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## TRANSFER OF SENIOR COMPONENT AND ASSIGNMENT OF NOTE, MORTGAGE AND ANCILLARY LOAN DOCUMENTS

THIS TRANSFER OF SENIOR COMPONENT AND ASSIGNMENT OF NOTE, MORTGAGE AND ANCILLARY LOAN DOCUMENTS (the "Assignment") is made and entered into as of this 28<sup>th</sup> day of December, 1993 by and between WESTINGHOUSE ELECTRIC CORPORATION, a Pennsylvania corporation, successor by merger to Westinghouse Credit Corporation, a Delaware corporation ("Assignor") and MORTGAGE ACQUISITION NO. 1 LIMITED PARTNERSHIP, an Illinois limited partnership ("Assignee").

### R E C I T A L S

A. Assignor is the holder of a certain promissory note (the "Original Note") dated July 18, 1985, in the initial principal amount of \$9,000,000 executed by LaSalle National Bank, not personally but as Trustee under Trust Agreement dated July 15, 1985 and known as Trust No. 110075 ("Old Trust").

B. The Original Note is secured by a mortgage ("Original Mortgage") dated July 18, 1985, executed by Old Trust, a copy of which was recorded as Document No. 85-112197 with the Cook County, Illinois Recorder (the "Recorder"), encumbering certain property (the "Property") located in Chicago, Illinois and commonly known as 407 South Dearborn and more particularly described on Exhibit A attached hereto. The Original Mortgage was amended by a Mortgage Modification Agreement dated October 19, 1986 executed by Old Trust, a copy of which was recorded as Document No. 86-502899 and re-recorded as Document No. 87-010548. The Original Mortgage has been further amended by a Second Modification Agreement dated March 29, 1991, a copy of which was recorded with the Recorder as Document No. 91-190902.

C. The Original Note is also secured by an Assignment of Leases, Rents and Profits ("Assignment of Rents"), executed by Old Trust, a copy of which was recorded July 22, 1985 as Document 85112199.

D. Assignor and LaSalle National Trust, N.A., not personally but as successor Trustee under Trust Agreement dated December 16, 1985 and known as Trust No. 110677 ("New Trust") have entered into a Third Loan Modification Agreement dated as of August 7, 1992 (the "Loan Modification Agreement"), relating to the Original Note. The Loan Modification Agreement and all other documents evidencing or securing the indebtedness evidenced by the Note are collectively referred to herein as the "Ancillary Loan Documents." The Original Note and Original Mortgage, as amended, are respectively referred to as the "Note" and "Mortgage".

E. Assignor and Assignee entered into a certain Participation Agreement and Certificate dated as of August 7, 1992 (the "Participation Agreement") whereby the indebtedness evidenced by the Note was divided into a "Senior Component" and

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COOK COUNTY RECORDER

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a "Junior Component" (as defined therein) and Assignor assigned, transferred, sold and conveyed to Assignee the Junior Component, and pursuant to the Participation Agreement, Assignor retained the Senior Component. A true and complete copy of the Participation Agreement is attached hereto as Exhibit B.

F. Assignor desires to assign all of its right, title and interest to the Senior Component, Note, Mortgage, and Ancillary Loan Documents (collectively the "Assigned Interest"), and Assignee desires to accept this assignment.

NOW, THEREFORE, in consideration of the payment of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) and of other consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein as if fully set forth herein.

2. Definitions. Unless otherwise specified herein, all initial capitalized terms in this instrument shall have the same meaning ascribed to such terms in the Participation Agreement.

3. Assignment. Assignor hereby sells, assigns, transfers, and conveys to Assignee, its successors and assigns, WITHOUT RECOURSE, all of the right, title and interest of Assignor under, in and to the Senior Component, the Note, Mortgage and Ancillary Loan Documents. Assignor does further transfer and assign to Assignee any other interest that it may have in and to the Property. Assignor agrees to execute such further documents as may be reasonably requested by Assignee to further establish and evidence the assignments contemplated hereby.

4. Assumption. Assignee hereby accepts the foregoing assignment and agrees, from and after the date hereof, to assume, perform, discharge, fulfill and observe all of Assignor's obligations, liabilities, covenants and conditions under and with respect to the Assigned Interest.

5. Payment. Assignee has, concurrent with the execution and delivery of this Agreement, paid Assignor the sum of \$150,000.00 in compensation for said assignment.

6. Representations and Warranties of Assignor. Assignor hereby represents and warrants to Assignee as follows:

- (a) Assignor is the successor by merger to Westinghouse Credit Corporation, a Delaware corporation.

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- (b) Assignor is the absolute owner of the Assigned Interest and has not pledged, sold or otherwise assigned the Assigned Interest.
- (c) Assignor has full power, right and authority to execute this instrument and cause the Assignment as herein provided, without the consent of any additional parties.
- (d) Assignor is a corporation duly organized, validly existing and in good standing under the laws of the State of Pennsylvania. The execution, delivery and performance of this Assignment, in accordance with its terms, does not violate the Articles of Incorporation or By-Laws of Assignor or any contract, agreement or commitment to which Assignor is a party or by which it is bound. The execution and delivery of this Assignment has been duly authorized by all necessary corporate action of the board of directors of Assignor. This Assignment is a valid and binding Assignment duly enforceable against Assignor.
- (e) This assignment does not violate any laws, ordinances, judgments, court orders, contracts or other agreements by which Assignor is bound or to which Assignor is a party.

7. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. Governing Law. This Assignment shall be governed by the laws of the State of Illinois.

9. Execution in Counterparts. This Agreement may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as but a single instrument.

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IN WITNESS WHEREOF, the parties have caused this Assignment to be executed as of the date first written above.

WESTINGHOUSE ELECTRIC CORPORATION, a Pennsylvania corporation, Successor by merger to Westinghouse Credit Corporation

By: [Signature]  
Its: Executive Vice President

ATTEST:

[Signature: David A. Burkaevich]  
Its: Asst Sec.

MORTGAGE ACQUISITION NO. 1 LIMITED PARTNERSHIP, an Illinois limited partnership

By: Mortgage Acquisition Company, Inc., an Illinois corporation, general partner

By: [Signature: Philip Parity]  
Its: Pres

ATTEST:

[Signature: John Riley]  
Its: Gen. Partner

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Acknowledgement for  
Westinghouse Electric  
Corporation

Pennsylvania  
STATE OF ~~ILLINOIS~~ )  
Allegheny ) SS.  
COUNTY OF ~~C-O-O-K~~ )

I, MARY ANN KELEHER, a Notary Public in and for said County, in the State aforesaid, do hereby certify that P. C. EISENREICH, personally known to me to be the EXEC. VICE President of WESTINGHOUSE ELECTRIC CORPORATION, a Pennsylvania corporation, and DAVID A. BRAKONIECKI, personally known to me to be the ASSISTANT Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such EXEC. VICE President and ASSISTANT secretary, they signed and delivered the said instrument as EXEC. VICE President and ASSISTANT Secretary of said corporation, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28<sup>th</sup> day of December, 1993.

Mary Ann Keleher  
Notary Public

My commission expires:

Notarial Seal  
Mary Ann Keleher, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires Nov. 30, 1997  
Member, Pennsylvania Association of Notaries

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Acknowledgement for  
Mortgage Acquisition No. 1  
Limited Partnership

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, KATHLEEN F. EUGERON, a Notary Public in and for said County, in the State aforesaid, do hereby certify that PHILIP SCOTTSBERG, personally known to me to be the President of MORTGAGE ACQUISITION COMPANY, INC., an Illinois corporation, and JOHN RUDY personally known to me to be the VICE PRESIDENT Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and VICE PRESIDENT Secretary, they signed and delivered the said instrument as President and VICE PRESIDENT Secretary of said corporation in its capacity as general partner of Mortgage Acquisition No. 1 Limited Partnership, and Illinois limited partnership (the "Partnership"), pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, acting as general partner of the Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of December, 1993.

Kathleen F. Eugeron  
Notary Public

My commission expires:

OFFICIAL SEAL  
KATHLEEN F. EUGERON  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 6/24/96

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## EXHIBIT A

(Chicago, Illinois)

Lots 1, 6 and 7 (excepting that portion of said lots falling in Dearborn Street) in Block 138 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 17-16-246-001  
Street Address: 407 South Dearborn  
Chicago, Illinois

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EXHIBIT B

## PARTICIPATION AGREEMENT AND CERTIFICATE (Old Colony)

This Participation Agreement and Certificate is entered into this 7th day of August, 1992 by and between WESTINGHOUSE CREDIT CORPORATION, a Delaware corporation ("WCC") and MORTGAGE ACQUISITION NO. 1 LIMITED PARTNERSHIP, an Illinois limited partnership ("MAC").

### RECITALS

A. WCC is the holder of a certain promissory note (the "Old Colony Note") dated July 18, 1985, in the initial principal amount of \$9,000,000 made by LaSalle National Bank, not personally but as Trustee under Trust Agreement dated July 15, 1985 and known as Trust No. 110075 ("Old Trust").

