

# UNOFFICIAL COPY



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Doc#: 0501422175  
Eugene "Gene" Moore Fee: \$42.00  
Cook County Recorder of Deeds  
Date: 01/14/2005 11:09 AM Pg: 1 of 10

This document prepared by  
and after recording,  
please return to:

Katten Muchin Zavis Rosenman  
525 West Monroe Street  
Suite 1600  
Chicago, IL 60661-3693  
Attn: Douglas L. Noren, Esq.



## ASSIGNMENT OF LEASES AND RENTS

(Enterprise Office I)

KNOW ALL MEN BY THESE PRESENTS THAT **GERALD LEE NUDO, LAURENCE H. WEINER, ELLIOT M. WEINER** and **ANNE B. VOSHEL** (the "Beneficiaries"), and **NORTH STAR TRUST COMPANY**, as trustee (the "Trustee") under the provisions of that certain Trust Agreement dated December 30, 2004, and known as Trust Number 04-7869 (Beneficiaries and Trustee together are known as the "Assignor"), whose address is c/o Marc Realty, 55 East Jackson, 5th Floor, Chicago, Illinois 60604, in consideration of One Dollar paid by **JPMORGAN CHASE BANK, N.A.**, a national banking association, whose address is 1 Bank One Plaza, Chicago, Illinois 60670 ("Assignee"), by this assignment ("Assignment") hereby convey, transfer and assign unto Assignee, its successors and assigns, all rights, interests and privileges which Assignor as landlord has and may have in the leases, licenses and parking agreements executed by or assigned to Assignor from time to time, as the leases may have been or may from time to time be hereafter modified, extended and renewed (individually, "Lease" and collectively, "Leases"), with all rents, income, issues, royalties, profits and other benefits due and becoming due thereunder ("Rents") from the tenants thereof ("Tenants"), and all of Assignor's right, title and interest in and to those certain lease guaranties ("Lease Guaranties") for the benefit of Assignor under the Leases (including, without limitation, all other lease guaranties executed for the benefit of Assignor in connection with all other leases executed by Assignor from time to time), and any and all proceeds paid thereunder, to have and to hold unto Assignee, its successors and assigns forever, subject to and upon the terms and conditions set forth herein. Although this Assignment constitutes a present assignment of the Leases and Lease Guaranties, Assignor will, on request of the Assignee, execute additional assignments of any future Leases or Lease Guaranties affecting any part of the Premises (as defined below).

This Assignment is made in connection with the execution of the Promissory Note by Assignor (the "Note"), which Note is secured by a Mortgage, Security Agreement and Fixture Filing (the "Mortgage"), dated as of even date herewith and executed and delivered by Assignor to Assignee pursuant to a Loan Agreement (the "Loan Agreement") dated as of even date

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1ST AMERICAN FILE Order #

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herewith, and all extensions or modifications thereof, between Assignor and Assignee. This Assignment is further made in connection with the execution of the Cross-Guaranty by Assignor (the "Guaranty"), which Guaranty is secured by a Mortgage, Security Agreement and Fixture Filing (the "Junior Mortgage"), dated as of even date herewith and executed and delivered by Assignor to Assignee pursuant to the Loan Agreement. The total original principal amount of the Note, together with accrued interest and any other present and future obligations which may be secured by the Mortgage, Guaranty and Junior Mortgage, are hereinafter collectively referred to as "Debt". The Mortgage, Junior Mortgage and Loan Agreement relate to real property situated in Cook County, Illinois and described on Exhibit A attached hereto and made a part hereof, and certain other property more particularly described in the Mortgage and Junior Mortgage (collectively, the "Premises").

