

6559405

**ASSIGNMENT OF RENTS  
AND LEASES**

<p align="center"><b>GRANTOR</b></p> <p>THOMAS N. ZIMMERMAN PATTI A. ZIMMERMAN</p>	<p align="center"><b>BORROWER</b></p> <p>THOMAS N. ZIMMERMAN PATTI A. ZIMMERMAN</p>
<p align="center"><b>ADDRESS</b></p> <p>959 SILVER SAGE DRIVE SANDY, UT 84094 TELEPHONE NO. _____</p>	<p align="center"><b>ADDRESS</b></p> <p>959 SILVER SAGE DRIVE SANDY, UT 84094 TELEPHONE NO. _____</p>
IDENTIFICATION NO. _____	IDENTIFICATION NO. _____

OFFICER INITIALS	INTEREST RATE	PRINCIPAL AMOUNT/ CREDIT LIMIT	FUNDING/ AGREEMENT DATE	MATURITY DATE	CUSTOMER NUMBER	LOAN NUMBER
MPM	VARIABLE	\$86,923.13	01/27/97	01/27/17		92904394

1. **ASSIGNMENT.** In consideration of the loan evidenced by the promissory note or credit agreement described above (the "Note"), which is secured by a Deed of Trust, Grantor, identified above, absolutely assigns to Lender all Grantor's estate, right, title, interest claim and demand now owned or hereafter acquired in all existing and future leases of the real property described in Schedule A (the "Premises") (including extensions, renewals and subleases), all agreements for use and occupancy of the Premises (all such leases and agreements whether written or oral, are hereafter referred to as the "Leases"), and all guarantees of lessees' performance under the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Premises including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Premises, all proceeds payable as a result of a lessee's exercise of an option to purchase the Premises all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, and all proceeds from any rights and claims of any kind which Grantor may have against any lessee under the Leases or any occupants of the Premises (all of the above are hereafter collectively referred to as the "Rents"). This Assignment is subject to the right, power and authority given to the Lender to collect and apply the Rents. The foregoing Assignment is intended to be specific, perfected, and complete upon the recording of the Deed of Trust.

2. **COVENANTS OF GRANTOR.** Grantor covenants and agrees that Grantor will:
- Observe and perform all the obligations imposed upon the landlord under the Leases.
  - Refrain from discounting any future Rents or executing any future assignment of the Leases or collect any Rents in advance without the written consent of Lender.
  - Perform all necessary steps to maintain the security of the Leases for the benefit of Lender including, if requested, the periodic submission to Lender of reports and accounting information relating to the receipt of Rent payments.
  - Refrain from modifying or terminating any of the Leases without the written consent of Lender.
  - Execute and deliver, at the request of Lender, any assurances and assignments with respect to the Leases as Lender may periodically require.
  - Comply with all applicable federal, state and local laws and regulations concerning the Premises, including but not limited to all environmental laws, the Americans with Disabilities Act, and all zoning and building laws.

3. **REPRESENTATIONS OF GRANTOR.** Grantor represents and warrants to Lender that:
- The tenants under the Leases are current in all Rent payments and are not in default under the terms of any of the Leases.
  - Each of the Leases is valid and enforceable according to its terms, and there are no claims or defenses presently existing which could be asserted by any tenant under the Leases against Grantor or any assignee of Grantor.
  - No Rents or security deposits under any of the Leases have previously been assigned by Grantor to any party other than Lender.
  - Grantor has not accepted, and will not accept, Rent in excess of one month in advance under any of the Leases.
  - Grantor has the power and authority to execute this Assignment.
  - Grantor has not performed any act or executed any instrument which might prevent Lender from collecting Rents and taking any other action under this Assignment.

4. **GRANTOR MAY RECEIVE RENTS.** As long as there is no default under the Note described above, the Deed of Trust securing the Note, this Assignment or any other present or future obligation of Borrower or Grantor to Lender (whether incurred for the same or different purposes) ("Obligations"), Lender grants Grantor a revocable license to collect all Rents from the Leases when due and to use such proceeds in Grantor's business operations. However, Lender may at any time require Grantor to deposit all Rents into an account maintained by Grantor or Lender at Lender's institution.

