

# UNOFFICIAL COPY

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## ASSIGNMENT OF LEASES AND RENTS

J.A. Et.

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") dated as of October 26, 1988, is made and executed by JOAQUIN ALONZO and EVELYN ALONZO, his wife (collectively, the "Assignor"), in favor of PIONEER BANK & TRUST COMPANY ("Assignee").

### RECITALS

I. This Assignment is made pursuant to a certain mortgage loan financing of even date herewith evidenced by documents described below in an amount of \$35,000.00 (the "Loan").

II. The Loan is evidenced by (i) that certain note of even date herewith executed by the Assignor to Assignee, in the principal sum of Thirty Five Thousand and 00/100 said note and any additional note or notes described above evidencing the Loan are hereinafter referred to as the "Note." The payment of the Note is secured by, among other things: (a) this Assignment; (b) a Mortgage (the "Mortgage") executed by Assignor pertaining to property described herein as the "Mortgaged Property" and described in Exhibit A, attached hereto, and all improvements thereon and appurtenances thereto and (c) the other Loan Instruments (hereinafter defined).

### GRANTING CLAUSES

In consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure the payment of the indebtedness evidenced by the Note and the payment of all amounts due under and the performance and observance of all covenants, conditions and obligations contained in this Assignment, the Mortgage, the Note and any other mortgages, security agreements, assignments of leases and rents, other collateral assignments, guaranties, letters of credit and any other documents and instruments now or hereafter executed and delivered to Assignee as lender to evidence, secure or guarantee the Loan or otherwise in connection with the Loan and any and all renewals, extensions, amendments, modification and replacements of this Assignment, the Mortgage, the Note, and any such other documents and instruments (this Assignment, the Note, the Mortgage, such other mortgages, security agreements, assignments of leases and rents, guaranties, letters of credit, documents and instru-

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ments and all renewals, extensions, amendments, modifications and replacements hereof and thereof being sometimes referred to collectively as the "Loan Instruments" and individually as a "Loan Instrument") and all other indebtedness or liabilities of Assignor to Assignee, of every kind, nature and description, direct or indirect, absolute or contingent, now or hereafter owing and the performance and observance of all other covenants and obligations made in favor of Assignee (all indebtedness, liabilities, covenants and obligations secured hereby being hereinafter sometimes referred to as "Assignor's Liabilities"), Assignor hereby assigns to Assignee, all of the right, title and interest of Assignor in:

(a) All oral and written leases with, or other agreements for use or occupancy made by, any person or entity (including, without limitation, the leases described on Schedule 1 attached hereto or in any supplement to this Assignment recorded hereafter), and any and all amendments, extensions, renewals, modifications and replacements thereof pertaining to all or any part of the Mortgaged Property, whether such leases or other agreements have been heretofore or are hereafter made or agreed to (such leases and other use and occupancy agreements being collectively referred to herein as the "Leases");

(b) The rents which are due or may hereafter become due pursuant to any of the Leases and any other payments in addition to rent made by or due from any and all lessees, users or occupants under the Leases including, without limitation, security deposits and any monies, awards, damages or other payments made or due under the Leases (which rents and payments together with any and all other rents, issues and profits which may now or hereafter arise in connection with the ownership or operation of the Mortgaged Property are herein collectively referred to as the "Rents");

(c) All rights, powers, privileges, options and other benefits (collectively, "Rights") of Assignor under the Leases, including, without limitation:

(i) The immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, insurance proceeds, condemnation awards, monies and security deposits or the like;

(ii) The right to make all waivers and agreements, including any waivers pertaining to the obligations of lessees;

(iii) The right to give all notices, permissions, consents and releases, including consents to any instrument which subordinates or makes paramount the interest of a lessee to the Mortgage;

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(iv) The right to take such action upon the happening of a default under any of the Leases (including the commencement, conduct and consummation of proceedings at law or in equity) as shall be permitted under any provisions of the Leases or by law;

(v) The right to do any and all other things whatsoever which Assignor is or may become entitled to do under the Leases including, without limitation, the right to cancel or alter Leases;

(vi) The right to exercise any option required or permitted under any of the Leases;

(vii) The right to execute new leases of the Mortgaged Property; and

(viii) The rights, powers, privileges and other benefits of Assignor under any and all guaranties (the "Guaranties") of any of the Leases;

(the Leases, Rents and Rights being sometimes collectively referred to as the "Collateral") and Assignor authorizes Assignee:

(d) To manage the Mortgaged Property and take possession of the books and records relating thereto;

(e) To prosecute or defend any suits in connection with the Mortgaged Property or enforce or take any other action in connection with the Leases in the name of Assignee;

(f) To make such repairs to the Mortgaged Property as Assignee may deem advisable; and

(g) To do any and all other things with respect to the Mortgaged Property and the Collateral which an absolute owner or landlord has the right to do.