The acceptance of this Assignment and the collection of Rents under the Leases or proceeds under the Lease Guaranties shall not constitute a waiver of any rights of Assignee under the terms of the Note, the Mortgage, the Guaranty, the Junior Mortgage and the Loan Agreement or any other Loan Document (as defined in the Loan Agreement). Anything to the contrary notwithstanding, Assignor hereby assigns to Assignee for application against the Debt any award made hereafter to it in any court procedure involving any of the Tenants in any bankruptcy, insolvency, or reorganization proceedings in any state or federal court; and any and all payments made by Tenants under the Leases or in lieu of Rents. Assignor hereby appoints Assignee and its successors and assigns as its irrevocable attorney-in-fact (which appointment shall be deemed to be coupled with an interest and irrevocable) to appear in any action or proceeding, to collect any such award or payment in each case during the existence of an Event of Default, to collect the Rents subject to the terms of the Loan Agreement, to demand, receive and enforce payment, to give receipts, releases and satisfaction, and to sue, in the name of Assignor or Assignee, for all Rents.

Although it is the intention of Assignor and Assignee that this Assignment shall be a present absolute assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Assignee shall not exercise any of the rights or powers conferred upon it by this Assignment, including, but not limited to, the exercise of the rights of Assignor as Landlord under the Leases until an Event of Default (as defined in the Loan Agreement) has occurred and Assignor shall be entitled to collect Rents prior to such time.

Assignor hereby assigns to Assignee all security deposits, if any, received by Assignor or any agent in respect of the Leases. Prior to an Event of Default and demand by the Assignee for delivery of such security deposits to it or its designee, Assignor may retain the security deposits. After the occurrence of an Event of Default hereunder or under any of the Loan Documents which is not cured within such grace period as may be applicable thereto and upon demand by Assignee, Assignor shall deliver such deposits to Assignee or its designee. Upon delivery of such security deposits to Assignee following an Event of Default, Assignee shall hold such deposits pursuant to the terms of the Leases in respect of which such deposits were obtained by Assignor, provided, however, to the extent permitted by applicable Law, in no event shall Assignee be liable under any Lease for the return of any security deposit in any amount in excess of the amount delivered to Assignee by Assignor. Any security deposits delivered to and held by

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Assignee shall not bear interest, except to the extent required by applicable Law or the Lease under which such security deposit is held.

Assignor, upon the occurrence of an Event of Default, hereby authorizes Assignee, at its option, to enter and take possession of the Premises and to manage and operate the same, to collect all or any Rents or proceeds of the Lease Guaranties without entering and taking possession of the Premises, to let or re-let the Premises or any part thereof, to cancel and modify the Leases and all other agreements affecting the Premises, evict tenants, bring or defend any suits in connection with the possession of the Premises in its own name or Assignor's name, make repairs as Assignee deems appropriate, and perform such other acts in connection with the management and operation of the Premises as Assignee, in its discretion, may deem proper.

During the existence of an Event of Default, Assignee may, whether or not Assignee takes possession of the Premises, receive and collect the Rents or proceeds of the Lease Guaranties personally or through a receiver at any time during the term hereof and during the pendency of any foreclosure proceedings and during any redemption period, and Assignor shall consent to a receiver or receivers if such are believed necessary or desirable by Assignee to enforce its rights hereunder.

The receipt by Assignee of any Rents or proceeds of the Lease Guaranties pursuant to this Assignment after the institution of foreclosure proceedings under the Mortgage or Junior Mortgage shall not cure an Event of Default nor affect such proceedings or any sale pursuant thereto.

Prior to a Foreclosure Transfer (as such term is defined in the Mortgage), Assignee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under any of the Leases. Except for liabilities arising out of Lender's own gross negligence or willful misconduct, Assignor hereby agrees to indemnify Assignee for, and to save it harmless from, any and all liability arising prior to a Foreclosure Transfer from any of the Leases or from this Assignment, and this Assignment shall not place responsibility for the control, care, management, or repair of all or any part of the Premises or other obligations of any kind whatsoever upon Assignee prior to a Foreclosure Transfer, or prior to a Foreclosure Transfer, make Assignee responsible or liable for any negligence in the management, operation, upkeep, repair or control of all or any part of the Premises resulting in any liability, loss, injury or death to any Tenant, lessee, licensee, invitee, employee or stranger.

