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This Instrument Prepared By And Upon Recordation Return To:

89066441

Douglas E. Wambach  
Burke, Wilson & McIlvaine  
NORTHWESTERN ATRIUM CENTER  
500 West Madison Street, Suite 3700  
Chicago, Illinois 60606  
(312) 715-5000

BOX 333

ASSIGNMENT OF LEASES, RENTS, SECURITY DEPOSITS,  
AND INTERESTS IN GUARANTIES

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THIS ASSIGNMENT OF LEASES, RENTS, SECURITY DEPOSITS, AND INTERESTS IN GUARANTIES (this "Assignment"), is made as of the 7th day of February, 1989, by (i) LASALLE NATIONAL BANK, not personally, but solely as Trustee under Trust Agreement dated February 23, 1961, and known as Trust No. 3605 (said bank in its capacity as Trustee aforesaid, and not personally, being herein referred to as "Trustee" and such Trust Agreement as the "Trust Agreement") and (ii) BURTON PASSIVE INCOME III LIMITED PARTNERSHIP, an Illinois limited partnership (said partnership being herein referred to as "Beneficiary"), Trustee and Beneficiary being sometimes herein collectively referred to as "Assignor", to (iii) ILLINOIS REGIONAL BANK N.A., ELMHURST, a national banking association (said bank being herein referred to as "Assignee").

RECITALS:

A. Trustee is the record owner of certain real property situated in Cook County, Illinois and more particularly described in Exhibit A attached hereto and made a part hereof (the "Premises") subject to the terms of the Trust Agreement.

B. Beneficiary is the owner of 100% of the beneficial interest in, and with full power of direction under, the Trust Agreement.

C. Assignee has made to Trustee for the benefit of Beneficiary, and Trustee, at the direction of Beneficiary has accepted from Assignee, a loan in the principal sum of One Million Fifty Thousand and No/100 Dollars (\$1,050,000.00) [the "Credit"] pursuant to the terms and conditions of the "Note" (as such term is defined herein).

D. Assignee requires, and Assignor is willing to grant, as additional and further security for the "Liabilities" (as such term is defined in Paragraph 2 hereof), including without limitation, the Credit and all accrued interest thereon, an assignment of all of Assignor's right, title and interest in, to and under (i) all "Leases", (ii) all "Rents", (iii) all "Security Deposits", and (iv) all "Guaranties" (as each of the foregoing terms is herein defined), upon the terms and conditions hereinafter set forth.

E. The Credit is evidenced by a note of even date herewith (the "Note"), executed and delivered by Trustee, at the direction of Beneficiary, to the order of Assignee, and is secured by a certain Mortgage, Security Agreement and Financing Statement of even date herewith (the "Mortgage") made and executed by Trustee in favor of Assignee, conveying, assigning and mort-

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gaging the Premises and other property appurtenant or incidental thereto and certain other security documents and instruments described on Exhibit B attached to and made a part of this Assignment, which Mortgage and the other security documents and instruments, together with all extensions and renewals of the Note and all other documents and instruments heretofore, now or hereafter given as security for or to guarantee the payment of, or made in connection with the negotiation, extension, or origination of, or to perfect or continue the security interest thereby created to secure the Liabilities, are herein collectively referred to as the "Loan Documents".

NOW, THEREFORE, to secure the payment, performance and observance of the Liabilities and also in consideration of the sum of One Dollar (\$1.00) in hand paid to Assignor and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby covenants and agrees with Assignee as follows:

1. Assignment: Collateral. Assignor hereby assigns, transfers, pledges, hypothecates, sets over and delivers unto Assignee all the right, title and interest of Assignor, in, to and under all of the following (the same being herein sometimes collectively referred to as the "Collateral"):

(i) All leases, agreements for use and/or occupancy, licenses, concessionaire agreements and other similar documents and instruments, and all amendments, extensions and renewals thereof respectively, if any, with tenants, occupants and users (collectively, "Tenants" and singularly, "Tenant") in respect of all or any part or parts of the Premises heretofore, now or hereafter made or agreed to by Assignor or any predecessors of Assignor, or by Assignee under the powers herein granted, all being herein collectively referred to as "Leases";

(ii) All the rents, earnings, income, issues, revenues, contract rights and profits of any and every kind and description howsoever derived, which may now be due or hereafter become due, under or by virtue of any and all the Leases or otherwise, all being herein collectively referred to as "Rents";

(iii) All security deposits, reserves or deposits for taxes and insurance, and other monies or equivalents thereof made or given to secure the payment, performance and observance of the covenants, agreements, conditions and obligations on the part of Tenants to be paid, performed and observed under or pursuant to the Leases or otherwise, all being herein collectively referred to as "Security Deposits"; and

