

After Recording Return To:
Commercial Federal Bank
Income Property Lending Department
13506 West Maple Road
Omaha, Nebraska 68164

Dec 2 8 52 AM '97

INST. NO 97

050044

4050

BLOCK	<input checked="" type="checkbox"/>
CODE	<input checked="" type="checkbox"/>
BE MA3	<input checked="" type="checkbox"/>
CHECKED	<input checked="" type="checkbox"/>
ENTERED	<input checked="" type="checkbox"/>
EDITED	<input checked="" type="checkbox"/>

SPACE ABOVE RESERVED FOR RECORDER'S USE

Loan No. 7024057

ASSIGNMENT OF LEASES AND RENTS

FOR VALUE RECEIVED, SUPERIOR PLACE APARTMENTS LIMITED PARTNERSHIP, a Nebraska limited partnership, whose address is 8701 West Dodge Road, Omaha, Nebraska 68114 ("Assignor"), hereby grants, transfers and assigns to COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK, whose address is 4501 Dodge Street, 3rd Floor, Attention: Loan Servicing, Omaha, Nebraska 68132 ("Assignee"), the entire interest of Assignor as Lessor in and to all leases, subleases, licenses, concessions or other agreements hereafter entered into (collectively "Leases") for all or any part of the real property more particularly described as on Exhibit "A" attached hereto ("Property"), together with all rents, income, issues and profits arising therefrom, and any renewals and modifications thereof, and together with all rents, income, issues and profits arising from the use and occupation of the Property and from any property covered by the Leases, whether real, personal, mixed or intangible.

This Assignment is intended to be, and shall be construed as, creating an absolute assignment unto Assignee, and not as an assignment as security, and to such extent shall be unconditional and irrevocable except as hereinafter provided to the contrary. This Assignment shall be deemed to be perfected when recorded in the real estate records of the county in which the Property is located. In connection with and as a part of this Assignment, Assignor hereby warrants, represents, and agrees to and with Assignee as follows:

1. **Assignee Rights.** Assignor has contemporaneously herewith executed and delivered to Assignee a certain Promissory Note in the principal amount of Three Million One Hundred Thousand Dollars (\$3,100,000.00) ("Note"). In order to secure payment of the Note, Assignor, as trustor, has contemporaneously herewith executed a certain Deed of Trust to Commercial Federal Bank, A Federal Savings Bank, as Trustee, in favor of Assignee as Beneficiary ("Deed of Trust"). Unless and until there shall have occurred a default in the performance by Assignor of any of its duties or obligations, including, but without limitation, the payment of money, arising under the Note or the

Deed of Trust, Assignor is hereby granted a revocable license and may collect at the time of, but in no event more than one (1) month before, the date provided for payment, all rents, income, issues and profits arising under the Leases and retain the use of and enjoy the same subject to the provisions contained in the Deed of Trust. Upon or at any time after any such default, Assignee may, at its option, by giving written notice thereof to Assignor and without regard to the adequacy of any security for the payment or performance of any duties and obligations arising under the Note and the Deed of Trust, either in person or by agent, with or without bringing any action or proceeding, or by receiver appointed by a court, revoke the foregoing license, take possession of the rents, income, issues and profits and/or the Property and hold, manage, let and operate the same on such terms and for such period of time as Assignee may deem proper in its sole discretion and, with or without taking possession of the Property, demand, sue for, or otherwise collect all rents, income and profits of the Leases and the Property, including those past due and unpaid, with full power to modify, extend or terminate existing Leases, to execute new Leases, and to make from time to time such alterations, renovations, repairs and replacements as may seem proper to Assignee, and apply such rents, income and profits to the payment of all expenses of managing, operating and maintaining the Leases and the Property, all expenses incident to taking and retaining possession of the Property, and the principal, interest, and other indebtedness evidenced and/or secured by the Note and the Deed of Trust together with all costs and attorneys' fees incurred by Assignee in connection with any of the foregoing matters, in the order of priority set forth in the Deed of Trust, any statute, law, custom, or use to the contrary notwithstanding. Exercise or nonexercise by Assignee of the options granted in this paragraph, or collection and application of rents, income and profits by Assignee or its agent shall not be considered a waiver of any default by Assignor under this Assignment, the Note or the Deed of Trust.

