

# UNOFFICIAL COPY

Prepared by and return to:

95251483

Dean G. Galanopoulos  
Law Offices of Galanopoulos and Galgan  
340 W. Butterfield Road, Suite 1A  
Elmhurst, IL 60126

Box 333

DEPT-01 RECORDING 135.00  
140012 TRAN 3581 04/17/95 10:10:00  
3276 : J17 \*--95-251483  
COOK COUNTY RECORDER

## ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES ("Assignment") is made as of April 17, 1995 by and among: PIONEER BANK & TRUST COMPANY, not personally, but as Trustee under Trust Agreement dated April 6, 1995 and known as Trust Number 25999 whose mailing address is 1056 North Wolcott, Chicago, Illinois 60622 ("TRUSTEE") jointly and severally with JOSE MESTEY and JULIA MESTEY, his wife whose mailing address is 1056 North Wolcott, Chicago, Illinois 60622 ("BENEFICIARY", whether one or more) and PIONEER BANK & TRUST COMPANY whose address is 4000 West North Avenue, Chicago, Illinois 60639 ("ASSIGNEE"). TRUSTEE and BENEFICIARY are hereinafter sometimes referred to as the "ASSIGNOR". BENEFICIARY owns one hundred percent (100%) of the beneficial interest under the Trust Agreement, but has no legal equitable interest in the Premises, as hereinafter defined.

### W I T N E S S E T H:

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 in, to and under all present leases of the Premises described in Exhibit "A" attached hereto and made a part hereof ("PREMISES"), including those leases described on the Schedule of Leases (if any) attached hereto and made a part hereof, together with all future leases hereinafter entered into by any lessor affecting the PREMISES, and all guarantees, 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:

1. The payment of the indebtedness (including any extensions and renewals thereof) evidenced by that certain Promissory Note from TRUSTEE of even date herewith in the principal sum of SIXTY SEVEN THOUSAND AND 00/100 DOLLARS (\$67,000.00) (the "NOTE") and secured by that certain Mortgage of TRUSTEE of even date herewith, encumbering the PREMISES (the "MORTGAGE"); and

2. The payment of all other sums with interest thereon becoming due and payable to ASSIGNEE under the provisions of the

BOX 333-CTI

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Mortgage and all other instruments constituting security for the Note; and

3. The performance and discharge of each and every term, covenant and condition of TRUSTEE contained in the Note, Mortgage and in all other instruments constituting security for the Note.

ASSIGNOR covenants and agrees with ASSIGNEE as follows:

1. That there is no present lease of the PREMISES not listed on the Schedule of Leases (if one is attached hereto).

2. That the sole ownership of the entire lessors' interest in the Leases is vested in TRUSTEE. TRUSTEE has not and shall not: (a) perform any act or execute any other instrument which might prevent ASSIGNEE from fully exercising its rights under any term, covenant or condition of this Assignment; (b) execute any assignment or pledge of rents, income, profits or any of the Leases except any 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 lessee thereunder.

3. That each of those Leases listed on the Schedule of Leases (if one is attached hereto) is valid and enforceable in accordance with its terms and none has been altered, modified, amended, terminated, cancelled, renewed or surrendered nor has any term of condition thereof been waived in any manner whatsoever, except as heretofore approved in writing by ASSIGNEE.

4. That none of the Leases shall be altered, modified, amended, terminated, cancelled or surrendered nor shall any term or condition thereof be waived without the prior written approval of ASSIGNEE.

5. That 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 lessor 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 Lessees thereunder to be performed and observed.

6. That 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 lessor, together with a complete copy of each such notice.

7. That each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and lessee under any of the Leases.

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8. That, 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. That 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 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. That if any event of default occurs at any time under the Note, Mortgage or any other instrument constituting additional security for the Note, ASSIGNEE may (at its option after service of a Notice) 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 any foreclosure proceedings, and (if there is a deficiency) during the redemption period (if any).

11. That TRUSTEE 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 TRUSTEE 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 lessees of the PREMISES are hereby expressly authorized and directed to pay to ASSIGNEE, or to such nominee as ASSIGNEE may designate in writing delivered to and received by such lessees, all amounts due ASSIGNOR or any of them pursuant to the Leases. All present and future lessees are expressly relieved of all duty, liability or obligation to ASSIGNOR and each of them in respect of all payments so made to ASSIGNEE or such nominee.

