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Cook County Recorder

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PROPERTY B EASEMENT AND OPERATING AGREEMENT

THIS PROPERTY B EASEMENT AND OPERATING AGREEMENT ("Agreement") is made and entered into as of this 13th day of December, 2001 among 560-566 LAKE BUILDING, LLC, an Illinois limited liability company ("Lake"), JAMES ASCOT, an individual ("Ascot") and MIDWEST REAL PROPERTY COMPANY - 566 W. LAKE STREET, LLC, an Illinois limited liability company ("Midwest").

RECITALS:



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The terms used in the following Recitals, if not otherwise defined in the Recitals, shall have the meanings set forth in Article I hereof:

- A. The Building (i) is presently improved with a multilevel building consisting of one (1) basement level, a lobby level and seven (7) office floors and (ii) has been divided into two three-dimensional parcels referred to herein as Property A and Property B.
- B. United is the record owner of Property A, Lake is the record owner of the Lake Property, Ascot is the record owner of the Ascot Property and Midwest is the record owner of the Midwest Property.
- C. Property B is comprised of the Lake Property, the Ascot Property and the Midwest Property and is subject to, and encumbered by the terms and provisions of, the EOA.
- D. Pursuant to Section 23.4 of the EOA, if at any time, the interest or estate of the Owner of Property B shall be owned by more than one person or entity, then a Property B Agent shall be designated pursuant to the terms and provisions more particularly set forth in said section.
- E. Pursuant to the EOA, the Property B Agent is required to make the Property B Decisions on behalf of the Owners of Property B.

The parties hereto by this Agreement establish certain easements, covenants and restrictions respecting Property B, which, unless otherwise specifically set forth herein, will be binding upon each present and future owner of Property B, or of any portion thereof or interest or estate therein, and which will inure to the benefit of each present and future owner of Property B, or of any portion thereof or interest or estate therein, all so as to provide for the owners of each such respective portion of or interest or estate in Property B those services, facilities and rights necessary to the efficient operation of each such respective portion, estate or interest and so as to protect the respective portion, estate or interest of each party and so as not to diminish the respective values of each such portion, estate or interest.

NOW, THEREFORE, in consideration of the covenants and conditions herein contained and to be observed and performed by each of the parties hereto, except as otherwise specifically set forth herein, each of the parties hereto covenants and agrees that each of the following easements, covenants, conditions, restrictions, burdens, uses, privileges, and charges touches and

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concerns the land and shall exist at all times hereafter among, and be binding upon and inure to the benefit of, all parties having or acquiring any right, title or interest in or to any portion of or interest or estate in Property B and shall run with the land. Each provision of the foregoing Recitals is an integral part of this Agreement and is hereby incorporated herein as if fully set forth below.

ARTICLE 1

Definitions

1.1 "Agreement" means this Property B Operating Agreement. All references herein to specific Article and/or Section numbers in "this Agreement" shall mean this Property B Operating Agreement unless specifically indicated to the contrary in such reference.

1.2 "Ascot Property" means the west portion of the first floor of the Building and is legally described in Exhibit B hereto.

1.3 "Budget" means the annual budget prepared by the Owner of Property A (as defined in the EOA) from time to time pursuant to Section 6.15 of the EOA containing a proposed budget of the estimated operating expenses, including proposed capital expenditures and reasonable reserves for the Building, all as more particularly described in said section.

1.4 "Building" means all land and improvements located at and commonly known as 560-566 West Lake Street, Chicago, Illinois.

1.5 "EOA" means the Easement and Operating Agreement dated November 1, 2001 between United Way/Crusade of Mercy, an Illinois not-for-profit corporation ("United Way") and Lake that was recorded with the Cook County, Illinois Recorder of Deeds on December 3, 2001 as Document No. 0011132377 that establishes certain easements, covenants and restrictions respecting the Building and the operation thereof.

1.6 "Lake Property" means the west half of the basement, the east half of the second floor and the entire third and fourth floors of the Building and is legally described in Exhibit C hereto.

1.7 "Midwest Property" means the west half of the second floor of the Building and is legally described in Exhibit C hereto.

1.8 "Maximum Rate" means a rate of interest equal to the lesser of (a) one percent (1%) above the "corporate base" rate of interest from time to time quoted by La Salle Bank National Association or such other major Chicago bank or (b) the maximum rate, if any, that may lawfully be charged on obligations on which interest accrues under this Agreement.

1.9 "Mortgage" means a bona fide mortgage or trust deed encumbering all or a portion of Property B, as the case may be.