2. Non-Liability and Indemnification of Assignee. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Property or any part thereof or from any other act or omission of Assignee in managing the Property, unless such loss is caused by the gross negligence, willful misconduct or bad faith of Assignee. Assignee shall not be obligated to perform or discharge nor does Assignee undertake to perform or discharge any obligation, duty or liability under the Leases or under or by reason of this Assignment and Assignor agrees to indemnify Assignee for, and to hold Assignee harmless from, any liability, loss or damage which may be incurred under the Leases or under or by reason of this Assignment and from any claims and demands which may be asserted against Assignee by reason of any alleged obligations or undertakings to perform or discharge any of the terms, covenants or agreements contained in the Leases or in operation of the Property, unless such liability, loss or damage is caused by the gross negligence, willful misconduct or bad faith of Assignee. Should Assignee incur any such liability under the Leases or under or by

reason of this Assignment or in defense of any such claims or demands, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be reimbursed by Assignor to Assignee immediately upon demand, and upon failure of Assignor to make such reimbursement on the date of such demand, the unpaid portion thereof, while still immediately due and payable, shall bear interest at the default rate of interest provided in the Note until paid, and the Note shall be deemed to be in default due to such nonpayment. This Assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Property upon Assignee, nor shall it operate to make Assignee responsible or liable for any waste committed on the Property by any lessees or any other parties, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property.

3. **Termination/Lessee Directives.** Upon payment in full of the principal, interest and all other indebtedness evidenced by the Note and the Deed of Trust, this Assignment shall cease, terminate and be of no further effect; provided, however, that the affidavit, certificate, letter or statement of Assignee or any officer, agent or attorney of Assignee showing any part of the principal, interest or other indebtedness as being unpaid shall constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and is hereby authorized to, rely thereon. Assignor hereby authorizes and directs each and every lessee named in a Lease or any other or future lessee or occupant of the Property or any part thereof, upon receipt of written notice from Assignee, to pay to Assignee all rents, income, issues and profits accruing under the Leases or from the Property, and to continue to do so until otherwise notified in writing by Assignee.

4. **Absolute Assignment.** Subject only to the provisions of Paragraph 3 of this Assignment, no action undertaken by Assignee with respect to any of the obligations of Assignor evidenced by the Note and the Deed of Trust, to any security or guarantee given for the payment or performance thereof, or to any other document or instrument evidencing or relating to said obligations shall in any manner affect, impair or prejudice any of Assignee's rights and privileges under this Assignment or discharge, release or modify any of Assignor's duties or obligations hereunder. This Assignment is intended by Assignor and Assignee to create, and shall be construed as creating, an absolute assignment unto Assignee, subject only to the license, terms and provisions hereof, and not as an assignment as security for the performance of the obligations evidenced by the Note and the Deed of Trust or any other indebtedness of Assignor.

5. **Warranties of Assignor.** Assignor warrants to Assignee, each of which warranties shall remain in full force and effect until all obligations of Assignor to Assignee under the Note and Deed of Trust have been fulfilled, that:

- (a) Assignor is the record owner and holder of legal title to the Property and to the improvements located on the Property.
- (b) Assignor has good and clear title to the Leases, rents, income, issues, and profits hereby assigned and good right to assign same, and no other person, firm or corporation has any right, title or interest therein.
- (c) There has been no prior assignment of the Leases, rents, income, issues, or profits which is now in effect.
- (d) All Leases are in full force and effect in accordance with their terms, and constitute the only outstanding Leases affecting the Property.
- (e) The Leases are unmodified except as specifically revealed to Assignee in writing.
- (f) Assignor is not in default or in breach of any of the Leases, and has not performed any act or failed to perform any act which over the passage of time would result in a default or breach of any of the Leases.
- (g) Assignor has no knowledge of any claims, offsets or defenses by any Lessees under the Leases or any basis for asserting the same.
- (h) The Lessees are not in default of any of the terms of the Leases.

