249assn - Palatine, Illinois

ASSIGNMENT OF LEASE AND AGREEMENT

THIS ASSIGNMENT OF LEASE AND AGREEMENT is made as of the 10th day of November, 1987, by and between LUCKY STORES, INC., a Delaware corporation (as successor by merger to Lucky Stores, Inc., a California corporation), hereinafter referred to as "Assignor," and EAGLE FOOD CENTERS, L.P., a Delaware limited partnership, hereinafter referred to as "Assignee."

P R E L I M I N A R Y:

A. Assignor is the tenant of a portion of certain real property and the improvements thereon situate in the County of Cook, State of Illinois (hereinafter referred to as the "Premises"), described in Exhibit A, attached hereto and incorporated herein by reference, pursuant to that certain lease dated May 22, 1973, a short form of which was recorded in the Official Records of Cook County, State of Illinois, as Document No. 22351685, wherein First National Bank and Trust Company of Evanston, as Trustee under Trust Agreement dated May 23, 1973 and known as Trust No. R-1630 (hereinafter referred to as "Landlord") is the successor landlord. Said lease has been amended and/or supplemented by the documents, if any, listed on Exhibit B, attached hereto and incorporated herein by reference. Said lease, as so amended and/or supplemented (if applicable), is hereinafter referred to as the "Lease."

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B. Assignor desires to assign to Assignee all of its right, title and interest as tenant under the Lease and Assignee desires to accept such assignment and to agree to perform all of the obligations of the tenant under the Lease, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Effective November 10, 1987 (the "Effective Date"), Assignor hereby assigns to Assignee all of the right, title and interest of Assignor as tenant under the Lease, including Assignor's rights to any security deposits thereunder. Such assignment shall not relieve Assignor from any of its obligations under the Lease and shall be subject and subordinate to the terms and provisions of the Lease. The termination or cancellation of the Lease shall constitute a termination or cancellation of this assignment of the Lease.

2. Assignee hereby accepts the foregoing assignment and agrees, for the benefit of Assignor, to perform in a timely manner each and all of the obligations of Assignor as tenant under the Lease arising on and after the Effective Date.

3. Assignee shall not enter into or consent to any amendment or modification of the Lease which would materially increase the obligations of the tenant under the terms of the Lease without the prior written consent of Assignor, which consent shall not be unreasonably withheld or delayed; provided that

the foregoing provision shall not apply in the event that Assignor is released from liability under the Lease with respect to such modifications or amendments.

4. Assignee shall not assign the Lease without the prior written consent of Assignor, which consent shall not be unreasonably withheld or delayed; provided that the foregoing provision shall not apply in the event that Assignor is released from liability under the Lease upon the effectiveness of such assignment nor shall the foregoing provision apply to an assignment to a corporation or other entity that acquires or otherwise succeeds to a substantial portion of the assets of Assignee. Any consent by Assignor to an assignment shall not be construed to relieve Assignee from its obligation to obtain the written consent of Assignor to any further assignment.

5. As long as Assignor remains fully liable to Landlord (primarily or secondarily) for the performance of the tenant's obligations under the Lease, Assignee shall remain fully liable to Assignor for the performance of each and all of the obligations of the tenant under the Lease arising on and after the Effective Date.

6. Should Assignee default in the performance of:

(a) in any material respect, any covenant or agreement hereunder;

(b) the payment of rent or other monetary obligation under the Lease and should such default continue uncured by Assignee for [twenty (20)]* days after receipt by Assignee of written notice thereof from Landlord; or

