

UNOFFICIAL COPY

This document prepared by
After recording return to:

BRK:KN395
LSNB/Ashland
8/02/94

Barry R. Katz
Deutsch, Levy & Engel, Chtd.
225 W. Washington St., Ste. 1700
Chicago, Illinois 60606

COOK COUNTY, ILLINOIS
FILED FOR RECORD

94708839

ASSIGNMENT OF RENTS AND LEASES (BORROWER AND BENEFICIARY)

THIS ASSIGNMENT is made jointly and severally as of August 5, 1994, by and among: LASALLE NATIONAL BANK N.A., a national banking association, not personally, but as Trustee under Trust Agreement dated April 10, 1980, and known as Trust Number 10-36708-09, whose mailing address is 120 S. LaSalle Street, Chicago, Illinois, 60602 (hereinafter called "Borrower") and 400 NORTH ASHLAND BUILDING PARTNERSHIP, an Illinois General Partnership, whose mailing address is c/o Warren B. Weisberg, 400 N. Ashland Avenue, Chicago, Illinois, 60622 (hereinafter called "Beneficiary") to LASALLE NATIONAL BANK, a National Banking Association, 120 S. LaSalle Street, Chicago, Illinois 60603 (hereinafter called "Assignee"). Borrower and Beneficiary are hereinafter collectively called the "Assignor". Beneficiary owns one hundred percent (100%) of the beneficial interest under said Trust Agreement, but has no legal or equitable interest in the Premises hereinafter described.

WITNESSETH

Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby bargain, sell, transfer, assign, convey, set over and deliver unto Assignee all right, title and interest of the Assignor and each of them in, to and under all present leases of the two parcels of property described in EXHIBIT "A" attached hereto and made a part hereof (collectively the "Premises") [including those leases described on the SCHEDULE OF LEASES (if any) described in Exhibit B attached hereto and made a part hereof] together with all future leases hereinafter entered into by any lessor affecting the premises, and all guaranties, amendments, extensions and renewals of said leases and each of them (all of which are hereinafter collectively called the "Leases") and all rents, income and profits which may now or hereafter be or become due or owing under the leases and each of them, or on account of the use of the Premises.

This Assignment is made for the purposes of securing:

A. The payment of the Indebtedness (including any extensions and renewals thereof) evidenced by (i) a certain Promissory Note of Borrower of even date herewith, in the principal sum of \$450,000.00 (the "Promissory Note") and (ii) a certain Revolving Note of Borrower of even date herewith, in the principal sum of \$300,000.00 (the "Revolving Note") and secured by a certain MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT ("Mortgage") of Borrower of even date herewith, encumbering the Premises (from time to time the Revolving Note and Promissory Note are collectively referred to as the "Notes"); and

B. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Mortgage and all other instruments constituting security for the Notes; and

C. The performance and discharge of each and every term, covenant and condition of Borrower contained in the Notes, Mortgage and in all other instruments constituting security for the Notes.

Assignor covenants and agrees with Assignee as follows:

1. There is no present lease of the Premises not listed on the Schedule Of Leases attached hereto as "EXHIBIT B".

2. The sole ownership of the entire landlords' interest in the Leases is vested in Borrower or Beneficiary, or both of them. Borrower and Beneficiary have not, and each shall not: (a) perform any act or execute any other instrument which might prevent Assignee from fully exercising its rights under

7571976 P. 2 R

378

94708839

BOX 300 CTJ

UNOFFICIAL COPY

any term, covenant or condition of this Assignment; (b) execute any assignment or pledge of rents, income, profits or any of the Leases except an assignment or pledge securing the Indebtedness secured hereby; (c) accept any payment of any installment of rent more than thirty (30) days before the due date thereof; or (d) make any lease of the Premises except for actual occupancy by the tenant thereunder.

