

This instrument was prepared by and after recording return to:



0030104795

Gardner Carton & Douglas  
191 North Wacker Drive  
Suite 3700  
Chicago, Illinois 60606-1698  
Att: Edward J. Tabaczyk, Esq.



ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT, made as of December 26, 2002, by OAK BROOK BANK, not personally but as trustee under Trust Agreement dated November 29, 2002 and known as Trust Number 3266, an Illinois land trust (the "Assignor"), in favor of OAK BROOK BANK, an Illinois banking corporation having an address at 1400 Sixteenth Street, Oak Brook, Illinois 60523 ("Assignee"),

WITNESSETH:

FOR VALUE RECEIVED, Assignor does hereby SELL, ASSIGN, TRANSFER, SET OVER and DELIVER unto the Assignee, all leases and tenancies of all or any portion of the premises situated in the City of Homewood, County of Cook, State of Illinois, and more particularly described in Exhibit A attached hereto and made a part hereof, together with the buildings and improvements thereon (collectively called "Premises");

TOGETHER with any and all extensions and renewals of such leases, and any and all other and further leases, licenses, concession contracts and other agreements granting a right or privilege of use or occupancy, whether written or oral (including subleases and tenancies following attornment) of all or any part of the Premises (collectively, the "Leases");

TOGETHER with any and all guarantees of performance by any of the lessee's under any of the Leases; and

TOGETHER with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Assignor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim (all such moneys, rights and claims described in this paragraph are hereafter collectively called "Rents"), arising or issuing from or out of the Leases or from or out of the Premises or any part thereof, including, without limitation: minimum rents, additional rents, percentage rents, parking, maintenance, operation, tax and insurance contributions, proceeds of sale of electricity, gas, chilled and heated water and other utilities and services, deficiency rents and liquidated damages following default, royalties, the premium payable by any lessee upon the

Lawyers Title Insurance Corporation

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exercise of a cancellation privilege originally provided in any of the Leases, all security deposits, and all proceeds payable under any policy of insurance for loss of Rents, together with any and all rights and claims of any kind which Assignor may have against any lessee under such Leases or any subtenants or occupants of the Premises, it being the intention of Assignor and Assignee that this Assignment be treated and construed as an absolute assignment and not an assignment for additional security only;

TO HAVE AND TO HOLD the same unto the Assignee, its successors and assigns forever or for such shorter period as hereinafter may be indicated.

FOR THE PURPOSE OF SECURING the payment of the indebtedness in the original principal amount of One Million Two Hundred Forty-Five Thousand and No/100 Dollars U.S. (\$1,245,000.00) as evidenced by that certain Term Note dated even date herewith delivered by Assignor to Assignee in the original principal amount of \$1,028,000.00 and as evidenced by that certain Demand Note dated even date herewith delivered by Assignor to Assignee in the original principal amount of \$217,000.00 as the same may be amended, extended, supplemented, modified and/or renewed, and all replacements and substitutions therefor (collectively, the "Notes"), as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions and warranties contained in the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated even date herewith delivered by Assignor to Assignee covering the Premises and securing the Notes, recorded concurrently herewith in the Official Records of the county in which the Premises are located, and any amendments, modifications, extensions, supplements and/or consolidations thereof (the "Mortgage") and all of the other Loan Documents (as defined in the Notes).

TO PROTECT THE SECURITY OF THIS ASSIGNMENT, IT IS COVENANTED AND AGREED AS FOLLOWS:

1. Assignor's Warranties. Assignor represents and warrants that (a) Assignor is the owner in fee simple of the Premises, and has good title to the Leases and Rents hereby assigned and good right to assign the same, and that no other person or entity has any right, title or interest therein; (b) Assignor has performed all of the terms, covenants, conditions and warranties of the Leases on Assignor's part to be kept, observed and performed; (c) the Leases are valid and unmodified except as indicated herein and in full force and effect; (d) Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases or the Rents, whether now due or hereafter to become due; (e) none of the Rents due for any period subsequent to the month in which this Assignment is made have been collected by Assignor, and that payment of any of such Rents has not otherwise been anticipated, waived, released, discounted, setoff, or otherwise discharged or compromised by Assignor, nor does Assignor have knowledge thereof; (f) Assignor has not received any funds or deposits from any lessee, other than security deposits pursuant to the terms of the applicable Leases, for which credit has not already been made on account of accrued Rents; and (g) to the knowledge of Assignor, neither Assignor nor any of the lessee(s) under the Leases is in default of any of the terms thereof.

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2. Covenants of Assignor. Assignor covenants and agrees as follows: (a) to observe, perform and discharge, duly and punctually, all obligations, terms, covenants, conditions and warranties of the Loan Documents, and of the Leases, on the part of the Assignor to be kept, observed and performed, and to give prompt notice to Assignee of any failure on the part of Assignor to observe, perform and discharge the same; (b) to notify and direct each and every present or future lessee or occupant of the Premises or any part thereof that any security or other deposit heretofore delivered to Assignor has been retained by Assignor or assigned and delivered to Assignee as the case may be; (c) enforce or secure in the name of Assignee the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any lessee; (d) to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of the Assignor and any lessee thereunder, and, upon request by Assignee, will do so in the name and on behalf of the Assignee but at the expense of the Assignor, and to pay all actual and reasonable costs and expenses of the Assignee, including attorneys' fees to the fullest extent not prohibited by applicable law, in any action or proceeding in which the Assignee may appear.

3. Negative Covenants of Assignor. That Assignor further covenants and agrees as follows: (a) not to receive or collect any Rents from any present lessee of the Premises or any part thereof in advance of the rent requirement set forth in such lessee's Lease, or from any future lessee more than one (1) month in advance of the due date thereof (whether in cash or by promissory note); (b) not to waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any lessee thereunder, of and from any obligations, covenants, conditions and agreements by the lessee to be kept, observed and performed, including the obligation to pay the Rents thereunder, in the manner and at the place and time specified therein, except as currently authorized in the current Leases; and (c) not to prematurely cancel, terminate or consent to any surrender of any of the Leases, nor materially (in Assignee's determination) modify or alter the terms thereof to the detriment of the Assignee. Any of the above acts done without the prior written consent of the Assignee, which consent shall not be unreasonably withheld, conditioned or delayed, shall be null and void at the option of Assignee.

4. Cross-Default. The following shall constitute an "Event of Default" hereunder: (a) any representation or warranty herein of Assignor shall be found to be untrue in any material respect, or (b) Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein, and such default shall not have been cured within ten (10) days after such default has occurred, or (c) an "Event of Default" (as defined in the Notes) shall occur and be continuing under the Notes or the other Loan Documents. Upon any Event of Default hereunder, Assignee shall be entitled to declare all sums evidenced and/or secured thereby and hereby immediately due and payable, and to exercise any and all of the rights and remedies provided under this Assignment, the Notes, the Mortgage and any of the other Loan Documents, or by law or at equity.

5. License to Receive Rents. (a) Assignor has and hereby does authorize Assignee or its representatives to collect the Rents and hereby directs each tenant of the Property and lessee under the Leases to pay all Rent to Assignor or its representatives; provided, however, so long as there

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shall exist no Event of Default hereunder or any default, event of default or similar event under the Leases, Assignor shall have the right, but limited as provided in this Assignment and in any of the other Loan Documents: (i) to collect upon, but not prior to one (1) month in advance of, the due date thereof, all of the Rents, and Assignor shall receive and apply such Rents, subject to any obligation to escrow same with Assignee, to the payment of taxes and assessments upon the Premises before penalty or interest are due thereon, to the cost of such insurance, maintenance and repairs as may be required by the terms of the Mortgage, to satisfy all of Assignor's obligations under the Leases, and pay interest and principal and other charges becoming due, as and when due and payable, under the Loan Documents; and (ii) to otherwise deal with, and enjoy the rights of the lessor under, the Leases.

(b) Upon receipt by Assignor of any written notice from Assignee, stating that an Event of Default has occurred and is continuing, the license referred to in Subsection 5(a) above shall thereupon be revoked by Assignee and Assignor hereby authorizes and directs any lessee under any of the Leases and any successor to all or any part of the interests of any such lessee to pay to Assignee the Rents due and to become due under the Leases. A demand in writing on any lessee made by Assignee for such payment of Rents shall be sufficient warrant to the lessee to make future payments of Rents to Assignee without the necessity for further consent by the Assignor. Assignor agrees that (i) each lessee under any of the Leases shall have the right to rely upon any such request by Assignee, (ii) each lessee shall pay such Rents to Assignee without any obligation or right to inquire as to whether such default actually exists and notwithstanding any notice from or claim of Assignor to the contrary, and (iii) Assignor shall have no right to claim against any lessee for any such Rents so paid by the lessee to Assignee. Nothing contained herein shall be construed as constituting Assignee a "mortgagee in possession" in the absence of Assignee taking actual possession of the Premises pursuant to the provisions of the Mortgage. As between Assignee, Assignor and any person claiming through or under Assignor, this Assignment is intended to be absolute, unconditional and presently effective, and the provisions of this Subsection 5(b) regarding written demand for the Rents by Assignee to the lessees are intended solely for the benefit of such lessees and shall never inure to the benefit of Assignor or any person claiming through or under Assignor, other than a tenant who has not received such written demand.

6. Rights Upon Transfer. (a) Subject to the restrictions on the sale and conveyance of the Premises set forth in the Mortgage or any other Loan Documents, upon the sale or conveyance by Assignor, or its successors and assigns, of title to the Premises, all right, title, interest and powers granted to Assignor shall, unless amended or revoked as provided in the Mortgage or any other Loan Documents, automatically pass to and may be exercised by each such subsequent owner. At any time after an Event of Default hereunder or any default, event of default or similar event under the Leases, Assignee, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies: (i) to terminate the license granted above to Assignor to collect the Rents, and thereafter, without taking or being deemed to have taken possession, in Assignee's own name, to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all costs and expenses of operation and collection, as determined by Assignee, including reasonable attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby and in such order as Assignee may determine; (ii) to declare all sums

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secured hereby immediately due and payable and, at its option, exercise any and all of the rights and remedies contained in any of the Loan Documents; and (iii) without regard to the adequacy of the security, to the fullest extent not prohibited by applicable law, through any person or agent, then or thereafter (1) to enter upon, take possession of, manage and operate the Premises or any part thereof; (2) make, modify or enforce any of the Leases; (3) remove and evict any lessee; (4) increase or decrease Rents; (5) decorate, clean and repair the Premises; and (6) otherwise do any act or incur any costs or expenses as Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession, and in such event to apply the Rents so collected to the operation and management of the Premises, but in such order as Assignee shall deem proper, and including the payment of reasonable management, brokerage and attorneys' fees to the fullest extent not prohibited by applicable law, payment of the indebtedness under the Loan Documents and maintenance, without interest, of a reserve for replacement.

(b) The acceptance by Assignee of this Assignment, and the exercise of any or all of the rights, powers, privileges and authority herein created, shall not, prior to entry upon and taking of possession of the Premises by Assignee, be deemed or construed to constitute Assignee a mortgagee in possession, or thereafter or at any time or in any event obligate Assignee (i) to appear in or defend any action or proceeding relating to any of the Leases or the Premises; (ii) to take any action hereunder; (iii) to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under any of the Leases; or (iv) to assume any obligation or responsibility for any security or other deposits delivered to Assignor by any of the lessee(s) thereunder and not assigned and delivered to Assignee. Assignee shall not be liable in any way for any injury or damage to person or property sustained by any person or entity in or about the Premises.

(c) Collection and application of the Rents by Assignor, or its agent, as set forth above, and/or the entry upon and taking possession of the Premises, shall not cure or waive any Event of Default or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect during the pendency of the Event of Default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent Event of Default.