(iv) All guaranties made by any person(s) guaranteeing the payment of Rents and/or the performance and observance of the covenants, agreements, conditions and obligations on the part of Tenants to be paid, performed and observed under or pursuant to any of the Leases or otherwise, and all amendments, reaffirmations, extensions and renewals thereof, respectively, if any, all being herein collectively referred to as "Guaranties";

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it being the intention to hereby establish, to the fullest extent permitted by law, subject to the provisions of Paragraph 15, an absolute transfer and assignment unto Assignee of all of Assignor's right, title and interest in and under all Leases, Rents, Security Deposits and Guaranties.

2. Security for the Liabilities. This Assignment, and the rights and interests herein granted and assigned to Assignee, are made and given to secure all of the following (the same being herein sometimes collectively referred to as the "Liabilities"):

(a) the prompt payment of the Credit and all accrued interest thereon, as and when due, in accordance with the Note;

(b) the prompt payment, when and as due, of all other indebtedness, sums and obligations which Assignor or any other person now or hereafter obligated or liable in any way for the Liabilities (any such other person being herein referred to as "Other Obligor") is obligated to pay under, pursuant to or in connection with the Note and the Loan Documents;

(c) the full and faithful performance and observance of each and all the covenants, agreements, conditions, representations, warranties and provisions contained in the Note and the Loan Documents;

(d) the repayment, when required, of all future advances and expenditures that may be made by Assignee, at its election, to or for the account of Assignor or any Other Obligor, including, without limitation, advances or expenditures by Assignee to pay or discharge insurance premiums, costs of repair to and maintenance of the Premises, taxes and any other liens, claims, security interests or encumbrances affecting the Premises, whether the obligation of Assignor or any Other Obligor, all with interest thereon at the "Default Rate" (as such term is defined in the Note); and

(e) the repayment, when required, of all costs and expenses, including without limitation, court costs and attorneys' fees and expenses paid, suffered or incurred by Assignee in connection with or arising out of the enforcement, realization and/or protection of (i) this Assignment, and the rights and interests herein granted and assigned to Assignee, (ii) the Liabilities, (iii) the Collateral and (iv) the Premises, all with interest thereon at the Default Rate.

3. Attorney-in-Fact. Assignor does hereby authorize and appoint Assignee its true and lawful attorney, with full power of substitution and with full power for Assignee, in its own name and stead or in the name and stead of Assignor, which authorization and appointment are irrevocable and coupled with an interest:

A. To take possession of, and to hold, operate, manage and control, the Premises and to conduct the business thereof either personally or by its agents; to make and complete itself or by purchase, at the expense of the Premises and Assignor, (i) all repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises and (ii) all construction, replacement or rebuilding then in pro-

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gress on the Premises; and to purchase, cancel, modify, amend or otherwise control and deal with any and all policies of insurance of any and all kinds now or hereafter covering or affecting the Premises, all as may be deemed appropriate by Assignee in its discretion;

B. To rent, lease or let all or any portion of the Premises to any party or parties at such Rents and upon such terms as Assignee shall, in its discretion, determine, including Leases for terms expiring beyond the maturity of the Liabilities and/or the period of redemption, if any, allowed in the event of foreclosure upon the Mortgage; to cancel, alter or modify the terms and provisions of any and all Leases as Assignee may, in its discretion, determine; to demand, collect and receive all Rents arising from or accruing at any time hereafter, and that are now due or may hereafter become due under each and every Lease; and to collect any and all Security Deposits;

C. To endorse the name of Assignor on, or to execute in the name of Assignee, and to deposit in bank accounts for collection, any and all checks, notes and other instruments received in payment of any and all Rents and Security Deposits; and to execute or give any and all receipts or other similar instruments in respect thereof in the name of Assignor or in the name of Assignee;

D. To use such measures, legal or equitable, as may be deemed appropriate by Assignee, in its discretion, to enforce (i) any and all covenants, agreements, conditions, and obligations of Tenants under any Lease, (ii) the obligations of any person(s) under any Guaranty, (iii) the payment of Rents and Security Deposits or (iv) the collection or realization of any security given in connection therewith, or to secure or maintain possession of the Premises, or any portion thereof, including without limitation, actions for the recovery of rent, actions in forcible detainer and actions in distress for rent; to make adjustment of claims and to institute, prosecute, settle or compromise, either in the name of Assignor or in the name of Assignee, proceedings at law or in equity in order to protect the Premises, to recover Rents, Security Deposits or other proceeds respecting the Premises, or to abate any nuisance on the Premises, and in connection therewith, execute and render any and all documents, papers and instruments; and

E. To otherwise act in Assignor's name, place and stead, and exercise all rights, powers and remedies available to Assignor under each and every of the Leases and of the Guaranties.

4. Application of Rents. Assignor hereby grants to Assignee full power and authority to exercise, without notice to Assignor (notice thereof being hereby expressly waived by Assignor), each and every of the rights, interests, privileges and powers herein granted and assigned at any and all times hereafter, with full right and power to use and apply, to the extent thereof, the Rents and so much of the Security Deposits as may be then retained by the landlord under the Leases to the payment of any of the Liabilities, in such order as Assignee may determine on account of the following, but without in any manner limiting the generality of the rights, powers, privileges and authority conferred on Assignee by this Assignment:

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(a) to the payment of the operating expenses of the Premises, including without limitation, (i) cost of management (which shall include reasonable compensation to Assignee and his agent or agents, if management be delegated to an agent or agents), (ii) established claims for damages, if any, (iii) court costs and attorneys' fees and expenses incurred by Assignee in connection with any and all actions and things which, by this Assignment, Assignee may do or cause to be done, and (iv) premiums on fire, liability and property insurance and on insurance against such other hazards, casualties and risks as Assignee may, in its discretion, deem appropriate;

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

(c) to the payment of costs for the completion of construction, replacement or rebuilding then in progress on the Premises, or any part thereof, or for repairs to and decoration, rehabilitation and improvement of the Premises, or any part thereof, including without limitation, the costs from time to time of installing or replacing furniture and appliances, and heating, air-conditioning, ventilating, gas and electric fixtures, components and systems therein, and of placing the Premises in such condition as will, in the judgment of Assignee, make the Premises readily rentable;

(d) to the payment of all Liabilities; and

(e) to the payment of any deficiency which may result from any foreclosure as provided in the Mortgage.

After payment in full of the foregoing items, the balance, if any, of the Rents and Security Deposits shall be paid to Assignor, or to such other person or entity then entitled thereto pursuant to the laws of the State of Illinois.

5. Cumulative Remedies. It is understood and agreed that the rights, powers and privileges herein granted and assigned to Assignee shall be deemed special remedies given to Assignee and shall not be deemed exclusive of any of the rights, powers and remedies provided in the Note and the Loan Documents, but shall be deemed additional remedies and cumulative with all such other rights, powers and remedies, and each and all such rights, powers and remedies may be pursued or exercised singly, successively or simultaneously, at such time or times or in such order as Assignee may, in its sole discretion, elect. No failure on the part of Assignee to exercise, and no delay in exercising, any rights, powers, privileges, interests, remedies or authorizations hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such rights, powers, privileges, interests, remedies or authorizations by Assignee preclude any other further or future exercise thereof or the exercise of any other rights, powers, privileges, interests, remedies or authorizations.

6. Continuing Obligation. It is expressly understood that no judgment or decree which may be entered on any of the Liabilities shall operate to abrogate or lessen the effect of this Assignment, but that this Assignment shall continue in full force and effect until any and all Liabilities, in whatever form the Liabilities may be, and any and all costs and expenses

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incurred and sustained by virtue of the authority herein contained have been fully and finally paid and discharged from the Rents, or by Assignor, any Other Obligor, or any of them, or from any other source, or until such time as this Assignment may be voluntarily released. This Assignment shall remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the Liabilities are fully and finally paid and discharged before the expiration of the period of redemption, if any.

7. ~~Representations and Warranties~~ Assignor hereby represents and ~~warrants~~ to and covenants with Assignee that:

(i) except as previously disclosed in writing, to Assignee, there are no Leases, written or otherwise, now in existence or in force with respect to the Premises, or any part thereof;

(ii) Assignor is the sole and absolute owner of all the Collateral, free and clear of all liens, claims, security interests and encumbrances except any liens and security interests of the Loan Documents;

(iii) Assignor will not, at any time during the term of this Assignment, sell, pledge, assign, transfer, set over or otherwise encumber, or permit or suffer to be sold, pledged, assigned, transferred, set over or otherwise encumbered, the Collateral or perform or omit to perform any act or execute any other document or instrument which might prevent Assignee from fully exercising and enjoying its rights, powers, privileges and benefits under this Assignment;

