

INSTR. No. 1354 FILED FOR RECORD THE 8th DAY OF January 1991 AT 10:55 MARILEE S. MONROE Recorder
 RECORDING FEE \$ 20.00 O'CLOCK A.M. BOOK 47 PAGE 79-82 By Nora Howe Deputy

WHEN RECORDED MAIL TO:
 First State Bank
 26 W. Congress
 Nora Springs, Iowa 50458

91 JAN -8 AM 10:55
 MARILEE S. MONROE
 COUNTY RECORDER

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE OR

ASSIGNMENT OF RENTS

THIS ASSIGNMENT OF RENTS IS DATED JAN 7 1991 between DoMor Construction, a Minnesota general partnership, whose address is P.O. Box 105, Wykoff, Minn. 55990 (referred to below as "Grantor"); and First State Bank, Nora Springs, Iowa, whose address is 26 W. Congress St., Nora Springs, Iowa 50458 (referred to below as "Lender").

ASSIGNMENT. For valuable consideration, Grantor assigns and conveys to Lender all of Grantor's right, title and interest in and to the Rents from the following described Property located in FLOYD County, State of Iowa

(See attached Exhibit "A")

The Real Property or its address is commonly known as, the Rudd Post Office in Rudd, Iowa.

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 Iowa Uniform Commercial Code.

- Assignment. The word "Assignment" means this Assignment of Rents between Grantor and Lender, and includes without limitation assignments and security interest provisions relating to the Rents.
- Event of Default. The words "Event of Default" mean and include any of the Events of Default set forth below in the section titled "Events of Default."
- Grantor. The word "Grantor" means DoMor Construction, a Minnesota general partnership.
- Indebtedness. The word "Indebtedness" means all principal, interest and late fees 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. In addition to the Note, the word "Indebtedness" includes all obligations, debts and liabilities, plus interest thereon, of Grantor or any one or more of them, whether arising now or later, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, absolute or contingent, liquidated or unliquidated and whether Grantor may be liable individually or jointly with others, whether obligated as guarantor or otherwise, or 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.

- Lender. The word "Lender" means First State Bank, Nora Springs its successors and assigns.
- Note. The word "Note" means the promissory note or credit agreement dated 10-23-89 in the original principal amount of \$75,000.00 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.
- Property. The word "Property" means the real property, and all improvements thereon, described above in the "Assignment" section.
- Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, guarantees, security agreements, mortgages, deeds of trust, and all other instruments and documents, whether now or hereafter existing, executed in connection with Grantor's indebtedness to Lender.
- Rents. The word "Rents" means all rents, revenues, income, issues, and profits 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 AND THIS ASSIGNMENT. THIS ASSIGNMENT IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

- PAYMENT AND PERFORMANCE. Except as otherwise provided in this Assignment, Borrower shall pay to Lender all amounts secured by this Assignment as they become due, and shall strictly perform all of Borrower's obligations. Unless and until Lender exercises its right to collect the Rent 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.
- 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 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 Iowa 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 Borrower'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 and the Note, Lender shall execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on the 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.

EXPENDITURES BY LENDER. If Grantor fails to comply with any provision of this Assignment, including any obligation to maintain Existing indebtedness in good standing as required below, 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 charged under 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 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 to comply with any other term, obligation, covenant or condition contained in this Assignment, the Note or in any of the Related Documents.

Breaches. 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, or at the time made or furnished was, false in any material respect.

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

Insolvency. The insolvency of Grantor, appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor, or the dissolution or termination of Grantor's existence as a going business (if Grantor is a business). Except to the extent prohibited by federal law or Iowa law, the death of Grantor (if Grantor is an individual) also shall constitute an Event of Default under this Assignment.

Foreclosure, etc. Commencement of foreclosure, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor 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, provided that Grantor gives Lender written notice of such claim and furnishes reserve or a surety bond for the claim satisfactory to Lender.

Events Affecting Grantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or such Guarantor dies or becomes incompetent.

Existing Indebtedness. Default of Grantor under any Existing Indebtedness or under any instrument on the Property securing any Existing Indebtedness, or commencement of any suit or other action to foreclose any existing lien on the Property.

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 to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay without notice, except as may be expressly required by applicable law.

Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of the Property and collect the Rents, including amount past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. 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.

Appoint Receiver. Lender shall have the right 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 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 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 Note rate. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and 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 Iowa. This Assignment shall be governed by and construed in accordance with the laws of the State of Iowa.

Merger. There shall be no merger of interest or estate created by this assignment with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

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.

No Obligation of Lender. The assignment and security interest granted in this Assignment shall not be deemed or construed to constitute Lender as a mortgagee or trustee in possession of the Property, to obligate Lender to lease the Property or to attempt to do so, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the leases or otherwise.

Severability. If a court of competent jurisdiction finds any provision of this Assignment to be invalid or unenforceable as to any person or circumstances, 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 its liability under the Indebtedness.

EXHIBIT A

Legal description concerning real estate mortgage of DoMor Construction, a Minnesota General Partnership, to First State Bank Bank, Nora Springs, Iowa, dated October 23, 1989.

Lots One, Two, and Three and the West Half of alley, of the re-plat of Block Six, Town of Rudd, Iowa, as shown in Book "G" of Deeds, Page 386, Floyd County, Iowa records and beginning at the Northeast corner of said Lot One; thence N 89°-57'48" W, 71.27 feet to the Northwest corner of said Lot 3; thence N 00°-39'-46" W, 5.5 feet; thence S 89°-57'49" E, 71.33 feet; thence S 00°-00'-00" W, 5.5 feet to the point of beginning, Floyd County, Iowa, also described as Lots One, Two and Three (1, 2 & 3) of the re-plat of Block Six (6), Town of Rudd, Iowa, and the West One-half ($W\frac{1}{2}$) of the alley lying between Lot One (1) of the replat of Block Six (6) and Lot Twelve (12) of the original plat of Block Six (6) and commencing at the Northeast corner of Lot One (1) of the replat of Block Six, Town of Rudd, Iowa, as shown in Book "G" of Deeds, Page 386, Floyd County, Iowa, records and running thence West to the Northwest corner of Lot 3 of said re-plat, thence North 5.5 feet, thence East to the East line of said Block Six (6), thence South 5.5 feet to the place of beginning, all lying in Block Six (6) of the original plat of Rudd, Iowa.