

10
ASSIGNMENT OF LANDLORD'S INTEREST IN RENTS AND LEASES

This Assignment of Landlord's Interest in Rents And Leases, ("Assignment") is made as of the 27TH day of MAY, 1998, by SHEILA CURNEY, A SINGLE PERSON, individual, having address of, 4852-58 S. COTTAGE GROVE, CHICAGO, IL 60615 ("Assignor") to and in favor of SUPERIOR BANK FSB, a Federal Savings Bank organized and existing under the laws of United States of America, having its principal place of business and office at 5600 NORTH RIVER RD., ROSEMONT, ILLINOIS 60018 ("Assignee").

WITNESSETH:

In consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, and as an inducement to Assignee to make the Loan (as hereafter defined) to Assignor, Assignor hereby grants, transfers and assigns to Assignee all of Assignor's right, title and interest in, to and under each and all of the leases, subleases, tenancies, subtenancies, licenses and all other occupancy agreements of any kind now or hereafter affecting the premises described in Schedule A attached hereto and located at street address number 4852-58 S. COTTAGE GROVE, CHICAGO, IL 60615 (the "Premises"), and the rents, issues and profits therefrom, including, without limitation, any security deposits thereunder (collectively, the "Leases").

1. Security. This Assignment is given as security for:

(a) The payment of an indebtedness owing by Assignor to Assignee in the principal amount of \$120,000.00, together with interest thereon and all other sums due or payable in connection therewith (the "Loan"), which Loan is evidenced by a mortgage note (the "Note") and secured by, among other things, a mortgage encumbering the Premises (the "Mortgage"), and further secured in whole or in part by this Assignment, a security interest in fixtures and other property described in the Mortgage and UCC-1 financing statements and such other documents delivered in support of the Loan as are or may be required by Assignee, and

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(b) The performance and discharge of each and every obligation, covenant and agreement of Assignor (i) in this Assignment, (ii) under the Note, the Mortgage and each other document, instrument and agreement evidencing, securing or otherwise relating to the Loan (collectively, the "Loan Documents").

1. Protection of Security. To protect the security of this Assignment, Assignor covenants and agrees as follows:

(b) Assignor shall faithfully abide by, perform and discharge each and every obligation, covenant and agreement under the Leases to be performed by the landlord thereunder.

(c) Assignor shall enforce or secure the performance of each and every obligation, covenant, condition and agreement under each of the Leases to be performed by each respective tenant thereunder at Assignor's sole cost and expense.

(d) Assignor shall appear in and defend, at Assignor's sole cost and expense, any action or proceeding arising under, growing out of or in any manner connected with any of the Leases or the obligations, duties or liabilities of the landlord and each tenant thereunder (including, without limitation, any action or proceedings in respect of failure to maintain services, rent overcharges, harassment, fair market rental appeals or other proceedings to compel the correction of violations affecting the Premise), shall give Assignee written notice of all final decisions rendered in any such proceedings, and shall pay all costs and expenses of Assignee, including, without limitation, reasonable attorneys' fees and disbursements and other professional fees and disbursements, in any action or proceeding concerning any of the Leases in which Assignee may appear.

(e) In the event Assignor fails to make any payment or do any act as provided herein, then Assignee, without notice to or demand on Assignor and without releasing Assignor from any obligation hereunder, may make or do the same (but without the obligation so to make or to do) in such manner and to such extent as Assignee may deem necessary to protect the security hereof, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Assignee, and also the right to perform and discharge each and every obligation, covenant and agreement of the landlord under each of the Leases and to enforce the rights (but without the obligation so to do) of the landlord in respect of each of the Leases and, in exercising any such powers, to pay all necessary or advisable costs and expenses, employ counsel and incur and pay reasonable attorneys' fees and disbursements and other professional fees and disbursements.

(f) Assignor hereby irrevocably constitutes and appoints Assignee as its true and lawful attorney-in-fact (such power of attorney being deemed to be coupled with an interest and irrevocable) to demand, receive and enforce, upon the occurrence of an Event of Default, Assignor's rights with respect to each of the Leases, to make or receive payments under or in respect of each of the Leases and to give appropriate receipts, releases and satisfactions for and on behalf of and in the name of Assignor or,

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at the option of Assignee, in the name of Assignee, with the same force and effect as Assignor could do if this Assignment had not been made. Assignee may, without affecting any of its rights or remedies against Assignor under any of the Loan Documents, exercise its rights under this Assignment as Assignor's attorney-in-fact or in any other manner permitted by law, and in addition, Assignee shall have and possess, without limitation, any and all rights and remedies of a secured party under the Uniform Commercial Code or as otherwise provided by law.

