of the Option Price has accrued, as of the date of this lease. The Option Price shall be payable on the earlier to occur of the following two dates: (a) July 1, 1990 and (b) upon the occurrence of an Event of Default. The payment of the Option Price shall be an absolute obligation of the Lessee and shall remain so notwithstanding the termination of this lease, the exercise of the Option or Put or the performance of the Contract, and said obligation shall survive the issuance of the deed pursuant to the Contract and shall not merge therein.

The Option shall expire on the earlier to occur of the following three dates (the "Expiration Date"): (i) February 1, 1990, (ii) the date of an occurrence of an Event of Default hereunder, and (iii) fifteen (15) days after the Lessee has received and accepted executed subscription agreements subscribing for, in the aggregate, \$550,000 of limited partnership units in Ascot Partners Limited Partnership, an Illinois limited partnership. Lessee covenants that upon receipt and acceptance of an executed subscription agreement it will promptly notify Lessor in writing of the same. In addition, Lessee shall direct any depository of such subscription agreements or funds received in connection therewith to deliver to Lessor upon Lessor's request a statement setting forth the aggregate number of subscription agreements received and accepted and the amount deposited pursuant to such subscription agreements.

The Closing under the Contract shall be on the thirtieth (30th) day after the date of the Option Notice (or on the next business day if said thirtieth day does not fall on a business day).

Lessee may exercise the Option at any time prior to the Expiration Date upon giving written notice to Lessor of its election to exercise the Option (the "Option Notice"), provided that at the time the Option Notice is given, no Event of Default, or event which with the passage of time, the giving of notice or both would constitute an Event of Default, has occurred and is continuing under this lease. Upon exercise of the Option, the Contract shall be in full force and effect.

Subject to the terms of this lease, Lessee shall continue as lessee of the Real Estate and this lease shall remain in full force and effect until the Closing, notwithstanding Lessee's exercise of the Option.

Section 14.2. Notwithstanding anything in Section 14.1 above to the contrary, in the event that all or any portion of the Real Estate should be taken, condemned or conveyed as set forth in Article 6 of this lease, the Option shall be deemed exercised, without further act of any party, as to the entire Real Estate effective as of the date of the Condemnation Notice and the Option Price shall be payable on the date of Closing. The Closing shall be on the earlier of (i) the thirtieth (30th) day following the Condemnation Notice (or on the next business

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

day if said thirtieth day is not a business day); and (ii) the date possession of the Real Estate so taken or conveyed is surrendered to the taking or condemning authority.

Section 14.3. In the event of the occurrence of an Event of Default, the Option, or, if the Option has been exercised, the Contract shall terminate and shall be null and void.

ARTICLE 15

LESSOR'S PUT OPTION

Lessor is hereby granted the option (the "Put") to sell the Real Estate to the Lessee upon the terms set forth in the Contract. The Put shall be exercisable on and after the Expiration Date and shall expire ninety (90) days after the Expiration Date (the "Put Expiration Date"). Lessor may exercise the Put upon giving written notice (the "Put Notice") thereof to Lessee prior to the Put Expiration Date. Upon exercise of the Put, the Contract shall be in full force and effect. Subject to the terms of this lease, Lessee shall continue as Lessee of the Real Estate until the closing under the Contract, notwithstanding the exercise of the Put.

The closing under the Contract shall be on the thirtieth (30th) day after the date of the Put Notice (or on the next business day if said thirtieth day does not fall on a business day).

Except in the event of a partial or total taking, condemnation or conveyance of the Real Estate pursuant to Article 6 above, in which event Lessor's Put shall terminate and the Option shall be deemed exercised as provided in this lease, (i) the Lessor's exercise of the Put shall supersede the Lessee's exercise of, or right to exercise, the Option, and after the exercise of the Put, the Option, or the Contract if Lessee has exercised the Option, shall be null and void and (ii) the Put shall survive the termination of this lease by lapse of time or otherwise.

ARTICLE 18

LEASE IS NOT MORTGAGE OR JOINT VENTURE

Lessee acknowledges and represents to the Lessor that it is sophisticated in business dealings such as this lease, it is represented by sophisticated legal counsel and this lease is an arms-length transaction entered into in good faith. Neither the Lessee nor the Lessor intend that this lease be or be deemed to be a financing device, a joint venture, a partnership, an agency agreement or a mortgage of any kind and this lease not so being or being deemed to be is a condition precedent to Lessor's and Lessee's entering into this lease. Lessor and Lessee would not have entered into this lease but for the fulfillment of such condition precedent. Lessee hereby waives any claim or defense that this lease is a financing device, a joint venture, a partnership, an agency agreement or an equitable mortgage. Lessee acknowledges (a) that Lessor has all of the rights and remedies of a Lessor and (b) that foreclosure or an accounting is not proper or appropriate for enforcement of this lease.

3. LEASE IS PREVAILING INSTRUMENT

The Lease contains all of the covenants, promises, agreements, conditions and understandings between Lessor and Lessee as to the Real Estate. The provisions of this Memorandum of Lease are subject to the provisions of the Lease, to which

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

reference must be made in connection with any matter affecting this Memorandum of Lease or any part of the Real Estate. In the event of any conflict or inconsistency between the provisions of this Memorandum of Lease and the Lease, the provisions of the Lease shall prevail. Except as specifically provided herein, all capitalized terms used herein shall have the same meanings ascribed to them in the Lease.

4. COUNTERPARTS

Lessee and Lessor may execute this Memorandum of Lease in any number of counterparts, which counterparts shall constitute but one agreement.

