



LEASE

THIS LEASE, entered into this 20th day of December, 1968, between THE CURATORS OF THE UNIVERSITY OF MISSOURI, a public corporation of the State of Missouri, Lessor, and THE ALUMNI HOUSE FUND ASSOCIATION, a Missouri corporation for itself and for Kappa Sigma Fraternity, University of Missouri - Rolla, Lessee,

WITNESSETH:

That Lessor hereby leases to Lessee and Lessee hereby takes as Lessee the following described Lot or Tract of land:

Lot Five (5) of University Fraternity Subdivision according to the Plat thereof recorded in Book D, Survey Number S-542, County Surveyors Records, Phelps County, Missouri; and Lot Six (6) of University Fraternity Subdivision according to the Plat thereof recorded in Book D, Survey Number 9-436, County Surveyors Records, Phelps County, Missouri, each said lot being located in a part of the Northwest Quarter of the Southwest Quarter of Section Two (2), also being a fractional part of Railroad Lot Number Thirty-four (34), and a part of the Northeast Quarter of the Southeast Quarter of Section Three (3), all in Township Thirty-seven (37) North, Range Eight (8) West, Phelps County, Missouri; subject to and reserving, however, unto Lessee, its successors and assigns utility easements Ten (10) feet in width around the entire inside perimeter of the above described Lots for the purpose of constructing, installing and maintaining such utilities as may be designated by Lessor.

1. The term of this Lease shall begin on the first day of January, 1969, and terminate on the thirty-first day of December, 2019.

2. Lessee shall pay rental therefor as follows:

(a) The rental for the first year of said Lease shall

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be Six Thousand and No/100 Dollars (\$6,000.00), which represents the Lessee's agreed share of the actual expense incurred by the Lessor in extending water and sewer lines to furnish outlets to Lots in University Fraternity Subdivision property.

(b) The rental for the subsequent years of said Lease shall be Two Hundred Dollars (\$200.00) per year provided, however, that if in subsequent years one-sixth ($1/6$) of the cost to the Lessor for the repairs, maintenance, or upkeep of the utility lines and roads and any other improvements which may be jointly used to provide service to the fraternity houses located or to be located in said district shall exceed the sum of Two Hundred Dollars (\$200.00), then Lessee shall for such years pay in addition to the rental above fixed one-sixth ($1/6$) of such additional sum as rental for that year, provided, however, that the Lessor shall have credit against such additional sum of any amount remaining from prior years' fixed rental after the payment of one-sixth ($1/6$) of the cost of such repairs and improvements.

(c) In the event the leasehold interest is mortgaged with the consent of Lessor and later foreclosed, the purchaser of the leasehold interest at foreclosure shall agree, in writing, to pay an annual rental equal to the reasonable rental value of said property to Lessor before being entitled to take possession and nothing herein contained shall preclude the fixing and collecting of such rent on said property under such circumstances by Lessor.

3. The Lessor covenants and agrees:

(a) That it will put the Lessee in possession of said leased property, and the Lessee or any person holding the leasehold interest under foreclosure, paying the rent hereby reserved

and observing and performing the several covenants and stipulations herein provided to be performed by the Lessee shall peacefully hold and enjoy the demised property during the term hereof, without any interruption by the Lessor or any person lawfully claiming under it.

(b) That it will provide water and sewer line outlets to service the leased premises.

(c) That it will, at its own expense, maintain the water and sewer lines and the private drive shown on the plat in reasonable and usable condition unless and until taken over by some municipal authority.

(d) That in the Lease or sale of any of Tracts 1 to 6, it will impose the same conditions and restrictions as are herein set forth in Paragraph 4(b) to (k), inclusive, provided, however that in the event any of said Lots are leased and Lessor consents to the placing of a mortgage upon any such Lessee's leasehold interest, said lease or leases may further provide that in the event the leasehold interest is foreclosed by the mortgagee and the purchaser at the foreclosure sale is not a fraternity duly recognized by Lessor on the campus of the University of Missouri at Rolla, the purchaser shall hold the leasehold interest free of provisions 4(b), (c), (i), and (j), but then subject to the condition that the property shall not be used for any purpose other than residential purposes and shall be subject to all other provisions and conditions of the lease.

(e) That notwithstanding the provisions of Paragraph 4(j) but in conformity therewith permission is hereby given to Lessee to assign this Lease or sublet the property to the University of Missouri at Rolla Chapter of Kappa Sigma Fraternity, provided,

however, that it shall acknowledge acceptance of the terms and conditions of this Lease and agree to comply with all the conditions herein applicable to Lessee and provided, further, that any violation of the terms of this Lease by it shall be cause for termination of this Lease with the same effect as if said violations had been committed by the named Lessee and upon termination of said Lease for failure to comply with the terms hereof all rights and interests of it and the named Lessee shall be terminated and cease.

