



4. **ASSIGNMENT.** To induce Bank to make the Loan to Borrower and for other valuable consideration, the receipt of which is acknowledged by Owner, Owner bargains, sells and conveys to Bank all of Owner's right, title and interest in and to all rents and profits from the Property and all leases of the Property now or hereafter made (all of which are collectively known as the Collateral), which Collateral is described as follows:
- all leases (Leases) on the Property. The term "Leases" in this Agreement shall include all agreements, written or verbal, existing or hereafter arising, for the use or occupancy of any portion of the Property and all extensions, renewals, and substitutions of such agreements, including subleases thereunder;
  - all guarantees of the performance of any party under the Leases;
  - the right to collect and receive all revenue (Rent) from the Leases on the Property now due or which may become due. Rent includes, but is not limited to the following: revenue, issue, profits, rent, minimum rent, percentage rent, additional rent, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, security deposits, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance or other proceeds, and all rights and claims which Owner may have against any person under the terms of the Leases.
5. **APPLICATION OF COLLATERAL PROCEEDS.** Any Rents or other payments received by virtue of the Collateral as security, will be applied to any amounts Borrower owes Bank on the Obligations and shall be applied first to costs, then to accrued interest and the balance, if any, to Principal.
6. **WARRANTIES.** To induce Bank to make the Loan, Owner makes the following representations and warranties:
- Owner has good title to the Leases and Rent and good right to assign them, and no other person has any right in them;
  - Owner has duly performed all of the terms of the Leases that Owner is obligated to perform;
  - Owner has not previously assigned or encumbered the Leases or the Rent and will not further assign or encumber the Leases or future Rent;
  - No Rent for any period subsequent to the current month has been collected, and no Rent payment has been compromised;
  - Owner has not received any funds from any lessee (Lessee) under the Leases in excess of one month's rent for which credit has not been made on account for accrued Rent, and any copy of such account that has been delivered to Bank is true and complete. The term "Lessee" in this Agreement shall include all persons or entities obligated to Owner under the Leases;
  - No Lessee is in default of any of the terms of the Leases;
  - Owner has not and will not waive or otherwise compromise any obligation of Lessee under the Lease and will enforce the performance of every obligation to be performed by Lessee under the Lease;
  - Owner will not modify the Leases without Bank's prior written consent, will not consent to any Lessee's assignment of the Leases, or any subletting thereunder, without Bank's prior written consent and will not sell or remove any personal property located on the Property unless replaced in like kind for like or better value; and
  - Owner will not subordinate any Leases to any mortgage, lien, or encumbrance affecting the Property without Bank's written consent.
7. **OWNER'S AGREEMENTS.** To protect the security of this Agreement, Owner agrees:
- to deliver to Bank upon execution of this Agreement copies of the Leases, certified by Owner, as being true and correct copies which accurately represent the transactions between the parties;
  - to observe and perform all obligations of Lessor under the Leases, and to give written prompt notice to Bank of any default by Lessor or Lessee under any Lease;
  - to notify in writing each Lessee that any deposits previously delivered to Owner have been retained by Owner or assigned and delivered to Bank as the case may be;
  - to appear in and defend any action or proceeding pertaining to the Leases, and, upon the request of Bank, to do so in the name and on behalf of Bank but at the expense of Owner, and to pay all costs and expenses of Bank, including reasonable attorneys' fees to the extent not prohibited by law, in any such action or proceeding in which Bank may appear;
  - to give written notice of this Agreement to each Lessee which notice shall contain instructions to each Lessee that Lessee shall make all payments of Rent directly to Bank;
  - to indemnify and hold Bank harmless for all liabilities, damages, costs and expenses, including reasonable attorneys' fees, Bank incurs when Bank, at its discretion, elects to exercise any of its remedies upon default of Lessee;
  - that if the Leases provide for abatement of rent during repair due to fire or other casualty, Bank shall be provided satisfactory insurance coverage; and
  - that the Leases shall remain in full force and effect regardless of any merger of the Lessor's and Lessee's interests.
8. **COLLECTION OF RENT.** Owner shall give notice of Bank's rights to all of said rents, issues or profits and notice of direct payment to Bank to those obligated to pay such rents, issues or profits. Owner agrees to direct all tenants to pay rent due or to become due to Bank. Owner shall endorse and deliver to Bank any money orders, checks or drafts which represent rents, issues or profits from the above-described Property, to apply the proceeds to the Obligations, and shall give notice of Bank's rights in any of said rents, issues or profits and notice of direct payment to Bank to those obligated to pay such rents, issues or profits. Bank shall be the creditor of each Lessee in respect to assignments for the benefit of creditors, bankruptcy, reorganization, rearrangement, insolvency, dissolution or receivership proceedings by Lessee, and Owner shall immediately pay over to Bank all sums Owner may receive as creditor from such actions or proceedings. Also, Bank may collect or receive all payments paid by any Lessee, whether or not pursuant to the terms of the Leases, for the right to terminate, cancel or modify the Leases, and Owner shall immediately pay over to Bank all such payments as Owner may receive from any Lessee. Bank shall have the option to apply any monies received as such creditor to the Obligations, the Assignment of Beneficial Interest, or this Agreement.
9. **EVENTS OF DEFAULT.** Owner shall be in default upon the occurrence of any of the following events, circumstances or conditions (Events of Default). The Events of Default are:
- Failure by any person obligated on the Obligations to make payment when due thereunder; or
  - A default or breach under any of the terms of this Agreement, the Note, any construction loan agreement or other loan agreement, any security agreement, mortgage, deed to secure debt, deed of trust, trust deed, or any other document or instrument evidencing, guarantying, securing or otherwise relating to the Obligations; or
  - The making or furnishing of any verbal or written representation, statement or warranty to Bank which is or becomes false or incorrect in any material respect by or on behalf of Owner, Borrower, or any one of them, or any co-signer, endorser, surety or guarantor of the Obligations; or
  - Failure to obtain or maintain the insurance coverages required by Bank, or insurance as proper for the Collateral;
  - The death, dissolution or insolvency of, the appointment of a receiver by or on the behalf of, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against, Owner, Borrower, or any one of them, or any co-signer, endorser, surety or guarantor of the Obligations; or
  - A good faith belief by Bank at any time that Bank is insecure with respect to Borrower, or any co-signer, endorser, surety or guarantor, that the prospect of any payment is impaired or that the Collateral is impaired; or

