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# MORTGAGE AND SECURITY AGREEMENT

BETWEEN

VLT II ASSOCIATES LIMITED PARTNERSHIP,
BORROWER

AND

COMBINED INTERNATIONAL CORPORATION,
MORTGAGEE

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Securing:

a certain Guaranty Agreement betweeen
the Mortgagee and American National Bank
and Trust Company of Chicago
as Trustee relative to:

$11,000,000

ECONOMIC DEVELOPMENT REVENUE BONDS

(VALLEY LO TOWERS II PROJECT)

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Dated as of:

December 1, 1985

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(This Table of Contents is not a part of the Mortgage but is only for convenience of reference.)

# MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage") is made as of December 1, 1985 between VLT II Associates Limited Partnership, a Delaware limited partnership (the "Borrower") and Combined International Corporation, 222 North Dearborn, Chicago, Illinois 60601, as mortgagee (the "Mortgagee").

WHEREAS, Borrower has entered into a Loan Agreement of even date herewith (the "Loan Agreement") with the Village of Glenview, Illinois (the "Issuer"), pursuant to the terms of which the Issuer has agreed to loan to Borrower the principal amount of up to $11,000,000, and Borrower has agreed to deliver the Note (as hereinafter defined); and

WHEREAS, to secure the Borrower's obligations under the Agreement and the Note, the Mortgagee has entered into the Guaranty Agreement guaranteeing the timely payment of principal and interest in the Issuer's Bonds (as hereinafter defined); and

WHEREAS, to induce the Mortgagee to deliver the Guaranty Agreement, the Borrower does wish to deliver this Mortgage on the Project and the Project Site (both hereinafter defined); and

WHEREAS, to finance costs of the Project by providing the funds for the aforesaid loan, the Issuer has issued on the date of delivery of this Mortgage its Economic Development Revenue Bonds (Valley Lo Towers II Project) in the principal amount of $11,000,000 (the "Bonds"), such Bonds being issued under a Trust Indenture of even date herewith (the "Indenture") between the Issuer and Mortgagee; and

WHEREAS, the amounts payable by Borrower pursuant to the Note are equal to the amounts payable by the Issuer as principal, premium (if any) and interest on the Bonds and as secured pursuant to the Guaranty Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged by Borrower, and in consideration of the foregoing recitals, which shall be construed as parts hereof for all purposes, and as security for the Guaranty Agreement, guaranteeing payment of the principal of and interest on, and all other sums provided for in the Note and the Bonds, and any extensions or renewals thereof, and for payment and performance of the agreements, conditions, covenants, provisions and stipulations contained herein and in

the Note, the Bonds, the Indenture, the Loan Agreement and the Bond Purchase Agreement (as defined in the Loan Agreement), and in any other agreements and instruments made and given by Borrower to the Issuer or Mortgagee in connection therewith, Borrower does hereby grant, bargain, sell, convey, mortgage and warrant, assign, transfer and grant a security interest in and pledge unto Mortgagee, as Mortgagee, and unto its successors in trust and its assigns forever, all of Borrower's estate, right, title and interest in, to and under any and all of the following described property, rights and interests, whether now owned or hereafter acquired (herein called the "Mortgaged Property"):



## GRANTING CLAUSE FIRST

All right, title and interest of Borrower in and to the Project and the Project Site (both as hereinafter defined), together with the entire interest of Borrower in and to all buildings, structures, improvements and appurtenances and any personal property owned by the Borrower as of the date hereof or hereafter acquired, including fixtures, of any nature whatsoever now standing, or at any time hereafter constructed, placed or located upon the Project Site (including fixtures, acquired subsequent to the date hereof), including all right, title and interest of Borrower, if any, in and to all building material (whether on or off the Project Site), building equipment and fixtures of every kind and nature whatsoever at the Project or in any building, structure or improvement now or hereafter standing on the Project Site, and the proceeds of any insurance on such property, and together with the entire interest of Borrower in and to all and singular the tenements, hereditaments, easements, rights-of-way, rights, privileges and appurtenances to said real estate, belonging or in any wise appertaining thereto, and the entire right, title and interest of Borrower in, to and under any public streets, ways, alleys, gores or strips of land adjoining the Project Site, and all claims or demands whatsoever of Borrower either at law or in equity, in possession or expectancy of, or in and to the Project Site, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by Borrower and is affixed or attached or annexed to the Project Site, shall be and remain or become and constitute a portion of the Project Site and the security covered by and subject to the lien of this Mortgage, together with all rents, income, revenues, issues and profits thereof, and the right to make claim for, collect, receive and receipt for any and all of such rents, income, revenues, issues and profits arising therefrom or in connection therewith; subject, however, to Permitted Encumbrances (as hereinafter defined).

GRANTING CLAUSE SECOND

All fixtures, machinery, equipment and other articles of personal property now or at any time hereafter owned or leased as lessee by Borrower, to the extent of the Borrower's interest therein, and placed upon or installed in the Project or Project Site, including without limitation all items listed or described on Exhibit A attached hereto, and any property acquired in substitution, replacement, renewal or repair thereof pursuant to this Mortgage, and all accessions to and proceeds of any of the foregoing, less any of the foregoing removed by Borrower in accordance with this Mortgage, and the proceeds of any insurance on any of the foregoing; subject, however, to Permitted Encumbrances, as hereinafter defined; together with all instruments, documents, accounts and contract rights of Borrower.

GRANTING CLAUSE THIRD

All rentals and other payments due or to become due under any lease or leases or rights or licenses to use or occupation of any part of the Mortgaged Property now or hereafter created, as well as all rights or licenses and remedies provided in such leases, rights or licenses.

