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This Document Prepared by
and after Recording Return to:

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Suite 1800
Chicago, Illinois 60606.1615
Attn: Michael D. Burstein, Esq.



Doc#: 0423939109
Eugene "Gene" Moore Fee: \$42.50
Cook County Recorder of Deeds
Date: 08/26/2004 03:48 PM Pg: 1 of 10

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ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES ("Assignment") is made and delivered as of August 24, 2004, by **85-95 REVERE DRIVE (NORTHBROOK), L.L.C.**, an Illinois limited liability company ("**Assignor**"), to and for the benefit of **NORTH SHORE COMMUNITY BANK & TRUST CO.**, its successors and assigns ("**Assignee**").

RECITALS:

A. Assignee has agreed to loan to Assignor the principal amount of Three Million Two Hundred Thousand and No/100 Dollars (\$3,200,000.00) ("**Loan**"). Assignor is executing a certain Promissory Note dated this date (as the same may be amended, modified, replaced or restated from time to time, "**Note**") payable to the order of Assignee to evidence the Loan.

B. A condition precedent to Assignee's making of the Loan to Assignor is the execution and delivery by Assignor of this Assignment.

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

1. **Definitions.** All capitalized terms that are not defined in this Assignment will have the meanings ascribed in the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated this date 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 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 land legally described in Exhibit A and all buildings and other improvements located thereon (the land and improvements are collectively referred to as the "**Premises**"), including, without limitation, lease termination fees, purchase option fees and other fees and expenses payable under any lease; (ii) all leases and subleases (collectively, "**Leases**"), now or later 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, 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:

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(a) Payment by Assignor when due of (i) the indebtedness evidenced by the Note and any and all renewals, extensions, replacements, amendments, modifications and refinancings; (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 that 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.

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 landlord (or the successor in interest or assignee of prior landlords) under all Leases;

(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 under this Agreement;

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

(e) there are no defaults by the landlord and, to Assignor'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 is in effect:

(a) Assignor may not lease any portion of the Premises unless Assignor obtains Assignee's prior written consent to all aspects of such lease (A) at the time Assignor enters into such Lease, no Event of Default shall have occurred hereunder and be continuing, (B) such Lease substantially conforms with a form of lease previously approved by Assignee, and (C) after giving effect to the economic terms of such Lease, Assignor shall remain in compliance with the Debt Service Ratio described in Paragraph 37 of the Mortgage, but further provided that Assignor promptly shall furnish to Assignee notice of the execution of any such Lease and a true, complete and correct copy thereof;

(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, or (iv) consent to a tenant termination or cancellation of any Lease, except as specifically provided therein, unless, after giving effect to such action,

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Assignor shall remain in compliance with the Debt Service Ratio in Paragraph 37 of the Mortgage. Assignor shall not enter into any oral leases with respect to all or any portion of the Premises;

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

(d) Assignor must not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder, except as specifically permitted by the Loan Documents;

(e) 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; provided, however, that Assignor may cancel or terminate any Lease as a result of a material default by the tenant thereunder and failure of such tenant to cure the default within the applicable time periods set forth in the Lease; provided, further, however, that Assignee's prior written consent shall not be required if and only if, after giving effect to the economic terms of such modification, consent or approval, Assignor shall remain in compliance with the Debt Service Ratio described in Paragraph 37 of the Mortgage, and further provided that Assignor promptly shall furnish to Assignee notice of any such modification, consent or approval;

(f) 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, unless after giving effect to such conveyance or transfer, Assignor shall remain in compliance with the Debt Service Ratio described in Paragraph 37 of the Mortgage; any termination fees payable under a Lease for the early termination or surrender thereof shall be paid jointly to Assignor and Assignee;

(g) Assignor must not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or permit to be done anything that could terminate any such guaranty as a matter of law;

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

(i) Assignor, at its sole cost and expense, must appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the landlord or any tenant or guarantor, and must pay all costs and expenses of Assignee, including court costs and reasonable attorneys' fees, in any such action or proceeding in which Assignee may appear;

(j) Assignor must give prompt notice to Assignee of any notice of any default by the landlord under any Lease received from any tenant or guarantor;

(k) Assignor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenants and guarantors under this Assignment and shall immediately notify Assignee of any material breach by the tenant or guarantor under any such Lease;

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

(m) Assignor must not execute any Lease after the date of this Assignment unless there is included in such Lease a provision providing that the tenant under such Lease acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to Assignee as mortgagee, mortgagee in possession or successor in title to the Premises for accountability for any security deposit required by landlord under such Lease unless such sums have actually been received in cash by Assignee as security for tenant's performance under such Lease;

