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This Document Prepared by
and after Recording Return to:

Dennis W. Winkler, Ltd.
3051 Oak Grove Drive
Suite 220
Downers Grove, Illinois 60515
Attn: Dennis W. Winkler



Doc#: 0607655024 Fee: \$44.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/17/2006 09:50 AM Pg: 1 of 11

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ASSIGNMENT OF RENTS, LEASES AND PROFITS

THIS ASSIGNMENT is made February 22, 2006 by and among, Halsted 2142, LLC, an Illinois limited liability company, c/o RMR Partners, LLC, 2020 North Hoyne Avenue, Chicago, Illinois 60647 ("**Assignor**") and Builders Capital, LLC, an Illinois limited liability company, 210 Quail Ridge Drive, Westmont, Illinois 60559 and ("**Assignee**").

1. Recitals.

1.1 Pursuant to that certain Loan Commitment Letter (the "**Loan Commitment**") dated January 30, 2006 and collateral documents referred to therein, Assignee has agreed to loan (the "**Loan**") to 6 N. May LLC, an Illinois limited liability company, ("**Borrower**") the sum of Five Hundred Fifty Six Thousand and 00/100 Dollars (\$556,000.00) (the "**Loan Amount**") upon the terms and conditions set forth therein.

1.2 Assignee, as an inducement to make the Loan, has required that Michael J. Williamson and Ratko Musikic ("**Guarantors**") execute and deliver to Assignee a guaranty (the "**Guaranty**") of payment of all the Borrower's Liabilities (defined below) and prompt, full and faithful performance by Borrower of all of the provisions to be kept, observed or performed by Borrower under the Loan Documents (defined below).

1.3 Pursuant to the Loan Commitment, Borrower has executed and delivered to Assignee a Promissory Note, wherein Borrower promises to pay to Assignee the Loan Amount, together with interest and other charges as therein stated, of even date herewith (the "**Note**") evidencing the indebtedness owed by Borrower to Assignee pursuant to the Loan Agreement, a Mortgage (the "**Mortgage**"), a Security Agreement (the "**Security Agreement**") and the Guaranty, which together with this Assignment, secure the obligations of Borrower pursuant to the Note (the Loan Commitment dated January 30, 2006, the Note, the Mortgage, the Guaranty, the Security Agreement, the Loan Agreement, together with any and all documents or instruments executed in connection therewith, including any modifications, extensions or renewals thereof, are hereinafter referred to as the "**Loan Documents**"), all of which are incorporated herein by reference.

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1.4 Guarantors are the owners of one hundred percent (100%) of the Ownership Interests of Borrower and are the owners of one seventy five percent (75%) of the Ownership Interests of Assignor.

1.5 Assignor is the owner of certain real property, commonly known as the 2124 North Halsted Street, Chicago, Illinois, as more fully described on **Exhibit A** attached hereto and incorporated herein by reference (the "**Property**").

1.6 Guarantors and Assignor shall be substantially benefited economically by the making of the Loan by Assignee and shall receive consideration for doing so; therefore, Assignor has agreed to cause to grant to Assignee a subordinate mortgage lien on the Property and make this Assignment.

1.7 In consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, receipt of which is hereby acknowledged, Assignor agrees as set forth in this Assignment.

2. **Assignment.**

2.1 Assignor absolutely and unconditionally 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, security and other deposits and other receivables arising out of or from the Property, including, without limitation, any payments made by any tenant in lieu of rent, lease termination fees, purchase option fees and other fees and expenses payable under any lease ("**Profits**"); (ii) all leases and subleases (collectively, "**Leases**"), now or hereafter existing, of all or any part of the Property 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; (iv) all tenant improvements and fixtures located on the Property; (v) rights to receive profits derived from or in connection with the Property, from whatever source derived ("**Profits**"); and, (vi) rights, interest, and privileges in all Leases now or hereafter in existence with respect to the Property or any part thereof, together with any extension or renewal of any of the Leases.

