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96346449

This instrument was prepared by
and upon recordation should be
returned to:

Kris E. Curran, Esq.
Coffield Ungaretti & Harris
3500 Three First National Plaza
Chicago, Illinois 60602

. DEPT-01 RECORDING \$37.00
. T#0012 TRAN 0482 05/07/96 12:57:00
. #9186 # CG #-96-346449
. COOK COUNTY RECORDER

ASSIGNMENT OF RENTS AND LEASES

37.00 MM

THIS ASSIGNMENT OF RENTS AND LEASES (the "Assignment") made and executed this 2nd day of May, 1996 by **85 ALGONQUIN L.L.C.**, an Illinois limited liability company, whose mailing address is c/o Hamilton Partners, Inc., 300 Park Boulevard, Itasca, Illinois 60143 ("Borrower") to, in favor of and for the benefit of **STATE FARM LIFE INSURANCE COMPANY**, an Illinois corporation, whose mailing address is One State Farm Plaza, Bloomington, Illinois 61710 ("State Farm"),

WITNESSETH:

WHEREAS, State Farm has made a loan to Borrower (the "Loan") which is evidenced by that certain Promissory Note executed by the Borrower to and in favor of State Farm of even date herewith in the principal amount of Five Million Three Hundred Thousand Dollars (\$5,300,000.00) (the "Note").

WHEREAS, the Note is secured by (i) a Mortgage and Security Agreement executed by Borrower and in favor of State Farm of even date herewith (the "Mortgage") granting to State Farm, among other things, a first priority lien and encumbrance upon the Real Estate (as defined in the Mortgage) and Improvements (as defined in the Mortgage) legally described in Exhibit A attached to this Assignment (the "Premises"); and (ii) certain other Loan Documents (as defined in the Mortgage), also executed by the Borrower to and in favor of State Farm of even date herewith, the terms and provisions of which Mortgage and other Loan Documents are by this reference thereto incorporated herein and made a part hereof.

WHEREAS, as a material inducement to State Farm to make the Loan and as further security for the Loan, Borrower makes this Assignment.

NOW, THEREFORE, for \$10.00 and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

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15-92-677-02
- one 1884-94384240-#

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ARTICLE ONE

Assignment of Rents and Leases

1.1 **Definitions.** For purposes of this Assignment, the following definitions shall apply:

(a) "**Credit Leases**". The lease(s) on or with respect to the Premises, including any sublease(s), assignment(s), and replacement lease(s) therefor, listed and described on Exhibit B attached to this Assignment.

(b) "**Other Leases**". Any lease(s) on or with respect to the Premises other than the Credit Leases.

(c) "**Leases**". Collectively, the Credit Leases and the Other Leases.

(d) "**Guarantees**". Any and all guarantees of the payment of rent by and performance of all other obligations of the tenant(s) under the Leases.

(e) "**Other Definitions**". Capitalized terms not otherwise defined in this Assignment shall have the meaning ascribed to such terms in the Note, the Mortgage and other Loan Documents.

1.2 **Assignment of Rents.** Subject to the terms and conditions of this Assignment, Borrower hereby absolutely, unconditionally and irrevocably transfers, conveys, assigns and grants to State Farm all of Borrower's right, title and interest in and to all rents, issues, profits, proceeds, income, revenues, royalties, advantages, avails, claims against guarantors, security and other deposits (whether in cash or other form), advance rentals, damages, insurance and condemnation proceeds and any and all other payments or benefits now or hereafter derived, directly or indirectly, from the Real Estate and Improvements, whether under the Leases or otherwise (collectively the "Rents").

1.3 **Assignment of Leases.** Subject to the terms and conditions of this Assignment, Borrower hereby absolutely, unconditionally and irrevocably assigns and grants to State Farm all of Borrower's right, title and interest as Landlord in, to and under all Leases, together with any and all Guarantees.

1.4 **Absolute Assignments.** The foregoing assignments of Rents and Leases are present and absolute assignments and not assignments for or as security only. State Farm's right to the Rents and Leases is not contingent upon its possession of the Premises.

1.5 **License.** State Farm hereby grants to and confers upon Borrower a revocable license to collect and retain the Rents as the same become due and payable under the Leases, but not in excess of 30 days in advance, so long as, and only so long as, no Event of Default (as herein defined) exists under this Assignment, the Note, the Mortgage or any of the other Loan Documents (the "License"). Upon the occurrence of an Event of Default under this Assignment,

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the Note, the Mortgage or any of the other Loan Documents, the License granted and conferred herein shall immediately and automatically be revoked, cease and terminate without notice.

Upon any such revocation and termination of the License, State Farm shall have the right to notify all tenants under the Leases to pay the Rents then due and thereafter coming due directly to State Farm. After such revocation and termination of the License, any and all Rents received by the Borrower, shall be remitted to State Farm not later than three (3) business days following Borrower's receipt of the same.