3. Each of those Leases on the Schedule of Leases are valid and enforceable in accordance with its terms and none has been altered, modified, amended, terminated, cancelled, renewed or surrendered nor has any term or condition thereof been waived in any manner whatsoever, except as heretofore approved in writing by Assignee.

4. None of the Leases shall be materially altered, modified, amended, terminated, cancelled or surrendered (other than a sublease or new lease in the ordinary course of business) nor shall any term or condition thereof be waived without the prior written approval of the Assignee, which approval shall not be unreasonably withheld.

5. There is no default now existing under any of the Leases and there exists no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; and that Assignor will fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed and, at the sole cost and expense of Assignor, enforce (short of termination of any of the Leases) the performance and observance of each and every covenant and condition of all such leases by the tenants thereunder to be performed and observed.

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

7. 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.

8. Without Assignee's prior written consent in each case, Assignor will not suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Mortgage, this Assignment and general real estate taxes not delinquent.

9. This Assignment is absolute and is effective immediately; however, until notice is sent by Assignee to the Assignor in writing that an event of default has occurred under the Note, the Mortgage or under any other instrument at any time constituting security for the Note (each such notice is hereafter called a "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the Premises.

10. If any event of default occurs at any time under the Note, Mortgage or any other instrument constituting additional security for the Note, and is not cured after notice and within the applicable cure period, if any, Assignee may at its option receive and collect when due all such rents, income and profits from the Premises and under any and all Leases of all or any part of the Premises. Assignee shall thereafter continue to receive and collect all such rents, income and profits until such event of default is cured and during the pendency of the foreclosure proceedings, and (if there is a deficiency) during the redemption period (if any).

11. Beneficiary hereby irrevocably appoints Assignee its true and lawful attorney-in-fact, with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor (from and after the service of a Notice) to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Premises, and at Assignee's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, in its own name or in the name of Beneficiary or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. All present and future tenants of the Premises are hereby expressly authorized and directed to pay to Assignee, or to such nominee as Assignee may

94708839

UNOFFICIAL COPY

designate in a writing delivered to and received by such tenants, all amounts due Assignor or any of them pursuant to the Leases. All present and future tenants are expressly relieved of all duty, liability or obligation to Assignor and each of them in respect of all payments so made to Assignee of such nominee.

12. After service of a Notice, Assignee is hereby vested with full power to use all measures, legal and equitable, deemed by it necessary or proper to enforce this Assignment and to collect the rents, income and profits assigned hereunder, including the right of Assignee or its designee to enter upon the Premises, or any part thereof, with or without force and with or without process of law, and take possession of all or any part of the Premises together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor and each of them relating thereto, and may exclude the Assignor and its agents and servants wholly therefrom. Assignor hereby grants full power and authority to Assignee to exercise all rights, privileges and powers herein granted at any and all times (after service of a Notice) without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to payment of the costs of managing and operating the Premises and to payment of all Indebtedness and liability of Borrower to Assignee, including but not limited to: (a) the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the Premises or of making the same rentable, all costs and attorney's fees incurred in connection with the enforcement of this Assignment; and (b) principal and interest payments due from Borrower to Assignee on the Note and the Mortgage; all in such order and for such time as Assignee may determine.

13. Assignee shall be under no obligation to exercise or prosecute any of the rights or claims assigned to it hereunder or to perform or carry out any of the obligations of any landlord under any of the Leases. Assignee does not hereby assume any of the liabilities in connection with or arising or growing out of the covenants and agreements of Assignor or any of them under any of the Leases.

14. Except for the illegal or negligent acts of Assignee, Assignor hereby agrees to indemnify Assignee and to hold Assignee harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees which may or might be incurred by Assignee under the Leases or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to perform or discharge any term, covenant or agreement contained in any of the Leases.

15. This Assignment shall not operate to place responsibility for the control, care, management or repair of the Premises, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for the performance or observance of any term, condition, covenant or agreement contained in any of the Leases, or for any waste of the Premises by any tenant under any of the Leases or any other person or for any dangerous or defective condition of the Premises or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger.

