

AFTER RECORDING, RETURN TO:

DeWitt Ross & Stevens S.C.
Paul A. Croake, Esq.
2 East Mifflin Street, Suite 600
Madison, WI 53703
608/283-5623

00024-JP

Tax Parcel No. 01-131-0073

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT, made as of the 30th day of November, 2015, by **MIDLAND PARTNERS, LLC**, a Utah limited liability company, whose principal office is located at 360 North 700 West, Suite G, North Salt Lake, UT 84054 ("**Borrower**"), to **AMERICAN FAMILY LIFE INSURANCE COMPANY**, an insurance corporation organized and existing under the laws of the State of Wisconsin, whose address is Investment Division, 6000 American Parkway, Madison, Wisconsin 53783-0001 ("**American Family**").

FOR VALUE RECEIVED, Borrower grants, transfers and assigns to **American Family**: (a) all of the right, title and interest of **Borrower** in and to any and all leases and any other agreements granting a possessory interest in the real property described in Exhibit A attached hereto (the "**Premises**"), together with any amendments or addenda to such leases and agreements and including any guarantees of such agreements, now or hereafter entered into, whether oral or written, (each such lease and related agreements and guarantees shall be referred to collectively hereafter as a "**Lease**"); (b) any and all extensions and renewals thereof; (c) the immediate and continuing right to collect and receive all rents, expense reimbursements or other income, payments and profits arising out of any **Lease** or out of the **Premises** or any part thereof ("**Rents**"); (d) the right to all proceeds payable to **Borrower** pursuant to any purchase options, if any, on the part of any **Tenant** under any **Lease**; and (e) all of right, title and interest of **Borrower** to payments derived from any **Lease** including but not limited to claims for the recovery of damages done to the **Premises** or for the abatement of any nuisance existing thereon, claims for damages resulting from default under any **Lease** whether resulting from acts of insolvency or acts of bankruptcy or otherwise, and lump sum payments for the cancellation of any **Lease** or the waiver of any obligation or term thereof prior to the expiration date, and the return of any insurance premiums or ad valorem tax payments made in advance and subsequently refunded, all for the purpose of securing the following:

(i) Payment of the **Indebtedness** evidenced by the **Note**, including any extensions or renewals thereof, in the principal sum of One Million Six Hundred Fifty Thousand and No/100 Dollars (\$1,650,000.00) dated of even date herewith, executed and delivered by **Borrower** payable to the order of **American Family** secured, *inter alia*, by the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated of even date herewith,

granted by **Borrower** to **American Family** upon the **Premises**, and recorded in the County of Davis, State of Utah (the "**Deed of Trust**") and the other **Loan Documents** securing the **Note**.

(ii) Payment of all other sums with interest thereon becoming due and payable to **American Family** as a result of this **Assignment**, or pursuant to any other **Loan Documents**. All payments required under the **Loan Documents** shall be included as **Indebtedness** secured hereby.

(iii) Performance and discharge of each and every obligation, covenant and agreement of **Borrower** under the **Loan Documents**.

BORROWER FURTHER COVENANTS, AGREES AND ASSIGNS AS FOLLOWS:

1. **Performance of Leases**. (a) To faithfully abide by, perform and discharge each and every material obligation, covenant and agreement of any **Lease** by **Borrower**, as landlord, to be performed; (b) to use its best efforts to enforce or secure the performance of each and every material obligation, covenant, condition and agreement of any **Lease** to be performed by any **Tenant**; (c) not to surrender, cancel, amend, modify, extend, renew, terminate, accept a surrender of, or in any way materially alter the terms of any **Major Lease** without the prior consent of **American Family**, which consent shall not be unreasonably withheld, conditioned or delayed; (d) not to borrow against, pledge, or assign any rentals due under any **Lease**, nor consent to a subordination or assignment of the interest of any **Tenant** thereunder to any party other than **American Family**; (e) not to permit the prepayment of the rents thereunder for more than one (1) month in advance or reduce the amount of the rents and other payments thereunder; (f) not to waive, excuse, condone or in any manner release or discharge any **Tenant** under a **Major Lease** of or from their obligations, covenants, conditions and agreements to be performed by such **Tenant** under a **Major Lease** without first securing the prior written consent of **American Family**, which consent shall not be unreasonably withheld, conditioned or delayed; (g) not to enter into any additional or renewal **Lease** of all or any part of the **Premises** except in conformity with the terms of the **Deed of Trust**.

