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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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MORRIS W. CARTER  
RECORDER

American Business Credit, Inc.  
Bala Cynwyd, PA 19004

**ASSIGNMENT OF LESSOR'S INTEREST IN LEASES**

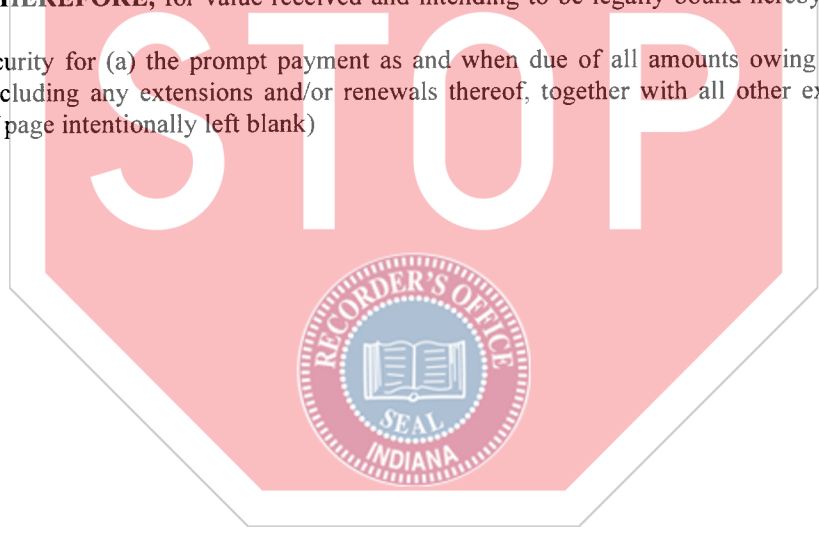
LOAN ID: 1301289945

THIS ASSIGNMENT ("Assignment") is made this **June 11, 2003** by **John R. Desmaretz** if more than one, (jointly and severally, "Assignor"), with a mailing address of **4914 Sandy Beach Drive, Crown Point, IN 46307** to **American Business Credit, Inc.** herein called "Lender"), a Pennsylvania corporation with an office at **111 Presidential Blvd., Ste. 127, Bala Cynwyd, PA 19004**.

Lender has agreed to lend up to **\$185,000.00**, (the "Loan") to **Naughty Grapes, Inc. d/b/a Naughty Grapes Wine Bar & Bistro** which Loan is evidenced by note of even date herewith as now or hereafter amended ("Note"). The Note is guaranteed by, among other things, a certain surety agreement of even date herewith (the "Surety Agreement") among Assignor and Lender. Assignor's obligations under the Surety Agreement are secured by, among other things, a mortgage ("Mortgage") on those certain premises situate in **City of Crown Point County of Lake, State of Indiana**, known and designated as **513 North Main Street** as more fully described in Exhibit "A" attached hereto and made a part hereof (collectively the Premises"). As a condition to making the Loan, Lender has required the execution and delivery of this Assignment.

**NOW, THEREFORE**, for value received and intending to be legally bound hereby, Assignor agrees as follows:

1. As security for (a) the prompt payment as and when due of all amounts owing under the Surety Agreement, including any extensions and/or renewals thereof, together with all other existing and future (Remainder of page intentionally left blank)