(g) Assignor shall furnish Assignee with a copy of each agreement affecting the renewal, supplementation, amendment, modification of or addition to any of the Leases promptly upon the execution thereof, certified to be a true, correct and complete copy thereof by Assignor.

(h) Assignor shall not modify, amend, cancel or terminate any of the Leases, nor permit any surrender of any of the Leases, nor in any way alter, extend or renew the terms of any of the Leases, without the prior written consent of Assignee in each instance, except as otherwise permitted in any of the Loan Documents.

(i) Assignor shall release, relinquish and surrender unto Assignee, all of Assignor's right, power and authority to amend, modify, cancel, terminate or in any way alter the terms or provisions of the Leases, except as otherwise permitted herein or in any of the Loan Documents or as otherwise required by law. Any attempt on the part of Assignor to exercise any such right, power or authority without the prior written consent of Assignee shall constitute a breach of the terms of this Assignment entitling Assignee to declare all sums secured by this Assignment immediately due and payable.

(j) Assignor shall not anticipate the rents under any of the Leases, nor waive, excuse, condone or in any manner release or discharge any tenant of or from the obligations, covenants, conditions and agreements to be performed by such tenant under such Tenant's Lease, including, without limitation, each tenant's obligation to pay the rental called for under such tenant's Lease in the manner and at the time and place specified in such Lease.

(k) Assignor shall not further assign, mortgage, pledge, transfer, convey or otherwise encumber Assignor's remaining interest in and to any of the Leases, without the prior written consent of Assignee in each instance, except as otherwise permitted in any of the Loan Documents.

3. **Status of Leases.** Assignor represents and warrants to Assignee that (i) there is no currently effective prior assignment of any Lease, (ii) each of the Leases is valid and enforceable; (iii) each of the Leases is in full compliance with all rent control and rent stabilization laws, rules, regulations and requirements applicable thereto, and there are no actions or proceedings (including, without limitation, actions or proceedings in respect of failure to maintain services, rent overcharges or harassment, fair market rent appeals or other proceedings to compel the correction of violations affecting the Premises) which are pending before any court or administrative agency having jurisdiction thereover; (iv) no tenant has any credit, offset or defense to the payment of the maximum lawful rent entitled to be collected in respect of such tenant's lease, including, without limitation, any credit, offset or defense arising in connection with any rent overcharge order, rent reduction order or other order; (v) no party to any Lease is in default

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to any other party thereunder beyond any applicable notice and/or grace period, except as may otherwise be set forth on a separate schedule delivered to Assignee simultaneously herewith; (vi) all covenants, conditions and agreements have been performed as required in each of the Leases to date and (vii) except for the lien of the Loan Documents and such other liens as are expressly permitted thereunder, there are no mortgages, deeds of trust, assignments, pledges or encumbrances of, nor any agreement by Assignor to mortgage, assign, pledge or encumber, all or any part of Assignor's interest in any of the Leases.

4. **Revocable License.** Prior to the occurrence of an Event of Default, Assignor shall have a revocable license to exercise all of its rights pursuant to each of Leases, subject to the terms and conditions of this Assignment.

5. **Leases Subordinate.** Assignor represents and warrants to Assignee that each Lease is and shall remain subject, subordinate and inferior in status to the lien of the Mortgage and any amendment, modifications, substitutions, extensions, renewals, increases, replacements, spreaders, consolidations and readvances of, under and/or secured by the Mortgage.

6. **Reliance by Other Parties.** Assignor agrees that the other parties to each of the Leases may rely conclusively upon any written notice from Assignee to such other parties that an Event of Default has occurred and that thereafter, until further written notice from Assignee to such other parties, Assignee may exercise all of the rights of Assignor under each of the Leases pursuant to this Assignment.

7. **Indemnity.** Assignor shall and does hereby agree to indemnify and hold Assignee free and harmless of, from and against (i) any and all liability, loss, cost, expense or damage which Assignee may or might incur under any of the Leases or under or by reason of this Assignment, (ii) any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to be performed or discharged under any of the terms, covenants or agreements contained in any of the Leases and (iii) any and all liability, loss, cost, expense, damage, claims or demands of any kind whatsoever which Assignee may or might incur or which may be asserted against Assignee by reason of Assignor's failure to comply fully at all times with all rent control, rent stabilization and other rent regulation laws, rules, regulations and requirements applicable to the Leases or to maintain all required services to be provided to the tenants thereunder, or by reason of the entry of any rent overcharge, rent reduction or other order in any rent overcharge, harassment, fair market rent appeal, or other proceedings to compel the correction of violations affecting the Premises or other action or proceeding. This paragraph shall survive the termination of this Assignment.

