

# UNOFFICIAL COPY

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2002-01-16 10:02:38  
Cook County Recorder 45.00

This instrument prepared by and after recording should be returned to:

FagelHaber LLC  
55 East Monroe Street  
40<sup>th</sup> Floor  
Chicago, Illinois 60603  
Attention: Victor A. Des Laurier, Esq.

PIN NUMBERS: 09-26-117-089- 0000

Common Address: 625 Busse Highway  
Park Ridge, Illinois 60068



Box 260

## ASSIGNMENT OF RENTS AND LESSOR'S INTEREST IN LEASES

This Assignment of Rents and Lessor's Interest in Leases (this "Assignment") is executed and delivered of the 27<sup>th</sup> day of December, 2001, by North Star Trust Company, not personally, but solely as Trustee under that certain Trust Agreement dated December 5, 2001, and known as Trust Number 01-4040 (the "Land Trust"), and North Star Realty Services, LLC, an Illinois limited liability company ("Beneficiary") (Beneficiary, together with the Land Trust are collectively "Mortgagor"), to First Bank (the "Bank").

### I. BACKGROUND

A. Contemporaneously herewith, Mortgagor has requested the Bank to provide certain extensions of credit, loans or other financial accommodations to Mortgagor (collectively the "Financial Accommodations") pursuant to that certain Mortgage and Security Agreement of even date herewith executed and delivered by Mortgagor to the Bank (as amended, renewed or restated from time to time, the "Park Ridge Mortgage"), and the other documents, instruments and agreements referenced therein or executed and delivered pursuant thereto (collectively the "Other Agreements"; the Other Agreements, together with the Park Ridge Mortgage are collectively the "Loan Documents"), including, without limitation, the following documents: (i) that certain Secured Installment Note of even date herewith in the original principal amount of Two Million Eight Hundred Seventy-Three Thousand and no/100 Dollars (\$2,873,000.00) executed and delivered by Mortgagor to the Bank, (ii) that certain Environmental Indemnity Agreement of even date herewith executed and delivered by the Thomas J. Cooney Sons Partnership, an Illinois general partnership (the "Partnership"), Martin P. Cooney ("Martin"), Michael J. Cooney ("Michael"), Thomas J. Cooney III ("Thomas"), and Maureen H. Cooney ("Maureen") to the Bank, (iii) that certain Collateral Assignment of Beneficial Interest of even date herewith executed and delivered by Beneficiary to the Bank, (iv) that certain Mortgage and Security Agreement of even date herewith executed and delivered by LaSalle Bank National Association, not personally, but solely as successor Trustee to Lake View Trust and Savings Bank under that certain Trust Agreement dated June 19, 1954, and known as Trust Number 1424

ATGF, INC.

(the "LaSalle Land Trust"), and Martin, Michael, Thomas and Maureen, as Trustee of the Maureen H. Cooney Trust (the "Maureen Trust") (Martin, Michael, Thomas and the Maureen Trust are collectively, the "Chicago Beneficiaries"), to the Bank (the "Chicago Mortgage"), (v) that certain Assignment of Rents and Lessor's Interest in Leases of even date herewith executed and delivered by the LaSalle Land Trust and the Chicago Beneficiaries to the Bank, (vi) that certain Collateral Assignment of Beneficial Interest of even date herewith executed and delivered by the Chicago Beneficiaries to the Bank, (vii) those certain Personal Guaranties of even date herewith executed and delivered by each of Martin, Michael, Thomas, and Maureen to the Bank and (viii) any renewals, modifications, amendments or substitutions to any of the foregoing.

B. The Bank has required Mortgagor to execute and deliver this Assignment as a condition to the Bank entering into the Park Ridge Mortgage and the other Loan Documents.

C. In consideration of the foregoing, the mutual promises and understandings of the parties hereto set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagor hereby covenants unto and agrees with the Bank as set forth in this Assignment.

