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ASSIGNMENT OF RENTS AND LEASES

Dated: May 13, 1998

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9079

<u>Assignor:</u>  Arlington Block 349 L.L.C. 1400 South Wolf Road Suite 100 Wheeling, Illinois 60090-6524	<u>Assignee:</u>  American National Bank and Trust Company of Chicago 120 South LaSalle Street Chicago, IL 60603
<u>Assigned Property:</u>  Common address: Property bounded by Union Pacific Railroad, Sigwalt Street, Evergreen Road and Arlington Heights Road  P.I.N. No: 03-29-349-013-0000, 03-29-349-014-0000, 03-29-349-001-0000, 03-29-349-002-0000, 03-29-349-003-0000, 03-29-349-004-0000, 03-29-349-005-0000, 03-29-349-010-0000, 03-29-349-011-0000, 03-29-349-012-0000, 03-29-349-016-0000, 03-29-349-017-0000, 03-29-349-021-0000, 03-29-349-022-0000, 03-29-343-002-0000, 03-29-349-007-0000, 03-29-349-015-0000, 03-29-349-019-0000, 03-29-349-020-0000	
<u>Prepared by:</u> Creighton R. Meland Dickinson Wright - Illinois 225 W. Washington, Suite 400 Chicago, IL 60606	<u>When recorded, please return to:</u> Creighton R. Meland Dickinson Wright - Illinois 225 W. Washington, Suite 400 Chicago, IL 60606

BOX 313-07

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ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES made as of the 13th day of May, 1998, by Arlington Block 349 L.L.C., an Illinois limited liability company (hereinafter called the "Assignor"), having an address of 1400 South Wolf Road, Building 100, Wheeling, Illinois 60090 to American National Bank and Trust Company of Chicago, a national banking association, having an address of 120 South LaSalle Street, Chicago, Illinois 60603 (hereinafter called the "Assignee").

WITNESSETH:

To secure (a) the payment of the principal sum of all indebtedness of the Assignor to the Assignee now or hereafter existing, including without limitation, (i) a certain Construction Loan Agreement, of even date herewith by and between the Mortgagor and Mortgagee (as amended, extended, renewed or modified from time to time, the "Loan Agreement"), (ii) a certain Construction Loan Note, of even date herewith in the original principal amount of Sixteen Million Eight Hundred Two Thousand Dollars (\$16,802,000.00) issued by the Assignor to the Assignee (as amended, extended, renewed or modified from time to time, the "Construction Note"); (b) the performance of the covenants herein contained and any monies expended by Assignee in connection therewith, (c) the payment of all obligations and performance of all covenants of Assignor under any other loan agreement, mortgage, security agreement and any other documents, agreements or instruments between Assignor and Assignee given in connection therewith, and (d) any and all other indebtedness, obligations and liabilities of any kind now or hereafter owing to Assignee and secured by the Mortgage (as hereinafter defined), whether direct or indirect, absolute or contingent, joint or several, secured or unsecured, arising by operation of law or otherwise, and whether incurred as principal, surety, endorser, guarantor, accommodation party or otherwise (all of the aforesaid indebtedness, obligations and liabilities being herein called the "Mortgage Indebtedness" and this Assignment, the Loan Agreement, the Construction Note and all of the other documents, agreements and instruments evidencing or securing the repayment of, or otherwise pertaining to, the Mortgage Indebtedness being herein collectively called the "Loan Documents"), Assignor does hereby sell, assign, transfer and set over unto Assignee, its successors and assigns, all of the right, title and interest of Assignor in, to and under all leases or agreements for the use or occupancy of the whole or any part of the real estate situated in the Village of Arlington Heights, County of Cook and State of Illinois and any improvements thereon, which real estate is subject to that certain Mortgage, Security Agreement, Assignment of Rents and Fixture Filing of even date hereof executed by Assignor in favor of Assignee (the "Mortgage") and is specifically described on Exhibit A attached hereto (herein called the "Mortgaged Premises"), whether such leases and agreements are now or at any time hereafter existing (all such leases and agreements are hereinafter collectively called "Leases" and singularly called a "Lease"), including all amendments and supplements to and renewals and extensions of

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the Leases at any time made; and together with all rents, earnings, income and profits arising from the Mortgaged Premises or from the Leases and all other sums due or to become due under and pursuant thereto; and together with any and all guarantees under any of the Leases; and together with all proceeds payable under any policy of insurance covering loss of rents from the Mortgaged Premises for any cause; and together with all rights, powers, privileges, options, and other benefits of Assignor as lessor under the Leases, including, but not by way of limitation, the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, moneys and security payable or receivable under the Leases or pursuant to any of the provisions thereof whether as rent or otherwise, the right to accept or reject any offer made by a tenant pursuant to its Lease to purchase the Mortgaged Premises and any other property subject to such Lease as therein provided and to perform all other necessary or appropriate acts with respect to such purchases as agent and attorney-in-fact for Assignor, and the right to make all waivers and agreements, to give and receive all notices, consents and releases, to take such action upon the happening of a default under any Lease, including the commencement, conduct and consummation of proceedings at law or in equity as shall be permitted under any provision of any Lease or by law, and to do any and all other things whatsoever which Assignor is or may become entitled to do under any Lease;

SUBJECT, however, to the right and license herein granted by Assignee to Assignor.