6. **Negative Covenants of Assignor.** Assignor agrees that, so long as any obligation to Assignee remains unfulfilled under the Note or Deed of Trust, Assignor will not, without the express prior written consent of Assignee, which consent may be granted or withheld in Assignee's sole discretion:

- (a) Enter into any Leases which are not upon terms and rental rates which are in all respects substantially consistent with general market terms and rates for similar properties in Lancaster County, Nebraska, which provide for usage that is not consistent with the current usage of the Property, or

which contain terms not substantially consistent with existing Leases of the Property.

- (b) Modify, either orally or in writing, any Lease now or hereafter existing so as to render the same not in compliance with (a) above, or allow any lessee to surrender or terminate its Lease, or permit an assignment or sublease under any Lease, or request or consent to the subordination of any Lease to any lien subordinate to this Agreement, except in the exercise of sound business judgment.
- (c) Collect any rents, income, issues, or profits accruing under the Leases or from the Property more than one (1) month in advance of the time when they shall become due.
- (d) Execute any other assignment of lessor's interest in the Leases or assignment of rents accruing under the Leases or from the Property.
- (e) Do or permit anything to be done, the doing of which, or omit or refrain from doing anything, the omission of which will or could be a breach or default in the terms of any of the Leases or create or produce grounds for termination thereof by any lessee.

7. **Notices.** All notices, requests, demands and other communications hereunder shall be in writing and shall be given by mailing such notice by United States mail, certified or registered, postage prepaid and return receipt requested, to the party entitled thereto at the address provided on page 1 hereof, or at such other addresses as may have been furnished in writing. Any notice provided for in this Assignment shall be deemed to have been given to Assignor or Assignee when given in the manner designated herein and shall be considered delivered and received by the party to whom it is addressed on the earlier of the day on which such notice is actually received by the party to whom it is addressed or the third day after such notice is deposited in the United States mail.

8. **Successors and Assigns.** This Assignment, together with the agreements and warranties herein contained, shall inure to the benefit of Assignee and its successors and assigns and shall be binding upon Assignor and its successors and assigns as to all or any part of the Property.

9. **Miscellaneous Provisions.** This Assignment is made pursuant to and shall be construed and governed by the laws of the State of Nebraska and the rules and regulations promulgated thereunder. If any paragraph, clause or provision of this Assignment is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so construed or interpreted and shall not affect the remaining paragraphs, clauses and provisions of this Assignment.

IN WITNESS WHEREOF, this Assignment has been executed this / day of December, 1997.

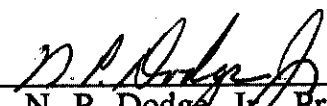
SUPERIOR PLACE APARTMENTS LIMITED
PARTNERSHIP, a Nebraska limited partnership,
Assignor

By: Superior Place Venture, a Nebraska general
partnership, the managing general partner

By: Commercial Federal Realty Investors
Corporation, a Nebraska corporation,
a general partner,

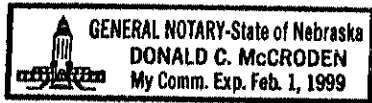
By: 
Gary R. Petersen, President

By: N. P. Dodge Investments, Inc., a
Nebraska corporation, a general partner,

By: 
N. P. Dodge, Jr., President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1st day of December, 1997, by Gary R. Petersen, President of Commercial Federal Realty Investors Corporation, a Nebraska corporation, a general partner of Superior Place Venture, a Nebraska general partnership, and the managing general partner of Superior Place Apartments Limited Partnership, a Nebraska limited partnership, Assignor.

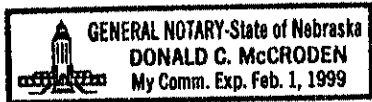


Donald C. McCroden

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1st day of December, 1997, by N. P. Dodge, Jr., President of N. P. Dodge Investments, Inc., a Nebraska corporation, a general partner of Superior Place Venture, a Nebraska general partnership, and the managing general partner of Superior Place Apartments Limited Partnership, a Nebraska limited partnership, Assignor.



Donald C. McCroden

Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION

Lot 1, Block 1, Bel-Mar Third Addition, except the west 395.0 feet thereof and except the most easterly 175.4 feet thereof and except the north 10 feet thereof taken for the widening of Superior Street, Lincoln, Lancaster County, Nebraska.