2.2 Without limitation of the foregoing, this Assignment includes Assignor's interest in the Leases described in **Exhibit B** attached hereto and hereby made a part hereof. Assignor agrees that Assignor will, immediately upon request of Assignee, execute, acknowledge and deliver specific separate assignments of any future Leases affecting the Property or any part thereof.

2.3 Notwithstanding any provision herein to the contrary, this Assignment is intended to be an absolute, unconditional and irrevocable assignment from Assignor to Assignee and not merely the passing of a security interest. All present and future rents, Leases and profits are hereby assigned absolutely and unconditionally by Assignor to Assignee. This Assignment includes an assignment of any and all guarantees of the lessees' obligations under any of the Leases.

3. **Limitations on Assignment.**

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3.1 This Assignment is given for the purpose of securing performance by Assignor of all of its obligations under the Loan Documents and, accordingly, upon discharge of all of the Obligations, as evidenced by the satisfaction of the Mortgage (without the recording of another mortgage in favor of Assignee affecting the Property), this Assignment shall automatically become null and void.

3.2 So long as Assignor is not in Default in any material respect under the Loan Documents, Assignor shall have a license, limited as provided in this Assignment and the Loan Documents, to collect, as trustee for Assignee, all rents, issues and profits from the Property and to retain, use and enjoy the same; provided, however, Assignor agrees that it will not under any circumstances collect or accept any rent more than one (1) month prior to accrual.

4. **Assignor's Obligations.** Assignor agrees that it will perform in a complete and timely manner all of Assignor's material obligations as landlord under the Leases and in the ordinary course of the Assignor's business enforce the performance by the tenants of all their respective material obligations under the Leases. Assignor will not (other than in the normal course of Assignor's business) terminate the Leases, or any of them, or accept surrender of possession of any premises covered by a lease or modify any lease, or release any tenant or any guarantor of any tenant's obligations without the prior written consent of Assignee; provided, however, that Assignor may enter into future Leases for the Property using an unmodified form of lease previously approved in writing by Assignee.

5. **Cross Default.** Any Default or Event of Default by Assignor under any of the Loan Documents shall be considered a Default under this Assignment, and any Default under this Assignment shall be considered a Default or Event of Default under the Loan Documents, and in any such event, Assignee shall be entitled to exercise all or some or any of its remedies under the Loan Documents, or as may otherwise be available to Assignee at law or in equity, in such order as Assignee may elect.

6. **Assignee Not Bound to Perform Under Leases.** Notwithstanding any legal presumption to the contrary, Assignee shall not be obligated by reason of acceptance of this Assignment to perform any obligation of Assignor as landlord under the Leases, or any of them, and Assignor hereby agrees to indemnify Assignee and hold it harmless from and against any loss, liability or damage arising from any claim of any nature by any tenant or any other party arising under or in connection with the Leases, or any of them, or this Assignment except when Assignee is in actual possession. However, Assignee may, at its option, and, following the occurrence of a Default or an Event of Default, without waiving such Default or Event of Default or releasing Assignor from any obligation hereunder, discharge any obligation which Assignor fails to discharge, or, in good faith diligently defend or contest including, without limitation, defending any legal action, and Assignor agrees to pay within five (5) days following Assignee's written demand therefor all sums expended by Assignee in connection therewith, including without limitation, attorneys' fees, together with interest thereon at the rate provided for in the Note, and the same shall be added to the indebtedness evidenced by the Loan Documents.

7. **Warranties of Assignor.** Assignor hereby represents and warrants to Assignee, as a material inducement to Assignee to accept this Assignment, that:

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7.1 Assignor has not:

A. Executed any prior assignment of the Profits or of any of Lessor's rights under the Leases, or any of them;

B. Done, or failed to do, anything which might prevent Assignee from or limit Assignee in operating under any of the provisions hereof;

7.2 Assignor has not accepted rent under any Lease more than one (1) month in advance of accrual;

7.3 Assignor, after reasonable investigation has not claimed nor is aware of any present default by any tenant under any Lease presently in effect;

7.4 Each Lease is in full force and effect and unmodified; and

7.5 Assignor has delivered to Assignee true, correct and complete copies of all Leases (including all modifications, amendments, riders and addenda thereto) affecting the Property or any portion thereof.