In the event any **Tenant** of the **Premises** seeks for any reason to buy out or financially satisfy its **Major Lease** in whole or in part prior to normal expiration of the **Major Lease**, and obtains permission from **Borrower** and **American Family** to do so, all such proceeds shall, at the option of **American Family**, be applied to the **Indebtedness** in the order determined by **American Family** without the imposition of a prepayment premium, and, if **American Family** elects not to apply such proceeds to the **Indebtedness**, such proceeds shall be expended by **Borrower** for broker's commissions and approved **Tenant** improvements reasonably required to relet such space.

2. **Protection of Security**. **Borrower**, at its sole cost and expense, agrees to appear in and defend any action or proceeding arising under, growing out of or in any manner connected or otherwise associated with any **Lease** or the obligations, duties or liabilities of **Borrower** thereunder, and to pay all reasonable costs and expenses of **American Family**,

including reasonable attorneys' and paralegals' fees and costs, in any such actions or proceedings in which **American Family** in its sole discretion may appear.

3. **Present Assignment.** This **Assignment** shall constitute a perfected, present assignment, provided that **Borrower** shall have the right to collect all of the **Rents** and to retain, use and enjoy the same unless and until **Borrower** receives written notice from **American Family** following the occurrence of an **Event of Default** under any **Loan Document** and **Borrower's** failure to cure such **Event of Default** during any applicable opportunity to cure under the **Deed of Trust** shall have expired. Such right shall be irrevocable except during an **Event of Default**. Following the occurrence and during the continuance of an uncured **Event of Default**, **Borrower** hereby releases and surrenders to **American Family** all rights to amend, modify or to in any way alter any **Lease**, and to take such action without the prior consent of **Borrower**, provided, however, upon a subsequent cure of such **Event of Default**, all such rights of **Borrower** (including without limitation the right to retain, use and enjoy **Rents**) shall reinstate automatically, and all such rights of **American Family**, shall expire.

4. **Remedies.** After an **Event of Default** and **Borrower's** failure to cure such **Event of Default** during any applicable opportunity to cure under the **Loan Documents**, and until such **Event of Default** is cured, then **American Family**, without regard to waste, adequacy of the security or solvency of **Borrower**, may declare all **Indebtedness** immediately due and payable, may revoke the privilege granted **Borrower** hereunder to collect the **Rents**, and may, at **American Family's** option, either:

(a) In person or by agent, with or without taking possession of or entering the **Premises**, with or without bringing any action or proceeding, give, or require **Borrower** to give, notice to any **Tenant** under any **Lease** authorizing and directing such **Tenant** to pay all **Rents** directly to **American Family**; authorizing **American Family** to collect all of the **Rents**; authorizing **American Family** to enforce the payment thereof and exercise all of the rights of **Borrower** under any **Lease** and all of the rights of **American Family** hereunder; and authorizing **American Family** to enter upon, take possession of, manage and operate the **Premises**, or any part thereof, and in such capacity **American Family** may cancel, enforce or modify any **Lease** (in accordance with the terms thereof), and fix or modify **Rents**, and do any acts which **American Family** deems proper to protect the security hereof; or

(b) Apply for appointment of a receiver in accordance with applicable statutes and law, to which receivership **Borrower** hereby consents, who shall collect the **Rents**; manage the **Premises** so as to prevent waste; execute any **Lease** within or beyond the period of receivership; exercise the remedies and perform the terms of this **Assignment** and apply the **Rents** as hereinafter provided. The terms and provisions contained in Section 6.6 of the **Deed of Trust** are hereby incorporated by reference and shall govern the appointment of a receiver under this **Assignment**.

The foregoing rights shall terminate upon any cure of the **Event of Default** giving rise to such rights and, if requested by **Borrower**, **American Family** shall, at **Borrower's** expense, deliver written notice to the **Tenants** advising them of such termination and that **Borrower's** rights have been fully restored. Any **Rents** collected pursuant to the terms of this Section hereof shall be applied in the following order (provided, however, **American Family** shall apply such **Rents** to amounts that have accrued and are payable prior to applying any such **Rents** to obligations which have not yet accrued and become payable): (a) to payment of all fees of any receiver appointed hereunder; (b) to payment when due of prior or current **Impositions** or, if the **Deed of Trust** so requires, to the periodic escrow for payment of the **Impositions** when due; (c) to payment when due of **Insurance Premiums** of the type required by the **Deed of Trust** or, if the **Deed of Trust** so requires, to the periodic escrow for the payment of **Insurance Premiums** when due; (d) to payment of the costs and expenses of operation and management of the **Premises** and collection of the **Rents**, including reasonable attorneys' fees; (e) to payment of all costs and expenses for normal maintenance of the **Premises**, including such tenant improvements, capital repairs, capital improvements and leasing commissions as **American Family** may reasonably deem appropriate; and (f) to the performance of the landlord's obligations under any **Lease**. Any **Rents** remaining after application of the above items shall be applied to the **Indebtedness** on a monthly basis.

