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ASSIGNMENTS OF LEASES, RENTS, AND PROFITS

THIS ASSIGNMENT OF LEASES, RENTS AND PROFITS, given by Frank Heckman and Laurie A. Howland-Heckman ("Assignor"), to M&I Madison Bank ("Assignee"),



95050177

Return to: M&I Madison Bank
One West Main Street
Madison, WI 53703
Attn: Loan Documentation

WITNESSETH:

WITREAS, Assignor has executed and delivered to Assignee a Mortgage Note (the "Note") of even date herewith, payable to the order of the Assignee in the principal amount of Seventeen Thousand Dollars (\$17,000.00), bearing interest and payable as set forth in the Note, and has executed a certain mortgage (the "Mortgage") dated December 20, 1993 with respect to the property (the "Property") described below to secure performance of all of its covenants, agreements, and provisions contained in the Note.

DESCRIPTION OF PROPERTY.

The south 60 feet of the north 320 feet of the east $\frac{1}{4}$ of block 5 in Austin Morey and Slentz Subdivision of the southeast $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section 6, township 39 north, range 13, east of the third principal meridian, in Cook County, Illinois.

523 S. Kendall

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor hereby presently and absolutely grants, transfers, and assigns all of the Assignor's right, title and interest in and to (including those now owned or hereafter acquired) (i) any and all present or future leases or tenancies, whether written or oral, covering or affecting any or all of the Property (all of which, together with any and all extensions, modifications, and renewals, collectively are referred to as the "Leases" or singularly as a "Lease") and (ii) all rents, profits, and other income or payments of any kind due or payable or to become due and payable to Assignor as the result of any use, possession, or occupancy of all or any portion of the Property or as the result of the use of or lease of any personal property constituting a part of the Property (all of which collectively are referred to as "Rents"), all for the purpose of securing:

- A. Payment of all indebtedness of Assignor evidenced by the Note.
- B. Performance and discharge of each and every obligation, covenant, and agreement of the Assignor contained herein and in the Note, Mortgage, and any other loan documents related thereto.

Assignor warrants and covenants that it has the right under applicable law, the Leases, its formative documents, and otherwise to execute and deliver this Assignment and to keep and perform all of its obligations pursuant to it. Assignor further covenants that it will warrant and defend the Leases and Rents against all adverse claims, whether now existing or hereafter arising.

Assignor further covenants and agrees with Assignee as follows:

1. **Performance of Leases.** Assignor faithfully will abide by, perform, and discharge each and every obligation, covenant, and agreement which it becomes liable to observe or perform under any present or future Lease, and, at its sole cost and expense, Assignor will enforce or secure the performance in a prudent manner of each and every material obligation, covenant, condition, and agreement to be performed by the tenant under each and every Lease. Assignor will observe and comply with all provisions of law applicable to the operation and ownership of the Property.

Assignor will give prompt written notice to Assignee of any notice of default on the part of Assignor with respect to any Lease, and, at its sole cost and expense, Assignor also will appear in and defend any action or proceeding arising under, growing out of, or in any manner connected with any Lease or the obligations, duties, or liabilities of Assignor or any tenant pursuant to said Lease. Assignor will not lease or otherwise permit the use of all or any portion of the Property for rent that is below the fair market rent for such property.

2. **Collection of Rents.** This Assignment is intended to vest in Assignee the present and absolute right, title, and interest in and to the Leases and the Rents. However, unless and until there occurs a default under the various provisions of this Assignment, the Note, or the Mortgage, Assignor may continue to function as lessor under all Leases and to collect all Rents; provided, however, that from and after

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First American Title Company # ACCO

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- (i) the occurrence of a default under this Assignment, the Note, or the Mortgage which is not cured within any applicable grace period; and
- (ii) delivery of a written notice to Assignee, specifying the nature of said default and invoking Assignee's right to function as lessor under all Leases and to collect the Rents, to the exclusion of Assignor,

Assignor shall have no further right to function as lessor under any of the Leases or to collect Rents and immediately shall turn over to Assignee all pre-paid Rents accruing on and after the date on which such notice is delivered to Assignor.

3. Protecting the Security of This Assignment. If Assignor fails to perform or observe any covenant or agreement contained in this Assignment (said failure constituting a "default" for the purposes of this provision), then Assignee, after giving Assignor written notice of such a default and if said default is not cured within thirty (30) days after said notice is given (except in the case of what Assignee in good faith perceives to be an emergency situation, in which case Assignee need not give prior notice before taking any action), without any obligation to do so and without releasing Assignor from any obligation of any kind, may make or do the same in such manner and to such extent as Assignee deems appropriate to protect its security (including, specifically, without limitation, the right to commence, appear in, and defend any action or proceeding purporting to affect its said security, or the right or powers of Assignee to perform and discharge each and every obligation, covenant, and agreement of Assignor contained in the Lease). In exercising any such powers, Assignee may pay necessary costs and expenses. Assignor agrees and covenants to pay immediately upon demand all sums expended by Assignee under the authority of this agreement, together with interest thereon at the default rate of interest as provided in the Note.

4. Present Assignment. This Assignment constitutes a perfected, absolute, and present assignment, subject only to the conditions of Paragraph 2 above.