8. Possession.

8.1 Effective immediately upon the Default or Event of Default of Assignor under the Loan Documents or any Lease, following receipt of notice and the expiration of any applicable cure period, Assignor authorizes Assignee, at its option, to enter and take possession of the Property, or any part thereof, and to manage and operate the same, to collect rents, to let or re-let the Property or any part thereof, to cancel and modify Leases, to evict tenants, to bring or defend any suits in connection with possession of the Property in its own name or Assignor's name, to make such repairs, alterations and improvements as Assignee deems appropriate, and to perform any other acts in connection with management and operation of the Property as Assignee, in its discretion, may deem appropriate.

8.2 Any income derived from the Property pursuant to subparagraph 8.1 above shall be applied, in such order and amounts as Assignee may elect in Assignee's sole discretion, to the following: commercially reasonable costs of operation and maintenance of the Property, including without limitation, management fees and professional fees, including reasonable attorneys fees and court costs, taxes, water and sewer charges, insurance, maintenance, repairs, environmental clean-up and the like; interest due on the indebtedness secured hereby; any other amounts reasonably necessary to meet the obligations of Assignor under the Loan Documents and Leases (other than payment of the principal indebtedness).

8.3 Notwithstanding the foregoing, until Assignee takes actual possession and control of the Property, this Assignment shall not place responsibility on Assignee for the control, care, management, maintenance or repair of the Property or make Assignee responsible or liable for any injury or death to any person or property arising from any negligence in the management, operation, upkeep, repair or control of the Property.

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8.4 Exercise by Assignee of its rights under Paragraph 8.1 above shall not waive or cure any Default or Event of Default under the Loan Documents nor affect any proceedings or any sale pursuant thereto.

9. **Receiver.** Assignee may, upon any proper action or proceeding being commenced for the foreclosure of this Assignment, apply for, and Assignee as a matter of right, without consideration of the value of the Property as security for the amount due Assignee, or of the solvency of any person, firm or corporation obligated for the payment of such amount, shall be entitled to, the appointment by any competent court or tribunal, without prior demand or notice to any party and without the necessity of posting a bond, of a receiver of rents and profits and rental value of the Property, with power to take possession of the Property, including possession from Assignor if in possession and occupying any portion of the Property, and in the latter case to require Assignor, as a condition of remaining in possession and occupation, to pay the reasonable rental value for the use and occupation thereof, with further power to lease and repair the Property and to renovate same to suit new tenants and with such other powers as may be deemed necessary, and such receiver after deducting all proper charges and expenses attending the execution of such duties, shall each month pay over to Assignee the residue of the said rents and profits and rental value, to be applied by Assignee to the payment of the Obligations, or to any deficiency (whether or not any judgment therefor may be entered and irrespective of the market value of the Property) which may exist in the event of foreclosure by sale after applying the proceeds of the sale of the Property to the payment of the amount due, including interest, costs and expenses of such foreclosure and sale, or in the event of strict foreclosure to the payment of any deficiency existing thereunder. Assignor hereby consents to such appointment of a receiver. A receiver, while in possession of the Property, shall have the right to make repairs and to make improvements necessary or advisable in its or his opinion to preserve the Property, or to make and keep them rentable to the best advantage, and Assignee may advance moneys to a receiver for such purposes. Any moneys so expended or advanced by Assignee or by a receiver shall be repaid so far as possible out of the rents collected after payment of other expenses properly chargeable against said rents, and any unpaid balance of moneys so advanced or expended shall be added to and become a part of the debt secured by this Assignment.