(iv) Assignor has full right and power and lawful authority to execute and deliver, and to pay, perform and observe all their covenants, conditions and obligations under, this Assignment and assign, transfer and set over to Assignee all the Collateral, together with all the rights, interests, powers, privileges and authority herein granted, assigned and conferred upon Assignee;

(v) This Assignment constitutes a legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with the terms hereof;

(vi) No Rents have been or will be paid by any Tenant more than thirty (30) days prior to the due date thereof;

(vii) The payment of the Rents have not been nor will be, nor will be permitted or suffered to be, deferred, waived, released, discounted, discharged, compromised or otherwise adjusted except as heretofore disclosed in writing to Assignee in connection with Leases existing at the time of execution of this Assignment;

(viii) Each of the Leases and the Guaranties is valid, binding and enforceable in accordance with its terms, and none has been altered, modified, amended, terminated, cancelled, surrendered, renewed or extended, and no term or condition thereof has been waived or released in any manner whatsoever, except as previously disclosed, in writing, to Assignee;

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(ix) There is no default now existing under any of the Leases or the Guaranties and no events presently exist under or in connection with any of the Leases or the Guaranties, which events would, with the giving of notice or the lapse of time or both, constitute a default thereunder;

(x) Assignor will, at Assignor's expense, observe and perform, or cause to be paid, observed and performed, each and every covenant, condition and obligation on the part of the landlord to be paid, observed and performed under the Leases and enforce (excluding enforcement by termination of any of the Leases, except as consented by Assignee, which consent shall not be unreasonably withheld) the observance and performance of each and every covenant, condition and obligation by the Tenants to be observed and performed under all Leases and by the guarantors under all the Guaranties; and

(xi) Assignor shall give prompt notice to Assignee of each notice received by Assignor, or either of them, asserting or claiming that a default on the part of the landlord has occurred under any of the Leases together with a complete copy of each such notice.

8. Prohibition Against Further Leases. Except in the ordinary course of business, Assignor shall not, from and after the date of this Assignment, without the prior written consent of Assignee, which consent shall not be unreasonably withheld: (i) make or enter into any Leases, (ii) cancel or terminate, modify, amend or otherwise alter the terms and provisions of any of the Leases or any of the Guaranties, (iii) consent to or otherwise permit the assignment by any Tenant of its interest under any of the Leases or the subletting by any Tenant of all, or any part of, the Premises now or hereafter demised or let under any of the Leases or any of the tenancies or (iv) institute any proceedings for the dispossession or eviction of any Tenant under any of the Leases or any of the tenancies; provided, however, in any event Assignor shall provide Assignee with written notice of all such events. If, without the prior written consent or approval of Assignee, any of the foregoing acts or actions shall be committed or permitted by assignor, then any such acts or actions shall not be binding upon Assignee, and unless subsequently confirmed or ratified expressly in writing by Assignee, shall be deemed null and void, and further, shall, at the option of Assignee, constitute an Event of Default under this Assignment.

9. Insurance. If any of the Leases provide for the abatement of Rent during the repair, rebuilding or restoration of the Premises by reason of fire or other casualty, Assignor shall furnish to Assignee rent loss insurance, the policies to be in amount and form and written by such insurance companies as shall be acceptable to Assignee.

10. Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting Assignee a trustee or mortgagee-in-possession. In the exercise of the powers herein granted and assigned to Assignee, no liability shall be asserted or enforced against Assignee, Assignor for itself and for and on behalf of all persons claiming or to claim hereafter by, through or under Assignor, hereby expressly waiving, and releasing Assignee from, all such liability.

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11. Waiver and Indemnity. Assignee shall not be in any way: (i) responsible for the control, care and management of the Premises, or any part thereof, or for any waste committed or permitted on the Premises, or any part thereof, by any Tenant or other person, (ii) obligated to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and (iii) liable by reason of any dangerous or defective condition of the Premises, or any part thereof, resulting in loss, damage or injury to the property or person of any Tenant or of any other person. Assignor shall and does hereby agree to pay and to indemnify, save, protect and hold forever harmless Assignee and its directors, employees or agents (collectively, "Assignee's Indemnitees") of and from any and all loss, cost, damage, expense, claim, demand and liability, including without limitation, court costs and reasonable attorneys' fees and expenses, which Assignee's Indemnitees, or any of them, may or might incur, suffer or sustain or for which Assignee's Indemnitees, or any of them, may become obligated or liable, in any way, by reason of, in connection with or resulting from (a) this Assignment and the rights, powers and interests herein granted and assigned to Assignee, (b) any alleged obligations or undertakings on Assignee's part to perform or discharge any of the terms, covenants or agreements contained in the Leases, any failure or alleged failure by Assignor to pay, perform or observe any covenants, conditions and obligations on the part of the landlord to be paid, performed and observed under the Leases or (c) any loss, damage or injury to the property or person of any Tenant or of any other person on or about the Premises or any part thereof. If any of Assignee's Indemnitees shall be subject to any liability indemnified hereunder, and such liability is not paid or satisfied by Assignor within three (3) business days after demand therefor by any of Assignee's Indemnitees so affected, then the amount thereof shall be so much additional Liabilities and shall bear interest from the date of demand until reimbursement is received at the Default Rate, and Assignee shall have, in addition to any other right, power or remedy available to Assignee, the same rights, powers and remedies in the event of the failure to pay promptly any such amount by Assignor as in the case of a default by Assignor in the payment of the Liabilities. The indemnity of Assignor under this Paragraph 11 shall survive any termination, release or satisfaction of this Assignment.

