



MISC 2005071735



JUN 22 2005 09:38 P 6

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 FEE 21.00 FD 61-11239  
 6 BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP *[initials]*  
 2 DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
6/22/2005 09:38:58.50



2005071735

[FOR RECORDING PURPOSES]

### ASSIGNMENT OF LEASES AND RENTS

KNOW ALL MEN BY THESE PRESENTS,

THAT WHEREAS, FLEXO LLC, a Nebraska limited liability company (hereinafter called the "undersigned"), has executed a Deed of Trust, Assignment of Rents, Security Agreement and Financing Statement (hereinafter called the "Deed of Trust") of even date herewith for the benefit of THE OHIO NATIONAL LIFE INSURANCE COMPANY, an Ohio corporation (hereinafter called "Beneficiary"), conveying the real estate legally described on Exhibit "A" attached hereto and incorporated by this reference, together with all improvements, buildings and structures now or hereafter existing thereon (hereinafter called the "Premises") and given to secure a Promissory Note (hereinafter called the "Note") made by the undersigned to the order of Beneficiary in the principal sum of Six Hundred Seventy-Five Thousand Dollars (\$675,000.00); and

WHEREAS, Beneficiary is the legal owner and holder of the Note and is the beneficiary under the Deed of Trust; and

WHEREAS, the undersigned is desirous of further securing the indebtedness now due to Beneficiary under the Note and as otherwise delineated in the Deed of Trust.

NOW THEREFORE, as further and additional security for the payment and performance of all of the terms, provisions, covenants and agreements contained in the Note and in the Deed of Trust, the undersigned does hereby sell, assign and transfer unto Beneficiary all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or of any agreement for the use or occupancy of the Premises, or any part thereof, together with all leases and occupancy agreements resulting therefrom, or pertaining thereto, it being the intention hereby to establish an absolute transfer and assignment of all the said leases and agreements and all the avails thereof to Beneficiary, and the undersigned does hereby irrevocably appoint Beneficiary its true and lawful attorney in its name and stead (with or without taking possession of the Premises) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due

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or that hereafter may become due under each and all the leases and agreements, written or verbal, or other tenancy existing or which may hereafter exist with respect to the Premises with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Beneficiary would have upon taking possession of the Premises pursuant to the provisions hereinafter set forth.

The undersigned represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than one installment in advance and that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced or discounted or otherwise discharged or compromised by the undersigned, except in the normal and ordinary course of collection of delinquent rents. The undersigned waives any right of setoff against any person in possession of any portion of the Premises. The undersigned agrees that it will not further assign any of the rents or profits of the Premises.

Nothing herein contained shall be construed as constituting Beneficiary a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Beneficiary pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted to Beneficiary, no liability shall be asserted or enforced against Beneficiary, all such liability being expressly waived and released by the undersigned.

The undersigned further agrees to execute and deliver such further assurances and assignments of the rents, issues, profits and leases of or in the Premises as Beneficiary may from time to time require.

This Assignment of Leases and Rents shall not be deemed to affect or impair any rights which Beneficiary may have under the Note, the Deed of Trust, or any other document or agreement given to secure the Note.

Prior to the occurrence of an Event of Default (as defined in the Deed of Trust), the undersigned shall have a revocable license to collect all rents, issues and profits from the Premises. Immediately upon the occurrence of an Event of Default, such license shall be deemed revoked and Beneficiary or the holder of the Note shall at once become entitled to the possession, use and enjoyment of the Premises and to the rents, issues and profits therefrom, and the undersigned agrees to surrender to Beneficiary and Beneficiary shall be entitled to take actual possession of the Premises, or any part thereof, personally or by its agents or attorneys, and Beneficiary, in its discretion, may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all the documents, books, records, papers and accounts of the undersigned, or the then owner of the Premises relating thereto, and may exclude the undersigned, its agents or servants, wholly therefrom and may as attorney in fact or agent of the undersigned, or in its own name as Beneficiary and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion, or in the discretion of its successors or assigns, may be deemed proper or necessary to enforce payment of the avails, rents and profits of the Premises, including actions for the recovery of rent, and actions of unlawful detainer, hereby granting full power and authority to exercise each and every one of the

rights, privileges and powers herein granted at any and all times hereafter, without notice to the undersigned, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle the undersigned to cancel the same, to elect to disaffirm any lease or sublease made subsequent to the aforesaid Deed of Trust or subordinated to the lien thereof, to make all necessary or proper repairs, renewals, replacements, alterations, betterments, additions and improvements to the Premises that may seem judicious, in its discretion, insure and reinsure the same for all risks incidental to Beneficiary's possession, operation and management thereof and to receive all such avails, rents, issues and profits.