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liabilities and Obligations as that term is defined in the Mortgage and Surety Agreement, whether matured or unmatured, absolute or contingent, direct or indirect, joint or several, of any nature whatsoever and out of whatever transactions arising from the documents, agreements, and instruments executed in connection herewith (hereinafter collectively the "Loan Documents"); and (b) the performance and discharge of each and every obligation, covenant and agreement contained herein and in the Loan Documents, (said payment and performance under the Loan Documents shall hereinafter be collectively referred to as the "Obligations" herein), Assignor hereby assigns, transfers, sets over and grants to Lender a continuing lien on and security interest in all of the following whether now owned or hereafter acquired: (i) all of its rights, title, privilege and interest as lessor, by assignment or otherwise, in, to and under any and all leases now or hereafter affecting all or any part of the Premises, a true and correct listing of which is set forth on Exhibit "B", attached hereto and made a part hereof, together with any and all amendments, extensions, modifications thereof, and renewals, replacements and substitutions therefore (collectively referred to herein as the "Leases"); (ii) all rents, income, profits, accounts receivable of every kind and description and other rights of payment, security or deposits existing or arising in connection with any of the Leases and all other rights of payment from any other income producing facility now or hereafter situate on the Premises, a true and correct listing of which as of the date hereof is attached hereto as Exhibit "C", (iii) all guarantees of and security for any lessee's or other persons' obligations thereunder now or hereafter in force; (iv) all insurance proceeds, including rental loss coverage and business interruption coverage as to the Leases; (v) all awards or proceeds from any condemnation of the Premises or any part thereof; and (vi) all judgments or settlements of claims in favor of Assignor arising out of the Leases or any of the foregoing, or in any proceeding, including any bankruptcy, reorganization, insolvency or debtor proceeding. This Assignment includes, without limitation, the right to receive, upon the occurrence of any Event of Default as that term is defined herein, all rents, issues and profits, accounts receivable of any kind or description, security deposits, and other amounts payable under or in connection with each of the Leases and any other income producing facility now or hereafter situated on the Premises. Upon the payment and satisfaction in full of the Obligations, this Assignment shall terminate and be of no further force or effect.

2. The receipt by Lender of any rents, issues and profits and any other accounts receivable or other income from any other income producing facility now or hereafter situated on the Premises under any of the Leases or otherwise, after the institution of foreclosure proceedings under the Mortgage, shall not cure any default nor affect such proceedings or any sale pursuant thereto.

3. Assignor represents, warrants and covenants that:

- (a) Assignor has full right and title to assign the Leases and all other rights and property described in paragraph 1 hereof and all rights to received payments thereunder;
- (b) The Leases shall be subordinate in estate, lien, operation and effect to the Mortgage in favor of Lender on the Premises;
- (c) Assignor has not made and will not make any other assignment of the Leases or nay right of payment described herein;
- (d) There are no leases or agreements to lease all or any part of the Premises now in effect except Leases listed in Exhibit "B" attached hereto;
- (e) Assignor will promptly submit a copy of all proposed leases and sub-leases (other than transient leases) of all or any part of the Premises to Lender for Lender's prior written approval and shall not execute a lease or agreement to lease without Lender's prior written approval. Upon due execution by a lessee, such lease shall be considered a Lease and shall be subject to and in conformity with the provisions herein contained;
- (f) The Assignor will not execute any lease (which term shall also include subleases as the context may require) of all or substantial portion of the Premises except for actual occupancy by the lessee thereunder, and will at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all Leases now or hereafter existing, on the part of the lessor thereunder to be kept and performed and will at all times do all things necessary to compel performance by the lessee under each Lease of all

**Assignment of Leases by Surety**

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obligations, covenants and agreements by such lessee to be performed thereunder. Within ten (10) days after request by Lender, Assignor shall furnish to Lender satisfactory evidence of compliance with this paragraph together with a statement of all lease deposits and securities deposited by the tenants and copies of all leases not theretofore delivered to Lender, certified as true, correct and complete by the Assignor;

- (g) Upon Lender's request, and in any event within ninety (9) days after the end of each fiscal year of Assignor, Assignor will deliver to Lender an occupancy report stating as of the date of delivery thereof with respect to each of the Leases, the lessee's name, the date of each of the Leases, the premises demised, the term, the rent, the security deposits, any advance rent payments and any default by the lessee or Assignor in respect thereof.

4. The acceptance of this Assignment and the collection of rents or other payments under the Leases or in connection with any income producing facility shall not constitute a waiver of any rights of Lender under the terms of any of the Loan Documents. Except as otherwise provided herein, until the occurrence of an Event of default, as that term is defined herein, Assignor shall have the right to collect all rent and other amounts due to Assignor under the Leases, and the income producing facility and to retain, use and enjoy the same.

