

REAL ESTATE LEASE

Section 1. BASIC LEASE PROVISIONS: The following terms have the meanings hereinafter set forth used in this Lease.

- (A) LEASE DATE: April 1, 1998
- (B) LANDLORD: Gail D. Brown Trust,
Gail D. Brown, Trustee
- LANDLORD'S ADDRESS: 3438 Wood Owl Circle. #273N
Bradenton, Florida 34210
- (C) TENANT: 203 South Marion Corporation
- TENANT'S ADDRESS: Drechsler-Brown Funeral Home
203 South Marion Street
Oak Park, Illinois 60302
- (D) LEASED PREMISES: 203 South Marion Street
Oak Park, Illinois 60302
- (E) POSSESSION DATE: April 1, 1998
- (F) COMMENCEMENT DATE: April 1, 1998
- (G) LEASE TERM: Seven (7) Lease Years
- (H) ANNUAL BASE RENT:

1st Lease Year	\$50,000.00
2nd Lease Year	\$55,000.00
3rd Lease Year	\$60,000.00
4th Lease Year	\$65,000.00
5th Lease Year	\$70,000.00
6th Lease Year	\$75,000.00
7th Lease Year	\$80,000.00
- (I) MONTHLY INSTALLMENTS OF ANNUAL BASE RENT:

1st Lease Year	\$4,166.67
2nd Lease Year	\$4,583.33
3rd Lease Year	\$5,000.00
4th Lease Year	\$5,416.67
5th Lease Year	\$5,833.33
6th Lease Year	\$6,250.00
7th Lease Year	\$6,666.67

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(J) PERMITTED USE: Operation of a funeral home business.

(K) SPECIAL PROVISION:

Landlord agrees that if Tenant is not in material default beyond any applicable notice and cure periods and is occupying the Leased Premises at the end of Lease Term, and Tenant agrees that Tenant shall buy the Leased Premises for sum of \$1,500,000.00.

The parties hereto hereby enter into this Lease consisting of ten (10) pages and agree to be bound hereby.

LANDLORD:

TENANT:

GAIL D. BROWN TRUST,
GAIL D. BROWN, TRUSTEE

203 SOUTH MARION CORPORATION

*Gail D. Brown, Trustee
by Terrence L. Brown agent*

BY: *John M. Wylie*
Its: President

Attest: *Lynne Williams*
Its: Secretary

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 2. DEMISE OF LEASED PREMISES. Landlord, for and in consideration of the covenants hereinafter contained and made the part of Tenant, does hereby demise and lease to Tenant the Leased Premises described in Section 1 (D) hereof.

Section 3. TERM. The term of this Lease, along with Tenant's obligation to pay rent hereunder, shall commence as set forth in Section 1 (F) hereof, and shall terminate on the last day of the seventh Lease Year, as set forth in Section 1 (G) hereof.

The term "Lease Year" as used herein shall mean a period of twelve (12) consecutive full calendar months, except that, if the Commencement Date is other than the first day of a month, the first Lease Year shall commence on the Commencement date and shall terminate twelve (12) months from the last day of the month in which the Commencement Date occurs. The parties hereto agree that when the Commencement Date becomes certain, as provided herein, they shall complete and execute a supplement hereto to reflect said date.

Section 4. ANNUAL BASE RENT. Tenant shall pay to Landlord as Annual Base Rent for the Leased Premises the amounts set forth in Section 1 (H) hereof, payable in Monthly Installments of Base Rent as set forth in Section 1 (I), and Additional Payments, as set forth herein, on the first day of every calendar month, monthly in advance, beginning on the Commencement Date. Tenant shall pay the Monthly Installment of Base Rent for the second full calendar month of the Lease Term upon execution hereof by Landlord and Tenant. In the event the Commencement Date shall occur on a day other than the first day of the month, the payment of all rentals due for such partial month shall be adjusted for the proportionate fraction of the whole month and shall be due and payable on the Commencement Date. All subsequent rental payments shall be made and become due and payable, in advance, on the first day of each calendar month during the term hereof.