GRANTING CLAUSE FOURTH

Any and all other rights and interests in property, whether tangible or intangible, required to be subject to the lien hereof, or from time to time by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder by Borrower or by anyone in its behalf or with its written consent to Mortgagee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD all and singular the Mortgaged Property hereby conveyed, granted and assigned, as agreed or intended so to be, unto Mortgagee, its successors and assigns forever.

PROVIDED, HOWEVER, and this instrument is upon the express condition that, if Borrower pays, or causes to be paid, the entire principal sum of the Note and the Bonds, the interest thereon and all other sums payable by Borrower in

accordance with the provisions of the Note, the Bonds, the Loan Agreement, the Bond Purchase Agreement, the Indenture and this Mortgage, at the times and in the manner specified, without deduction, fraud or delay, and Borrower performs and complies with, or causes to be performed and complied with, all the agreements, conditions, covenants, provisions and stipulations contained herein and in the Note, the Bonds, the Indenture, the Bond Purchase Agreement and the Loan Agreement, and the Guaranty Agreement is released, then this Mortgage and the estate and security interest hereby granted shall terminate, cease, determine and be void; otherwise this Mortgage and the estate and security interest hereby granted shall be and remain in full force and effect.

Borrower does hereby further agree and covenant with Mortgagee as follows:

## ARTICLE I

## DEFINITIONS

Section 1.1. General. In addition to the words and terms defined in the recitals and elsewhere in this Mortgage, certain words and terms as used in this Mortgage shall have the meaning given to them by the definitions and descriptions in this Article I unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined. Those words and terms not specifically defined herein and used in this Mortgage with initial capitalization where rules of grammar do not otherwise require capitalization shall have the meanings set forth in the Loan Agreement and the Indenture.

Section 1.2. Definitions. The following words and terms are defined terms under this Mortgage:

"Leases" means the leases between the Borrower, as lessor, and the various tenants of the Project.

"Net Proceeds" means, as to any insurance proceeds or any condemnation award, the amount remaining after deducting therefrom all reasonable and necessary expenses (including all reasonable attorneys' fees and expenses of Mortgagee) incurred in the collection of such proceeds or award, plus any interest earned on the investment thereof.

"Notice Address" means for the Borrower and Mortgagee, the respective notice addresses provided for in Section 8.2 of the Loan Agreement.

"Permitted Encumbrances" means as of any particular time,

(i) the right reserved to or vested in any municipality or public authority by the terms of any provision of law to terminate any right, power, franchise, grant, license or permit, provided that the exercise of such right would not materially impair the use of the Project for the purposes for which it is held by Borrower or materially adversely affect its value;

(ii) the right reserved to or vested in any municipality or public authority to purchase, condemn or appropriate all or any part of the Project or Project Site;

(iii) liens for the taxes, assessments, levies, fees, charges, duties and imposts referred to in this Mortgage which are not at the time due and payable, or the validity or amount of which is being contested in compliance with the provisions of this Mortgage;

(iv) easements, rights of way, licenses, restrictions and other defects, encumbrances and irregularities in the title to the Project or Project Site described in the title insurance policy, which do not materially impair the value or marketability of the Project or Project Site or interfere with the Borrower's intended use of the Project or Project Site or which have otherwise been approved by the Mortgagee;

(v) rights reserved to or vested in any municipality or public authority to control or regulate the Project or Project Site or to use the Project or Project Site in any manner which does not materially impair the use thereof for the purposes for which they are held by Borrower or materially adversely affect their value;

(vi) the lien and security interest of this Mortgage;

(vii) the lien and security interest of the Assignment of Rents and Leases;

(viii) the Regulatory Agreement.

"Project" means the real, personal, or real and personal property, including undivided interests or other interests therein, identified in Exhibit A attached hereto as a part hereof, or acquired, constructed, renovated, equipped or installed as a replacement or substitution therefor or an accession thereto, or as may result from any revision of the Plans and Specifications.

"Project Site" means the real estate and interests in real estate constituting the site of the Project, as described in Exhibit B attached hereto as a part hereof.

(End of Article I)

## ARTICLE II

### PAYMENTS, TAXES, INSURANCE, MAINTENANCE, SUBSTITUTIONS, REMOVALS, LIENS, DAMAGE AND DESTRUCTION, CONDEMNATION, EXPENSES OF MORTGAGEE

Section 2.1. Loan Agreement and Note. Borrower shall make all payments when due under the Note and the Loan Agreement, and shall perform and comply with all covenants, agreements, conditions, provisions, stipulations and obligations set forth therein on its part to be performed, at the times and in the manner required thereby.

Section 2.2. Taxes and Other Charges. Borrower shall pay or cause to be paid before interest or penalties are due thereon, without any deduction, defalcation or abatement, all taxes, assessments, water and sewer rents, charges and claims which may be assessed, levied, or filed at any time against Borrower, the Mortgaged Property or any part thereof (including without limitation any taxes levied upon or with respect to the revenues, income or profit of Borrower from the Mortgaged Property) or against the interest of Mortgagee therein, or which by any present or future law may become or be made a lien on the Mortgaged Property or any part thereof, or a charge on such revenues, income or profits; and Borrower shall produce to Mortgagee as soon as available receipts for the payment thereof; and provided further, that if Borrower in good faith and by appropriate legal action shall contest the validity of any such item, or the amount thereof, and shall have established on its books and by deposit of a letter of credit or bond with Mortgagee, as Mortgagee may elect, or by delivering to the Mortgagee an endorsement to the title insurance policy insuring over the lien, the amount required for the payment thereof, then Borrower shall not be required to pay the item or to produce the required receipts while the amount is maintained and so long as the contest operates to prevent collection, is maintained and prosecuted with diligence, and shall not have been terminated or discontinued adversely to Borrower. Notwithstanding the foregoing, if Mortgagee notifies Borrower that, in the opinion of counsel selected by Mortgagee, by nonpayment of any such item the lien of this Mortgage as to any part of the Mortgaged Property will be materially affected or the Mortgaged Property or any part thereof will be subject to imminent loss or forfeiture, Borrower shall promptly pay such item. It is expressly agreed that no credit shall be claimed or allowed on the interest payable on the Note because of any taxes or other charges paid. Borrower shall not be liable for any income or franchise taxes levied against the Mortgagee.