16. Assignee may: (a) take or release other security; (b) release any party primarily or secondarily liable for any of the Indebtedness secured hereby; (c) grant extensions, renewals or indulgences with respect to such Indebtedness; and (d) apply any other security therefor held by Assignee to the satisfaction of such Indebtedness; in each case without prejudice to any of Assignee's other rights hereunder or under any other security given to secure the Indebtedness secured hereby.

17. Assignee may at its option although it shall not be obligated to do so, perform any Lease covenant for and on behalf of the Assignor and each of them, and all monies expended in so doing shall be chargeable to the Borrower, with interest thereon at the rate set forth in the Note applicable to a period when a default exists under the Note, and shall be added to the Indebtedness secured hereby, and shall be immediately due and payable.

18. Waiver of, or acquiescence by Assignee in, any default by the Assignor, or failure of the Assignee to insist upon strict performance by the

94708839

UNOFFICIAL COPY

Assignor of any covenant, condition or agreement in this Assignment or otherwise, shall not constitute a waiver of any subsequent or other default or failure, whether similar or dissimilar.

19. The rights, remedies and powers of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, all other rights, remedies and powers which Assignee has under the Note and all instruments constituting security for the Note, and at law and in equity.

If any provision contained in this Assignment or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the application of such provisions to persons or circumstances (other than those as to which it is invalid or unenforceable) shall not be affected, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

Each Notice given pursuant to this Assignment shall be sufficient and shall be deemed served if personally delivered or mailed postage prepaid, certified or registered mail, return receipt requested, to the above-stated addresses of the parties hereto, or to such other address as a party may request in writing. Any time period provided in the giving of any Notice hereunder shall commence upon the date such Notice is personally delivered or two business days after said Notice is deposited in the U.S. mail as provided above. Any time period provided in the giving of any Notice hereunder shall commence upon the date such Notice is personally delivered or deposited in the mail.

The term "Assignor", "Assignee", "Borrower" and "Beneficiary" shall be construed to include the heirs, personal representatives, successors and assigns thereof. The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

This Assignment may not be amended, modified or changed nor shall any waiver of any provisions hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

THIS ASSIGNMENT is executed by Borrower, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and each of the undersigned hereby warrants that each possesses full power and authority to execute this instrument) LASALLE NATIONAL BANK N.A. hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing contained herein or in the Note shall be construed as creating any liability on the Borrower personally or on LASALLE NATIONAL BANK N.A. personally to pay the Note or any interest, late charge or premium that may accrue thereon, or any indebtedness secured by the Mortgage, or to perform any covenant, either express or implied herein contained, all such liability, if any, being expressly waived by Assignee and by every person now or hereafter claiming any right or security hereunder, and that so far as Borrower and LASALLE NATIONAL BANK N.A. personally are concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness secured hereby shall look solely to the Premises and Collateral conveyed and assigned and to any other security given at any time to secure the payment thereof.

IN WITNESS WHEREOF, the said Assignor has caused this instrument to be signed and sealed as of the date first above written.

LASALLE NATIONAL BANK N.A.
solely as Trustee aforesaid

By: 

Its: Vice President

ATTEST:

By: 
Its: Assistant Secretary
(Impress corporate seal here)

UNOFFICIAL COPY

and by

400 NORTH ASHLAND BUILDING PARTNERSHIP
an Illinois General Partnership

By: Warren B. Weisberg
Warren B. Weisberg,
General Partner

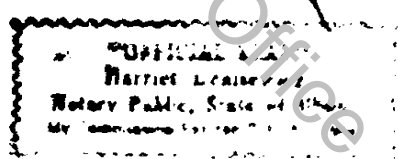
By: _____
Marvin Klein,
General Partner

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, HARRIET DENISE VICEZ, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Corliss Bok, personally known to me and known by me to be the Vice President of LASALLE NATIONAL BANK N.A., a national banking association having trust powers, and William H. Dillou, personally known to me to be the Assistant Secretary of said association, 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 Vice President and Assistant Secretary of said association as Trustee as aforesaid, they signed the foregoing instrument as such Vice President and Assistant Secretary of said association as Trustee as aforesaid, and caused the seal of said association to be affixed thereto, pursuant to authority given by the Board of Directors of said association, as their free and voluntary act, and as the free and voluntary act and deed of said association, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4 day of August, 1994.

