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Cook County Recorder 39.50

Property of Cook County Clerk's Office

ASSIGNMENT OF RENTS AND LEASES

98-1018 GNT

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THIS ASSIGNMENT OF RENTS AND LEASES (the "Assignment"), is made as of the 23<sup>rd</sup> day of September, 1998, by SOUTH BARRINGTON OFFICE CENTER, L.L.C., an Illinois limited liability company ("South Barrington"), and NORTHWEST PARTNERS LIMITED PARTNERSHIP, an Illinois limited partnership ("Northwest Partners", with South Barrington and Northwest Partners being each individually and both collectively being referred to herein as "Assignor"), with and in favor of LASALLE NATIONAL BANK, a national banking association ("Assignee").

Recitals

A. Assignor has executed and delivered to Assignee a Mortgage Note of even date herewith (the "Note"), in the principal sum of THREE MILLION SIX HUNDRED THOUSAND AND NO/100 DOLLARS (\$3,600,000.00). The Note is secured by a Mortgage (the "Mortgage") on certain improved land (the "Land") in South Barrington, Illinois legally described on Exhibit A attached hereto and made a part hereof, and also by certain Loan Documents as defined and described in the Mortgage.

B. Assignee requires this Assignment (which is one of the Loan Documents) as further security for the obligations of Assignor under the Note, the Mortgage and the other Loan Documents (the "Obligations").

#### Agreements

NOW, THEREFORE, in order to secure the payment of the principal and interest on the Note and to secure the performance and observance by Assignor of the Obligations and each and every term, covenant, agreement and condition contained herein, in the Note and in the other Loan Documents, and in consideration of the agreement by Assignee to extend the loan to or for the benefit of the Assignor, 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 any and all leases and occupancy agreements (or extensions or renewals thereof) between the Assignor (or its predecessor) as lessor, and the lessee named in any of said leases (hereinafter called "Lessee"), now existing or hereafter arising, demising and leasing all or portions of the Land (said leases are hereinafter referred to individually and collectively as the "Leases"), together with all rents payable under the Leases and all benefits and advantages to be derived therefrom to hold and receive them unto Assignee, and together with all rights against guarantors, if any, of the Lessees' obligations under the Leases.

1. Assignor does hereby empower Assignee, its agents or attorneys, to collect, sue for, settle, compromise and give acquittances for all of the rents that may become due under the Leases and avail itself of and pursue all remedies for the enforcement of the Leases and Assignor's rights in and under the Leases as Assignor might have pursued but for this Assignment.

2. Company represents and warrants that the Leases now existing are in full force and effect, that it has not heretofore assigned or pledged the same or any interest therein, and no default exists on the part of Assignor as lessor, or to the best of Assignor's knowledge on the part of the Lessees, in the performance on the part of either, of the terms, covenants, provisions or agreements in such Leases contained; that no rent has been paid by the Lessees for more than one installment in advance, and that the payment of none of the rents to accrue under the Leases have been or will be waived, released, reduced, discounted or otherwise discharged or compromised by Assignor; that no security deposit has been, or shall be made by Lessees under the Leases, except as disclosed in writing by Assignor to Assignee.

3. Assignor agrees:

(a) that it shall not take or fail to take any action that would result in any merger of the interest of the lessor and lessees under any of the Leases;

(b) not to terminate any of the Leases, modify or amend the Leases or any of the terms thereof in any material respect, or grant any material concessions in connection therewith, either orally or in writing, or to accept a surrender thereof without the written consent of Assignee and that any attempted termination, modification or amendment of the Leases without such written consent shall be null and void;

(c) not to collect any of the rent, income or profits arising or accruing under the Leases more than one month in advance of the time when the same become due under the terms thereof;

(d) not to discount any future accruing rents;

(e) not to grant a Lessee an option to purchase all or any part of the Land or execute any other assignments of the Leases or any interest therein or any of the rents thereunder;