Borrower hereby authorizes and directs any tenant under the Leases, upon receipt of written notice from State Farm stating that an Event of Default has occurred or exists under the Note, the Mortgage or any of the other Loan Documents, to pay directly to State Farm the Rents then due and thereafter coming due under the Leases. Borrower agrees that any tenant shall have the right to rely upon any such notice from State Farm without any obligation, and without any right, to inquire as to whether any such Event of Default has actually occurred or exists and notwithstanding any claim of Borrower to the contrary. Borrower shall have no claim (and hereby waives any claim) against any tenant for the Rents paid by such tenant directly to State Farm following its receipt of any such notice from State Farm.

ARTICLE TWO Covenants

2.1 Negative Covenants. As to the Leases, generally, except as provided in Section 2.3, Borrower hereby covenants and agrees that it shall not, without the prior written consent of State Farm (which consent shall not be unreasonably withheld), (i) cancel, terminate, discharge, compromise or materially alter or modify the Leases or the Rents due or to become due thereunder or change the terms of any Guarantees; (ii) accept any Rents for more than one installment in advance; (iii) waive, release, reduce, discount or otherwise discharge or compromise any Rents; (iv) waive, release, reduce, discount or otherwise discharge or compromise any Guarantees; or (v) execute any other assignment of the Leases or the Rents, whether absolute or conditional.

2.2 Affirmative Covenants. As to the Credit Leases only, Borrower shall: (i) promptly notify State Farm in writing of any default or of any attempted termination, relocation or buyout, or any notice of the same given by either the Borrower or any tenant; (ii) perform all of its covenants, agreements and obligations as landlord under the Credit Leases, (iii) not suffer or permit to occur any release of liability of any tenant or guarantor or the accrual of any right in any tenant or guarantor to withhold payment of Rents; and (iv) enforce the terms of the Credit Leases and all remedies available to the Borrower as landlord under the Credit Leases against the tenants in any case of any material default by any tenant under the Credit Leases.

2.3 As To The Other Leases. As to the Other Leases, Borrower, so long as Borrower no Event of Default exists under this Assignment or any other Loan Documents and is otherwise acting in good faith and in a commercially reasonable manner, shall have the right, should any tenant of one or more of the Other Leases become insolvent, fail to perform its lease

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obligations or abandon the leased premises, to (i) waive, release, reduce, discount or cancel any Rents due under said Other Leases and/or (ii) terminate or make any commercially prudent modification to such Other Leases.

ARTICLE THREE Default and Remedies

3.1 Default.

(a) It shall constitute an event of default ("Event of Default") of and under this Assignment and, at the option of State Farm under the other Loan Documents, if Borrower shall fail to perform or observe any of the covenants, agreements or conditions of this Assignment and any such failure shall remain unremedied for thirty (30) days after notice to Borrower of the occurrence of such failure.

(b) It shall constitute an Event of Default of and under this Assignment if there shall occur under the Note, Mortgage and other Loan Documents an Event of Default as defined in those Loan Documents.

3.2 Remedies.

Upon the occurrence of an Event of Default, the License shall automatically be revoked, cease and terminate without notice to the Borrower and without regard to the adequacy or inadequacy of State Farm's security under this Assignment, the Mortgage or the other Loan Documents. Thereupon, State Farm shall be entitled to exercise any and all rights and remedies provided in this Assignment, the Mortgage and the other Loan Documents. The application of any Rents collected by State Farm shall be in accordance with the terms of the Mortgage.

The rights and remedies provided in this Assignment shall not be deemed exclusive of any rights or remedies granted to State Farm in the Mortgage or by law, but shall be deemed special and additional rights and remedies and shall be cumulative with those rights and remedies granted in the Mortgage or by law.

ARTICLE FOUR Miscellaneous

4.1 Perfection. This Assignment shall be perfected upon its recordation in the official public records of Cook County, Illinois. Neither possession of the Rents nor the appointment of a Receiver of the Premises shall be required for such perfection.

4.2 Assignment. State Farm may assign its rights in and under this Assignment to any subsequent holder of the Note and Mortgage and to any person acquiring title to the Premises through foreclosure of the Mortgage or otherwise.

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4.3 Obligations. State Farm shall not be obligated to perform or discharge, nor, by its acceptance of this Assignment, does it undertake to perform or discharge, any obligation, duty or liability of Borrower, as landlord under the Leases, or otherwise. Nothing herein contained shall be construed as causing State Farm to be a "Mortgagee in Possession" and State Farm shall have no liability of a Mortgagee in Possession by exercising its rights under this Assignment, all such liability being expressly waived and released by Borrower.

4.4 Ownership. Borrower represents and warrants that it is the absolute owner of the Rents and Leases with full right, power and authority to execute and deliver this Assignment. Each of the Leases is legally valid, binding upon and enforceable against the tenant named therein and has not been changed or modified except as stated on Exhibit B. There is no outstanding assignment or pledge of the Rents or Leases or any one thereof, nor are there any existing defaults under the Leases or any one thereof. To the best of Borrower's knowledge, no tenant under any Lease has any defenses, set offs or counterclaims against Borrower.

