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This instrument was prepared by:

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Doc#: 0417433283  
Eugene "Gene" Moore Fee: \$40.00  
Cook County Recorder of Deeds  
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## Collateral Assignment of Leases and Rents

THIS ASSIGNMENT is made as of the 11<sup>th</sup> day of June, 2004 from NORTHBROOK COMMERCIAL PROPERTIES, LLC ("Borrower") to AMERICAN CHARTERED BANK (the "Lender");

### Recitals:

A. Borrower and the Lender have entered into a Loan Agreement of even date herewith ("Loan Agreement"), pursuant to which Lender has agreed to make a loan (the "Loan") to Borrower for the purpose of acquiring certain real estate commonly known as 4100 Commercial Avenue, Northbrook, Illinois 60093 and legally described on the attached Exhibit A (the "Premises").

B. The Loan is secured by, among other things, a certain Mortgage and Security Agreement with Assignment of Rents of even date from the Borrower to Lender (the "Mortgage").

C. The Premises are subject to a certain leases (individually, a "Lease", and collectively, the "Leases").

D. As additional security for the Loan, Lender has required the Borrower execute and deliver this Assignment to Lender.

NOW, THEREFORE, the Borrower, for and in consideration of these presents and the mutual agreements herein contained and for other good and valuable consideration, the receipt whereof is hereby acknowledged, and as further and additional security for payment of the Loan; the principal sum, interest, premiums and other indebtedness evidenced by the Loan Agreement; any amendments, extensions or renewals of the Loan; and the performance and discharge of each and every obligation, covenant and agreement of Borrower contained in this Assignment, the Loan Agreement or any of the other "Loan Documents" (as defined in the Loan Agreement), does hereby sell assign and transfer unto the Lender its interest in (i) the Leases; and (ii) any and all extensions, renewals an replacement of any Lease, together with all the rents, income, issues and profits now due and which may hereafter become due under or by virtue of such Lease, together with all guaranties of any of the foregoing, it being the intention hereby to establish an absolute transfer and assignment of all the foregoing to Lender.

To protect and further the security of this Assignment, the Borrower agrees as follows:

1. **Agreements Regarding Leases.** The Borrower agrees and represents to Lender

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as follows:

(a) the Borrower is the sole owner of the entire interest of the landlord in each Lease; without Lender's prior written consent, Borrower will not transfer, sell, assign, pledge, encumber or grant a security interest in any Lease; without Lender's prior written consent, Borrower will not consent to, suffer or permit the assignment or subletting any leasehold estate created thereunder; any attempted assignment or subletting without Lender's written consent, whether by Borrower or by a tenant, shall be null and void;

(b) each Lease is and will be valid and enforceable in accordance with its terms and shall remain in full force and effect irrespective of any merger of the interest of landlord and tenant thereunder;

(c) the Borrower will promptly notify Lender of any material default or material claimed default by landlord or tenant under any Lease of which it becomes aware;

(d) if any Lease provides for the abatement of rent during repair of the Premises demised thereunder by reason of fire or other casualty, the Borrower shall furnish rental insurance to Lender in amount and form and written by insurance companies as shall be satisfactory to Lender

(e) the Borrower shall not hereafter permit any Lease to become subordinate to any lien other than the lien of the Mortgage without the prior written consent of the Lender, and any attempted termination, modification or amendment of any Lease without such written consent shall be null and void;

(f) no payment of rent has been or will be made by the tenant under any Lease or by any person in possession of any portion of the Premises for more than one month's installment in advance or has been or will be waived, released, reduced, or discounted, or otherwise discharged or compromised by the Borrower, and the Borrower waives any right of set-off against any tenant or any person in possession of any portion of the Premises; Borrower has not made and will not make any other or further assignment of the rents, issues, income or profits of the Premises or of any Lease except subsequent to or in connection with the release of this Assignment with respect to such portion of the Premises so released;

(G) the Borrower shall perform all of its covenants and agreements under each Lease and shall not suffer or permit any release of liability of, or right to withhold payment of rent by, the tenant therein;

(H) the Borrower shall not commence or continue proceedings to evict, remove or dispossess the Tenant under any Lease or to terminate any Lease without prior written consent of Lender;

(i) each Lease is valid and unmodified and in full force and effect, except as indicated herein, and neither the Borrower nor to the best of Borrower's knowledge the tenant under any Lease is in default under any of the terms, covenants or conditions

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thereof, no event or conditions has occurred or presently exists which would, but for the passage of time the giving of notice or both, would constitute a default by either the Borrower or the tenant thereunder, and to the best of Borrower's knowledge no tenant under any Lease has any rights of set-off or counterclaim or any defense to full performance of such tenant's obligations thereunder;

(j) the Borrower shall not waive, cancel, release, modify, excuse, condone, discount, set-off, compromise or in any manner release or discharge the tenant under any Lease from any material obligation, covenant, condition or requirement of said Lease, without prior written consent of Lender.