In the event Tenant fails to pay any Monthly Installment of Annual Base Rent, Additional Rent, or any amount treated as Additional Payments hereunder, or other sums hereunder within ten (10) days after the date of such installment or other charge is due, Tenant shall pay to Landlord on demand a late charge in an amount equal to five percent (5%) of such installment or other charge overdue in any month, to help defray the additional cost to Landlord for processing such late payments, and such late charge shall be additional rent hereunder. The provisions for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder at law and shall not be construed as liquidated damages or as limited Landlord's remedies in any manner. In addition, each party shall pay to the other interest on any amounts overdue for thirty (30) days or more, at the ten announced prime rate of First National Bank of Chicago (or its successor), as same may change from time to time, plus 5%.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 6. ADDITIONAL PAYMENTS.

(A) Tenant's Obligation. In addition to Annual Base Rent, Tenant shall pay to Landlord as Additional Rent the real estate taxes for the Leased Premises and all expenses on the Leased Premises, on a net/net lease basis, including any taxes assessed against Landlord for personal property income or use of the Leased Premises, paid or payable in calendar year 1998 (i.e., 1987 taxes, payable in 1998).

(B) Method of Payment of Additional Rent. On the first day of each month, Tenant shall pay Landlord a sum equal to one-twelfth (1/12) of Landlord's reasonable estimate of taxes for the calendar year on which such payment becomes due. At the end of each year Tenant and Landlord shall settle up any over or under payments by Tenant for that year.

Section 7. TENANT'S OBLIGATION TO CONTINUOUSLY OPERATE. Nothing herein contained shall be construed as creating a partnership or any relationship between the parties hereto other than that of Landlord and Tenant. Tenant agrees to operate its business on the Leased Premises continuously during the term hereof, in accordance with the same standards, including operating hours, prevailing in the Oak Park metropolitan area for similar businesses.

Section 8. USE OF PREMISES.

(A) Manner of Use. Tenant will not occupy or use, nor permit any portion of Leased Premises to be occupied or used, for any business or purpose other than that described in Section 1(l) or for any use or purpose which is unlawful in part or in whole, or deemed to in any manner, or which increases the hazard of fire, nor permit anything to be done which will render, void or in any way increase the rate of fire insurance on the Building or its contents, and Tenant shall immediately cease and desist from any such unpermitted use, paying all costs and expense resulting therefrom.

(B) Compliance with Laws. Tenant shall comply with all governmental laws, ordinance and regulations applicable to the use and occupancy of the Leased Premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of any violations or nuisances in or upon, or connected with, the Leased Premises, all at Tenant's sole expense. If, as a result of any change in the governmental laws, ordinances, and regulations, the Leased Premises must be altered to lawfully accommodate Tenant's use and occupancy, such alterations shall be made only with the consent of Landlord and in compliance with the terms of this Lease, but the entire cost shall be borne by Tenant; provided, that, the necessity of Landlord's consent shall in no way create any liability against Landlord for failure of Tenant to comply with such laws, ordinances and regulations. Landlord warrants that Landlord's Work, as hereinafter defined, will comply with applicable law, codes and regulations.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 9. ACCEPTANCE OF LEASED PREMISES. Tenant's taking possession of the Leased Premises on the Possession Date shall constitute Tenant's acknowledgement that the Leased Premises are in good condition, and ready for Tenant's installations. Tenant acknowledges that Landlord made no agreement to perform work in the Premises and that Tenant is accepting the Premises "as is" and without any representation or warranty by Landlord.

