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Eugene "Gene" Moore Fee: \$48.00
Cook County Recorder of Deeds
Date: 09/02/2003 04:32 PM Pg: 1 of 13

This Document Prepared by
and after Recording Return
to:

Schwartz, Cooper, Greenberger
& Krauss, Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601
Attn: Gary F. Segal, Esq.

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03030355 (2) 83

AMENDED AND RESTATED ASSIGNMENT OF RENTS AND LEASES

THIS AMENDED AND RESTATED ASSIGNMENT OF RENTS AND LEASES ("Assignment") is made and delivered as June 1, 2003 by **LASALLE BANK NATIONAL ASSOCIATION**, not individually, but solely as successor Trustee (the "Trustee") to American National Bank and Trust Company of Chicago under a certain Trust Agreement dated September 18, 1986 and known as Trust No. 100055-02 (the "Trust"), **KENNETH J. GENENDER** (the "Beneficiary") and **GENENDER INTERNATIONAL, INC.**, an Illinois corporation (the "Company"); and together with the Trust and the Beneficiary are collectively referred to as the "Assignor", to and for the benefit of **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Assignee").

RECITALS:

0324505060

A. The Company is the record owner of the fee simple estate in and to the real estate located in the State of Illinois and legally described on **Exhibit A-1** attached hereto and made a part hereof (the "Company Parcel");

B. The Trustee is the record owner of the fee simple estate in and to the real estate located in the State of Illinois and legally described on **Exhibit A-2** attached hereto and made a part hereof (the "Trust Parcel");

C. Pursuant to that certain Indenture of Lease dated as of September 30, 1997, between the Company and the Trust, the Company leased the Company Parcel to the Trust for a term of ninety-nine (99) years (the same, as it has been or may be further amended, restated, modified or supplemented and in effect from time to time, being herein referred to as the "Ground Lease").

D. Assignee has made a loan to the Trust in the original principal amount of \$1,250,000 (the "First Mortgage Loan"). The Mortgage Loan was guaranteed by the Company.

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The First Mortgage Loan is secured by that certain Assignment of Rents and Leases dated as of December 20, 1993 from the Trust and the Beneficiary in favor of Assignee and recorded on January 4, 1994 with the Cook County Recorder as document number 94005296, as amended by (i) that certain First Amendment to Assignment of Rents and Leases dated as of October 31, 1997 and recorded on December 2, 1997 with the Cook County Recorder as document number 97903118, (ii) that certain Second Amendment to Assignment of Rents and Leases dated as of April 19, 2000 and recorded on May 12, 2000 with the Cook County Recorder as document number 00342197, and (iii) that certain Third Amendment to Assignment of Rents and Leases dated as of May 9, 2002 and recorded on May 13, 2002 with the Cook County Recorder as document number 0020545352 (collectively, the "Original Assignment").

E. Assignee has made a loan to the Trust and the Company, jointly and severally, in the original principal amount of \$2,432,316.84 (the "Construction Mortgage Loan"). The Construction Mortgage Loan is secured by that certain Assignment of Rents dated as of October 31, 1997 from the Company in favor of Assignee and recorded on December 2, 1997 with the Cook County Recorder as document number 97903116, as amended by that certain First Amendment to Assignment of Rents and Leases dated as of April 19, 2000 and recorded on May 15, 2000 with the Cook County Recorder as document number 00343868 (collectively, the "Second Assignment").

F. The Original Assignment and the Second Assignment further secure all obligations owed to Assignee by the Company, including, but not limited to all indebtedness, liabilities and other obligations incurred in connection with that certain Restated Credit Agreement dated as of May 9, 2002, by and between the Company and Assignee (the same, as it has been or may be further amended, restated, modified or supplemented and in effect from time to time, being herein referred to as the "Company Credit Agreement").