Any amounts received by Borrower or its agents for performance of any actions prohibited by the terms of this Assignment, including any amounts received in connection with any cancellation, modification or amendment of any Lease prohibited by the terms of this Assignment and any amounts received by Borrower as rents, income, issues or profits from the Premises from and after the date of any Event of Default under the Loan Agreement or under any of the Loan Documents, which default shall not have been cured within the time periods, if any, expressly established therefore, shall be held by Borrower as trustee for Lender and all such amounts shall be accounted for to Lender and shall not be commingled with other funds of the Borrower. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Lender as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith; by way of example and not of limitation, such notice may be given by an instrument recorded with the Recorder of Deeds of the county in which the Premises are located stating that Borrower has received or will receive such amounts in trust for Lender.

2. **Waiver of Liability.** Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Premises by Lender pursuant to the provision hereinafter contained. No liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by the Borrower.

3. **Further Assurances and Assignments.** The Borrower further agrees to execute and deliver immediately upon the request of Lender, all such further assurances and assignment concerning the Lease or the Premises as Lender shall from time to time require.

4. **Exercise of Remedies.** In any case in which under the provisions of the Mortgage 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 Lender, the Borrower agrees to surrender to Lender and 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 or notice 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 the documents, books, records, papers and accounts of the Borrower or the then owner of the Premises relating hereto, and may exclude the Borrower, its agents, or servants, wholly therefrom and may as attorney in fact of Borrower, or in its own name as mortgagee 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,

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legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment of security of the rents, income, issues and profits of Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent, hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, 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 rents, income, issues and profits.

5. **Indemnity.** Lender shall not at any time (regardless of any exercise by Lender, or right of Lender to exercise, any powers herein conferred) be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any lease or rental agreements relating to the Premises, and the Borrower shall and does hereby agree to indemnify and hold Lender harmless of and from any and all liability, loss or damage which Lender may or might incur under or by reason of (a) any such Lease, (b) the assignment thereof, (c) any action taken by Lender or its agents hereunder, unless constituting willful misconduct or gross negligence, or (d) claims and demands which may be asserted against it by reason of any alleged obligations or undertakings on its part to (or to cause the Borrower to) perform or discharge any of the terms, covenants or agreements contained in any Lease.

6. **Application of Proceeds.** Lender in the exercise of the rights and powers conferred upon it by this Assignment shall have full power to sue and apply the rents, income, issues and profits of the Premises to the payment of or on account of the following, in such order as Lender may determine:

(a) operating expenses of the Premises, including costs of management and leasing thereof (including reasonable compensation to Lender and its agents, and lease commissions and other compensations and expenses of seeking and procuring tenants and entering into any Lease), establishing any claims for damages, and premiums on insurance hereinabove authorized; it being expressly understood and agreed that Lender in the exercise of such powers may so pay any claims purporting to be for any operating expenses of the Premises, without inquiry into, and without respect to, the validity thereof and whether such claims are in fact for operating expenses of the Premises;

(b) taxes and special assessments now due or which may hereafter become due on the Premises;

(c) the costs of all repairs, decorating, renewals, replacements, alterations, additions, or betterments, and improvements of the Premises, including, without limitation, the cost from time to time of installing or replacing such fixtures, furnishings and equipment therein, and of placing the Premises in such condition as will, in the reasonable judgment of Lender, make it readily rentable;

(D) any indebtedness secured or guaranteed by the Mortgage or any deficiency which may result from any foreclosure sale.

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7. **Power of Attorney.** Borrower does hereby appoint irrevocably the Lender its true and lawful attorney in its name and stead and hereby authorizes Lender, with or without taking possession of the Premises, but only after the occurrence of an Event of Default under the Loan Agreement, to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms, in its discretion as it may determine, and to collect all of said rents, income, issues and profits now or hereafter arising from or accruing or due under the Leases with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Lender would have upon taking possession of the Premises pursuant to the provisions hereinafter set forth. Power of attorney conferred upon Lender pursuant to this Assignment are powers coupled with an interest and cannot be revoked, modified or altered without the written consent of Lender.

8. **Occurrence of Default.** Although it is the intention of the parties that this assignment is a present assignment, Lender shall not exercise any of the rights and powers conferred upon it herein until and unless there shall occur an Event of Default as defined in the Loan Agreement.

9. **Instruction to Tenants.** The Borrower further specifically and irrevocably authorizes and instructs each and every present and future tenant or tenants under any lease of the whole or any part of the Premises to pay all unpaid rental agreed upon in any lease or other agreement for occupancy of any part of the Premises to Lender upon receipt of demand from Lender so to pay the same, without any inquiry as to whether or not said demand is made in compliance with the immediately preceding paragraph hereof. Lender has not received or been transferred any security deposit with respect to any Lease, and assumes no responsibility for any such security deposit until such time such security deposit has been deposited with Lender.