## I

### COVENANTS AND WARRANTIES

1.1 Present Assignment. Notwithstanding that this Assignment constitutes a present assignment of leases and rents, Assignor may collect the Rents and, subject to the terms and provisions of the Mortgage and this Assignment, manage the Mortgaged Property in the same manner as if this

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Assignment had not been given, but only if and so long as an Event of Default (defined hereafter) has not occurred. If an Event of Default occurs, the right of Assignor to collect the Rents and to manage the Mortgaged Property shall thereupon automatically terminate and such right together with the other rights, powers and authorizations contained herein shall belong exclusively to Assignee.

1.2 Power Coupled with Interest. This Assignment of Leases and Rents confers upon Assignee a power coupled with an interest and cannot be revoked by Assignor.

1.3 No Other Assignment. Assignor represents and warrants as follows: (i) Assignor is the sole owner of the lessor's entire interest in the Leases and the other Collateral and has full right to assign the Collateral; (ii) there has been no previous assignment and, without Assignee's prior written consent, Assignor will permit no future assignment (as collateral or otherwise) of the lessor's right, title or interest in any of the Leases or other Collateral (other than pursuant to the other Loan Instruments); (iii) the Leases are valid and enforceable in accordance with their terms and have not been altered, modified or amended in any manner whatsoever; (iv) the lessees are not in default under the Leases and have no defenses, set-offs or counterclaims against the lessor under the Leases and have not been granted any waiver, release, reduction, discount, discharge, compromise or other concession by the lessor; (v) Assignor shall not permit or suffer to occur any default in the performance of any of its obligations under the Leases, nor shall it permit or suffer any waiver of any of its rights or remedies pursuant to the Leases; (vi) no rent reserved in the Leases has been assigned; and (vii) no rent for any period subsequent to the date hereof has been or will be collected more than thirty (30) days in advance of the time when said rent becomes or would become due under the terms of the Leases.

1.4 Covenants. Assignor covenants that (i) it will deliver to Assignee reports of the rental income and expenses of the Mortgage Property in such reasonable details and at such times as Assignee may require verified by the responsible operating official of the Mortgage Property. (ii) it will not modify, change, alter, supplement, amend, cancel, surrender or accept surrender of any of the Leases without Assignee's consent; (iii) it will not consent to any assignment or subletting of the lessee's interest under any of the Leases without Assignee's consent; (iv) it will not accept rent more than thirty (30) days in advance under any of the Leases and (v) it will not assert any right of set off or other claim or take any action against any lessee under any of the Leases, or otherwise seek recovery, damages or other relief against any such lessee, which would have the effect of relieving such lessee from any obligation or liability or which would affect, impair or discharge any right of Assignee and, if Assignor shall recover any such sums from such lessee, Assignor will forthwith pay over the same to Assignee for application to the indebtedness secured

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hereby. Assignor further covenants that if any lease provides for the abatement of rent during repair of the premises demised thereunder by reason of fire or other casualty, Assignor shall furnish to Assignee rental insurance in an amount and form and written by insurance companies as shall be satisfactory to Assignee.

1.5 Further Assurances. Assignor shall execute and deliver, at the written request of Assignee, all such further assurances and assignments as Assignee from time to time shall determine are necessary to effectuate the terms and provisions of this Assignment.

1.6 Assignee to be Creditor of Lessees. Assignee shall be deemed to be the creditor of each lessee under the Leases in any assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, receivership or probate proceedings affecting such lessee (without any obligation on the part of Assignee to file claims or otherwise to pursue creditors rights in such proceedings). All monies received in connection with any such proceedings or occurrences shall constitute additional Rents hereunder.

## II

### DEFAULTS AND REMEDIES

2.1 Event of Default. The term "Event of Default", wherever used in this Assignment, shall mean any one or more of the following events:

(a) If Assignor shall (i) fail to pay when due (A) any payment of principal when such payment shall become due and payable under the Note whether at maturity or otherwise; or (B) any payment of interest under the Note when due and payable; or (ii) fail to keep, perform or observe any other covenant, condition or agreement on the part of Assignor in this Assignment.

(b) If a default shall occur under any of the other Loan Instruments and the same is not cured within such cure, grace or other period, if any, provided in such Loan Instrument.

(c) If an "Event of Default" shall occur under and as defined in any of the other Loan Instruments.

