

UNOFFICIAL COPY

RECORDATION REQUESTED BY:

Suburban Bank & Trust Company
400 E. Lincoln Highway
New Lenox, IL 60451

99667073

6300/0156 63 001 Page 1 of 9
1999-07-13 10:45:44
Cook County Recorder 37.00

WHEN RECORDED MAIL TO:

Suburban Bank & Trust Company
Loan Operations Center
372 N. Wood Dale Rd.
Wood Dale, IL 60191



99667073

FOR RECORDER'S USE ONLY

Property of Cook County Clerk's Office

This Assignment of Rents prepared by: Eric L. Wilberschied, Asst. Manager
372 N. Wood Dale Rd.
Wood Dale IL 60191

ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS IS DATED JULY 2, 1999, between HELPE ENTERPRISES, LLC, an Illinois Limited Liability Company, whose address is 188 W. Randolph, Ste. 415, Chicago, IL 60601 (referred to below as "Grantor"); and Suburban Bank & Trust Company, whose address is 400 E. Lincoln Highway, New Lenox, IL 60451 (referred to below as "Lender").

ASSIGNMENT. For valuable consideration, Grantor assigns, grants a continuing security interest in, 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:

LOT 24 OF ROYAL HOUGHTON'S SUBDIVISION OF BLOCK 6 OF STATE BANK OF ILLINOIS, A SUBDIVISION OF THE NORTH EAST 1/4 OF THE NORTH WEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

The Real Property or its address is commonly known as 1371 N. Mohawk, Chicago, IL 60610. The Real Property tax identification number is 17-04-122-024-0000.

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.

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 HELPE ENTERPRISES, LLC.

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.

BOX 333-CTI

7815127 USD of
no debt

9/6/99

UNOFFICIAL COPY

07-02-1999

ASSIGNMENT OF RENTS

Page 2

Loan No

(Continued)

99667073

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

Note. The word "Note" means the promissory note or credit agreement dated July 2, 1999, in the original principal amount of \$280,000.00 from Grantor 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 8.250%.

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 UNDER THE NOTE, THIS ASSIGNMENT, AND THE RELATED DOCUMENTS. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Assignment or any Related Document, Grantor shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Grantor's obligations under this Assignment. Unless and until Lender exercises its right to collect the Rents as provided below and so long as there is no default under this Assignment, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents, provided that the granting of the right to collect the Rents shall not constitute Lender's consent to the use of cash collateral in a bankruptcy proceeding.

GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE RENTS. With respect to the Rents, Grantor represents and warrants to Lender that:

Ownership. Grantor is entitled to receive the Rents free and clear of all rights, loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

Right to Assign. Grantor has the full right, power, and authority to enter into this Assignment and to assign and convey the Rents to Lender.

No Prior Assignment. Grantor has not previously assigned or conveyed the Rents to any other person by any instrument now in force.

No Further Transfer. Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Rents except as provided in this Agreement.

LENDER'S RIGHT TO COLLECT RENTS. Lender shall have the right at any time, and even though no default shall have occurred under this Assignment, to collect and receive the Rents. For this purpose, Lender is hereby given and granted the following rights, powers and authority:

Notice to Tenants. Lender may send notices to any and all tenants of the Property advising them of this Assignment and directing all Rents to be paid directly to Lender or Lender's agent.

Enter the Property. Lender may enter upon and take possession of the Property; demand, collect and receive from the tenants or from any other persons liable therefor, all of the Rents; institute and carry on all legal proceedings necessary for the protection of the Property, including such proceedings as may be necessary to recover possession of the Property; collect the Rents and remove any tenant or tenants or other persons from the Property.

Maintain the Property. Lender may enter upon the Property to maintain the Property and keep the same in repair; to pay the costs thereof and of all services of all employees, including their equipment, and of all continuing costs and expenses of maintaining the Property in proper repair and condition, and also to pay all taxes, assessments and water utilities, and the premiums on fire and other insurance effected by Lender on the Property.

Compliance with Laws. Lender may do any and all things to execute and comply with the laws of the State of Illinois and also all other laws, rules, orders, ordinances and requirements of all other governmental agencies affecting the Property.

Lease the Property. Lender may rent or lease the whole or any part of the Property for such term or terms and on such conditions as Lender may deem appropriate.