8. **Payments made by Assignee.** All sums advanced and payments made at any time by Assignee as provided under this Assignment or under applicable law shall bear interest at the rate at which interest accrues on the Note (the "Note Rate") from the date that such sums are advanced or payments are made, as applicable, to and including the date of reimbursement. Any such sums advanced or paid by Assignee, together with interest thereon at the Note Rate shall be payable on demand, shall be secured by this Assignment and the other Loan Documents and shall be added to the liability of Assignor to Assignee in respect of the Loan. The failure of Assignor to so reimburse Assignee shall constitute an Event of Default. This paragraph shall survive the termination of this Assignment. *[The term Note Rate defined above means the "Base Rate" under and as defined in the Note.]*

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9. **Events of Default. Rights upon an Event of Default.** Upon, or at any time after, a default beyond any applicable notice and/or grace period in (a) the payment of any indebtedness secured by this Assignment, (b) the performance of any obligation, covenant or agreement contained in this Assignment, (c) the performance of any obligation, covenant or agreement contained in any of the Loan Documents, or (d) the occurrence of any "Event of Default" under and as defined in any Loan Document, Assignee may, at its option, (i) revoke the license granted to Assignor in Paragraph 4 hereof, (ii) declare all sums secured by this Assignment immediately due and payable and (iii) without notice and without regard to the adequacy of security for the indebtedness secured hereby, with or without bringing any action or proceeding and with or without a receiver (A) enter upon, take possession and manage and operate the Premises or any part thereof, (B) make, cancel, terminate, enforce or modify rents, (C) obtain and evict tenants and fix or modify rents, (D) enter into other leases or agreements with any parties to any of the Leases, (E) do any acts which Assignee deems necessary or advisable to protect the security hereof, (F) take possession and control of any security deposited under any of the Leases and (G) either with or without taking possession of all or any part of the Premises, sue in Assignee's name for, or otherwise collect and receive, such rents, issues and profits, including, without limitation, those past due and unpaid, and collect any security deposited under any of the Leases, and apply the same, less costs and expenses of operation and collection, including, without limitation, reasonable attorneys' fees and disbursements and other professional fees and disbursements, against any indebtedness secured by this Assignment. The entering upon and taking possession of all or any part of the Premises and/or the management thereof and/or any other action taken pursuant hereto shall not cure or waive any default, or waive, modify or effect any notice of default under any of the Loan Documents, or invalidate any act done pursuant to any such notice.

10. **No Obligations.** Nothing contained in this Assignment shall impose or create any obligation or liability whatsoever, expressed or implied, upon Assignee with respect to or in any manner arising out of any of the Leases. Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases or under or by reason of this Assignment (except to the extent that Assignee has actually received payments under any of the Leases as provided herein), and all such obligations, duties and liabilities shall continue to be the responsibility of Assignor as though this Assignment had not been made.

11. **Termination of Assignment.** Upon the indefeasible payment in full of all indebtedness secured by this Assignment and all sums payable under the Loan Documents, this Assignment shall terminate and be of no further force or effect.

12. **No Waiver.** Any waiver by Assignee of any provision of this Assignment or of any right, remedy or power hereunder shall not prevent or estop Assignee from thereafter enforcing such provision, right, remedy or power and the failure or refusal of Assignee to insist in any one or more instances upon the strict performance of any of the terms or provisions of this Assignment by Assignor shall not be construed as a waiver or relinquishment of any such term or provision, but the same shall continue in full force and effect, it being understood and agreed that Assignee's remedies and powers hereunder are and shall be cumulative and are in addition to all other rights, remedies and powers of Assignee at law or in equity or under any of the Loan Documents.

13. **No Release of Other Collateral.** The taking of this Assignment by Assignee shall

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not effect the release of any other collateral now or hereafter held by Assignee as security for the obligations of Assignor or any guarantor or indemnitor under the Loan Documents, nor shall the taking of additional security therefor hereafter or the release of any security or any guarantor or indemnitor or any modification, termination or amendment of any of the Loan Documents effect a release or termination of this Assignment or any of the terms or provisions hereof.