B. The Old Colony Note (a copy of which is attached hereto as Exhibit A and is referred to as the "Note") is secured, inter alia, by a mortgage (the "Original Mortgage") dated July 18, 1985, executed by Old Trust, a copy of which was recorded as Document No. 85-112197 with the Cook County, Illinois Recorder (the "Recorder"), encumbering certain property located in Chicago, Illinois (the "Old Colony Property") more particularly described in Exhibit B hereto. The Original Mortgage has been amended by a Mortgage Modification Agreement dated October 19, 1986 executed by Old Trust, a copy of which Modification Agreement was recorded with the Recorder as Document No. 86-502899 and re-recorded as Document No. 87-010548. The Original Mortgage has been

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further amended by a Second Modification Agreement dated March 29, 1991, a copy of which was recorded with the Recorder as Document No. 91-190902. The Original Mortgage, as amended, is herein referred to as the "Mortgage."

C. WCC and LaSalle National Trust, N.A., not personally but as successor Trustee under Trust Agreement dated December 16, 1985 and known as Trust No. 110677 ("New Trust") have entered into a Loan Modification Agreement of even date herewith (the "Loan Modification Agreement") relating to the Note, a copy of which has previously been provided to MAC. The Note, Mortgage, the Loan Modification Agreement and all other documents evidencing or securing the indebtedness evidenced by the Note are collectively referred to herein as the "Loan Documents."

D. MAC, WCC and certain other individuals and/or entities are parties to a certain settlement agreement (the "Settlement Agreement") dated August 7, 1991 pursuant to which MAC has agreed to pay the sum of \$1,000,000 to WCC (the "Assignment Payment") as consideration for the acquisition of (i) an interest in the Loan Documents, as more particularly set forth herein, and (ii) interests in certain other indebtedness held by WCC.

E. In furtherance of the Settlement Agreement, MAC desires to acquire a participation interest in the loan evidenced by the Note, and WCC desires to sell such interest to MAC all on the terms and provisions herein set forth.

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NOW, THEREFORE, in consideration of Ten Dollars, the Assignment Payment and of other consideration, the receipt and sufficiency of which is hereby acknowledged the parties hereto hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated herein and form a part of this Agreement.

2. Creation of Loan Components: Assignment of Junior Component. For purposes of the Participation Agreement, the indebtedness evidenced by the Note shall be divided, as between WCC and MAC into a "Senior Component" and a "Junior Component." WCC hereby assigns, transfers, sells and conveys the Junior Component to MAC. WCC is retaining the Senior Component.

3. Definition of Senior Component. As used herein the Senior Component shall be the right to receive the Accrued Interest Component (as defined in the Loan Modification Agreement). No interest shall be payable to WCC as part of the Senior Component.

4. Definition of Junior Component. The Junior Component shall be right to receive all payments due under the Note after WCC has received payment in full of the Senior Component in accordance with the terms hereof.

5. Payment Allocations. Except as provided below in this Section 5, it is intended that MAC receive no payment hereunder until such time as WCC has received payment in full of the Senior Component. Accordingly, all payments received

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from New Trust under the Note shall, as between WCC and MAC, after payment to WCC of all costs of collection or enforcement and costs advanced by WCC to preserve the security of the Mortgage, be allocated as follows:

FIRST: to WCC to repay the Accrued Interest Component.

SECOND: to MAC to be applied as set forth in the Note (as amended).

Notwithstanding the foregoing payment allocations, and provided WCC is receiving all Net Cash Flow (as defined in the Loan Modification Agreement except without first deducting any interest payments required under the Note) from the Old Colony Property and when required to cause WCC to forbear from enforcing remedies against New Trust pursuant to the provisions of Section 8 hereof (which remaining Net Cash Flow is to be credited first against the Accrued Interest Component), then in the event New Trust elects from time to time to make a prepayment of principal on the Old Colony Note, the source of which prepayment consists solely of capital contributions or loans from partners of the beneficiary of New Trust and not the use of any Net Cash Flow or any reserves or other funds generated by the operations of the Old Colony Property, and the beneficiary of New Trust provides a certification of such source of funds, such prepayment shall be allocated to the Junior Component and paid to MAC.

6. Foreclosure Expenses. In the event WCC advances funds to protect the security of the Mortgage or

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incurs any costs or expenses, including legal fees, in connection with any foreclosure action with respect to the Old Colony Property, such funds shall be deemed a part of the Senior Component and reimbursed to WCC through payments by New Trust or through proceeds of the sale of the Old Colony Property before MAC receives any payment on the Junior Component.

Buy-Out Option. MAC shall have the right at any time, whether before or after default by New Trust under the Loan Documents, but prior to the delivery of a deed in lieu of foreclosure or a sheriff's or other foreclosure deed, to purchase the Senior Component from WCC at a price (the "Buy-Out Price") equal to the then remaining balance of the Senior Component.