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- G. Failure to pay and provide proof of payment of any tax, assessment, rent, insurance premium or security on or before its due date; or
- H. A material adverse change in Owner's business, including ownership, management, and financial conditions, which in Bank's opinion impairs the Collateral or repayment of the Obligations; or
- I. A transfer of a substantial part of Owner's money or property.
10. **REMEDIES ON DEFAULT.** At the option of Bank, all or any part of the principal of, and accrued interest on, the Obligations shall become immediately due and payable without notice or demand, upon the occurrence of an Event of Default or at any time thereafter. In addition, upon the occurrence of an Event of Default or at any time thereafter by Assignor under the Assignment of Beneficial Interest, Bank, at Bank's option, shall have the right to exercise any or all of the following remedies:
- to continue to collect directly and retain Rent in Bank's name without taking possession of the Property and to demand, collect, receive, and sue for the Rent, giving proper receipts and releases, and, after deducting all reasonable costs of collection, including reasonable attorneys' fees to the extent not prohibited by law, apply the balance to the Note, first to accrued interest and then to principal;
  - to declare the Obligations immediately due and payable, and, at Bank's option, exercise any of the remedies provided by law, the Note, the Assignment of Beneficial Interest or this Agreement; and
  - to enter upon, take possession of, manage and operate all or any part of the Property, make, modify, enforce or cancel any Leases, evict any Lessee, increase or reduce Rent, decorate, clean and make repairs, and do any act or incur any cost Bank shall deem proper to protect the Property as fully as Owner could do, and to apply any funds collected from the operation of the Property in such order as Bank may deem proper, including, but not limited to, payment of the following: Operating expenses, management, brokerage, attorneys' and accountants' fees, the Obligations, and toward the maintenance of reserves for repair or replacement. Bank may take such action without regard to the adequacy of the security, with or without any action or proceeding, through any person or agent, assignee under a assignment or beneficial interest, or by receiver to be appointed by a court, and irrespective of Owner's possession.