1.10 "Mortgagee" means the holder of a Mortgage.

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1.11 "Owner of Property B" means each present or future person or persons or entity or entities, whose estates or interests, individually or collectively, aggregate fee simple ownership of Property B or any portion thereof or interest or estate therein at the time in question, including, without limitation, in any instance in which the fee simple ownership of Property B or any portion thereof shall be held in a land trust or other title holding device, the beneficial owner or owners of such land trust or other title holding device.

1.12 "Owner" or "Owners" means each present or future person or persons or entity or entities, whose estates or interests, individually or collectively, aggregate fee simple ownership of Property B or any portion thereof or interest or estate therein at the time in question, including, without limitation, in any instance in which the fee simple ownership of Property B or any portion thereof shall be held in a land trust or other title holding device, the beneficial owner or owners of such land trust or other title holding device.

1.13 "Property A" has the meaning ascribed thereto in Section 1.18 of the EOA.

1.14 "Property B" means the portion of the Building consisting of the west half of the basement, the west half of the first floor and the entire second, third and fourth floors thereof and is legally described in Exhibit A hereto.

1.15 "Purchase and Sale Agreement" means that certain Purchase and Sale Agreement dated March 22, 2001, as amended, between Lake, as Purchaser, and United Way, as Seller, respecting the purchase by Lake of Property B.

1.16 "Property B Agent" means the agent designated from time to time by the Owners of Property B pursuant to Section 23.4 of the EOA (a) to whom shall be given, as agent for all of the multiple owners, all notices thereafter required to be given to the Owners of Property B pursuant to the EOA and who shall have the right to act for all purposes as the Owner of Property B under the EOA and (b) who shall act as agent for service of process in any action or proceeding, whether before a court or by arbitration, involving the determination or enforcement of any rights or obligations under the EOA, all as more particularly described in said section.

1.17 "Property B Decisions" means any and all decisions, votes, consents, approvals, confirmations and like matters, which, by the nature thereof, are required to be made, delivered and/or given by the Property B Agent under the EOA rather than an individual Owner.

1.18 "Required Percentage of Owners" means Owners whose aggregate estates or interests, individually or collectively, aggregate fee simple ownership of more than 60% of the "usable/rentable square feet" contained in Property B according to the measurements set forth in Exhibit D to the EOA.

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ARTICLE 2

Building Operations and Other Easements and Covenants

2.1 EOA Compliance. The terms and provisions of the EOA are incorporated herein by reference as if fully set forth. No Owner shall commit a default under the EOA or do or perform any act or thing which, with the lapse of time or giving of notice or both, would constitute a default or event of default under the EOA. If an Owner ("Defaulting Owner") fails to perform its duties and obligations imposed upon it under this Section 2.1 or elsewhere in this Agreement, then any other Owner ("Curing Owner") may cure such default and any sum so expended to cure said default shall (a) bear interest at the Maximum Rate from the date of payment until the date of repayment and (b) be payable within five (5) days after demand by the Curing Owner. If the Defaulting Owner fails to repay the Curing Owner, as aforesaid, then, in addition to any rights that the Curing Owner may otherwise have, the Curing Owner shall have a lien against the portion of Property B owned by the Defaulting Owner pursuant to Article 3 hereof.

2.2 Renovation Obligations. Lake shall perform any and all duties and obligations imposed upon the Owner of Property B under Sections 6.7 and/or 6.8 of the EOA respecting (a) the performance of certain repairs and capital improvements to be performed by Lake pursuant to the Purchase and Sale Agreement and (b) the payment of certain sums to United Way pursuant to the Purchase and Sale Agreement for the cost of replacement, restoration, maintenance and repair of the Building.

2.3 Allocation of Costs. Any and all sums, costs and expenses required to be paid by all Owners of Property B under the EOA (rather than specific items of costs and expenses allocated to or to be paid by a specific Owner) including, but without limitation, sums payable from time to time under the Budget, shall be allocated among the Owners in the proportion that the "usable/rentable square feet" owned by any one Owner bears to the "usable/rentable square feet" of space contained in Property B, according to the measurements set forth in Exhibit D of the EOA, and such amounts shall be paid within the time periods specified in the EOA.

2.4 Indemnification. Each Owner ("Defaulting Owner") shall indemnify, defend and hold harmless the other Owners ("Other Owners") from and against any and all loss, cost, damage, fine, expense and liability whatsoever (including, but without limitation, reasonable attorneys fees and litigation costs) incurred by any one or more of the Other Owners arising out of or from the failure by the Defaulting Owner to perform any and all duties and obligations imposed on the Defaulting Owner under this Agreement.