Employ Agents. Lender may engage such agent or agents as Lender may deem appropriate, either in Lender's name or in Grantor's name, to rent and manage the Property, including the collection and application of Rents.

Other Acts. Lender may do all such other things and acts with respect to the Property as Lender may deem appropriate and may act exclusively and solely in the place and stead of Grantor and to have all of the powers of Grantor for the purposes stated above.

No Requirement to Act. Lender shall not be required to do any of the foregoing acts or things, and the fact that Lender shall have performed one or more of the foregoing acts or things shall not require Lender to do any other specific act or thing.

APPLICATION OF RENTS. All costs and expenses incurred by Lender in connection with the Property shall be for Grantor's account and Lender may pay such costs and expenses from the Rents. Lender, in its sole discretion, shall determine the application of any and all Rents received by it; however, any such Rents received by Lender which are not applied to such costs and expenses shall be applied to the Indebtedness. All expenditures made by Lender under this Assignment and not reimbursed from the Rents shall become a part of the Indebtedness secured by this Assignment, and shall be payable on demand, with interest at the Note rate from date of expenditure until paid.

FULL PERFORMANCE. If Grantor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Grantor under this Assignment, the Note, and the Related Documents, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Property. Any termination fee required by law shall be paid by Grantor, if permitted by applicable law. If, however, payment is made by Grantor, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (a) to Grantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (b) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor) the Indebtedness shall be considered unpaid for the purpose of enforcement of this Assignment and this Assignment shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Assignment or of any note or other instrument or agreement evidencing the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Assignment.

EXPENDITURES BY LENDER. If Grantor fails to comply with any provision of this Assignment, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Assignment also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

DEFAULT. Each of the following, at the option of Lender, shall constitute an event of default ("Event of Default") under this Assignment:

Default on Indebtedness. Failure of Grantor to make any payment when due on the Indebtedness.

Compliance Default. Failure of Grantor to comply with any other term, obligation, covenant or condition contained in this Assignment, the Note or in any of the Related Documents.

Default in Favor of Third Parties. Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's property or Borrower's or any Grantor's ability to repay the Loans or perform their respective obligations under this Assignment or any of the Related Documents.

False Statements. Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Assignment, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

Defective Collateralization. This Assignment or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

Other Defaults. Failure of Grantor to comply with any term, obligation, covenant, or condition contained in any other agreement between Grantor and Lender.

Death or Insolvency. The dissolution (regardless of whether election to continue is made), any member withdraws from the limited liability company, or any other termination of Grantor's existence as a going business or the death of any member, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

Foreclosure, Forfeiture, etc. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves

or a surety bond for the claim satisfactory to Lender.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. 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 Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

Collect Rents. Lender shall have the right, without notice to Grantor, 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 shall have all the rights provided for in the Lender's Right to Collect Section, above. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same 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 exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Mortgagee 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 preceding 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 exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify 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 rights 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 Grantor under this Assignment after failure of Grantor to perform 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 that in Lender's opinion are necessary at any time for 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 rate provided for in the Note. Expenses covered by this 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 or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to 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 of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Applicable Law. This Assignment has been delivered to Lender and accepted by Lender 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. All obligations of Grantor under this Assignment shall be joint and several, and all references to Grantor shall mean each and every Grantor. This means that each of the persons signing below is responsible for all obligations in this Assignment.

No Modification. Grantor 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. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

Severability. 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 that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Assignment in all other respects shall remain valid and enforceable.

Successors and Assigns. Subject to the limitations stated in this Assignment on transfer of Grantor'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 Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Assignment and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Assignment or liability under the Indebtedness.

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

Waiver of Homestead Exemption. Grantor 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.

Waivers and Consents. Lender shall not be deemed to have waived any rights under this Assignment (or under the 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 this Assignment shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Assignment, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

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

GRANTOR:

HELPE ENTERPRISES, LLC

By: 
John D. Colbert, Member

By: 
Joseph T. Georghagan, Member

By: 
Fintan McCarthy, Member

Cook County Clerk's Office

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF ILLINOIS)

) ss

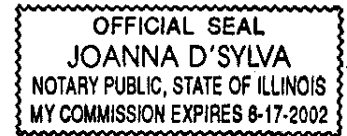
COUNTY OF COOK)

On this 2nd day of July, 19 99, before me, the undersigned Notary Public, personally appeared **John D. Colbert, Member of HELPE ENTERPRISES, LLC; Joseph T. Georghegan, Member of HELPE ENTERPRISES, LLC; and Fintan McCarthy, Member of HELPE ENTERPRISES, LLC**, and known to me to be members or designated agents of the limited liability company that executed the Assignment of Rents and acknowledged the Assignment to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Assignment and in fact executed the Assignment on behalf of the limited liability company.

