

Drawn By and Mail To:
Moore & Van Allen
NationsBank Corporate Center
100 North Tryon Street, Floor 47
Charlotte, North Carolina 28202-4003
Attention: Lea Stromire Johnson

COOK COUNTY, ILLINOIS
FILED FOR RECORD

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COLLATERAL ASSIGNMENT OF LEASES AND RENTS

STATE OF ILLINOIS

COUNTY OF COOK

THIS COLLATERAL ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is made effective as of the 26th day of October, 1993 (the "Effective Date") by SWI REAL ESTATE LIMITED PARTNERSHIP, a Delaware limited partnership, with a mailing address of c/o JER SWI Services, Inc., General Partner, 11 Canal Center Plaza, Suite 200, Alexandria, Virginia 22314 ("Borrower"), to NATIONSBANK OF TEXAS, N.A., a national banking association, as agent for the Banks (as defined in the Credit Agreement [defined below]), with a mailing address of 901 Main Street, 51st Floor, Dallas, Texas 75202, Attention: Ms. Deborah K. Newman ("Agent").

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WITNESSETH:

WHEREAS, Borrower is the owner of certain land, improvements and personal property located thereon (or to be located thereon) and used in connection therewith (the land, improvements and personal property are referred to collectively as the "Premises"), said land being more particularly described in Exhibit A attached hereto and made a part hereof; and

WHEREAS, Borrower and Agent (with Agent acting on behalf of itself and as agent for the Banks as described therein), have entered into that certain Credit Agreement (the "Credit Agreement"), dated as of the Effective Date, pursuant to which the Banks agreed to loan Borrower the aggregate amount of One Hundred Ten Million Six Hundred Four Thousand Dollars (\$110,604,000.00) (the "Loan"); and

WHEREAS, as security for the (i) all obligations of Borrower to Agent and each Bank (including, without limitation, the obligations to pay principal and interest on the Loan, to pay all fees in connection with the Loan, and to pay all expenses and indemnities in connection with the Loan) whenever arising, under the Credit Agreement, the Notes (as defined in the Credit Agreement), and each of the other Loan Documents (as defined in the Credit Agreement), and (ii) all obligations and liabilities of the Borrower to any of the Banks under or with respect to any interest rate swap, cap, collar or other similar agreement or arrangement designed to protect the Borrower against fluctuations in interest rates with respect to the Loan (collectively, the "Secured Obligations"), Borrower has agreed to assign to Agent, for the benefit of the Banks,

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all Rents (as defined below) and all of Borrower's right, title and interest in the Leases (as defined below).

NOW, THEREFORE, in order further to secure the Secured Obligations and as an essential and integral part of the security therefor, and in consideration of the making of the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby agrees with the Agent, for the benefit of the Banks, as follows:

1. Assignment. To secure payment of the Secured Obligations Borrower does hereby immediately and absolutely sell, assign, transfer, and set over unto Agent, its successors and assigns, all Rents (defined below) and all of Borrower's rights and remedies under all Leases (defined below), and the acceptance of this Assignment and the collection of Rents hereby assigned shall not constitute a waiver of any rights of Agent under the terms of the Loan Documents (as defined in the Credit Agreement). As used herein: (i) "Lease" means each existing or future lease, sublease (to the extent of Borrower's rights thereunder) or other agreement under the terms of which any person has or acquires any right to occupy or use the Premises, or any part thereof, or interest therein, and to each existing or future guaranty of payment or performance thereunder, and all extensions, renewals, modifications and replacements of each such lease, sublease, agreement or guaranty; and (ii) "Rents" means all of the rents, revenue, income, profits and proceeds derived and to be derived from the Premises or arising from the use or enjoyment of any portion thereof or from any Lease, including but not limited to liquidated damages following default under any such Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Premises, all of Borrower's rights to recover monetary amounts from any tenant in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejections, under any applicable debtor relief law, together with any sums of money that may now or at any time hereafter be or become due and payable to Borrower by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas, mineral and mining leases covering the Premises or any part thereof, and all proceeds and other amounts paid or owing to Borrower under or pursuant to any and all contracts and bonds relating to the construction or renovation of the Premises.

2. Application of Rents by Borrower. So long as there shall exist no Event of Default (as defined in the Credit Agreement), Borrower shall have the right under a license granted hereby (but limited as provided in the following section) to collect upon, but not more than two months prior to accrual, all of said Rents, and Borrower shall receive such Rents, as a trust fund to be applied, and Borrower hereby covenants to so apply same, to the payment of taxes and assessments due and payable upon the Premises before penalty or interest are due thereon, to the cost of such insurance and of such maintenance and repairs as is required by the terms of the Credit Agreement, and to the payment of interest and principal and other amounts becoming due on the Loan, before using any part of the same for any other purposes.

