

LANCASTER COUNTY, NEBR  
Dan Miller

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### ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made as of the 2nd day of June, 1997, by and between the assignor, TWENTY-TWENTY PROPERTIES, A NEBRASKA GENERAL PARTNERSHIP (herein "Borrower", whether one or more), whose mailing address is 2419 BRADFIELD DRIVE LINCOLN NE 68502; and the assignee, National Bank of Commerce Trust and Savings Association, (herein "Lender"), whose mailing address is P.O. Box 82408 Lincoln, NE 68501. In consideration the advancing of credit by Lender to or for the benefit of Borrower, and for other good and valuable consideration, Assignor agrees as follows:

- 1. With respect to that certain real property described as follows (the "Real Property"):  
**LOT 9, BLOCK 24, KNOB HILL ADDITION, LINCOLN, LANCASTER COUNTY, NEBRASKA**

of which Borrower (or one or more of the persons and/or entities designated herein as Borrower) is the owner, Borrower does hereby absolutely and irrevocably bargain, sell, transfer, assign, grant a security interest in, convey, set over and deliver unto Lender, its successors and assigns:

- (a) the right of the immediate use and possession of said Real Property and all fixtures, equipment, appliances and other items of personal property available for the use of tenants of or the operation of said Real Property now or hereafter located on said Real Property (collectively the "Personal Property") to the exclusion of Borrower and its successors, assigns and agents;
- (b) all the rents, issues, profits and avails of all of the foregoing, whether now due or hereafter to become due (without limitation, to include all security deposits or advance rent paid to, held by or for Borrower);
- (c) all leases and occupancy agreements, now or hereafter executed, affecting said Real Property, including without limitation the leases, if any, described in Exhibit "A" attached hereto and incorporated herein, together with any and all extensions, renewals and modifications thereof;
- (d) all guaranty agreements now or hereafter executed, pertaining to (b) or (c) above;
- (e) all of Borrower's right, title and interest in and to all claims and rights to the payment of money at any time arising in connection with any rejection or breach of any of the leases by any lessee thereunder or trustee of any such lessee under Section 365 of the Bankruptcy Code, 11 U.S.C. 365, including, without limitation, all rights to recover damages arising out of such breach or rejection, all rights to charges payable by such lessee or trustee in respect of the leased premises following the entry of an order for relief under the Bankruptcy Code in respect of such lessee and all rentals and other charges outstanding under the lease as of the date of entry of such order for relief.

2. Lender may, in its own name, or at Lender's option, as attorney in fact for Borrower and in Borrower's name and stead with full power of substitution and with the right to exercise the rights and powers herein contained without prior judicial hearing or notice to Borrower, both of which are hereby specifically waived:

- (a) collect any and all of the rents, issues, profits and avails of said Real Property and Personal Property and all other moneys and rights to receive money assigned hereby, using such measures as Lender may deem necessary or appropriate in the circumstances;
- (b) enter into and hold, occupy, possess and enjoy said Real Property and Personal Property;
- (c) eject tenants, fill vacancies, make, cancel, modify and enforce leases of said Real Property and Personal Property or any part thereof upon such terms as Lender may deem appropriate;
- (d) obtain, cancel and modify any policy of insurance covering all or any part of said Real Property or Personal Property, adjust any loss or damage thereunder and enforce any rights of Borrower thereunder;
- (e) bring suit for, compromise and settle for, any taking of all or any portion of said Real Property for public purposes or any claim for damages thereto;

(f) contest, compromise and settle any tax assessment or other charge levied or assessed upon all or any part of said Real Property or Personal Property; and

(g) executed and deliver any and all instruments deemed by Lender to be necessary or appropriate in connection with the exercise of any right, power or authority granted hereby.

3. Lender may use and apply any moneys received by it as a result of this Assignment, in such order as Lender may elect, for any one or more of the following purposes:

(a) payment of any taxes, assessments and charges of any nature whatsoever that may be levied or assessed in connection with said Real Property or Personal Property;

(b) payment of any lien or encumbrance affecting all or any part of said Real Property or Personal Property;

(c) payment of premiums on such policies of insurance on all or any part of said Real Property or Personal Property as may be deemed advisable by Lender;

(d) payment of all expenses and liabilities incurred in the care and management of said Real Property and Personal Property, including any compensation paid to Lender's agents and the expense of such repairs, alterations, additions and improvements to said Real Property and Personal Property as may be deemed necessary or advisable by Lender;

(e) payment of any attorneys' fees, court costs and expenses incurred by Lender in connection with the exercise of its rights, powers and authority hereunder; and

(f) payment of any indebtedness or liability of Borrower to Lender or its assigns, whether absolute or contingent, and no matter when it shall arise.