2.5 Property B Agent. The Property B Agent shall be selected and/or removed by the Owners pursuant to Section 2.6 and shall serve until the Property B Agent dies, becomes physically disabled or legally incompetent, resigns or is removed by the Owners. The Property B Agent need not be an Owner or an owner or affiliate of an Owner. The Property B Agent shall (a) promptly deliver to the Owners copies of any and all notices, demands and correspondence received from the Owner of Property A, including but without limitation, the Budget, (b) consult with the Owners prior to making any Property B Decisions, and (c) not make any Property B Decision unless and until the Required Percentage of Owners has approved such

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actions pursuant to Section 2.6 The Property B Agent shall maintain at its offices books and records in connection with its duties as agent hereunder. Such books and records shall be available for inspection by an Owner at reasonable times and during usual business hours at the offices of the Property B Agent. Furthermore, the Owners shall have the right to adopt from time to time additional procedures respecting the operation of the Property B Agent structure. By its acceptance of the office of Property B Agent, the Property B Agent agrees to be bound by all the duties and obligations imposed thereon under this section.

2.6 Owner's Action. The Owners shall meet from time to time, but no less frequently than monthly on the first Monday of each month (or if such Monday is a holiday, then the next business day), but as often as necessary or desirable to discuss management and operation issues, designate or remove the Property B Agent and direct the Property B Agent as to the course of action respecting any Property B Decision. Meetings shall be held at the principal office of the Property B Agent or by means of conference telephone or similar communications equipment that enables all individuals participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at such meeting. Any Owner can convene a meeting of Owners upon five (5) business days prior notice to the other Owners specifying the date, time and place of the proposed meeting and the agenda of the meeting unless such notice is waived in writing. Written minutes of all meetings of the Owners and the decisions made by them shall be prepared and maintained in the records of the Owner meetings by an Owner, as Secretary appointed by the Owners, and such minutes shall be initialed or signed by each Owner (or its representative) present at the meeting. Minutes and/or resolutions of the Owners' meetings, when initialed or signed by the Required Percentage of Owners (or their representative) shall be binding and conclusive evidence of the decisions reflected therein and any authorizations granted thereby. Any action required to be taken at a meeting of the Owners or any other action which may be taken at a meeting of the Owners may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by the Required Percentage of Owners or their representatives. Any such consent shall have the same effect as an act of the Owners at a properly called and constituted meeting of the Owners at which the Required Percentage of Owners or their representatives were present and voting.

2.7 Rest Room and Secondary Exit Easements. Lake hereby grants a perpetual, non-exclusive easement for use, ingress and egress by and for persons in, to, over, upon and through a north-south public hallway to be constructed by Lake adjacent to the east property line of the Midwest Property located in the Lake Property on the East half of Lot 2 of in favor of the Midwest Property to the extent necessary to permit and allow (a) the use of the rest-room to be constructed by Lake in the East half of said Lot 2 and (b) secondary access to and from the Midwest Property and the exterior street level of the Building through any stairwells, fire-escapes or other emergency accessways now or hereafter located in the Lake Property on said East half of Lot 2. The easements set forth in this Section 2.7 shall be binding upon the Lake Property and the Owner of the Lake Property and shall run in favor of and inure to the benefit of the Owner of the Midwest Property and its successors, mortgagees, tenants, subtenants, guests, invitees and licensees.

2.8 Future Transfer. Nothing contained in this Agreement shall be construed to prevent, restrain or in any way restrict an Owner from conveying, transferring, mortgaging, pledging, leasing, or otherwise alienating the portion of Property B owned by such Owner.

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ARTICLE 3

Liens, Debts, Interest and Remedies

3.1 Lien for Non-Payment by Owner. If, at any time, any Owner (the "Defaulting Owner") shall fail to pay to another Owner (the "Creditor Owner") any sum of money due the Creditor Owner under or pursuant to the provisions of this Agreement, within the time period set forth for such payment, or if no time period is set forth, then within thirty (30) days after demand therefor then, in addition to any rights of subrogation the Creditor Owner may have by operation of law or otherwise, the Creditor Owner shall have a lien against the portion of Property B owned by the Defaulting Owner and a lien against any insurance proceeds payable to the Defaulting Owner to secure the repayment of such sum of money and all interest accruing pursuant to the provisions of this Article 3.