2.2 Exercise of Assignee's Rights.

(a) Assignee may exercise its rights as provided in this Assignment without regard to the adequacy of the security and without waiving any other remedy available to Assignee and without waiving such Event of Default;

(b) In the event Assignee elects to invoke any of its rights hereunder and thereafter, for any reason,

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relinquishes to Assignor such rights, this Assignment shall not be terminated, but shall remain in full force and effect until Assignor's Liabilities are paid in full, it being the intent of the parties that Assignee shall, until release of this Assignment, have all the rights granted hereby and be able to exercise them from time to time if an Event of Default occurs.

2.3 Nature of Remedies. No delay or omission on the part of Assignee in the exercise of any remedy for an Event of Default shall operate as a waiver thereof. The remedies available to Assignee under this Assignment shall be in addition to, and exercisable in any combination with, any and all remedies available by operation of law and under the other Loan Instruments. Said remedies shall be cumulative and concurrent, may be pursued separately, successively or together against Assignor or the Mortgaged Property at the sole discretion of Assignee and may be exercised as often as occasion therefor shall arise.

2.4 Application of Rents. Assignee may apply the Rents in such order as Assignee may determine, to the payment of Assignor's Liabilities, and all expenses for the care and management of the Mortgaged Property, including taxes, insurance, assessments, management fees, usual and customary commissions to real estate brokers for leasing real estate, and the reasonable expenses and fees of all attorneys, agents and employees engaged in connection with the exercise of the rights and powers granted to Assignee hereunder. For purposes of the preceding sentence, Assignee's attorneys' fees shall be deemed to include compensation and actual overhead of staff counsel, if any, of Assignee in addition to the fees of any other attorneys engaged by Assignee and shall include fees and expenses incurred in connection with the appeal of any matter arising under the Loan Instruments if Assignee is the prevailing party therein. The receipt by Assignee of any Rents pursuant to this Assignment following an Event of Default and the exercise of any remedies provided for herein or in the other Loan Instruments shall not cure such Event of Default or affect or prejudice the exercise of such remedies.

2.5 Limitation of Assignee's Obligations. Assignee's obligations as to any Rents actually collected shall be discharged by application of such Rents to any of the purposes specified in Paragraph 2.4 hereof. Assignee shall not be liable for uncollected Rents or for failure to collect Rents or for any claim for damages or set-offs arising out of Assignee's management of the Mortgaged Property. Assignee shall not be liable to any lessee for the return of any security deposit made under any Lease unless Assignee shall have received such security deposit from the lessor or such lessee. Assignee shall not by reason of this Assignment or the exercise of any right granted herein be obligated to perform any obligation of the lessor under any of the Leases, nor shall Assignee be responsible for any act com-

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mitted by the lessor, or any breach or failure to perform by the lessor with respect to any of the Leases. Nothing contained herein shall be deemed to have the effect of making Assignee a mortgagee in possession of the Mortgaged Property or any part thereof.

2.6 Reimbursement. Assignor shall reimburse Assignee for and indemnify Assignee against all expenses, losses, damages and liabilities which Assignee may incur by reason of this Assignment or the exercise of any of the rights granted hereunder. Any and all amounts due and payable, shall be added to Assignor's Liabilities, shall bear interest at the rate set forth in the note and shall be secured by this Assignment and the other Loan Instruments.

2.7 Authorization to Lessees. Each present and future lessee under any of the Leases is hereby authorized and directed to pay the rent payable thereunder to Assignee upon written demand from Assignee stating that an Event of Default has occurred without inquiry as to whether any such default has occurred or whether Assignee is rightfully entitled to such rent. Following receipt of any such demand, no lessee shall be given credit for any rent paid other than to Assignee thereafter until Assignee instructs such lessee otherwise in writing.

## III

### MISCELLANEOUS

3.1 Modification of Loan Terms. If the time of payment of any indebtedness secured hereby is extended at any time or times, if the Note is renewed, modified or replaced or if any security for the Note is released, Assignor and any other parties now or hereafter liable therefor or interested in the Mortgaged Property shall be deemed to have consented to such extensions, renewals, modifications, replacements and releases, and their liability and the lien hereof and of the other Loan Instruments shall not be released and the rights created hereby and thereby shall continue in full force, the right of recourse against all such parties being reserved by Assignee.

3.2 Successors and Assigns. This Assignment shall inure to the benefit of and be binding upon the respective heirs, legal representatives, successors and assigns of Assignee and Assignor and all persons and entities (including owners and lessees) which may hereafter have any interest in the Mortgaged Property. Whenever Assignor or Assignee is referred to herein, such heirs, legal representatives, successors and assigns thereof shall be included in such reference. Notwithstanding the foregoing, Assignor shall not be permitted to assign its rights and obligations hereunder and any such assignment shall be an Event of Default.