Section 10. INSURANCE. Tenant shall, from and after the Possession Date, and during the entire term hereof, keep in full force and effect the following policy of insurance. Landlord shall be named as additional insured or loss payee under the policy listed in 2 and 3 below:

1. Tenant will purchase and maintain term life insurance in the amount owed, with TOM L. R. BROWN as sole beneficiary; and will have, at the expense of Tenant, Dennis Kenny & Co., Ltd. prepare and deliver to Landlord quarterly financial statements until the Real Estate Lease and Security Agreement are paid in full and released;

2. A policy of commercial general liability insurance with respect to the Leased Premises and the business operated by the Tenant thereon under which the limits of liability shall not be less than Three Million Dollars (\$3,000,000.00); and

3. Fire and extended coverage insurance, for the Tenant's fixtures, furnishings and inventory.

Section 11. INDEMNIFICATION.

A. Tenant agrees to indemnify and save harmless Landlord against and from any and all claims by or on behalf of any person or persons, firm or firms, corporation or corporations, arising from the conduct or management of the business conducted on the Leased Premises or from any work or thing done by Tenant on or about the Leased Premises, and will further indemnify and save Landlord harmless against and from any and all claims arising during the term of this Lease from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of the Tenant to be performed pursuant to the terms of this Lease, or arising from any act of negligence of Tenant, or any of its agents, contractors, servants, employees or licensees or sublicensees, on or about the Leased Premises, and from and against all costs, counsel fees, expenses and liabilities arising from any such claim or action or proceeding brought thereon. If any action or proceeding is brought against Landlord by reach of any such claim, Tenant, upon request of Landlord, shall defend such action or proceeding by counsel reasonably satisfactory to Landlord.

B. Landlord agrees to indemnify and save harmless Tenant against and from any and all claims arising during the term of this Lease arising from any act of negligence of

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Landlord, or any of its agents, servants, employees or licensees or sublicensees, on or about the Building, and from and against all costs, counsel fees, expenses and liabilities arising from any such claim or action or proceeding brought thereon. If any action or proceeding is brought against Tenant by reason of any such claim, Landlord, upon request of Tenant, shall defend such action or proceeding by counsel reasonably satisfactory to Tenant.

Section 12. WAIVER OF SUBROGATION. The parties release each other, and their respective authorized representatives, from any claims for damage to the Leased Premises and the Building, and to the fixtures, personal property, Tenant's improvements, and alterations of either Landlord or Tenant in or on the Leased Premises and the Building that are caused by or result from risks insured against under any insurance policies carried by the parties and in force at the time of such damage.

Section 13. MAINTENANCE AND REPAIR. All maintenance and repair shall be the sole responsibility and obligation of the Tenant.

Section 14. UTILITIES. All utility bills shall be the sole responsibility and obligation of the Tenant.

Section 15. LIENS AND CHARGES. Tenant shall be solely and wholly responsible to contractors, subcontractors, materialmen and laborers furnishing and performing material and labor with respect to the Leased Premises (other than with respect to Landlord's Work and other work performed by Landlord and not the responsibility of Tenant). If any lien or charge for the payment of money shall be filed against the Leased Premises or any improvements thereon or against Landlord, or if any form of security agreement shall be filed with respect to equipment or materials used in the construction or alteration of any such improvement, which in any such case shall, in the opinion of counsel selected by Landlord, create a lien or other charge upon or otherwise adversely affect Landlord's interest in the Leased Premises, the Tenant shall, at its own cost and expense, cause the same to be canceled and discharged of record or bonded in a reasonably adequate amount within twenty-one (21) days after notice of filing thereof. Should Tenant fail to furnish such bond or pay any such lien or charge or other cost or expense in connection with the Leased Premises or any improvements thereon, Landlord may, at its option and in addition to any other remedy hereunder, pay the same, in which event the amount of any such payment shall become immediately due and payable by Tenant to Landlord as additional rent hereunder, with interest thereon from the date of payment by Landlord to the date Tenant pays such amount to Landlord at an annual rate of five percent (5%) over the prime rate then in effect at First National Bank of Chicago, or its successor.