12. That 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

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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 TRUSTEE to ASSIGNEE, including but not limited to: (a) the payment of taxes, special assessments, insurance premiums, damage claims, the cost of maintaining, repairing, rebuilding and restoring the improvements on the PREMISES or of making the same rentable, attorneys' fees incurred in connection with the enforcement of this Assignment; and (b) interest and principal payments due from TRUSTEE to ASSIGNEE on the Note and the Mortgage; all in such order and for such time as ASSIGNEE may determine.

13. That 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 lessor 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. That 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. That this Agreement 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 lessee 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 lessee, occupant, licensee, employee or stranger.

16. That 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 secured hereby.

17. That 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 all monies expenses in so doing shall be chargeable to the TRUSTEE, with interest thereon at the Default Rate, as defined in the Note, and shall be added to the indebtedness secured hereby, and shall be immediately due and

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payable.

18. That waiver of, or acquiescence by ASSIGNEE in, any default by the ASSIGNOR, or failure of the ASSIGNEE to insist upon strict performance by the 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. That 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 Agreement or its application to any person or circumstances is to any extent invalid or unenforceable, the remainder of this Assignment and the applicable 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 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 deposited in the mail.

The term "ASSIGNOR", "ASSIGNEE", and "TRUSTEE" 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 execute by TRUSTEE, 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 the undersigned hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on ASSIGNOR or any of them personally to perform any covenant either expressed or implied herein contained, all such liability if any, being expressly waived by every person now or hereafter claiming any right or security

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hereunder.

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

PIONEER BANK & TRUST COMPANY, not personally, but as Trustee as aforesaid:

By: [Signature]  
Its: TRUST OFFICER

ATTEST:

By: [Signature]  
Its: ASST. SECRETARY

[Signature]  
JOSE MESTEY

[Signature]  
JULIA MESTEY

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

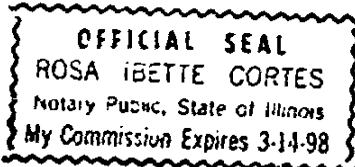
I, ROSA IBETTE CORTES a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that LAURA A. HUGHES and ROBERT F. BERRY

personally known to me and known by me to be the TRUST OFFICER and ASST. SECRETARY, respectively, of PIONEER BANK & TRUST COMPANY, in whose name, as Trustee, the above and foregoing is executed, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their free and voluntary act and as the free and voluntary act of said PIONEER BANK & TRUST COMPANY as Trustee as aforesaid, for the uses and purposes therein set forth, and the said PIONEER BANK & TRUST COMPANY then and there acknowledged that he, as custodian of the corporate seal of said PIONEER BANK & TRUST COMPANY did affix the said corporate seal to said instrument as his free and voluntary act of said PIONEER BANK & TRUST COMPANY as Trustee as aforesaid for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11th day of April, 1995.

[Signature]  
Notary Public

My Commission Expires:



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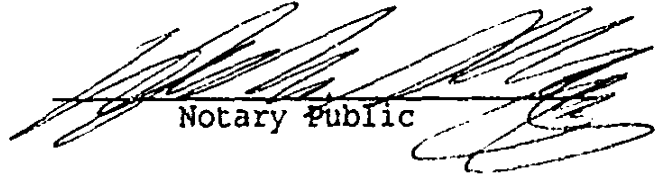
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STATE OF ILLINOIS )  
                                      ) SS.  
COUNTY OF COOK    )

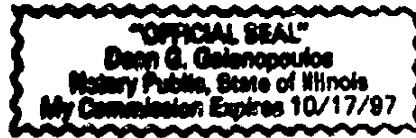
I, DEAN G. GALANPOULOS, a Notary Public in and for and residing in said County, in the State aforementioned, DO HEREBY CERTIFY, that JOSE MESTEY and JULIA MESTEY, who are personally known to me to be the same person whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledge that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 11<sup>th</sup> day of April, 1995.

  
Notary Public

My Commission Expires:

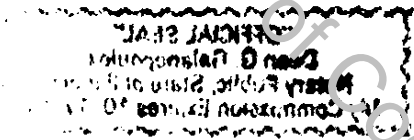
OCTOBER 17, 1997



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EXHIBIT "A"

LEGAL DESCRIPTION

LOT 25 IN FAIRFIELD'S AND TUDOR'S SUBDIVISION OF THE WEST ONE-HALF (1/2) OF BLOCK 5 OF BORDEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

P.I.N. 17-36-419-048

Address of Property: 1700 N. Talman, Chicago, IL 60647

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