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01/0045 20 001 Page 1 of 16
2002-01-17 09:22:08
Cook County Recorder 51.00



Record and Return to:

Winston & Strawn
35 West Wacker Drive
Suite 4200
Chicago, Illinois 60614
Attn: Ankur Gupta, Esq.

Handwritten signature/initials

788/825287

ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS

16

This **ASSIGNMENT AND ASSUMPTION OF LOAN DOCUMENTS** (this "Assignment") is entered into as of November 21st, 2001 (the "Effective Date"), between **FITZPATRICK CHICAGO HOLDINGS INC.**, an Illinois corporation (as "Assignor"), and **FITZPATRICK CHICAGO HOTEL L.P.**, an Illinois limited partnership (as "Assignee"), with reference to the following:

WITNESSETH:

WHEREAS, IIB Bank Limited, a company registered in the Republic of Ireland (hereinafter "IIB"), as "Lender", Assignor, as "Borrower", Jolly Tinker Inc. and Fitzpatrick's Enterprises Limited have executed that certain Facility Letter dated April 12, 2001 (together with any and all renewals, amendments, modifications, supplements, restatements, extensions for any period, or increases or rearrangements thereof, the "Facility Letter"), pursuant to which Facility Letter IIB has made and may in the future make loans and advances and other financial accommodations (collectively, "Facility Letter Loans"; each a "Facility Letter Loan") to the Borrower (as defined in the Facility Letter) in the aggregate principal amount of Twelve Million Five Hundred Thousand and No/100 Dollars (\$12,500,000.00), upon the terms and subject to the conditions set forth in the Facility Letter;

WHEREAS, ICC Bank plc, a company registered in the Republic of Ireland (hereinafter "ICC"), as the lender, and Assignor, as "Borrower", have executed that certain Offer Letter dated May 25, 2001 (together with any and all renewals, amendments, modifications, supplements, restatements, extensions for any period, or increases or rearrangements thereof, the "Offer Letter"), pursuant to which Offer Letter ICC has made and may in the future make loans and advances and other financial accommodations (collectively, "Offer Letter Loans"; each an "Offer Letter Loan") to the Borrower (as defined in the Offer Letter) in the aggregate principal amount of Ten Million Five Hundred Thousand and No/100 Dollars (\$10,500,000.00), upon the terms and subject to the conditions set forth in the Offer Letter;

WHEREAS, IIB and ICC are collectively referred to herein as the "Lenders";

BOX 333-CTI

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110-322 NOV

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WHEREAS, the Facility Letter Loans and the Offer Letter Loans are collectively referred to herein as the "Loans";

WHEREAS, IIB, as a "Senior Lender", ICC, as a "Senior Lender", and IIB, as "Collateral Agent", have executed that certain Intercreditor and Collateral Agency Agreement dated as of May 30, 2001 (as amended, restated, modified or supplemented from time to time, the "ICA Agreement"), pursuant to which IIB and ICC appointed Collateral Agent (as defined in the ICA Agreement) to serve as their agent with respect to the Collateral (as defined in the ICA Agreement) securing the loan obligations of Assignor under the Facility Letter and Offer Letter;

WHEREAS, in connection with the Loans, Assignor executed certain loan documents described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Loan Documents");

WHEREAS, as of the Effective Date, Assignor is assigning and conveying to Assignee all of Assignor's right, title and interest in and to that certain property commonly known as 166 East Superior Street, Chicago, Illinois, and more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, in connection with the conveyance of the Property from Assignor to Assignee, Assignor desires to assign all of its right, title and interest under the Loan Documents to Assignee, and Assignee desires to assume and perform Assignor's obligations under the Loan Documents, upon the terms and conditions set forth below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and Assignee agree as follows:

1. Assignor assigns and transfers to Assignee all of Assignor's right, title and interest in and to the Loan Documents and delegates to Assignee all of Assignor's duties and obligations under the Loan Documents; **TO HAVE AND TO HOLD** the same, subject to the payments due in accordance with the Loan Documents, and the performance of the covenants, conditions and stipulations contained in the Loan Documents.
2. Assignee acknowledges that it has examined and is familiar with all of the terms and provisions of the Loan Documents. Assignee assumes each and every obligation under the Loan Documents to be performed by Assignor, including without limitation the obligation to pay all sums due and owing to Lessor and to perform all covenants, conditions and stipulations contained in the Loan Documents.
3. Assignee will not, without the prior written consent of the Lenders in each instance, further assign the Loan Documents or any interest in, or part of, any of the Loan Documents.