1. Representation and Warranties. Assignor represents and warrants to Assignee that (a) Assignor has good right and authority to make this Assignment, has not heretofore alienated, assigned, pledged or otherwise disposed of or encumbered any Leases, or any of the sums due or to become due thereunder and intended to be assigned hereunder, and has not performed any acts or executed any other instruments which might prevent Assignee from operating under any of the terms and conditions of this Assignment or which would limit Assignee in such operation; (b) Assignor has not accepted or collected rent or other payments under any existing Lease for any period subsequent to the current period for which such rent or other payment has already become due and payable; (c) Assignor has not executed or granted any amendment or modification whatever of any existing Lease, either orally or in writing, except as has been disclosed in writing to Assignee and (d) there is no default under any Lease now existing and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute a default under any Lease.

2. Covenants. Assignor hereby covenants and agrees (a) to observe, perform and discharge, duly and punctually, all and singular the obligations, terms, covenants, conditions and warranties of this Assignment, the Loan Agreement, the Construction Note and the other Loan Documents and the Leases on the part of Assignor to be kept, observed and performed; (b) to enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases by any tenant to be performed

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and (c) to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases, or the obligations, duties or liabilities of Assignor and any tenant thereunder and, upon request by Assignee, will do so in the name and behalf of Assignee, but at the expense of Assignor.

Assignor further covenants and agrees that it will not, without in each instance the prior written consent of Assignee:

(a) enter into any Lease which has not been approved in advance in writing by Assignee, except that Assignor may enter into leases without Assignee's consent for the Project (as defined in the Loan Agreement) Assignor intends to build on the Mortgaged Premises, as long as such leases are on terms customary for such type of development and do not include any long term ground leases of all or any portion of the Mortgaged Premises;

(b) cancel any Lease nor accept a surrender thereof;

(c) reduce the rent payable under any Lease nor accept payment of any installment of rent (except for security deposits) in advance of one month from the due date thereof;

(d) change, amend, alter or modify any Lease or any of the terms or provisions thereof, nor grant any concession in connection therewith;

(e) consent to the release of the obligations of the tenant under any Lease;

(f) assign, pledge, encumber or otherwise transfer any Lease or Assignor's right thereunder;

(g) consent to an assignment of tenant's interest under any Lease or to a subletting thereof, except to the extent any such assignment or subletting is specifically authorized by such Lease; or

(h) incur any indebtedness for borrowed money or otherwise to the tenant or guarantor of any Lease which may under any circumstances be availed of as an offset against the rent or other payments due thereunder.

Any of the above acts, if done without the consent of Assignee, shall be, at the option of Assignee, null and void.

3. Payment of Rents. Assignor hereby consents to and irrevocably authorizes and directs the tenants under the Leases and any successor to the interest of said tenants, upon demand and notice from Assignee of Assignee's right to receive the rents and other amounts under such Leases, to pay to Assignee the rents and other amounts



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due or to become due under the Leases, and said tenants shall have the right to rely upon such demand and notice from Assignee and shall pay such rents and other amounts to Assignee without obligation or right to determine the actual existence of any default or event claimed by Assignee as the basis for Assignee's right to receive such rents and other amounts notwithstanding any notice from or claim of Assignor to the contrary, and Assignor shall have no right or claim against said tenant for any such rents and other amounts so paid by said tenant to Assignee.

4. License. Notwithstanding the foregoing provisions making and establishing a present and absolute transfer and assignment of the Leases and the rents, earnings, income and profits arising therefrom, so long as no Event of Default shall have occurred and be continuing, Assignor shall have the irrevocable right and license to occupy the Mortgaged Premises as landlord or otherwise and to collect, use and enjoy the rents, issues and profits and other sums payable under and by virtue of any Lease, but only as the same become due under the provisions of such Lease, and to enforce the covenants of the Lease.