5. **DEFAULT AND REMEDIES.** Upon default in the payment of, or in the performance of, any of the Obligations, Lender may at its option take possession of the Premises and have, hold, manage, lease and operate the Premises on terms and for a period of time that Lender deems proper. Lender may proceed to collect and receive all Rents, and Lender shall have full power to periodically make alterations, renovations, repairs or replacements to the Premises as Lender may deem proper. Lender may apply all Rents to the payment of the cost of such alterations, renovations, repairs and replacements and any expenses incident to taking and retaining possession of the Premises and the management and operation of the Premises. Lender may keep the Premises property insured and may discharge any taxes, charges, claims, assessments and other liens which may accrue. The expense and cost of these actions may be paid from the Rents, received, and any unpaid amounts shall be added to the principal of the Note. These amounts, together with other costs, shall become part of the indebtedness secured by the Deed of Trust and for which this Assignment is given.

6. **APPOINTMENT OF RECEIVER.** In the event of a default, Lender shall be entitled, without notice and as allowed by law, without bond, and without regard to the adequacy of the collateral securing the Obligations to the appointment of a receiver for the Premises. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by a receiver, all the rights and powers granted to Lender under the Deed of Trust and this Assignment.

7. **POWER OF ATTORNEY.** Grantor irrevocably authorizes Lender as Grantor's attorney-in-fact coupled with an interest, at Lender's option, upon taking possession of the Premises to lease or re-lease the Premises or any part thereof, to cancel and modify Leases, evict tenants, bring or defend any suits in connection with the possession of the Premises in the name of either party, make repairs as Lender deems appropriate and perform such other acts in connection with the management and operation of the Premises as Lender may deem proper. The receipt by Lender of any Rents under this Assignment after institution of foreclosure proceedings under the Deed of Trust shall not cure any default or affect such proceedings or sale which may be held as a result of such proceedings.

8. **BENEFICIAL INTEREST.** Lender shall not be obligated to perform or discharge any obligation, duty or liability under the Leases by reason of this Assignment. Grantor hereby agrees to indemnify Lender and to hold Lender harmless from any and all liability, loss or damage which Lender may incur under the Leases by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on Lender's part to perform or discharge any of the terms or agreements contained in the Leases. Should Lender incur any liability, loss or damage under the Leases or under or by reason of this Assignment, or in the release of any such claims or demands, the amount of such loss, including any costs and expenses to the extent permitted by applicable law, shall be secured by the Deed of Trust and for which this Assignment was given. Grantor agrees to reimburse Lender immediately upon demand for any such costs, and upon failure of Grantor to do so, Lender may accelerate and declare due all sums owed to Lender under any of the Obligations.

9. **NOTICE TO TENANTS.** A written demand by Lender to the tenants under the Leases for the payment of Rents or written notice of any default claimed by Lender under the Leases shall be sufficient notice to the tenants to make future payments of Rents directly to Lender and to cure any default under the Leases without the necessity of further consent by Grantor. Grantor hereby releases the tenants from any liability for any Rents paid to Lender or any action taken, by the tenants at the direction of Lender after such written notice has been given.

10. **INDEPENDENT RIGHTS.** This Assignment and the powers and rights granted are separate and independent from any obligation contained in the Deed of Trust and may be enforced without regard to whether Lender institutes foreclosure proceedings under the Deed of Trust. This Assignment is in addition to the Deed of Trust and shall not affect, diminish or impair the Deed of Trust. However, the rights and authority granted in this Assignment may be exercised in conjunction with the Deed of Trust.

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11. **MODIFICATION AND WAIVER.** The modification or waiver of any of Grantor's obligations or Lender's rights under this Assignment must be contained in a writing signed by Lender. Lender may perform any of Grantor's obligations or delay or fail to exercise any of its rights without causing a waiver of those obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Grantor's obligations under this Assignment shall not be affected if Lender amends, compromises, exchanges, fails to exercise, impairs or releases any of the obligations belonging to any Grantor or third party or any of its rights against any Grantor, third party or collateral.

12. **NOTICES.** Except as otherwise required by law, any notice or other communication to be provided under this Assignment shall be in writing and sent to the parties at the addresses indicated in this Assignment or such other address as the parties may designate in writing from time to time.