4. Notwithstanding anything to the contrary contained in this Assignment, this Assignment shall not enlarge or increase Lenders' obligations or liability under the Loan Documents or otherwise.

5. Assignor and Assignee each agree to indemnify, defend and hold IIB, ICC and Collateral Agent, and their respective affiliates, successors and assigns, harmless from and against any and all damage, loss, cost or expense, including without limitation reasonable attorneys' fees and disbursements, incurred by reason of any claim of or liability to any person in connection with this Assignment. The obligations of Assignor and Assignee under this paragraph shall survive the maturity, expiration or sooner termination of the Loan Documents.

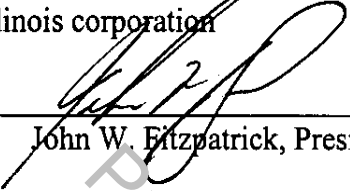
6. This Assignment may be executed in one or more counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

[signature and notary pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

ASSIGNOR:

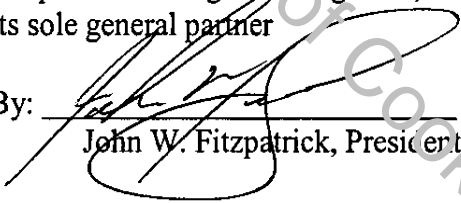
FITZPATRICK CHICAGO HOLDINGS INC.,
an Illinois corporation

By: 
John W. Fitzpatrick, President

ASSIGNEE:

FITZPATRICK CHICAGO HOTEL L.P.,
an Illinois limited partnership

By: Fitzpatrick Chicago Holdings Inc.,
its sole general partner

By: 
John W. Fitzpatrick, President

THIS ASSIGNMENT AND THE
CONVEYANCE OF THE PROPERTY
FROM ASSIGNOR TO ASSIGNEE IS
HEREBY CONSENTED TO BY IIB AS
OF NOVEMBER _____, 2001.

IIB BANK LIMITED, a company
registered in the Republic of Ireland

By: _____
Name/Title: _____

THIS ASSIGNMENT AND THE
CONVEYANCE OF THE PROPERTY
FROM ASSIGNOR TO ASSIGNEE IS
HEREBY CONSENTED TO BY ICC AS
OF NOVEMBER _____, 2001.

ICC BANK PLC, a company registered in
the Republic of Ireland

By: _____
Name/Title: _____

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IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

ASSIGNOR:

FITZPATRICK CHICAGO HOLDINGS INC.,
an Illinois corporation

By: _____
John W. Fitzpatrick, President

ASSIGNEE:

FITZPATRICK CHICAGO HOTEL L.P.,
an Illinois limited partnership

By: Fitzpatrick Chicago Holdings Inc.,
its sole general partner

By: _____
John W. Fitzpatrick, President

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY FROM ASSIGNOR TO ASSIGNEE IS HEREBY CONSENTED TO BY IIB AS OF NOVEMBER 13, 2001.

IIB BANK LIMITED, a company registered in the Republic of Ireland

By: Annal Kelly
Name/Title: DEPUTY MANAGER

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY FROM ASSIGNOR TO ASSIGNEE IS HEREBY CONSENTED TO BY ICC AS OF NOVEMBER _____, 2001.

ICC BANK PLC, a company registered in the Republic of Ireland

By: _____
Name/Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

ASSIGNOR:

FITZPATRICK CHICAGO HOLDINGS INC.,
an Illinois corporation

By: _____
John W. Fitzpatrick, President

ASSIGNEE:

FITZPATRICK CHICAGO HOTEL L.P.,
an Illinois limited partnership

By: Fitzpatrick Chicago Holdings Inc.,
its sole general partner

By: _____
John W. Fitzpatrick, President

THIS ASSIGNMENT AND THE
CONVEYANCE OF THE PROPERTY
FROM ASSIGNOR TO ASSIGNEE IS
HEREBY CONSENTED TO BY IIB AS
OF NOVEMBER _____, 2001.