The entering upon and taking possession of such **Premises**, the appointment of a receiver, or the collection of such **Rents** and the application thereof as herein provided shall not cure or waive any default or waive, modify or affect notice of default under the **Deed of Trust** or invalidate any act done pursuant to said notice, nor in any way operate to prevent **American Family** from pursuing any remedy which now or hereafter it may have under the terms and conditions of the **Deed of Trust** or the **Note** secured thereby or any other **Loan Documents** securing the same.

5. **No Liability for American Family.** **American Family** shall not be obligated to perform or discharge, nor does it undertake to perform or discharge, any obligation, duty or liability under any **Lease** nor shall this **Assignment** operate to place any responsibility for the control, care, management or repair of the **Premises** or responsibility for the collection of **Rents** upon **American Family** or for the carrying out of any of the terms and conditions of any **Lease**; nor shall it operate to make **American Family** responsible or liable for any waste committed on the **Premises**, or for any dangerous or defective condition of the **Premises** resulting in loss or injury or death to any **Tenant**, licensee, employee or stranger, except to the extent arising out of the negligence or intentional misconduct of **American Family** or any employee, agent, contractor, or other person or entity acting for or on behalf of **American Family**. **American Family** shall be required to account only for such moneys as are actually received by it and shall not be obliged to pay any interest on **Rents** received by it under this **Assignment**.

6. **Borrower to Hold American Family Harmless.** **Borrower** agrees to indemnify and to hold **American Family** harmless from any and all liability, loss or damage which **American Family** incurs under any **Lease** or under or by reason of this **Assignment**, and from any and all claims and demands whatsoever which may be asserted against **American Family** by reason of any alleged obligations or undertakings on its part to perform or discharge

any of the terms, covenants or agreements contained in any **Lease**, except this indemnity shall not apply to any liability to the extent caused by the negligence or willful misconduct of **American Family**. Should **American Family** incur any such liability, or incur costs in the defense of any such claims or demands, the amount thereof, including reasonable costs, expenses, and reasonable attorneys' and paralegals' fees and costs, shall be secured hereby and shall be added to the **Indebtedness** and **Borrower** shall immediately reimburse **American Family** therefor upon demand, except **American Family** shall bear its own costs of defense for any liabilities to the extent caused by **American Family's** negligence or willful misconduct. The continuing failure of **Borrower** so to do shall constitute an **Event of Default**.

7. **Security Deposits.** **Borrower** agrees, upon demand following an **Event of Default** which is not cured within any applicable cure period, to transfer to **American Family** all security deposits, if any, held by **Borrower** under the terms and provisions of any **Lease**. **Borrower** agrees that such security deposits may be held by **American Family** without any allowance for interest thereon, except statutory interest accruing to the benefit of any **Tenant**, and shall become the absolute property of **American Family** upon an occurrence of an **Event of Default**, subject to any rights of any such **Tenant**. Such security deposits in the event of a default by any **Tenant**, shall be applied in accordance with the provisions of any such **Lease** and upon the termination of any such **Lease**, shall be returned, to the extent not previously applied to an obligation of such **Tenant** in accordance with the terms of such **Tenant's Lease**, to such **Tenant**. Until **American Family** makes such demand and the deposits are paid over to **American Family**, **American Family** assumes no responsibility to any **Tenant** for any such security deposit. **Borrower** agrees to immediately reimburse **American Family**, upon request, for any security deposits received by **Borrower** and not remitted to **American Family**, which are paid to any **Tenant** of **Borrower** by **American Family**.

