

FILED SARPY CO. NE.
INSTRUMENT NUMBER
98-016524
98 JUN 22 PM 4:17
Glenn J. Lawrence
REGISTER OF DEEDS

98-16524
Counter 5
Verify SP
D.E. AK
Proof 43150
Fees \$ 43150
Ch Cash Chg

SPACE ABOVE RESERVED FOR RECORDER'S USE

RETURN TO:
Thomas L. Saladino
Fitzgerald, Schorr,
Barmettler & Brennan, P.C.
1000 Commercial Federal Tower
Omaha, NE 68124

Loan No. 259125

ASSIGNMENT OF LEASES AND RENTS

FOR VALUE RECEIVED, HEARTHSTONE HOMES, INC., a Nebraska corporation, f/k/a CONSTRUCTION SCIENCES, INC., whose address is 8425 Madison Street, Omaha, Nebraska 68127-4122 ("Assignor"), hereby grants, transfers and assigns to COMMERCIAL FEDERAL BANK, A FEDERAL SAVINGS BANK, whose address is 8707 West Center Road, Omaha, Nebraska, Attn: Construction Lending Manager ("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 on Exhibit "A" attached hereto (the "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 Loan Agreement ("Loan Agreement") and a Promissory Note in the principal amount of Twenty-Three Million Dollars (\$23,000,000.00) ("Note"). In order to secure payment of the Note, Assignor, as trustor, has contemporaneously herewith executed certain Deeds of Trust to Commercial Federal Bank, as Trustee, in favor of Assignee as Beneficiary ("Deeds 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 Loan Agreement, the Note or the Deeds 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 Deeds 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 Loan Agreement, the Note and the Deeds 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



98-16524D

EXHIBIT "A"

Lots 1 - 167, 169 - 175, in Oakhurst, a Subdivision, in Sarpy County, Nebraska;
and

Lot 168, EXCEPT that part more particularly described as follows: Beginning at the Northeast corner of said lot 168, Oakhurst, said point also being on the south right-of-way line of Sheridan Road; thence S00°47'04"E (assumed bearing) along the East line of said lot 168, Oakhurst, a distance of 114.17 feet to the southeast corner of said Lot 168, Oakhurst; thence S80°51'56"W along the south line of said lot 168, Oakhurst a distance of 26.13 feet to the Northeast corner of lot 169, said Oakhurst thence N09°14'31"E a distance of 119.77 feet to a point on the North line of said Lot 169, Oakhurst, said point also being on said South right-of-way line of Sheridan Road: thence Easterly along said North line of lot 168, Oakhurst, said line also being said South right-of-way line of Sheridan Road, on a curve to the right with a radius of 662.29 feet a distance of 5.00 feet, said curve having a long chord which bears N88°69'57"E, a distance of 5.00 feet to the point of beginning, in Oakhurst, a Subdivision, in Sarpy County, Nebraska.

Lots 2, 13, 14, 15, 21, 25, 26, 27, 29, 31, Lots 33, 34, 35, 43, 45, 47, 48, Lots 50 through 65, both inclusive, Lots 67 through 77, Lots 81, 84, 85, Lots 87 through 92, Lots 97, 98, 100, in Birchfield 2nd Addition, a Subdivision, in Sarpy County, Nebraska.

Lots 1 and 2, in Ardmore, an Addition to the City of LaVista, Sarpy County, Nebraska.

Lots 8, 9, 10, 11, 41, 42, 43, 44, 45 through 69, both inclusive, Lots 73 through 88, both inclusive, Lot 109, and Lots 164 through 167, both inclusive, in Ardmore East, a Subdivision, in Sarpy County, Nebraska.

Lots 1, 2, 3, 4, 5, 56, 57, 59, 60, 61, 62, 63, 64, 65 and 66, in Emerald Oaks, a Subdivision in Sarpy County, Nebraska.

Lots 16, 36, 97 through 107, both inclusive, Lots 111, 114, Lots 117 through 124, both inclusive, Lots 127 and 130, in Emerald Oaks 2nd Addition, a Subdivision, in Sarpy County, Nebraska.

Lots 1 through 4, both inclusive, Lots 11, 12, 13, Lots 21, 22, 23, 30, 31 and 35, in Castle Ridge, a Subdivision, in Sarpy County, Nebraska.

Lots 1 through 39, both inclusive, Lots 42 through 86, both inclusive, in Southern Oaks, a Subdivision in Sarpy County, Nebraska.

Lots 1 through 6, both inclusive, Lot 14, Lots 16 through 130, both inclusive, in Oakridge East, a Subdivision, in Sarpy County, Nebraska.

Lots 1 through 261, in Hickory Ridge, a Subdivision in Sarpy County, Nebraska.

Lots 2, 3, 4 and 5, in Chalco Pointe, a Subdivision in Sarpy County, Nebraska.