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3.3 No Merger. Notwithstanding the conveyance or transfer of title to any or all of the Mortgaged Property to any lessee under any of the Leases, the lessee's leasehold estate under such Lease shall not merge into the fee estate and the lessee shall remain obligated under such lease as assigned by this Assignment.

3.4 Notices. All notices, reports, requests, demands or other instruments required or contemplated to be given or furnished under this Assignment to Assignor or Assignee shall be directed to Assignor or Assignee, as the case may be, at the following addresses:

Assignee: Pioneer Bank & Trust Company  
4000 West North Avenue  
Chicago, Illinois 60639  
Attn: Jerry Smulik  
Commercial Real Estate Department

Assignor: Joaquin Alonzo and Evelyn Alonzo  
2862 W. Dickens  
Chicago, Illinois 60647

Notices shall be either (i) personally delivered to the offices set forth above, in which case they shall be deemed delivered on the date of delivery to said offices, (ii) sent by certified mail, return receipt requested, in which case they shall be deemed delivered on the date of delivery set forth in the return receipt, unless delivery is delayed or refused by the addressee, in which event they shall be deemed delivered on the date mailed to such addressee, or (iii) sent by air courier (Federal Express, Express Mail or like service), in which case they shall be deemed received on the date of delivery. Any party may change the address to which any such notice, report, demand or other instrument is to be delivered by furnishing written notice of such change to the other parties in compliance with the foregoing provisions.

3.5 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Assignment are for convenience only, are not to be considered a part hereof, and shall not limit, expand or otherwise affect any of the terms hereof.

3.6 Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions, or the application thereof to any persons, entities or circumstances, contained in the Notes, this Assignment or in any other Loan Instrument shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Note or in any other Loan Instrument (or the application of the covenant, agreement or term held to be invalid, illegal or unenforceable, to persons, entities or circumstances other than those in respect of which it is



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invalid, illegal or unenforceable) shall be in no way affected, prejudiced or disturbed thereby.

3.7 Changes. Neither this Assignment nor any term hereof may be released, changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the release, change, waiver, discharge or termination is sought. To the extent permitted by law, any agreement hereafter made by the Assignor and Assignee relating to this Assignment shall be superior to the rights of the holder of any intervening lien or encumbrance.

3.8 Governing Law. This Assignment shall be construed, interpreted, enforced and governed by and in accordance with the laws of the State of Illinois.

3.9 Future Advances. This Assignment is given to secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or are to be made at the option of Assignee, or otherwise, as are made by Assignee under the Notes, to the same extent as if such future advances were made on the date of the execution of this Assignment. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall, in no event, exceed five times the aggregate face amount of the Notes.

3.10 Counterparts. This Assignment may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor has executed this Assignment on the date first above written.

ASSIGNOR:

Joaquin Alonzo  
Joaquin Alonzo

Evelyn Alonzo  
Evelyn Alonzo

WITNESSED:

[Signature]  
[Signature]

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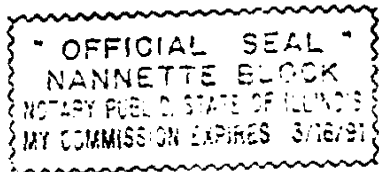
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## ACKNOWLEDGMENT

STATE OF ILLINOIS )  
                              )  
COUNTY OF COOK    )

I, the undersigned, a Notary Public in and for and residing in said County and State, DO HEREBY CERTIFY that Joaquin Alonzo and Evelyn Alonzo 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 acknowledged that they signed and delivered said instrument as their own free and voluntary act for the uses and purposes set forth therein. *J.A. 21*

GIVEN under my hand and notarial seal this 26th day of October, 1988.



Nannette Block  
Notary Public

My commission expires:

3/16/91

Notary Public of Cook County Clerk's Office

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## EXHIBIT "A"

Lot 12 in Block 8 in Hoepe and Kerff's Resubdivision of Blocks 8 and 11 in the Town of Schleswig, a Subdivision of the east 40 acres of the south 41.70 acres of the north west 1/4 of Section 36, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Index Number: 13-36-121-001 Vol. 530

Commonly Known as: 2869 W. Dickens  
Chicago, Illinois 60647

Property of Cook County Clerk's Office

13-36-121-001

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## SCHEDULE 1

Lease Schedule

Property of Cook County Clerk's Office

12/1/00

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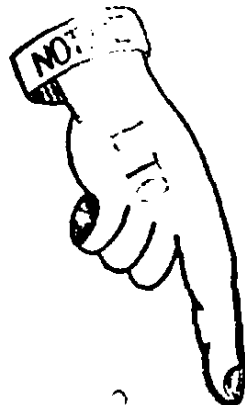
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Box 145