Cocker + Davis
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Book 2020 Page 3863

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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

THIS DOCUMENT PREPARED BY AND AFTER RECORDING RETURN DOCUMENT TO:
Scott Dalsing
Premier Bank
140 W. 9th Street
Dubuque, IA 52001
(563) 585-3100

COLLATERAL ASSIGNMENT OF REAL ESTATE CONTRACT

Dated as of the 21st day of October, 2020

Name of Grantor: **Burlage Investments, LLC**
an Iowa limited liability company

Name of Grantee: **PREMIER BANK,**
an Iowa banking corporation

Legal Description:

Lot Eleven (11), Block Four (4), Delhi, Iowa according to plat recorded in Book A L.D. Pages 128-129;

COLLATERAL ASSIGNMENT OF REAL ESTATE CONTRACT

THIS COLLATERAL ASSIGNMENT OF REAL ESTATE CONTRACT is made and entered into as of the 21st day of October, 2020 by and between **Burlage Investments, LLC**, a Iowa limited liability company ("Grantor"), and **PREMIER BANK,** an Iowa banking corporation, ("Grantee").

RECITALS:

A. Grantor and Grantee have entered into a certain Commercial Loan Agreement dated the 21st day of October, 2020 pursuant to which Grantee made to Grantor a certain loan (the "Loan") in the aggregate principal amount of $181,200.00 and, of even date therewith, Grantor and Grantees entered into a Promissory Note, Mortgage, Security Agreement and other loan documents (the "Loan Documents");

B. Grantor and ASDK Properties, LLC, an Iowa limited liability company entered into a Real Estate Contract pursuant to which ASDK Properties, LLC is purchasing from Grantor the property legally described as follows: **Lot Eleven (11), Block Four (4), Delhi, Iowa, according to plat recorded in Book A L.D. 128-129 (the "Contract").** The Contract was recorded 10/29/2020 as Instrument No. Bk 2020 Page 3861 in the records of the Dubuque County Recorder. As collateral for the Loan Grantee has requested that Grantor provide an assignment of Grantor's rights under the Contract.

THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree upon the following mutual terms and conditions:

1. Assignment. Grantor hereby grants, transfers and assigns to Grantee, Grantor's interest in and to the Contract, together with the structures, fixtures, additions, enlargements, repairs, replacements and improvements now or hereafter located upon subject thereto.

2. Indebtedness Secured. (a) This Assignment is made for the purpose of securing the payment, when due, of the Loan including, without limitation, the principal sum, interest and all other sums evidenced by the Promissory Note and any other sums due from Grantor to Grantee under any of the other Loan Documents; and,

(b) **The payment, performance and discharge, when due, of each and** every obligation, covenant and agreement of Grantor under any Loan Document with Grantee.

3. Grantor's Warranties. Grantor represents and warrants to Grantee that: (i) Grantor is the sole owner of the entire seller's interest in the Contract and has good title and good right to assign the Contract hereby assigned and no other person or entity has any right, title or interest therein (ii) the Contract is in all material respects valid and enforceable and has not been altered, modified or amended in any manner since the date of recording; (iii) the Contract has not been assigned or otherwise pledged or hypothecated; Grantor has full power and authority to execute and deliver this Assignment and the execution and delivery of this Assignment has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting Grantor or the real estate which is the subject of the Contract; (iv) Grantor has duly and punctually performed all of the terms, covenants, conditions and warranties of the Contract that were to be kept, observed and performed by it to date; (v) Grantor has not performed any act or executed any other instrument which might prevent Grantee from enjoying and exercising any of its rights and privileges evidenced hereby; and, (vi) Grantor shall execute and deliver at the request of Grantee all such further assignments and other documents, instruments and assurances with respect to the Contract as Grantee shall from time to time require in order to effectuate the purposes of this Agreement.

4. Present and Absolute Assignment/Remedies of Grantee. Grantor does hereby absolutely and unconditionally assign to Grantee all of Grantor's right, title and interest in the Contract. Nothing herein shall be construed to bind Grantee to the performance of any of the covenants, conditions, or provisions contained in the Contract or otherwise to impose any obligations upon Grantee. Grantor shall comply in all respects with seller's obligations under the Contract and shall hold all right and title to the Contract in trust as security for Grantor's obligations to Grantee. Grantor shall, concurrent herewith, execute a Quit Claim Deed to Grantee for the Real Estate which Deed shall be held in escrow by Grantee. Upon an Event of Default (as defined in the Loan Documents), the license granted to Grantor herein shall automatically terminate and Grantee shall be immediately entitled to receive all benefits of seller under the Contract. Upon or any time after an Event of Default, Grantee may record the Quit Claim Deed and proceed as seller under the terms of the Contract. Grantee may take such action without notice and without regard to the adequacy of the security for the Debt. Grantee does not waive any other rights Grantee may have at law, equity or pursuant to the terms of the Loan Documents. Notwithstanding any other remedies available to Grantee, in the event Grantee proceeds to record the Quit Claim Deed and proceed as seller under the terms of the Contract, Grantee may accept all payments under the Contract. Grantee may apply any rents or sale proceeds associated with the real estate obtained by Grantee to the payment of the following in such manner and order as Grantee in its sole and absolute discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of securing, managing, operating and maintaining the real estate including, without limitation, the salaries, fees and wages of a managing agent and such other employees or agents as Grantee may deem necessary or desirable; all taxes,

charges, claims, assessments, water charges, sewer rents and any other liens; premiums for all insurance which Grantee may deem necessary or desirable; the cost of all alterations, renovations, repairs or replacements; and all expenses incident to taking and retaining possession of the real estate; and (b) the Loan, together with all court costs and attorney fees, receiver fees and all other costs and expenses incurred by Grantee.