14. **Severability.** In the event that any provision of this Assignment or the application thereof to Assignor or any circumstance in any jurisdiction governing this Assignment shall, to any extent, be invalid or unenforceable under any applicable statute, regulation or rule of law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform to such statute, regulation or rule of law, and the remainder of this Assignment and the application of any such invalid or unenforceable provision to parties, jurisdictions or circumstances other than to whom or to which it is held invalid or unenforceable shall not be affected thereby, nor shall same affect the validity or enforceability of any other provision of this Agreement.

15. **WAIVER OF JURY TRIAL.** ASSIGNOR AND ASSIGNEE EACH HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT.

16. **Notices.** Any notices, demands, certifications, requests, communications or the like ("Notices") required or permitted to be given hereunder shall be deemed to be sufficiently given or served for all purposes when sent by United States registered mail, return receipt requested, postage prepaid, and addressed as follows: (i) if to Assignor, at the address first set forth above, and (ii) if to Assignee at the address first set forth above, Attention: LEGAL DEPARTMENT, and copies to such other address as each party may for itself hereafter designate in writing in like manner for the purpose of receiving notices hereunder. Notice shall be deemed given three (3) business days after delivery to the United States Post Office registry clerk.

17. **Further Assurances.** Assignor agrees that, at any time and from time to time after the execution and delivery hereof, Assignor shall, at its sole cost and expense upon request of Assignee, execute and deliver such further documents and do such further acts and things as Assignee may reasonably request in order to fully reflect the purposes of this Agreement.

18. **Miscellaneous.**

(a) The term "Leases" as used herein means each and all of the Leases hereby assigned and any amendments, modifications, replacements, substitutions, extensions and renewals thereof and any Leases subsequently executed by Assignor affecting all or any part of the Premises.

(b) **THIS ASSIGNMENT HAS BEEN EXECUTED, NEGOTIATED AND DELIVERED IN THE STATE OF ILLINOIS AND, EXCEPT TO THE EXTENT, IF ANY, PREEMPTED BY THE FEDERAL LAW OF THE UNITED STATES, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS, WITHOUT GIVING EFFECT TO THE PRINCIPLES OF CONFLICTS OF LAWS.**

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(c) This Assignment may not be changed, terminated or modified orally or in any manner other than by an agreement in writing signed by the party sought to be charged therewith.

(d) This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(e) This Assignment may be executed in one or more counterparts, each of which shall be deemed an original.

(f) All personal pronouns used in this Assignment, whether used in the masculine, feminine or neuter gender, shall include all other genders and the singular shall include the plural and vice versa.

(g) The captions of the paragraphs of this Assignment are for the purposes of convenience only and are not intended to be a part of this Assignment and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereof.

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IN WITNESS WHEREOF, this Assignment has been duly executed and delivered by the Assignor as of the date first above written.

WITNESS: SHEILA CURNEY

Sheila Curney

SHEILA CURNEY

WITNESS:

STATE OF ILLINOIS)
) :ss.
COUNTY OF COOK)

I, *SAMUEL A. FINCH*, certify that SHEILA CURNEY, A SINGLE PERSON, whose names is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the instrument as their free and voluntary act, for the uses and purposes therein set forth.

Dated MAY 27, 1998

Samuel A. Finch
"OFFICIAL SEAL"
SAMUEL A. FINCH
Notary Public
ILLINOIS

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**ASSIGNMENT OF LANDLORD'S
INTEREST IN RENTS AND LEASES**

SHEILA CURNEY, A SINGLE PERSON
as assignor

to

SUPERIOR BANK, FSB,
as Assignee

Premises: 4852-58 S. COTTAGE GROVE, CHICAGO, IL 60615

Permanent Index Number: 20-10-214-018

Dated as of: MAY 27, 1998

This instrument was prepared by:
LAW OFFICES OF SAMUEL M. EINHORN
5600 N. RIVER RD., ROSEMONT, IL 60018

Record and return by mail to:
SUPERIOR BANK FSB
5600 NORTH RIVER ROAD, ROSEMONT, IL 60018



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EXHIBIT "A"

The East 1/2 of Lot 5 (except the West 41.33 feet) in Bayley's Subdivision of the East 1/2 of the Southeast 1/4 of the Northeast 1/4 of the Northeast 1/4 and the East 1/2 of the Northeast 1/4 of the Southeast 1/4 of the Northeast 1/4 of Section 10, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois

20-10-214-018

PROPERTY ADDRESS 4852-58 S. Cottage Grove, Chicago, IL 60615

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