

UNOFFICIAL COPY

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WHEN RECORDED MAIL

Parkway Bank & Trust Co.
4800 North Harlem Avenue
Harwood Heights, IL 60656

SEND TAX NOTICES TO:

Charter Bank & Trust of Illinois, not personally but as trustee
u/n 1446 dated July 1, 1991
1400 Irving Park Road
Hanover Park, IL 60103-2594



DEPT-01 RECORDING

\$27.50

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COOK COUNTY RECORDER

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS IS DATED SEPTEMBER 2, 1994, between Charter Bank & Trust of Illinois, not personally but as trustee u/n 1446 dated July 1, 1991, whose address is 1400 Irving Park Road, Hanover Park, IL 60103-2594 (referred to below as "Grantor"); and Parkway Bank & Trust Company, whose address is 4800 North Harlem Avenue, Harwood Heights, IL 60656 (referred to below as "Lender").

ASSIGNMENT. For valuable consideration, Grantor assigns and conveys to Lender all of Grantor's right, title, and interest in and to the Rents from the following described Property located in Cook County, State of Illinois:

That part of the East 1/2 of the North East 1/4 of Section 25, Township 41 North, Range 9 East of the Third Principal Meridian described as follows: commencing at the North East corner of said North East 1/4; thence South 0 degrees 00 minutes 00 seconds West 172.00 feet along said East line to the point of beginning of the following described parcel of land; thence South 88 degrees 49 minutes 34 seconds West 550.01 feet along a line drawn parallel with the North line of said North East 1/4; thence South 0 degrees 00 minutes 00 seconds West 435.00 feet along a line drawn parallel with the East line of said North East 1/4; thence North 88 degrees 49 minutes 34 seconds East 550.01 feet along a line drawn parallel with the North line of said North East 1/4 to the East line thereof; thence North 0 degrees 00 minutes 00 seconds East 435.00 feet along said East line to the hereinabove designated place of beginning; in Cook County, Illinois.

The Real Property or its address is commonly known as 750-795 S. Barrington Road, Streamwood, IL 60103.

The Real Property tax identification number is 06-26-201-007-0000.

DEFINITIONS. The following words shall have the following meanings when used in this Assignment. Terms not otherwise defined in this Assignment shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Assignment. The word "Assignment" means this Assignment of Rents between Grantor and Lender, and includes without limitation all assignments and security interest provisions relating to the Rents.

Borrower. The word "Borrower" means Westview Plaza Corporation, an Illinois corporation.

Event of Default. The words "Event of Default" mean and include without limitation any of the Events of Default set forth below in the section titled "Events of Default."

Grantor. The word "Grantor" means any and all persons and entities executing this Assignment, including without limitation all Grantors named above. Any Grantor who signs this Assignment, but does not sign the Note, is signing this Assignment only to grant and convey that Grantor's interest in the Real Property and to grant a security interest in the Rents and Real Property to Lender and is not personally liable under the Note except as otherwise provided by contract or law.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Assignment, together with interest on such amounts as provided in this Assignment. In addition to the Note, the word "Indebtedness" includes all obligations, debts and liabilities, plus interest thereon, of Borrower to Lender, or any one or more of them, as well as all claims by Lender against Borrower, or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Borrower may be liable individually or jointly with others, whether obligated as guarantor or otherwise, and whether recovery upon such indebtedness may be or hereafter may become barred by any statute of limitations, and whether such indebtedness may be or hereafter may become otherwise unenforceable.

Lender. The word "Lender" means Parkway Bank & Trust Company, its successors and assigns.

Note. The word "Note" means the promissory note or credit agreement dated September 2, 1994, in the original principal amount of \$1,200,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Note is a variable interest rate based upon an index. The index currently is 7.750% per annum. The interest rate to be applied to the unpaid principal balance of this Assignment shall be at a rate of 1.000 percentage point(s) over the index, resulting in an initial rate of 8.750% per annum. **NOTICE:** Under no circumstances shall the interest rate on this Assignment be more than the maximum rate allowed by applicable law.

Property. The word "Property" means the real property, and all improvements thereon, described above in the "Assignment" section.

Real Property. The words "Real Property" mean the property, interests and rights described above in the "Property Definition" section.

Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all rents, revenues, income, issues, profits and proceeds from the Property, whether due now or later, including without limitation all Rents from all leases described on any exhibit attached to this Assignment.

THIS ASSIGNMENT IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF GRANTOR AND BORROWER UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

GRANTOR'S WAIVERS. Grantor waives all rights or defenses arising by reason of any "one action" or "anti-deficiency" law, or any other law which may prevent Lender from bringing any action against Grantor, including a claim for deficiency to the extent Lender is otherwise entitled to a claim for deficiency, before or after Lender's commencement or completion of any foreclosure action, either judicially or by exercise of a power of sale.

