



Doc#: 0716242141 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/11/2007 01:38 PM Pg: 1 of 14

After recording return to:

Andrew F. Lampert
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603

PHWD REALTY LLC 88

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is dated as of the 5th day of June, 2007 by PHWD REALTY, LLC, an Illinois limited liability company having an address at 7444 Long Avenue, Skokie, Illinois 60077 (the "Borrower") to MERRILL LYNCH CAPITAL, a Division of Merrill Lynch Business Financial Services Inc., a Delaware corporation (in its capacity as a lender, "Merrill Lynch"), having an address at 222 North LaSalle Street – 16th Floor, Chicago, Illinois 60601 in its capacity as agent (and in such capacity, "Agent" for Lender (as defined below)).

RECITALS

A. This Assignment is given in connection with a loan in the principal sum of TEN MILLION SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$10,750,000) (the "Loan") made by Lender to Borrower pursuant to that certain Credit and Security Agreement dated as of the date hereof, among Borrower, Agent, Merrill Lynch, and the other financial institutions who are or hereafter become parties thereto (together with Merrill Lynch, collectively or individually as the context may require, "Lender") (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Credit and Security Agreement"), and evidenced by Borrower's note or notes to Lender of even date herewith in the principal amount of the Loan (said note or notes, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, collectively the "Note"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Credit and Security Agreement.

B. The Note is secured by, among other things, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the date hereof, granted by PHWD REALTY, LLC to Agent (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Mortgage"), which Mortgage encumbers, as a first lien thereon, the land more particularly described on Exhibit A annexed hereto and made a part hereof and the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (collectively, the "Property").

C. Borrower has agreed to execute and deliver this Assignment to further facilitate the payment and performance of all of the obligations under the Note, the Credit and Security

Box 400-CTCC

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Agreement and the other Loan Documents, including, without limitation, payment of the Obligations, as defined in the Mortgage (for the purposes hereof, the “Obligations”).

NOW THEREFORE, in consideration of the making of the Loan by Lender to Borrower and the covenants, agreements, representations and warranties set forth in this Assignment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby covenants and agrees as follows:

ARTICLE I ASSIGNMENT

Section 2.1 Property Assigned. Borrower hereby absolutely and unconditionally assigns and grants to Agent, for the benefit of Agent and Lender the following property, rights, interests and estates, now owned or hereafter acquired by Borrower:

(a) Leases. The landlord’s or lessor’s interest in all existing and future Leases (including the right to enforce such Leases at law, in equity or by any other means) affecting the use, enjoyment, or occupancy of all or any part of the Property and the right, title and interest of Borrower, its successors and assigns, as landlord therein and thereunder; this Assignment of existing and future Leases being effective without any further or supplemental assignment documents. The term “Leases” shall include any and all agreements, whether or not in writing, affecting the use, enjoyment or occupancy of the Property or any portion thereof now or hereafter made, whether made before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the “**Bankruptcy Code**”), together with any extension, renewal or replacement of the same.

(b) Rents. All Rents (as defined in the Mortgage), which term shall include Rents paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code.

(c) Bankruptcy Claims. All of Borrower’s claims and rights (the “**Bankruptcy Claims**”) to the payment of damages arising from any rejection by a tenant of any Lease under the Bankruptcy Code.

(d) Lease Guaranties. All of Borrower’s right, title and interest in, and claims under, any and all lease guaranties, letters of credit and any other credit support (individually, a “**Lease Guaranty**”, and collectively, the “**Lease Guaranties**”), given by any guarantor in connection with any of the Leases or leasing commissions (individually, a “**Lease Guarantor**”, and collectively, the “**Lease Guarantors**”) to Borrower.

(e) Proceeds. All proceeds from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and/or the Bankruptcy Claims.

(f) Other. All rights, powers, privileges, options and other benefits of Borrower as the landlord under the Leases and the beneficiary under the Lease Guaranties, including, without limitation, the immediate and continuing right to make claims for, and to receive, collect and acknowledge receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the

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payment of the Obligations), and to do all other things which Borrower or any landlord is or may become entitled to do under any of the Leases or Lease Guaranties.

(g) Entry. The right, at Lender's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents.

