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**PREPARED BY AND WHEN
RECORDED MAIL TO:**

Law Offices of Barry C. Zachary
4709 Golf Road, Suite 475
Skokie, Illinois 60076



Doc#: 0704750087 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/16/2007 10:25 AM Pg: 1 of 10

ASSIGNMENT OF RENTS AND LESSOR'S INTEREST IN LEASES

THIS ASSIGNMENT is made as of the 5th day of January, 2007, by Burton Grove Condominiums, LLC, an Illinois limited liability company ("Borrower") to BARRY C. ZACHARY and JOHN H. KIM, ("Lender").

WITNESSETH:

Borrower, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, transfers, sets over and assigns to Lender, the entire lessor's interest in and to any and all leases and subleases (including all extensions and renewals thereof), now or hereafter existing (the "Leases"), and any and all rentals, earnings, income, deposits, security deposits, receipts, royalties, revenues, issues and profits, accounts receivable and other amounts generated from the use, occupancy and operation, of and from that certain real estate located in Elk Grove Village, Cook County, Illinois and legally described on Exhibit A attached hereto and made a part hereof, and all buildings, structures and improvements now or hereafter constructed thereon (collectively the "Premises").

THIS ASSIGNMENT OF RENTS IS GIVEN TO SECURE:

(a) Payment by Borrower of the indebtedness evidenced by, and observance and performance by Borrower of each and every one of the covenants, terms, conditions and agreements contained in, a certain Mortgage Note of even date herewith (the "Note") in the principal sum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) (One Hundred Thousand Dollars being loaned by Barry C. Zachary and Fifty Thousand being loaned by John H. Kim) made by Borrower and delivered to Lender simultaneously with the execution and delivery of this Assignment; and

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(b) Observance and performance by Borrower of the covenants, terms, conditions and agreements contained in this Assignment, the Note, the Mortgage (the "Mortgage") made by Borrower to Lender and creating a mortgage lien on the Premises, the Continuing Guarantee made by Marcin Malarz and Jacek Sienkiewicz ("Guarantor") to Lender, the Security Agreement of even date herewith made by Borrower to Lender, the Loan Agreement of even date herewith made by Borrower and Lender (the "Loan Agreement"), and all other Loan Documents, as defined in the Loan Agreement, all of even date herewith (collectively, the "Loan Documents").

AND BORROWER HEREBY COVENANTS, AGREES, REPRESENTS AND WARRANTS AS FOLLOWS:

1. **Representations of Borrower.** Borrower represents and warrants to Lender that:

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

(b) Borrower has not heretofore made any other assignment of its entire or any part of its interest in and to any or all of the Leases, or any or all of the rentals, earnings, income, deposits, security deposits, receipts, royalties, revenues, issues and profits, accounts receivable, room rentals, food and beverage revenues and other amounts generated from the use, occupancy and operations of and from the Premises, or entered into any agreement to subordinate any of the Leases, or Borrower's right to receive any of the foregoing assigned hereunder;

(c) Borrower has not heretofore executed any instrument or performed any act which may or might prevent Lender from operating under any of the terms and provisions hereof or which would limit Lender in such operation; and

(d) Except for the Leases listed on Exhibit B attached hereto and made a part hereof, there exist no other Leases with respect to any portion or all of the Premises.

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

(a) Except to the extent that a Lease affects less than 3,000 square feet of the Premises and less than 5% of the gross revenue generated from the Premises, Borrower shall not enter into any written or oral Lease or amendments to Leases without the prior written consent of Lender.

(b) Borrower shall observe and perform all of the material covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and shall not do or suffer to be done anything to impair the security thereof, or, without the express written consent of Lender, (i) release the liability of any tenant thereunder, or (ii) permit any tenants thereunder to withhold the payment of rent or to make monetary advances and offset the same against future rentals, or (iii) permit any tenant thereunder to claim a total or partial eviction, or (iv) permit any tenant thereunder to terminate or cancel any Lease;

(c) Borrower shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, except for security or similar deposits;

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(d) Borrower shall not make any other assignment of its entire or any part of its interest in or to any or all of the Leases, or any or all rentals, earnings, income, crops, deposits, security deposits, receipts, royalties, revenues, issues and profits, accounts receivable and other amounts generated from the use, occupancy and operations of and from the Premises, assigned hereunder, without the prior written consent of Lender;

(e) Except to the extent that a Lease affects less than 3,000 square feet of the Premises and less than five percent (5%) of the gross revenue generated from the Premises, Borrower shall not alter, modify or change the terms and provisions of any Lease or give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease) or approval, required or permitted by such terms and provisions, or cancel or terminate any Lease without the prior written consent of Lender;

(f) Borrower 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 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;

