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0815805073

Doc#: 0815805073 **Fee:** \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/06/2008 11:32 AM Pg: 1 of 9

Property of Cook County Clerk's Office

ASSIGNMENT OF LEASES AND RENTS

Permanent Index Tax
Identification No: 14-29-216-030-0000
Property Address: 2954-2958 N. Sheffield, Chicago, Illinois 60657

Prepared By and After Recording Return To:
John D. Gaber
Williams, Williams, Rattner & Plunkett, P.C.
380 N. Old Woodward Avenue, Suite 300
Birmingham, Michigan 48009

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ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS ("Assignment") is made and given as of this 29th day of May, 2008 by **SHEFFIELD WELLINGTON LLC**, an Illinois limited liability company ("**Assignor**"), to **STRENGTH PROPERTY PARTNERS, L.P.** a Delaware limited partnership ("**Assignee**").

RECITALS

A. Assignor and Assignee have entered into a Loan Agreement of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, "**Loan Agreement**"), pursuant to which Assignee has agreed to make a construction loan (the "**Loan**") to Assignor in the aggregate principal amount of One Million and No/100 Dollars (\$1,000,000.00), subject to the terms and conditions and for the purposes set forth in the Loan Agreement. Defined terms used in this Assignment have the meanings attributed to them in the Loan Agreement, unless expressly provided otherwise in this Assignment.

B. The Loan is evidenced by and secured by a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "**Mortgage**") in favor of Assignee from Assignor encumbering Assignor's fee simple estate, right and interest in certain real property and the buildings and improvements located thereon or to be constructed thereon as more fully described in the Mortgage and legally described in **Exhibit A** attached hereto ("**Premises**"), as well as other security instruments described in the Loan Agreement.

C. To induce Assignee to make the Loan and to enter into the Loan Agreement, which Assignor acknowledges Assignee is doing in reliance on this Assignment, and as a condition precedent to performance by Assignee under the Loan Agreement, Assignor has agreed to execute and deliver this Assignment.

D. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing Recitals, which are incorporated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. For the purpose of securing the Note and the obligations due and owing under the Loan Agreement and the other Loan Documents, Assignor hereby sells, assigns and transfers unto Assignee any and all leases and subleases, whether written or oral, and any and all lettings and agreements for the use or occupancy of the Premises, or any part thereof, which may have been

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heretofore or may be hereafter made or agreed to or which may be made or agreed to by Assignee under the powers herein granted (collectively, "**Leases**"), together with any and all: (a) rents, issues and profits now due and which may hereafter become due under or by virtue of any Lease, (b) guaranties of any and all covenants, agreements and obligations of the lessee under each Lease, (c) sums which may be due and payable under any guaranty of any Lease, including all such rents, issues and profits which are or may become due and payable, including those which are or may be paid after the filing of any petition by or against Assignor under the United States Bankruptcy Code, as amended (11 U.S.C. 101 et seq.) ("**Bankruptcy Code**"), or any successor statute or code or any similar federal or state statute, code or law, (d) security and other deposits made pursuant to or contemplated by the terms and provisions of each Lease and (e) all proceeds of the foregoing, it being the intention hereby to establish an absolute transfer and assignment of all Leases and all the rents, issues, profits and avails thereunder, to Assignee. Assignor hereby irrevocably appoints Assignee its true and lawful attorney in its name and stead (with or without entry upon or taking possession of the Premises as provided in **Section 3** hereof) to rent, lease or let all or any portion of the Premises to any party or parties at such rental and upon such terms as Assignee shall determine, in its sole discretion, and to collect all of said avails, rents, issues and profits arising from or accruing at any time hereafter, which is now due or may hereafter become due under each and every of the Leases with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Assignee would have upon taking possession pursuant to the provisions of **Section 3** below. This power of attorney is coupled with an interest.