Beneficiary shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases or rental agreements relating to the Premises, and the undersigned shall, and does hereby, agree to waive all claims against Beneficiary for any and all loss or damage which the undersigned may or might incur under any leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against the undersigned by reason of any failure to Beneficiary to perform or discharge any obligations, duties or liabilities under any of such leases. The undersigned agrees to indemnify and hold harmless Beneficiary from any loss, damage, cost or expense sustained, suffered or incurred by Beneficiary in connection with any leases or rental agreements relating to the Premises, excluding only such loss, damage, cost or expense resulting from Beneficiary's own gross negligence or willful misconduct.

Beneficiary, in the exercise of the rights and powers conferred upon it by this Assignment of Leases and Rents, shall have full power to use and apply the avails, rents, issues and profits of the Premises to payment of or on account of the following, in such order as Beneficiary may determine:

- (a) to the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Beneficiary and its agent or agents, if management be delegated to an agent or agents, and it shall also include lease commissions and other compensation and reimbursement of expenses in seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums for insurance;
- (b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises;
- (c) to the payment of all repairs, renewals, replacements, alterations, additions or betterments and improvements of the Premises, including the cost from time to time of installing or replacing all equipment therein, and of placing the Premises in such condition as will, in the judgment of Beneficiary, make it readily rentable; and
- (d) to the payment of any indebtedness evidenced by the Note or otherwise secured by the Deed of Trust, or any deficiency which may result from any foreclosure sale.

Upon the occurrence of an Event of Default under the Deed of Trust, Beneficiary shall have the right to notify all tenants and occupants of the Premises to pay Beneficiary all rents due or to become due and, without limiting the foregoing, the undersigned specifically authorizes and instructs each and every present and future lessee or tenant of the whole or any part of the Premises to pay all unpaid rental to Beneficiary upon receipt of demand from Beneficiary.

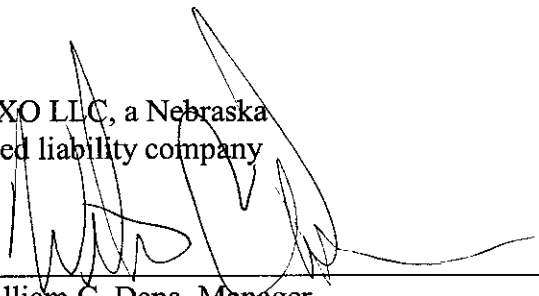
It is understood and agreed that the provisions set forth in this Assignment of Leases and Rents shall be deemed a special remedy given to Beneficiary, and shall not be deemed exclusive of any of the remedies granted or allowed by law or in the Deed of Trust, but shall be deemed an additional remedy and shall be cumulative with all other remedies set forth in the Deed of Trust or allowed by law.

Whenever the word "undersigned" is mentioned herein, it is hereby understood that the same includes and shall be binding upon the successors and assigns of the undersigned and any party or parties holding title to the Premises by, through or under the undersigned. All the rights, powers, privileges and immunities herein granted and assigned to Beneficiary shall also inure to its successors and assigns, including all holders from time to time of the Note.

It is expressly understood that no judgment or decree which may be entered on any indebtedness secured or intended to be secured by the Deed of Trust shall operate to abrogate or lessen the effect of this Assignment of Leases and Rents, but that the same shall continue in full force and effect until the payment and discharge of all indebtedness secured by the Deed of Trust, in whatever form the said indebtedness may be and until the indebtedness secured by the Deed of Trust shall have been paid in full and all bills incurred by virtue of the authority contained therein or herein have been fully paid out of the rents, issues, and profits of the Premises, or by the undersigned, or until such time as this Assignment of Leases and Rents may be voluntarily released. This Assignment of Leases and Rents shall also remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree or trustee's sale, unless the indebtedness secured by the Deed of Trust is fully satisfied before the expiration of any period of redemption.

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Leases and Rents to be executed and delivered on this 22<sup>d</sup> day of June, 2005.

FLEXO LLC, a Nebraska  
limited liability company

By   
William C. Dana, Manager

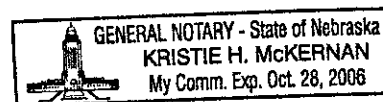
STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

On this 17<sup>th</sup> day of June, 2005, before me, a notary public in and for said county and state, personally came WILLIAM C. DANA, Manager of FLEXO LLC, a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.

[SEAL]

Kristie H. McKernan  
Notary Public



**EXHIBIT "A"**

Lots 27 and 28, in Empire Park Replat II, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska