



RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Stahl Brashler LLC  
20 East Jackson  
Suite 700  
Chicago, Illinois 60604  
Attn: Jeffrey J. Stahl

ASSIGNMENT OF RENTS AND LEASES

This ASSIGNMENT OF RENTS AND LEASES ("Assignment") is made as of the 15<sup>th</sup> day of May, 2000, by Oak Brook Bank, Trustee under Trust Agreement dated May 5, 2000 and known as Trust Number 3141, whose address is 1400 W. Sixteenth Street, Oak Brook, Illinois 60523 ("Trust"), and its sole beneficiary, **OLD IRVING POINTE, LLC**, an Illinois limited liability company, whose address is 4545 W. Berteau, Chicago, Illinois 60641 ("Beneficiary") (Trust and Beneficiary being referred to in the aggregate as the "Borrower") ("Assignor"), to **OAK BROOK BANK**, 1400 W. Sixteenth Street, Oak Brook, Illinois 60523 (hereinafter called "Assignee"). Assignor is the owner of the real property legally described on Exhibit A, attached hereto and by this reference made a part hereof (the "Premises").

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Assignee all right, title and interest of the Assignor in, to and under all present leases of the Premises together with all future leases hereinafter entered into affecting the Premises or any portion thereof, and all guarantees, amendments, extensions and renewals of said leases and each of them (all of which are hereinafter collectively referred to as the "Leases") and all rents, income and profits which may now or hereafter be or become due or owing under the Leases and each of them, or on account of the use of the Premises or any portion thereof.

This Assignment is made for the purposes of securing:

A. The payment of the Indebtedness, as defined in the Mortgage set forth below (including any extensions and renewals thereof) evidenced by that certain Secured Promissory Note of Assignor of even date herewith in the principal sum of \$2,530,000 ("Note") and secured, inter alia, by that certain Construction Mortgage, Security Agreement and Financing Statement (the "Mortgage") of even date herewith, encumbering the Premises; and

B. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Mortgage and all other instruments constituting security for the Note; and

1st AMERICAN TITLE order # C197288 4/14/00 JS

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C. The performance and discharge of each and every term, covenant and condition of Assignor contained in the Note, Mortgage and in all other instruments constituting security for the Note.

Assignor covenants and agrees with Assignee that:

1. There is no present Lease of the Premises not listed on the rent roll delivered to Assignee ("Schedule of Leases").
2. The sole ownership of the entire landlord's interest in the Leases is vested in the Assignor. Assignor shall not: (a) perform any act or execute any other instrument which might prevent Assignee from fully exercising its rights under any term, covenant or condition of this Assignment; (b) execute any assignment or pledge of rents, income, profits or any of the Leases except an assignment or pledge securing the Indebtedness secured hereby; (c) accept any payment of any installment of rent more than thirty (30) days before the date thereof; or (d) make any Lease of the Premises or any portion thereof except for actual occupancy by the tenant thereunder.
3. No Lease will be altered, modified, amended, terminated, canceled, renewed or surrendered nor will any term or condition thereof be waived in any manner whatsoever, except as heretofore approved in writing by Assignee.
4. There is no default now existing under any of the Leases and there exists no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; and that Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed and, at the sole cost and expense of Assignor, enforce (excluding termination of any of the Leases) the performance and observance of each and every covenant and condition of all the Leases by the tenants thereunder to be performed and observed.
5. Assignor shall give prompt notice to Assignee of each notice received by Assignor claiming that a default has occurred under any of the Leases on the part of the landlord, together with a complete copy of each such notice.
6. Without Assignee's prior written consent in each case, Assignor will not suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Mortgage, this Assignment and general real estate taxes not delinquent.
7. This Assignment is absolute and is effective immediately; however, until notice, in writing, is sent by Assignee to the Assignor that an event of default has occurred under the Note, Mortgage or under any other instrument at any time constituting security for the Note (each such notice is hereafter called a "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

8. If any event of default occurs at any time under the Note, Mortgage or any other instrument constituting additional security for the Note, Assignee may, at its option, after service of a Notice, receive and collect when due all such rents, income and profits from the Premises and under any and all Leases of all or any part of the Premises. Assignee shall thereafter continue to receive and collect all such rents, income and profits until such event of default is cured and during the pendency of any foreclosure proceedings, and, if there is a deficiency, during the redemption period, to the extent that the waiver of such redemption period can not legally be effected.

9. The Assignor hereby irrevocably appoints Assignee its true and lawful attorney-in-fact, with full power of substitution and with full power for Assignee, in its own name and capacity or in the name and capacity of Assignor, (from and after the service of a Notice), to demand, collect, receive and give complete acquittance for any and all rents, income and profits occurring from the Premises, and, at Assignee's discretion, to file any claim or take any other action or proceeding and make any settlement in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. All present and future tenants of the Premises are hereby expressly authorized and directed to pay to Assignee, or to such nominee as Assignee may designate in a writing delivered to and received by such tenants, all amounts due Assignor or any of them pursuant to the Leases. All present and future tenants are expressly relieved of all duty, liability or obligation to Assignor and each of them in respect of all payments so made to Assignee or such nominee.

10. After service of a Notice, Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Assignee or its designee to enter upon the Premises, or any part thereof, with or without force and with process of law, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor relating thereto, and may exclude the Assignor and its agents and servants wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and powers herein granted at any and all times, after service of a Notice, without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to payment of the costs of managing and operating the Premises and to payment of all Indebtedness and liability of Assignor to Assignee, including but not limited to: (a) the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment; and (b) principal and interest payments and all other sums due from Assignor to Assignee on the Note and the Mortgage; all in such order and for such time as Assignee may determine.

11. Assignee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Assignee does not hereby assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Assignor under any

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of the Leases. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for the performance or observance of any term, condition, covenant or agreement contained in any of the Leases, or for any waste of the Premises by any tenant under any of the Leases or any other person, or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, occupant, licensee, employee or stranger.

12. Assignor hereby covenants and agrees to indemnify Assignee and to hold Assignee harmless from any liability, loss or damages including, without limitation, reasonable attorneys' fees which may or might be incurred by Assignee under the Leases or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any term, covenant or agreement contained in any of the Leases.

13. Assignee may: (a) take or release any party primarily or secondarily liable for any of the Indebtedness; (b) grant extensions, renewals or indulgences with respect to such Indebtedness; and (c) apply any other security therefor held by Assignee to the satisfaction of such Indebtedness; in each case without prejudice to any of Assignee's other rights hereunder or under any other security given to secure the Indebtedness.

14. Assignee may, at its option, although it shall not be obligated to do so, perform any Lease covenant for and on behalf of the Assignor and each of them, and all monies expended in so doing shall be chargeable to the Assignor, with interest thereon at the Default Rate, as defined in the Note and shall be added to the Indebtedness, and shall be immediately due and payable.

15. The waiver of, or acquiescence by Assignee in, any default by the Assignor, or failure of the Assignee to insist upon strict performance by the Assignor of any covenant, condition or agreement in this Assignment or otherwise, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

16. The rights, remedies and powers of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, all other rights, remedies and powers which Assignee has under the Note and all instruments constituting security for the Note, and at law and in equity.

17. If any provision contained in this Assignment or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the application of such provisions to persons or circumstances (other than those as to which it is invalid or unenforceable) shall not be affected, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

18. Any notice or other communication which any party hereby may desire or may be required to give to any party hereto shall be in writing, and shall be deemed given (i) when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier service (e.g. Federal Express), addressed to a party at its address set forth below, or (iii) on the second business day after being deposited with the United States Postal Service, certified mail, postage prepaid, addressed to a party at its address set forth below, or to such other address as the party to receive such notice may have designated to all other parties by notice in accordance herewith. The below names and addresses are for purposes of delivery of notice only and not necessarily indicative of legal representation:

To Lender: Oak Brook Bank  
1400 West Sixteenth Street  
Oak Brook, Illinois 60523  
Attn: Ms. Molly Shotwell

With a copy to: Stahl Brashler LLC  
20 East Jackson Blvd.  
Suite 700  
Chicago, Illinois 60604  
Attn: Thomas R. Brashler

To Borrower: Old Irving Pointe, LLC  
4545 W. Berteau  
Chicago, Illinois 60641  
Attn: J. Paul Bertsche

Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

19. The term "Assignor" and "Assignee" shall be construed to include the heirs, personal representatives, successors and assigns thereof to the extent so permitted. The gender and number used in this Agreement are used as a reference term only and shall apply with the same effect whether the parties are of the masculine gender, corporate or other form, and the singular shall likewise include the plural.

20. This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.



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IN WITNESS WHEREOF, the said Assignor has caused this Assignment of Rents and Leases to be signed and sealed as of the date first above written.

## ASSIGNOR:

### TRUST:

OAK BROOK BANK, not personally  
but as Trustee aforesaid

By: [Signature]  
Name: Adriana Rodik  
Its: VP + TO

### ATTEST:

By: [Signature]  
Name: Sheri Nussli  
Its: VP + TO

### BENEFICIARY:

OLD IRVING POINTE, LLC, an Illinois  
limited liability company

By: C A Development, Inc., an Illinois  
corporation, managing member

By: [Signature]  
Name: J. Paul Bertschke  
Its: VP

By: Clamar Corporation, an Illinois  
corporation, managing member

By: [Signature]  
Name: Clark Umentorn  
Its: Pres.

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STATE OF ILLINOIS )

) SS.

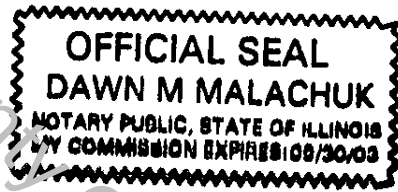
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that <sup>J. Paul Bertsche</sup> ~~Clark Umertum~~, the <sup>offices of management</sup> ~~members~~ of Old Irving Pointe, LLC, an Illinois limited liability company, who is personally known to me to be the same persons whose names are subscribed to the foregoing instrument, as such \_\_\_\_\_, appeared before me this day in person, and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act, and as the free and voluntary act of the company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 12<sup>th</sup> day of May, 2000.

Dawn M. Malachuk  
NOTARY PUBLIC

My commission expires: 9/30/03



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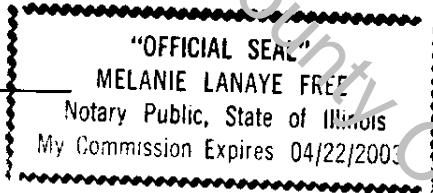
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

I, Melanie Free, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that A. Podik and S. Nugent of OAK BROOK BANK, TRUSTEE U/T/A/D MAY 5, 2000 A/K/A/T/N 3141 who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such TO, and VP, each appeared before me this day in person and acknowledged that he or she signed and delivered the said instrument as his or her own free and voluntary act and as the free and voluntary act of said entity, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 15<sup>th</sup> day of May, 2000.

Melanie J Free  
Notary Public

My Commission Expires:





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## EXHIBIT A

### LEGAL DESCRIPTION

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File No.: C197288

**LEGAL DESCRIPTION:**

LOT 1 IN WIEHE'S SUBDIVISION OF THAT PART OF BLOCK 19 LYING NORTHERLY OF THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE IN GRAYLAND IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN 13-22-0102-013

3845 N. Milwaukee Chicago Il.