Section 2.3. Insurance. Except as may be otherwise provided in the Bond Purchase Agreement, Borrower shall obtain, and continuously maintain, insurance with respect to the Project issued by an insurer or insurers and on policy forms satisfactory to the Mortgagee in an amount equal to 100% of the replacement value of the Project (provided such coverage may provide for self-insurance or deductible amounts of up to $10,000 for each occurrence) against loss or damage from theft, fire, vandalism, other events covered by uniform standard extended coverage endorsements approved by the insurance regulatory authority in the State of Illinois, and such other hazards (including war damage insurance, if available from the United States Government or any agency thereof, and flood insurance if the Project Site is located in an area designated by the United States Government or any agency thereof as a flood plain) as the Mortgagee may require. Borrower may provide any such insurance under a blanket insurance policy or policies which cover not only such property but other properties.

If required by the Mortgagee, any insurance policy issued pursuant to the preceding paragraph shall be endorsed so as to waive the right of the insurer to be subrogated to Borrower's rights against any lessee of space in the Project.

During the Construction Period, as defined in the Loan Agreement, in lieu of the property insurance described above, Borrower shall carry a policy or policies of builders risk-completed value (non-reporting form) fire and extended coverage insurance, without co-insurance, in the amount of the full insurable value of the Project.

Any insurance policy issued pursuant to the preceding paragraphs shall be so written or endorsed as to make losses, if any, payable to Mortgagee, in addition to Borrower, as their respective interests may appear. Each insurance policy provided for in the preceding and following paragraphs shall contain a provision to the effect that the insurance company shall not cancel the same without first giving written notice thereof to Mortgagee at least thirty (30) days in advance of such cancellation, and Borrower shall deliver to Mortgagee the original policies of insurance, except in the case of blanket policies, in which case Borrower shall deliver to Mortgagee evidence of such blanket insurance and agrees to keep such evidence up to date and accurate.

Borrower shall also obtain, and continuously maintain, public liability insurance with reference to the Project and Project Site with one or more reputable insurance companies duly qualified to do business in Illinois, in minimum amounts

of $1,000,000 for the death of or bodily injury to one person, $3,000,000 for personal injury or death for each occurrence and $500,000 for property damage for any occurrence. Mortgagee shall be made additional insureds under such policies. Such public liability insurance may be by blanket insurance policy or policies.

Each insurer is hereby authorized and directed to make payment of any amount under the insurance described in this Section (except liability insurance), including return of unearned premiums, directly to Borrower and Mortgagee jointly.

Borrower shall comply with all applicable workers' compensation laws.

Section 2.4. Maintenance of Mortgaged Property. Borrower shall keep and maintain or cause to be kept and maintained the Mortgaged Property and the sidewalks and curbs abutting same, in good order and condition (including operating condition) and in rentable and tenantable state of repair, and will make or cause to be made, as and when necessary, all repairs, renewals and replacements, structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen. Borrower shall abstain from and shall not permit the commission of waste in, on or about the Mortgaged Property; and shall not permit the Mortgaged Property to become abandoned, deserted or unguarded.

Mortgagee shall have the right to enter upon the Mortgaged Property at any reasonable business hour for the purpose of inspecting the order, condition and repair of the Mortgaged Property.

So long as such shall not be in violation of the Act, and provided there is continued compliance with applicable laws and regulations of governmental jurisdictions, Borrower shall have the right to remodel the Project or make additions, modifications and improvements thereto, from time to time as it, in its discretion, may deem to be desirable for its uses and purposes, the cost of which remodeling, additions, modifications and improvements shall be paid by Borrower, and the same shall, when made, become a part of the Mortgaged Property; provided, however, that, prior to commencement of any such remodeling, additions, modifications or improvements, which are structural in nature or affect a structural portion of the building, Borrower shall provide to Mortgagee a certificate of an engineer reasonably acceptable to Mortgagee

that the structural integrity or strength of the Mortgaged Property or the use of the Mortgaged Property will not be adversely affected thereby. No such remodeling, addition, modification or improvement of the Project shall adversely affect the value of the Mortgaged Property.

Section 2.5. Substitutions for and Removals of Portions of the Project. Borrower shall have the right from time to time to substitute fixtures for any portions of the Project, provided that the fixtures so substituted shall not impair the character of the Project as a "project" within the meaning of the Act and shall not impair the value of the Mortgaged Property. Any such substituted fixtures shall become part of the Project. Personal property, trade fixtures and equipment installed and owned by any tenant of the Project shall not become part of the Project.

Borrower shall also have the right to remove any personal property portions of the Project Site, without substitution therefor, from the Project Site and from service in Borrower's business, in any instance where Borrower determines, in its reasonable discretion, that such property has become inadequate, obsolete, worn-out, unsuitable, undesirable or unnecessary, whereupon such removed property shall no longer be subject to this Mortgage. No such removal will be made which would impair the character of the Project as a "project" within the meaning of the Act.

