

ASSIGNMENT OF LEASES AND RENTS

6499/0140 63 001 Page 1 of 3
1999-07-21 11:44:38
Cook County Recorder 47.00

THIS AGREEMENT is made and entered into as of the 15 day of July, 1999, by and between [Borrower], an Illinois corporation ("Borrower"), and UNION FEDERAL SAVINGS BANK OF INDIANAPOLIS, a national banking organization organized under the laws of the United States ("Lender").

RECITAL

This Assignment is made for the purpose of securing: ((a) the payment of the indebtedness evidenced by a certain promissory note and any amendments, extensions or renewals thereof, in the original principal sum of Two Million and 00/100 Dollars (\$2,000,000.00), made by Borrower to Lender of even date herewith (the "Note"), and secured by a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture filing (the "Mortgage") of the interest of Borrower in that certain real property described on Exhibit A (the "Premises"); (b) payment of all other sums becoming due to Lender under the provisions of this Assignment, the Note, the Mortgage and any other instrument evidencing or securing the indebtedness, including all guaranties thereof (collectively, the "Loan Documents"); and (c) the performance and discharge of each obligation, covenant and agreement of Borrower contained herein or in any other Loan Document.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agrees as follows:

1. **Assignment of Leases.** Borrower hereby absolutely and unconditionally assigns, bargains, sells, transfers, conveys, sets over and delivers unto Lender all right, title and interest of the Borrower in, to, and under all leases with respect to the Premises whether now in existence or hereafter entered into and all guaranties, amendments, extensions and renewals of said leases and any of them (collectively, the "Leases") and all rents, income and profits which may now or hereafter be or become due or owing under the Leases, and any of them, on or account of the use of the Premises.

2. **Borrower's Covenants.** Borrower covenants and agrees with Lender as follows:

(a) That the sole ownership of lessor's interest in the Leases is, or, as to future Leases, shall be vested in Borrower, and that Borrower has not, and shall not, perform any acts or execute any other instruments which might prevent Lender from fully exercising its rights under any of the terms, covenants and conditions of this Agreement.

(b) That the Leases are and shall be valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, cancelled, renewed or surrendered nor have any rents thereunder been collected more than one month in advance nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by Lender.

(c) That none of the Leases shall be altered, modified, amended, terminated, cancelled, extended, renewed or surrendered nor will rental be collected more than one month in advance nor will any term or condition thereof be waived nor shall Borrower consent to any assignment or subletting by any lessee thereunder without the prior written approval of Lender.

(d) That there are no defaults now existing under any of the Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.

(e) That Borrower shall give prompt notice to Lender of any notice received by Borrower claiming that a default has occurred under any of the Leases on the part of the Borrower, together with a complete copy of any such notice.

(f) That each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

(g) That Lender will not permit any Lease to become subordinate to any lien other than the lien of the Mortgage.

(h) There shall be no merger of the Leases, or any of them, by reason of the fact that the same person may acquire or hold directly or indirectly the Leases, or any of them, as well as the fee estate in the Premises or any interest in such fee estate.

3. **Absolute Assignment.** This Assignment is an absolute assignment and is effective immediately. This Assignment is not merely the granting of a security interest as additional collateral, but is an absolute assignment vesting Lender with full and clear title to the Leases as of the date hereof. Notwithstanding the foregoing, until such time as Lender provides the tenants under the Leases (hereinafter referred to as the "Tenants") with written notice requesting the Tenants to pay all rents and other amounts due under the Leases directly to Lender and to perform any of the Tenant's respective obligations under the Leases directly for the benefit of Lender (which notice is hereinafter referred to as a "Notice"), Borrower may receive, collect and enjoy the rents, income and profits accruing from the Premises.

4. **Lender's Powers and Rights.** At any time while the indebtedness evidenced by the Note is outstanding, Lender may, at its option after service of a Notice, receive and collect all such rents, income and profits as they become due, from the Premises and under any and all Leases of all or any part of the Premises. Lender shall thereafter continue to receive and collect all such rents, income and profits, as long as Lender deems such receipt and collection to be necessary or desirable, in Lender's sole discretion.

Borrower hereby irrevocably appoints Lender its true and lawful attorney in its own name and capacity or in the name and capacity of Borrower, from and after the service of a Notice, to demand, collect, receive and give complete acquittance for any and all rents, income and profits accruing from the Premises, and at Lender's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, either in its own name or in the name of Borrower or otherwise, which Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Tenants are hereby expressly authorized and directed to pay any and all amounts due Borrower pursuant to the Leases to Lender or such nominee as Lender may designate in writing delivered to and received by such Tenants who are expressly relieved of any and all duty, liability or obligation to Borrower with respect to all payments so made.