IIB BANK LIMITED, a company
registered in the Republic of Ireland

By: _____
Name/Title: _____

THIS ASSIGNMENT AND THE
CONVEYANCE OF THE PROPERTY
FROM ASSIGNOR TO ASSIGNEE IS
HEREBY CONSENTED TO BY ICC AS
OF NOVEMBER 21st, 2001

ICC BANK PLC, a company registered in
the Republic of Ireland

By: Jacinta O'Mahony
Name/Title: Jacinta O'Mahony
Secretary

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY FROM ASSIGNOR TO ASSIGNEE IS HEREBY CONSENTED TO BY COLLATERAL AGENT AS OF NOVEMBER 13, 2001.

IIB BANK LIMITED, a company registered in the Republic of Ireland, as Collateral Agent

By: Arthur Kelly
Name/Title: DEPUTY MANAGER

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY IS HEREBY CONSENTED TO BY FITZPATRICKS' ENTERPRISES LIMITED AS OF NOVEMBER _____, 2001.

FITZPATRICKS' ENTERPRISES LIMITED, a company registered in the Republic of Ireland

By: _____
Name/Title: _____

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY IS HEREBY CONSENTED TO BY JOLLY TINKER INC. AS OF NOVEMBER _____, 2001.

JOLLY TINKER INC., a New York corporation

By: _____
Name/Title: _____

Property of Cook County Clerk's Office

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20071774

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY FROM ASSIGNOR TO ASSIGNEE IS HEREBY CONSENTED TO BY COLLATERAL AGENT AS OF NOVEMBER _____, 2001.

IIB BANK LIMITED, a company registered in the Republic of Ireland, as Collateral Agent

By: _____
Name/Title: _____

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY IS HEREBY CONSENTED TO BY FITZPATRICKS' ENTERPRISES LIMITED AS OF NOVEMBER 21st, 2001.

FITZPATRICKS' ENTERPRISES LIMITED, a company registered in the Republic of Ireland

By: _____
Name/Title: John W. Fitzpatrick / Director

THIS ASSIGNMENT AND THE CONVEYANCE OF THE PROPERTY IS HEREBY CONSENTED TO BY JOLLY TINKER INC. AS OF NOVEMBER 21st, 2001.

JOLLY TINKER INC., a New York corporation

By: _____
Name/Title: John W. Fitzpatrick / President

Property of Cook County

Exhibit "A"

LOAN DOCUMENTS

1. Facility Letter dated April 12, 2001 executed by Assignor, Jolly Tinker Inc. and Fitzpatrick's Enterprises Limited in favor of IIB;
2. Offer Letter dated May 25, 2001 executed by Assignor in favor of ICC;
3. Term Note dated May 30, 2001 in the face amount of \$12,500,000 executed by Assignor in favor of IIB;
4. Term Note dated May 30, 2001 in the face amount of \$10,500,000 executed by Assignor in favor of ICC;
5. Mortgage, Security Agreement, Assignment of Leases and Rents and Financing Statement by Assignor to Collateral Agent dated May 30, 2001 and recorded June 1, 2001 in Page 53 of Book 2584 as Document No. 10465831 in the office of the Cook County Recorder and relating to the Property;
6. Assignment of Leases and Rents by Assignor in favor of Collateral Agent dated May 30, 2001 and recorded June 1, 2001 in Page 54 of Book 2584 as Document No. 10465832 in the office of the Cook County Recorder and relating to the Property; and
7. Hazardous Substances Indemnity Agreement dated May 30, 2001 executed by Assignor in favor of Collateral Agent.