12. Non-Liability of Assignee. Assignee shall not, in any way, be responsible for the failure to do any or all of the things for which rights, interests, powers or authority is herein granted and assigned to Assignee; and Assignee shall not be liable, in any way, for the collectability, collection or non-collection of any of Rents or Security Deposits, nor shall Assignee be required to make an accounting for the benefit of Assignor, except for monies actually received by Assignee in accordance with the terms hereof, Assignor, for itself and for and on behalf of all Other Obligors and all persons claiming or to claim hereafter by, through or under Assignor, hereby expressly waiving, and releasing Assignee from, any and all such responsibility, liability and requirement.

13. Assignee's Right to Collect Rents. Assignor authorizes the Tenants to pay all unpaid Rents agreed upon under the Leases to Assignee upon receipt of written demand from Assignee stating that an Event of Default exists and directing that payment of Rents be made to Assignee or such other person(s) as Assignee may designate. Assignor acknowledges and agrees that (1) each and every Tenant shall have the right to rely upon any such demand,



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and the statements and directions therein contained, of Assignee, and shall pay such Rents to Assignee, without any obligation or right on the part of such Tenant to inquire as to validity or propriety of any such demand by Assignee and notwithstanding any notice from or claim of Assignor to the contrary, and (ii) Assignor shall have no right, claim or recourse against any such Tenant, and all Tenants are hereby relieved of all duty, liability and obligation to Assignor, in respect of all Rents so paid to Assignee.

14. Further Assurances. Assignor further agrees to assign and transfer to Assignee all future Leases and Guaranties and to execute and deliver, at the request of Assignee, all such further assurances and assignments of the Leases, Rents, Security Deposits and Guaranties as Assignee shall from time to time require. Upon request by Assignee, Assignor shall deliver to Assignee duplicate originals (or if permitted by Assignee, true and complete copies thereof so certified by Assignor) of each and all of the Leases and Guaranties in existence from time to time.

15. Present Assignment. Although it is the intention of the parties that this Assignment shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that until an "Event of Default" (as such term is herein defined or used) shall occur or exist, Assignor shall have the right and privilege only to collect and retain the Rents, to enforce the collection thereof by appropriate action or proceeding in the name of Assignor, and to otherwise manage the Premises, but only in strict compliance with the terms, covenants and conditions herein contained. The foregoing rights and privileges of Assignor shall, upon the occurrence or existence of any Event of Default, automatically and immediately cease and terminate, without notice to Assignor (notice as to any such Event of Default being hereby expressly waived by Assignor).

16. Parity of Security. The Loan Documents constitute equal security for the payment and discharge of the Liabilities, and none of the liens or security interests evidenced by the Loan Documents shall be deemed to have preference or priority over any other of the liens or security interests evidenced by the Loan Documents.

17. Exercise of Rights by Assignee. Nothing herein contained, nor the exercise by Assignee of any of the rights, powers, privileges, interests, remedies and authority herein granted and assigned, shall be, or shall be construed to be, an affirmation by Assignee of any of the Leases or of any option to renew or extend the same, or an assumption of liability under, or a subordination of the lien of the Mortgage or of the liens, rights and interests created by the Loan Documents to, any of the Leases or any such option.

18. Security Interest. Assignor hereby grants to Assignee a security interest in Rents and Security Deposits pursuant to the Uniform Commercial Code of the State of Illinois (the "Code"), and this Assignment shall operate as a security agreement under the Code, thereby entitling Assignee to all the benefits, rights and remedies therein conferred upon a secured party (as such term is defined in the Code). Assignor will, at the request of Assignee, execute or join with Assignee in executing and, at Assignor's own expense, file and refile under the Code, such financing statements, amendments thereto, continuation statements and other documents in such states and in such offices as Assignee may deem necessary or appropriate and wherever required or permit-

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ted by law in order to perfect and preserve Assignee's security interest in the Rents and Security Deposits, and hereby authorizes Assignee to file financing statements, amendments thereto and continuation statements relative to all or any part of the Rents and Security Deposits without the signature of Assignor where permitted by law.