10. **Notice to Tenants.** At any time after the occurrence of a Default or Event of Default by Assignor and the expiration of all applicable cure periods or periods of grace, Assignor hereby authorizes Assignee to give written notice of this Assignment to the tenants under the Leases, or some or any of them. All tenants are authorized and directed to pay rent directly to Assignee upon receipt from Assignee of a statement that Assignor is in Default hereunder or under the Loan Documents, accompanied by a demand for such payment, without any further proof of Assignor's Default.

11. **Liability.** Upon the occurrence of any Event of Default under the Loan Documents, or this Assignment, Assignor shall apply the rents and profits thereafter received by Assignor with respect to the Property directly towards the expenses of maintaining the Property and towards payment of Borrower's Liabilities. Assignor shall be liable for the proper application of such rents and profits as aforesaid and the lien of any judgment obtained to recover such costs shall, to the extent of any such rents and profits not so applied by Assignor, extend to any property now or hereafter owned by Assignor.

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12. **Notices.** All notices or demands hereunder must be served by personal service, or by certified or registered mail, addressed to Assignor or Assignee, as the case may be, at the addresses set forth at the beginning of this Assignment, or to such other address as the party to be charged with such notice shall have specified by written notice to the other.
13. **Binding Nature.** This Assignment shall be binding upon Assignor and its successors and assigns, including any subsequent owner of the Real Estate or the Property, and shall inure to the benefit of Assignee and its successors and assigns, including any assignee of the Loan Documents.
14. THE LOAN SECURED BY THIS ASSIGNMENT WAS NEGOTIATED IN THE STATE OF ILLINOIS, THIS ASSIGNMENT AND THE LOAN DOCUMENTS WERE NEGOTIATED IN THE STATE OF ILLINOIS, AND ALL FUNDS DISBURSED PURSUANT TO THIS ASSIGNMENT WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE. THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, PRIORITY, ENFORCEMENT AND FORECLOSURE OF THE LIENS AND SECURITY INTERESTS CREATED BY THE MORTGAGE AND THE ASSIGNMENT OF RENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE REAL ESTATE RELATING THERETO SHALL BE LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF ILLINOIS SHALL GOVERN THE VALIDITY AND ENFORCEABILITY OF THIS ASSIGNMENT AND THE OTHER DOCUMENTS, AND THE DEBT OR OBLIGATIONS ARISING HEREUNDER AND THEREUNDER.
15. **Assignor Irrevocably:**
- 15.1 AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION AND EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS ASSIGNMENT, THE LOAN DOCUMENTS OR THE COLLATERAL SHALL BE LITIGATED ONLY IN COURTS HAVING A SITUS WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS OR THE CITY OF WHEATON, STATE OF ILLINOIS.
- 15.2 CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID CITIES AND STATE.

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15.3 Waives:

A. ANY RIGHT ASSIGNOR MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST ASSIGNOR BY LENDER IN ACCORDANCE WITH THIS PARAGRAPH.

B. ANY COUNTERCLAIM OR ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, COUNTERCLAIM OR PROCEEDING: (i) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE LOAN DOCUMENTS, OR ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREWITH; OR, (ii) ARISING FROM ANY DISPUTE OR CONTROVERSY ARISING IN CONNECTION WITH OR RELATED TO THIS ASSIGNMENT, THE LOAN DOCUMENTS, OR ANY SUCH AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT, AND

C. AGREES THAT ANY SUCH ACTION, SUIT, COUNTERCLAIM OR PROCEEDING SHALL BE TRIED BEFORE COURT AND NOT BEFORE A JURY.

15.4 ASSIGNOR ACKNOWLEDGES THAT THE FOREGOING WAIVERS CONSTITUTE A MATERIAL INDUCEMENT TO LENDER TO MAKE THE LOAN, AND THAT LENDER HAS ALREADY RELIED AND LENDER WILL CONTINUE TO RELY ON SUCH WAIVERS IN ITS RELATED FUTURE DEALINGS WITH ASSIGNOR.