4. Notwithstanding that this Assignment is a present assignment, Borrower shall have permission to collect the rents, issues and profits from and manage the Real Property and Personal Property for so long as Borrower duly and promptly performs all of its obligations, covenants, representations and warranties under any and all note(s), mortgage(s), deed(s) or trust, security agreement(s), and/or any other documents and instructions executed by Borrower in favor or for the benefit of Lender (collectively, "Loan Instruments"); provided that such permission shall automatically and without notice terminate in the event Borrower breaches or otherwise fails to perform any obligation, covenant, representation or warranty under any of the Loan Instruments.

5. Any failure or forbearance by Lender to exercise any of Lender's rights or remedies hereunder shall not constitute a waiver of such rights and remedies or otherwise prevent Lender from exercising such rights and remedies in the future.

6. Any right, power or authority granted Lender hereunder may be exercised either personally or by its attorney or agent without bringing any action or proceeding, at law or in equity, or by a receiver to be appointed by a court, at the discretion of Lender, without regard to the adequacy of any security for any indebtedness of Borrower to Lender and without taking possession of said Real Property.

7. Lender shall not incur any liability for failing to exercise any right, power or authority granted hereby, nor for any action taken in the good faith exercise of what Lender considers to be its business judgment pursuant to any such right, power or authority. Lender shall have no liability to Borrower, or to any other person, for any damage suffered by said Real Property or Personal Property unless directly caused by the willful misconduct or gross negligence of Lender. Lender shall have no responsibility for the actions of any tenant or occupant of said Real Property, whether such tenant or occupant shall be obtained by Borrower, Lender or Lender's agent. Borrower hereby agrees to indemnify and hold Lender harmless from and against any and all claims, causes of action, losses, damages, or expenses which Lender might incur under or by reason of this Assignment, or for any action taken by Lender hereunder (except for damages directly caused by the willful misconduct or gross negligence of Lender) with interest thereon at the default rate set forth in the note(s) secured hereby. The provisions of this paragraph 7 shall survive the payment of Borrower's indebtedness to Lender.

8. Until all sums owing now and in the future by Borrower to Lender shall have been paid in full, Borrower will transfer and assign to Lender any and all future leases upon all or any part of the Real Property and/or Personal Property upon the same terms and conditions as herein contained, and Borrower shall execute, upon the same terms and conditions as herein contained, and Borrower shall execute, upon request of Lender, any and all instruments requested by Lender to further implement this Assignment and to further perfect the interest of Lender in the leases and occupancy agreements and the rents, issues and the interest of Lender in the leases and occupancy agreements and the rents, issues and avails of said Real Property and Personal Property and all other moneys or rights assigned hereby.

9. This Assignment shall in no way operate to prevent Lender from pursuing any remedy which it now has or hereafter may have because of any present or future breach instrument of security now or hereafter held by Lender which may encumber said Real Property or the terms of any note or other agreement which Lender may have with Borrower. The collection and application of the rents, issues, profits and avails of said Real Property or Personal Property, or the exercise of any other right, power or authority hereunder by Lender shall not, of itself, cure or waive any default or declaration or notice of default under said instrument of security or note or affect any foreclosure proceeding predicated thereon.

10. Borrower hereby instructs all present and future tenants and occupants of said Real Property to pay all amounts now or hereafter due Borrower under each tenancy or occupancy agreement pertaining to said Real Property to Lender upon receipt of notice from Lender to so pay the same.

11. Borrower warrants and represents that Borrower has good title to the leases, rents, issues and profits hereby assigned and good right to assign the same, and that no other person, firm and/or corporation has any right, title or interest therein; that Borrower has duly and punctually performed all of the terms, covenants, conditions and warranties of said leases on Borrower's part to be kept, observed and performed; that Borrower has disclosed to Lender all leases and occupancy agreements, and any and all modifications thereof, to Lender, that said leases are valid and unmodified except as specifically set forth on Exhibit "A" and are in full force and effect; that Borrower has not previously sold, assigned, transferred, mortgaged or pledged said leases or rents, issues and profits, whether now due or hereafter to become due; that none of said rents, issues and profits owing for any period subsequent to the date hereof have been collected and that payment of any of the same has not otherwise been anticipated, waived, released, discounted, set-off or otherwise discharged or compromised; that Borrower has not received any funds or deposits from any lessee for which credit has not already been made on Borrower's accounts; and that the lessees under said leases are not in default of any of the terms thereof.