Section 2.6. Mechanics' and Other Liens. Borrower shall not suffer or permit any mechanics' liens to be filed or exist against the Mortgaged Property, by reason of work, labor, services or materials supplied or claimed to have been supplied to Borrower or anyone holding the Project or Project Site or any part thereof through or under Borrower. If any such mechanics' liens shall at any time be filed, Borrower shall, within thirty days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise or deliver to the Mortgagee an endorsement to the title insurance policy securing over such encumbrance. Borrower shall further comply with the provisions of Section 5.16 of the Loan Agreement, regarding its right to contest such liens.

Section 2.7. Damage and Destruction. If the Project is damaged or destroyed by fire or other casualty, unless Borrower elects within six months to prepay the Note in full in accordance with the provisions of the Loan Agreement, (i) Borrower will promptly repair, replace, rebuild or restore the property damaged or destroyed as nearly as practicable to the value, condition and character thereof existing immediately

prior to such damage or destruction, with such changes or alterations, however, as Borrower may deem necessary for proper operation of the Mortgaged Property, and (ii) Borrower and Mortgagee will apply for such purpose so much as may be necessary of any Net Proceeds of insurance resulting from claims for losses, under the insurance policies required to be carried herein, resulting from such damage.

All Net Proceeds of insurance resulting from claims for losses shall be paid to and held by Mortgagee in an interest earning separate disbursement account, and Mortgagee will apply so much as may be necessary of the Net Proceeds of such insurance to payment of the costs incurred by Borrower for the repair, replacement, rebuilding or restoration of the Project, either on completion thereof or as the work progresses as directed by Borrower. In the event any Net Proceeds of insurance will be insufficient to pay in full the costs of repair, replacement, rebuilding or restoration under this Section, Borrower will nonetheless perform such repair, replacement, rebuilding or restoration and will, prior to the commencement thereof, deposit the deficiency with Mortgagee in such separate disbursement account, which deposit shall first be exhausted before any disbursements of the Net Proceeds of insurance. Borrower shall not, by reason of the payment of any excess costs of repair, replacement, rebuilding or restoration, be entitled to any reimbursement from Mortgagee or any abatement or diminution of payments under the Loan Agreement or the Note. Any excess proceeds after completion of such repair, replacement, rebuilding or restoration will be paid to Borrower.

Any moneys held by Mortgagee in the separate disbursement account under the provisions of the preceding paragraph shall be invested or reinvested by Mortgagee in a manner designated by Borrower.

<u>Section 2.8. Condemnation</u>. If title to, or the temporary use of, the Project or Project Site or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Borrower shall be obligated to continue to make the payments required by the Loan Agreement and the Note. Borrower and Mortgagee will cause the Net Proceeds received by them or either of them from any award made in such eminent domain proceedings, to be paid to and held by Mortgagee in a separate disbursement account, to be applied in one or more of the following ways as shall be directed in writing by Borrower:

(a) The restoration of the Project as nearly as practicable to the same condition or character thereof existing immediately prior to the exercise of the power of eminent

domain with such changes or alterations, however, as Borrower may deem necessary for proper operation of the Mortgaged Property;

(b) the acquisition, construction, restoration, equipping or installation by Borrower of other improvements suitable for Borrower's operations on the Project Site (which improvements shall be deemed a part of the Mortgaged Property); provided, that such improvements shall be subject to no liens or encumbrances (other than Permitted Encumbrances).

If Borrower elects to apply any Net Proceeds of any such award in the manner set forth in paragraph (a) or (b) above, and the amount of such Net Proceeds will be insufficient to pay in full the costs of such acquisition, construction, restoration, equipping or installation, then prior to the commencement of any such acquisition, construction, restoration, equipping or installation Borrower will deposit the deficiency with Mortgagee in the separate disbursement account provided for in this Section. Such deposit shall first be applied to the costs of such acquisition, construction, restoration, equipping or installation before any Net Proceeds of any such award are so applied. Any excess proceeds after completion of such acquisition, construction, restoration, equipping or installation will be paid to Borrower.

Within 30 days from the date of entry of a final order in any eminent domain proceedings granting condemnation, Borrower shall direct Mortgagee in writing as to which of the ways specified in this Section Borrower elects to have the condemnation award applied. Any balance of the Net Proceeds of the award in such eminent domain proceedings shall be paid and applied in the same manner as specified in Section 2.7 hereof for excess Net Proceeds of insurance.

Any moneys held by Mortgagee under the provisions of the preceding paragraph shall be invested or reinvested by Mortgagee in a manner designated by Borrower.

<u>Section 2.9. Protection of Mortgagee</u>. Borrower will protect, defend, indemnify and hold harmless Mortgagee from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses, except those caused by the negligence of the Mortgagee (including, without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against the Mortgagee by reason of (a) ownership of any interest in the Mortgaged Property or any part thereof, (b) any accident, injury to or death of any person or persons, or loss of or damage to property, occurring on or about the Mortgaged Property or any part thereof or any adjoining sidewalks, curbs, vaults and

vault spaces, streets or highways, (c) any use, nonuse or condition of the Mortgaged Property or any part thereof, or any adjoining sidewalks, curbs, vaults and vault spaces, street or highways, (d) any failure on the part of Borrower to perform or comply with any of the terms, covenants or conditions of this Mortgage, (e) any necessity to defend any of the rights, title or interest conveyed by this Mortgage, or (f) the performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof. In the event that any action, suit or proceeding is brought against Mortgagee by reason of any of the matters described in the immediately preceding sentence, Borrower, upon the request of Mortgagee, will, at Borrower's expense, cause such action, suit or proceeding to be resisted and defended by counsel designated by Borrower and approved by Mortgagee. Any amounts payable to Mortgagee pursuant to the provisions of this paragraph shall be secured by this Mortgage. The obligations of Borrower under this paragraph shall survive any defeasance of this Mortgage.