By Joanna D'Sylva Residing at Chicago, Illinois

Notary Public in and for the State of Illinois

My commission expires June 7, 2002



COOK County Clerk's Office

UNOFFICIAL COPY

YEAR 2000 COMPLIANCE AGREEMENT 99667073

Principal	Loan Date	Maturity	Loan No	Call	Collateral	Account	Officer	Initials
\$280,000.00	07-02-1999	07-02-2000		CRE01K	81		DSR	

References in the shaded area are for Lender's use only and do not limit the applicability of this document to any particular loan or item.

Borrower: HELPE ENTERPRISES, LLC (TIN: 36-4302509)
 188 W. Randolph, Ste. 415
 Chicago, IL 60601

Lender: Suburban Bank & Trust Company
 New Lenox
 400 E. Lincoln Highway
 New Lenox, IL 60451

THIS YEAR 2000 COMPLIANCE AGREEMENT DATED JULY 2, 1999, IS MADE BY HELPE ENTERPRISES, LLC (referred to below as "Borrower"), and Suburban Bank & Trust Company (referred to below as "Lender").

It is recognized that the potential Year 2000 problems, relating to computers, hardware, microchips, software, and additional software applications utilized by Borrower in Borrower's business, or by Borrower's suppliers, vendors, and Borrower's customers may result in unexpected and material adverse changes in Borrower's business or financial condition. For example, these problems may create, destroy, delay or create inaccuracies in: (a) the billing process, thus affecting Borrower's cash flow; (b) the production and the inventory process, thus affecting Borrower's ability to provide or deliver goods or services to Borrower's customers; or (c) the ability to manage the business due to Year 2000 Compliance failures of management systems or processes. In addition, sales of goods or services manufactured or handled by Borrower will be impaired if the goods or services are not Year 2000 Compliant.

Borrower has an obligation to evaluate and address the Year 2000 risks to Borrower's business, develop appropriate risk controls to minimize or manage that risk, and, if a Year 2000 risk is identified, to adopt a plan to eliminate the risk before December 31, 1999.

Federal Banking Regulations require financial institutions to identify those of its customers whose failure to become Year 2000 compliant would pose a material risk or threat to the safety and soundness of the financial institution because of (a) the overall relationship between the customer and the institution, (b) the complexity of the customer's technology systems, (c) the degree of reliance by the customer on such systems, (d) the dependence of the customer on third-party providers of data processing services or products, (e) the nature of the collateral for customer's indebtedness to the institution, (f) the nature of the customer's business or products manufactured, sold, leased or licensed by customer. Banking regulations also require financial institutions to obtain assurances from those identified customers that the customer is aware of the Year 2000 risks and has or is implementing plans to manage and eliminate the Year 2000 risks. Borrower has been identified as a business that is faced with material Year 2000 risks, which, if not resolved, could cause Borrower to fail or suffer significant financial reverses and pose a material risk or threat to the safety and soundness of Lender.

Now therefore and as additional consideration to induce Lender to grant or continue to grant credit accommodations to Borrower, Borrower, by executing this Agreement, hereby represents, warrants, and agrees with Lender as follows:

DEFINITIONS. The following words shall have the following meanings when used in this Agreement.

Agreement. The word "Agreement" means this Year 2000 Compliance Agreement, as this Year 2000 Compliance Agreement may be amended or modified from time to time, together with all exhibits and schedules attached to this Year 2000 Compliance Agreement from time to time.

Borrower. The word "Borrower" means HELPE ENTERPRISES, LLC.

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

Loan. The word "Loan" or "Loans" means and includes without limitation any and all commercial loans and financial accommodations from Lender to Borrower, whether now or hereafter existing, and however evidenced, including without limitation those loans and financial accommodations described herein or described on any exhibit or schedule attached to this Agreement from time to time.