## II. ASSIGNMENT

A. To secure the full and timely payment and performance by Mortgagor, the LaSalle Land Trust, Martin, Michael, Thomas and/or Maureen of the "Liabilities" and the "Covenants" (both as defined in the Park Ridge Mortgage), including, without limitation, the Liabilities evidenced by or referenced in the Loan Documents and this Assignment, Mortgagor hereby grants, conveys, transfers and assigns to the Bank:

1. all leases demising and leasing all or any part of the premises legally described on Exhibit "A" (the "Premises") attached hereto, any contract for the sale of all or any part of the Premises, or any other agreement for the use, sale or occupancy of all or any part of the Premises, whether heretofore, now or hereafter executed by Mortgagor and any renewals, extensions, modifications, amendments or substitutions thereto (collectively the "Leases"); and

2. all rents, issues, deposits, income and profits now due or which may hereafter become due under or by virtue of the Leases, or any letting or demise of, or any agreement for the use, sale or occupancy of the Premises or any part thereof and all the avails thereof, now existing or hereafter made or agreed to or which may be made or agreed to under the powers herein granted, together with all rights against guarantors, if any, of the obligations of the lessees under the Leases (collectively the "Income").

B. Mortgagor hereby irrevocably appoints the Bank as its true and lawful attorney-in-fact to:

1. rent, lease, let or sell all or any part of the Premises to any party or parties at such price and upon such terms as the Bank may determine; and

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2. collect, sue for, settle and compromise all of the rents, issues, deposits, contracts for sale, income and profits now due or which may at any time hereafter become due, with the same rights and powers and subject to the same immunities, exoneration of liability, rights of recourse and indemnity as the Bank would have upon taking possession of the Premises pursuant to the provisions hereinafter set forth.

### III. REPRESENTATIONS, WARRANTIES AND COVENANTS

Mortgagor represents, warrants and covenants unto the Bank as follows:

A. The Leases and the Income are freely assignable by Mortgagor to the Bank, and Mortgagor has full power and authority to make the assignment provided for herein;

B. All income due under the Leases has been fully and timely paid, and, except for those security deposits listed on Exhibit "B", Mortgagor is currently not in possession of any pre-paid Income;

C. None of the Income for any part of the Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Mortgagor;

D. Mortgagor is the sole owner of the entire interest in any currently existing Leases, and the Leases are valid and enforceable in accordance with their terms and have not been altered, modified or amended in any manner whatsoever;

E. There are no claims or causes of action in connection with the Leases which Mortgagor may have or which any party may have against Mortgagor;

F. Mortgagor has not, and will not at any time hereafter, assign or pledge to any person or entity, other than the Bank, any or all of the Leases or the Income;

G. The only Leases in effect with respect to the Premises are listed on Exhibit "C" attached hereto, full, correct and complete copies of which, including all amendments, have been delivered to the Bank;

H. No defaults by Mortgagor or any lessee exist under the Leases and there exists no fact which, with the giving of notice or lapse of time or both, would constitute a default under the Leases. Mortgagor will promptly provide the Bank with copies of any notices of default sent or received by Mortgagor in connection with the Leases; and

I. Mortgagor shall:

1. observe and perform all the obligations imposed upon Mortgagor, as lessor, under the Leases and not do or permit to be done anything to impair the security thereof;

2. not consent to the assignment or subletting of the Premises without the prior written consent of the Bank;

3. not collect any of the Income in advance of the time when the same shall become due;
4. not alter, modify or change the terms of the Leases or any guaranties thereof, cancel or terminate the Leases or any guaranties thereof or accept a surrender thereof without the prior written consent of the Bank; and
5. deliver to the Bank all original Leases, including, but not limited to, all original Leases executed after the date hereof.

#### IV. WAIVERS

A. Mortgagor hereby waives any right of set-off against any person in possession of all or any part of the Premises. Nothing herein contained shall be construed as constituting the Bank a "trustee in possession" or a "mortgagee in possession" in the absence of the taking of actual physical possession of the Premises by the Bank pursuant to the provisions hereinafter contained.

