DELAWARE COUNTY IOWA
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BOOK 2004 PAGE 788
DEBORAH L. FENTON
DELAWARE CO RECORDER

26.00

Prepared by: Brett W. Nagel, 101 East Union, PO Box 77, Edgewood, IA 52042 (563)928-6425

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT is made as of March 11, 2004, by J.J.M.K. Limited Liability Company, an Iowa limited liability company ("**Assignor**").

IT IS AGREED AS FOLLOWS:

1. **Definitions.**

(a) **"LOAN"** as hereinafter used shall mean the loans in the combined original principal sum in excess of $800,000.00 as evidenced by the Notes and Mortgage referred to in paragraphs (b) and (d) below, as well as other securing agreements and instruments.

(b) **"MORTGAGE"** shall mean that certain Mortgage dated March 11, 2004 and filed with the office of the Recorder of Delaware County, Iowa, in Book 2004, Page 786, made by and between Assignor and COMMUNITY SAVINGS BANK, Edgewood, Iowa ("**Bank**"), securing credit in the principal amount of $800,000.00.

(c) **"MORTGAGED PROPERTY"** shall mean the real estate described in Exhibit A attached hereto.

(d) **"NOTES"** shall mean (i) that Promissory Note payable to Bank, identified as Loan No. 7130297 and dated March 11, 2004 in the original principal sum of $220,000.00 executed pursuant and in reference to the Mortgage referred to above by Assignor, as maker, and payable to the Bank, as payee, and (ii) all renewals, extensions and replacements thereof.

NOW, THEREFORE, for and in consideration of the making and prospective refinancing of the Loan, and for other good and valuable consideration, the receipt of which is hereby acknowledged, Assignor, for itself, its successors and assigns, has bargained, sold, transferred, assigned, conveyed, set over and delivered, and by these presents does hereby bargain, sell, transfer, assign, and convey as security for the repayment of the above-described indebtedness and the payment or performance of all of the terms and conditions of the Notes and Mortgage and any and all amendments, extensions and renewals thereof, all leases now existing or hereafter executed affecting the Mortgaged Property, and all rents, issues, profits, and income and sums of money

which may now or hereafter be or become due and owing under and by virtue of said leases, it being the intention hereby to establish a complete transfer and assignment of the leases hereby assigned and all the avails thereunder unto the Bank, its successors and assigns, together with the right, but without the obligation, to collect all of the said rents, issues, profits and income arising or accruing, or which may become due at any time during the life of this Assignment. Assignor further agrees, upon demand, to deliver to and deposit said leases with the Bank.

Notwithstanding anything in this Assignment of Leases and Rents to the contrary, so long as no Event of Default exists under the Loan or Mortgage, or any related loan agreement made by Assignor and Bank, Assignor shall be entitled to collect and keep, all rents, issues, profits and incomes which may come due from lessees and other occupants of the Mortgaged Property.

Upon (a) the occurrence of an Event of Default (or upon failure to cure an Event of Default, if Assignor has a right to cure) arising under the Loan or Mortgage, or any related loan agreement made by Assignor and Bank and (b) written notice by the Bank, to the lessees and occupants of the Mortgaged Property (a copy of which notice shall be provided to Assignor), the lessees and occupants of the Mortgaged Property or any part hereof, are hereby expressly authorized and directed to pay to the Bank all rents and sums herein assigned which would be payable to Assignor, except for this Assignment, and to transmit and deliver such payment to the Bank, or such nominee as it may designate in writing.

The Bank is hereby vested with full power to use all such measures, legal and equitable, as in its discretion may be deemed necessary or proper to enforce this Agreement and to collect the rents, issues, profits and income assigned hereunder, including the right to enter upon the Mortgaged Property and to take possession thereof, and Assignor hereby grants full power and authority to the Bank to exercise all rights, privileges and powers herein granted at any and all times hereafter, without advance notice to the Assignor, with full power to use and apply all of the rents, issues, profits and income herein assigned to the payments of the Indebtedness of the Assignor to the Bank.

The Bank shall be under no obligation to Assignor to press any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations undertaken by the Assignor under the leases, and it does not assume any of the liabilities in connection with, or rising or growing out of, the covenants and agreements of the Assignor. Assignor covenants and agrees that it will faithfully perform all of the obligations imposed upon it under the leases herein assigned, and agrees to indemnify the Bank, and hold the Bank harmless from any and all liability, loss or damage which may or might be incurred by the Bank by reason of any alleged obligations or undertaking on its part to perform or discharge any of the terms, covenants, or agreements contained in the leases, except for liability, loss or damage arising from the Bank's intentional misconduct. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of said leased premises or fixtures upon the Bank, nor for the carrying out of any of the terms and conditions of the leases, nor shall it operate to make the Bank responsible or liable for any waste committed on the property by tenants or occupants under such leases or any other party, or for any dangerous or defective

condition of the leased premises or fixtures resulting in loss, injury or death to any tenant, licensee, employee, occupant or any other person.

Upon payment in full of the Indebtedness for which this Assignment is additional security, this Agreement shall be null and void, and upon written request from Assignor the Bank shall execute a Release of Assignment of Leases and Rents; otherwise, it shall remain and be in full force and effect as herein provided, and together with the covenants and warranties herein contained, shall inure to the benefit of the Bank and any subsequent holder of said Indebtedness, and shall be binding upon the Assignor, its successors and assigns, including any subsequent owner of the Mortgaged Property.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

IN WITNESS WHEREOF, Assignor has executed this Agreement as of the day and year above written.

J.J.M.K. Limited Liability Company

By: James F. Funke Manager
James F. Funke, Manager

By: Michael J. Funke Manager
Michael J. Funke, Manager

STATE OF IOWA, Delaware COUNTY, ss:

On this 11th day of March, 2004, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared James F. Funke and Michael J. Funke, to me personally known, who, being by me duly sworn, did say that they are the Manager and Manager respectively of J.J.M.K. Limited Liability Company, an Iowa limited liability company executing the foregoing instrument, that the instrument was signed on behalf of J.J.M.K. Limited Liability Company by authority of its members; and that they as such officers acknowledged the execution of the instrument to be the voluntary act and deed of the limited liability company by it and by them voluntarily executed.

BRETT W. NAGEL
Commission Number 146867
My Comm. Exp. 4-21-06

Notary Public in and for the State of Iowa

EXHIBIT A

The Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of Section Two (2), Township Ninety (90) North, Range Five (5), West of the 5th P.M., except the South three hundred twenty three and nine tenths (323.9) feet of the East two hundred fifty three and five tenths (253.5) feet thereof;