19. Defaults. Assignor hereby agrees that the occurrence or existence of any of the following events or conditions shall constitute an event of default (herein referred to singularly as "Event of Default" and collectively as "Events of Default"):

(i) Any representation or warranty made by Assignor or any Other Obligor, or their respective agents, in this Assignment, the Note or any of the Loan Documents or in any other agreement, instrument or statement contemplated hereby or thereby, made or delivered pursuant hereto or thereto or in connection herewith or therewith, shall be breached or violated, or prove to be false, misleading or inaccurate, in any material respect;

(ii) Assignor shall, regardless of cause or reason, fail to pay, perform and discharge the Liabilities when and as due; or

(iii) An "event of default" (as such term is therein defined or used) shall occur or exist under, pursuant to or in connection with the Note or any of the Loan Documents and such event of default is not cured or corrected within any applicable grace or curative period provided thereunder.

20. Remedies. Upon the occurrence or existence of any one or more of the Events of Default, then at the option of Assignee and without demand or notice to Assignor (demand and notice as to any Event of Default being hereby expressly waived by Assignor, except for such notices as may be provided in Paragraph 19 hereof), Assignee shall, to the fullest extent permitted by law, be entitled to exercise (i) all the rights, powers and remedies, if any, available under the Code then in effect, (ii) any and all other rights, powers and remedies as permitted in this Assignment, the Note and the Loan Documents and (iii) all such other rights and remedies as may be provided at law or in equity.

21. Incorporation of Loan Documents. All the terms, covenants, conditions, representations and provisions and all the warranties, in the case of makers and obligors, contained in the Note and the Loan Documents are, by this reference, adopted and incorporated into this Assignment to the same full extent and with the same binding force and effect as if all such terms, covenants, conditions, representations, provisions and warranties were herein stated in full, it being the express intent that this Assignment, the Note and the Loan Documents each complement and supplement the others to the extent necessary or required to protect, preserve and confirm the rights, powers, interests and remedies of Assignee in respect of the Liabilities.

22. No Merger. Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of any landlord and any Tenant under any of the Leases.

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23. Notices. All notices, demands and other communications required or desired to be given hereunder shall be in writing signed by Assignee or Assignor, or their respective authorized agents or attorneys, as the case may be, and shall be deemed to have been properly given if (i) served in person, (ii) if mailed by United States registered or certified mail, full postage prepaid, return receipt requested, (iii) if sent by Western Union Telegram or (iv) if sent by special courier (Federal Express or like service), addressed as follows:

If to Assignee: Illinois Regional Bank N.A., Elmhurst  
105 South York Road  
Elmhurst, Illinois 60126  
Attn: Commercial Loans

If to Assignor: LaSalle National Bank  
Trustee Under Trust No. 3605  
135 South LaSalle Street  
Chicago, Illinois 60690  
Attn: Land Trust Department

with a copy to: Burton Passive Income III Limited Partnership  
921 North Plum Grove Boulevard  
Schaumburg, Illinois 60173  
Attn: Mr. Lawrence B. Irwin

or to such other address in the United States of America as may from time to time be designated by the party to be addressed, by notice to the others in the manner hereinabove provided. Any such notices, demands or other communication mailed as provided in this paragraph 23 shall be deemed to have been given and received on the earlier of (i) the date of actual receipt of such notice, demand or other communication, (ii) the third (3rd) business day following the day of mailing by U.S. registered or certified mail of such notice, demand or other communication, (iii) date of actual delivery of such demand, notice or other communication, in the form of a telegram, by Western Union, or (iv) date of actual delivery of such demand, notice or other communication if by special courier (Federal Express or like service). If such demand, notice or other communication is given or received by more than one of the foregoing methods on different dates, such demand, notice or other communication shall be deemed given or received on the earlier of such dates. The delivery or receipt by other parties of copies of any demand, notice or other communication hereunder is merely an accommodation and is not necessary or required to make effective the giving or receipt by Assignee or Assignor of any demand, notice or other communication.