Section 16. DEFAULT OF THE TENANT. The following events shall be deemed a "Default hereunder.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(i) Any failure of Tenant to pay any rent due hereunder within ten (10) days after notice that the same is due; or

(ii) Any failure of Tenant to perform any other of the terms, conditions or covenants of this Lease to be observed or performed by Tenant for more than thirty (30) days (forthwith if the Default involves a hazardous condition) after written notice of such Default shall have been given to Tenant unless such Default cannot, by its nature, be cured with such 30 day period, then if Tenant has begun to cure and continues to pursue the cure of such Default with due diligence, it shall not be considered a Default; or

(iii) Tenant or any guarantor of this Lease shall become bankrupt or insolvent, or file any debtor proceedings or take or have taken against Tenant or any guarantor of this Lease in any court pursuant to any statute either of the United States or of any state a petition in bankruptcy or insolvency or for a reorganization or for the appointment of a receiver or trustee of all or a portion of Tenant's or any such guarantor's property and such petition is not dismissed or fully stayed within 120 days of the date of filing; or

(iv) Tenant or any such guarantor makes an assignment for the benefit of creditors, or petitions for or enters into such arrangement; or

(v) Tenant shall vacate or abandon the Leased Premises; or

(vi) Tenant shall suffer this Lease to be taken under any writ of execution.

Section 17. LANDLORD'S REMEDIES.

(A) In the event of a Default by Tenant hereunder, Landlord shall have the following described remedies:

(i) Landlord shall have the immediate right of re-entry and may remove all persons and property from the Leased Premises, without being deemed guilty of trespass, or becoming liable to any party for any loss or damage which may be occasioned thereby unless caused by the negligence or willful misconduct of Landlord, its agent or employees;

(ii) Landlord may terminate this Lease, in which event it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the Leased Premises, reasonable attorneys' fees, and the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the state term, all of which amounts shall be immediately due and payable from Tenant to Landlord. In determining the rent which would be payable by Tenant hereunder subsequent to

UNOFFICIAL COPY

Property of Cook County Clerk's Office

a Default, the annual rent for each year of the unexpired term shall be equal to the future Annual Base Rent, discounted to present value with an interest factor equal to six percent (6%);

(iii) Tenant shall be obligated to pay Landlord all costs and reasonable attorneys' fees incurred by Landlord as a result of any breach by Tenant of the terms hereof; and

(iv) In addition to any remedies granted herein, Landlord shall have all the remedies available at law or in equity.

(B) The Landlord's re-entry, demand for possession, a notice that the tenancy hereby created will be terminated on the date therein named, institution of an action of forcible detainer or ejectment or the entering of a judgment for possession in such action, or any other act or acts resulting in the termination of Tenant's right to possession of the Leased Premises shall not relieve Tenant from Tenant's obligation to pay all rents due hereunder, and other costs incurred during the balance of the Lease Term or any extension thereof, except as herein expressly provided. The Landlord may collect and receive any rent due from the Tenant, and the payment thereof shall not constitute a waiver of or affect any notice or demand given, suit instituted or judgment obtained by Landlord, or be held to waive, affect, change, modify or alter the rights or remedies which Landlord has in equity or at law or by virtue of this Lease.

Section 18. TRANSFER OF LEASED PREMISES. Tenant shall not sell, assign, sublet, mortgage, pledge, encumber or otherwise dispose of the Tenant's interest in the Leased Premises, in whole or in part.

Section 19. SURRENDER OF LEASED PREMISES. Under expiration of the term hereof, Tenant shall purchase from Landlord the Leased Premises and all Tenant's improvements and alterations for the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00).

Section 20. EMINENT DOMAIN. If the Leased Premises or any part thereof shall be taken by eminent domain or disposed of under a threat of an impending taking, by or to any public authority, then the term of this Lease shall cease as to the part so taken, sold or disposed of from the date possession of that part shall be taken or acquired for any public purpose and the rent shall be paid to that day.