For purposes of clause (d) in the first sentence of the preceding paragraph (and without limiting the generality thereof), it is expressly understood and agreed that Mortgagee shall have no duty to examine or make any investigation with respect to any work done, action taken or payment made by Borrower under Sections 2.4, 2.5, 2.7, or 2.8 of this Mortgage, and any determination of value under any such Section (except as therein provided) shall be the sole responsibility of Borrower.

(End of Article II)

## ARTICLE III

## EVENTS OF DEFAULT AND REMEDIES

Section 3.1. Events of Default. The following shall be "events of default" under this Mortgage:

(a) The occurrence of an Event of Default as defined in Section 7.1 of the Loan Agreement.

(b) Failure by Borrower to observe and perform any other covenant, warranty, condition or agreement on its part to be observed or performed hereunder, for a period of 30 days (unless the Mortgagee shall agree in writing to an extension of such time prior to its expiration) after notice of such failure requesting such failure to be remedied, given by the Mortgagee to the Borrower.

The provisions of paragraph (c) of this Section are subject to the following limitations: If by reason of acts of God; winds, fires; epidemics; landslides; floods; droughts; famines; strikes; lockouts or other industrial disturbances; acts of public enemies; acts or orders of any kind of any governmental authority; insurrection; military action; war, whether or not declared; sabotage; riots; civil disturbances; explosions; breakage or accident to transmission pipes or canals; partial or entire failure of utilities; or any cause or event not reasonably within the control of Borrower, Borrower is unable in whole or in part to carry out the agreements on its part contained in Sections 2.4, 2.5, 2.7 or 2.8 of this Mortgage, other than obligations on the part of the Borrower to make the payments required under the Note and the Loan Agreement, to carry insurance, to pay any ad valorem property taxes, and to make other payments or deposits pursuant to the terms hereof, Borrower shall not be deemed in default during the continuance of such inability. Borrower shall, however, use its best efforts to remedy with all reasonable dispatch the cause or causes preventing Borrower from carrying out its agreements; provided, that Borrower shall in no event be required to settle strikes, lockouts or other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of Borrower, not in the interest of Borrower. The limitations to paragraph (c) set forth in this subparagraph shall expire 180 days after the occurrence of an event described in paragraph (c).

Section 3.2. Other Remedies. In addition to any other remedy available to Mortgagee, as provided herein or otherwise, Mortgagee may exercise any remedy available to it

under the Assignment of Rents and Leases or any applicable law, including the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of Illinois.

Section 3.3. Acceleration. Upon the occurrence of an event of default, all sums secured by this Mortgage shall become and be immediately due and payable.

Section 3.4. Surrender of Possession; Rights and Duties of Mortgagee in Possession. Upon the occurrence of an event of default Borrower, upon demand of Mortgagee, shall forthwith, to the extent possible, assemble the Mortgaged Property and proceeds and make them available to the Mortgagee at the Project Site or some other place to be designated by the Mortgagee which is convenient to both parties, and Borrower shall forthwith surrender the possession of, and it shall be lawful for the Mortgagee to take possession of, all or any part of the Mortgaged Property together with the books, papers and accounts of Borrower pertaining thereto, and including the rights and the position of the Borrower under any lease, and to hold, operate and manage the same, and from time to time to make all needful repairs, replacements and improvements; and Mortgagee may lease or license the use of the Mortgaged Property or any part thereof in the name and for the account of Borrower and collect, receive and sequester the rents, license fees, revenues and other income, charges and moneys therefrom, and out of the same and any moneys received from any receiver of any part thereof, after deducting all proper costs and expenses of so taking, holding and managing the same, including reasonable compensation to Mortgagee, its agents and counsel, pay and/or set up proper reserves for the payment of any or all of the following in such order and amounts as Mortgagee, in Mortgagee's sole discretion, may elect: the payment of any sums due under any prior lien, taxes, water and sewer rents, charges and claims, insurance premiums and all other carrying charges, costs of maintenance, repair, replacement or restoration of the Mortgaged Property, and on account and in reduction of the indebtedness hereby secured. For the aforesaid purpose, Borrower hereby assigns to Mortgagee all rentals and license fees due and to become due under any leases or rights or licenses to use and occupation of all or any part of the Mortgaged Property now or hereafter created, as well as all rights and remedies provided in such leases, rights or licenses. In the event that all events of default have been made good and Mortgagee shall have surrendered possession to Borrower, the right of entry provided in this Section shall again exist upon any subsequent event of default.

Section 3.5. Actions to Recover Amounts Due. Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Borrower under the terms of this Mortgage as they become due, without regard to whether or not the principal indebtedness or any other sums secured by the Note, the Loan Agreement, the Bond Purchase Agreement or this Mortgage shall be due, and without prejudice to the right of Mortgagee thereafter to institute foreclosure or otherwise dispose of the Mortgaged Property or any part thereof, or any other action, for any default by Borrower existing at the time the earlier action was commenced.

Section 3.6. Limitation of Liability. Notwithstanding anything in this instrument to the contrary, neither the General Partner nor Limited Partner of the Borrower will be personally obligated by this instrument to pay or otherwise fulfill any indebtedness, obligations, interest, costs or other sums due or to become due hereunder. The lien of any judgment entered for any such indebtedness, obligations, interest, costs or other sums shall be restricted to any assets specifically pledged to secure such indebtedness, obligations, interest, costs or other sums.