12. Borrower warrants and represents that Borrower shall not further pledge, transfer, mortgage or otherwise encumber or assign any of said leases, rents, issues and profits; shall not waive, excuse, discount, set-off, compromise, cancel, terminate, surrender, or in any manner release or discharge lessees of or from, any obligations, covenants, conditions and agreements of lessees under said leases (including the obligation to pay the rents under said leases) nor modify, or in any way alter the terms of said leases; shall not renew or extend the terms of said leases unless an option therefore was originally so reversed; shall not accept any payment of rent for more than one month in advance of its due date; shall not consent to any subletting of any part of the Real Property and/or Personal Property, or to any assignment of leases by the lessee thereunder or to any assignment or further subletting of any sublease, without the prior written consent of the Lender.

13. Any breach of or default in any of Borrower's obligations, covenants, representations or warranties herein shall also constitute a default under any and all notes, mortgages, deeds of trust, security agreements and any other documents and instruments executed by Borrower in favor or for the benefit of Lender.

14. Upon the payment of all sums owing now and in the future by Borrower to Lender and upon written request by Borrower, this Assignment, except for paragraph 7 hereof, shall terminate and all the right, title, estate and interest of the Lender in and to the Real Property and Personal Property shall revert to Borrower.

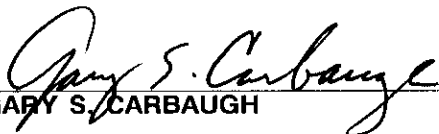
15. Except for any notice required under applicable law to be given in another manner, any notice provided under this Assignment shall be given by mailing such notice by certified mail addressed to the other parties, at the address set forth above. Any such notice shall be effective upon mailing in the manner designated herein. If Borrower is more than one person and/or entity, notice sent to the address set forth above shall be notice to all such persons and/or entities.

16. This Assignment shall be binding upon, and inure to the benefit of, the respective successors and assigns of Borrower and Lender and all future and subsequent owners of all or any portion of said Real Property and Personal Property.

17. This Assignment shall be governed by the laws of the State of Nebraska.


IN WITNESS WHEREOF, Borrower has executed this Assignment as of the date written above.

**National Bank of Commerce Trust and Savings Association, Lender**

By:   
GARY S. CARBAUGH  
Title: VICE PRESIDENT

**TWENTY-TWENTY PROPERTIES,  
A NEBRASKA GENERAL PARTNERSHIP**

  
Borrower MICHAEL H. JENKINS, GENERAL PARTNER

  
Borrower WILLIAM B. FLORY, GENERAL PARTNER

STATE OF NEBRASKA  
COUNTY OF LANCASTER

} ss:

The foregoing instrument was acknowledged before me this 2nd day of June, 1997 by GARY S. CARBAUGH the VICE PRESIDENT of National Bank of Commerce Trust and Savings Association, a Nebraska Corporation, on behalf of the corporation.

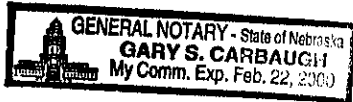


*Jane E. Kaiser*  
Notary Public

STATE OF NEBRASKA  
COUNTY OF LANCASTER

} ss:

The foregoing Assignment of Leases and Rents was acknowledged before me this 2nd day of June, 1997 by MICHAEL H. JENKINS AND WILLIAM B. FLORY, GENERAL PARTNERS OF TWENTY-TWENTY PROPERTIES, A NEBRASKA GENERAL PARTNERSHIP



*Gary S. Carbaugh*  
Notary Public

STATE OF  
COUNTY OF

} ss:

The foregoing Assignment of Leases and Rents was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation.

Notary Public

STATE OF  
COUNTY OF

} ss:

The foregoing Assignment of Leases and Rents was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by \_\_\_\_\_ as a general partner of \_\_\_\_\_, a \_\_\_\_\_ partnership, on behalf of the partnership.

Notary Public

*[Handwritten signature]*