10. **Election of Remedies.** The provisions set forth in this Assignment shall be deemed a special remedy given to Lender, and shall not be deemed exclusive of any of the remedies granted in the Loan Agreement or the Mortgage but shall be deemed an additional remedy and shall be cumulative with the remedies therein and elsewhere granted Lender, all of which remedies shall be enforceable concurrently or successively. No exercise by Lender of any of its rights hereunder shall cure, waive or affect any default hereunder or Default under the Loan Agreement or the Mortgage. No inaction or partial exercise of rights by Lender shall be construed as waiver of any of its rights and remedies, and no waiver by Lender of any such rights and remedies shall be construed as a waiver by Lender of any of its other rights and remedies.

11. **Continual Effectiveness.** No judgment or decree which may be entered on any debt secured or intended to be secured by Lender 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, discharge and performance of any and all indebtedness and obligations evidenced by the Loan Agreement or secured or guaranteed by the Mortgage, in whatever form, and until all bills incurred by virtue of the authority herein contained have been fully paid out of rents, income, 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 all indebtedness secured or guaranteed by the Mortgage is fully satisfied before the expiration of any period of redemption.



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12. **Bankruptcy.** In the event the tenant under any Lease should be the subject to any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state, or local statute which provides for the possible termination or rejection of any Lease assigned hereby, the Borrower covenants and agrees that if any Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Lender, and any such settlement will be made payable both to the Borrower and Lender. The Borrower hereby assigns any such payment to Lender and further covenants and agrees that after an Event of Default upon the request of Lender, it will duly endorse to the order of Lender any such check, the proceeds of which will be applied to whatever portion of the indebtedness secured by this Assignment Lender may elect.

13. **Notices.** All notices required hereunder shall be given in the manner prescribed in the Loan Agreement.

14. **Binding Agreements.** This Assignment and all provisions hereof shall be binding upon the Borrower, its successors, assigns, executors, administrators and legal representatives and all other persons or entities claiming under or through it, and the word "Borrower," when used herein, shall include all such persons and entities and any others liable for the payment of the indebtedness secured hereby or any part thereof, whether or not they have executed the Loan Agreement or this Assignment. The word "Lender," when used herein, shall include Lender's successors, assigns, and legal representatives.

15. **Governing Law; Interpretation.** This Assignment shall be governed by the laws of the State of Illinois in which State this Assignment was executed and delivered, the Premises are located, the proceeds of the Loan were disbursed by Lender, and the principal and interest due under the Loan are to be paid. Wherever possible each provision of this Assignment shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Assignment shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provision of this Assignment. Time is of the essence of this Assignment.

16. **Miscellaneous.** Neither this Assignment nor any provision hereof may be amended, modified, waived, discharged or terminated orally. The Section headings used herein are for convenience of reference only and shall not define or limit the provisions of this Agreement. As used in this Assignment, the singular shall include the plural and the plural shall include the singular, and masculine, feminine, and neuter pronouns shall be fully interchangeable, where the context so requires.

[Signature appears on the following page]

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IN WITNESS WHEREOF, the undersigned have caused this Assignment to be executed as of the day and year first above written.

NORTHBROOK COMMERCIAL  
PROPERTIES, LLC

By: *Jamal AlWalter*  
Its: *member*

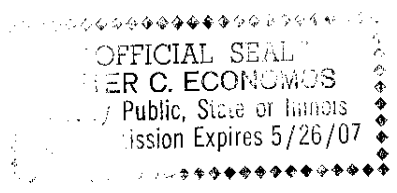
State of Illinois )  
County of *Cook* )SS.

I, the undersigned, a Notary Public, in and for the county and State aforesaid, DO HEREBY CERTIFY, that *Jamal AlWalter* personally known to me to be the of *Northbrook Commercial Properties* personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such *member* and \_\_\_\_\_ they signed and delivered the said instrument pursuant to authority given by the of said \_\_\_\_\_, as their free and voluntary act, act as the free and voluntary act of said \_\_\_\_\_, as aforesaid, for the uses and purposes therein set forth.

Given under my hand and official seal this *11th* day *Jun*, 2004.

Notary Public

*Peter C. Economos*



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STREET ADDRESS: 4100 COMMERCIAL AVENUE

CITY: NORTHBROOK

COUNTY: COOK

TAX NUMBER: 04-06-107-004-0000

**LEGAL DESCRIPTION:**

LOT 2 IN THE PLAT OF RESUBDIVISION OF LOTS 2 AND 3 IN VORBROOK COMMERCIAL PARK AND OF LOT 1 IN E.M.I. RESUBDIVISION, BEING A RESUBDIVISION OF LOTS 4 TO 9 INCLUSIVE, 12, 13, 14, 16 AND 17 IN VORBROOK COMMERCIAL PARK, IN SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO SAID PLAT OF RESUBDIVISION RECORDED AUGUST 3, 1995 AS DOCUMENT 95513270.

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## Exhibit A

### Legal Description

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