5. Default. The occurrence of any of the following events shall be deemed an "Event of Default" hereunder:

(a) Default in the observance or performance of any covenant, promise or agreement set forth herein and continuance thereof for 30 days after notice from the Assignee,

(b) The occurrence of an Event of Default under the Loan Agreement, the Construction Note or the Mortgage; or

(c) The occurrence of a default under any of the other Loan Documents and continuance thereof after any period of grace, if any, provided therein with respect to such default.

6. Remedies. Upon the occurrence of an Event of Default, Assignee, at its option, shall have the right, power and authority, in addition to, and not in lieu of or in substitution for all other rights and remedies provided for herein and in the other Loan Documents, to do any or all of the following:

(a) Terminate the right and license granted to Assignor hereunder to occupy the Mortgaged Premises and collect the rents, issues and profits thereof and thereafter, personally or through a receiver, with or without taking possession, demand, collect and receive and sue for the rents and other sums payable under the Leases and, after deducting all necessary and proper costs and expenses (including attorneys' fees and expenses of receivership) of collection as determined by Assignee, apply the net proceeds thereof upon any indebtedness secured hereby.

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(b) Declare all sums secured hereby immediately due and payable, and, at its option, exercise all of the rights and remedies contained herein, in the Loan Agreement, the Construction Note and in the other Loan Documents.

(c) Demand, collect and receive from Assignor any and all security deposits paid to Assignor by any tenant under any Lease.

(d) Without regard to the adequacy of the security, with or without process of law, personally or by agent or attorney, or by a receiver to be appointed by court, then and thereafter to enter upon, take and maintain possession of and operate the Mortgaged Premises, or any part thereof, together with all documents, books, records, papers, and accounts relating thereto and exclude Assignor, its agents and servants therefrom and hold, operate, manage and control the Mortgaged Premises, or any part thereof, as fully and to the same extent as Assignor could do if in possession and in such event, without limitation, and at the expense of Assignor, from time to time, cause to be made all necessary or proper repairs, renewals, and replacements to the Mortgaged Premises, or any part thereof, as Assignee deems judicious, and pay taxes, assessments and prior or proper charges on the Mortgaged Premises, or any part thereof, and insure and reinsure the same, and lease the Mortgaged Premises, or any part thereof, for such times and on such terms as Assignee deems desirable, including leases for terms expiring beyond the maturity of the Mortgage Indebtedness and cancel any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same.

After payment of all proper charges and expenses, including the just and reasonable compensation for the services of Assignee, the receiver, their attorneys, agents, clerks, servants and others employed by Assignee or the receiver in connection with the operation, management and control of the Mortgaged Premises and the conduct of the business thereof, and such further sums as may be sufficient to indemnify Assignee from and against any liability, loss or damage on account of any matter or thing done in good faith in pursuance of the rights and powers of Assignee hereunder, Assignee may, at its option, credit the net amount of income which Assignee may receive by virtue of this Assignment and from the Mortgaged Premises to any and all amounts due or owing to Assignee from Assignor under the terms and provisions of the Construction Note and the Loan Documents. The manner of the application of such net income and the item which shall be credited shall be within the sole discretion of Assignee. The balance of such net income shall be released to or upon the order of Assignor.

The acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking possession of the Mortgaged Premises by Assignee, be deemed or construed to constitute Assignee a mortgagee in possession nor thereafter or at any time or in any event impose any obligation whatsoever upon Assignee to appear in or defend any action or proceeding relating to the Leases or the Mortgaged Premises, or to take any action

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hereunder, to expend any money or incur any expenses, or perform or discharge any obligation, duty or liability under the Leases, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any tenant and not assigned and delivered to Assignee or render Assignee liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Mortgaged Premises.

Assignor agrees that the collection of rents and the application as aforesaid or the entry upon and taking of possession of the Mortgaged Premises, or any part thereof, by Assignee shall not cure or waive any default or waive, modify or affect any notice of default hereunder or under the Loan Agreement, the Construction Note or the other Loan Documents, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

Assignor hereby consents to the appointment of a receiver if believed necessary or desirable by Assignee to enforce its rights under this Paragraph 6. The rights of Assignee to collect and receive the rents assigned hereunder or to take possession of the Mortgaged Premises, or to exercise any of the rights or powers herein granted to Assignee shall, to the extent not prohibited by law, also extend to the period from and after the commencement of proceedings to foreclose the lien of the Mortgage, whether by advertisement or by judicial proceedings, including any period allowed by law for the redemption of the Mortgaged Premises after any foreclosure sale.