Assignor covenants and represents that (a) Assignor has full right and title to assign the Leases, the Lease Guaranties and the Rents, (b) the terms of any Leases entered into by Borrower after the date hereof will not materially change from the terms in the copies of the standard lease form and the standard lease guaranty form submitted to Assignee for approval except as permitted under the Loan Agreement, (c) no other assignment of landlord's interest in the Leases and the Lease Guaranties has been made, and (d) except as otherwise permitted under the Loan Agreement, Assignor will not hereafter cancel, surrender or terminate any of the Leases or the Lease Guaranties or exercise any option under any of the Leases or Lease Guaranties or change, alter, amend or modify or give any waiver or consent under any one or more of them or consent

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to the surrender of any of the Lease or the release of any party liable thereunder or to the assignment of the lessees' interest, in them except in the ordinary course of business.

Assignor hereby authorizes Assignee to give notice in writing of this Assignment at any time to the Tenants under any of the Leases or any guarantor under the Lease Guaranties.

Default by Assignor under any of the terms of this Assignment which continues beyond the expiration of any applicable cure period shall constitute an Event of Default under the terms of the Loan Agreement. Any expenditures made by Assignee in curing an Event of Default (including, without limitation, reasonable attorneys, fees and disbursements actually incurred), with interest thereon at the Default Rate specified in the Note, shall become part of the Debt secured by the Mortgage unless promptly paid by Assignor.

The net proceeds of the Rents (after payment of all expenses such as brokerage commissions, tenant improvements, etc.) or the proceeds of the Lease Guaranties collected by Assignee under the terms of this Assignment shall be applied in reduction of the Debt from time to time outstanding, under and secured by, the Mortgage or Junior Mortgage.

This Assignment applies to and binds the parties hereto and their respective heirs, administrators, executors, successors and assigns, as well as any subsequent owner of the Premises and any assignee of the Mortgage or Junior Mortgage referred to herein.

All notices, demands or documents which are required or permitted to be given or served hereunder shall be in writing and shall be deemed sufficiently given when delivered or mailed in the manner set forth in the Loan Agreement.

This Assignment is executed by the undersigned Trustee, not personally, but as Trustee as aforesaid: and it is expressly understood and agreed by the parties hereto, anything herein to the contrary notwithstanding, that each and all of the covenants, undertakings and agreements herein made are made and intended, not as personal covenants, undertakings and agreements of the Trustee, named and referred to in said Agreement, for the purpose of binding it personally, but this instrument is executed and delivered by NORTH STAR TRUST COMPANY as Trustee, solely in the exercise of the powers conferred upon it as such Trustee, and no personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against NORTH STAR TRUST COMPANY, its agents, or employees on account hereof, or on account of any covenant, undertaking or agreement herein or in said Note contained, either expressed or implied, all such personal liability, if any, being hereby expressly waived and released by the party of the second part or holder of said Note hereof, and by all persons claiming by or through or under said party of the second part or the holder or holders, owner or owners of such Note, and by every person now or hereafter claiming any right or security hereunder.

Lender acknowledges that Elliot M. Weiner and Anne B. Voshel are entering into this Agreement solely as beneficiaries under the Enterprise Land Trust (as defined in the Loan Agreement) and not personally and it is understood and agreed that in any action or proceeding brought under this Agreement against Elliot M. Weiner and Anne B. Voshel, Lender will look solely to the beneficial interests in the Enterprise Land Trust and the Enterprise Property (as

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defined in the Loan Agreement) owned by Elliot M. Weiner and Anne B. Voshel for payment of any amounts due Lender, and accordingly no personal liability shall be asserted or be enforceable against Elliot Weiner or Anne B. Voshel or their other assets as a result of being a party to this Agreement, all such liability being waived by Lender.

THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS; PROVIDED, HOWEVER, THAT TO THE EXTENT THE MANDATORY PROVISIONS OF THE LAWS OF ANOTHER JURISDICTION RELATING TO (A) THE PERFECTION OR THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTERESTS IN ANY OF THE PROPERTY, (B) THE LIEN, ENCUMBRANCE OR OTHER INTEREST IN THE PROPERTY GRANTED OR CONVEYED BY THIS ASSIGNMENT OR (C) THE AVAILABILITY OF AND PROCEDURES RELATING TO ANY REMEDY HEREUNDER OR RELATED TO THIS ASSIGNMENT ARE REQUIRED TO BE GOVERNED BY SUCH OTHER JURISDICTIONS LAWS, SUCH OTHER LAWS SHALL BE DEEMED TO GOVERN AND CONTROL.

[EXECUTION PAGE FOLLOWS]





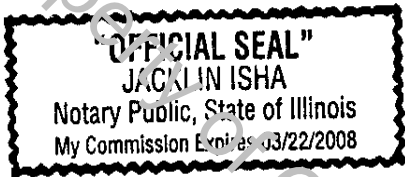
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THE STATE OF Illinois )  
 ) ss  
COUNTY OF Cook )

David Rosenfeld

On January 10, 2005, before me, \_\_\_\_\_,  
Notary Public, personally appeared Vice-President, \_\_\_ personally known to me  
or \_\_\_ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)  
is/are subscribed to the within instrument and acknowledged to me that he executed the same in  
his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the  
entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

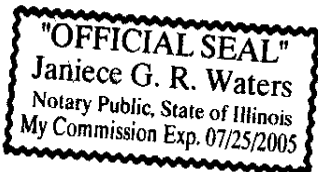


[Signature]  
Signature of Notary Public

THE STATE OF IL )  
 ) ss  
COUNTY OF Cook )

On Jan. 7, 2005, before me, Janiece G. R. Waters,  
Notary Public, personally appeared Gerald Lee Nudo, \_\_\_ personally known to me or \_\_\_ proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that he executed the same in his authorized  
capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon  
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



[Signature]  
Signature of Notary Public

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THE STATE OF IL )  
 ) SS  
COUNTY OF Cook )

On Jan. 7, 2005, before me, JANIECE G. WATERS,  
Notary Public, personally appeared Laurence H. Weiner, \_\_\_ personally known to me or  
\_\_\_ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he executed the same in his  
authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity  
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

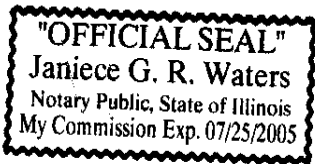


Janiece G. Waters  
Signature of Notary Public

THE STATE OF IL )  
 ) SS  
COUNTY OF Cook )

On Jan. 7, 2005, before me, JANIECE G. WATERS,  
Notary Public, personally appeared Elliot M. Weiner, \_\_\_ personally known to me or \_\_\_ proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that he executed the same in his authorized  
capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon  
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Janiece G. Waters  
Signature of Notary Public

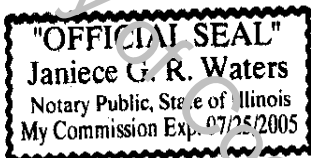


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THE STATE OF IL )  
COUNTY OF Cook ) SS

On Jan. 7, 2005, before me, Janiece G. Waters,  
Notary Public, personally appeared Anne B. Voshel, \_\_\_ personally known to me or \_\_\_ proved  
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that he executed the same in his authorized  
capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon  
behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Janiece G. Waters  
Signature of Notary Public

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## EXHIBIT A

### LEGAL DESCRIPTION

THAT PART OF LOTS 1 AND 2, LYING NORTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE WEST LINE OF SAID LOT 2 THAT IS 32.50 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 2; THENCE SOUTH 89 DEGREES 56 MINUTES 35 SECONDS EAST TO A POINT ON THE WEST RIGHT OF WAY LINE OF ENTERPRISE DRIVE, IN ENTERPRISE CENTRE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON AUGUST 4, 1989 AS DOCUMENT NO. 89357915, IN COOK COUNTY, ILLINOIS.

Property Name: Enterprise Office I  
Street Address: 2205-2255 Enterprise Drive  
Westchester, Illinois 60154

PIN: 15-30-205-004