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 COOK COUNTY RECORDER

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## MEMORANDUM OF AGREEMENT TO LEASE AND MORTGAGE AND ASSIGNMENT TO SECURE OPTION

THIS MEMORANDUM OF AGREEMENT TO LEASE AND MORTGAGE AND ASSIGNMENT TO SECURE OPTION ("Memorandum") is made and entered into this 22 day of January, 1996, by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO not personally but solely as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 48662 (the "Landlord"), and AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO not personally but solely as Trustee under Trust Agreement dated April 20, 1994 and known as Trust No. 118199-01 ("Tenant"). All initially capitalized terms used in this Memorandum and not defined herein shall have the meanings respectively ascribed to them in the Lease.

### Memorandum of Lease Provisions

Landlord and Tenant have each executed that certain Agreement to Lease dated as of January 1, 1996 (the "Lease"), pursuant to which, *inter alia*:

1. Landlord has leased to Tenant the real property described on Exhibit A attached hereto and made a part hereof (the "Land") together with any and all buildings and improvements from time to time situated thereon (the "Improvements") and any and all right, title or interest that Landlord may now or hereafter have in and to the alley adjoining the Land and the public right-of-way known as Chicago Avenue and all and singular the appurtenances, rights, interests, easements, and privileges now or hereafter in anyway belonging or appertaining to the Land

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and/or the Improvements (all of the foregoing being collectively referred to in this Lease as the "Leased Premises") for a term of ninety-nine (99) years, commencing on January 1, 1996.

2. Tenant has the right, at any time during the term of the Lease upon written request, to require Landlord to execute and deliver Mortgage(s) having such terms and conditions as Tenant shall determine and such other instruments or documents as shall be reasonably required to subordinate the Fee Estate to the lien of the encumbrances represented by such Mortgage(s) and to execute, acknowledge, and deliver such other instruments as the Mortgagee(s) reasonably may require to enable Tenant to obtain financing or refinancing of the Improvements, provided (i) the Landlord shall not be required to execute any note to be secured by a Mortgage and any such Mortgage shall contain language reasonably satisfactory to Landlord to the effect that Landlord executes it solely for the purposes of encumbering Landlord's Fee Estate and without assuming any personal liability whatsoever for the payment of the note it secures or assuming any affirmative duties aside from its duties under the Lease, and (ii) each Mortgage shall expressly provide that the applicable Mortgagee will give Landlord written notice of default thereunder, the failure to cure which might result in the acceleration of the debt secured by such Mortgage. Any such Mortgage(s) are collectively referred to as "Fee Mortgages".
3. Landlord has appointed and constituted Tenant as Landlord's true and lawful attorney-in-fact in Landlord's name (a) to grant to the owners, tenants and occupants of any portion of the Additional Land such easements, licenses and/or use rights in or to all or a portion of the Leased Premises as Tenant may deem necessary or desirable; (b) to apply for and secure the vacation of any alleys adjoining the Leased Premises and any zoning variances, permits, licenses, or subdivisions of the Leased Premises; (c) to execute leases with any subtenant; (d) to construct any new buildings or improvements upon the Leased Premises; (e) to make any alterations, additions, changes or repairs to any portion of the Leased Premises; and (f) to execute Fee Mortgages, as provided in Section 13 of the Lease.
4. Tenant has the absolute right to transfer or assign its interest in, to or under the Lease in whole or in part, without Landlord's consent. Tenant also has the absolute right to sublease or underlet the Leased Premises, or any part thereof, or permit any other persons to occupy the Leased Premises, or any part thereof, without Landlord's consent. In addition, from time to time Tenant has the absolute right to grant to any Mortgagee a security interest in the personal property owned by Tenant and located at the Leased Premises and/or a collateral assignment of subleases by Tenant of all or any portion of the Leased Premises and the rents, issues and profits therefrom, and Landlord agrees that any interest Landlord may have in such personal property or subleases shall be subordinate to the interest of any such Mortgagee.

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5. Landlord has the right to require Tenant to purchase the Fee Estate from Landlord (the "Put"), and Tenant has the right to require Landlord to sell the Fee Estate to Tenant (the "Option"), on the terms and conditions specified in the Lease.

Other terms and conditions of the agreements between Landlord and Tenant are contained in the Lease. In the event of any inconsistency between the terms hereof and the terms of the Lease, the terms of the Lease shall control.