Section 3.7. Foreclosure. Upon the occurrence of an event of default, the lien on the Mortgaged Property created and vested by this Mortgage may be foreclosed and Mortgagee may sell or otherwise dispose of the Mortgaged Property in the manner provided by law, and Mortgagee, if the highest bidder, may become the purchaser of the Mortgaged Property at any such sale. In any suit to foreclose such lien, there shall be allowed and included as additional amounts due the Mortgagee all expenditures and expenses that may be incurred by or on behalf of Mortgagee, for attorneys' fees, court costs, appraisers' fees, sheriff's fees, documentary and expert evidence, stenographers' charges, publication costs and such other charges, costs and expenses as Mortgagee may deem reasonably necessary to prosecute such suit or to evidence to bidders at any sale that may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Property. All such expenditures and expenses shall become an addition to the obligation due secured hereby and shall become due and payable on demand with interest therefrom from the date of expenditure at a rate per annum four percent (4%) in excess of the prime commercial rate (the "Default Rate") of American National Bank and Trust Company of Chicago and in addition shall include expenditures and expenses incurred in connection with (a) a foreclosure proceeding; (b) any proceeding to which Mortgagee shall be a party either as plaintiff, claimant or

defendant, by reason of this Mortgage or any sums secured hereby; (c) preparations for the commencement of any suit for foreclosure hereby after accrual of such right to foreclosure, whether or not actually commenced; or (d) preparation for the defense of or investigation of any threatened suit, claim or proceeding that might affect the Mortgaged Property, whether or not actually commenced.

Section 3.8. Appointment of Receiver. Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of Mortgagee under this Mortgage, Mortgagee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Mortgaged Property and all receipts therefrom, pending such proceedings, with such power as the court making such appointment shall confer; provided, however, that Mortgagee may, with or without action under this Section, pursue any available remedy to enforce the payment of principal and interest and premium, if any, or to remedy any event of default.

Section 3.9. Application of Moneys. All moneys received by Mortgagee or a receiver pursuant to any right given or action taken under the provisions of this Article shall, and the costs, expenses, liabilities and advances incurred by Mortgagee or receiver, as set forth in Section 3.7 hereof, together with interest thereon, be applied in the manner provided in Section 3.4 hereof if such moneys are received other than as a result of foreclosure or any other disposition of the Mortgaged Property, and if received as a result of foreclosure or any other disposition of the Mortgaged Property shall be applied first to the payment of the costs, expenses, liabilities and advances incurred by Mortgagee or receiver, together with interest thereon at the Default Rate, and then on account and in reduction of the indebtedness hereby secured.

Section 3.10. Rights and Remedies Cumulative; No Waiver or Release of Obligation. The rights and remedies of Mortgagee as provided in this Mortgage and the Assignment of Rents and in the warranties contained herein and therein shall be cumulative and concurrent, may be pursued separately, successively or together against the Borrower or against the Mortgaged Property, or both, at the sole discretion of Mortgagee, and may be exercised as often as occasion therefor shall arise. The failure to exercise any such right or remedy shall in no event be construed as a waiver or release thereof.

Any failure by Mortgagee to insist upon strict performance by Borrower of any of the terms and provisions of this Mortgage and the Assignment of Rents and Leases shall not

be deemed to be a waiver of any of the terms or provisions thereof, and Mortgagee shall have the right thereafter to insist upon strict performance by Borrower of any and all of them.

No delay or omission to exercise any right or power accruing upon any failure or event of default shall impair any right or power or shall be construed to be a waiver of any such failure or event of default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any failure or event of default hereunder by Mortgagee shall extend to or shall affect any subsequent failure or event of default or shall impair any rights or remedies consequent thereon.

Neither the Borrower nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of the Borrower or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of this Mortgage, the Note, the Bonds, the Indenture, the Bond Purchase Agreement, the Assignment of Rents and Leases or the Loan Agreement, or by reason of the release, regardless of consideration, of all or any part of the security held for the indebtedness secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of the Mortgage, without first having obtained the consent of the Borrower or such other person; and in the latter event Borrower and all such other persons shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee.

Mortgagee may release, regardless of consideration, any part of the security held for the indebtedness secured by this Mortgage without, as to the remainder of the security, in any way impairing or affecting the lien of this Mortgage or its priority over any subordinate lien.

<u>Section 3.11. Termination of Proceedings</u>. If Mortgagee shall have proceeded to enforce any right under this Mortgage by the appointment of a receiver, by entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason, or shall have been determined

adversely, then and in every such case the Borrower and Mortgagee shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of Mortgagee shall continue unimpaired as before.

Section 3.12. Right to Remedy Default. In the event that Borrower should fail to carry the insurance required herein or pursuant hereto, or to pay or cause to be paid real estate or other taxes, assessments, water and sewer rents, charges and claims (unless and only for so long as, in strict compliance with the provisions of Section 2.2 hereof, Borrower is contesting the validity of any such item or the amount thereof), corporate taxes, sums due under any prior lien or approved prior lien, or insurance premiums, or fail to make necessary repairs or replacements, or permit waste, or fail to cure any default under any prior lien or approved prior lien, or fail to comply with any other obligation on its part contained herein or in the Bond Purchase Agreement or the Loan Agreement, Mortgagee, at its election and with 30 days prior notice to Borrower (such period being measured from the date of mailing of such notice by the Borrower), shall have the right to make any payment or expenditure and to take any action which Borrower should have made or taken, or which Mortgagee deems advisable to protect the security of this Mortgage or the Mortgaged Property, without prejudice to any of Mortgagee's rights or remedies available hereunder or otherwise, at law or in equity. All such sums, as well as costs, advanced by Mortgagee or due Mortgagee pursuant to this Mortgage, shall be due from Borrower to Mortgagee not later than five (5) days after written demand therefor and, together with interest thereon at the Default Rate shall be secured hereby.