7. Assignee's Collection Authority. Upon an Event of Default, Assignor hereby constitutes and irrevocably appoints Assignee, its successors and assigns, the true and lawful attorney-in-fact, coupled with an interest, of Assignor, and authorizes Assignee in the name, place and stead of Assignor, in the exercise of the powers provided and set forth in Subsection 5(b) and the remedies provided for in clause (i) of subparagraph 6(a) above, but subject to and not in limitation of the provisions of Subsection 5(b) hereof or the absolute assignment of the Rents made hereby, to demand, sue for, attach, levy, recover and receive any premium or penalty payable upon the exercise, by any lessee under any of the Leases, of a privilege of cancellation provided in any of the Leases, and to give proper receipts, releases and acquittances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Assignee, of the indebtedness evidenced or secured by the Loan Documents, notwithstanding that

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the amount owing thereunder may not then be due and payable or that the indebtedness is otherwise adequately secured. Assignor hereby authorizes and directs any such lessee to deliver such payment to Assignee in accordance with the foregoing, and hereby ratifies and confirms all actions whatsoever that its attorney, the Assignee, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment shall be continuing, and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns, so long as any part of the indebtedness secured hereby shall remain due and unpaid.

8. Assignee's Subordination Authority. Assignor hereby constitutes and irrevocably appoints Assignee, its successors and assigns, the true and lawful attorney-in-fact, coupled with an interest, of Assignor and in the name, place and stead of Assignor, at any time and from time to time, to subject and subordinate any of the Leases to the Mortgage, or to request or require such subordination of the lessee as the case may be, to the extent Assignor would have the right, power or authority so to do. This appointment is to be continuing and these rights, powers and privileges shall be exclusive in Assignee, its successors and assigns, so long as the indebtedness secured hereby remains unpaid. Assignor hereby warrants that Assignor has not, at any time prior to the date hereof, exercised any such right, and covenants not to exercise any such right, to so subordinate any of such Leases to any other mortgage or lien except only those which exist under this Assignment or any of the other Loan Documents.

9. Indemnification. Assignor hereby indemnifies Assignee and agrees to defend and hold Assignee harmless from and against any and all liability, loss, damage or expense which Assignee may incur under or by reason of this Assignment, or for any action taken by the Assignee as contemplated herein, (other than Assignee's gross negligence or willful misconduct) or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Assignee arising out of any of the Leases, including, without limitation, any claim by any lessee of credit for rental paid to and received by Assignor but not delivered to Assignee for any period under any of the Leases more than one (1) month in advance of the due date thereof. Should Assignee incur any such liability, loss, damage or expense, the amount thereof (including attorneys' fees to the fullest extent not prohibited by applicable law), with interest thereon at two percent (2%) in addition to the Prime-Based Rate (as defined in the Notes) starting to accrue after demand, shall be payable by Assignor immediately upon demand, and shall be secured hereby and by the other Loan Documents.

10. Lease Copies and Further Assurances. Until the indebtedness secured by the Loan Documents is paid in full, Assignor will deliver to the Assignee photocopies certified by Assignor as true, correct and complete, of executed originals of (a) any and all existing Leases, and (b) all other and future Leases upon all or any part of the Premises. Upon request of Assignee, Assignor will specifically transfer and assign to Assignee such other and future Leases upon the same terms and conditions as herein contained. Assignor hereby covenants and agrees to make, execute and deliver to Assignee, upon demand and at any time or times, any and all further assignments and other instruments as Assignee may reasonably determine for carrying out the purposes and intent of this Assignment.

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11. Non-Waiver. The failure of Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver of any such right, an amendment to any of the Loan Documents, or an estoppel against Assignee in any respect, and nothing herein contained nor anything done or omitted to be done by Assignee pursuant hereto shall be deemed a waiver by Assignee of any of its rights and remedies under the Loan Documents or under the laws of the State of Illinois. The right of the Assignee to collect the indebtedness and to enforce any other security therefor may be exercised by Assignee, either prior to, simultaneously with, or subsequent to any action taken hereunder.