7. Remedies Cumulative. The rights and remedies of Assignee hereunder are cumulative and not in lieu of, but are in addition to, any rights or remedies which Assignee shall have under the Loan Agreement, the Construction Note, the Mortgage or any of the other Loan Documents, or at law or in equity, which said rights and remedies may be exercised by Assignee either prior to, simultaneously with, or subsequent to, any action taken hereunder. The rights and remedies of Assignee may be exercised from time to time and as often as such exercise is deemed expedient, and the failure of Assignee to avail itself of any of the terms, provisions, and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any rights under the terms hereof. The liabilities and obligations of each entity comprising the Assignor are joint and several.

8. Indemnification. Assignor agrees to indemnify and hold Assignee harmless of and from and against any and all liability, loss, damage or expense, which Assignee may or might incur under or by reason of this Assignment, and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged terms, covenants or agreements contained in the Leases. Should Assignee incur any such liability, loss or damage under or by reason of this Assignment, or in the defense against any such claims or demands, the amount thereof, including costs,

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expenses and reasonable attorneys' fees, together with interest thereon at the Overdue Rate then applicable under the Loan Agreement or the maximum rate permitted by law, if less, shall be secured by this Assignment and by the other Loan Documents, and Assignor shall reimburse Assignee therefor immediately upon demand, and upon failure of Assignor so to do, Assignee may declare all sums secured hereby immediately due and payable.

9. Notices. Any notice which Assignor or Assignee may give or is required to give under this Assignment shall be effective on the earlier of (a) the date when received, (b) 3 business days after sent as registered mail, postage prepaid or (c) the next business day after deposit prepaid with an overnight delivery service, addressed to Assignor or Assignee, as the case may be, at the address first set forth above or such other address as Assignor or Assignee shall provide to the other in writing.

10. Assignment. This Assignment shall be assignable by Assignee and all representations, warranties, covenants, powers and rights herein contained shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

11. Further Assurances. Assignor covenants and agrees that Assignor will, upon the request of Assignee, execute and deliver to Assignee such further instruments and do and perform such other acts and things as Assignee may deem necessary or appropriate to make effective this Assignment and the various covenants of Assignor herein contained and more effectively to vest in and secure to Assignee the sums due or hereafter to become due under the Leases, including, without limitation, the execution of such additional assignments as shall be deemed necessary by Assignee effectively to vest in and secure to Assignee all rents, income and profits from any and all Leases. Assignor further agrees that it will, from time to time, upon demand therefor, deliver to Assignee an executed counterpart of each and every Lease then affecting all or any portion of the Mortgaged Premises.

12. Severability, Conflict with Loan Agreement. If any provision hereof is in conflict with any statute or rule of law of the State of Illinois or is otherwise unenforceable for any reason whatsoever, then such provision shall be deemed null and void to the extent of such conflict or unenforceability and shall be deemed severable from but shall not invalidate any other provisions of this Assignment. If any provision of this Assignment is in conflict with any provision of the Loan Agreement, the provisions of the Loan Agreement shall control.

13. Governing Law; Binding Effect. This Assignment, made in the State of Illinois, shall be construed according to the laws thereof and shall be binding upon the Assignor and its successors and assigns and any subsequent owners of the Mortgaged Premises, and all of the covenants herein contained shall run with the land, and this Assignment and all of the covenants herein contained shall inure to the benefit of Assignee, its successors and assigns.



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IN WITNESS WHEREOF, Assignor has caused this Assignment to be duly executed as of the day and year first above written.

ASSIGNOR:

Arlington Block 349 L.L.C.  
By: Joseph J. Freed and Associates, Inc.,  
Its Managing Member

By: [Signature]  
Its: President

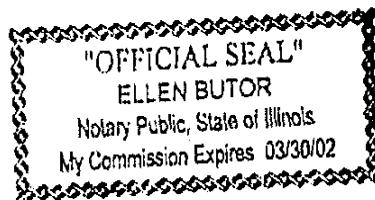
ACKNOWLEDGEMENT

STATE OF ILLINOIS )  
COUNTY OF Cook ) SS.

The foregoing instrument was acknowledged before me on this 15<sup>th</sup> day of May, 1998, by Joseph J. Freed as President of Joseph J. Freed and Associates, Inc., as Managing Member of Arlington Block 349 L.L.C. on behalf of said company.

[Signature]  
Notary Public  
Acting in Cook County  
My Commission Expires: \_\_\_\_\_

Drafted by and when recorded return to:  
Creighton R. Meland  
Dickinson Wright - Illinois  
225 West Washington Street  
Suite 400  
Chicago, Illinois 60606  
(312) 220-0300



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Exhibit A

Legal Description

LOTS 3, 4, AND 6 IN THE ARLINGTON TOWN SQUARE SUBDIVISION, BEING A SUBDIVISION IN THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 29, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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