(c) any covenant or agreement under the Lease which does not involve the payment of money to Landlord and should such default continue uncured by Assignee for [twenty (20)]* days after receipt by Assignee of written notice thereof from Landlord, or if the default is of a type which is not reasonably possible to cure within [twenty (20)]* days, if Assignee has not commenced to cure such default within said [twenty (20)]* day period and does not thereafter diligently prosecute the curing of such default to completion, then in the event the default of Assignee is of a type reasonably possible for Assignor to cure, and provided Assignee is not contesting such claimed default by actions reasonably acceptable to Assignor, Assignor shall have the right, but not the obligation, to cure any such default on behalf of Assignee and Assignee hereby irrevocably appoints Assignor as its agent and attorney-in-fact for the purpose of curing such default and executing all instruments and taking all actions that may be reasonably necessary or appropriate to cure such default. Following such cure, Assignor shall give Assignee written notice of the expenses incurred by Assignor in connection with such default and the curing thereof and shall include with such notice reasonable evidence supporting such expenses, and Assignee shall reimburse Assignor

*In the event that the grace period therefor allowed under the Lease is less than twenty-five (25) days, then the time period allowed herein (in the bracketed portion) shall be deemed to be a period of time which is five (5) days less than the grace period allowed therefor under the Lease but in no event shall such period be less than five (5) days.

within twenty (20) days after Assignee's receipt of such notice for all expenses (including, without limitation, reasonable attorney's fees) incurred by Assignor in connection with such default and the curing thereof. In the event Assignee fails to so reimburse Assignor within said twenty (20) day period, then, forthwith following Assignee's receipt of the written request of Assignor, Assignee shall assign the Lease to Assignor by written assignment in recordable form at no consideration and deliver to Assignor possession of the premises demised by the Lease and Assignee hereby irrevocably appoints Assignor as its agent and attorney-in-fact for the purpose of executing and delivering such assignment in the event that Assignee has not executed and delivered such assignment to Assignor forthwith following Assignor's request therefor. Assignor and Assignee each agree to give the other immediate written notice of any notice of default received from Landlord, with a copy of such notice of default.

7. Assignee acknowledges and agrees that the interest assigned to it hereby is subject to and together with all of the rights, interests, obligations and duties of Assignor under, pursuant to and as provided in the documents listed in Exhibit C, attached hereto and incorporated by reference herein. Assignee, for the benefit of Assignor, agrees to perform each and all of the obligations of Assignor pursuant to such documents and to comply with the terms and provisions of such documents which are applicable to the tenant under the Lease in each case arising on or after the Effective Date.

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8. This Assignment of Lease and Agreement shall inure to the benefit of and shall be binding upon the parties hereto, their successors, transferees and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease and Agreement as of the day and year first above written.

LUCKY STORES, INC.,
(SEAL) a Delaware corporation

By: F. D. HELM, VICE PRESIDENT

By: CHRISTOPHER [illegible]
VICE PRESIDENT
AND SECRETARY

"Assignor"

EAGLE FOOD CENTERS, L.P.,
a Delaware limited partnership

By EAGLE FOOD CENTERS, INC.,
a Delaware corporation
Its Managing General Partner

By: Pasquale V. Petitti
Its: President

"Assignee"

STATE OF)
) SS
COUNTY OF)

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that _____, personally known to me to be the _____ of LUCKY STORES, INC., and _____, personally known to me to be the _____ of said Corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such _____ and _____, they signed the said instrument as _____ and _____ of said Corporation, and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act and as the free and voluntary act and deed of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, A.D. 19_____.

_____
NOTARY PUBLIC

Commission expires_____.

THIS INSTRUMENT WAS PREPARED BY:
WILLIAM J. SNYDER
P.O. BOX 97
ROCK ISLAND, IL 61204-0097
(309) 786-8497

CORPORATE ACKNOWLEDGMENT

NO. [illegible]

State of CALIFORNIA
County of ALAMEDA

On this the 22nd day of October 19 87, before me,

Joan Croker,

the undersigned Notary Public, personally appeared

F. D. Helm, Vice President and
Christopher McLain, Vice President and Secretary,

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) who executed the within instrument as noted above or on behalf of the corporation therein named, and acknowledged to me that the corporation executed it.

WITNESS my hand and official seal.