13. **SEVERABILITY.** If any provision of this Assignment violates the law or is unenforceable, the rest of the Assignment shall remain valid.

14. **COLLECTION COSTS.** To the extent permitted by law, Grantor agrees to pay Lender's reasonable fees and costs, including but not limited to fees and costs of attorneys and other agents (including without limitation paralegals, clerks and consultants) which are incurred by Lender in collecting any amount due or enforcing any right or remedy under this Agreement or any other agreement between Grantor and Lender, all whether or not suit is brought and including but not limited to fees and costs incurred on appeal, in bankruptcy, and for post-judgment collection actions whether or not any attorney is an employee of Lender.

15. **MISCELLANEOUS.**

- a. A default by Grantor under the terms of any of the Lease which would entitle the tenant thereunder to cancel or terminate such Lease shall be deemed a default under this Assignment and under the Note and Deed of Trust so long as, in Lender's opinion, such default results in the impairment of Lender's security.
- b. A violation by Grantor of any of the covenants, representations or provisions contained in this Assignment shall be deemed a default under the terms of the Note and Deed of Trust.
- c. This Assignment shall be binding upon and inure to the benefit of Grantor and Lender and their respective successors, assigns, trustees, receivers, administrators, personal representatives, legatees, and devisees.
- d. This Assignment shall be governed by the laws of the state indicated in the address of the Premises. Unless applicable law provides otherwise, Grantor consents to the jurisdiction of any court selected by Lender in its sole discretion located in the state indicated in Lender's address in the event of any legal proceeding under this Assignment.
- e. This Assignment is executed for business purposes. All references to Grantor in this Assignment shall include all persons signing below. If there is more than one Grantor, their obligations shall be joint and several. This Assignment represents the complete and integrated understanding between Grantor and Lender pertaining to the terms hereof. **ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER UTAH LAW.**

16. **JURY TRIAL WAIVER.** GRANTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY CIVIL ACTION ARISING OUT OF, OR BASED UPON, THIS ASSIGNMENT.

17. **ADDITIONAL TERMS.**

GRANTOR ACKNOWLEDGES THAT GRANTOR HAS READ, UNDERSTANDS, AND AGREES TO THE TERMS AND CONDITIONS OF THIS ASSIGNMENT.

Dated: JANUARY 27, 1997

GRANTOR: THOMAS N. ZIMMERMAN

*Thomas N. Zimmerman*  
THOMAS N. ZIMMERMAN

GRANTOR:

GRANTOR: PATTI A. ZIMMERMAN

*Patti A. Zimmerman*  
PATTI A. ZIMMERMAN

GRANTOR:

GRANTOR:

GRANTOR:

GRANTOR:

GRANTOR:

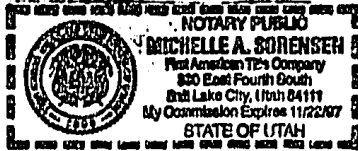
State of Utah )  
County of SALT LAKE )

The foregoing instrument was acknowledged before me this 27th day of January  
19 97, by THOMAS N. ZIMMERMAN AND PATTI A. ZIMMERMAN

My Commission Expires: 11/22/97

*Michelle A. Sorensen*  
Notary Public

Residing at: SALT LAKE CITY, UTAH



State of Utah )  
County of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_, by \_\_\_\_\_  
the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Notary Public

Residing at: \_\_\_\_\_

**SCHEDULE A**

The street address of the Premises (if applicable) is: **959 SILVER SAGE DRIVE  
SANDY, UT 84094**

The legal description of the Premises is:  
**BEGINNING AT THE NORTHWEST CORNER OF LOT 7, BLOCK 114, PLAT "A", SALT LAKE  
COUNTY SURVEY; AND RUNNING THENCE EAST 3 RODS; THENCE SOUTH 145 FEET;  
THENCE WEST 4 RODS; THENCE NORTH 145 FEET; THENCE EAST 1 ROD TO THE PLACE  
OF BEGINNING.**

THIS DOCUMENT WAS PREPARED BY AND SHOULD BE RETURNED TO LENDER

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