(g) Borrower shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or do or suffer to be done anything which would terminate any such guaranty as a matter of law, without the prior written consent of Lender;

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

(i) Borrower shall enforce the Leases and all rights and remedies of the lessor thereunder in case of default thereunder by any tenant;

(j) Borrower shall, at its sole cost and expense, 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 lessor or of any tenant or guarantor thereunder, and shall pay all costs and expenses of Lender, including attorneys' fees (including, but not limited to, all appellate level and post-judgment proceedings), in any such action or proceeding in which Lender may appear;

(k) Borrower shall give prompt notice to Lender of any notice of any default on the part of the lessor with respect to any Lease received from any tenant or guarantor thereunder; and

(l) Borrower shall enforce the observance and performance of each and every covenant, term, condition and agreement contained in each and every Lease to be observed and performed by the tenant(s) thereunder.

3. **Rights Prior to Default.** So long as Borrower is not in default hereunder, Borrower shall have the right to collect at the time, but not more than thirty (30) days in advance, of the date provided for the payment thereof, all rentals, earnings, income, receipts, royalties, revenues, issues and profits, accounts receivable and all rights of Borrower to payment for crops and any proceeds thereof, assigned hereunder (other than security or similar deposits), and shall apply and deposit same in accordance with Borrower's obligations under the Loan Agreement. Lender shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

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4. **Events of Default.** The occurrence of any one or more of the following shall constitute an "Event of Default" for purposes of this Assignment:

- (a) Failure by Borrower to pay any installment of the principal sum of the Note and/or of any interest thereon on the date when due;
- (b) Material breach of any representation, warranty, covenant or agreement made by Borrower in this Assignment;
- (c) Any material misrepresentation made by Borrower in any of the Loan Documents; and
- (d) Any other event of default under the Note or any of the Loan Documents, subject to any applicable cure period contained therein.

5. **Rights and Remedies Upon Default.** At any time upon or following the occurrence of any one or more Events of Default, Lender may, at its option and without any obligation to do so, without in any way waiving such Event or Events of Default, without notice to or demand on Borrower, without regard to the adequacy of the security for the obligations secured hereby, without releasing Borrower or any guarantor of the Note from any obligation hereunder, and with or without bringing any action or proceeding:

- (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 an 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 Lender may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs and replacements thereto or thereof as may seem proper to Lender, 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 or acts which Lender 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 or profits of or from the Premises, and pursue all remedies for enforcement of the Leases and all of the lessor's rights therein or thereunder, provided that, for such purpose, 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 Lender, with proof of default hereunder, upon receipt from Lender of written notice thereafter to pay all such rents and other amounts to Lender and to comply with any notice or demand by Lender 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 provided, further, that Borrower will facilitate in all reasonable ways Lender's collection of such rents, issues, income or profits, and upon request will execute written notices to the tenants under the Leases thereafter to pay all such rents and other amounts to Lender; and
- (d) Make any payment or do any act required herein of Borrower in such manner and to such extent as Lender may deem necessary or proper, and any amount so paid by Lender shall

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become immediately due and payable by Borrower with interest thereon until paid at an annual rate equal to the Default Rate (as defined in the Note) and shall be secured by this Assignment.

6. **Application of Proceeds.** All sums collected and received by Lender out of the rents, issues, income or profits of the Premises following the occurrence of any one or more Events of Default shall be applied as follows:

(a) First, to reimbursement of Lender for and of all expenses of: taking and retaining possession of the Premises; managing the Premises and collecting the rents, issues, income or profits thereof or therefrom, including, without limitation, salaries, fees or wages of a managing agent and such other employees as Lender may deem necessary or proper, and reasonable attorneys' fees; operating and maintaining the Premises, including without limitation, taxes, charges, claims, assessments, water rents, sewer rents and other liens, and premiums for any insurance provided for in the Mortgage, and the cost of all alterations, renovations, repairs or replacements of or to the Premises which Lender may deem necessary or proper, with interest thereon at the Default Rate;

(b) Second, to reimbursement of Lender for and of all sums expended by Lender pursuant to Paragraph 5(d) hereof to make any payment or do any act required herein of Borrower, together with interest thereon at the Default Rate;

(c) Third, to reimbursement of Lender for and of all other sums with respect to which Lender is indemnified pursuant to Paragraph 7 hereof, together with interest thereon at the Default Rate;

(d) Fourth, to reimbursement of Lender for and of all other sums expended or advanced by Lender pursuant to the terms and provisions of, or constituting additional indebtedness under, any of the Loan Documents, with interest thereon at the Default Rate;

(e) Fifth, to the payment of all accrued and unpaid interest on the principal sum of the Note;

(f) Sixth, to the payment of the unpaid balance of the principal sum of the Note and any other amounts due Lender under the Loan Documents; and

(g) Seventh, any balance remaining to Borrower, its successors and assigns.