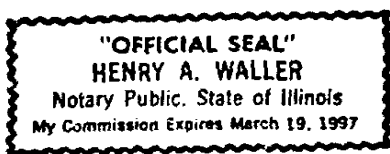
Harriet Denise Vicez
Notary Public



STATE OF ILLINOIS)
) SS
COUNTY OF _____)

I, Henry A. Waller, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Marvin Klein and Warren B. Weisberg are personally known to me to be General Partners of 400 ASHLAND BUILDING PARTNERSHIP, an Illinois General Partnership and the same persons whose names are subscribed to the foregoing instrument, that said persons appeared before me this day in person and acknowledged that they signed the foregoing instrument as their free and voluntary act for the use and purpose therein set forth.

GIVEN under my hand and Notarial Seal this 8 day of AUGUST, 1994.



Henry A. Waller
Notary Public

94708839

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL I:

PARCEL 1: LOTS 9 AND 10 IN BLOCK 5 IN J. W. COCHRAN'S SUBDIVISION OF OUT-LOT OR BLOCK 32 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 11, LOT 12 (EXCEPT THE SOUTH 1 1/4 INCHES), LOTS 14, 15, 16, 17 AND THE NORTH 11 FEET OF LOT 18 (EXCEPT THAT PART OF LOTS 14, TO 18 LYING EAST OF A LINE 50 FEET WEST OF AND PARALLEL TO EAST LINE OF SECTION 7) IN SUB-BLOCK 5 IN STEELE AND COCHRAN'S SUBDIVISION OF BLOCK 32 IN CANAL TRUSTEE'S SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 410-420 N. Ashland Avenue, Chicago, IL

P.I.N. 17-07-241-006; 17-07-241-007; and 17-07-241-020

PARCEL II:

PARCEL 1: THE SOUTH 1 1/4 INCHES OF LOT 12 AND ALL OF LOTS 13, 18 (EXCEPT THE NORTH 11 FEET OF LOT 18) 19, 20, 21, 22, 23, 24, 25 AND 26 IN SUB-BLOCK 5 IN J. W. COCHRAN'S SUBDIVISION OF BLOCK 32 IN CANAL TRUSTEES' SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART OF LOTS 18 AND 19 LYING EAST OF A LINE 50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION 7) ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 1 (EXCEPT THAT PART LYING EAST OF A LINE 50 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID SECTION 7) AND ALL OF LOTS 2, 3 AND 4 IN SUBDIVISION OF BLOCK 5 IN BLOCK 32 IN CANAL TRUSTEES' SUBDIVISION IN SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3: LOT 5 IN BLOCK 5 IN COCHRAN'S SUBDIVISION OF BLOCK 32 IN CANAL TRUSTEE'S SUBDIVISION OF SECTION 7, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 400 N. Ashland Avenue, Chicago, Illinois

P.I.N. 17-07-241-019; 17-07-241-005; and 17-07-241-004

94708839

UNOFFICIAL COPY

EXHIBIT "B"

Industrial Building Lease dated July 1, 1994 between Assignor as Landlord and Consolidated Chemical Works and Portion Pac Chemical Corporation as Tenants for the term of July 1, 1994 through June 30, 1999 (with two renewal options of five years each) with initial rent of the sum of \$17,500.00 per month, and increasing each year thereafter pursuant to the terms of said lease.

Property of Cook County Clerk's Office

94708339