(End of Article III)

## ARTICLE IV

## COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 4.1. Representations and Warranties. Borrower represents and warrants that (i) it lawfully seized with fee simple title to the Project Site subject only to Permitted Encumbrances, (ii) it owns the Project free and clear of all liens, claims, and encumbrances, except this Mortgage and Permitted Encumbrances, (iii) it has full right and authority to grant a mortgage on and security interest in the Project and to mortgage the Project Site and all its interests and rights therein in the manner and form herein done or intended to be done, (iv) this Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Property and all interests and rights of Borrower related thereto, except for Permitted Encumbrances, (v) it will preserve such title, and all its rights in and to the Mortgaged Property, and will forever warrant and defend the validity and priority of the lien hereof against the claims of all persons and parties whomsoever, (vi) Borrower will make any further assurances of title that Mortgagee may require, (vii) it will keep and observe all the terms of this Mortgage on Borrower's part to be performed, and (viii) there are no suits or proceedings pending, or threatened, to the knowledge of Borrower against or affecting Borrower or any of its partners which, if adversely determined, would have an adverse effect on the financial condition or business of Borrower or its partners.

Section 4.2. Notices to Mortgagee. Borrower shall notify Mortgagee promptly of the occurrence of any of the following:

(a) a fire or other casualty causing damage in excess of $100,000 to the Mortgaged Property;

(b) receipt of notice of condemnation of the Mortgaged Property or any part thereof;

(c) receipt of notice from any governmental authority concerning any action or condition that may adversely and materially affect the structure, use or occupancy of the Mortgaged Property;

(d) receipt of any notice of alleged default from the holder of any lien or security interest in the Mortgaged Property;

(e) commencement of any material litigation affecting Borrower or any litigation affecting the Mortgaged Property.

Section 4.3. Leases and Restrictions. Borrower hereby represents that there are no leases, subleases, or agreements to lease or sublease all or any part of the Mortgaged Property now in effect. All leases and subleases shall be subordinate to the lien of this Mortgage. So long as the tenant thereunder is not in default thereunder, no foreclosure of this Mortgage or any other proceeding in respect hereof shall divest, impair, modify, abrogate or otherwise adversely affect any interests or rights whatsoever of such tenant under such lease or sublease. Borrower covenants and agrees that it will comply with the terms of, and will promptly perform all of its obligations under, all existing and future leases and subleases of all or any part of the Mortgaged Property, and under deed or use restrictions affecting the Mortgaged Property; and in default thereof (a) Mortgagee may, at its option, perform the same and the cost thereof, together with interest at the Default Rate shall immediately be due from Borrower to Mortgagee and be secured by this Mortgage, and (b) subject to the provisions of Section 3.1(b) hereof, Mortgagee may, at its option, treat any such default as an event of default hereunder after giving of notice and reasonable opportunity to cure the Borrower.

Section 4.4. No Disposition. The Borrower shall not sell, transfer, assign or otherwise dispose of legal or equitable title to the Mortgaged Property.

Section 4.5. Compliance with Laws and Regulations. Borrower covenants and agrees that in the maintenance, repair, renewal, replacement, remodeling, modification, operation and management of the Mortgaged Property it will observe and comply with all insurance underwriters' requirements and with all applicable, lawful and constitutional Federal, state and local statutes, ordinances, regulations, orders and restrictions, reserving hereby its right to contest the same, or the application of the same, so long as such contest shall not prejudice the lien of this Mortgage nor affect the amounts secured hereby.

Section 4.6. Covenant Running with the Land. Any act or agreement to be done or performed by Borrower shall be construed as a covenant running with the land and shall be binding upon Borrower and its successors and assigns as if they had personally made such agreement.

Section 4.7. Recordation. Borrower, at its expense, shall cause this Mortgage, any instruments supplemental hereto, any of the Leases (as required by law), the Assignment of Rents and Leases, financing statements, including all necessary amendments, supplements and appropriate continuation statements to be recorded, registered and filed, and to be kept recorded, registered and filed, in such manner and in such places as may be required in order to establish, preserve and protect the lien of this Mortgage as a valid, first mortgage lien on all real property, fixtures and interests therein included in the Mortgaged Property and a valid, perfected first priority security interest in all personal property, fixtures, and interests therein included in the Mortgaged Property (including in each such case, without limitation, any such properties acquired after the execution hereof). Borrower, at its expense, will furnish to Mortgagee at least once every five years an opinion of counsel acceptable to Mortgagee, specifying the action required and to be taken by Borrower to comply with this Section 4.7 since the date of this Mortgage or the date of the most recent such opinion or stating that no such action is necessary.

Section 4.8. After-Acquired Property. All property of every kind acquired by Borrower after the date hereof, which by the terms hereof is intended to be subject to the lien of this Mortgage, shall immediately upon the acquisition thereof by Borrower, and without further mortgage, conveyance or assignment, become subject to the lien of this Mortgage as fully as though now owned by Borrower and specifically described herein. Nevertheless, Borrower shall take such actions and execute and deliver such additional instruments as Mortgagee shall reasonably require to further evidence or confirm the subjection to the lien of this Mortgage of any such property.