7. **Limitation of Lender's Liability.** Lender shall not be liable for any loss sustained by Borrower resulting from Lender's failure to let the Premises following the occurrence of any one or more Events of Default or from any other act or omission of Lender in managing, operating or maintaining the Premises following the occurrence of any one or more Events of Default. Lender shall not be obligated to observe, perform or discharge, nor does Lender hereby undertake to observe, perform or discharge any covenants, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Borrower under or by reason of this Assignment, and Borrower shall and does hereby agree to indemnify Lender for, and to hold Lender harmless of or from, any and all liability, loss or damage which Lender may or might incur under any Lease or under or by reason of this Assignment and of or from any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms,

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conditions or agreements contained in any Lease. Should Lender 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 attorneys' fees (including, but not limited to, all appellate level and post-judgment proceedings) shall become immediately due and payable by Borrower with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility for the care, control, management or repair of the Premises or for the carrying out of any of the covenants, terms, conditions or agreements contained in any Lease upon Lender, nor shall it operate to make Lender 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.

8. **No Waiver**. Nothing contained in this Assignment and no act done or omitted to be done by Lender pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Lender of its rights and remedies under the Note, the guaranties thereof or any of the Loan Documents; this Assignment is made and accepted without prejudice to any of the rights and remedies of Lender under the terms and provisions of such instruments; and Lender 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. Lender 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.

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

10. **Severability**. The invalidity or unenforceability of any particular provision of this Assignment shall not affect the other provisions, and this Assignment shall be construed in all respects as if such invalid or unenforceable provision were not contained herein.

11. **Benefit**. This Assignment is binding upon and shall inure to the benefit of Borrower, its successors and assigns, and the rights, powers and remedies of Lender under this Assignment shall inure to the benefit of Lender and its successors and assigns.

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

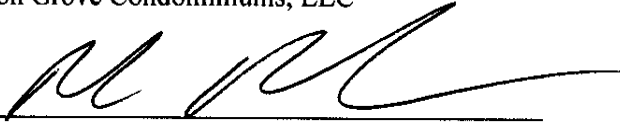
13. **Duration**. This Assignment shall become null and void at such time as Borrower shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations evidenced or secured hereby and by the other Loan Documents.

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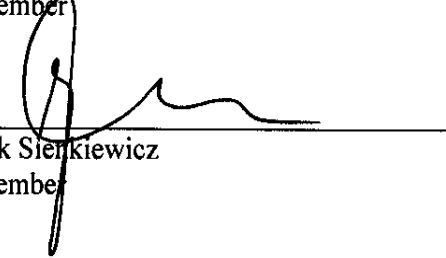
14. **Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, Borrower has executed and delivered this Assignment as of the day and year first above written.

Burton Grove Condominiums, LLC


By: 
Marcin Malarz


Title: Member

By: 
Jacek Sienkiewicz

Title: Member


Property of Cook County Clerk's Office

Individually:

Marcin Malarz


Jacek Sienkiewicz

STATE OF ILLINOIS, COUNTY OF COOK) SS: I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Marcin Malarz, personally known to me to be the same person(s) whose name is subscribed to the foregoing instrument, as duly authorized member of Burton Grove Condominiums, LLC and individually, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, this 5th day of January, 2007.


Notary Public



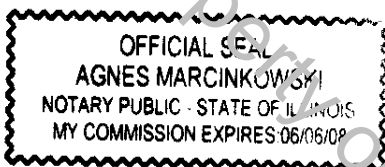
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STATE OF ILLINOIS, COUNTY OF COOK) SS: I, the undersigned, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Jacek Sienkiewicz, personally known to me to be the same person(s) whose name is subscribed to the foregoing instrument, as duly authorized member of Burton Grove Condominiums, LLC and individually, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, this 5th day of January, 2007.

Agnes Marcinkowski

Notary Public



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EXHIBIT A

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LEGAL DESCRIPTION

LOT 3 IN ROHLWING GROVE UNIT NO. 5, BEING A SUBDIVISION OF PART OF THE SOUTH ½ OF SECTION 31, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF REGISTERED IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS ON MARCH 21, 1979 AS DOCUMENT LR3081821.

Permanent Real Estate Tax Index Nos.: 08-31-400-055-0000
08-31-400-056-0000
08-31-400-057-0000
08-31-400-058-0000

Common Address: 991 Charlela Lane, Elk Grove Village, IL 60007

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EXHIBIT B

LEASES

All leases affecting the property located at the property identified in Exhibit A.

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