8. Forbearance. WCC agrees that so long as it is receiving, on a current basis, all Net Cash Flow (as defined in the Note, as modified by the Loan Modification Agreement, except without first deducting any interest payments required under the Note) from the Old Colony Property no later than on a quarterly basis in arrears on the fifteenth day following the end of each calendar quarter (except the first payment due no later than January 15, 1993 will encompass all Net Cash Flow from the date hereof through December 31, 1992), which Net Cash Flow is to be credited against the Senior Component, WCC will not commence any foreclosure action against New Trust or assert any other remedy under the Loan

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Documents by reason of nonpayment of any other interest or principal due under the Note as modified by the Loan Modification Agreement, except upon the written request of MAC.

9. Release of Junior Component. In connection with any foreclosure sale of the Old Colony Property, WCC shall not be authorized to bid at such sale an amount in excess of the Buy-Out Price without the prior written agreement of MAC. Subject to the provisions of Section 9 hereof, MAC agrees that in the event that WCC acquires title to the Old Colony Property by a deed in lieu of foreclosure or pursuant to foreclosure proceedings following a default by New Trust with respect to the Loan Documents, the interest of MAC hereunder and under the Note, Mortgage and the other Loan Documents shall be deemed extinguished.

10. Amendments to Note. WCC agrees that it will not amend or cancel the Note or amend or release the Old Colony Mortgage or any of the other Loan Documents without the prior written consent of MAC.

11. Assignment of Note. At such time as WCC has received payment in full of the Senior Component, WCC shall endorse and deliver the Note, without recourse, to MAC and shall execute and deliver to MAC an assignment of the Old Colony Mortgage and the other Loan Documents and such other documents reasonably requested by MAC, and thereafter this Agreement shall be deemed of no further force or effect. WCC

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agrees not to assign, pledge or hypothecate its interest in the Note except as contemplated by this Section 11.

12. Notices. Any notice, consent or other communication to be given hereunder or pursuant to any of the Old Colony Loan Documents shall be in writing and shall be delivered either personally or by United States certified or registered mail, postage prepaid, return receipt requested (which shall be deemed received upon the earlier of receipt or three (3) days after the deposit thereof with the United States Postal Service) to WCC and MAC at their respective addresses set forth below or to such other addresses as Mortgagor or Mortgagee may direct in writing:

If to WCC, to:

Westinghouse Credit Corporation  
One Oxford Centre  
Pittsburgh, Pennsylvania 15219  
Attention: Senior Vice President, Real  
Estate Financing

If to MAC, to:

Mortgage Acquisition Company No. 1  
c/o Philip Rootberg & Company  
250 South Wacker Drive  
Suite 800  
Chicago, Illinois 60606

with a copy to:

Jenner & Block  
One IBM Plaza  
Chicago, Illinois 60611  
Attention: Donald I. Resnick

13. Merger. This Agreement contains the entire agreement between the parties hereto, and no prior representations, inducements, promises or agreements, oral or

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written, between the parties not embodied herein shall be of any force and effect.

14. Amendment. This Agreement may be amended only by written instrument signed by the parties hereto.

15. Governing Law. The terms and provisions of this Agreement shall be governed by the laws of the State of Illinois.

16. Severability. All provisions of this Agreement are severable and this Agreement shall be interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and partially valid and enforceable provisions shall be enforced to the extent valid and enforceable.

17. Counterparts. This Agreement may be executed in counterparts which, when taken together, shall be deemed to constitute one original document.

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interpreted and enforced as if all completely invalid or unenforceable provisions were not contained herein, and partially valid and enforceable provisions shall be enforced to the extent valid and enforceable.

17. **Counterparts.** This Agreement may be executed in counterparts which, when taken together, shall be deemed to constitute one original document.

IN WITNESS WHEREOF, the parties hereto have executed this Participation Agreement and Certificate as of the day and year first above written.

**MORTGAGE ACQUISITION  
NO. 1 LIMITED PARTNERSHIP,**  
an Illinois limited partnership

By: Mortgage Acquisition Company,  
Inc., an Illinois corporation,  
general partner

By: *Philip Rodley*  
Its                                  President

ATTEST:

Its Assistant Secretary

**WESTINGHOUSE CREDIT CORPORATION**  
a Delaware corporation

By: *James F. Risoleo*  
James F. Risoleo  
Its Senior Vice-President

03051136

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## EXHIBIT A (The Note)

A copy of each of the Note follows this page.