B. Mortgagor hereby waives any claim, cause of action or right of setoff against the Bank, its officers, directors, employees and agents for any loss sustained by Mortgagor resulting from the Bank's failure to let the Premises after an "Default" (hereinafter defined) or from any other act or omission of the Bank in managing the Premises, nor shall the Bank be obligated to perform or discharge, nor does the Bank hereby undertake to perform or discharge, any obligation, duty, or liability under the Leases created or incurred by Mortgagor prior to the time the Bank takes possession of the Premises (the "Pre-existing Obligations"). Mortgagor shall, and does hereby agree to indemnify the Bank for, and hold the Bank harmless from, any and all liability, loss or damage which may or might be incurred under the Leases or under or by reason of this Assignment and from any and all claims and demands whatsoever which may be asserted against the Bank by reason of any alleged obligations or undertakings on the Bank's part to perform or discharge any of the terms, covenants or agreements contained in any of the Leases, including, but not limited to, any Pre-existing Obligations. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises upon the Bank, nor for the carrying out of any of the terms and conditions of the Leases prior to the time the Bank may take possession, nor shall it operate to make the Bank responsible or liable for any waste committed on the Premises by any lessee or any other persons or entities or for any dangerous or defective conditions of the Premises.

C. If the Bank incurs any liability for any Pre-existing Obligations under the Leases or under or by reason of this Assignment or in the good faith defense of any claims or demands relative to any Pre-existing Obligations, the amount thereof, including, but not limited to, costs, expenses, and attorneys' fees, shall be secured hereby and by the Loan Documents, and shall be due and payable from Mortgagor to the Bank on demand with interest thereon at the "Default Rate" (as defined in the Park Ridge Mortgage).

## V. FUTURE LEASES

A. Mortgagor shall cause each lessee, whether now existing or hereafter arising, to execute and deliver to the Bank a Tenant Estoppel Certificate and Subordination Agreement, in form and substance acceptable to the Bank.

B. Mortgagor shall assign and transfer to the Bank all future Leases upon all or any part of the Premises and shall execute and deliver, immediately upon the request of the Bank, all such further assurances and assignments in the Premises as the Bank shall from time to time require.

## VI. DEFAULT

A "Default" means the occurrence of (a) a breach, default or event of default under this Assignment, or (b) an "Event of Default" as defined in the Park Ridge Mortgage.

## VII. ENFORCEMENT OF THIS ASSIGNMENT

A. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that the Bank shall not exercise any of the rights and powers conferred upon it under Section II hereunder until the occurrence of a Default.

B. The Bank, without in anyway waiving a Default, and without the institution of legal proceedings of any kind whatsoever, may, at its option, either in person, by agent or by a receiver appointed by a court, take possession of the Premises and have, hold, manage, lease, sell and operate the same on such terms and for such period of time as the Bank may deem proper and either with or without taking possession of the Premises in its own name, sue for or otherwise collect and receive the Income and enforce the Leases, including, but not limited to, Income past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs or replacements thereto or thereof and to apply such Income as the Bank may determine in its sole discretion, including, but not limited to, the payment of:

1. all expenses of managing the Premises, including, without limitation, all taxes, charges, claims, assessments, water rents, sewer rents, any other liens and premiums for all insurance which the Bank may deem necessary or desirable, and the costs of all alterations, renovations, repairs, or replacements, and all expenses incident to taking and retaining possession of the Premises;

2. the principal sum, interest and any other indebtedness owed to the Bank by Mortgagor, together with all costs and attorneys' fees in such order of priority as to any of the items mentioned in this paragraph as the Bank, in its sole discretion, may determine, any statute, law, custom or use to the contrary notwithstanding;

3. taxes and special assessments now due or which may hereafter become due on the Premises; and

4. all repairs, decorating, renewals, replacements, alterations, additions, betterments or improvements of the Premises, and of placing the Premises in such condition as will, in the judgment of the Bank, make it readily rentable or saleable.