5. Defaults and Remedies. In the event of any default specified in this Assignment or the various provisions of the Note or Mortgage which is not cured within any applicable grace period, Assignee, at its option, after notice to Assignor, may at any time:

- A. In the name, place, and stead of Assignor and without becoming a mortgagee in possession: (i) enter upon, manage, and operate the Property or retain the services of one or more independent contractors to manage and operate all or any part of the Property; (ii) make, enforce, modify, and accept surrender of the Leases; (iii) obtain or evict tenants, collect, sue for, fix, or modify the Rents and enforce all rights of the lessor under the Leases; and (iv) perform any and all other acts that may be necessary or proper to protect the security of this Assignment;
- B. With or without exercising the rights set forth in Subparagraph A above, give, or require Assignor to give, notice to any or all tenants under the Leases, authorizing and directing the tenants to pay all Rents under the Leases directly to Assignee; or
- C. Apply for the appointment of a receiver regarding the Property, whether or not foreclosure proceedings are pending under the Mortgage and, if such proceedings were commenced, whether or not a foreclosure sale has occurred. Assignor consents to such an application.

The exercise of any of the foregoing rights or remedies and the application of the Rents shall not cure or waive any event of default, or notice of default, under this Assignment or the Note or Mortgage, or invalidate any act done pursuant to such notice.

The remedies provided herein are independent of any other remedies provided in the Note, the Mortgage, or any other collateral security document. If Assignee exercises a remedy provided herein for a default without also exercising other remedies provided in such other loan documents for the same default, or if Assignee exercises a remedy provided in any other such loan document for a default without exercising a remedy provided herein for that same default, then the same shall not be construed as a waiver of Assignee's right to exercise such additional remedies for that same or any subsequent default. Furthermore, Assignee's failure to exercise its right to receive any Rents to which it is entitled by this Assignment shall not affect or be construed as a waiver of Assignee's right to receive any subsequently accruing Rents.

6. Application of Rents, Profits and Income. All Rents collected by Assignee or the receiver each month are to be applied in the following order of priorities:

- A. To payment of all reasonable fees of the receiver approved by the court;
- B. To payment of all prior or current real estate taxes and special assessments with respect to the Property;
- C. To payment of all premiums then due for the insurance required by the provisions of the Mortgage;

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- D. To payment of expenses incurred for normal operation and maintenance of the Property (including, without limitation, a reasonable fee for management of the Property by Assignee or any third party retained by Assignee to manage the Property); and
- E. To Payment of all other obligations under the Note or the Mortgage.

The rights and powers of Assignee under this Assignment and the application of Rents under this Paragraph 6 shall continue and remain in full force and effect both prior to and after commencement of any foreclosure action and after foreclosure sale and until expiration of any redemption period from any foreclosure sale, whether or not any deficiency remains after a foreclosure sale.

7. **Assignee Not to Become Liable.** Assignee is not obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty, or liability of Assignor under the Leases. This Assignment shall not operate to place upon Assignee responsibility for the control, care, management, or repair of the Property or for the performance of any of the terms and conditions of the Leases. Assignee is not responsible or liable for any waste committed on the Property, or for any dangerous or defective condition of the Property, except to the extent that the same arise out of active negligence or willful misconduct by Assignee.

8. **Assignor's Indemnification.** Assignor hereby agrees to indemnify and to hold Assignee harmless from and against any and all claims, demands, liability, loss, or damage, including all costs, expenses, and reasonable attorney's fees asserted against, imposed on, or incurred by Assignee in connection with or as a result of this Assignment or the exercise of any rights or remedies under this Assignment or under the Leases, or by reason of any alleged obligations or undertakings of Assignee to perform or discharge any of the terms, covenants, or agreements contained in the Leases except to the extent that the same arise out of active negligence or willful misconduct by Assignee. If Assignee incurs any such liability, then the amount thereof, together with interest thereon at the default rate of interest as provided in the Note, shall be secured by this Assignment. Assignor shall reimburse Assignee therefor immediately upon demand.

9. **Authorization to Tenant.** Upon notice from Assignee that is exercising the right to collect Rents, as set forth in Paragraph 2 of this Assignment, the tenants under the Leases hereby irrevocably are authorized and directed to pay to Assignee all sums due under the Leases. Assignor hereby consents and directs that said sums shall be paid to Assignee without the necessity of a judicial determination that a default has occurred or that Assignee is entitled to exercise its right pursuant to this Assignment. To the extent such sums are paid to Assignee, Assignor agrees that the tenant has no further liability to Assignor for the same. The signature of Assignee alone is sufficient for the exercise of any rights under this Assignment and the receipt by Assignee alone of any sums received is full discharge and release of any such tenant or occupant of the Property. Checks for all or any part of the Rents collected under this Assignment shall, upon notice from Assignee, be drawn to the exclusive order of Assignee.

10. **Satisfaction.** Upon full satisfaction of the Mortgage, this Assignment automatically shall become null and void and of no further effect. However, Assignee shall, at Assignor's request, note the satisfaction of this Assignment on the instrument evidencing satisfaction of the Mortgage.

11. **Assignee Not a Mortgagee in Possession.** Nothing herein contained and no actions taken pursuant to this Assignment (short of actually taking physical possession of the Property) shall be construed as constituting Assignee as a mortgagee in possession.

12. **Specific Assignment of Leases.** Upon request by Assignee, Assignor agrees to transfer and assign to Assignee any and all specific Leases that Assignee identifies in a written notice to Assignor. Such transfer or assignment by Assignor shall be upon the same or substantially the same terms and conditions as are contained herein. Assignor properly will file or record such assignment, at Assignor's expense, if requested by Assignee.

13. **Unenforceable Provisions Severable.** All rights, powers, and remedies provided in this document are intended to be exercised only to the extent that such exercise does not violate any applicable provision of law and are intended to be limited to the extent necessary to not render this Assignment invalid, unenforceable, or unreasonable under any applicable law. If any term of this Assignment is held to be invalid, illegal, or unenforceable, then the validity of other terms are intended to remain unaffected.

14. **Successors and Assigns.** The covenants and agreements herein contained shall be binding upon and the rights hereunder shall inure to the respective successors and assigns of Assignor and Assignee, including any purchaser at a foreclosure sale.

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