(End of Article IV)

## ARTICLE V

## MISCELLANEOUS

Section 5.1. Notices. All notices, certificates, requests or other communications hereunder shall be in writing and shall be deemed given when mailed by registered or certified mail, postage prepaid, addressed to the appropriate Notice Addresses.

Section 5.2. Amendments, Changes and Modifications. This Mortgage may not be effectively amended, changed, modified or altered without the prior written consent of the party against whom enforcement of such amendment, change, modification or alteration is sought.

Section 5.3. Execution Counterparts. This Mortgage may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

Section 5.4. Severability. In case any clause, provision or section of this Mortgage, or any covenant, stipulation, obligation, agreement, act, or action, or part thereof, made, assumed, entered into, or taken under this Mortgage, or any application thereof, is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity, or inoperability shall not affect the remainder thereof or any other clause, provision or section or any other covenant, stipulation, obligation, agreement, act or action or part thereof, made, assumed, entered into, or taken thereunder, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained therein, nor shall such illegality or invalidity or inoperability of any application thereof affect any legal and valid and operable application thereof, from time to time, and each such clause, provision or section, covenant, stipulation, obligation, agreement, act, or action, or part thereof shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent from time to time permitted by law.

Section 5.5. General Waivers by Borrower. Borrower hereby waives and releases, to the extent permitted by law:

(a) all errors, defects and imperfections in any proceeding instituted by Mortgagee hereunder or under the Note, the Loan Agreement, the Bond Purchase Agreement, the Indenture, the Assignment of Rents and Leases, the Guaranty Agreement or the Bonds;

(b) all benefit that might accrue to the Borrower by virtue of any present or future law exempting the Mortgaged Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any stay of execution, exemption from civil process or extension of time for payment;

(c) any appraisement, valuation, stay, extension or redemption or usury law now or hereafter in force and all rights of marshalling of assets in the event of any sale of the Mortgaged Property or any part thereof or interest therein, it being understood and agreed that any court having jurisdiction to foreclose the lien hereof may sell the Mortgaged Property in part or as an entirety; and

(d) unless specifically required herein, all notices of Borrower's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise, of any option or remedy hereunder or under the Assignment of Rents and Leases.

Section 5.6. Effect of Mortgage. This Mortgage constitutes a security agreement under the Uniform Commercial Code as adopted in the State of Illinois and creates a security interest in favor of Mortgagee in and to all that property (and the proceeds, accessions and replacements thereof, and the proceeds of any insurance on such property) included in the Mortgaged Property which constitutes fixtures or personal property. Borrower shall execute, deliver, file and refile any financing statements, continuation statements, or other security agreements Mortgagee may require from time to time to confirm the lien of this Mortgage with respect to such property. If certificates of title are issued with respect to any such property, Borrower will cause the interest of the Mortgagee to be properly noted thereon. Without limiting the foregoing, Borrower hereby irrevocably appoints Mortgagee attorney-in-fact for Borrower to execute, deliver and file such instruments for and on behalf of Borrower. Notwithstanding any release of any or all of that property included in the Mortgaged Property which is deemed "real property", any proceedings to foreclose this Mortgage, or its satisfaction of record, the terms hereof shall survive as a security agreement with respect to the security interest created hereby and referred to above until the repayment or satisfaction in full of the obligations of Borrower as are now or hereafter secured hereby. Nothing herein shall preclude Mortgagee from

proceeding as to both real and personal property in accordance with Mortgagee's rights and remedies in respect of real property, as provided in Article 9 of the Uniform Commercial Code as adopted in Illinois.

Section 5.7. Captions. The captions or headings in this Mortgage are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Mortgage.

Section 5.8. Governing Law. This Mortgage shall be deemed to be a contract made under the laws of the State of Illinois and for all purposes shall be governed by and construed in accordance with the laws of the State of Illinois.

(End of Article V)

IN WITNESS WHEREOF, the parties have executed this Mortgage as of the day and year first above written.

Borrower:
VLT II ASSOCIATES LIMITED PARTNERSHIP

By: Baxter Corporation, its General Partner

By _____
Gary M. Baxter, President



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## ACKNOWLEDGMENTS

STATE OF ILLINOIS )
) SS
COUNTY OF C O O K )

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that GARY M. BAXTER, President of BAXTER CORPORATION, to me personally known to be the General Partner of VLT II ASSOCIATES LIMITED PARTNERSHIP, the limited partnership that executed the foregoing instrument and that said instrument was signed on behalf of said limited partnership, and said partnership acknowledged that said instrument to be the said free act and deed of said limited partnership for the uses and purposes set forth.

GIVEN under my hand and notarial seal, this 30th day of December, 1985.

_____
Notary Public

My Commission Expires:

My Commission Expires April 15, 1987

This instrument prepared by:

John Weld Peck, Esq.
Peck, Shaffer & Williams
2200 First National Bank Center
425 Walnut Street
Cincinnati, Illinois 45202

mail to:

When recorded, return to:
Herbert J. Linn
Pedersen & Houpt
180 North LaSalle Street
Suite 3400
Chicago, Illinois 60601

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EXHIBIT A

THE PROJECT

The acquisition, construction, equipping and installation of the buildings and real estate known as "Valley Lo Towers II," located in the Village of Glenview, Illinois, for use as a multifamily residential rental facility.

LEGAL DESCRIPTION

VALLEY LO TOWERS RESUBDIVISION of Lot 2 in Krohn's Resubdivision No. 2, being a resubdivision of Lot 1 in Krohn's Chestnut Avenue Subdivision of parts of the Northwest 1/4 of Section 26 and the Northeast 1/4 of Section 27, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.





EXHIBIT B