Notary's Signature Joan Croker

JOAN CROKER
NOTARY PUBLIC
ALAMEDA COUNTY, CALIFORNIA
My commission expires Oct. 22, 1990

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NATIONAL NOTARY ASSOCIATION • 23012 Ventura Blvd. • P.O. Box 4625 • Woodland Hills, CA 91364

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STATE OF ILLINOIS)
) SS
COUNTY OF ROCK ISLAND)

The undersigned, a Notary Public in and for the County and State aforesaid, DOES HEREBY CERTIFY that PASQUALE V. PETITTI, personally known to me to be the President of EAGLE FOOD CENTERS, INC., a Delaware corporation, managing general partner of EAGLE FOOD CENTERS, L.P., a Delaware limited partnership, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such President of EAGLE FOOD CENTERS, INC., a Delaware corporation, managing general partner of EAGLE FOOD CENTERS, L.P., a Delaware limited partnership, he signed the said instrument as his free and voluntary act and as the free and voluntary act and deed of said partnership for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of October, A.D. 19 87.

Connie Eckermann
NOTARY PUBLIC

My commission expires _____.

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OFFICIAL SEAL
CONNIE ECKERMANN
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. JULY 3, 1991

After Recording, Return To

Andrew M. Smith
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153

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21.00

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That part of the Northeast 1/4 of the Northeast 1/4 of Section 15, Township 42 North, Range 10, East of the Third Principal Meridian described as follows:

Commencing at the intersection of the center line of the Northwest Highway and the West line of said Northeast 1/4 of the Northeast 1/4 of Section 15; thence Southeasterly along said center line of Northwest Highway a distance of 167.31 feet; thence Northeasterly perpendicular and at right angles to the center line of Northwest Highway a distance of 50 feet to the point of beginning of this description; thence Southeasterly along a line parallel with the center line of said Northwest Highway a distance of 373 feet; thence Northerly along a line parallel with the West line of said Northeast 1/4 of the Northeast 1/4 of Section 15 a distance of 530 feet; thence Northwesterly along a line parallel with the said center line of Northwest Highway a distance of 504.99 feet; thence Southerly along a line parallel with the West line of said Northeast 1/4 of the Northeast 1/4 of Section 15 a distance of 380 feet; thence Southeasterly along a line parallel with the center line of Northwest Highway a distance of 182 feet; thence Southwesterly a distance of 141.42 feet to the point of beginning of this description in Cook County, Illinois.

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EXHIBIT A

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EXHIBIT B

STORE NO. 249 - PALATINE, ILLINOIS

1. Assignment of Lease dated May 23, 1973 from Terra Developments Inc. to First National Bank and Trust Company of Evanston as Trustee under Trust No. R-1630.

2. First Amendment to Indenture of Lease dated October 22, 1973 between First National Bank and Trust Company of Evanston as Trustee under Trust No. R-1630 and Lucky Stores, Inc.

3. Letter dated November 7, 1973 from Terra Development re landlord assignment and rent.

4. Letter dated November 12, 1973 from First National Bank and Trust Company of Evanston to Lucky Stores, Inc.

5. Second Amendment to Lease dated November 1, 1982 between First National Bank and Trust Company of Evanston as Trustee under Trust No. R-1630 and Lucky Stores, Inc.

6. Tenant Estoppel Certificate dated July 15, 1985 between IMAC Realty, Inc. and Lucky Stores, Inc.

7. Letter dated August 27, 1985 from First Illinois Bank of Evanston to Lucky Stores,Inc. re change in rent payee address.

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EXHIBIT C

STORE NO. 249 - PALATINE, ILLINOIS

1. Indenture of Establishment of Protective Covenants, Conditions and Restrictions, and Grant of Easements dated November 22, 1971, between O'Hare International Bank and Lucky Stores, Inc.

2. Declaration of Restrictions dated May 22, 1973 by Lucky Stores, Inc.

3. Proposal dated December 5, 1985 from John F. Halloran re CAM Agreement.