8. **Authorization to Tenants.** Each **Tenant** under any **Lease** is irrevocably authorized and directed to recognize the claims of **American Family** or any receiver appointed hereunder without investigating the reason for any action taken by **American Family**, or such receiver, or the validity or the amount of **Indebtedness** owing to **American Family**, or the existence of any default under or by reason of any of the **Loan Documents** or the application to be made by **American Family** or any receiver. Upon the occurrence of an **Event of Default**, and the failure of **Borrower** to cure such **Event of Default** within any applicable cure period—and for so long as such **Event of Default** thereafter remains uncured, **Borrower** irrevocably directs and authorizes each such **Tenant** to pay to **American Family** or such receiver all sums due under any **Lease** without the necessity of a judicial determination that a default has occurred under any of the **Loan Documents** or that **American Family** is entitled to exercise its rights hereunder. Upon the occurrence of an **Event of Default**, and the failure of **Borrower** to cure such **Event of Default** within any applicable cure period—and for so long as such **Event of Default** thereafter remains uncured, **Borrower** irrevocably directs and authorizes each such **Tenant** to pay to **American Family** all sums due under any **Lease**. To the extent such sums are paid to **American Family**, **Borrower** agrees that each such **Tenant** shall have no further liability to **Borrower** for the same. The sole signature of **American Family** or such receiver shall be sufficient for the exercise of any rights under this **Assignment**. The sole receipt of **American Family** or of such receiver for any sums received shall be a full discharge and release therefor to any such **Tenant** or occupants of the **Premises**. Checks for all or any part of the

Rents collected under this **Assignment** shall, upon notice from **American Family** or such receiver, be drawn payable to the exclusive order of **American Family** or such receiver.

9. **Satisfaction.** Upon payment in full of all **Indebtedness**, or the recordation of a recorded release of the **Deed of Trust** executed by **American Family**, or its subsequent assigns, this **Assignment** shall, without the need for any further satisfaction or release, become null and void and be of no further effect.

10. **American Family Creditor of Tenant.** Upon an **Event of Default**, and the failure of **Borrower** to cure such **Event of Default** within any applicable cure period—and for so long as such **Event of Default** thereafter remains uncured, **Borrower** agrees that **American Family**, and not **Borrower**, shall be and be deemed to be a creditor of any **Tenant** with respect to assignments for the benefit of creditors, bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such **Tenant**, (without obligation on the part of **American Family**, however, to file or make timely filings of claims in such proceedings or otherwise to pursue creditor's rights therein, and reserving the right to **Borrower** to make such filing in such event) with an option to **American Family** to apply any money received by **American Family** as such creditor in reduction of the **Indebtedness** in the order determined by **American Family** in its sole discretion.

11. **American Family Attorney-in-Fact.** Upon an **Event of Default**, and the failure of **Borrower** to cure such **Event of Default** within any applicable cure period—and for so long as such **Event of Default** thereafter remains uncured, **Borrower** irrevocably appoints **American Family**, its successors and assigns, as its agent and attorney-in-fact, which appointment is coupled with an interest, to: (a) exercise any rights or remedies hereunder and to execute and deliver during the term of this **Assignment** such instruments as **American Family** may reasonably deem necessary to make this **Assignment** and any further assignment effective and absolute; and (b) demand, receive, and enforce payment, to give receipts, releases and satisfactions, and to sue, either in the name of **Borrower** or in the name of **American Family**, for all **Rents** or other sums payable under the **Lease**.

12. **Subsequent Leases; Rent Roll.** Until the **Indebtedness** is paid in full, **Borrower** shall deliver to **American Family** executed copies of any and all other and future **Leases** and agrees to make, execute and deliver unto **American Family**, upon demand, and at any time or times, any and all assignments and other instruments sufficient to assign the **Leases** and the **Rents** thereunder to **American Family** or that **American Family** may deem advisable for carrying out the true purposes and intent of this **Assignment**. **Borrower** agrees to furnish to **American Family** by April 30th following each calendar year when the **Premises** is not fully occupied by **Tenant**, a certified rent roll of the **Premises** dated as of the end of such calendar year disclosing current **Tenants**, tenancies, **Leases**, **Lease** income and such other matters as **American Family** may request. Such rent roll, or accompanying documentation, shall additionally identify space which is not leased and shall certify that the **Leases** are free of monetary or other material defaults, beyond applicable notice and cure periods (or if any such default exists, the nature of such default).

13. **Non-Recourse.** Notwithstanding anything to the contrary contained herein, the liability of **Borrower** for the **Indebtedness** and for the performance of other agreements, covenants and obligations contained herein shall be limited as set forth in the **Note**.

14. **General Assignment of Leases and Rents.** The rights contained in this **Assignment** are in addition to and shall be cumulative with the rights given and created in Article 2 of the **Deed of Trust**, assigning generally all **Leases**, rents and profits of the **Premises** and shall in no way limit the rights created thereunder.