2. Assignor represents and agrees that, except to the extent permitted under either the Loan Agreement or the Mortgage, no rent has been or will be paid by any person in possession of any portion of the Premises for more than one month in advance and that the payment of none of the rents to accrue for any portion of the Premises has been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor. Effective after an Event of Default, Assignor waives any rights of setoff against any Person in possession of any portion of the Premises. Except as set forth in the Loan Agreement, Assignor agrees that it shall not, without Assignee's prior written consent, enter into or agree to any amendment or modification of any Lease, or cancel, terminate, waive any default under or surrender (or permit the surrender of) any Lease, or enter into any agreement which grants any concession with respect to any Lease or which compromises, discounts or otherwise reduces the rent called for under any Lease, except as may be expressly permitted by the Loan Agreement. Assignor further agrees that it will not without Assignee's prior written consent, (a) assign any of the rents or profits of the Premises, except to a purchaser or grantee of the Premises as permitted under the Loan Agreement, (b) subordinate any Lease to any mortgage (other than the Mortgage) or other encumbrance, or permit, consent or agree to any such subordination, or (c) except to the extent permitted under either the Loan Agreement or the Mortgage, alter, modify or change the terms of any guaranty of any Lease, or any security of any Lease, or cancel or terminate any such guaranty, or release or reduce any such security. Assignor further agrees to perform (or cause to be performed) fully and faithfully all covenants, agreements and obligations of landlord or lessor under each of the Leases. Assignor further agrees that if Assignor as landlord or lessor defaults under any Lease, Assignee shall have the right (but not the obligation) to cure such default within the cure period afforded to Assignor under the terms of such Lease, as such cure period may be modified by agreement, or under applicable law, regardless of whether any notice or cure period granted to Assignor under the Loan Agreement, the Note or other Loan Documents has then expired. To the

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extent Assignee has made any advances or payments or incurred any expenses, fees or costs in connection with the cure of such default, all such amounts shall be repaid to Assignee by Assignor immediately upon demand with interest on all such amounts at the Default Rate. In the event any lessee under any of the Leases should be the subject of any proceeding under the Bankruptcy Code, or any other federal, state or local statute which provides for the possible termination or rejection of the applicable Lease assigned hereby, Assignor agrees that if the applicable Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Assignee, and any check in payment of damages for such termination or rejection will be made payable both to Assignor and Assignee. Assignor hereby assigns any such payment to Assignee, and further covenants and agrees that upon the request of Assignee, Assignor will duly endorse to the order of Assignee any such check, the proceeds of which will be applied to the indebtedness secured by this Assignment. Assignor hereby irrevocably appoints Assignee as its attorney-in-fact to so endorse any such checks if Assignor does not do so. This Assignment and grant shall continue in effect until Assignor's obligations under the Loan Agreement are fully performed and satisfied, and the Loan, together with all other indebtedness secured hereby, is repaid in full.

3. If: (a) Assignor fails to perform any of its covenants, agreements or obligations under this Assignment involving the payment of money after the same is due, (b) Assignor fails to perform any of its other covenants, agreements or obligations under this Assignment, (c) any representation, warranty, statement, report or certification now or hereafter made by Assignor is not true, correct or complete in any material respect, or is misleading in any material respect, or (d) any "Event of Default" (as defined under Loan Agreement) not otherwise described in this **Section 3** shall have occurred under or with respect to the Loan Agreement or any other Loan Document, and such Event of Default shall have not been cured within the applicable notice, cure or grace period provided therefore, if any (each of the foregoing being hereinafter called an "**Event of Default**"), Assignor shall, forthwith, upon demand by Assignee, surrender to Assignee, and Assignee shall be entitled, but not obligated, to revoke the right and license granted to Assignor pursuant to **Section 5** and take actual possession of the Premises or any part thereof, personally or by its agent or attorneys, or by a receiver appointed by a court. In such event, Assignee in its sole discretion may, in accordance with law, enter upon and take and maintain possession of all or any part of the Premises together with all documents, books, records, papers and accounts of Assignor or the then owner or party in possession of the Premises relating thereto and may exclude Assignor's or said owner's or party's respective agents or servants wholly therefrom and Assignee may, as attorney-in-fact, as agent for Assignor or in its own name as Assignee, and under the powers herein granted, hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the avails, rents, issues and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power to: (i) authorize and direct the lessees under Leases to pay to Assignee all rents, income and profits arising or accruing under the Leases and to continue to do so until otherwise notified in writing by Assignee, and Assignor agrees that each such lessee shall have the right to rely upon such authorization and direction given by Assignee, that such lessee shall pay such rents to Assignee without any obligation or right to inquire as to any existing Event of Default and that Assignor shall have no right or claim against any such lessee for any such rent so paid by such lessee to Assignee, (ii) cancel or terminate any Lease or sublease for