GRANTOR'S REPRESENTATIONS AND WARRANTIES. Grantor warrants that: (a) this Assignment is executed at Borrower's request and not at the request of Lender; (b) Grantor has the full power and right to enter into this Assignment and to hypothecate the Property; (c) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (d) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

BORROWER'S WAIVERS AND RESPONSIBILITIES. Lender need not tell Borrower about any action or inaction Lender takes in connection with this

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Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or such Guarantor dies or becomes incompetent or any Guarantor revokes any guaranty of the Indebtedness. Lender, at its option, may, but shall not be required to, do so, cure the Event of Default.

Insolvency. Lender reasonably deems itself insecure.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Borrower to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

Collect Rents. Lender shall have the right, without notice to Guarantor or Borrower, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Guarantor irrevocably designates Lender as Guarantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Guarantor and to negotiate and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may demand its rights under the subparagraph other in person, by agent, or through a receiver.

Mortgages in Possession. Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property pending foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall extend to a person from serving as a receiver.

Other Remedies. Lender shall have all other rights and remedies provided in this Assignment or the Note or by law.

Waiver; Election of Remedies. A waiver by any party of a breach of a provision of this Assignment shall not constitute a waiver of or prejudice the party's right to enforce or demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Guarantor or Borrower under this Assignment shall not affect Lender's right to declare a default and exercise its remedies under this Assignment.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Assignment, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and on any appeal. Whether or not any court action is involved, all reasonable expenses incurred by Lender in connection with the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the Note rate. Expenses covered by the paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay of the motion), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining the records (including records, reports, surveys, maps, and appraisals), and all other sums provided by law.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Assignment:

Amendments. This Assignment, together with any related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be changed or bound by the alteration or amendment.

Applicable Law. This Assignment has been delivered by Lender and accepted by Borrower in the State of Illinois. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

Multiple Parties; Corporate Authority. All obligations of Guarantor and Borrower under this Assignment shall be joint and several, and all references to Guarantor shall mean each and every Guarantor, and all references to Borrower shall mean each and every Borrower. This means that each of the parties signing this Assignment shall be responsible for all obligations under this Assignment.

No Modification. Guarantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Assignment by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Guarantor shall neither request nor accept any future advance under any such security agreement without the prior written consent of Lender.

Bevability. If a court of competent jurisdiction finds any provision of this Assignment to be invalid or unenforceable as to any person or circumstance, such finding shall not render the provision invalid or unenforceable as to any other person or circumstance. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability of any other person or circumstance. If feasible, any such modification, if it shall be effective and enforceable, shall be deemed to be a part of this Assignment.

Successors and Assigns. Subject to the limitations stated in the Assignment in relation to Guarantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Guarantor, Lender, without notice to Guarantor, may deal with Guarantor's successors with the same force and effect as if Guarantor were the owner of the Property, and the obligations of the Assignment or liability under the Indebtedness shall not be affected by the assignment of the Property or the Indebtedness by way of foreclosure or extension without releasing Guarantor from the obligations of the Assignment or liability under the Indebtedness.

Time of the Essence. Time is of the essence in the performance of the Assignment.

Waiver of Homestead Exemption. Guarantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all Indebtedness secured by this Assignment.

Waiver of Right of Redemption. Notwithstanding any of the provisions of the Assignment contained in this Assignment, Guarantor hereby waives any and all rights of redemption from sale under any order of judgment of foreclosure on behalf of Guarantor and on behalf of each and every person, except judgment creditors of Guarantor, acquiring any interest in or title to the Property subsequent to the date of this Assignment.

Waiver and Consent. Lender shall not be deemed to have waived any rights under this Assignment (or under any Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of the Assignment shall not constitute a waiver of the party's right otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or take action to perform an obligation of Guarantor or Borrower under this Assignment shall not affect Lender's right to declare a default and exercise its remedies under this Assignment.

GRANTOR'S LIABILITY. The Assignment is assumed by Guarantor, not by Lender, and Guarantor shall be liable for the Indebtedness as provided above, in the exercise of the power and the authority conferred upon and vested in it as such Lender (and Guarantor) by the Assignment or the Note shall be construed as creating or executing the instrument, and it is expressly understood and agreed that nothing in the Assignment or the Note shall be construed as creating any liability on the part of Guarantor personally to pay the Note or any interest thereon, or any other Indebtedness under the Assignment, (or to perform any covenant with respect to the Indebtedness) and that Guarantor, by its Assignment, and that so far as Guarantor and its successors personally are concerned, the legal holder or holder of the Note and the owner of any Indebtedness shall look solely to the property for the payment of the Note and Indebtedness, with the understanding that the assignment of the Note and Indebtedness in the manner provided in the Note and hereon or by action to enforce the personal liability of any Guarantor.

INTEREST RESERVE. IT IS UNDERSTOOD THAT THE LENDER WILL, AT THE TIME WHEN THE LOAN IS OPENED, DEDUCT FROM THE PROCEEDS OF THE LOAN AND DEPOSIT IN A NON-INTEREST BEARING LOAN RESERVE ACCOUNT, THE SUM OF MONEY EQUAL TO THE INTEREST DUE FOR ONE MONTH ON THE ENTIRE AMOUNT OF THE LOAN.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT OF RENTS, AND GRANTOR AGREES TO ITS TERMS.