(h) Power of Attorney. Borrower's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 3.1 of this Assignment, and any or all other actions designated by Lender for the proper management and preservation of the Property.

(i) Other Rights And Agreements. Any and all other rights of Borrower in and to the items set forth in subsections (a) through (f) above, and all amendments, modifications, replacements, renewals and substitutions thereof.

ARTICLE II TERMS OF ASSIGNMENT

Section 2.1 Present Assignment and License Back. It is intended by Borrower that this Assignment constitute a present, absolute assignment of the Leases, the Rents, the Lease Guaranties and the Bankruptcy Claims, and not an assignment for additional security only. Nevertheless, subject to the Deposit Account Restriction Agreement, the terms of this Section 2.1, the terms of the Credit and Security Agreement and the terms of the Mortgage, Agent grants to Borrower a revocable license to collect, receive, use and enjoy the Rents, as well as any sums due under the Lease Guaranties. If an Event of Default has occurred and is continuing, Agent shall have the right, which it may choose to exercise in its sole discretion and which it may exercise without taking possession of the Property, to terminate this license without notice to or demand upon Borrower, and without regard to the adequacy of Lender's security under this Assignment.

Section 2.2 Notice to Tenants. Borrower hereby authorizes and directs the tenants named in the Leases, any other future tenants or occupants of the Property (individually, a "Tenant" or collectively, "Tenants") and all Lease Guarantors, upon receipt from Agent of written notice to the effect that Agent is then the holder of this Assignment and that an Event of Default exists, to pay over to Agent or to such other party as Agent directs all Rents and all sums due under any Lease Guaranties and to continue so to do until otherwise notified by Agent. Borrower hereby relieves each such Tenant or occupant from any liability to Borrower by reason of the payment of the Rents to Agent. Borrower shall hold the Rents, as well as all sums received pursuant to any Lease Guaranty, or a portion thereof sufficient to discharge all current sums due on the Obligations, in trust for the benefit of Lender for use in the payment of such sums.

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ARTICLE III REMEDIES

Section 3.1 Remedies of Agent. Upon the occurrence of an Event of Default, Agent may revoke the license granted to Borrower under Section 2.1 of this Assignment and Agent shall immediately be entitled to possession of all Rents and all sums due under any Lease Guaranties, whether or not Agent enters upon or takes control of the Property. In addition, Agent may, at its option, without waiving such Event of Default, without regard to the adequacy of the security for the Obligations, either in person or by agent, nominee or attorney, with or without bringing any action or proceeding, or by a receiver appointed by a court, dispossess Borrower and its agents and servants from the Property, without liability for trespass, damages or otherwise, and exclude Borrower and its agents or servants wholly therefrom, and take possession of the Property and all books, records and accounts relating thereto, and have, hold, manage, lease and operate the Property on such terms and for such period of time as Agent may deem proper, and, either with or without taking possession of the Property, in its own name, demand, sue for or otherwise collect and receive all Rents and all sums due under all Lease Guaranties, including, without limitation, those past due and unpaid, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as Agent may deem proper, and may apply the Rents and the sums received pursuant to any Lease Guaranties to the payment and performance of the following in such order and proportion as Agent in its sole discretion may determine, any law, custom or use to the contrary notwithstanding: (a) all expenses of managing and securing the Property, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees or agents as Agent may deem necessary or desirable and all expenses of operating and maintaining the Property, including, without being limited thereto, all taxes, charges, claims, assessments, water charges, sewer rents and any other liens, and premiums for all insurance which Agent may deem necessary or desirable, and the cost of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the Property; and (b) the Obligations, together with all costs and attorneys' fees and costs. In addition, upon the occurrence of an Event of Default, Agent, at its option, may (i) exercise all rights and powers of Borrower, including, without limitation, the right to negotiate, execute, cancel, enforce or modify Leases, obtain and evict Tenants, and demand, sue for, collect and receive all Rents from the Property and all sums due under any Lease Guaranties, and/or (ii) either (A) require Borrower to pay monthly in advance to Agent or to any receiver appointed to collect the Rents the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in the possession of Borrower or any of its Affiliates or (B) require Borrower and its Affiliates to vacate and surrender possession of the Property to Agent or to such receiver and, in default thereof, Borrower and its Affiliates may be evicted by summary proceedings or otherwise.

