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Cook County Recorder

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02-0006

ASSIGNMENT OF LEASES AND RENTS

KNOW ALL MEN BY THESE PRESENTS, THAT:

1245 WAUKEGAN ROAD, L.L.C, an Illinois limited liability company ("Borrower") has executed a mortgage of an even date herewith ("Mortgage") to GARY SYLVAN, as nominee ("Lender"), conveying the real estate described in Exhibit "A" hereto attached ("Premises"), and which was executed and delivered to secure an indebtedness to Lender evidenced by a note of an even date herewith ("Note") executed by Borrower in the principal sum of SEVEN HUNDRED THIRTY THOUSAND DOLLARS (\$730,000.00), and the Lender is the legal owner and holder of the Note; and

The Borrower is desirous of further securing the payment of the indebtedness now due and to become due to the Lender secured by the Mortgage or otherwise.

NOW, THEREFORE, the Borrower, for and in consideration of the mutual agreements herein contained, and as further and additional security to the Lender, and in consideration of the sum of TEN DOLLARS (\$10.00) to the Borrower in hand paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby:

1. **LEASES ASSIGNED.** Sell, assign and transfer unto the Lender all the leases and rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any letting of, or any agreement for the use or occupancy of the Premises, or any part thereof, which may be made or agreed to by the Borrower, or any of them, it being the intention hereby to establish an absolute transfer and assignment of all the said leases and agreements, and all the avails

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thereof, to the Lender.

2. **AUTHORITY OF LENDER.** Borrower hereby authorizes irrevocably the Lender (with or without taking possession of the aforesaid Premises), to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as it may determine in its discretion, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, and all now due, or that may hereafter become due under each and all of the leases and agreements, written or verbal, or other tenancy existing or which may hereafter exist on the Premises, with the same rights and powers and subject to the same immunities, exoneration of liability, and rights of recourse and indemnity as the Lender would have upon taking possession of the Premises pursuant to the provisions hereinafter set forth.

3. **REPRESENTATIONS.** Borrower represents and agrees that no rent has been or will be paid by any person in possession of any portion of the Premises for more than two installments in advance and that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced or discounted or otherwise discharged or compromised by the Borrower. Borrower waives any right of set-off against any person in possession of any portion of the Premises. Borrower agrees that it will not assign any of the leases, rents or profits except to a permitted purchaser or grantee of the Premises, provided any such assignment to a purchaser or grantee shall be subject and subordinate to rights herein granted to Lender.

4. **WAIVER OF LENDER'S LIABILITIES.** Nothing herein contained shall be construed as constituting the Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by the Lender pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted the Lender, no liability shall be asserted or enforced against the Lender, all such liability being expressly waived and released by the Borrower.

5. **ADDITIONAL LEASES.** Borrower further agrees to assign and transfer to the Lender all future leases upon all or any part of the Premises and to execute and deliver, immediately upon the request of the Lender, all such further assurances and assignments in the Premises as the Lender shall from time to time require.

6. **ENFORCEABILITY.** Although it is the intention of the parties that this Assignment of Leases and Rents shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Lender shall not exercise any of the rights and powers conferred upon it herein until:

- (a) a default occurs in the payment of any installment of principal or interest on the Note when due or declared due, or any payment, when due or declared due, of any other sum secured by the Mortgage; or,
- (b) a default occurs in the performance of any other terms, covenants or agreements hereunder or in the performance of any of the other terms, covenants, or agreements set forth in the Mortgage, Note or any other agreement given in connection with the Note ("Loan Documents").

Nothing herein contained shall be deemed to affect or impair any rights which Lender may have under the Note, the Mortgage or the Loan Documents.

7. **RIGHTS ON FORECLOSURE.** In any case in which, under the provisions of the Mortgage, the Lender has a right to institute foreclosure proceedings, whether before or after institution of legal proceedings to foreclose the lien thereof, or before or after sale thereunder, upon demand of the Lender, the Lender shall be entitled to take actual possession of the Premises or any part thereof personally, or by its agents or attorneys, and Lender in its discretion may, with or without force and with or without process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts of the Borrower, or then owner of the Premises relating thereto, and may exclude the Borrower, its agents or servants, wholly therefrom and may, as attorney-in-fact of the Borrower, or in its own name as Lender and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of security of the avails, rents, issues and profits of the Premises, including actions for the recovery of rent, and actions of unlawful detainer, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any time and all times hereafter, without notice to the Borrower, and with full power to cancel or terminate any lease or sublease for any cause or on any ground which would entitle the Borrower to cancel the same, to elect to disaffirm any lease or sublease made subsequent to the Mortgage or subordinated to the lien thereof, to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises that may seem judicious, in its discretion, to insure and reinsure the same for all risks, incidental to Lender's possession, operation and management thereof and to receive all such avails, rents, issues and profits.

8. **UNDERTAKINGS BY LENDER.** The Lender shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases or rental agreements relating to the Premises, and Borrower hereby agrees to indemnify and hold the Lender harmless of and from any and all liability, loss or damage which it may or might incur under any leases or under or by reason of the assignment thereof and of or from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Lender incur any such liability, loss or damage under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, Borrower agrees to reimburse the Lender for the amount thereof, including costs, expenses and attorneys' fees, immediately upon demand.