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3. Collection of Rents by Agent. In furtherance of the foregoing assignment, Borrower hereby authorizes Agent, by its employees or agents, at its option, after the occurrence of an Event of Default, to terminate the aforesaid license granted to Borrower to collect said Rents, and to collect, in the name of Borrower or in its own name, as assignee, the Rents accrued but unpaid and in arrears at the date of said Event of Default as well as the Rents thereafter accruing and becoming payable during the period of the continuance of the said Event of Default or any other Event of Default; and to this end, Borrower further agrees that it will use its good faith diligent efforts to assist Agent in Agent's collection of said Rents, and will, upon request by the Agent, execute a written notice to each tenant directing the tenant to pay Rent directly to Agent.

4. Agent's Management of Premises. Upon such exercise of its right to collect rents, Agent shall be authorized, but not obligated, to take over and assume the control, care, management, operation, repair and maintenance of the Premises and to perform such other acts as Agent in its discretion may deem proper, and to expend such sums out of the income of the Premises as may be needful in connection therewith, in the same manner and to the same extent as the Borrower theretofore might do (including the right to effect new Leases, to cancel or surrender existing Leases, to evict tenants, to bring or defend any suits in connection with the possession of any portion of the Premises in its own name or the Borrower's name, to alter or to amend the terms of existing Leases, to renew existing Leases, and to make concessions to the tenants). Borrower hereby releases all claims against Agent arising out of such management, operation, repair and maintenance, excepting the liability of Agent to account as hereinafter set forth, and except claims arising from the gross negligence, bad faith or willful misconduct of Agent.

5. Indemnity. Unless and until the license granted to the Borrower in Section 2 is terminated and Agent collects all Rents or exercise its rights as described in Sections 3 and 4 hereof, Agent shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Borrower under any of said Leases, and Borrower hereby agrees to indemnify Agent for, and to save Agent harmless from, any liability arising prior to such entry from any of said Leases or from this Assignment, and this Assignment shall not place responsibility for the conduct, care, management, or repair of the Premises upon Agent, or make Agent responsible or liable for any act or negligence in the management, operation, upkeep, repair or control of said Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

6. Representations of Borrower. Borrower hereby covenants and represents that (a) except as hereinafter set forth, Borrower has full right and title to assign to Agent said Leases and the Rents; and (b) no prior assignment of any interest thereof has been made.

7. Application of Rents by Agent. Agent, after payment of such charges and expenses as Agent, in its sole discretion, may elect to pay, including reasonable compensation to such managing agent as it may select and employ, and after the accumulation of a reserve to meet taxes, assessments, utilities, fire and liability insurance and maintenance and replacement

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expenses in requisite amounts, shall credit the net amount of income received by Agent from the Premises by virtue of this Assignment, to any amount due and owing to Agent by Borrower under the terms of the Loan Documents, but the manner of the application of such net income and the items which shall be credited shall be determined by Agent, in its sole discretion. Agent shall not be accountable for more moneys than it actually receives from the Premises, nor shall Agent be liable for failure to collect Rents. Agent shall make reasonable efforts to collect Rents, reserving, however, within its own discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent Rents shall be prosecuted.

8. Reinstatement of License: Possession. In the event, however, that Borrower shall reinstate the Loan completely in good standing, having complied with all of the terms, covenants and conditions of the Loan Documents, then the license granted under Section 2 shall be reinstated and Agent, within one month after demand in writing, shall notify tenants that Rents should be paid to Borrower and redeliver the right to collect Rents or possession of the Premises to Borrower who shall retain such right and remain in possession unless and until another Event of Default occurs, at which time the license shall terminate and Agent, at its option, may exercise its right to collect Rents or take possession of the Premises again in accordance with this Assignment and applicable law.

9. Perfection or Activation of Rights. To the extent permitted under applicable laws, if there exists an Event of Default, and if there is any law requiring Agent to take actual possession of the Premises (or some action equivalent thereto, such as securing the appointment of a receiver) in order for Agent to "perfect" or "activate" its rights and remedies as set forth herein or under any of the other Loan Documents, Borrower hereby waives the benefits of such law and agrees that such law shall be satisfied solely by: (i) Agent sending Borrower written notice that Agent intends to enforce, and is enforcing, its rights in and to the Premises, the Rents, and other items assigned herein; and (ii) Agent sending written notice to any or all tenants on the Premises that said tenants should commence making payments under the Leases directly to Agent or its designee.