C. The exercise by the Bank of its rights provided herein and the collection of the Income and the application thereof as herein provided shall not be considered a waiver of any Default by Mortgagor under the Loan Documents.

D. Mortgagor agrees that the Bank shall have full power to use such measures, legal or equitable, in its sole discretion or in the discretion of its successors, divisions, parents, affiliates, parents or assigns, as may be deemed proper or necessary to enforce the payment of the Income in connection with the Premises, including, but not limited to, actions for the recovery of rent, actions in forcible detainer and actions in distress of rent. This Assignment is and shall be primary and on a parity with the real estate conveyed by the Park Ridge Mortgage and not secondary. Mortgagor hereby grants to the Bank full power and authority to exercise each and every of the rights, privileges, and powers herein granted at any and all times hereafter, without notice to Mortgagor, and with full power, to the extent permitted by law, to cancel or terminate any of the Leases for any cause or on any ground, to elect to disaffirm any of the hereafter executed Leases or the Leases subordinated to the lien of the Park Ridge Mortgage, to make all the necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises, to insure and reinsure the same for all risks incidental to the Bank's possession, operation and management thereof, and to receive all Income.

E. Mortgagor agrees that the Bank may take or release other security for the payment of the Liabilities, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of such Liabilities without prejudice to any of its rights under this Assignment.

F. Upon issuance of a deed or deeds pursuant to foreclosure of the Park Ridge Mortgage, the Leases shall, by virtue of this instrument, thereupon vest in and become the absolute property of the grantee or grantees in such deed or deeds without any further act or assignment by Mortgagor. Mortgagor hereby irrevocably appoints the Bank to execute all instruments of assignment for further assurance in favor of such grantee or grantees in such deed or deeds, as may be necessary or desirable for such purpose.

G. Any amounts received by Mortgagor or their agents for performance of any actions prohibited by the terms of this Assignment, including any amounts received in connection with any cancellation, modification or amendment of any of the Leases and any amounts received by Mortgagor as Income, shall be held in trust by Mortgagor and immediately remitted to the Bank. Any person acquiring or receiving all or any part of such funds shall acquire or receive the same in trust for the Bank as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith.

## VIII. DIRECTION TO LESSEES

Mortgagor hereby authorizes and directs any and all lessees or occupants of the Premises to pay over to the Bank all Income after the occurrence of a Default and to continue to do so until otherwise notified by the Bank.

## IX. OTHER

A. This Assignment shall be binding upon Mortgagor and its successors, and permitted assigns, if any, and any party or parties holding title to the Premises by, through, or under Mortgagor. All of the rights, powers, privileges, and immunities herein granted and assigned to the Bank shall also inure to its successors, divisions, nominees, parents, subsidiaries, affiliates and assigns.

B. It is expressly understood that no judgment which may be entered on any debt secured or intended to be secured by the Park Ridge Mortgage shall operate to abrogate or lessen the effect of this instrument, but that the same shall continue in full force and effect until the payment and discharge of any and all Liabilities and Covenants of Mortgagor now or hereafter owing to the Bank. This Assignment shall also remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale.

C. The relationship between Mortgagor and the Bank is solely that of secured creditor and debtor, and nothing contained herein or in any of the Loan Documents shall in any manner be construed as making the parties hereto partners, joint venturers or any other relationship other than secured creditor and debtor.

D. If any provision of this Assignment is held to be invalid or unenforceable by a Court of competent jurisdiction, such provision shall be severed herefrom and such invalidity or unenforceability shall not affect any other provision of this Assignment, the balance of which shall remain in and have its intended full force and effect. However, if such invalid or unenforceable provision may be modified so as to be valid and enforceable as a matter of law, such provision shall be deemed to have been modified so as to be valid and enforceable to the maximum extent permitted by law.

E. The Exhibits referred to herein are attached hereto, made a part hereof and incorporated herein by this reference thereto.