5. Assignor will: (a) fulfill or perform every condition and covenant of the Leases to be fulfilled or performed by it; (b) deliver to Lender, upon written demand, a statement and accounting specifying the rents and profits derived or received from the leases and the amounts delivered or received in connection with the income producing facility for the periods specified in such demand, the disbursements made for such periods and the names of all lessees of the Premises, and persons with whom Assignor has entered into an arrangement with respect to any income producing facility, if any, together with true and correct copies of such arrangements and all Leases for which rent is so accrued; and (c) maintain records and accounts for all security deposits in accordance with applicable law, and provide an accounting therefore as requested by Lender.

6. Should Assignor fail to make any payment or to do any act as herein provided, Lender may, in its sole discretion, without notice to or demand of Assignor and without releasing Assignor from any obligation herein, make or do the same, including without limitation, appearing in and defending any action purporting to affect the security hereof or the rights or powers of Lender, perform any obligation of the Assignor under the Leases and, in exercising any such powers, pay necessary costs and expenses, including without limitation, attorney's fees. Assignor will promptly pay, upon demand, all sums expended by Lender under the authority hereof, together with the interest thereon; such sums, together with interest thereon, shall be secured by the collateral security described herein and in the Loan Documents.

7. Notwithstanding anything to the contrary contained herein, Assignor hereby assigns to Lender any award made hereafter to it in any court proceeding involving any of the lessees (whether under any Lease or any right, including any right of payment, under or in connection with any income producing facility) in any condemnation, bankruptcy, insolvency, or reorganization proceedings in any state or Federal court, and any and all payments made under or in connection with such income producing facility. Assignor hereby appoints Lender as its irrevocable attorney-in-fact to appear in any action and/or to collect any such award or payment.

8. Lender shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under any of the Leases, or any arrangement in connection with any income producing facility and the Assignor hereby agrees to and does indemnify and defend Lender against, and to save it harmless from, any and all liability, loss, damage or expense (including attorneys' fees) of any nature arising in any manner from or in connection with any of the Leases, any income producing facility, or the providing or failure to provide any services thereunder or from this Assignment, and this Assignment shall not place responsibility for the control, care, management or repair of the Premises or any income producing facility upon Lender, or make Lender responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises including, without limitation any income producing facility, resulting in loss or injury or death to Assignor or to any lessee, tenant, licensee, employee or other person.

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9. Each of the following shall constitute an "Event of Default" hereunder: (a) the assignment of any of the Leases or any right of payment thereunder or under any income producing facility to any party other than Lender; (b) the leasing of all or any part of the Premises (except in the ordinary course of business) without the prior written approval of Lender; (c) the failure of Assignor to observe or perform any agreements covenants or representations hereunder; (d) the breach of any warranty or the untruth of any representation of Assignor contained herein; (e) the entry against Assignor of any judgment based or premised upon any of the Leases or income producing facility; (f) the occurrence of any Event of Default set forth in the Surety Agreement, the Mortgage or any of the other Loan Documents whether or not Lender elects to enforce such default; and (g) the occurrence of any default by Assignor under any of the Leases or any arrangement concerning the income producing facility.