Section 3.2 Other Remedies. Nothing contained in this Assignment and no act done or omitted by Agent pursuant to the power and rights granted to Agent hereunder shall be deemed to be a waiver by Agent and/or Lender of their rights and remedies under the Credit and Security Agreement, the Note, the Mortgage or the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Agent and/or Lender under the terms thereof. The right of Agent to collect the Obligations and to enforce any other security therefor held by it may be exercised by Agent either prior to,

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simultaneously with, or subsequent to any action taken by it hereunder. Borrower hereby absolutely, unconditionally and irrevocably waives any and all rights to assert any setoff, counterclaim or cross-claim of any nature whatsoever with respect to the Obligations of Borrower under this Assignment, the Credit and Security Agreement, the Note or the other Loan Documents or otherwise with respect to the Loan in any action or proceeding brought by Agent to collect the same, or any portion thereof, or to enforce and realize upon the lien and security interest created by this Assignment, the Credit and Security Agreement, the Note, the Mortgage or any of the other Loan Documents.

Section 3.3 Other Security. Agent may (a) take or release other security for the payment and performance of the Obligations, (b) release any party primarily or secondarily liable therefor, and/or (c) apply any other security held by it to the payment and performance of the Obligations, in each instance, without prejudice to any of its rights under this Assignment.

Section 3.4 Non-Waiver. The exercise by Agent of any option granted to Agent in Section 3.1 of this Assignment and the collection of the Rents and the sums due under the Lease Guaranties and the application thereof as herein provided shall not be considered a waiver of any Default or Event of Default by Borrower under the Note, the Credit and Security Agreement, the Mortgage, this Assignment or the other Loan Documents. The failure of Agent to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (a) the failure of Agent to comply with any request of Borrower or any other party to take any action to enforce any of the provisions hereof or of the Credit and Security Agreement, the Note, the Mortgage or the other Loan Documents, (b) the release, regardless of consideration, of the whole or any part of the Property, or (c) any agreement or stipulation by Agent extending the time of payment or otherwise modifying or supplementing the terms of this Assignment, the Credit and Security Agreement, the Note, the Mortgage or the other Loan Documents. Agent may resort for the payment and performance of the Obligations, to any other security held by Agent in such order and manner as Agent, in its sole discretion, may elect. Agent may take any action to recover the Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Agent thereafter to enforce its rights under this Assignment. The rights of Agent under this Assignment shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Agent shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

Section 3.5 Bankruptcy.

(a) Upon or at any time after the occurrence of an Event of Default, Agent shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the Tenant under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code, and Borrower, as landlord under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Agent not

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less than ten (10) days' prior written notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject such Lease. Agent shall have the right, but not the obligation, to serve upon Borrower within such ten (10) day period a notice stating that (i) Agent demands that Borrower assume and assign the Lease to Agent pursuant to Section 365 of the Bankruptcy Code, and (ii) Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Agent serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after Agent's notice shall have been given, subject to the performance by Agent of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE IV

NO LIABILITY, FURTHER ASSURANCES

Section 4.1 No Loan of Agent. This Assignment shall not be construed to bind Agent to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Agent. Neither Lender nor Agent shall be liable for any loss sustained by Borrower resulting from Agent's failure to let the Property after the occurrence of an Event of Default or from any other act or omission of Lender or Agent in managing the Property after the occurrence of an Event of Default unless such loss is caused by the willful misconduct, gross negligence or bad faith of Lender or Agent. Agent shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Assignment and Borrower shall indemnify Lender and Agent for, and hold Lender and Agent harmless from, (a) any and all liability, loss or damage which is incurred under the Leases, any Lease Guaranties or under or by reason of this Assignment, and (b) any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Lender or Agent by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties, absent gross negligence or willful misconduct on the part of Agent or Lender. Should Lender or Agent incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys' fees and costs, shall be secured by this Assignment and by the Mortgage and the other Loan Documents and Borrower shall reimburse Lender or Agent therefor immediately upon demand and upon the failure of Borrower so to do, Agent may, at its option, declare the Obligations to be immediately due and payable. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender or Agent, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Lender or Agent responsible or liable for any waste committed on the Property by the Tenants or any other parties, or for any dangerous or defective condition of the Property, including, without limitation, the presence of any environmental hazard or contamination, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 4.2 No Mortgage In Possession. Nothing herein contained shall be construed as constituting Lender or Agent a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Agent. In the exercise of the powers herein granted to Agent, no liability shall be asserted or enforced against Agent, all such liability being expressly

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waived and released by Borrower.