(n) If any tenant under any Lease is or becomes the subject of 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 the Leases assigned, Assignor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages is made without the prior written consent of Assignee, and any check in payment of damages for termination or rejection of any such Lease will be made payable both to Assignor and Assignee. Assignor assigns any such payment to Assignee and further covenants and agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which is applied in accordance with the provisions of Paragraph 8 below; and

(o) Not later than thirty (30) days after the end of each calendar quarter, Assignor must deliver to Assignee a certified rent roll for the Premises as of the last day of such period in a form reasonably satisfactory to Assignee.

5. **Rights Prior to Default.** Unless or until an Event of Default (as defined in Paragraph 6) occurs, Assignor has the right to collect, at the time (but in no event more than thirty days in advance of the date for payment) all rents, issues, income and profits assigned under this Assignment, 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 will immediately terminate without further notice. Assignee has 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" will occur under this Assignment upon the occurrence of (a) a breach by Assignor of any of the covenants, agreements, representations, warranties or other provisions of this Assignment that 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 secured obligations, 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

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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 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 of and from the Premises and pursue all remedies for enforcement of the Leases and all the landlord's rights in this Assignment and under the Leases. This Assignment constitutes 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, upon receipt from Assignee of written notice to 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, and Assignor agrees to 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 pay all such rents and other amounts to Assignee; and

(d) Make any payment or do any act required in this Assignment 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 is 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 is 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 elects in its sole and absolute discretion.

9. **Limitation of Assignee's Liability.** Assignee is not 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 is not obligated to observe, perform or discharge, nor does Assignee undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the landlord, or any obligation, duty or liability of Assignor under or by reason of this Assignment. Assignor and agrees 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. If Assignee incurs 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, will become immediately due and payable by Assignor with interest thereon at the Default Rate and is secured by this Assignment. This Assignment does not 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 contained in any Lease, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Premises by

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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 in this Assignment or in the Mortgage, and no exercise by Assignee of any of the rights set forth in this Assignment or in the Mortgage constitutes or may be construed as constituting Assignee a "mortgagee in possession" of the Premises, in the absence of the taking of actual possession of the Premises by Assignee pursuant to the provisions of this Assignment 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 under this Assignment is 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, may release any party primarily or secondarily liable, and may apply any other security held by it for the satisfaction of the obligations secured without prejudice to any of its rights and powers hereunder.

11. **Further Assurances.** Assignor must 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 determined 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 agree to 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, will not be affected and will 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 inures to the benefit of Assignee and its successors and assigns.

15. **Written Modifications.** This Assignment may 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 will 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 is governed by and construed in accordance with the laws of the State of Illinois.

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18. **Notices.** All notices, demands, requests and other correspondence that are required or permitted under this Assignment are 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.

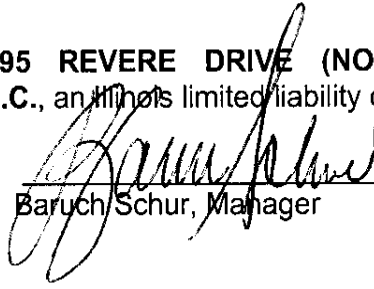
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Assignor has executed and delivered this Assignment as of the day and year first above written.

**85-95 REVERE DRIVE (NORTHBROOK),
L.L.C.**, an Illinois limited liability company

By: _____



Baruch Schur, Manager

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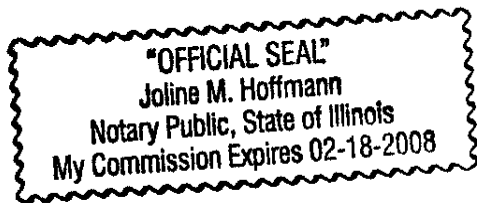
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Joline M. Hoffmann, a Notary Public in and for said County, in the State, certify that Baruch Schur, the manager of **85-95 REVERE DRIVE (NORTHBROOK), L.L.C.**, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes in this Assignment set forth.

GIVEN under my hand and notarial seal, this 20 day of August, 2004.

Joline M. Hoffmann
Notary Public



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EXHIBIT A

Legal Description of Premises

LOT 7 IN NORTHBROOK COURT OFFICE PLAZA, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 3595 Revere Drive
Northbrook, Illinois

PIN: 04-02-101 020-0000

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