10. (a) After the occurrence of any Event of Default hereunder or after the election by Lender to accelerate the maturity of the Obligations pursuant to the provisions of the Surety Agreement, the Mortgage, or the Loan Documents, Lender, at its option, without notice and without regard to the adequacy of the security of the sums secured hereby, either in person or by agent, may in accordance with applicable law, do any one or more of the following: (a) enter upon, take possession of, and control of the Premises and shall have all of Assignor's rights and powers with respect thereto including without limitation, the power and right to let and re-let all or part of and operate the Premises including without limitation any income producing facility situate thereon; (b) make, enforce, modify and accept the surrender of any of the Leases or any rights of payment under or in connection with any income producing facility; (c) evict lessees; (d) fix and modify rents and other sums payable by any lessee under any Lease or any income producing facility; (e) cancel or terminate any management agreement or contract regarding the Premises or any income producing facility, and appoint such property manager for the Premises and any income producing facility as Lender deems appropriate; (f) either with or without taking possession of the Premises, in its own name or in the name of Assignor or both, sue for or otherwise collect and receive all rents, issues, revenue, earnings and profits, accounts receivable and other amounts payable in connection with the Leases and any income producing facility situate on the Premises, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, to the Obligations secured hereby in such order as Lender may determine; (g) notify any lessee of all or any part of the Premises or any person obligated to make payments under or in connection with any income producing facility to make payments thereon directly to Lender and to take control of the cash and non-cash proceeds of any Lease or such payment and all lessees and other persons are hereby authorized and directed to pay rent and other sums payable under the Lease and in connection with any income producing facility directly to Lender upon receipt of a written notice from Lender to do so.

(b) The rights and powers granted and accruing to Lender pursuant to the foregoing subparagraph (a) shall be deemed and construed in accordance with and as a supplement to any rights and powers granted and accruing to Lender pursuant to the Surety Agreement, Mortgage, or any other Loan Documents and shall in no event be deemed or construed to limit the rights and powers of Lender contained therein.

11. Without the prior written consent of Lender, Assignor will not cause or permit the leasehold estate under my Lease to merge with Assignor's reversionary or equitable interest, if any, in the Premises.

12. Assignor hereby irrevocable authorizes Lender to give written notice of this Assignment at any time to any present or future lessee or lessees of all or any part of the Premises and any person with whom Assignor has entered into an arrangement with respect to any income producing facility now or hereafter situate on the Premises.

13. Assignor will, upon Lender's request, execute and deliver to Lender or otherwise obtain for Lender's benefit such further assignments and other documents and do or cause to be done such acts or thing as Lender, in its reasonable discretion, may require to perfect, protect or continue this Assignment, to otherwise affect the transactions contemplated hereby or to vest or confirm any right or remedy herein granted.

14. If any provision hereof is found by a court of competent jurisdiction to be prohibited or unenforceable, it shall be ineffective only to the extent of such prohibition or unenforceability shall not invalidate the other

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provisions hereof, all of which shall be liberally construed in favor of Lender in order to effect the provisions hereof.

15. The acceptance by Lender of this Assignment with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking possession of the Premises by Lender, be deemed or construed to constitute Lender a "Mortgagee in Possession", nor thereafter or at any time or in any event obligate Lender to appear in or defend any action or proceeding relating to any of the Leases, any income producing facility or the Premises, to take any action hereunder, to expend any money, incur any expenses, or perform or discharge any obligation, duty or liability under any of the Leases or in connection with any such income producing facility, or to assume any of the Leases not assigned and delivered to Lender. Lender shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Premises (including specifically and without limitation with respect to any income producing facility and Assignor hereby indemnifies and holds Lender harmless with respect thereto.

16. The full payment and performance of the Obligations and the duly recorded release or reconveyance of the Premises described therein render this Assignment void.

17. The new proceeds collected by Lender under the terms of this Assignment shall be applied in such order as Lender may in its sole discretion elect, to payment of Lender's fees and expenses arising for the enforcement of the terms and conditions of the Loan Documents, Surety Agreement, Mortgage and this Assignment, to the complete satisfaction of all of the Obligations together with all interest thereon, and to repayment of maintenance, operating charges, taxes, assessments and disbursements made in connection with the operation and maintenance of the Premises.