G. It has been agreed by and between Assignor and Assignee that the unpaid principal balance of the First Mortgage Loan and the Construction Mortgage Loan shall be consolidated as to both debt and lien and modified and extended so as to constitute a single indebtedness and a single lien on the Premises in the aggregate principal amount of \$1,693,745.59 (the "Loan"; as evidenced by that certain Promissory Note of even date herewith (as amended, restated or replaced from time to time, the "Note") made by Assignor payable to Assignee in the principal amount of the Loan and due on June 30, 2008 (the "Maturity Date"), except as may be accelerated pursuant to the terms hereof or of the Note or any other Loan Document (as defined in the Note).

H. A condition precedent to Assignee's agreement to consolidate and extend the First Mortgage Loan and the Construction Mortgage Loan is the execution and delivery by Assignor of this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto mutually agree as follows:

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1. **Definitions**. All capitalized terms which are not defined herein shall have the meanings ascribed thereto in that certain Amended and Restated Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith from Assignor for the benefit of Assignee (as amended, modified, replaced or restated from time to time, "Mortgage") given as security for the Loan.

2. **Grant of Security Interest**. Assignor hereby grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor in and to (i) all of the rents, revenues, issues, profits, proceeds, receipts, income, accounts and other receivables arising out of or from the Company Parcel and the Trust Parcel and all buildings and other improvements located thereon (said land and improvements being hereinafter referred to collectively as the "Premises"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) the Ground Lease and all other leases and subleases (collectively, "Leases"), now or hereafter existing, of all or any part of the Premises together with all guaranties of any of such Leases and all security deposits delivered by tenants thereunder, whether in cash or letter of credit; (iii) all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to termination fees and compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all tenant improvements and fixtures located on the Premises. This Assignment is an absolute transfer and assignment of the foregoing interests to Assignee given to secure:

(a) Payment by Assignor when due of (i) the indebtedness evidenced by the Note, the Company Credit Agreement and any and all renewals, extensions, replacements, amendments, modifications and refinancings thereof; (ii) any and all other indebtedness and obligations that may be due and owing to Assignee by Assignor under or with respect to the Loan Documents (as defined in the Note); and (iii) all costs and expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees; and

(b) Observance and performance by Assignor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Assignor or any other obligor to or benefiting Assignee which are evidenced or secured by or otherwise provided in the Note, this Assignment or any of the other Loan Documents, together with all amendments and modifications thereof.

3. **Representations and Warranties of Assignor**. Assignor represents and warrants to Assignee that:

(a) this Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) Assignor is the lessor under all Leases;

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(c) there is no other existing assignment of Assignor's entire or any part of its interest in or to any of the Leases, or any of the rents, issues, income or profits assigned hereunder, nor has either Assignor entered into any agreement to subordinate any of the Leases or such Assignor's right to receive any of the rents, issues, income or profits assigned hereunder;

(d) Assignor has not executed any instrument or performed any act which may prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation; and

(e) there are no defaults by the landlord and, to Assignee's knowledge, there are no material defaults by tenants under any Leases.

4. **Covenants of Assignor.** Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) Assignor shall not lease any portion of the Premises unless Assignor obtains Assignee's prior written consent to all aspects of such lease

(b) Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Assignor shall not do or suffer to be done anything to impair the security thereof. Assignor shall not (i) release the liability of any tenant under any Lease, (ii) consent to any tenant's withholding of rent or making monetary advances and off-setting the same against future rentals, (iii) consent to any tenant's claim of a total or partial eviction, (iv) consent to a tenant termination or cancellation of any Lease, or (v) enter into any oral leases with respect to all or any portion of the Premises;

(c) Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty days in advance of the time when the same shall become due, except for security or similar deposits;

(d) Assignor shall not modify the terms and provisions of any Lease, nor shall Assignor give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease, except as expressly permitted thereby) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease, without Assignee's prior written consent;

(e) Assignor shall not accept a surrender of any Lease or convey or transfer, or suffer or permit a conveyance or transfer, of the premises demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger of the estates and rights of, or a termination or diminution of the obligations of, any tenant thereunder; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Assignor and Assignee;