(f) to perform in all material respects the Assignor's covenants and agreements as Lessor under the Leases and not to suffer or permit to occur any release of liability of a Lessee, or any right to a Lessee to withhold payment of rent; and to give prompt notices to Assignee of any notice of default on the part of Assignor with respect to the Leases received from the Lessees thereunder, and to furnish Assignee with complete copies of said notices;

(g) if so requested by Assignee, to enforce the Leases and all remedies available to Assignor against the Lessees, in case of default under the Leases by the Lessees;

(h) that none of the rights or remedies of Assignee under the Mortgage shall be delayed or in any way prejudiced by this Assignment;

(i) that notwithstanding any variation of the terms of the Mortgage or any extension of time for payment thereunder, the Leases and benefits hereby assigned shall continue as additional security in accordance with the terms hereof;

(j) not to alter, modify or change the terms of any guarantees of the Leases or cancel or terminate such guarantees without the prior written consent of Assignee;

(k) with respect to assignments or sublettings as to which Assignor's consent is required, not to consent to any assignments of the Leases, or any subletting thereunder, whether or not in accordance with their terms, without the prior written consent of Assignee; and

(l) not to request, consent to, agree to or accept a subordination of the Leases to any mortgage or other encumbrance now or hereafter affecting the Land.

(m) not to enter into any Lease for over 2,000 square feet (including expansion options) or at a base rent of Twelve and 90/100 Dollars (\$12.90) per rentable square foot without the prior consent of Assignee, which consent shall not be unreasonably withheld.

An action taken by Assignor in violation of the foregoing agreements shall be void ab initio.

Notwithstanding the foregoing, the provisions of Sections (b), (c), (d), (g), (j) and (k) shall not apply to a Lease that (i) provides for a term of five years or less and a rental equal to or greater than \$12.90 per rentable square foot, or less than \$12.90 per rentable square foot and Assignor has previously obtained Assignee's consent to such Lease, (ii) has been negotiated at arm's length, (iii) is for less than 1,500 rentable square feet, and (iv) does not contain a material

modification to the form lease approved by Assignee, provided that at no time during the term of the Loan shall there be Leases in existence demising more than 15,000 rentable square feet in the aggregate as to which Assignor has taken or failed to take the actions prohibited or required under Sections (b), (c), (d), (g), (j) or (k).

4. This Assignment is given as additional security for the payment of the Note held by Assignee, all other sums secured by the Mortgage and the performance and payment of the Obligations. The security of this Assignment is and shall be primary and on a parity with the Land conveyed by the Mortgage and not secondary. All amounts collected hereunder, after deducting the expenses of operation of the Land and after deducting the expenses of collection, shall be applied on account of the indebtedness secured by the Mortgage or other Loan Documents, or in such other manner as may be provided for in the Mortgage, or in any general assignment of rents given as additional security for said indebtedness. Nothing herein contained shall be construed as constituting Assignee a trustee or mortgagee in possession.

5. Upon issuance of a deed or deeds pursuant to foreclosure of the Mortgage, all right, title and interest of Assignor in and to the Leases shall, by virtue of this instrument, thereupon vest in and become the absolute property of the grantee or grantees in such deed or deeds without any further act or assignment by Assignor. Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney in fact, to execute all instruments of assignment or further assurance in favor of such grantee or grantees in such deed or deeds, as may be necessary or desirable for such purpose.

6. In the exercise of the powers herein granted Assignee, no liability shall be asserted or enforced against Assignee, all such liability being hereby expressly waived and released by Assignor. Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and Assignor shall and does hereby agree to indemnify, defend, protect and hold forever free and harmless the Assignee of, from and against any and all liability, loss, cost, expense or damage which it may or might incur under the Leases or under or by reason of this Assignment and of, from and against any and all claims, suits, judgments and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases, except such liability, loss, cost, expense, damage, claim, suit, judgment and demand arising out of the gross negligence or willful misconduct of Assignee. Should Assignee incur any such liability, loss, cost, expense or damage under the Leases or under or by reason of this Assignment, or in the defense of any such claims, suits, judgments or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees and expenses, shall be secured hereby, and Assignor shall reimburse Assignee therefor immediately upon demand.