3.2 Priority of Lien for Non-Payment. To the extent permitted by law, the liens imposed in this Article 3 shall take precedence over any encumbrance constituting a lien on the portion of Property B owned by the Defaulting Owner other than a Mortgage which is a prior lien against such portion of Property B at the time of the recording of the notice of lien as hereinafter provided. Such liens shall continue in full force and effect until such sum of money and any accrued interest thereon shall have been paid in full and, except as set forth in the preceding sentence, shall reattach after foreclosure of any lien subordinate to the liens imposed in this Article 3. Each Owner agrees to execute a document, if requested by a Mortgagee of another Owner, acknowledging the provisions of the first sentence of this Section 3.2 with respect to such Mortgage. Such liens shall arise immediately upon the recording of a notice by the Creditor Owner in the Office of the Recorder of Deeds of Cook County, Illinois and may be enforced by a proceeding in equity to foreclose or by any other remedy available at law or in equity.

3.3 Lien Not Defeated By Conveyance of Title. No conveyance or other divestiture or title shall in any way affect or diminish any lien arising pursuant to this Article 3, and any lien which would have arisen against any property pursuant to this Article 3 had there been no conveyance or divestiture of title shall not be defeated or otherwise diminished or affected by reason of such conveyance or divestiture of title.

3.4 Mortgagee Right of Subrogation. A Mortgagee of all or any portion of Property B shall have the right to an assignment of any lien affecting the property secured by its Mortgage upon payment of the amount secured by such lien and shall in the event of said payment or satisfaction be subrogated to such other lien and any additional security held by the holder thereof. Such Mortgagee may at any time give to the holder of the lien a written notice of its election to pay such amount. On a date not less than ten (10) and not more than thirty (30) days thereafter, the Mortgagee shall pay the full amount of such lien, and the holder of the lien shall deliver to the Mortgagee an instrument in recordable form assigning the lien together with the debt secured thereby.

3.5 Cumulative Remedies. Subject to the limitations set forth in Section 6.5 and 6.6 hereof, the rights and remedies of the Creditor Owner provided for in this Article 3 or elsewhere in this Agreement with respect to any Owner to whom a sum of money or performance of any

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obligation under this Agreement is owed, are cumulative and not intended to be exclusive of any other remedies to which Creditor Owner may be entitled at law or in equity. The exercise by such Owner of any right or remedy to which it is entitled hereunder shall not preclude or restrict the exercise of any other such right or remedy.

3.6 No Right of Set-Off. Each claim of any Owner arising under this Agreement shall be separate and distinct, and no defense, or set-off arising against the enforcement of any lien or other claim of any Owner shall thereby be or become a defense or set-off against the enforcement of any other lien or claim.

3.7 Interest. Interest shall accrue at the Maximum Rate on all sums of money payable by a Defaulting Owner under this Agreement. Such interest shall accrue from and after the tenth (10th) day after the Creditor Owner's demand for payment of such sums of money through and including the day on which such sums of money and accrued interest are paid in full.

ARTICLE 4

Resolution of Disputes

4.1 Informal Resolution of Disputes. Each Owner agrees that any claim or controversy ("dispute") that relates to the interpretation and implementation of this Agreement shall be referred to counsel for each Owner for discussion. If within fifteen (15) days after such dispute has been referred to counsel, no resolution of such dispute has been achieved, then such dispute shall be submitted to arbitration under the provisions of this Article 4.

4.2 Arbitration. In the case of any dispute subject to arbitration under this Article 4, any Owner may demand in writing that the dispute be resolved by binding arbitration. Upon such demand, the dispute shall be decided by arbitrators in accordance with the rules set forth in this Article 4 and the provisions of this Agreement. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction. The arbitration provisions of this Article 4 shall be the sole remedies of the Owners under this Agreement with respect to disputes subject to arbitration under this Article 4. Notwithstanding the foregoing, any Owner may apply to a court of competent jurisdiction for equitable relief or pursue such other remedies as may be available to said Owner at law or in equity if such is appropriate prior to or during the pendency of the arbitration proceeding, of if the amount in controversy in any such dispute exceeds the sum of \$50,000.

Notice of the demand for arbitration shall be filed in writing with the other Owners. The demand for arbitration shall be made within six (6) months after the date of the event which gave rise to the claim, dispute or other matter in question and in event a claim may not be asserted if such a demand has not been filed within such six-month period.

Unless otherwise agreed to in writing by all the Owners, upon receipt of a demand, the Owners shall designate two (2) arbitrators within twenty (20) business days thereafter. The two (2) designated arbitrators shall then select a third arbitrator to complete the full arbitration panel within ten (10) business days, or as otherwise agreed.