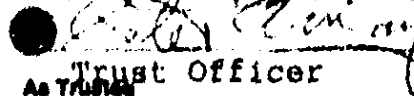
The collection and application of the Rent or the entry upon and taking possession of the Property as set out in this section shall not cure or waive any default, or modify or waive any notice of default under the Note, Assignment of Beneficial Interest or this Agreement, or invalidate any act done pursuant to such notice. The enforcement of such remedy by Bank, once exercised, shall continue for so long as Bank shall elect, notwithstanding that such collection and application of Rent may have cured the original default. If Bank shall thereafter elect to discontinue the exercise of any such remedy, the same or any other remedy under the law, the Note, Assignment of Beneficial Interest or this Agreement may be asserted at any time and from time to time following any subsequent default. The word "default" has the same meaning as contained within the Note or any other instrument evidencing the Obligations, and the Assignment of Beneficial Interest, or any other document securing, guarantying or otherwise relating to the Obligations.

In addition, upon the occurrence of any Event of Default, Bank shall be entitled to all of the remedies provided by law, the Note and any related loan documents. All rights and remedies are cumulative and not exclusive, and Bank is entitled to all remedies provided at law or equity, whether or not expressly set forth.

11. **ADDITIONAL POWERS OF BANK.** In addition to all other powers granted by this Agreement and the Assignment of Beneficial Interest, Bank also has the rights and powers, pursuant to the provisions of the Illinois Code of Civil Procedure, Section 15-1101, et seq.
12. **TERM.** This Agreement shall remain in effect as long as any part of the Obligations remain unpaid. Upon payment in full of all such indebtedness, Bank shall execute a release of this Agreement upon request.
13. **GENERAL PROVISIONS.**
- TIME IS OF THE ESSENCE.** Time is of the essence in Owner's performance of all duties and obligations imposed by this Agreement.
  - NO WAIVER BY BANK.** Bank's course of dealing, or Bank's forbearance from, or delay in, the exercise of any of Bank's rights, remedies, privileges or right to insist upon Owner's strict performance of any provisions contained in this Agreement, or other loan documents, shall not be construed as a waiver by Bank, unless any such waiver is in writing and is signed by Bank.
  - AMENDMENT.** The provisions contained in this Agreement may not be amended, except through a written amendment which is signed by Owner and Bank.
  - GOVERNING LAW.** This Agreement shall be governed by the laws of the State of ILLINOIS, provided that such laws are not otherwise preempted by federal laws and regulations.
  - FORUM AND VENUE.** In the event of litigation pertaining to this Agreement, the exclusive forum, venue and place of jurisdiction shall be in the State of Illinois, unless otherwise designated in writing by Bank.
  - SUCCESSORS.** This Agreement shall inure to the benefit of and bind the heirs, personal representatives, successors and assigns of the parties.
  - NUMBER AND GENDER.** Whenever used, the singular shall include the plural, the plural the singular, and the use of either gender shall be applicable to both genders.
  - DEFINITIONS.** The terms used in this Agreement, if not defined herein, shall have their meanings as defined in the other documents executed contemporaneously, or in conjunction, with this Agreement.
  - PARAGRAPH HEADINGS.** The headings at the beginning of each paragraph, and each sub-paragraph, in this Agreement are for convenience only and shall not be dispositive in interpreting or construing this Agreement or any part thereof.
  - IF HELD UNENFORCEABLE.** If any provision of this Agreement shall be held unenforceable or void, then such provision shall be deemed severable from the remaining provisions and shall in no way affect the enforceability of the remaining provisions nor the validity of the Agreement.

OWNER:

DEVON BANK, TRUST #8009, not personally, but solely

By:   
Trust Officer

As Trustee

UNOFFICIAL COPY

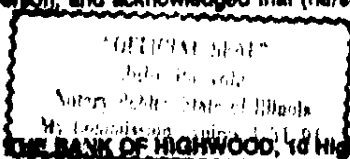
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STATE OF ILLINOIS

ss:

COUNTY OF COOK

On this 10th day of May, 1990, Julie Paavola, a notary public, certify that, as Trustee, for DEVON BANK TRUST #5000, 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 (he/she) signed and delivered the instrument as (his/her) free and voluntary act, for the uses and purposes set forth.  
My commission expires:



*Julie Paavola*  
NOTARY PUBLIC

This document was prepared by THE BANK OF HIGHWOOD, 10 Highwood Avenue, Highwood, Illinois 60040.

Please return this document after recording to THE BANK OF HIGHWOOD, 10 Highwood Avenue, Highwood, Illinois 60040.

THIS IS THE LAST PAGE OF A 4 PAGE DOCUMENT. NOTHING FOLLOWS.

Property of Cook County Clerk's Office

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