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## PROMISSORY NOTE SECURED BY LIEN ON REAL PROPERTY

\$9,000,000.00

July 18, 1985  
Chicago, Illinois

FOR VALUE RECEIVED, LASALLE NATIONAL BANK, not personally but as Trustee under Trust Agreement dated July 15, 1985 and known as Trust No. 110075, (hereinafter referred to as "Maker"), promises to pay to the order of WESTINGHOUSE CREDIT CORPORATION (Westinghouse Credit Corporation, its successors and assigns are hereinafter collectively referred to as "WCC") at its offices at One Oxford Centre, Pittsburgh, Pennsylvania, 15219, or such other place as the holder hereof may from time to time appoint in writing, in lawful money of the United States of America, the principal sum of NINE MILLION DOLLARS (\$9,000,000.00), plus Deferred Interest (as hereinafter defined) added to principal ("the "WCC Loan" or the "Loan"), or so much thereof as may be advanced from time to time hereunder; provided, however, that the principal balance of this Note shall never exceed the amount of monies actually funded by WCC for the acquisition and renovation of the Premises (as hereinafter defined) and for Deferred Interest. The unpaid principal balance of this Note from time to time shall accrue interest at the New York Prime Rate plus one and one-half percent (1 1/2%) per annum, until maturity (hereinafter "Contract Rate"); provided, however, that the Contract Rate shall never be less than eleven and one-quarter percent (11 1/4%) per annum during the term of this Note, nor more than: thirteen percent (13%) per annum during the period from the date hereof through July 31, 1986 (the "First Loan Year"), fourteen percent (14%) per annum during the period from August 1, 1986 through July 31, 1987 (the "Second Loan Year"), fifteen percent (15%) per annum during the period from August 1, 1987 through July 31, 1988 (the "Third Loan Year"), sixteen percent (16%) per annum during the period from August 1, 1988 through July 31, 1989 (the "Fourth Loan Year"), and seventeen percent (17%) per annum during the period from August 1, 1989 through maturity on August 1, 1990 (the "Fifth Loan Year"), regardless of fluctuation in New York Prime Rate. Interest shall be computed by the "exact method," that is, the product resulting when multiplying the rate of interest by the principal balance outstanding, divided by 365/366 as applicable, multiplied by the actual number of days during which interest has accrued.

New York Prime Rate shall be the prime rate or reference rate of interest announced and published by a majority of the following New York City banks: The Chase Manhattan Bank, N.A., Manufacturers Hanover Trust Company and Chemical Bank, but if there be no such majority, then

03051136

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New York Prime Rate shall be the average of the prime or reference rates announced and published by all three of said banks. The interest rate will be adjusted as of the first day of the month following any month in which a net change in New York Prime Rate occurs.

This Note is payable in sixty (60) consecutive monthly installments as follows:

(a) Installments one (1) through fifty-nine (59), inclusive, shall be payments of the greater of (i) one hundred percent (100%) of Net Cash Flow (as hereinafter defined) from the operation of the Premises (as hereinafter defined) during the period from the prior interest payment date (or the date hereof as to the first payment) to the current interest payment date, or (ii) one-twelfth (1/12) of the following per annum interest rates for the respective loan years (hereinafter the "Payment Rate"):

<u>Loan Year</u>	<u>Percentage</u>
First Loan Year	10%
Second Loan Year	11%
Third Loan Year	12%
Fourth Loan Year	13%
Fifth Loan Year	14%

The interest shall be computed by the exact method as stated above during the period from the last interest payment date to the current interest payment date, provided that installment one (1) shall include the time from the date of the execution of this Note until the date of the first payment. The difference between the Contract Rate and the Payment Rate shall be deferred interest (hereinafter "Deferred Interest"), and such Deferred Interest shall be added to principal and shall bear interest at the Contract Rate. If the Payment Rate under (i) or (ii) above is in excess of the Contract Rate and there exists unpaid Deferred Interest, Maker shall continue to make payments at such higher rate until such time as the Deferred Interest is reduced to zero (0), after which the payments shall be at the Contract Rate. All monthly payments shall be accompanied by monthly operating statements of Maker with respect to the Premises.