X (f) That if the Lessee or the University of Missouri at Rolla Kappa Sigma Chapter, if this Lease be assigned to it or the property hereby leased sublet to it, shall present to the Lessor plans and specifications for the erection of a fraternity house on the leased land acceptable to the Lessor and shall furnish proof satisfactory to Lessor that it has available therefor twenty per cent (20%) of the fund necessary for the construction of said improvements, then the Lessor will consent to the placing of a mortgage not to exceed *Two Hundred Fifty Thousand Dollars* (\$ 250,000.00) which shall be fully payable in not more than twenty-five (25) years upon the Lessee's leasehold interest; provided, however, that each mortgage shall:

(1) Contain a provision that it will not be subject to foreclosure until after thirty (30) days' written notice has been served upon the Lessor and Lessee giving the cause for foreclosure;

(2) Contain a provision that Lessor may elect to assume the mortgage payments and put the mortgage in good standing and prevent acceleration in the event of Lessee's default in complying with the terms, conditions and covenants of the Lease and termination

of Lessee's interest by Mortgagee.

(3) Provide that nothing therein shall prevent the Lessor from terminating the right and interest of the Lessee for any cause provided in this Lease.

(4) Have been approved by the Lessor in writing.

In such event, Lessor will further give its consent that the termination of the Lessee's interest in the leasehold estate shall not destroy the lien of said mortgages upon the leasehold interest of the Lessee, and the mortgagee, notwithstanding the termination of the lease as to the Lessee, may foreclose said mortgage upon the leasehold interest, and in the event that the purchaser at the foreclosure sale is not a fraternity duly recognized by Lessor on the campus of the University of Missouri at Rolla, such purchaser shall hold the leasehold interest free of provisions 4(b), (c), (i), and (j), but then subject to the condition that the property shall not be used for any purpose other than residential purposes and shall be subject to all other provisions and conditions of the lease.

4. The Lessee covenants and agrees:

(a) To pay the rent provided in paragraph 2(a) on the first day of January, 1969, and to pay the annual rental provided in paragraph 2(b) on the first day of January, 1970, and on the first day of January of each year thereafter for the term of this Lease, provided that any additional rental due under said paragraph shall be paid with the rental due the succeeding year.

(b) That the demised premises shall be occupied only by a fraternity recognized by Lessor on the campus of the University of Missouri at Rolla as a home for such fraternity.

(c) That said property shall at no time during the term of the Lease be left unoccupied as a fraternity home for a longer period than two years at any one time.

(d) That the architectural plans and specifications for any building to be erected upon the leased ground and for any addition or modification affecting the outside of any building erected on the leased premises shall be prepared by a reputable Architect, and the written approval thereof by the Lessor shall be obtained before construction is started.

X (e) That Lessee will require a Performance Bond for one hundred per cent (100%) of the Contract price as security for the faithful performance of the contract and for the payment of all persons performing labor or supplying materials therefor, from any Contractor for the construction or repair of any improvements on the leasehold estate which shall cost in excess of One Thousand Dollars (\$1,000.00) and shall cause Lessor to be named as additional Obligee therein. The surety on such Bond shall be satisfactory to Lessor and authorized to do business in the State of Missouri.

(f) That the location of any buildings on the leased ground as well as any addition to any building erected on the leased ground shall be approved in writing by the Lessor before commencement of any construction thereof.

(g) That the Lessor shall finally determine whether the plans, specifications, and other contractual obligations assumed by the builder of such buildings or by the Lessee in connection therewith have been complied with.

(h) That the leased ground shall be landscaped and maintained in conformity with the general plans adopted by the Lessor

for the beautification of the area.

(i) That the Lessor shall have the power at all times to make such rules, regulations, and requirements as it shall see fit relative to the conduct and activities of the students occupying the buildings on Lots 1 to 6 of the attached plats and to change or alter such rules, regulations, or requirements as may be deemed for the good of the University of Missouri at Rolla, and failure on the part of the Lessee to conform to any such rules, regulations, or requirements thus provided shall subject said lease to termination at the option of the Lessor, and the Lessor shall be the sole judge of the rules and of the conformity or non-conformity therewith.

(j) That this lease is not transferable by sale (either private or by operation of law), assignment, or otherwise, and that the leased property shall not be sublet, all without the written approval of Lessor.

(k) That the right of control of construction as herein provided shall in no wise be construed as to constitute the Lessee or any one acting under it as agent of the Lessor and no construction liens shall ever take precedence over this lease or in any wise become binding upon the interest of the Lessor in said leased property.

(l) That Lessee will not suffer the premises or any erection or improvements thereon to become subject to any lien, charge, or encumbrance other than a mortgage upon the premises or the improvements thereon.