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any cause or on any ground which would entitle Assignor to cancel the same, (iii) subject to the terms of any subordination, non-disturbance and attornment agreement agreed to by Assignee, elect to disaffirm any Lease or sublease which is then subordinate to this Assignment, (iv) extend or modify any then existing Leases and make new leases, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity of the Loan pursuant to the Loan Agreement or as described hereinabove, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Assignor and all Persons whose interests in the Premises are subject to this Assignment, (v) make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Assignee may seem judicious, (vi) insure and reinsure the same and all risks incidental to its possession, operation and management thereof and (vii) receive all of such avails, rents, issues and profits -- Assignor hereby granting Assignee full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Assignor.

Assignor shall be deemed to have constituted and appointed Assignee its true and lawful attorney-in-fact with full power of substitution, either in the name of Assignor or in its own name, to exercise any of the powers granted to Assignee pursuant to this **Section 3**. Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any of the Leases. Assignor shall and does hereby agree to indemnify and hold Assignee harmless of and from any and all liability, loss or damage, including reasonable attorneys' fees and expenses related thereto, which Assignee might incur by reason of its performance or omission of any action authorized under this **Section 3**, except for those resulting from the gross negligence or intentional misconduct of Assignee, and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Assignor. Nothing herein contained shall be construed as constituting Assignee in possession in the absence of the taking of actual possession of the Premises by Assignee pursuant to this **Section 3**. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being expressly waived and released by Assignor, its successors and assigns.

4. Assignee, in the exercise of the rights and powers hereinabove conferred upon it by **Sections 1 and 3** hereof, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Assignee may determine in its sole discretion:

(a) to the payment of the operating expenses of the Premises, including the cost of the management and leasing thereof (which shall include compensation to Assignee and its agent or agents, if management be delegated to an agent or agents, and shall include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

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(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises;

(c) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Premises, and of placing the Premises in such condition as will, in the judgment of Assignee, make it readily rentable; and

(d) to the repayment of principal and interest on the Loan and to the payment of all other sums which Assignor is obligated to pay under the Loan Agreement, the Note and the other Loan Documents.

5. Although it is the intention of Assignor and Assignee that the assignment contained herein shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that until an Event of Default shall occur or arise, Assignee shall not exercise any of the rights or powers conferred upon it hereby and Assignor shall have the right and license to manage and operate the Premises and to collect, subject to the terms and provisions of this Assignment, all rents, income and profits owing under the Leases and, subject to the terms and provisions of the Loan Agreement, the Note and the other Loan Documents, to retain, use and enjoy the same. Any avails, rents, issues and profits collected and received by Assignor after the occurrence of an Event of Default shall be deemed collected and received by Assignor in trust for Assignee and Assignor shall account to Assignee for the full amount of such collections and receipts.

6. Without diminishing the effectiveness or validity of the assignment made in **Section 1** hereinabove, Assignor further agrees to assign and transfer to Assignee all future Leases upon all or any part of the Premises and to execute and deliver, at the request of Assignee, all such further assurances and assignments in the Premises as Assignee shall from time to time require. Assignor shall furnish to Assignee true and complete copies of all such future Leases. Assignor shall pay Assignee the expenses incurred by Assignee in connection with the preparation, execution and recording of any such assignment or agreement.