For purposes of determining the monthly payments, the term "Net Cash Flow" shall mean the gross cash receipts of any kind or description from the operation of the Premises and the improvements thereon, after deducting all costs of managing, leasing, operating and maintaining the Premises to the extent paid in cash, but not including any such payments to the extent that the amounts thereof were reserved against and funded

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and the Fourth Loan Year, thirty percent (30%) of Net Financing Proceeds and during the Fifth Loan Year, thirty-five percent (35%) of Net Financing Proceeds. The term "Net Financing Proceeds" shall mean (i) the amount of any new mortgage loans secured by the Premises pursuant to a refinancing of the Premises in which all or a portion of the principal balance of the WCC Loan remains outstanding, less (ii) any portion of the WCC Loan which was prepaid with the proceeds of such new loans, including costs or fees which are attributable to such prepayment;

(c) Upon a sale of the Premises, other than a sale permitted under the terms of the Loan Agreement (as hereinafter defined) without the prior written consent of WCC, during the First Loan Year or the Second Loan Year, twenty-five percent (25%) of Net Sale Proceeds, (as hereinafter defined), during the Third Loan Year or the Fourth Loan Year, thirty percent (30%) of Net Sale Proceeds and during the Fifth Loan Year, thirty-five percent (35%) of Net Sale Proceeds. The term "Net Sale Proceeds" shall mean the gross sale proceeds (including the total amount of all assumed mortgage indebtedness) minus (i) reasonable closing costs and broker's fees (ii) the outstanding balance of the WCC Loan and accrued interest, other than Additional Interest, due to WCC, if any, and (iii) capital expenditures made by Maker, provided that only those capital expenditures approved by WCC may be treated as a deduction to arrive at Net Sale Proceeds. Any negative cash flow sustained with respect to the Premises is not considered a capital expenditure for determining Net Sale Proceeds;

(d) In the event that a sale of the Premises, other than a sale permitted under the terms of the Loan Agreement without the prior written consent of WCC, does not occur on or before the date on which the indebtedness evidenced by the Note becomes due and payable, whether by acceleration or otherwise, or if a total refinance of the WCC Loan occurs during the term of the WCC Loan, but Maker retains title to the Premises ("Total Refinance"), WCC's Additional Interest upon either the maturity of the WCC Loan as set forth above, or upon a Total Refinance, occurring in the First Loan Year or the Second Loan Year shall be twenty-five percent (25%) of the Appraised Value; during the Third Loan Year or the Fourth Loan Year, thirty percent (30%) of the Appraised Value; and during the Fifth Loan Year, thirty-five percent (35%) of the Appraised Value.

The following shall be permitted deductions in computing Appraised Value: (i) the outstanding balance

03081136



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from such reserves, and excluding payments of principal and interest on this Note. In computing Net Cash Flow, no deduction shall be made for depreciation or amortization as such terms are used for purposes of the United States Internal Revenue Code. Notwithstanding the foregoing, Net Cash Flow shall not include the proceeds of any sale or mortgage of the Premises, which proceeds shall be distributed as hereinafter set forth. Further, the deduction from gross receipts for any fees for the leasing and management of the Premises shall not exceed three percent (3%) of the actual rents collected from the improvements on the Premises during any period; and

(b) Installment sixty (60) shall be a balloon payment of all unpaid principal, together with all accrued and unpaid interest, Deferred Interest and late charges, if any, and shall be due and payable on August 1, 1990.

The first installment shall be due and payable without further notice on September 1, 1985 and the remaining installments on the first day of each month thereafter until August 1, 1990, when this Note shall be due and payable in full. If any installment is not paid within fifteen (15) days after it is due, a late charge of two percent (2%) of the amount of such installment shall be paid by Maker. All payments made shall be applied first to accrued and unpaid late charges, then to any unpaid interest which is computed at the Default Rate, then to Deferred Interest, then to accrued and unpaid interest and the remainder to principal.

In addition to the interest provided for above, WCC shall receive the following payments as Additional Interest at the times set forth below:

(a) With each monthly installment during the First Loan Year and the Second Loan Year, twenty-five percent (25%) of Monthly Distributable Net Cash Flow, (as hereinafter defined), during the Third Loan Year and Fourth Loan Year, thirty percent (30%) of Monthly Distributable Net Cash Flow and during the Fifth Loan Year, thirty-five percent (35%) of Monthly Distributable Net Cash Flow. The term "Monthly Distributable Net Cash Flow" shall mean with respect to any period Net Cash Flow for such period less the regularly scheduled payments due WCC under this Note other than Additional Interest;

(b) Upon each partial refinancing of the Premises during the First Loan Year and the Second Loan Year, twenty-five percent (25%) of Net Financing Proceeds, (as hereinafter defined), during the Third Loan Year

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of the WCC Loan and any accrued interest thereon other than Additional Interest; and (ii) if there exists any partial refinancing indebtedness, then the principal balance and the interest due thereon. The Additional Interest due under this subparagraph (d) shall in WCC's sole discretion be paid in cash or a continuing equity interest (as hereinafter defined). The term "continuing equity interest" as used herein shall mean the applicable percentage interest as a limited partner in a limited partnership owning the entire beneficial interest in a land trust holding legal title to the Premises, as such interest will exist pursuant to the terms of an agreement of limited partnership reasonably satisfactory to WCC. Unless the parties agree to the Appraised Value, WCC will select an MAI appraiser and present Maker with a computation of the Additional Interest due. If the Maker does not accept the WCC appraisal, then Maker may select another MAI appraiser. If WCC does not accept the Maker's appraisal, then the two appraisers will then select a third appraiser. The average of the three appraisals will establish the Additional Interest due and payable.