5. No Liability of Grantee. **GRANTEE SHALL NOT BE LIABLE FOR ANY LOSS SUSTAINED BY GRANTOR RESULTING FROM GRANTEE'S ACCEPTANCE OF PAYMENTS UNDER THE CONTRACT OR USE OF THE REAL ESTATE OR ANY PART THEREOF, OR FROM ANY OTHER ACT OR OMISSION OF GRANTEE UNDER OR RELATING TO THE REAL ESTATE OR THE CONTRACT AND RELATED AGREEMENTS (REGARDLESS OF WHETHER SUCH LOSS IS THE RESULT OF GRANTEE'S NEGLIGENCE) UNLESS SUCH LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTEE, NOR SHALL GRANTEE BE OBLIGATED TO PERFORM OR DISCHARGE ANY OBLIGATION, DUTY OR LIABILITY UNDER THE CONTRACT BY REASON OF THIS INSTRUMENT OR THE EXERCISE OF RIGHTS OR REMEDIES HEREUNDER.** Grantor hereby agrees to hold Grantee harmless from any and all liability, loss or damage (including attorney fees and the costs of defense) from any and all claims and demands whatsoever asserted against Grantee pursuant to the Contract or this Assignment, including, without limitation, any claims or demands related to any alleged obligations or alleged undertakings on Grantee's part to perform or discharge any of the terms, covenants or agreements contained in the Contract. Grantor shall reimburse Grantee immediately upon demand for the amount of any such liability, loss or damage, the payment of which shall be secured by this Assignment and by any of the other Loan Documents. This Assignment shall not obligate or make Grantee liable for (i) the control, care, management or repair of the real estate, (ii) the carrying out of any of the terms and conditions of the Contract (iii) any waste committed on such real estate by any party; (iv) any dangerous or defective condition of such real estate, including without limitation the presence of any Hazardous Material or (v) any negligence in the management, upkeep, repair or control of such the real estate resulting in loss or injury or death to any tenant, licensee, employee or stranger. **THE RELEASES AND INDEMNITIES CONTAINED IN THIS PARAGRAPH SHALL INCLUDE CLAIMS, DEMANDS, LIABILITIES, LOSSES, DAMAGES, CAUSES OF ACTION, JUDGMENTS, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES) RESULTING FROM THE NEGLIGENCE OF GRANTEE OR ANY STRICT LIABILITY, BUT NOT THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF GRANTEE.**

6. Other Security. Grantee may take or release other security for the payment of the Loan, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the reduction or satisfaction of the Loan without prejudice to any of its rights under this Assignment.

7. Other Remedies. Nothing contained in this Assignment and no act done or omitted by Grantee pursuant to the power and rights granted to Grantee hereunder shall be deemed to prejudice or waive Grantee's rights and remedies under the Loan Documents. Grantee's right to collect the Loan and to enforce any other security held by it may be exercised by Grantee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

8. No Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting Grantee a "mortgagee-in-possession" or "beneficiary-in-possession" in the absence of the taking of actual possession of the real estate by Grantee. Grantor hereby expressly waives and releases all claims and liability against Grantee in Grantee's exercise of its rights and powers hereunder.

9. Conflict of Terms. In case of any conflict between the terms of this Assignment and the terms of any other Loan Document, the terms of this Assignment shall prevail.

10. Miscellaneous. This Assignment shall be governed by and construed in accordance with the laws of the State of Iowa. Grantor hereby submits to personal jurisdiction in the state courts located in Dubuque County, Iowa for the enforcement of Grantor's obligations hereunder and waives any and all personal rights under the law of any other state or jurisdiction to object to jurisdiction with such state courts for the purposes of any action, suit, proceeding or litigation to enforce such obligations of Grantor. Upon payment in full of the Loan, or any modifications, extensions, renewals or refinancings thereof this Assignment shall be null and void and of no further effect. Grantee shall have the right to assign or transfer its rights under this Assignment without limitation. This Assignment, together with the covenants and warranties herein contained, shall inure to the benefit of Grantee and any subsequent holder of the Loan Documents and shall be binding upon Grantor, its heirs, executors, administrators, successors and assigns and any subsequent owner of the real estate.

Burlage Investments, LLC

By: [redacted]
Tyler Burlage
Its Member - Manager

STATE OF IOWA)
COUNTY OF DUBUQUE) ss:

On this 21st day of October, 2020 before me, a Notary Public in and for the State of Iowa, personally appeared Tyler Burlage, to me personally known, who being by me duly sworn did say that he is the Member/Manager of the _____ of said limited liability company, that no seal has been procured by the said limited liability company and that said instrument was signed on behalf of said limited liability company by authority of its managers and the said Member/Manager acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by it voluntarily executed.

Jill A Klaas
Notary Public in and for State of Iowa

JILL S. KLAAS
Commission Number 797258
My Comm. Exp. 7/18/22

PREMIER BANK

By: Scott A. Dalsing
Scott A. Dalsing
Its Vice President-Commercial Lending

By: _____
_____
Its _____

STATE OF IOWA)
COUNTY OF DUBUQUE) ss.

On this 21st day of April, 2020, before me, a Notary Public in and for the State of Iowa, personally appeared Scott A Dalsing and _____, to me personally known, who being by me duly sworn did say that they are the Vice President and _____ of PREMIER BANK and that said instrument was signed on behalf of said PREMIER BANK by authority of its board of directors and that said Scott A Dalsing and _____ acknowledged the execution of said instrument to be the voluntary act and deed of PREMIER BANK, by it voluntarily executed.

Jill S Klaas
Notary Public in and for State of Iowa

JILL S. KLAAS
Commission Number 797258
My Comm. Exp. 7/18/2022