5. TRUSTEES' EXCULPATIONS

5.1. This Memorandum of Lease is executed by Glenview State Bank, an Illinois banking association, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Bank hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein shall be construed as creating any liability on Lessor or on said corporation or on any beneficiary personally to pay any amounts due hereunder, or to perform any covenant either express or implied herein contained (it being understood and agreed that each of the provisions hereof, except the warranty hereinabove contained in this exculpation clause, shall constitute a condition and not a covenant or agreement, regardless of whether the same may be couched in language of a promise or covenant or agreement), all such liability, if any, being expressly waived by Lessee and by every person now or hereafter claiming any right hereunder.

5.2. This Memorandum of Lease is executed by LaSalle National Bank, an Illinois banking association, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Bank hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein shall be construed as

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/15/2011

UNOFFICIAL COPY

creating any liability on Lessor or on said corporation or on any beneficiary personally to pay any amounts due hereunder, or to perform any covenant either express or implied herein contained (it being understood and agreed that each of the provisions hereof, except the warranty hereinabove contained in this exculpation clause, shall constitute a condition and not a covenant or agreement, regardless of whether the same may be couched in language of a promise or covenant or agreement), all such liability, if any, being expressly waived by Lessee and by every person now or hereafter claiming any right hereunder.

Property of Cook County Clerk's Office

89076603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

~~hereof, except the warranty hereinabove contained in this exculpation clause, shall constitute a condition and not a covenant or agreement, regardless of whether the same may be couched in language of a promise or covenant or agreement), all such liability, if any, being expressly waived by Lessee and by every person now or hereafter claiming any right hereunder.~~

IN WITNESS WHEREOF, the Lessor and the Lessee have executed this Memorandum of Lease as of the date above first written.

LESSOR:

Glenview State Bank,
as Trustee aforesaid

BY: *Samuel H. Gale*

Its: *Vice President*

LESSEE:

Edward H. Palmer,

Donald M. Phares,

Melvin M. Kaplan,

Irving S. Gerick

James E. Lamson, and

LaSalle National Bank,
as Trustee aforesaid

By: _____

Its: _____,
jointly and severally

UNOFFICIAL COPY

Property of Cook County Clerk's Office

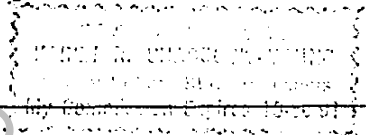
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Kenneth H. Cooke and _____ respectively the Vice Pres. & T.O. and _____ of Glenview State Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such, and 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 Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Vice Pres. & T.O. then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 16th day of February, 1989.

My commission expires _____



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that _____ and _____ respectively the _____ and _____ of LaSalle National Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such, and 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 Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said _____ then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, 1989.

My commission expires _____.

89076603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/1/2011

UNOFFICIAL COPY

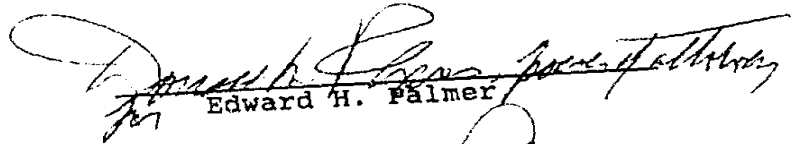
IN WITNESS WHEREOF, the Lessor and the Lessee have executed this Memorandum of Lease as of the date above first written.

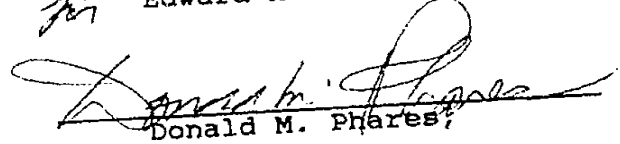
LESSOR:

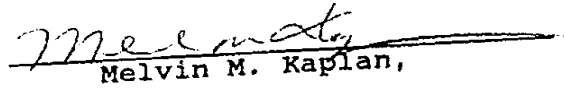
Glenview State Bank,
as Trustee aforesaid

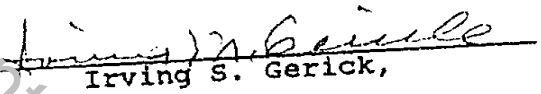
By: _____
Its: _____

LESSEE:


Edward H. Palmer



Donald M. Phares

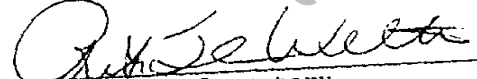

Melvin M. Kaplan,


Irving S. Gerick,


James E. Lamson, and

LaSalle National Bank,
as Trustee aforesaid and not personally

By: 
Its: ASSISTANT VICE PRESIDENT
jointly and severally

ATTEST 
Assistant Secretary

COOK COUNTY, ILLINOIS
FILED

89076603

1969 FEB 2: 2:11:14

Property of Cook County Clerk's Office

89076603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, _____, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that respectively the _____ and _____ of Glenview State Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such, and 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 Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said _____ then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this _____ day of _____, 1989.

My commission expires _____.

STATE OF ILLINOIS)
COUNTY OF COOK) SS.

I, Harriet Denisewicz, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Corinne Bek and Rita Slimm Welter, respectively the Assistant Vice President and Assistant Secretary of LaSalle National Bank, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such, and 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 Company, as Trustee as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 17th day of February, 1989.

My commission expires _____.



89076603

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/11/2011

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Edward H. Palmer
March
I, *Wm. L. McDonald*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Edward H. ~~Palmer~~, Donald M. Phares, Melvin M. Kaplan, Irving S. Gerick and James E. Lamson, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they jointly and severally signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this *17th* day of *February*, 1989.

My commission expires *May 29, 1990*.

This document prepared by, and after recording mail to:

Matthew K. Phillips
Bell, Boyd & Lloyd
70 W. Madison Street
Suite 3200
Chicago, Illinois 60602
(312) 372-1121

BOX 333 - GG

UNOFFICIAL COPY

Property of Cook County Clerk's Office