10. Terms. The provisions of this Assignment shall be binding upon Borrower and its successors or assigns, and upon Agent and its successors or assigns. The word "Borrower" shall be construed to mean any subsequent owner of the Premises or any portion thereof.

11. Governing Law. THIS ASSIGNMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS AND THE LAWS OF THE UNITED STATES APPLICABLE TO TRANSACTIONS IN ILLINOIS AND THE INTERNAL LAWS OF THE STATE WHERE THE PREMISES IS LOCATED SHALL GOVERN THE LIEN PRIORITY AND VALIDITY OF THIS ASSIGNMENT AND THE PROCEDURES WITH RESPECT TO THE ENFORCEMENT THEREOF.

12. Mortgagee in Possession. It is not the intention of the parties hereto that an entry by Agent upon the Premises under the terms of this Assignment shall constitute Agent a "mortgagee in possession" in contemplation of law, except as may be permitted under applicable law.

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13. Duration of Assignment; Release. This Assignment shall remain in full force and effect as long as the Secured Obligations remain unpaid in whole or in part. Upon (i) payment in full by Borrower of the Secured Obligations, or (ii) payment of the Release Price pursuant to the Credit Agreement, this Assignment shall become and be void and of no force or effect, and the Agent shall release its lien on and security interest in the Leases and Rents. If the Leases and Rents are so released, the Agent, at the request and sole cost and expense of Borrower, will execute and deliver to Borrower a proper instrument or instruments acknowledging the satisfaction and termination of this Assignment (including, without limitation, appropriate UCC-3 termination statements, terminating any financing statements as may have been filed by the Agent against the Leases and Rents), and will duly assign, transfer and deliver, without recourse and without any representation or warranty, express or implied (except that the Agent shall represent that such release has been and is duly authorized, that all necessary consents to the execution and delivery thereof have been obtained and that it has not assigned or encumbered the Leases and Rents), to Borrower such of the Leases and Rents as may be in the possession of the Agent (and any other property of Borrower in the possession of the Agent pursuant to the Agent's exercise of its rights hereunder) that has not theretofore been sold or otherwise applied or released pursuant to this Assignment together with any moneys at the time held by the Agent hereunder and not applied by the Agent as described in Paragraph 7 hereof.

14. Non-Recourse. The Secured Obligations are subject in all respects to Section 9.14 of the Credit Agreement.

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IN WITNESS WHEREOF, Borrower has caused this Assignment to be duly executed under seal as of the date first above written.


BORROWER:

SWI REAL ESTATE LIMITED PARTNERSHIP, a
Delaware limited partnership

By its General Partner
JER SWI SERVICES, INC., a Virginia
corporation


ATTEST:

By


Asst Secretary

(Corporate Seal)

By


Name: Duain T. Ward
Title: Vice President

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STATE OF North Carolina)
) SS
COUNTY OF Mecklenburg)

I, Willie H. Robinson, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel T. Ward and Dang T. Phao, the V. President and Asst. Secretary, respectively, of JER SWI Services, Inc., a Virginia corporation and the general partner of SWI Real Estate Limited Partnership, a Delaware limited partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such V. President and Asst. Secretary, appeared before me this day in person and acknowledged that they signed and delivered said instrument as such officers of said corporation, as their own free and voluntary act and as the free and voluntary act of the corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of October, 1993.

Willie H. Robinson Jr
Notary Public

My Commission Expires: My Commission Expires February 16, 1998

PARCEL 1: LOTS 1, 2, 3, 4, 5 AND 6 IN THE PARK PLACE PLAZA, BEING A SUBDIVISION OF PART OF THE NORTHWEST 1/4 OF SECTION 33, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 28, 1988 AS DOCUMENT NUMBER 88546282, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT FROM AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO AS TRUSTEE UNDER TRUST AGREEMENT DATED DECEMBER 29, 1983 AND KNOWN AS TRUST NUMBER 60015 TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO AS TRUSTEE UNDER TRUST AGREEMENT DATED FEBRUARY 1, 1987 AND KNOWN AS TRUST NUMBER 101344-01 AND T & D GENERAL PARTNERS NO. 81, AN ILLINOIS GENERAL PARTNERSHIP DATED MARCH 6, 1987 AND RECORDED MARCH 31, 1987 AS DOCUMENT 87168911 AND FILED AS DOCUMENT LR. 3603659 AND AS AMENDED BY FIRST AMENDMENT TO EASEMENT AGREEMENT RECORDED JULY 19, 1988 AS DOCUMENT 88317890 FOR:

(A) THE CONSTRUCTION, INSTALLATION, USE, MAINTENANCE, REPAIR AND REPLACEMENT OF STORM SEWER LINES AND ACCESSORY FACILITIES OVER, UNDER, AND ACROSS THE STORM SEWER EASEMENT IN, UNDER, OVER, AND THROUGH A 15 FOOT WIDE STRIP OF LAND DESCRIBED AS 7.5 FEET ON EACH SIDE OF A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN MC DONALDS CLM SUBDIVISION RECORDED JULY 20, 1984 AS DOCUMENT NUMBER 27179835, THENCE NORTH 0 DEGREES EAST 632.0 FEET ALONG THE WEST LINE OF HALSTED STREET; THENCE NORTH 90 DEGREES WEST 7.5 FEET; THENCE NORTH 90 DEGREES EAST 110.5 FEET TO THE EAST LINE OF HALSTED STREET AND THE POINT OF BEGINNING; THENCE NORTH 90 DEGREES WEST 110.5 FEET; THENCE SOUTH 0 DEGREES WEST 624.5 FEET ALONG A LINE 7.5 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF HALSTED STREET; THENCE NORTH 90 DEGREES WEST 386.17 FEET; THENCE SOUTH 0 DEGREES EAST 182.43 FEET TO A POINT 17.5 FEET NORTH OF THE NORTH LINE OF MAPLE AVENUE; THENCE NORTH 90 DEGREES WEST 352.71 FEET ALONG A LINE 17.5 FEET NORTH OF AND PARALLEL WITH THE NORTH LINE OF MAPLE AVENUE TO A POINT OF CURVE; THENCE NORTHWESTERLY ON A CURVE CONVEX TO THE SOUTHWEST HAVING A RADIUS OF 452.5 FEET, AN ARC DISTANCE OF 259.87 FEET TO A POINT OF TANGENCY; THENCE NORTH 57 DEGREES 05 MINUTES 41 SECONDS WEST 545 FEET TO A POINT OF TERMINUS ALL IN THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS,

AND

(B) THE CONSTRUCTION, INSTALLATION, MAINTENANCE, REPAIR AND REPLACEMENT OF THE NORTH 344.81 FEET OF THE DETENTION AREA EASEMENT AND THE USE OF ENTIRE DETENTION AREA EASEMENT DESCRIBED AS EASEMENT OVER A TRACT OF LAND IN THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF MAPLE AVENUE AS DEDICATED IN WASHINGTON PARK ESTATES UNIT NUMBER 1, AS RECORDED AUGUST 15, 1983 AS PER DOCUMENT NUMBER 26732806 AND TORRENS REGISTRATION NUMBER 3323774, THENCE NORTH 73 DEGREES 28 MINUTES 45 SECONDS WEST 54.96 FEET ALONG THE PROLONGATION OF THE NORTH RIGHT-OF-WAY LINE OF SAID MAPLE AVENUE TO A POINT OF CURVE; THENCE NORTHWESTERLY ON A CURVE CONVEX TO THE SOUTHWEST HAVING A RADIUS OF 2970 FEET, AN

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ARC DISTANCE OF 530.97 FEET TO A POINT OF TANGENT; THENCE NORTH 63 DEGREES 14 MINUTES 09 SECONDS WEST 291.68 FEET; THENCE NORTH 42 DEGREES 59 MINUTES 40 SECONDS EAST 350.76 FEET; THENCE NORTH 0 DEGREES EAST 474.04 FEET TO THE SOUTH LINE OF SIMBORG SUBDIVISION, AS RECORDED AUGUST 29, 1986 PER DOCUMENT NUMBER 86383195; THENCE NORTH 90 DEGREES EAST 283.03 FEET ALONG THE SOUTH LINE OF SAID SIMBORG SUBDIVISION AND ITS EASTERLY PROLONGATION; THENCE SOUTH 0 DEGREES EAST 344.81 FEET; THENCE SOUTH 46 DEGREES 15 MINUTES 10 SECONDS EAST 511.71 FEET; THENCE SOUTH 11 DEGREES 43 MINUTES 03 SECONDS EAST 438.30 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ON A CURVE CONVEX TO THE NORTHEAST HAVING A RADIUS OF 1065 FEET, AN ARC DISTANCE OF 75.63 FEET TO A POINT OF TANGENT, SAID CURVE HAVING A CHORD OF 75.61 FEET AND A CHORD BEARING OF NORTH 71 DEGREES 26 MINUTES 41 SECONDS WEST; THENCE NORTH 73 DEGREES 28 MINUTES 45 SECONDS WEST 107.65 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

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