

UNOFFICIAL COPY

This Instrument prepared /
 by and after recording /
 return to: /
 _____ /
 American National Bank /
 Division 327 /
 33 N. LaSalle Street /
 Chicago, IL 60690 /

97559954

DEPT-01 RECORDING \$37.00
 T#0012 TRAM 6151 08/01/97 11:35:00
 48056 + RC #-97-559954
 COOK COUNTY RECORDER

**AMERICAN NATIONAL BANK
 AND TRUST COMPANY OF CHICAGO**

ASSIGNMENT OF RENTS AND LEASES

*LaSalle National Bank, successor trustee to

THIS ASSIGNMENT is made this 30th day of June, 1997, by and between* LaSalle National Trust, N.A., not personally but solely as successor trustee to LaSalle National Bank, as trustee under Trust Agreement dated December 20, 1974 and known as Trust Number 48413 ("Trustee") and Klehm Boys Partnership d/b/a Charles Klehm & Son Nursery ("Beneficiary") (Trustee and Beneficiary hereinafter referred to collectively as "Borrower" or "Assignor") and American National Bank and Trust Company of Chicago, a National Banking Association (hereinafter referred to as "Assignee").

WITNESSETH

I. ASSIGNOR, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, transfers, sets over, conveys and assigns to Assignee all right, title, and interest of the Borrower in, to and under any and all leases and subleases together with any and all future leases hereinafter entered into by Borrower (collectively the "Leases") affecting the subject property in South Barrington, Illinois and legally described in Exhibit "A" attached hereto and made a part hereof and all guaranties, amendments, extensions, and receivables of said Leases and all rents, income, and profits which may now or hereafter be or become due and owing under the Leases or on account of the use of the subject property.

II. THIS ASSIGNMENT is given to secure:

A. The payment of the indebtedness (including any amendments, modifications, extensions, renewals or replacements thereof) evidenced by a certain Promissory Note (Secured) of Borrower of even date herewith in the principal sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00) (hereinafter referred to as the "Note") and any and all other indebtedness of Assignor and/or Borrower to the Assignee including all other present and future, direct and indirect obligations and liabilities of the Assignor and/or

BOX 333-CTI

76 0693902
 Ball
 2/10

3700 ID

97559954

UNOFFICIAL COPY

THE STATE OF ILLINOIS

CLERK OF THE SUPREME COURT

RECEIVED

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Borrower to the Assignee in an amount not to exceed the principal sum of two times the principal amount of the Note at any one time outstanding, and secured by a certain Mortgage (hereinafter referred to as the "Mortgage") of even date herewith encumbering the subject property; and

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

C. The performance and discharge of each and every term, covenant and condition of Borrower contained in the Note, Mortgage and any other instrument constituting security for the Note.

III. ASSIGNOR HEREBY COVENANTS, AGREES, REPRESENTS AND WARRANTS THAT:

A. The sole ownership of the Leases is vested in Borrower, and that Borrower has not, and shall not, perform any acts or execute any other instruments which might prevent Assignee from fully exercising its rights under any of the terms, covenants and conditions of this Assignment.

B. The Leases listed on the Schedule of Leases (if one is attached hereto) attached hereto as Exhibit "B" and expressly made a part hereof are valid and enforceable in accordance with their terms and have not been altered, modified, amended, terminated, canceled, renewed or surrendered nor have any of the terms and conditions thereof been waived in any manner whatsoever except as approved in writing by Assignee.

C. There are no leases of the subject property except those listed on the Schedule of Leases (if one is attached hereto).

D. None of the Leases or Lease guarantees, if any, shall be materially altered, modified, amended, terminated, canceled or surrendered nor any term or condition thereof be waived without the prior written approval of the Assignee.

E. There are no defaults now existing under any of the Leases and there exists no state of facts which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases.

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

G. Each of the Leases shall remain in full force and effect irrespective of any merger of the interest of lessor and any lessee under any of the Leases.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

H. Assignor will not permit any Lease to come before the Mortgage and shall subordinate all leases to the lien of the Mortgage.

I. Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, except for security or similar deposits.

J. Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all of the Leases, or any or all rents, issues, income or profits assigned hereunder without the prior written consent of Assignee.

K. Assignor shall not waive or excuse the obligation to pay rent under any Lease.

L. Assignor shall enforce the Leases and all rights and remedies of the lessor thereunder in case of default thereunder by any tenant.

M. Assignor shall enforce the observance and performance of each and every covenant, term, condition and agreement contained in each and every Lease to be observed and performed by the tenant(s) thereunder.

IV. RIGHTS AND REMEDIES UPON DEFAULT

A. This Assignment is absolute and is effective immediately. Notwithstanding the foregoing, until notice is sent to the Assignor in writing that a default has occurred, and has not been cured, under the terms and conditions of the Note or any other instrument constituting additional security for the Note (which notice is hereafter called the "Notice"), Assignor may receive, collect and enjoy the rents, income and profits accruing from the subject property.