9. **APPLICATION OF RECEIPTS.** The Lender, in the exercise of the rights and powers conferred upon it by this Assignment of Leases and Rents, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as the Lender may determine:

- (a) To the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to the Lender and its agent or agents, if management be delegated to an agent or agents, and it shall also include lease commissions and other compensation and expenses for seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;
- (b) To the payment of taxes and special assessments now due or which may hereafter become due on the Premises;
- (c) To the payment of all repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements of the Premises, including the cost from time to time of installing or replacing refrigeration and gas or electric stoves therein, and of placing the Premises in such condition as will, in the judgment of the Lender, make it readily rentable;

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- (d) To the payment of the Note or other indebtedness secured by the Mortgage or any deficiency which may result from any foreclosure sale.

Borrower does further specifically authorize and instruct each and every present and future lessee or tenant of the whole or any part of the Premises to pay all unpaid rental agreed upon in any tenancy to the Lender upon receipt of demand from Lender to so pay the same.

10. **CUMULATIVE REMEDY.** It is understood and agreed that the provisions set forth in this Assignment of Leases and Rents shall be deemed to be a special remedy given to the Lender, and shall not be deemed exclusive of any of the remedies granted in the above described Mortgage, but shall be deemed an additional remedy and shall be cumulative with the remedies therein granted.

11. GENERAL PROVISIONS.

- (a) Whenever the word "Borrower" is mentioned herein, it is hereby understood that the same includes and shall be binding upon successors and assigns of the Borrower, or any of them, and any party or parties holding legal or equitable title to the Premises by, through or under the Borrower, or any of them. All of the rights, powers, privileges and immunities herein granted and assigned to Lender shall also inure to its successors and assigns, including all holders, from time to time, of the Note.
- (b) It is expressly understood that no judgment or decree which may be entered on the Note or any other debt secured or intended to be secured by the 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 indebtedness secured by the Mortgage, in whatever form the said indebtedness may be and until the indebtedness secured by the Mortgage shall have been paid in full and all bills incurred by virtue of the authority contained herein have been fully paid out of the rents, issues and profits of the Premises, or by the Borrower, or until such time as this instrument may be voluntarily released. This instrument shall also remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless

indebtedness secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

- (c) This instrument shall be assignable by Lender, and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective executors, administrators, legal representatives, successors and assigns of each of the parties hereto.
- (d) The failure of Lender, or any of its agents or attorneys, successors or assigns, to avail itself or themselves of any of the terms, provisions, and conditions of this Assignment of Leases and Rents for any period of time shall not be construed or deemed to be a waiver of any of its, his or their rights under the terms hereof, but Lender, or its agents or attorneys, successors or assigns shall have full right, power and authority to enforce this Assignment of Leases and Rents, or any of the terms, provisions, or conditions hereof, and exercise the powers hereunder, at any time or times that shall be deemed fit.
- (e) The payment of the Note, any other indebtedness, and release of the Mortgage securing the Note and any other indebtedness shall ipso facto operate as a release of this instrument.
- (f) For purposes of this Assignment, the term "lease" shall include subleases and any and all other tenancies affecting the Premises, howsoever arising.

IN WITNESS WHEREOF, this Assignment of Leases and Rents has been executed in favor of Lender as of the 28th day of February, 2002.

1245 WAUKEGAN ROAD, L.L.C., an Illinois limited liability company

By: Allen Shapiro: Joy Waldman
 S-K PARTNERS, LTD., an Illinois corporation *attly*
 Its: Co-Manager *infact*

By: Michelle L. Shoemaker:
 Michelle L. Shoemaker *JWAS*
 Its: Co-Manager *attly*
infact

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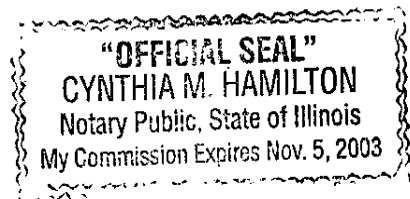
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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, _____, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Allen Shapiro, Secretary of S-K PARTNERS, LTD., Co-Manager of 1245 WAUKEGAN ROAD, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 28th day of February, 2002.

Cynthia M. Hamilton
NOTARY PUBLIC



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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

I, _____, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that MICHELLE L. SHOEMAKER, Co-Manager, of 1245 WAUKEGAN ROAD, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 28th day of February, 2002.

Cynthia M. Hamilton
NOTARY PUBLIC

"OFFICIAL SEAL"
CYNTHIA M. HAMILTON
Notary Public, State of Illinois
My Commission Expires Nov. 5, 2003

This instrument was prepared by and after recording return to:

Joey B. Waldman, Esq.
Robbins, Salomon & Patt, Ltd.
25 East Washington Street, Suite 1000
Chicago, Illinois 60602

MAIL STOP
Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION

1245 WAUKEGAN ROAD
GLENVIEW, ILLINOIS

LEGAL DESCRIPTION:

LOT 1 IN GINAIN'S SECOND RESUBDIVISION OF PART OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN #04-35-201-037