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The arbitrators selected pursuant to the terms of this Article 4 shall not be employees of, or hold any ownership interest in, the Owner selecting them. Each such arbitrator shall have at least five years of experience relevant to the general subject matter of the dispute.

If the arbitrators selected by the Owners cannot agree upon a third arbitrator within the time limits set by this Agreement, any Owner may apply to any court having jurisdiction over this Agreement to select the neutral arbitrator. If the Owners fail to appoint the initial two (2) arbitrators within the time period set forth, any Owner may apply to any court having jurisdiction over this Agreement to compel arbitration and that court shall be empowered to select the initial two (2) arbitrators.

The arbitration panel shall commence hearings within thirty (30) days after the selection of the panel, unless the Owners or the arbitration panel agree upon a delayed schedule of hearings. Any Owner may send out requests to compel document production from the other Owners. Disputes concerning the scope of document production and enforcement of the document requests shall be subject to agreement by the Owners, or may be ordered by the arbitrators to the extent reasonable. Except where contrary to the provisions set forth in this Agreement, the rules of the American Arbitration Association (AAA) for commercial arbitration shall be applied to all matters of procedure, including discovery. The arbitrators may obtain independent legal counsel to aid in their resolution of legal questions presented in the course of arbitration to the fair resolution of the dispute, and to the extent that it is economical to do so considering financial consequences of the dispute. If any Owner subject to the terms of this arbitration provision fails or refuses to appear at and participate in an arbitration hearing after due notice, the arbitration panel may hear and determine the controversy upon evidence produced by the appearing Owners.

All costs incurred by the arbitration panel convened to resolve any dispute pursuant to this Article 4, and the fees and expenses of the neutral member thereof shall be borne equally by each Owner, except that each Owner shall be responsible for its own expenses and the fees and costs of the arbitrator selected by it.

Unless otherwise agreed in writing, the Owners shall continue to perform all obligations and make all payments due under this Agreement in accordance with this Agreement during the course of any arbitration pursuant to the provisions of this Article 4. The obligation of the Owners to continue performance and make payments despite the existence of a dispute shall be enforceable by any Owner by application to any court of competent jurisdiction for an injunctive order requiring the immediate performance of such obligations as provided in the preceding sentence.

ARTICLE 5

NOTICES

All notices, demands, elections or other instruments required, permitted or desired to be served hereunder shall be in writing and shall be delivered in person or mailed as certified or registered mail, postage prepaid, addressed as set forth below. Any notice, demand, election of

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other instrument delivered in person as aforesaid shall be deemed received upon delivery thereof, and any notice, demand, election or other instrument mailed as aforesaid shall be deemed received three (3) business days after deposit of the United States mail. Addresses for service of notice may be changed, and addresses for service to future Owners added, by written notice served at least ten (10) days prior to the effective date of any such change.

To Lake:

560-566 Lake Building, LLC
__ Floor 566 West Lake Street
Chicago, Illinois 60606
Attn: Thomas Katsoulis

With a copy to:

Robert H. Block
Attorney at Law
730 N. La Salle Street, Suite 500
Chicago, Illinois 60610

To Ascot:

James Ascot
Ascot Realty
566 West Lake Street
First Floor
Chicago, Illinois 60606

With a copy to:

Andrew Spivack
Attorney at Law
811 West Superior Street
Fifth Floor
Chicago, Illinois 60622

To: Midwest

Keith Volgman
NorthPoint Capital
566 West Lake Street
Second Floor
Chicago, Illinois 60606

With a copy to:

Charles L. Edwards
Piper Marbury Rudnick & Wolfe
203 North La Salle Street
Suite 1800
Chicago, Illinois 60601

The parties hereto further agree to deliver a copy of all notices delivered in connection with this Agreement to any other party or parties having a mortgage lien against the Total Property, or any portion thereof, now or at any time in the future upon written request for same.

ARTICLE 6

General

6.1 **Invalid Provisions.** The invalidity of any covenant, restriction, condition, limitation or any other part or provisions of this Agreement shall not impair or affect in any manner the validity, enforceability or affect of the rest of this Agreement.

6.2 **Amendments.** This Agreement may be amended only by an instrument signed by the then Owner and each Mortgagee of Property B. Any amendment to this Agreement shall be filed for record in the office of the Recorder of Deeds of Cook County, Illinois.

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6.3 Rule Against Perpetuities. If and to the extent that any of the covenants would otherwise be lawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute of common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions in question shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Robert Fitzgerald Kennedy, former Attorney General of the United States, living at the date of this Agreement.