Indebtedness. The word "Indebtedness" means and includes without limitation all Loans, together with all other obligations, debts and liabilities 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 or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated; whether Borrower may be liable individually or jointly with others; whether Borrower may be obligated as a guarantor, surety, or otherwise; 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.

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.

Year 2000 Compliant. The words "Year 2000 Compliant" mean, with regard to any entity, that all of the computer, hardware, embedded microchips, software, and other processing capabilities utilized by the business operations are able to interpret and manipulate data correctly on all calendar dates for the 20th and 21st century.

REPRESENTATIONS AND WARRANTIES. Borrower represents and warrants to Lender, as of the date of this Agreement, as of the date of each disbursement of Loan proceeds, as of the date of any renewal, extension or modification of any Loan, and at all times any Indebtedness exists:

Borrower's Business Will Be Year 2000 Compliant. All the computers, hardware, microchips, software, and additional software applications utilized by Borrower in the conduct of Borrower's business will record, store, process, and present calendar dates falling on or after January 1, 2000, and all information pertaining to such calendar dates, in the same manner and with the same functionality as the Software does respecting calendar dates falling on or before December 31, 1999. Further, Borrower warrants and represents that the computers, hardware, microchips, software, and additional software applications shall have all appropriate capabilities and compatibility for operation and for handling century-aware or Year 2000 compliant data. Borrower also warrants and represents that the data-related user interface functions, data-fields, and data-related program instructions and functions of the computers, hardware, microchips, software, and additional software applications include the correct indication or calculation of the century and will be Year 2000 Compliant before December 31, 1999.

Borrower's Key Suppliers, Vendors, and Customers Will Be Year 2000 Compliant. The key suppliers, vendors, and customers which are material to Borrower's business operations will be Year 2000 Compliant before December 31, 1999.

Borrower's Goods and Services. Any computers, hardware, microchips, software, and additional software applications goods and services which will be sold or leased by Borrower's business to Borrower's customers will be Year 2000 Compliant before December 31, 1999.

Required Notices. Borrower has provided Lender any communication, written or oral, from any individual, entity, or consultant, indicating that Borrower's business has any Year 2000 problems or compliance issues and warrants that Borrower has not received any communication, written or oral, from any material suppliers, vendors or customers with Year 2000 problems or compliance issues which affect Borrower's business.

AFFIRMATIVE COVENANTS. Borrower hereby covenants with Lender as follows:

Borrower's Business Will Be Year 2000 Compliant. Borrower's business will be Year 2000 Compliant by June 1, 1999.

UNOFFICIAL COPY

Borrower's Goods and Services. Any computers, hardware, microchips, software, and additional software applications goods and services which will be sold or leased by Borrower's business to Borrower's customers and will be Year 2000 Compliant by _____.

Year 2000 Compliant. On the basis of a comprehensive inventory, review and assessment undertaken by Borrower of Borrower's computers, hardware, microchips, software, and additional software systems utilized by Borrower's business, and in conjunction with an extensive inquiry of Borrower's key suppliers, vendors and customers, Borrower, and Borrower's key suppliers, vendors and customers, are Year 2000 Compliant.

Borrower's Year 2000 Compliance Plan. Borrower has submitted Borrower's Year 2000 Compliance Plan which is attached to this Agreement as an Exhibit and which is incorporated in this Agreement by reference. Borrower agrees, represents, and warrants that Borrower will complete the plan and will be Year 2000 Compliant by June 1, 1999.

Access to Records. Borrower shall deliver to Lender, at Lender's request, copies of any and all documents in Borrower's possession now and in the future to which Borrower has access relating to Year 2000 problems, issues or matters, including without limitation results of Year 2000 analyses, or studies, audit reports and other consultants' studies and reports.

Notices. Borrower shall immediately notify Lender upon becoming aware of any of the following:

- (a) Any communication, written or oral, that Borrower's computers, hardware, microchips, software, and additional software applications are not Year 2000 Compliant.
- (b) Any communication, written or oral, that key suppliers, vendors, and customers, which are material to Borrower's business operations, are not Year 2000 Compliant, and shall advise Lender of what impact this will have on Borrower's business.
- (c) Any matters relating to Year 2000 that would give a reasonably prudent Lender cause to be concerned that the value of Lender's security interest in the collateral may be reduced, threatened or impaired, or that Lender's ability to foreclose on the collateral securing the Indebtedness may be threatened or impaired.