B. In the event of any default at any time in the Note, Mortgage or any other instrument constituting additional security for the Note, Assignee may, at its option after service of a written Notice, receive and collect all such rents, income and profits as they become due, from the subject property and under any and all Leases of all or any part of the subject property. Assignee shall thereafter continue to receive and collect all such rents, income and profits, as long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings, and if there is a deficiency, during any redemption period.

C. Borrower hereby irrevocably appoints Assignee its true and lawful attorney 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 the Notice of any default not having been cured, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the subject property, and at Assignee's discretion to file any claim to take any other action or proceeding and make any settlement of any claims, in its own name or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. Lessees of the subject property are hereby

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

expressly authorized and directed to pay any and all amounts due Borrower pursuant to the Leases directly to Assignee or such nominee as Assignee may designate in writing.

D. From and after service of the Notice of any default, 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 designees to enter upon the subject property, 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 subject property together with all personal property, fixtures, documents, books, records, papers and accounts of Assignor relating thereto, and may exclude the Assignor, 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 the Notice of any default that has not been cured, without further notice to Assignor, with full power to use and apply all of the rents and other income herein assigned to the payment of the costs of managing and operating the subject property and of any indebtedness or liability of Borrower to Assignee, including but not limited to the payment of taxes, special assessments, insurance premiums, damage claims, the costs of maintaining, repairing, rebuilding and restoring the improvements on the subject property or of making the same rentable, attorney's fees incurred in connection with the enforcement of this Assignment, and of principal and interest payments due from Borrower to Assignee on the Note and the Mortgage, all in such order as Assignee may determine according to provisions of the Security Documents executed herewith. 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 the Assignor under any of the Leases and does not assume any of the liabilities in connection with or growing out of the covenants and agreements of Assignor in the Leases. It is further understood that this Assignment shall not operate to place responsibility for the control, care, management or repair of the subject property, or parts thereof, upon Assignee, nor shall it operate to make Assignee liable for the performance of any of the terms and conditions of any of the Leases, or for any waste of the subject property by any lessee under any of the Leases or any other person, or for any dangerous or defective condition of the subject property or for any negligence in the management, upkeep, repair or control of the subject property resulting in loss or injury or death to any lessee, licensee, employee or stranger.

V. CUMULATIVE RIGHTS

The rights and remedies of Assignee under this Assignment are cumulative and are not in lieu of, but are in addition to, any other rights or remedies which Assignee shall have under the Note or any other instrument constituting security for the Note, or at law or in equity.

VI. SEVERABILITY

If any term of this Assignment, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Assignment, or the application of such term to persons or circumstances other than those as to which it is invalid or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

unenforceable, shall not be affected thereby, and each term of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

VII. NOTICE

All Notices to be 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 addresses of the parties hereto as delineated below, 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.

Assignor: Klehrn Boy's Partnership
Route 5
197 Penny Road
South Barrington, Illinois 60010

Assignee: American National Bank and
Trust Company of Chicago
33 North LaSalle Street
Chicago, IL 60690
Attention: Roberta J. Anderson

VIII. SUCCESSORS & ASSIGNS

The term "Assignor", "Assignee", and "Borrower" 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.

IX. MODIFICATIONS

This Assignment may not be amended, modified or changed nor shall any waiver of any provision hereof be effective as against Assignee, 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.

X. TRUST EXCULPATION

This Note is executed by Trustee, not personally but solely as trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by the Trustee are undertaken by it solely as trustee, as aforesaid, and not individually and all statements herein made on information and belief and are to be construed accordingly, and no personal liability

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

shall be asserted or be enforceable against the Trustee by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this Assignment.

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

"ASSIGNOR"

TRUSTEE:

LASALLE NATIONAL BANK, SUCCESSOR TO LA SALLE BANK

LASALLE NATIONAL TRUST, N.A.,
successor trustee to LaSalle National
Bank, as trustee under Trust Agreement
dated December 20, 1974 and known as
Trust No. 48413

By: Deborah Carbon

Its: ASSISTANT SECRETARY

BENEFICIARY:

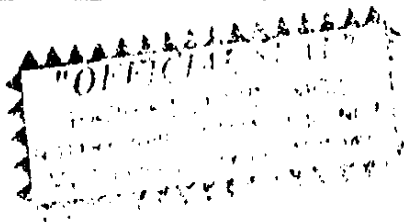
KLEHM BOYS PARTNERSHIP d/b/a
CHARLES KLEHM & SON NURSERY

BY: Ray B. Klehm Susan Klehm

ITS: PARTNERS Susan Klehm

STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

This instrument was acknowledged before me on 7/17/97 (date) by Deborah Carbon
(name of person) as ASSISTANT SECRETARY (type of authority) of
LASALLE NATIONAL BANK (name of party on behalf of whom instrument was executed).