6.4 Subsequent Owners. Except as otherwise specifically set forth herein, all the easements, rights, covenants, agreements, reservations, restrictions and conditions contained in the EOA and herein contained touch and concern the land and shall run with the land and shall inure to the benefit of and be binding upon the Owners and each subsequent holder of any interest in any portion of Property B and their grantees, mortgagees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Property B or any part thereof.

6.5 Undertaking to Perform Obligations. Each grantee of any portion of or interest in Property B and each Mortgagee which succeeds to the fee simple ownership of any portion of Property B shall be deemed, by the acceptance of a deed, assignment or beneficial interest or Mortgage, to agree to perform each and every undertaking created hereunder to be performed after transfer of the interest in question attributable to the portion of Property B in which such grantee or Mortgagee has acquired an interest. Notwithstanding anything to the contrary contained in this Agreement, no Mortgagee of any portion of or interest in Property B shall have any personal liability whatsoever for the performance of any obligation under this Agreement unless and until it becomes an owner of a fee simple interest in Property B, and in that case such Mortgagee's liability shall be only for the performance of obligations arising after the date on which such Mortgagee has succeeded to fee simple ownership, provided that the foregoing shall not impair any rights of an Owner under Article 3 hereof.

6.6 Written Agreement to Undertake Obligations by Transferee. If any Owner from time to time of Property B shall transfer all or any portion of its property, it shall obtain from its purchaser ("Purchaser") concurrently with the closing of the sale, an agreement in writing ("Assumption Agreement") in which the Purchaser expressly undertakes to the other Owners the performance and liability for those obligations and duties to be performed after the transfer of the interest in question and interests as to which it is succeeding a party to this Agreement. The Purchaser shall also agree to obtain from any subsequent purchaser of its property an Assumption Agreement. Any contract of sale for all or a portion of Property B shall provide that the execution and delivery of an Assumption Agreement is a condition of such sale. Notwithstanding anything in this Section 6.6 to the contrary, upon the transfer of Property B or any interest therein, the party to whom such transfer is made shall be deemed to have assumed all of the selling Owner's obligations and covenants under this Agreement to be performed after the transfer of the interest in question regardless of whether or not such assumption is evidenced by a separate written agreement as hereinabove contemplated.

6.7 Independent Contractors. Each Owner declares and agrees that it is engaged in a business which is independent from that of any other Owner and shall perform its obligations

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hereunder as an independent contractor and not as the agent, employee or servant of any other Owner. No Owner nor any personnel furnished by any Owner shall be deemed employees or agents of any other Owner or entitled to any benefits available under any plans for such other Owner's employees. In no event, are the Owners to be considered partners or joint venturers.

6.8 Choice of Law. This Agreement shall be governed by the laws of the State of Illinois.

6.9 Estoppel Certificates. Each Owner agrees that from time to time, upon not less than ten (10) days prior written request from another Owner or a Mortgagee, such Owner will deliver a statement in writing certifying (a) that this Agreement is unmodified and in full force and effect (or if there have been modifications that the Agreement is in full force and effect as modified, and identifying the modifications), and (b) whether or not any other Owner is in default under any provisions under this Agreement, and if such a default exists, the nature of such default. Any Mortgagee shall be deemed a third party beneficiary of this Section.

6.10 No Third Party Beneficiaries. This Agreement shall not provide third parties with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

6.11 Non-discrimination. Each Owner agrees not to discriminate against any employee or applicant for employment, training, education or apprenticeship connected directly or indirectly with the performance of this Agreement, with respect to his or her hire, promotion, job assignment, tenure, terms, conditions or privileges or employment because of race, color, creed, national origin, age, marital status, handicap, sex or sexual orientation.

6.12 No Partition. The Owners, for themselves and on behalf of all successors and assigns of any of them, hereby waive and relinquish all rights of partition that any Owner may have now or at any time in the future by virtue of such Owner's interest in common in Property B, whether arising at law or in equity, it being the intention of the Owners that no Owner shall have any right to partition of Property B and that any and all disputes arising between the Owners with respect to Property B or any interest therein be resolved pursuant to the provisions of Article 4 of this Agreement.

6.13 Termination. This Agreement shall terminate upon the proper recording against Property B of an instrument terminating this Agreement properly executed by all of the Owners.