F. This Assignment may be executed in multiple counterparts, each of which shall be deemed an original.

G. All references to Mortgagor shall mean the Land Trust and the Beneficiary, both individually and collectively, and jointly and severally, and all representations, warranties, duties, covenants, agreements and obligations of Mortgagor shall be the individual and collective representations, warranties, duties, covenants, agreements and obligations of each of the Land Trust and the Beneficiary, and the breach or default thereof shall give rise to joint and several liability to the Land Trust and the Beneficiary.

H. This Assignment is executed by North Star Trust Company, not personally but solely as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by North Star Trust Company, as the Land Trust are undertaken by it solely as Trustee, as aforesaid, and not individually, and no personal liability shall be asserted or be enforceable against North Star Trust Company by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this Assignment.

G. MORTGAGOR AND THE BANK EACH HEREBY ABSOLUTELY AND UNCONDITIONALLY WAIVE THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER OR RELATED TO THIS ASSIGNMENT OR ANY OTHER INSTRUMENT DOCUMENT OR AGREEMENT EXECUTED AND DELIVERED BY MORTGAGOR TO THE BANK.

IN WITNESS WHEREOF, the undersigned have executed this instrument as of the date first written above.

NORTH STAR TRUST COMPANY,  
not personally but solely as Trustee  
under that certain Trust Agreement  
dated December 5, 2001, and  
known as Trust No. 01-4040

By: David Rosenfeld  
Its: Vice-President

NORTH STAR REALTY SERVICES, LLC

By: David Rosenfeld  
Its: Jacob Bell  
Vice-President



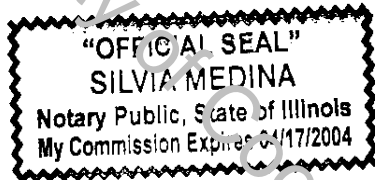
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20061051

STATE OF ILLINOIS    )  
                                  ) S.S.  
COUNTY OF COOK     )

I, Silvia Medina, a Notary Public in and for said County, in the State aforesaid, do hereby certify that JACKLINISHA, who is personally known to me to be the ~~Vice-President~~ of North Star Realty Services, LLC, and the same persons whose names is subscribed to the foregoing Assignment of Rents and Lessors Interest in Leases, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27<sup>th</sup> day of December, 2001.



Silvia Medina  
Notary Public

My commission expires:

\_\_\_\_\_

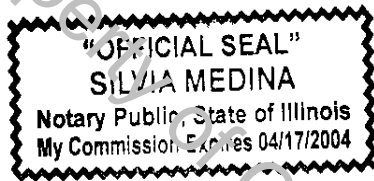
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2008-1051

STATE OF ILLINOIS    )  
                                  ) S.S.  
COUNTY OF COOK     )

I, Silvia Medina, a Notary Public in and for said County, in the State aforesaid, do hereby certify that David Rosenfeld, who is personally known to me to be a 1st Vice-President of North Star Trust Company, as Trustee, and the same person whose name is subscribed to the foregoing Assignment of Rents and Lessor's Interest in Leases, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27th day of December, 2001.



Silvia Medina  
Notary Public

My commission expires:

\_\_\_\_\_

Proprietary  
Cook County Clerk's Office

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20061001

## EXHIBIT "A"

### LEGAL DESCRIPTION

LOT 2 IN RIECK'S RESUBDIVISION BEING A SUBDIVISION OF PART OF LOTS 4, 5, 6, 7, 8 AND 9 IN PEHLKE'S DIVISION OF PART OF THE NORTHWEST ¼ OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS: 09-26-117-089-0000

COMMON ADDRESS: 625 Busse Highway  
Park Ridge Illinois 60068

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EXHIBIT "B"

SECURITY DEPOSITS

None.

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## EXHIBIT "C"

### LEASES

That certain lease dated as of October 18, 2001, by and between the Land Trust and the Partnership.

Doc ID: 236345-1

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