15. **No Mortgagee or Beneficiary in Possession.** Nothing herein contained and no actions taken pursuant to this **Assignment** shall be construed as constituting **American Family** a "'Mortgagee' or 'Beneficiary' in Possession", unless **American Family** assumes actual possession of the **Premises**, either directly or through an agent.

16. **Continuing Rights.** The rights and powers of **American Family** or any receiver hereunder shall continue and remain in full force and effect until all **Indebtedness** is paid in full or released in writing by **American Family**.

17. **Successors and Assigns.** This **Assignment** and each and every covenant, agreement and provision hereof shall be binding upon **Borrower**, its successors and assigns including without limitation each and every record owner of the **Premises**, from time to time, or any other person having an interest therein and shall inure to the benefit of **American Family**, its successors and assigns. As used herein the words "successors and assigns" shall also be deemed to mean the heirs, executors, representatives and administrators of any natural person who is a party to this **Assignment**.

18. **Governing Law.** **Borrower** and **American Family** agree, notwithstanding any conflict of law principles, that this **Assignment** is intended to and shall be governed by the internal laws of the State of Utah. This **Assignment** is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101 et seq (the "**Act**") and in the event of any conflict or inconsistency between the provisions of this **Assignment** and the provisions of the **Act**, the provisions of the **Act** shall control.

19. **Validity Clause.** It is the intent of this **Assignment** to confer unto **American Family** the rights and benefits hereunder to the full extent allowable by law. The unenforceability or invalidity of any provision or provisions hereof shall not render any other provision or provisions of this **Assignment** unenforceable or invalid. Any provisions found to be unenforceable shall be severable from this **Assignment**.


20. **Notices.** Any notice, demand or request required hereunder to **Borrower** or **American Family** shall be given in the manner and to the place as provided in the **Deed of Trust** for notices to **American Family** or **Borrower**.

21. **Defined Terms.** All terms used in this **Assignment** which appear in **boldface type** and are not defined herein, shall have the meaning ascribed to such term or terms in the **Deed of Trust**.

22. **Costs of Enforcement.** To the extent permitted by law, **Borrower** agrees to pay **American Family** its reasonable attorneys' and paralegals' fees and costs, including all reasonable fees and costs incurred in litigation, mediation, arbitration, bankruptcy and administrative proceedings, and appeals therefrom, and all court costs and other **Recoverable Costs**, incurred by **American Family** in the exercise of any right or remedy available to it under this **Assignment**, whether or not suit is commenced.

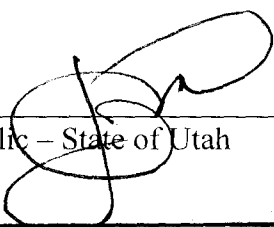
IN WITNESS WHEREOF, **Borrower** has caused this **Assignment** to be executed as the authorized deed and voluntary act of said **Borrower** as of the date first above written.

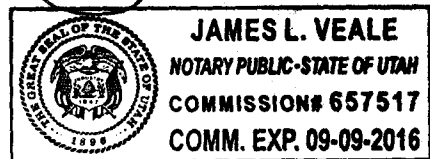
MIDLAND PARTNERS, LLC,
a Utah limited liability company

By: 
Thomas D. Stuart, Manager

State of Utah)
 :SS
County of Davis)

This instrument was acknowledged before me on November 24, 2015, by Thomas D. Stuart, as the Manager of Midland Partners, LLC.


Notary Public – State of Utah



WHEN RECORDED, MAIL TO:
DeWitt Ross & Stevens S.C.
Paul A. Croake, Esq.
2 East Mifflin Street, Suite 600
Madison, WI 53703
608/283-5623

EXHIBIT A

LEGAL DESCRIPTION

Lot 34, NORTH SALT LAKE INDUSTRIAL PARK PLAT "D", according to the official plat thereof, on file and of record in the office of the Davis County Recorder.

LESS AND EXCEPTING THEREFROM the following:

Beginning at a point on the West line of 400 West in North Salt Lake 528.67 feet South of the Northeast corner of Lot 35, North Salt Lake Industrial Park Plat "D", according to the official plat thereof, on file and of record in the office of the Davis County Recorder and running thence West 540 feet to the West line of said Lot 35; thence South 190.67 feet; thence East 540 feet to the West line of said 400 West Street; thence North 190.67 feet to the point of beginning.