Full and partial prepayment of this Note shall be permitted at any time upon not less than thirty (30) days prior written notice, provided that Maker pays a premium of one percent (1%) of the principal balance which exists one day prior to such prepayment, (including Deferred Interest which has been added to principal), plus the Additional Interest as provided in paragraphs (b), (c) and (d) above.

This Note is secured by a Loan and Security Agreement (the "Loan Agreement") of even date herewith between Maker, WCC and PAG, Inc. ("Beneficiary"), a Mortgage of even date herewith made by Maker in favor of WCC (the "Mortgage") which encumbers that certain parcel of real estate and improvements thereon, as described in the Mortgage (the "Premises"), an Assignment of Leases, Rents and Profits of even date herewith made by Maker in favor of WCC (the "Assignment of Rents"), a Collateral Assignment of Beneficial Interest In Land Trust of even date herewith made by Beneficiary in favor of WCC and acknowledged by Maker, and an Agreement of Unconditional Guarantee of even date herewith executed by Jerold Wexler and Edward W. Ross ("Guarantors") in favor of WCC (collectively, the "Loan Documents"). The terms, covenants, conditions, provisions, stipulations and agreements of the said Loan Documents are hereby made a part of this Note, to the same extent and with the same effect as if they were fully set forth herein, and Maker does hereby covenant to abide by and to comply with each and every term, covenant, provision, stipulation, promise, agreement and condition set forth in this Note, and the other Loan Documents.

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If a default should occur in the payment of this Note or any part hereof or in the performance of any other covenant or agreement in this Note, or if a default shall occur under any of the other Loan Documents, or in any other note, loan and security agreement or other agreement between the Maker and WCC, Beneficiary and WCC or any Guarantor and WCC, whether WCC is an original party or assignee; if the Maker shall fail to pay any tax or other bill when due; if any of the following events occurs with respect to the Maker, Beneficiary or any Guarantor, to wit: default in the payment of any obligation to WCC for which Maker, Beneficiary or any Guarantor may be in any way liable, whether now existing or hereafter incurred; default in the performance or any other agreement with WCC, whether WCC is an original party or assignee; dissolution, insolvency or inability to pay debts, commission of an act of bankruptcy, assignment for the benefit of creditors, calling a meeting of creditors, appointment of a committee of creditors, assignment, pledge or mortgage (other than to, or with the written consent of, WCC) of any account receivable or other property relating to the Premises; suspension of payment; suspension or liquidation of business relating to the Premises; commencement of any proceeding, suit or action (at law or in equity, or under any of the provisions of the Bankruptcy Code, as amended) for reorganization, composition, extension, arrangement, wage earner plan, receivership, liquidation or dissolution, by or against Maker, Beneficiary or any Guarantor unless the same is discharged within sixty (60) days from the date such proceedings are commenced; appointment of or application for a receiver, conservator, rehabilitator or similar officer or committee for Maker, Beneficiary or any Guarantor or any property of Maker, Beneficiary or any Guarantor; entry of a judgment or issuance of a warrant of attachment or injunction before or after the date of this Note against Maker, Beneficiary or any Guarantor or against any property of Maker, Beneficiary or any Guarantor or commencement of any proceedings supplementary to execution relating to any judgment against Maker, Beneficiary or any Guarantor, which judgment, warrant of attachment, injunction or supplementary proceedings is not stayed, satisfied, vacated, enjoined or appealed within sixty (60) days from the entry, issuance or commencement thereof; then upon the occurrence of any such event, all obligations to WCC, including this Note, although otherwise unmatured or contingent, shall, at the option of WCC, forthwith become absolute and due and payable without any further notice or demand whatsoever and WCC shall have and may exercise any and all other remedies provided in the Loan Documents or any other instruments securing this Note. From and after maturity, whether by acceleration or otherwise, the principal balance hereunder shall bear interest at the Default Rate. The term "Default Rate" shall mean the Contract Rate plus three percent (3%) per annum, but never to exceed the highest rate permitted by law.

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The granting or allowance of any extension or extensions of time for the payment of any sum or sums due hereunder or under the Mortgage securing this Note or for the performance of any covenant, condition, or agreement thereof or hereof or for the taking of additional security, or the release of the Premises or any part thereof or of other security, shall in no way release or discharge the liability of Maker, Guarantors or any other guarantor or endorser of this Note or any party otherwise liable for payment hereof.