Section 4.3 Further Assurances. Borrower will, at the sole cost and expense of Borrower, and without expense to Lender or Agent, do, execute, acknowledge and deliver all and every such further acts, conveyances, assignments, notices of assignments, transfers and assurances as Agent shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto Agent the property and rights hereby assigned or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Agent, or for carrying out the intention or facilitating the performance of the terms of this Assignment or for filing, registering or recording this Assignment and, on demand, will execute and deliver, and hereby authorizes Agent to execute, in the name of Borrower to the extent Agent may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively this assignment of the Leases; provided, however, that the preparation or filing of any such security instruments shall not change the intent of the parties that this Assignment is an absolute assignment and not an assignment for security purposes.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 5.1 Conflict of Terms. In case of any conflict between the terms of this Assignment and the terms of the Credit and Security Agreement, the terms of the Credit and Security Agreement shall prevail; provided, however, that provisions of this Assignment stating that it is an absolute assignment and not an assignment for security shall prevail over any contrary provisions in the Credit and Security Agreement.

Section 5.2 No Oral Changing. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Borrower, Agent or Lender, but only by an agreement in writing signed by the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 5.3 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeably in the singular or plural form the word "Lender" shall mean "Lender and any subsequent holder or holders of all or any portion of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by the Mortgage," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels, incurred or paid by Agent or Lender in protecting its interest in the Property, the Leases and/or the Rents and/or in enforcing its rights hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

Section 5.4 Inapplicable Provisions. If any provision of this Assignment is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this

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Assignment, such provision shall be fully severable and this Assignment shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Assignment, and the remaining provisions of this Assignment shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Assignment, unless such continued effectiveness of this Assignment, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

Section 5.5 Governing Law; Jurisdiction; Service of Process.

(a) THIS ASSIGNMENT WAS NEGOTIATED IN THE STATE OF ILLINOIS AND MADE BY BORROWER AND ACCEPTED BY AGENT IN THE STATE OF ILLINOIS AND THE PROCEEDS OF THE NOTE WERE DISBURSED FROM THE STATE OF ILLINOIS, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION RELATED HERETO 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 (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS THAT WOULD DEFER TO THE SUBSTANTIVE LAWS OF ANOTHER JURISDICTION) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION AND ENFORCEMENT OF THE LIENS AND THE ASSIGNMENT CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS WITH RESPECT TO THE PROPERTY SHALL BE GOVERNED BY, AND CONSTRUED ACCORDING TO, THE LAW OF THE STATE IN WHICH THE PROPERTY IS 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 CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS ASSIGNMENT AND/OR THE OTHER LOAN DOCUMENTS, AND THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS.

ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST AGENT, LENDER OR BORROWER ARISING OUT OF OR RELATING TO THIS ASSIGNMENT MAY, AT AGENT'S OPTION, BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

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Section 5.6 Termination of Assignment. This Assignment shall be in full force and effect continuously from the date hereof to and until the Mortgage shall be fully released of record, and the release of the Mortgage shall, for all purposes, automatically terminate this Assignment and render this Assignment null and void and of no effect whatsoever.

Section 5.7 Notices. All notices or other written communications hereunder shall be delivered in accordance with Section 13.3 of the Credit and Security Agreement.

Section 5.8 Waiver of Trial by Jury. BORROWER HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THIS ASSIGNMENT, THE NOTE, THE CREDIT AND SECURITY AGREEMENT, THE MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH, THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. AGENT IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER.

Section 5.9 Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Borrower, Agent and Lender and their respective successors and permitted assigns. Agent and Lender shall have the right to assign or transfer their rights under this Assignment in connection with any assignment of the Loan and the Loan Documents. Any assignee or transferee of Agent or Lender shall be entitled to all the benefits afforded to such party under this Assignment. Borrower shall not have the right to assign or transfer its rights or obligations under this Assignment without the prior written consent of Agent, as provided in the Credit and Security Agreement, and any attempted assignment without such consent shall be null and void.