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(f) Assignor shall not waive or excuse the obligation to pay rent under any Lease;

(g) Assignor shall give prompt notice to Assignee of any notice of any default by the lessor under any Lease received from any tenant or guarantor thereunder;

(h) Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent;

5. **Rights Prior to Default.** Unless or until an Event of Default (as defined in Paragraph 6) shall occur, Assignor shall have the right to collect, at the time (but in no event more than thirty days in advance) provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same. Upon the occurrence of an Event of Default, Assignor's right to collect such rents, issues, income and profits shall immediately terminate without further notice thereof to Assignor. Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

6. **Events of Default.** An "Event of Default" shall occur under this Assignment upon the occurrence of (a) a breach by Assignor of any of the covenants, agreements, representations, warranties or other provisions hereof which is not cured or waived within the applicable grace or cure period, if any, set forth in the Mortgage or (b) any other Event of Default described in the Note, Mortgage or the other Loan Documents.

7. **Rights and Remedies Upon Default.** At any time upon or following the occurrence of any Event of Default, Assignee, at its option, may exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor of the Note from any obligation, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien or security interest granted by the Loan Documents:

(a) Declare the unpaid balance of the principal sum of the Note, together with all accrued and unpaid interest thereon, immediately due and payable;

(b) Enter upon and take possession of the Premises, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which Assignee deems necessary or proper;

(c) Either with or without taking possession of the Premises, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits

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of and from the Premises and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder. This Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and Assignor shall facilitate in all reasonable ways Assignee's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to Assignee; and

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Assignor with interest thereon until paid at the Default Rate and shall be secured by this Assignment.

8. **Application of Proceeds.** All sums collected and received by Assignee out of the rents, issues, income and profits of the Premises following the occurrence of any one or more Events of Default shall be applied in accordance with the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) and, unless otherwise specified in such act, in such order as Assignee shall elect in its sole and absolute discretion.

9. **Limitation of Assignee's Liability.** Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Premises or from any other act or omission of Assignee in managing, operating or maintaining the Premises following the occurrence of an Event of Default. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Assignor under or by reason of this Assignment. Assignor shall and does hereby agree to indemnify, defend (using counsel satisfactory to Assignee) and hold Assignee harmless from and against any and all liability, loss or damage which Assignee may incur under any Lease or under or by reason of this Assignment and of 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 observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignor incurs as a result of Assignee's gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility upon Assignee for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions and agreements

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contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Premises by any tenant, occupant or other party, 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 or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing set forth herein or in the Mortgage, and no exercise by Assignee of any of the rights set forth herein or in the Mortgage shall constitute or be construed as constituting Assignee a "Assignee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions hereof or of the Mortgage.

10. **No Waiver**. Nothing contained in this Assignment and no act done or omitted to be done by Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under any of the Loan Documents. This Assignment is made and accepted without prejudice to any of the rights and remedies of Assignee under the terms and provisions of such instruments, and Assignee may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.

11. **Further Assurances**. Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as Assignee may request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.

12. **Security Deposits**. Assignor acknowledges that Assignee has not received for its own account any security deposited by any tenant pursuant to the terms of the Leases and that Assignee assumes no responsibility or liability for any security so deposited.

13. **Severability**. If any provision of this Assignment is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Assignee and Assignor shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Assignment and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

14. **Successors and Assigns**. This Assignment is binding upon Assignor and its legal representatives, successors and assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns.

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15. **Written Modifications.** This Assignment shall not be amended, modified or supplemented without the written agreement of Assignor and Assignee at the time of such amendment, modification or supplement.

16. **Duration.** This Assignment shall become null and void at such time as Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the other Loan Documents.

17. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

18. **Notices.** All notices, demands, requests and other correspondence which are required or permitted to be given hereunder shall be deemed sufficiently given when delivered or mailed in the manner and to the addresses of Assignor and Assignee, as the case may be, as specified in the Mortgage.