## 24. Miscellaneous.

(a) This Assignment, and all the provisions hereof, shall extend to and be binding upon Assignor, its successors and assigns, and upon any party or parties from time to time permitted to hold title to or have an interest in the Premises, except that the benefits and privileges accruing to Assignor hereunder shall only extend and inure to such of the successors and assigns of Assignor or such party or parties as may be permitted pursuant to the Mortgage. This Assignment and all the rights, powers, privileges and immunities herein assigned and granted to

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Assignee shall extend and inure to the benefit of the successors and assigns (including all holders, now or hereafter, of the Note) of Assignee. The terms "Assignor" and "Assignee" and all personal pronouns as herein used shall be taken to include the singular or plural, and the masculine, feminine or neuter gender, as may be applicable.

(b) All the Liabilities and obligations of Assignor hereunder are, and shall be, at all times, joint and several.

(c) This Assignment shall in all respects be construed and enforced in accordance with, and governed by, the laws of the State of Illinois. This Assignment may not be amended or modified, nor may any of the interests and rights hereby assigned be released, except by a writing signed by or on behalf of the party to be bound thereby.

(d) Assignor agrees to pay, on demand of Assignee, all costs and expenses, including without limitation court costs and reasonable attorneys' fees and expenses, paid, sustained or incurred by Assignee in connection with the enforcement of this Assignment, with interest thereon, from the date on which such costs and expenses are so paid, sustained or incurred by Assignee to the date of receipt of payment thereof from Assignor, at the Default Rate.

(e) Whenever possible, each provision of this Assignment and the application thereof shall be interpreted in such a manner as to be effective, valid and enforceable under applicable law, but if any provisions of this Assignment, or the application thereof to any persons or circumstances, shall be invalid, illegal or unenforceable in any respect under such law, such provision or application shall be ineffective to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of such provision or the remaining provisions of this Assignment, or the application of such invalid, illegal or unenforceable provision to persons or circumstances other than those to which such provision is invalid, illegal or unenforceable.

(f) The recitals to this Assignment are hereby incorporated into and made a part of this Assignment and shall be deemed covenants, representations and warranties binding upon Assignor.

(g) The covenants, representations and warranties made by Assignor under this Assignment are, and shall be deemed to be, of continuing force and effect until all the Liabilities have been fully and finally paid, discharged and performed.

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IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the date and year first above written.

ASSIGNOR:

Trustee's Expiration Rider Attached Hereto And Made A Part Hereof

LASALLE NATIONAL BANK, not personally, but solely as Trustee aforesaid

By: \_\_\_\_\_

Its: Assistant Vice President

Attest: \_\_\_\_\_

Its: ASSISTANT SECRETARY

It is further agreed by the parties hereto that whenever and wherever the provisions of this ASSIGNMENT OF RENTS contains any reference to the right of the ASSIGNEE to be indemnified, saved harmless, or reimbursed by ASSIGNOR for any costs, claims, loss, fines, penalties, damages or expenses of any nature, including without limitation, attorney's fees, arising in any way out of the execution of this instrument or the relationship of ASSIGNEE - ASSIGNOR under this instrument, then such obligation, if any, on the part of the ASSIGNOR shall be construed to be only a right of reimbursement in favor of ASSIGNEE out of the trust estate held under Trust No. 2605, from time to time, so far as the same may reach; and in no case shall any claim of liability or right of reimbursement be asserted against the LaSalle National Bank individually, all such personal liability, if any, being hereby expressly waived; and this agreement shall extend to and inure for the benefit of the parties hereto, their respective successors and assigns and all parties claiming by, through and under them. In event of conflict between the terms of this rider and of the ASSIGNMENT OF RENTS to which it is attached, or any question of apparent or claimed liability or obligation resting upon the said Trustee, the exculpatory provisions of the rider shall be controlling.

corporation, general partner

By: \_\_\_\_\_

Lawrence B. Irwin

Its: President

Attest: \_\_\_\_\_

Its: \_\_\_\_\_

COOK COUNTY, ILLINOIS  
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Its: \_\_\_\_\_  
Address: \_\_\_\_\_  
Its: President  
Lawrence B. Irwin

By: \_\_\_\_\_  
Burton Financial Management  
Associates, Inc., an Illinois  
corporation, General partner

By: \_\_\_\_\_  
Richard W. Anderson, General partner

By: \_\_\_\_\_  
James D. Cooper III, General partner

BURTON PASSIVE INCOME III  
LIMITED PARTNERSHIP, an Illinois  
limited partnership

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d

and Made A Part Hereof

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed

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# UNOFFICIAL COPY

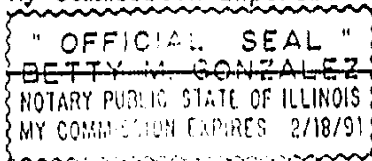
STATE OF ILLINOIS )  
                          ) SS:  
COUNTY OF Cook )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that RICHARD W. ANDERSON, general partner of Burton Passive Income III Limited Partnership, an Illinois limited partnership, 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 he signed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7<sup>th</sup> day of February, 1989.