18. Any notices, consents, or communications required or permitted by this Assignment shall be in writing and shall be deemed delivered if delivered in person or if sent by certified mail, postage prepaid, return receipt requested, or telegraph, as follows, unless such address is changed by written notice hereunder:

If to Assignor:  
**John R. Desmaretz**  
4914 Sandy Beach Drive, Crown Point, IN 46307

If to Lender:  
**American Business Credit, Inc.**  
111 Presidential Blvd., Ste. 127  
Bala Cynwyd, PA 19004

19. It is expressly agreed by Assignor that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.

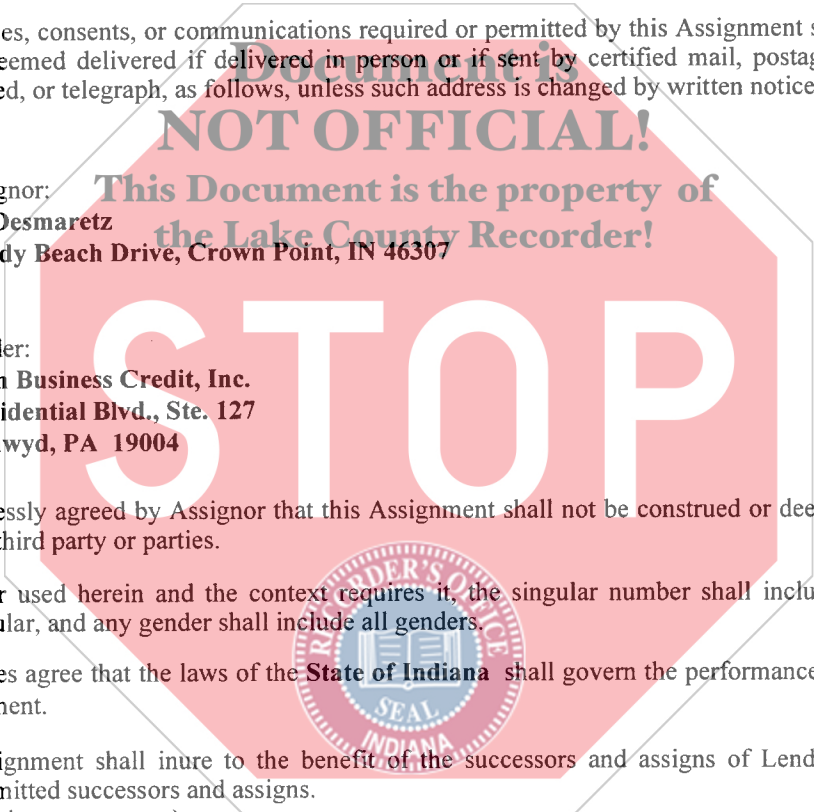
20. Whenever used herein and the context requires it, the singular number shall include the plural, the plural the singular, and any gender shall include all genders.

21. The parties agree that the laws of the State of Indiana shall govern the performance and enforcement of this Assignment.

22. This Assignment shall inure to the benefit of the successors and assigns of Lender and shall bind Assignor's permitted successors and assigns.  
(Signatures begin on next page)

**Assignment of Leases by Surety**

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EXECUTED THIS June 11, 2003

IN WITNESS WHEREOF, the Assignor has hereunto set his hand and seal the day and year first written. This instrument is intended to constitute an instrument under seal.

*[Handwritten Signature]*  
\_\_\_\_\_  
[L.S.]  
John R. Desmaretz, Individual

DO NOT SIGN

\_\_\_\_\_  
[L.S.]  
DO NOT SIGN

**Document is NOT OFFICIAL!**  
This Document is the property of the Lake County Recorder!

**STOP**

**RECORDER'S OFFICE**

**American Business Credit, Inc.**

By: *[Handwritten Signature]* \_\_\_\_\_ [L.S.]

*[Handwritten Signature]* \_\_\_\_\_ [L.S.]

Undersigned hereby acknowledges and accepts the foregoing Assignment of Lessor's Interest in Leases.