19. **Waiver of Trial by Jury.** ASSIGNOR AND ASSIGNEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL, EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS ASSIGNMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS ASSIGNMENT OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS ASSIGNMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. ASSIGNOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST ASSIGNEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS ASSIGNMENT ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.


20. **Trustee Exculpation.** This Assignment is executed by LaSalle Bank National Association, 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, and it is expressly understood and agreed that nothing in this Assignment shall be construed as creating any liability on such Trustee personally to perform any express or implied covenant, condition or obligation under this Assignment, all such liability, if any, being expressly waived by every person or entity now or hereafter claiming any right, title or interest under this Assignment; provided, however, that the foregoing exculpation of the Trustee shall not impair or otherwise affect any of Assignee's rights or remedies against the assets held by the Company or the Beneficiary or other collateral now or hereafter pledged to Assignee as security for the obligations of the Company or Beneficiary, or against the Company, the Beneficiary or any other person or entity liable for the obligations of the Company or Beneficiary.

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IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Mortgage the day and year first above written.

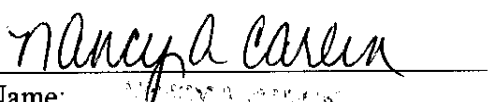
ASSIGNOR:

GENENDER INTERNATIONAL, INC., an Illinois corporation

By: 
Name: KENNETH J. GENENDER
Title: PRESIDENT

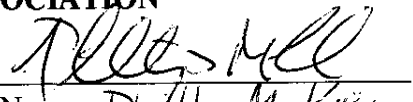

KENNETH J. GENENDER

LASALLE BANK NATIONAL ASSOCIATION, not individually, but solely as successor Trustee to American National Bank and Trust Company of Chicago under a certain Trust Agreement dated September 18, 1986 and known as Trust No. 100055-02

By: 
Name: Nancy A. Carlin
Title: Asst. Vice President

ASSIGNEE:

LASALLE BANK NATIONAL ASSOCIATION

By: 
Name: Phillip M. Kavin
Title: Asst. Vice President

County Clerk's Office

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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Karen Petersen a Notary Public in and for said County, in the State aforesaid, do hereby certify that Phillip Kain, an Assistant Vice President of LASALLE BANK NATIONAL ASSOCIATION, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice President appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 1st day of June, 2003.

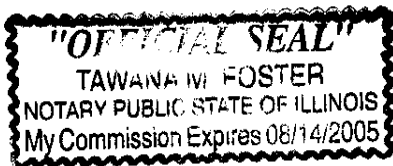
Karen Petersen
NOTARY PUBLIC



STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, Tawana M Foster a Notary Public in and for said County, in the State aforesaid, do hereby certify that Phillip Kain, the Assistant Vice President of LASALLE BANK NATIONAL ASSOCIATION, as Trustee, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Assistant Vice President, 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 trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 19th day of August, 2003.



Tawana M Foster
NOTARY PUBLIC

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EXHIBIT A-1

LEGAL DESCRIPTION OF PREMISES

LOT 52 IN PALWAUKEE BUSINESS CENTER UNIT THREE, BEING A
SUBDIVISION IN THE SOUTH EAST QUARTER OF SECTION 11, TOWNSHIP 42,
NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK
COUNTY, ILLINOIS

PROPERTY ADDRESS OF REAL ESTATE:

44 Century Drive
Wheeling, Illinois 60090

PINS:

03-11-407- 015-0000

Property of Cook County Clerk's Office

Exhibit A-

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EXHIBIT A-2

LEGAL DESCRIPTION OF PREMISES

LOTS 54, 55 and 56 IN PALWAUKEE BUSINESS CENTER UNIT THREE, BEING A SUBDIVISION IN THE SOUTH EAST QUARTER OF SECTION 11, TOWNSHIP 42, NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PROPERTY ADDRESS OF REAL ESTATE:

44 Century Drive
Wheeling, Illinois 60090

PINS:

03-11-407- 017-0000
03-11-407- 018-0000
03-11-407- 019-0000