7. This Assignment is given as collateral security for the indebtedness and obligations described herein and the execution and delivery hereof shall not in any way impair or diminish the obligations of Assignor or any other Person under the Loan Agreement, the Note or any of the other Loan Documents, nor shall this Assignment impose any obligation on Assignee to perform any provision of any Lease or any responsibility for the nonperformance thereof by Assignor or any other person. This Assignment is given as a primary assignment of the rights described herein and such assignment shall not be deemed secondary to any other collateral securing the performance of Assignor's obligations under the Loan Agreement, the Note or any of the other Loan Documents. Assignee shall have the right to exercise any rights under this Assignment before, together with or after exercising any other rights under the Loan Agreement, the Note or any of the other Loan Documents.

8. Each and all of the covenants, obligations and agreements (together with related definitions and related provisions) made by Assignor in the Loan Agreement are hereby incorporated by reference as if they were expressly set forth and made herein by Assignor. Each and all of the

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covenants and obligations of this Assignment shall be binding upon and inure to the benefit of the parties hereto, and except as herein otherwise specifically provided, their respective successors and assigns, subject at all times nevertheless to all agreements and restrictions contained in the Loan Agreement, the Note and the other Loan Documents.

9. All notices, demands, requests, deliveries and other communications required under this Assignment or desired by the parties hereto shall be given in the manner provided, and to the addresses specified, in the Loan Agreement.

10. In the event of any conflict or inconsistency between the terms and provisions of this Assignment and the Loan Agreement, the terms and conditions of the Loan Agreement shall in each instance govern and control to the extent of such inconsistency or conflict.

11. No modification, waiver, amendment, discharge or change of this Assignment shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is sought.

12. The captions and headings of various Sections of this Assignment pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way, the scope or intent of the provisions of this Assignment.

13. This Assignment shall be construed and interpreted with, and governed by, the internal laws of the State of Illinois (without giving effect to Illinois choice of law principles).

14. Assignor and Assignee intend and believe that each provision in this Assignment comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Assignment is found by a court of competent jurisdiction to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decisions, or public policy, and if such court should declare such portion, provision or provisions of this Assignment to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of Assignor and Assignee that such portion, provision or provisions shall be given force to the fullest possible extent that it or they are legal, valid and enforceable, that the remainder of this Assignment shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interests of Assignor and Assignee under the remainder of this Assignment shall continue in full force and effect.

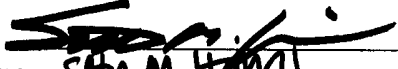
[signature page follows]

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IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment as an instrument under seal as of the date written above.

ASSIGNOR:

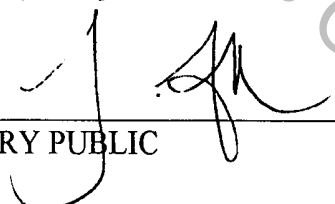
SHEFFIELD WELLINGTON LLC, an Illinois limited liability company

By: 
Name: Sam M. Hami
Its: SMH

STATE OF ILLINOIS)
COUNTY OF COOK) SS.
)

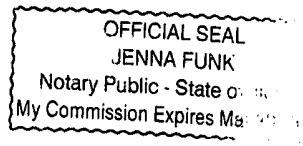
I, Jenna Funk a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Sam Hami a Member of SHEFFIELD WELLINGTON LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Sam Hami appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as such officer of said association, as his/her own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2 day of June, 2008.


NOTARY PUBLIC

My Commission Expires:

3/10/2011



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EXHIBIT A

Legal Description

LOTS 1 AND 2 IN SICKEL AND KAGEBEIN'S SUBDIVISION OF THE NORTH ½ OF BLOCK 1 IN THE SUBDIVISION OF OUTLOT 6 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST ½ OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOISs

PIN: 14-29-216-030-0000

ADDRESS: 2954-2958 N. SHEFFIELD AVE., CHICAGO, ILLINOIS 60657

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