Assignment of Leases by Surety  
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**EXHIBIT A**

Description of Premises

**513 North Main Street, City of Crown Point, County of Lake, State of Indiana**

PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 34 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, IN THE CITY OF CROWN POINT, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 132 FEET NORTH OF THE INTERSECTION OF THE NORTH LINE OF GOLDSBOROUGH STREET IN RAILROAD ADDITION TO CROWN POINT, EXTENDED WEST, AND THE WEST LINE OF MAIN STREET IN SAID CITY, EXTENDED NORTH; THENCE WEST 160 FEET; THENCE 66 FEET; THENCE EAST 160 FEET TO SAID WEST LINE OF MAIN STREET, EXTENDED NORTH; THENCE SOUTH 66 FEET TO THE POINT OF BEGINNING.



**EXHIBIT B**

Existing Leases

All now existing or hereafter in existence leases of all or any part of the Premises.



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**EXHIBIT C**

LOAN ID: 1301289945

List of Income Producing Facilities

NONE



**Assignment of Leases by Surety**

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ACKNOWLEDGMENT

STATE OF Indiana :  
COUNTY OF Lake : SS

On 6/11/03 before me, the undersigned, personally appeared  
John R. Desmaretz

known to me or satisfactorily proven to me to be the person(s) whose name(e) is/are subscribed to the within instrument and acknowledged:

that he/she/they executed the same for the purposes therein contained and desire that it be recorded as such; or

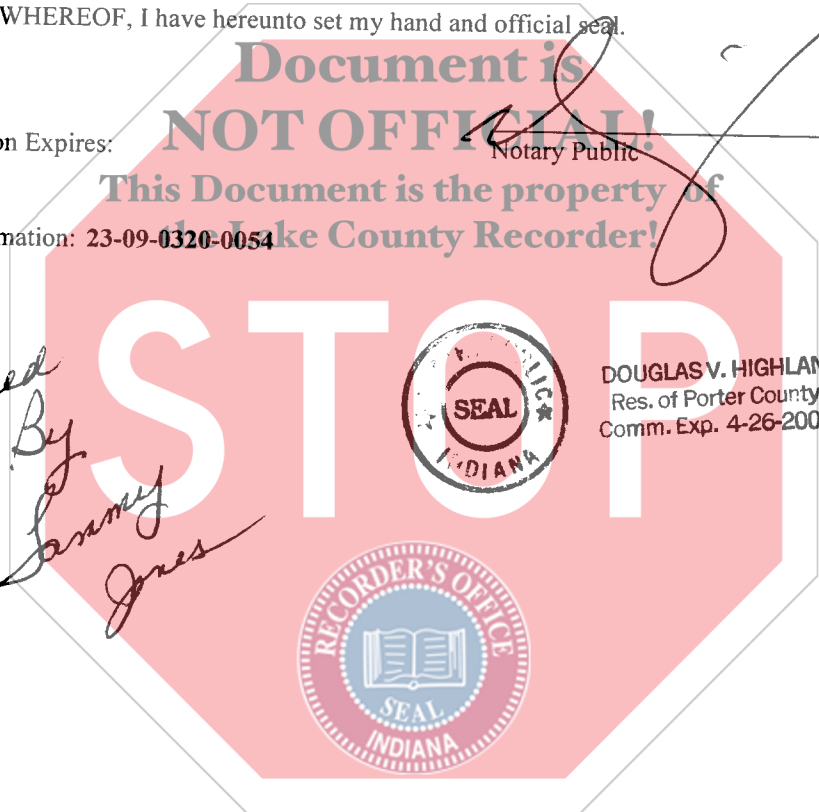
that being by me duly sworn on his/her/their oath, did depose and say and make proof to my satisfaction, that he/she/they are duly authorized officers, partners, or members of the business entity names in the within instrument and as such authorized persons(s), with full power and authority to do so, did execute/seal and deliver the within instrument as and for the voluntary act and deed of the within named business entity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires:

Notary Public

Tax Map Information: 23-09-0320-0054



*Prepared By  
Jimmy Jones*

Assignment of Leases by Surety  
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