Harriet R. [Signature]
Notary Public

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

THAT PART OF THE EAST 1/2 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1084.05 FEET WEST OF THE EAST LINE OF SAID SECTION, MEASURED AT RIGHT ANGLES THERETO AND 1343 FEET SOUTH OF THE NORTH LINE OF SAID SECTION, MEASURED ON A LINE PARALLEL WITH SAID EAST LINE; RUNNING THENCE SOUTH 1745 FEET PARALLEL TO SAID EAST LINE TO THE CENTER LINE OF HIGGINS ROAD; THENCE NORTHWESTERLY 1654 FEET ALONG SAID CENTER LINE TO A POINT 8.42 FEET EAST OF THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION AND 2512.2 FEET SOUTHERLY OF THE NORTH QUARTER CORNER OF SAID SECTION; THENCE NORTHWESTERLY 1184.2 FEET TO A POINT IN SAID QUARTER LINE, 1329 FEET SOUTH OF SAID NORTH QUARTER CORNER; THENCE EASTERLY 1556.5 FEET TO THE PLACE OF BEGINNING (EXCEPT THAT PART THEREOF FALLING IN THAT PART OF THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS AND STATE OF ILLINOIS DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 33; THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 33 FOR A DISTANCE OF 2682.0 FEET, THENCE SOUTHERLY ALONG A LINE WHICH FORMS AN ANGLE OF 90 DEGREES 10 MINUTES TO THE LEFT WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE, FOR A DISTANCE OF 1219.6 FEET; THENCE EASTERLY ALONG A LINE WHICH FORMS AN ANGLE OF 89 DEGREES 45 MINUTES TO THE LEFT WITH A PROLONGATION OF THE LAST DESCRIBED COURSE, FOR A DISTANCE OF 2.3 FEET FOR THE POINT OF BEGINNING; THENCE EASTERLY ALONG A CONTINUATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 47.7 FEET TO A POINT; THENCE SOUTHERLY ALONG A LINE WHICH FORMS AN ANGLE OF 89 DEGREES 45 MINUTES TO THE RIGHT WITH A PROLONGATION OF THE LAST DESCRIBED COURSE FOR A DISTANCE OF 1176.1 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF ROUTE 72; THENCE NORTHEASTERLY ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE WHICH FORMS AN ANGLE OF 110 DEGREES 40 MINUTES TO THE RIGHT WITH A PROLONGATION OF THE LAST DESCRIBED COURSE, FOR A DISTANCE OF 51.8 FEET TO A POINT; THENCE NORTHERLY ALONG A LINE WHICH FORMS AN ANGLE OF 69 DEGREES 22 MINUTES TO THE RIGHT WITH A PROLONGATION OF THE LAST DESCRIBED COURSE, FOR A DISTANCE OF 1158.1 FEET MORE OR LESS TO THE POINT OF BEGINNING AND EXCEPT THAT PART THEREOF FALLING IN ALL THAT PART OF THE SOUTH 3/4 OF THE EAST 1/2 OF SECTION 33, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT PRESENT HIGHWAYS) DESCRIBED AS BEING A STRIP OF LAND 94 FEET IN WIDTH LYING 94 FEET NORTHEASTERLY OF, PARALLEL AND ADJACENT TO THE FOLLOWING DESCRIBED SOUTHWESTERLY LINE OF SAID 94 FOOT STRIP, BEGINNING AT A POINT ON THE WEST LINE OF THE SAID EAST 1/2 OF SECTION 33, SAID POINT BEING 1182.2 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTH 3/4 OF THE EAST 1/2 OF SAID SECTION; THENCE SOUTHEASTERLY 1659.2 FEET ALONG A LINE WHICH FORMS AN ANGLE OF 111 DEGREES 00 MINUTES MEASURED FROM NORTH TO SOUTHEAST WITH THE SAID WEST LINE OF THE EAST 1/2 OF SECTION 33 TO A POINT ON THE WEST LINE OF THE EAST 1084.05 FEET OF THE EAST 1/2 OF SAID SECTION 33, ALSO EXCEPT THAT PART DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STATE ROUTE 72 WITH THE EASTERLY LINE OF STATE ROUTE 59; THENCE NORTHERLY ALONG SAID EASTERLY LINE, A DISTANCE OF 300.0 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 540.36 FEET; THENCE SOUTHERLY PARALLEL WITH SAID EASTERLY LINE A DISTANCE OF 506.12 FEET TO THE NORTHERLY LINE OF STATE ROUTE 72; THENCE NORTHWESTERLY ALONG SAID NORTHERLY LINE, A DISTANCE OF 578.34 FEET TO THE PLACE OF BEGINNING.

1030W

PAGE A 3

LAK

06:39:23
TOTAL P.02

COMMONLY KNOWN AS: Route 59 - Bartlett Road - North of Route 72, South Barrington, Illinois

PIN NUMBER: 01-33-200-012-0000

0752995A

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "B"
TO
ASSIGNMENT OF RENTS AND LEASES
DATED June __, 1997

SCHEDULE OF LEASES:

- None -

Property of Cook County Clerk's Office

9755995A

UNOFFICIAL COPY

Property of Cook County Clerk's Office