7. Although it is the intention of the parties that this instrument shall be a present and absolute assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that Assignee shall not exercise any of the rights or powers herein conferred upon it until an Event of Default shall occur under the terms and provisions of this Assignment or of the Note, Mortgage or any other Loan Document. Upon the

occurrence of an Event of Default, Assignee shall be entitled, upon notice to the Lessee, to all rents and other amounts then due under the Leases and thereafter accruing, and this Assignment shall constitute a direction and full authority to the Lessee to pay all such amounts to Assignee without proof of the default relied upon. The Lessee is hereby irrevocably authorized to rely upon and comply with (and shall be fully protected in so doing) any notice or demand by Assignee for the payment to Assignee of any rental or other sums which may be or thereafter become due under the Leases, or for the performance of any of the Lessee's undertakings under the Leases and shall have no right or duty to inquire as to whether any default under the Mortgage or the other Loan Documents has actually occurred or is then existing.

8. Each of the following shall constitute an Event of Default under this Assignment:

(a) If an Event of Default shall be declared or occur under and as defined in any of the terms and provisions of any of the Note, Mortgage, any Loan Document or any document or instrument (other than this Assignment), evidencing or securing the indebtedness secured hereby.

(b) If default shall be made in the due and punctual performance of any other term, covenant, provision, agreement, condition or obligation herein contained which is not also included in the Note, Mortgage, or any Loan Document or any document or instrument (other than this Assignment), evidencing or securing the indebtedness secured hereby, and, (1) if such default is a monetary default, such default shall continue for five days after service of written notice thereof, and (2) if such default is a non-monetary default, such default shall continue for 30 days after service of written notice thereof or, where Assignee's security is not in Assignee's reasonable judgment impaired by such non-monetary default and if such non-monetary default cannot reasonably be cured within said 30-day period, the failure to commence curing said default within said 30-day period, to proceed with such cure thereafter in a reasonably diligent manner, and to complete such cure within thirty (30) days after expiration of such 30-day period.

9. This Assignment is intended to be supplementary to and not in substitution for or in derogation of any assignment of rents to secure said indebtedness contained in the Mortgage or in any other document.

10. This Assignment shall include any extensions and renewals of the Leases, and any reference herein to the Leases shall be construed as including any such extensions and renewals.

11. This Assignment shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. The words "Assignor," "Assignee," and "Lessee," wherever used herein, shall include the persons named herein and designated as such and their respective successors and assigns, and all words and phrases shall be taken to include the singular or plural and masculine, feminine or neuter gender, as may fit the case.

12. All of the rights, powers, privileges and immunities herein granted and assigned to Assignee shall also inure to its successors and assigns, including all holders, from time to time, of the Note.

13. All notices, waivers, demands, requests or other communications required or permitted hereunder shall, unless otherwise expressly provided, be in writing and be deemed to have been properly given, served and received (i) if delivered by messenger, when delivered, (ii) if mailed, on the third business day after deposit in the United States Mail, certified or registered, postage prepaid, return receipt requested, (iii) if telexed, telegraphed or telecopied, four hours after being dispatched by telex, telegram or telecopy, if such fourth hour falls on a business day within the hours of 9:00 a.m. through 5:00 p.m. of the time in effect at the place of receipt, or at 9:00 a.m. on the next business day thereafter if such fourth hour is later than 5:00 p.m., or (iv) if delivered by reputable overnight express courier, freight prepaid, the next business day after delivery to such courier; in every case addressed to the party to be notified as follows:

In the case of Assignor, to: South Barrington Office Center, L.L.C.  
c/o Stonegate Properties, Inc.  
400 Northwest Corporate Center  
2500 West Higgins Road  
Hoffman Estates, Illinois 60195  
Attn: Mr. George A. Moser  
Fax: (847) 843-8152

with a copy to: Stephen H. Malato  
Hinshaw & Culbertson  
222 North LaSalle  
Suite 300  
Chicago, Illinois 60601  
Fax: (312) 704-3001

In the case of Assignee, to: LaSalle National Bank  
135 South LaSalle Street  
Chicago, Illinois 60603  
Attn: Mr. David Patchin  
Fax: (312) 750-6691

with a copy to: Terrence E. Budny, Esq.  
Bell, Boyd & Lloyd  
Three First National Plaza  
Suite 3100  
Chicago, Illinois 60602  
Fax: (312) 372-2098

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or to such other address(es) or addressee(s) as any party entitled to receive notice hereunder shall designate to the others in the manner provided herein for the service of notices. Rejection or refusal to accept or inability to deliver because of changed address or because no notice of changed address was given, shall be deemed receipt

14. Initially capitalized terms used herein and not otherwise defined have the meanings given them in the Mortgage.

15. Each of South Barrington and Northwest Partners shall be jointly and severally liable hereunder.

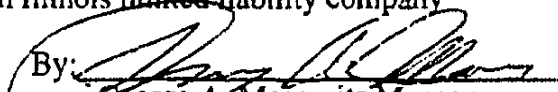
**SIGNATURE PAGE FOLLOWS**

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IN WITNESS WHEREOF, this Assignment has been executed and delivered as of the date first above written.

ASSIGNOR

SOUTH BARRINGTON OFFICE  
CENTER, L.L.C.  
an Illinois limited liability company

By:   
George A. Moser, its Manager

NORTHWEST PARTNERS LIMITED  
PARTNERSHIP,  
an Illinois limited partnership

By: NORTHWEST INVESTORS, INC.,  
an Illinois corporation  
Its General Partner

By:   
George A. Moser, its President

Property of Cook County Clerk's Office



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I, Joyce M Sullivan, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that George A. Moser, Manager of South Barrington Office Center, L.L.C., an Illinois limited liability company and president of Northwest Investors, Inc., an Illinois corporation ("Corporation"), General Partner of Northwest Partners Limited Partnership, an Illinois limited partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, 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 such limited liability company (as Manager thereof) and limited partnership (as General Partner thereof), for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22 day of Sept, 1998.

Joyce M Sullivan  
Notary Public

My commission expires 10-28-2000



This instrument was prepared by and when recorded return to:

Sandra Waldier  
Bell, Boyd & Lloyd  
Three First National Plaza  
Suite 3100  
Chicago, Illinois 60602



## EXHIBIT A -

## LEGAL DESCRIPTION

## PARCEL 1:

THAT PART OF THE WEST ½ OF THE SOUTHEAST ¼ OF SECTION 34, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTHERLY RIGHT OF WAY LINE OF HIGGINS ROAD (ROUTE 72), IN COOK COUNTY, ILLINOIS.

P.I.N.: 01-34-400-005

## PARCEL 2:

THAT PART OF FRACTIONAL SECTION 2, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH LIES (i) NORTH OF THE NORTH LINE OF THE PREMISES CONVEYED TO THE ILLINOIS STATE TOLL HIGHWAY COMMISSION BY DEED RECORDED FEBRUARY 3, 1958 AS DOCUMENT NO. 17124408 AND FILED JANUARY 22, 1958 AS DOCUMENT NO. LR-1, 778, 493 AND (ii) EAST OF THE EAST LINE EXTENDED SOUTH OF THE SOUTHWEST ¼ OF SECTION 34, TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND EXCEPTING THEREFROM THAT PART TAKEN OR USED FOR MUNDHANK ROAD.

P.I.N.: 06-02-200-014

COMMONLY KNOWN AS: 33 WEST HIGGINS ROAD, SOUTH BARRINGTON,  
ILLINOIS