(m) That it will indemnify and save Lessor harmless from any and all liability, damage, expense, cost of action, suits,

claims or judgments arising from injury to person or property on the leased premises or upon the adjoining streets and sidewalks which arise out of the act, failure to act or negligence of Lessee, its agents or employees or persons holding under Lessee.

(n) That Lessor shall have the right, without making inquiry as to the validity, to make advances to Lessee's Mortgagee sufficient to put Lessee's Promissory Note, Deed of Trust and Mortgage in good standing and remove them from default, and such advances so made shall constitute and become additional rental due, on demand, to Lessor from Lessee together with interest thereon at the rate of six per cent (6%) per annum, or Lessor may elect to terminate the Lease and shall then be entitled, in addition to its rights as Lessor and owner of the property, to the same rights as Lessee under the mortgage.

(o) That all buildings and improvements placed upon said leased property by the Lessee shall upon termination of this lease for any cause become the absolute property of the Lessor, and all interests, rights, and claims of the Lessee in and thereto, as well as all persons claiming by or under the Lessee, shall absolutely terminate upon the termination of this lease for any cause, excepting only the lien of the deed of trust described in paragraph 3(f) hereof.

(p) The Lessee during the term of this Lease will not discriminate against any person because of race, creed, color or national origin and in any contract for construction on the leased premises Lessee will cause the following provisions to be made a part of the contract:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color or national

origin. The Contractor will take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color or national origin.

5. The Lessee and Lessor mutually covenant and agree:

(a) That in the event of

(1) Default in payment of the rental herein provided for thirty (30) days after any installment shall be due; or

(2) Failure to correct or remove any violation or violations of the rules and regulations as provided in paragraph 4(i) within ten (10) days after service of written notice setting forth the violations complained of; or

(3) Failure to place the mortgage provided for in paragraph 3(f) in good standing within ten (10) days after Lessee and Lessor have been given notice that the mortgagee intends to foreclose the mortgage; or

(4) Failure to correct any violation or violations of any other provision of this Lease within thirty (30) days after service of notice upon the Lessee setting forth the violation or violations complained of.

Then and in any such case Lessor may terminate this Lease by giving the Lessee written notice of termination and thereupon Lessee shall promptly vacate and surrender possession of the leased property together with all improvements thereon and all rights

therein to the Lessor, and all rights and interests of the Lessee and all persons holding under it, excepting only the rights of the mortgagee in a mortgage executed in conformity with paragraph 3(f) hereof shall fully and finally terminate.

(b) Any notice required herein to be given to the Lessee may be served by delivering the same to the Alumni Adviser who represents Lessee and Kappa Sigma Fraternity, or by mailing the same by registered mail addressed to said Alumni Adviser at his address on file with the University, and if service be by registered mail, notice shall be deemed given as of the date it should be delivered to the addressee in due course of mail.

(c) That the parties may, by mutual agreement evidenced in writing and executed by the duly authorized representatives, change or modify the utility easements shown on the plats and reserved unto Lessor for the purpose of locating the improvements to be erected on the premises in the most desirable and convenient location.

(d) This instrument shall be binding upon the Lessor and its successors and assigns and upon the Lessee, its successors and assigns if assignment be permitted as herein provided.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed in triplicate originals the day and year first above written.

ATTEST:

Mary Robnett
Mary Robnett, Secretary

THE CURATORS OF THE UNIVERSITY OF MISSOURI

By: William C. Myers, Jr.
William C. Myers, Jr., President

LESSOR

APPROVED
AS TO
FORM

ATTEST:

Dale C. Brown
Secretary

THE ALUMNI HOUSE FUND ASSOCIATION

By: William A. Millham, III
President

LESSEE

STATE OF MISSOURI)
) ss.
COUNTY OF BOONE)

On this 26th day of December, 1968, before me appeared William C. Myers, Jr., to me personally known, who, being, by me duly sworn, did say that he is the President of The Curators of the University of Missouri, a public corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said Corporation and that said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Curators, and said William C. Myers, Jr., acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Columbia, Missouri, the day and year first above written.

My term expires: September 15, 1971.

R. D. [Signature]
Notary Public

STATE OF MISSOURI)
City of St. Louis) ss.
COUNTY OF St. Louis)

On this 20th day of December, 1968, before me appeared William L. Sullivan III, to me personally known, who, being by me duly sworn, did say that he is the PRESIDENT of The Alumni House Fund Association, a not-for-profit corporation of the State of Missouri, having no seal, and that said instrument was signed in behalf of said Corporation by authority of its Board of Directors, and said William L. Sullivan III acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in St. Louis, the day and year first above written.

My term expires: Dec. 15, 1969.

Eleanor M. Sullivan
Notary Public

Filed: Dec. 30, 1968
1:20 P.M.
Book 15, Page 152-163
Records of Phelps Co. Mo.