Betty M. Gonzalez  
Notary Public

My Commission Expires:



89066441

# UNOFFICIAL COPY

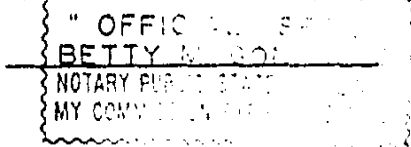
STATE OF ILLINOIS )  
COUNTY OF Cook ) SS:

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES D. COOPER III, general partner of Burton Passive Income III Limited Partnership, an Illinois limited partnership, 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 he signed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 7<sup>th</sup> day of February, 1989.

Betty M. Gonzalez  
Notary Public

My Commission Expires:



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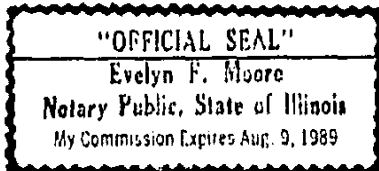
STATE OF ILLINOIS )  
COUNTY OF Cook ) SS:

I, Evelyn F. Moore, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Carlino Bank, **ASS'T VICE** President of LASALLE NATIONAL BANK, a national banking association and Rita Stimm Welter, Assistant Secretary of said bank personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such **ASS'T VICE** President and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said bank, as Trustee, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the seal of said bank, caused the seal of said bank to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said bank, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 12th day of Feb, 1989.

Evelyn F. Moore  
Notary Public

My Commission Expires:



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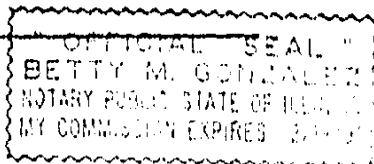
STATE OF ILLINOIS )  
COUNTY OF Cook ) SS:

I, Betty M. Gonzalez, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Lawrence B. Irwin, President of BURTON FINANCIAL MANAGEMENT ASSOCIATES, INC., an Illinois corporation, general partner of Burton Passive Income III Limited Partnership, an Illinois limited partnership, and Lawrence B. Irwin, Secretary of said corporation personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such \_\_\_\_\_ President and \_\_\_\_\_ Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth; and the said \_\_\_\_\_ Secretary then and there acknowledged that said \_\_\_\_\_ Secretary, as custodian of the seal of said corporation, caused the seal of said corporation to be affixed to said instrument as said \_\_\_\_\_ Secretary's own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2<sup>nd</sup> day of February, 1989.

Betty M. Gonzalez  
Notary Public

My Commission Expires:



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## EXHIBIT A

### LEGAL DESCRIPTION

Lot 115 in J.S. Hovland's Resubdivision of J.S. Hovland's 103rd Street Subdivision of the West 1/2 and the North 1/2 of the East 1/2 of the North West 1/4 of Section 14, Township 37 North, Range 13 East of the Third Principal Meridian, also Lot 1 in Snodell's Resubdivision of Lots 112, 113 and 114 in J.S. Hovland's Resubdivision of J.S. Hovland's 103rd Street Subdivision of the West 1/2 and the North 1/2 of the East 1/2 of the North West 1/4 of Section 14, Township 37 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N. 24-14-104-001  
24-14-104-047

Common Address: 3931-59 West 104th Street, Chicago, Illinois

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## EXHIBIT B

### LOAN DOCUMENTS

1. Assignment of Leases, Rents, Security Deposits and Interests in Guaranties made by Trustee and Beneficiary to Assignee.
2. Collateral Assignment of Beneficial Interest made by Beneficiary in favor of Assignee.
3. Security Agreement made by Beneficiary in favor of Assignee.
4. Guaranty made by Beneficiary and Lawrence B. Irwin in favor of Assignee guarantying the payment of the Note and the performance of Trustee's obligations under the Loan Documents.
5. UCC-1 Financing Statements filed with the Secretary of State evidencing the security interests granted in the Loan Documents referenced at items Nos. 1 and 3 above.
6. UCC-2 Financing Statements filed with the Recorder of Deeds of Cook County, Illinois evidencing the security interests granted in the Loan Document referenced at item No. 3 above.

Any term herein used but not defined shall have the same meaning as assigned to such term in the instrument to which this Exhibit is attached.

89005-3-1