12. Non-Merger. So long as any of the indebtedness evidenced or secured by the Loan Documents shall remain unpaid, unless the Assignee shall otherwise consent in writing, the fee title and the leasehold estate(s) on the Premises shall not merge, but shall always be kept separate and distinct, notwithstanding the union of both such estates in the Assignor, any lessee or a third party by purchase or otherwise.

13. Defeasance. Upon payment in full of the unpaid balance of the principal, interest, advances and other charges evidenced or secured by the Loan Documents, this Assignment shall become void and of no effect, and all the leases shall be immediately and automatically revested, reconveyed and released to Assignor. Upon demand from Assignor in such event, Assignee, its successors or assigns, shall mark this Assignment as void and paid in full, satisfied and discharged and return this Assignment to the Assignor; provided, however, that an affidavit, certificate, letter or statement of Assignee showing any part of the indebtedness remaining unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person or entity may and is hereby authorized to rely thereon.

14. Notices. All notices, requests and demands to or upon the respective parties hereto shall be made in accordance with Section 26 of the Mortgage.

15. Binding Effect. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all lessees, subtenants, assigns, and all subsequent owners of the Premises, subject however to the terms of Paragraph 6 above, and all subsequent holders of the Loan Documents.

16. Termination. Upon payment in full of the obligations under the Notes and the other Loan Documents, this Agreement and the security interests granted hereunder shall terminate. Upon such termination, the Assignee shall promptly deliver to Assignor, at Assignor's expense, such termination statements and releases as are necessary to effect such termination.

16. Miscellaneous. The captions and headings in this instrument are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this instrument or the intent of any provision thereof. Whenever the context so requires, the

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masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case.

17. Governing Law. This agreement and any document or instrument executed in connection herewith shall be governed by and construed in accordance with the internal law of the State of Illinois, and shall be deemed to have been executed in the State of Illinois.

18. Waiver of Jury Trial. ASSIGNOR HEREBY, AND ASSIGNEE BY ITS ACCEPTANCE HEREOF, EACH WAIVES THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS ASSIGNMENT OF LEASES AND RENTS OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY A JUDGE SITTING WITHOUT A JURY; FURTHER ASSIGNOR HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN DUPAGE COUNTY.

[Signature page to follow]

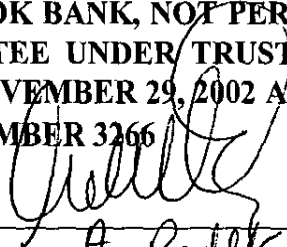


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IN WITNESS WHEREOF, this Assignment of Leases and Rents has been duly executed by the Assignor as of the date first above written.

ASSIGNOR:

**OAK BROOK BANK, NOT PERSONALLY BUT  
AS TRUSTEE UNDER TRUST AGREEMENT  
DATED NOVEMBER 29, 2002 AND KNOWN AS  
TRUST NUMBER 3266**

By:   
Name: A. Rodde  
Its: VP & TO

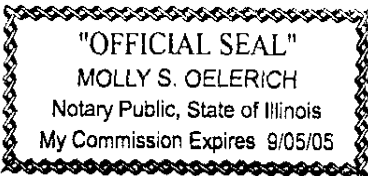
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STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF DuPage )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Adriana Kudek, XP of Oak Brook Bank ("Trustee"), is personally known to me to be the same person whose name is subscribed to the foregoing instrument, as such XP, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act and as the free and voluntary act of said Trustee, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24<sup>th</sup> day of December, 2002.



Molly S Oelerich  
Notary Public

Commission Expires: 9/5/05

3010-4795

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## EXHIBIT A

### LEGAL DESCRIPTION OF PREMISES

Lot 1 and the West 7.67 feet of Lot 2 in Block F in the Village of Hartford, a subdivision in the Northeast  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 31, Township 36 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 29-31-311-020

Address: 2023 Ridge Road  
Homewood, Illinois 60430-1749

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