From and after service of a Notice, Lender is hereby vested with full power to use all measures, legal and equitable, deemed by Lender necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Lender or its designee to enter upon the Premises, or any part thereof, with or without force and with or without process of law and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Borrower relating thereto, and may exclude the Borrower, its agents and servants, wholly therefrom. Borrower herein grants full power and authority to Lender to exercise all rights, privileges and powers herein granted at any and all times after service of a Notice, without further notice to Borrower, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the Premises and of any indebtedness or liability of Borrower to Lender, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the Premises or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment, and of principal and interest payments due from Borrower to Lender on the Note, the Mortgage or any other Loan Documents, all in such order as Lender may determine. Lender shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of the lessor under any of the Leases and does not assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Borrower in the Leases. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Lender, nor shall it operate to make Lender liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the Premises by any Tenant or any other person, or for any dangerous or defective condition of the Premises or for any

7822022 01 E.S 282

UNOFFICIAL COPY

STATE OF ILLINOIS
CLERK OF THE SUPREME COURT

Property of Cook County Clerk's Office

173-022 100

UNOFFICIAL COPY

99696039

negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any Tenant, licensee, employee or stranger.

5. **Non-Waiver.** Waiver of or acquiescence by Lender of any default by Borrower, or failure of Lender to insist upon strict performance by Borrower of any covenants, conditions or agreements in this Assignment, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

6. **Rights and Remedies Cumulative.** The rights and remedies of Lender under this Assignment are cumulative and are not in lieu of, but are in addition to any other rights or remedies which Lender shall have under the Loan Documents, or at law or in equity.

7. **Severability.** If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

8. **Notices.** Any notice, request, demand, statement or consent given or to be made upon either party hereto and in accordance with the provisions of this Agreement shall be sent by registered or certified mail, postage prepaid, return receipt requested, and shall be deemed given two (2) days after postmarked when addressed as follows:

If to Lender: Union Federal Savings Bank of Indianapolis
45 North Pennsylvania Street
P.O. Box 6054
Indianapolis, Indiana 46206-6054
Attn: Business Lending Department

If to Borrower: Gilkes Real Estate Company
4310 West 166th Street
Oak Forest, Illinois 60452
Attn: Beverly J. Gilmore

Each party may designate a change of address by notice to the other party, given at least ten (10) days before change of address is to become effective.

9. **Heirs, Successors and Assigns.** The terms "Borrower" and "Lender" shall be construed to include the respective heirs, personal representatives, successors and assigns of Borrower and Lender.

10. **General.** This Assignment may not be amended, modified or changed nor shall any waiver of any provisions hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. The captions preceding the text of the Paragraphs of the Assignment are inserted only for convenience of reference and shall not constitute a part of this Assignment nor shall they in any way affect its meaning, construction or effect.

IN WITNESS WHEREOF, Borrower has caused this instrument to be signed and sealed as of the date first above written.

Gilkes Real Estate Company

By:

Beverly J. Gilmore
Beverly J. Gilmore, President

STATE OF Illinois)
COUNTY OF Cook)) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Beverly J. Gilmore, the President of Gilkes Real Estate Company, who having been duly sworn, acknowledged the execution of the foregoing "Assignment of Rents and Leases" for and on behalf of said Gilkes Real Estate Company.

Witness my hand and Notarial Seal this 15 day of July, 1999.

Reginald Cunningham
Notary Public Residing in _____ County

My Commission Expires:

Reginald Cunningham
(Printed Name)

This instrument prepared by: Kathleen L. Kimbrell, 45 N Pennsylvania St #620, Indianapolis, Indiana, 46204.



EXHIBIT A
Legal Description

PARCEL 1

Lots 30, 31, 32 and 33 in Oak Forest Industrial Park Unit No. 3, being a subdivision of part of the Southeasterly 1/4 South of the Indian boundary line, of Section 22, Township 36 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 2

Lot 2 in Corporate Center of Oak Forest being a subdivision of part of the Southwest fractional 1/4 of Section 22 South of the Indian boundary line, all in Township 36 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 3

That portion of the West 50 feet of the East half of fractional Section 22, South of the Indian boundary line, Township 36 North, Range 13 East of the Third Principal Meridian, Lying South of the westerly extension of the North line of Lot 30, in Oak Forest Industrial Park Unit No. 3 and lying North of a line drawn from the Southwest corner of said Lot 30 in Oak Forest Industrial Park Unit No. 3, to the Southeast corner of Lot 2 in Corporate Center of Oak Forest, A Subdivision of Part of the Southwest fractional Quarter of said Section 22, all in Cook County, Illinois.

Pin:

28-22-403-010

28-22-404-002

28-22-425-012

28-22-425-013

28-22-425-014

28-22-425-015

Prepared by
and mail to:

Shapiro & Kleishman
Michael H. Wark, Esq.
4201 Lake Cook Road
Northbrook, IL 60062