Landlord and Tenant shall mutually cooperate in obtaining the highest possible aggregate condemnation award, provided, however, the Tenant's share of any such aggregate award shall not be greater than the unamortized portion of Tenant's costs for improvements constructed by Tenant upon the Leased Premises, figured as of the date of the taking and based on costs used in the calculation of Tenant's federal income tax returns. Expenses and fees shall be shared in proportion to the allocation of the award between Landlord and Tenant.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 21. QUIET ENJOYMENT. Landlord warrants that it has full right and lawful authority to enter into this Lease for the full term hereof, that Tenant will be put in possession of the Leased Premises when Tenant desires and is entitled hereunder, and that Tenant, on paying the rent and performing all of the other terms, conditions and provisions of this Lease to be performed by Tenant, shall peaceably and quietly have, hold and enjoy the Leased Premises for the full term of this Lease, subject to the provisions herein contained.

Section 22. EXCUSE OF LANDLORD'S PERFORMANCE. Anything in this Lease to the contrary notwithstanding, providing such cause is not due to the willful misconduct or gross negligence of the party, neither party shall be deemed in default with respect to the performance of any of the terms, covenants and conditions of this Lease if same shall be due to any force majeure, including but not limited to, civil commotion, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, through act of God or other cause beyond the control of the party. Lack of money shall not be deemed force majeure.

Section 23. INVALIDITY OF PROVISIONS. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affect thereby.

Section 24. SERVICE OF NOTICE. Unless otherwise required by applicable statute, all notices, requests, demands and other communications hereunder shall be in writing and sent by electronic means with facsimile confirmation, or by overnight delivery and shall be deemed to have been duly given upon receipt if by electronic means with telecopier confirmation, or overnight delivery within the time required for the notice to be given to the parties at the addresses set forth below, or to such other addresses as may be furnished by either party to the other. Any such overnight delivery shall be done using Federal Express, United Parcel Service or any other reputable overnight courier.

Notices to Tenant shall be sent to:

Charles M. Williams, President
203 South Marion Corporation
203 South Marion Street
Oak Park, Cook County, Illinois 60302

With a copy to:

Notices to Landlord shall be sent to:

Gail D. Brown Trust,
Gail D. Brown, Trustee
3438 Wood Owl Circle, #273N
Bradenton, Florida 34210

With a copy to:

John Troelstrup
Troelstrup Law Office
1140 Lake Street, Suite 300
Oak Park, Illinois 60301
708/383-8181 (Phone)
708/383-4333 (Facsimile)

Section 25. BINDING OF SUCCESSORS AND ASSIGNS. The terms, conditions and covenants of this Lease shall be binding upon and shall inure to the benefit of each of the parties hereto, their heirs, personal representatives, successors or assigns.

Section 26. AMENDMENTS. No waivers, alterations or modifications of this Lease or any agreements in connection therewith shall be valid unless in writing duly executed by both Landlord and Tenant herein.

Section 27. MERGER. This Lease supercedes any and all other agreements, either oral or in writing between the parties hereto with respect to the demised premises and contains all of the covenants, agreements and other obligations between said parties with respect to said premises. This Lease shall be effective only upon execution hereof by both Landlord and Tenant.

Section 28. GOVERNING LAWS. The laws of the State of Illinois shall govern the validity, performance and enforcement of this Lease.

**THIS LEASE HAS BEEN EXECUTED
BY THE PARTIES ON PAGE 2 HEREOF.**

This document prepared by:
John Troelstrup, Attorney
1140 Lake Street, Suite 300
Oak Park, Illinois 60301



After recording return to:
John Troelstrup, Attorney
1140 Lake Street, Suite 300
Oak Park, Illinois 60301

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

98330822 Page 11 of 11

EXHIBIT A

REAL ESTATE:

LOTS 1, 4, 5 AND 8 IN BLOCK 4 IN SCOVILLE'S AND NILES ADDITION TO OAK PARK, A SUBDIVISION OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN # 16-07-308-008-0000

16-07-308-009-0000

16-07-308-010-0000

16-07-308-011-0000

Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office