Maker agrees to pay, as set forth in the Loan Agreement, all sums due hereunder or under the Loan Documents, all costs of collection, including reasonable attorneys' fees, and all costs of suit, in case the unpaid principal sum of this Note, or any payment of interest or other amount owing hereunder, is not paid when due, or in case it becomes necessary to protect the security for the indebtedness evidenced hereby, or for the foreclosure by WCC of the Loan Documents, or in the event WCC is made party to any litigation because of the existence of the Loan Documents, whether suit be brought or not, and whether through courts of original jurisdiction as well as in courts of appellate jurisdiction, or through a bankruptcy court or other legal proceedings.

The rights or remedies of WCC provided in this Note and the Loan Documents are cumulative and concurrent, and may be pursued singly, successively, or together against Maker or the Premises and any other funds, property or security held by WCC for the payment hereof or otherwise at the sole discretion of WCC. WCC shall not by act of omission or commission be deemed to waive any of its rights or remedies hereunder unless such waiver be in writing and signed by an authorized officer of WCC and then only to the extent specifically set forth therein; a waiver on one occasion shall not be construed as continuing or as a bar to or waiver of such right or remedy on any other occasion. All remedies conferred upon WCC by this Note, the Loan Documents or any other instrument or agreement connected herewith or related hereto shall be cumulative, and such remedies may be exercised concurrently or consecutively at WCC's option.

Every person at any time liable for the payment of the debt evidenced hereby waives presentment for payment, demand, notice of nonpayment of this Note, protest and notice of protest, trial by jury in any litigation arising out of, relating to, or connected with this Note or any instrument given as security herefor, and consents that WCC may extend the time of payment of any part or the whole of the debt at any time at the request of any other person liable.

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This Note is hereby expressly limited so that in no contingency or event whatsoever, whether by acceleration of maturity of the debt evidenced hereby or otherwise, shall the amount paid or agreed to be paid to WCC for the use, forbearance or detention of the money advanced or to be advanced hereunder exceed the highest lawful rate permissible under the laws of the State of Illinois as applicable to Maker. If, from any circumstances whatsoever, fulfillment of any provision hereof or of any other agreement, evidencing or securing the debt, at the time performance of such provisions shall be due, shall involve the payment of interest in excess of that authorized by law, the obligation to be fulfilled shall be reduced to the limit so authorized by law, and if from any circumstances, WCC shall ever receive as interest an amount which would exceed the highest lawful rate applicable to the Maker, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance of the debt evidenced hereby and not to the payment of interest.

This Note is given and accepted as evidence of indebtedness only, and not in payment or satisfaction of any indebtedness or obligation.

The form and essential validity of this Note shall be governed by the internal laws and not the conflicts of law rules of the State of Illinois.

Time is of the essence with respect to all Maker's obligations and agreements under this Note.

This Note and all the provisions, conditions, promises and covenants hereof shall be binding in accordance with the terms hereof upon the Maker, its successors and assigns, provided nothing herein shall be deemed consent to any assignment restricted or prohibited by the terms of this Note.

Maker will not be obliged to pay the aforesaid principal indebtedness, interest or other sums to become due hereunder, out of any assets other than Maker's interest in the Premises; and WCC shall have no right to levy execution except against such interest. The lien of any judgment entered for any such indebtedness, interest or other sums shall be restricted to the Premises and no deficiency judgment shall be sought against Maker; provided; however, that nothing herein shall affect WCC's rights under any guaranty given in connection with this Note.

This Note is executed by LaSalle National Bank, 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

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LaSalle National Bank are undertaken by it solely as Trustee, as aforesaid, and not individually, and all statements herein made by it are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LaSalle National Bank by reason of the terms, provisions, stipulations, covenants and/or statements contained in this Note.

IN WITNESS WHEREOF, the Maker has caused this Note to be executed on its behalf as of the date first above written.

ATTEST:

  
\_\_\_\_\_  
Secretary

LaSALLE NATIONAL BANK, not personally but as Trustee under Trust Agreement dated July 15, 1985 and known as Trust No. 110075

By   
\_\_\_\_\_  
Vice President

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## EXHIBIT B

(Chicago, Illinois)

Lots 1, 6 and 7 (excepting that portion of said lots falling in Dearborn Street) in Block 138 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 17-16-246-001  
Street Address: 407 South Dearborn  
Chicago, Illinois

MZM20835.EXM



Sharon S. Zalban, Esq.  
JENNER & BLOCK  
One IBM Plaza  
Chicago, IL 60611

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