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LAKE:

560-566 LAKE BUILDING, LLC, an Illinois limited liability company

By: HSF Corporation, its manager

By: *Nunzio Casalino*
Name: Nunzio Casalino
Title: President

MIDWEST:

MIDWEST REAL PROPERTY COMPANY
- 566 W. LAKE STREET, LLC, an Illinois limited liability company

By: *Keith A. Volgman*
Name: Keith A. Volgman
Title: *Manager*

ASCOT:

James Ascot
James Ascot

INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Robert H. Block
Attorney at Law
730 North La Salle Street
Suite 500
Chicago, Illinois 60610

STREET ADDRESS:

560-566 West Lake Street
Chicago, Illinois 60606

PERMANENT INDEX NUMBERS

- 17-09-315-014
- 17-09-315-015
- 17-09-315-016
- 17-09-315-017
- 17-09-315-021



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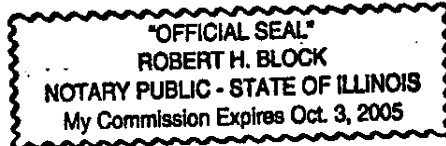
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

20048635

I, ROBERT H. BLOCK, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Nunzio Casalino, personally known to me to be the President of HSF Corporation, the Manager of 560-566 Lake Building LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said corporation and company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 13th day of December, 2001.

Robert H. Block
Notary Public



My Commission Expires:

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Case No. 12-1234

Date: 10/15/2002

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ROBERT M. BLOCK
NOTARY PUBLIC - STATE OF ILLINOIS
My Commission Expires Oct. 9, 2005

10/15/2002

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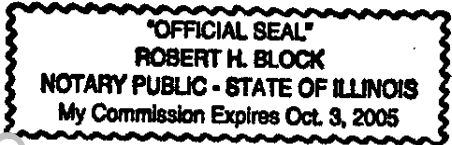
20048635

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Robert H. Block, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Keith Volgman, personally known to me to be the sole member of Midwest Real Property Company-566 W. Lake Street, LLC, an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such sole member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 13th day of December, 2001.

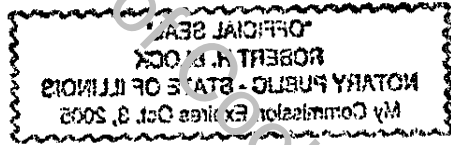
Robert H. Block
Notary Public



My Commission Expires:

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Property of Cook County Clerk's Office



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20048635

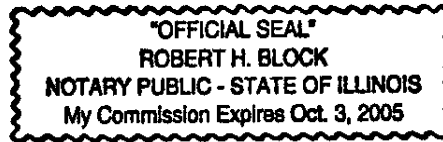
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, ROBERT H. BLOCK, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that James Ascot 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, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 13th day of December, 2001.



Notary Public



My Commission Expires:

UNOFFICIAL COPY

My Commission Expires Oct. 3, 2008
NOTARY PUBLIC - STATE OF ILLINOIS
ROBERT H. CLOCK
OFFICIAL SEAL

Property of Cook County Clerk's Office

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EXHIBIT A**20048635****LEGAL DESCRIPTION OF PROPERTY B****Parcel 1:**

That part of Lot 1A, lying West of the centerline of an existing party wall which is drawn from a point on the South Line of said Lot 1A, distant measured 60.45 Easterly from the Southwest corner of said Lot 1A to a point on the North line of said Lot 1A, distant measured 60.55 Easterly from the Northwest corner of said Lot 1A in West Lake Subdivision, being a resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

That part of Lot 1, lying West of the centerline of an existing party wall which is drawn from a point on the South Line of said Lot 1, distant measured 60.45 Easterly from the Southwest corner of said Lot 1 to a point on the North line of said Lot 1, distant measured 60.55 Easterly from the Northwest corner of said Lot 1 in West Lake Subdivision, being a resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3:

Lots 2, 3 and 4 in West Lake Subdivision being a resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

A-1

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EXHIBIT B

20048635

LEGAL DESCRIPTION OF ASCOT PROPERTY

That part of Lot 1, lying West of the Centerline of an Existing Party Wall which is drawn from a point on the South Line of said Lot 1, distant measured 60.45 Easterly from the Southwest Corner of said Lot 1 to a point on the North line of said Lot 1, distant measured 60.55 Easterly from the Northwest Corner of said Lot 1 in West Lake Subdivision, being a Resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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EXHIBIT C

20048635

LEGAL DESCRIPTION OF LAKE PROPERTY

That part of Lot 1A, lying West of the Centerline of an Existing Party Wall which is drawn from a point on the South Line of said Lot 1A, distant measured 60.45 Easterly from the Southwest corner of said Lot 1A to a point on the North line of said Lot 1A, distant measured 60.55 Easterly from the Northwest corner of said Lot 1A in West Lake Subdivision, being a Resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Lots 2, 3 and 4 in West Lake Subdivision being a Resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois, **except that part thereof** described as follows:

That part of Lot 2, lying West of the Centerline of an Existing Party Wall which is drawn from a point on the South Line of said Lot 2, distant measured 60.45 Easterly from the Southwest Corner of said Lot 2 to a point on the North line of said Lot 2, distant measured 60.55 Easterly from the Northwest Corner of said Lot 2 in West Lake Subdivision, being a Resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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20048635

EXHIBIT D

LEGAL DESCRIPTION OF MIDWEST PROPERTY

That part of Lot 2, lying West of the Centerline of an Existing Party Wall which is drawn from a point on the South Line of said Lot 2, distant measured 60.45 Easterly from the Southwest Corner of said Lot 2 to a point on the North line of said Lot 2, distant measured 60.55 Easterly from the Northwest Corner of said Lot 2 in West Lake Subdivision, being a Resubdivision of Lots 2, 3, 4 and 5 in the Subdivision of Lots 6 and 7 in Block 24 in Original Town of Chicago in the South part of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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CONSENT OF MORTGAGEE 20048635

FOR THE LAKE PROPERTY

American United Bank and Trust Company USA, an ILLINOIS banking association, holder of the Mortgage dated November 29, 2001, and recorded in the office of the Recorder of Deeds of Cook County, Illinois on December 3, 2001, as Document Number 0011132380 and the Assignment of Rents dated November 29, 2001 and so recorded on December 3, 2001 as Document Number 0011132381 hereby consents to the execution and recording of the attached Building B Easement and Operating Agreement and agrees that said mortgage and other instruments are subject and subordinate thereto.

IN WITNESS WHEREOF, American United Bank and Trust Company USA has caused this instrument to be signed by its duly authorized officer on its behalf, all done at Chicago, Illinois on this 10 day of December __, 2001.

American United Bank and Trust Company
USA, an ILLINOIS banking association

By: 

Its: VICE PRESIDENT

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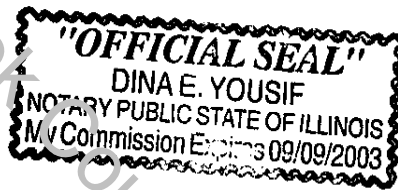
20048635

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that John Scheidt, personally known to me to be the Vice President of American United Bank and Trust Company USA and 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 as such John Scheidt, signed, and delivered said instrument as Vice President of said bank, pursuant to authority as his/her free and as voluntary act, and as the free and voluntary act and deed of said bank, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 10 day of December, 2001.

Dina E. Yousif
Notary Public



My Commission Expires:

9/9/2003

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20048635

CONSENT OF MORTGAGEE

FOR THE ASCOT PROPERTY

Associated Bank of Chicago, a State banking association, holder of the Mortgage _____ dated November 29, 2001, and recorded in the office of the Recorder of Deeds of Cook County, Illinois on ~~November~~ ^{DECEMBER} 3, 2001, as Document Number 001132382 [and the Assignment of ~~Rents and Leases~~ ^{RENTS} dated November 29, 2001 and so recorded November ~~29~~ ³, 2001, as Document Number 001132383,] hereby consents to the execution and recording of the attached Building B Operating Agreement and agrees that said mortgage and other instruments are subject and subordinate thereto.

IN WITNESS WHEREOF, Associated Bank of Chicago has caused this instrument to be signed by its duly authorized officer on its behalf, all done at Chicago, Illinois on this 11 day of December 3, 2001.

Associated Bank of Chicago, a State banking association

By: 

Its: Vice President

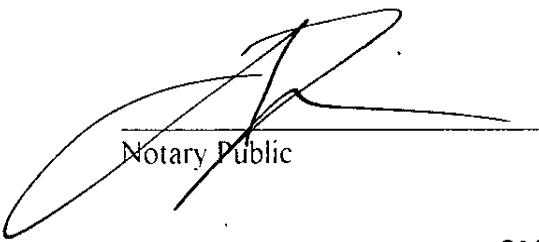
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20048635

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Randall A. Lehne, personally known to me to be the Vice President of Associated Bank of Chicago and 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 as such Randall A. Lehne, signed, and delivered said instrument as Vice President of said bank, pursuant to authority as his/her free and as voluntary act, and as the free and voluntary act and deed of said bank, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 11~~th~~ day of December, 2001.



Notary Public

My Commission Expires:



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Property of Cook County Clerk's Office

NOTARY PUBLIC STATE OF ILLINOIS
COMMISSION EXPIRES 08/31/2024
"ORANGE BALD"
SERIES 1000000000