Section 5.10 Headings, Etc. The headings and captions of the various paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 5.11 Recitals. The recitals hereof are a part hereof, form a basis for this Assignment and shall be considered prima facie evidence of the facts and documents referred to therein.

Section 5.12 Attorneys Fees. Borrower shall be responsible for and shall reimburse Agent for all reasonable attorneys' or legal fees, costs and charges incurred by Agent in the protection of its interests under and/or enforcement of this Assignment.

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[SIGNATURES APPEAR ON FOLLOWING PAGE(S)]


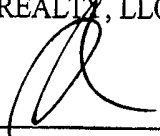
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[SIGNATURE PAGE TO ASSIGNMENT OF LEASES AND RENTS]

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

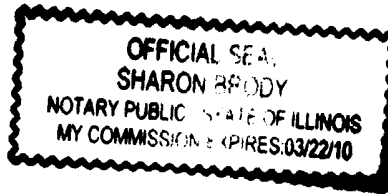
<p>Witness:  <u>PARESH VIPANI</u> Print Name _____ _____ Print Name _____</p>	<p>BORROWER: PHWD REALTY, LLC By:  Name: <u>Benjamin M. Klein</u> Title: <u>Manager</u></p>
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STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

The foregoing instrument was acknowledged before me this 4 day of June, 2007, by Benjamin M. Klein, Manager of PHWD Realty, LLC, an Illinois limited liability company, on behalf of the company.

Sharon Brody
Notary Public



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Assignment of Leases and Rents Signature Page

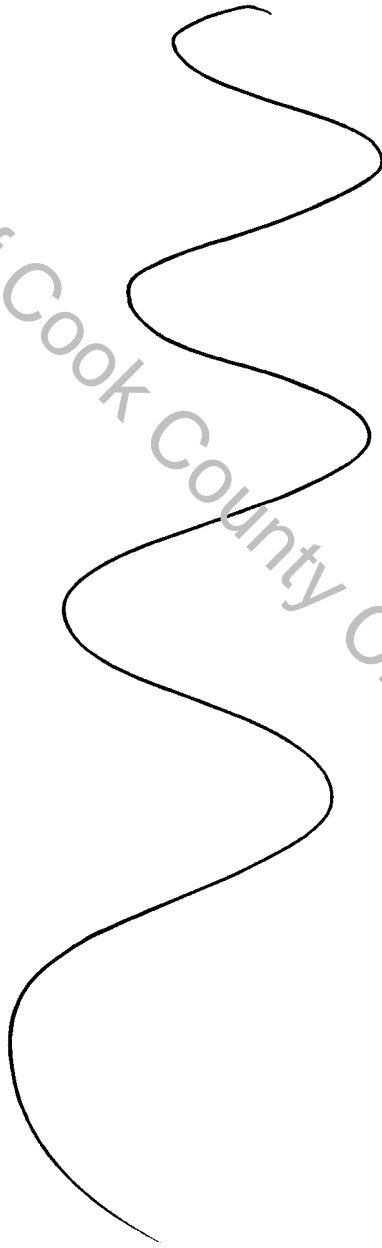
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Exhibit A

Legal Description

Common Address:
P.I.N.:

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LEGAL DESCRIPTION

PARCEL 1:

LOTS 1, 2, 3 AND 4, ALL INCLUSIVE, IN COUNTY CLERK'S DIVISION OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (EXCEPTING THAT PART THEREOF TAKEN AND USED FOR PUBLIC ALLEY PURPOSES).

PARCEL 2:

LOTS 1 AND 2 IN DALES SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTH 10 ACRES OF NELSON'S SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 3 AND 4 IN DALES SUBDIVISION OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTH 10 ACRES OF NELSON'S SUBDIVISION OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINS:: 17-34-310-002-0000; 17-34-310-003-0000; 17-34-310-004-0000; 17-34-310-055-0000; 17-34-310-056-0000; 17-34-310-057-0000; 17-34-310-058-0000