Inspections. Lender reserves the right to inspect and investigate Borrower's Year 2000 progress, problems and compliance issues at any time and from time to time, and Borrower shall cooperate fully with Lender in such inspection and investigations. If Lender at any time has reason to believe that Borrower is not meeting all efforts and plans to ensure that the business will be Year 2000 Compliant, Lender may require Borrower to furnish Lender, at Borrower's expense, a Year 2000 audit or assessment with respect to the matters of concern to Lender. Such audit or assessment shall be performed by a qualified consultant approved by Lender. Any inspections or tests made or requested by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person.

Litigation. Borrower shall promptly inform Lender in writing of (a) all material adverse changes in Borrower's financial condition, and (b) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions relating to Year 2000 Compliance failures which could materially affect the financial condition of Borrower.

BORROWER'S WAIVER AND INDEMNIFICATION. Borrower hereby indemnifies and holds harmless Lender and Lender's officers, directors, employees and agents, and Lender's successors and assigns and their officers, directors, employees and agents against any and all claims, demands, losses, liabilities, costs and expenses (including without limitation attorney's fees at trial and on any appeal or petition for review) incurred by such person arising out of or relating to any investigatory or remedial action involving any Year 2000 issues on account of the breach of any covenant contained in this Agreement, or any costs incurred by Lender pursuant to this Agreement. In addition to this indemnity, Borrower hereby releases and waives all present and future claims against Lender for indemnity or contribution in the event Borrower becomes liable for any failure under Year 2000 Compliant standards.

DEFAULT. Borrower will be in default if any of the following happen: (a) if Borrower defaults under any term in this Agreement, or any Related Documents or under any other agreement Borrower has with the Lender, (b) a material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired, (c) any representation or statement made or furnished to Lender by Borrower or on Borrower's behalf is false or misleading in any material respect either now or at the time made or furnished, (d) failure to meet the deadlines required in this Agreement to be Year 2000 Compliant or a reasonable likelihood that Borrower cannot be Year 2000 Compliant on or before December 31, 1999.

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

Applicable Law. This Agreement has been delivered to Lender and accepted by Lender in the State of Illinois. If there is a lawsuit, Borrower agrees upon Lender's request to submit to the jurisdiction of the courts of DuPage, Cook or Will County, the State of Illinois. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Attorneys' Fees; Expenses. Borrower agrees to pay upon demand all of Lender's costs and expenses, including legal expenses, incurred in connection with the enforcement of this Agreement. Lender may pay someone else to help enforce this Agreement, and Borrower shall pay the costs and expenses of such enforcement. Expenses covered by this 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 or injunction), appeals and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees, and title insurance, to the extent permitted by applicable law. Borrower also shall pay all court costs and such additional fees as may be directed by the court.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

Successors and Assigns. All covenants and agreements contained by or on behalf of Borrower shall bind its successors and assigns and shall inure to the benefit of Lender, its successors and assigns. Borrower shall not, however, have the right to assign its rights under this Agreement or any interest therein, without the prior written consent of Lender.

Time Is of the Essence. Time is of the essence in the performance of this Agreement.

Waivers and Consents. Lender shall not be deemed to have waived any rights under this Agreement (or under the 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 this Agreement shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Borrower, shall constitute a waiver of any of Lender's rights or any of Borrower's obligations as to any future transactions. Whenever consent by Lender is required in this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS AGREEMENT, AND EACH AGREES TO ITS TERMS. NO FORMAL ACCEPTANCE BY LENDER IS NECESSARY TO MAKE THIS AGREEMENT EFFECTIVE.

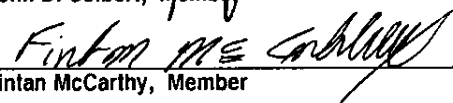
UNOFFICIAL COPY

99667073

BORROWER:
HELPE ENTERPRISES, LLC

By: 
John D. Colbert, Member

By: 
Joseph T. Geofghegan, Member

By: 
Fintan McCarthy, Member

LASER PRO, Reg. U.S. Pat. & T.M. Off., Ver. 3.26c (c) 1999 CFI ProServices, Inc. All rights reserved. [IL-C50 F3.26 HELPO2N1.LN R2.OVL]

Property of Cook County Clerk's Office