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Exhibit "B"

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LEGAL DESCRIPTION

PARCEL 1:

LOTS 4, 5, AND 6 IN HENRY WISCHEMEYER'S SUBDIVISION OF BLOCK 54 IN KINZIE'S ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING A RESUBDIVISION OF THE EAST 15 FEET OF LOT 11 AND ALL OF LOT 12 IN LEGG'S SUBDIVISION OF SAID BLOCK 54, TOGETHER WITH LOTS 1, 2 AND 3 IN OGDEN AND LOMBARD'S SUBDIVISION OF THE ACCRETIONS LYING EAST OF AND ADJOINING SAID LOT 12, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS D, E, F, G, H AND I IN LILL'S CHICAGO BREWING COMPANY'S SUBDIVISION IN BLOCK 54 IN KINZIE'S ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Property Identification Number(s): 17-10-200-020
17-10-200-021
17-10-200-063

Property Address: 166 East Superior Street, Chicago, Illinois

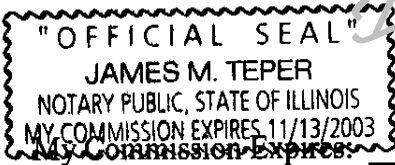
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20071774

STATE OF Illinois)
) SS:
COUNTY OF Cook)

On this 13th day of November, 2001, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared John W. Fitzpatrick, to me known, who, being by me duly sworn, did depose and say that he is the President of **FITZPATRICK CHICAGO HOLDINGS INC.**, an Illinois corporation, that the instrument was signed and sealed on behalf of the corporation by authority of the corporation's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



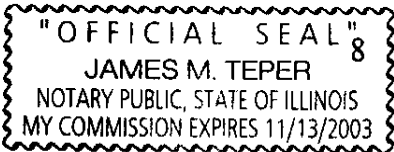
11/13/2003

[Signature]
Notary Public
(Seal)

STATE OF Illinois)
) SS:
COUNTY OF Cook)

On this 13th day of November, 2001, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared John W. Fitzpatrick, to me known, who, being by me duly sworn, did depose and say that he is the President of Fitzpatrick Chicago Holdings Inc., the sole general partner of **FITZPATRICK CHICAGO HOTEL L.P.**, an Illinois limited partnership, that the instrument was signed and sealed on behalf of the partnership by authority of the partners, and that the foregoing individual acknowledged execution of the instrument to be the voluntary act and deed of said partnership.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



My Commission Expires: 11/13/2003

[Signature]
Notary Public
(Seal)

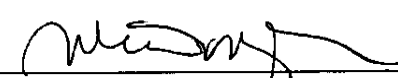
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COUNTRY OF IRELAND) REPUBLIC OF IRELAND
) COUNTY AND CITY OF DUBLIN
 CITY OF DUBLIN) EMBASSY OF THE UNITED STATES OF AMERICA | 50

On this 13th day of November, 2001, before me, the undersigned, a ~~Notary Public~~ in and for the American Embassy, Dublin, Ireland, personally appeared Arriol Kelly, to me known, who, being by me duly sworn, did depose and say that he/she is the attorney of **IIB BANK LIMITED**, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and Country aforesaid, the day and year first above written.



 Notary Public
 (Seal)

My Commission Expires: Indefinite

MARIA MEYLER
VICE CONSUL OF THE
UNITED STATES OF AMERICA

COUNTRY OF IRELAND)
) SS:
 CITY OF DUBLIN)

On this _____ day of _____, 2001, before me, the undersigned, a Notary Public in and for the _____, personally appeared _____, to me known, who, being by me duly sworn, did depose and say that he/she is the _____ of **ICC BANK PLC**, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and Country aforesaid, the day and year first above written.

 Notary Public
 (Seal)

My Commission Expires: _____

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CLERK OF THE
COURT OF THE
JUDICIAL DISTRICT OF
THE STATE OF ILLINOIS

Property of Cook County Clerk's Office

RECEIVED
CLERK OF THE
COURT OF THE
JUDICIAL DISTRICT OF
THE STATE OF ILLINOIS

UNOFFICIAL COPY

20071774

COUNTRY OF IRELAND)
) SS:
CITY OF DUBLIN)

On this ___ day of ___, 2001, before me, the undersigned, a Notary Public in and for the ___, personally appeared ___, to me known, who, being by me duly sworn, did depose and say that he/she is the ___ of IIB BANK LIMITED, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and Country aforesaid, the day and year first above written.