16. ASSIGNOR HEREBY IRREVOCABLY APPOINTS JOHN LOVETRAN, ESQ., PALMISANO & LOVETRAN, 19 SOUTH LASALLE STREET, SUITE 900, CHICAGO, ILLINOIS 60603, AS ASSIGNOR'S DULY AUTHORIZED AGENT FOR SERVICE OF LEGAL PROCESS AND AGREES THAT SERVICE OF SUCH PROCESS UPON SUCH AGENT SHALL CONSTITUTE PERSONAL SERVICE OF SUCH PROCESS UPON ASSIGNOR. IF SERVICE SHALL BE UNDELIVERABLE BECAUSE SUCH AGENT MOVES OR CEASES TO DO BUSINESS IN COOK OR DUPAGE COUNTY, ILLINOIS, ASSIGNOR SHALL WITHIN FIVE (5) BUSINESS DAYS OF LENDER'S REQUEST, APPOINT A SUBSTITUTE AGENT IN COOK OR DUPAGE COUNTY, ILLINOIS, ON BEHALF OF ASSIGNOR AND WITHIN SUCH TIME PERIOD NOTIFY LENDER OF SUCH APPOINTMENT. IF SUCH SUBSTITUTE AGENT IS NOT TIMELY APPOINTED, LENDER SHALL, IN ITS SOLE DISCRETION, HAVE THE RIGHT TO DESIGNATE A SUBSTITUTE AGENT UPON FIVE (5) BUSINESS DAYS NOTICE TO ASSIGNOR.

17. **Construction and Interpretation.** Each party expressly represents and warrants to, and agrees with, all other parties that:

17.1 Prior to executing this Assignment, said party has fully informed itself of the terms, contents, conditions and effects of this Assignment and the Loan Documents;

17.2 Said party has:

A. Relied solely and completely upon its own judgment in executing this Assignment and the Loan Documents;

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B. Had the opportunity to seek and has obtained the advice of counsel before executing this Assignment and the Loan Documents;


C. Acted voluntarily and of its own free will in executing this Assignment and the Loan Documents, and is not acting under duress, whether economic or physical, in executing this Assignment and the Loan Documents.

17.3 This Assignment and the Loan Documents are the result of arm's length negotiations conducted by and among the parties and their respective counsel. Each party and their legal counsel have reviewed this Assignment and have had an opportunity to revise (or request revision of) this Assignment and, therefore, any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Assignment.

18. **Incorporation Of Recitals; Terms** The Recitals to this Assignment are incorporated herein. Capitalized terms not otherwise defined herein shall have the meaning accorded to them in the Loan Documents.

This Assignment has been duly executed as of the day and year specified at the beginning hereof.

BORROWER:
Halsted 2142, LLC

by: 
Michael J. Williamson, Manager

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ACKNOWLEDGMENT

STATE OF ILL)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael J. Williamson of Halsted 2142, LLC, an Illinois limited liability company, known to me (or proved to me on the basis of satisfactory evidence) to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and, after being duly sworn, acknowledged that:

1. The execution and implementation of this Agreement was duly authorized by the Manager of said Company.

2. He signed and delivered this Agreement as his own free and voluntary act for the uses and purposes therein set forth and for the uses and purposes of said Company.

Given under my hand and Notarial Seal this 29th day of February, 2008.



Victorina A. Neris
 NOTARY PUBLIC

My Commission Expires: 05/25, 2009

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EXHIBIT A
Legal Description

LOT 7 IN BLOCK 1 IN CUSHMAN'S RESUBDIVISION OF THE NORTH 1.2 OF BLOCK 4 IN SHEFFIELD'S ADDITION TO CHICAGO IN THE NORTHEAST 1/4 OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

Street Address: 2142 N. Halsted Street, Chicago, Illinois
PIN Number: 14-32-220-027

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EXHIBIT B
Leases

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