## Mortgage and Assignment to Secure Option

As security for the obligations of Landlord under the Option and as security for any damages payable to Tenant as a result of the fact that Landlord either (i) fails to perform its obligations under the Option in the event the Option is exercised or (ii) rejects the Option either before or after exercise thereof pursuant to § 365 of the Bankruptcy Code or other applicable law providing similar rights (collectively, an "Option Breach"), Landlord hereby MORTGAGES AND WARRANTS unto Tenant the Fee Estate and hereby assigns and grants to Tenant a security interest in all rents, issues, profits, and proceeds of the Fee Estate (including without limitation all of the rents and other amounts payable to Landlord under the Lease), which mortgage, assignment and security interest shall be superior to any other lien, encumbrance or exception to title on the Fee Estate or such rents, issues, profits, or proceeds (other than the lien of any Fee Mortgage and any assignment or security interest granted to the Fee Mortgagee in connection therewith). In the event of any Option Breach, Tenant shall have the right to foreclose the mortgage, assignment, and security interest granted herein in the manner provided by law and to exercise any and all other remedies provided by law; provided that, at the foreclosure sale, the amount required to be tendered by the purchaser at the foreclosure sale shall not be less than the applicable Purchase Price less an amount equal to the sum of (x) all damages (including consequential damages) incurred by Tenant as a result of the Option Breach and (y) all of Tenant's costs and expenses incurred in foreclosing such mortgage, assignment and security interest or otherwise enforcing its rights under the Lease. Nothing in this paragraph or in the Lease shall be deemed to limit any other remedies of Tenant on account of any Option Breach, including but not limited to the right to seek specific performance of the Option, it being intended that the right to foreclose upon the mortgage, assignment, and security interest granted herein shall be in addition to all other remedies of Tenant.

All other terms and conditions of the agreements between Landlord and Tenant are contained in the Lease. In the event of any inconsistency between the terms hereof and the terms of the Lease, the terms of the Lease shall control.

[Signatures contained on following page]

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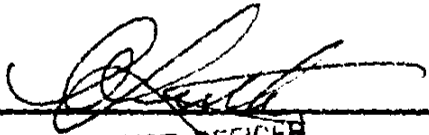
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IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the day and year first above written.


LANDLORD:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO not personally but solely as Trustee under Trust Agreement dated December 19, 1979 and known as Trust No. 48662

By:   
Its: TRUST OFFICER  
Name: Anita M. Lutkus

TENANT:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO not personally but solely as Trustee under Trust Agreement dated April 20, 1994 and known as Trust No. 118199-01

By:   
Its: TRUST OFFICER  
Name: Anita M. Lutkus

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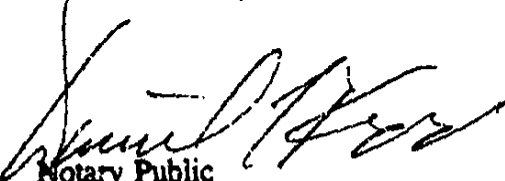
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## ACKNOWLEDGEMENT FOR LANDLORD

STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

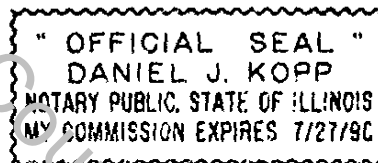
I, Daniel J. Kopp, a Notary Public, in and for and residing in the County and State aforesaid, do hereby certify that TRUST OF personally known to me to be the same person whose name is subscribed to the foregoing Memorandum of Lease and Mortgage and Assignment to Secure Option as Trustee under AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO Trust No. 48662 appeared before me this day in person and acknowledged that he signed and delivered said instrument as Trustee under AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO Trust No. 48662.

GIVEN under my hand and notarial seal this 2nd day of January, 1996.

  
Notary Public

My Commission Expires:

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## ACKNOWLEDGEMENT FOR TENANT

STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF COOK     )

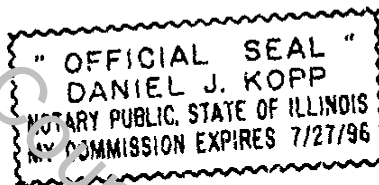
I, Daniel J. Kopp, a Notary Public, in and for and residing in the County and State aforesaid, do hereby certify that ~~Wesley M. Trust~~ <sup>Trust</sup> OFFICIAL personally known to me to be the same person whose name is subscribed to the foregoing Memorandum of Lease and Mortgage and Assignment to Secure Option as Trustee under AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO Trust No. 118199-01 appeared before me this day in person and acknowledged that he signed and delivered said instrument as Trustee under AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO Trust No. 118199-01.

GIVEN under my hand and notarial seal this 22 day of January, 1996.

  
Notary Public

My Commission Expires:

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## EXHIBIT A

### Legal Description of the Land

LOT 8 IN BLOCK 53 IN BUTLER'S SUBDIVISION OF THE NORTHEAST CORNER OF BLOCK 53  
IN KINZIES ADDITION TO CHICAGO, IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF  
SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN,  
IN COOK COUNTY, ILLINOIS.

Address: 115 East Chicago Ave., Chicago, IL

P.I.N.: 17-10-102-014



prepared By  
Cmc

Mail to:  
Near North Nat'l Title  
200 N. LaSalle 1st Fl.  
Chicago, IL 60601  
attn: Underwriting

38065191

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