4.5 Notices. Any Notice required to be given hereunder shall be given in the manner specified in the Mortgage.

4.6 Conflict. In the event of a conflict between the provisions of this Assignment and any other Loan Documents, this Assignment shall control.

4.7 Cooperation. Borrower agrees to cooperate with any reasonable request of State Farm to implement the provisions of this Assignment.

4.8 Successors and Assigns. Whenever the word "Borrower" is used herein, it is agreed and understood that the same includes and shall be binding upon the Borrower's successors and assigns and any party holding title to the Premises by, through or under the Borrower. All of the rights, powers, privileges and immunities herein granted and assigned to State Farm shall also inure to its successors and assigns, including all holders of the Note and Mortgage.

4.9 Waiver of Trial by Jury. Borrower hereby waives, to the fullest extent permitted by Applicable Law, the right to trial by jury in any action, proceeding or counterclaim filed by any party, whether in contract, tort or otherwise, relating, directly or indirectly to this Assignment or any acts or omissions of the Borrower in connection therewith or contemplated thereby.

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IN WITNESS WHEREOF, Borrower has executed this Assignment as of the day and year first above written.

BORROWER:

85 ALGONQUIN L.L.C.,
an Illinois limited liability company

By: H.P. 85 Algonquin L.L.C., an
Illinois limited liability company,
its managing member

By:



Ronald C. Lunt, managing
member

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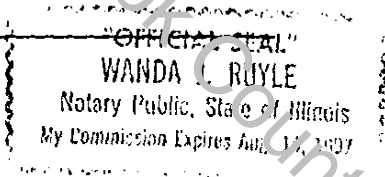
STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ronald C. Lunt, the managing member of H.P. 85 Algonquin L.L.C., the managing member of 85 Algonquin L.L.C., personally known to be the same person whose name is subscribed to the foregoing instrument as such managing members of the managing member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company.

Given under my hand and Notarial Seal this 3rd day of May, 1996.

Wanda J. Ruyle
Notary Public

My Commission Expires:



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EXHIBIT A THE PREMISES

PARCEL 1: LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPT THAT PART TAKEN IN FEE SIMPLE TITLE BY THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS IN CASE NUMBER 93LS1190, AS FOLLOWS:

THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN PART OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF, RECORDED NOVEMBER 27, 1979 AS DOCUMENT 25261219, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 2; THENCE ON AN ASSUMED BEARING OF SOUTH 32 DEGREES 56 MINUTES 06 SECONDS WEST ALONG THE EASTERLY LINE OF SAID LOT 2 A DISTANCE OF 14.43 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 33 DEGREES 27 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 1 DEGREE 33 MINUTES 00 SECONDS 69.01 FEET TO THE WESTERLY LINE OF SAID LOT 2, BEING ALSO A POINT ON A 30.00 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS SOUTH 89 DEGREES 23 MINUTES 13 SECONDS WEST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, BEING ALSO THE SAID WESTERLY LINE OF LOT 2, RADIUS OF 30.00 FEET, CENTRAL ANGLE 55 DEGREES 09 MINUTES 09 SECONDS 28.83 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, BEING ALSO A POINT ON A 2541.29 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 34 DEGREES 19 MINUTES 04 SECONDS EAST FROM SAID POINT; THENCE SOUTHEASTERLY ALONG SAID CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 2, RADIUS 2541.29 FEET, CENTRAL ANGLE 2 DEGREES 06 MINUTES 11 SECONDS 93.28 FEET (93.29 FEET, RECORDED) TO THE POINT OF BEGINNING.

PARCEL 2: RECIPROCAL EASEMENT FOR INGRESS AND EGRESS AS CREATED BY THAT CERTAIN AGREEMENT DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND REGISTERED WITH THE REGISTRAR OF TITLES ON OCTOBER 1, 1979 AS DOCUMENT LR3121973 AND AS AMENDED BY AGREEMENT DATED JANUARY 27, 1981 AND RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR3218008.

PARCEL 3: EASEMENT FOR THE CREATION AND MAINTENANCE OF A DETENTION/RETENTION POND CREATED BY THAT CERTAIN AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED WITH THE RECORDER OF DEEDS OF COOK COUNTY, ILLINOIS JANUARY 4, 1980 AS DOCUMENT 25306989 AND REGISTERED WITH THE REGISTRAR OF TITLE JANUARY 4, 1980 AS DOCUMENT LR3139276 AND AS AMENDED BY DOCUMENT RECORDED MARCH 7, 1983 AS DOCUMENT NUMBER 26527048 AND FILED AS DOCUMENT NUMBER LR3296792, PERTAINING TO LOT 1 AND LOT 2 IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address of Property: 85 W. Algonquin Road, Arlington Heights, Illinois
P.I.N: 08-16-200-102-0000

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EXHIBIT B

THE CREDIT LEASES

NONE

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