Notary Public
(Seal)

My Commission Expires: _____

COUNTRY OF IRELAND) REPUBLIC OF IRELAND
) AND CITY OF DUBLIN
CITY OF DUBLIN) SS: EMBASSY OF THE UNITED STATES OF AMERICA | SS

On this 17 day of December 2001, before me, the undersigned, a Notary Public in and for the American Embassy Dublin, personally appeared Jacinta O'Mahony, to me known, who, being by me duly sworn, did depose and say that he/she is the Company Secretary of ICC BANK PLC, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and Country aforesaid, the day and year first above written.

Jill Johnson
Notary Public
(Seal)

My Commission Expires: indefinite

JILL JOHNSON
CONSUL OF THE
UNITED STATES OF AMERICA

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20071774

STATE OF REPUBLIC OF IRELAND)
COUNTY AND CITY OF DUBLIN)
COUNTY OF EMBASSY OF THE UNITED STATES OF AMERICA) SS

On this 13th day of November, 2001, before me, the undersigned, a Notary Public in and for the American Embassy, Dublin, Ireland, personally appeared Ariol Kelly, to me known, who, being by me duly sworn, did depose and say that he/she is the attorney of IIB BANK LIMITED, a company registered in the Republic of Ireland, as Collateral Agent, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and County aforesaid, the day and year first above written.

[Signature]
Notary Public
(Seal)

My Commission Expires: Indefinite

MARIA MEYLER
VICE CONSUL OF THE
UNITED STATES OF AMERICA

STATE OF)
) SS:
COUNTY OF)

On this ___ day of ___, 2001, before me, the undersigned, a Notary Public in and for the State of ___, personally appeared John W. Fitzpatrick, to me known, who, being by me duly sworn, did depose and say that he is the ___ of FITZPATRICKS' ENTERPRISES LIMITED, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public
(Seal)

My Commission Expires: _____

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CLERK OF THE COURT
ADRIANA SOBOTA-GOTKOWSKI, CLERK

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE
111 N. WASHINGTON ST., CHICAGO, IL 60602
TEL: 312.603.4000 FAX: 312.603.4001
WWW.COOKCOUNTYCLERK.COM

UNOFFICIAL COPY

20071774

STATE OF _____)
) SS:
COUNTY OF _____)

On this _____ day of _____, 2001, before me, the undersigned, a Notary Public in and for the _____, personally appeared _____, to me known, who, being by me duly sworn, did depose and say that he/she is the _____ of **IIB BANK LIMITED**, a company registered in the Republic of Ireland, as Collateral Agent, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the City and Country aforesaid, the day and year first above written.

Notary Public
(Seal)

My Commission Expires: _____

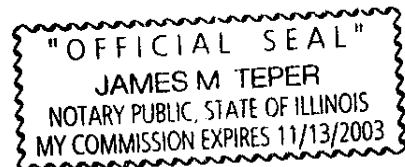
STATE OF Illinois)
) SS:
COUNTY OF Cook)

On this 13th day of November, 2001, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared John W. Fitzpatrick, to me known, who, being by me duly sworn, did depose and say that he is the Director of **FITZPATRICKS' ENTERPRISES LIMITED**, a company registered in the Republic of Ireland, that the instrument was signed and sealed on behalf of the company by authority of the company's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public
(Seal)

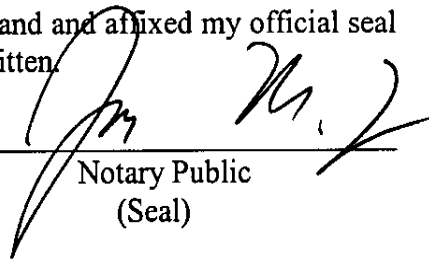
My Commission Expires: 11/13/2003



STATE OF Illinois)
) SS:
COUNTY OF Cook)

On this 13th day of November, 2001, before me, the undersigned, a Notary Public in and for the State of Illinois, personally appeared John W. Fitzpatrick, to me known, who, being by me duly sworn, did depose and say that he is the President of JOLLY TINKER INC., a New York corporation, that the instrument was signed and sealed on behalf of the corporation by authority of the corporation's Board of Directors, and that the foregoing officer acknowledged execution of the instrument to be the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



Notary Public
(Seal)

My Commission Expires: 11/13/2003

