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MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

BY AND BETWEEN

LASALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION, NOT PERSONALLY BUT SOLELY AS TRUSTEE, UNDER AND PURSUANT TO AN AMENDED AND RESTATED TRUST AGREEMENT DATED AS OF SEPTEMBER 1, 1987 AND KNOWN AS TRUST NO. 111270

AND

PAINEWEBBER HOUSING AND HEALTHCARE FUNDING, INC.

September 17, 1987

$20,766,700

THIS DOCUMENT PREPARED BY AND AFTER RECORDING SHOULD PLEASE BE RETURNED TO:

D. Randolph Cole, Jr., Esq.
Krooth & Altman
2101 L Street, N.W., Suite 210
Washington, D. C. 20037
(202) 293-8200

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MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (the "Mortgage") is made and entered into this 17th day of September, 1987, by and between **LASALLE NATIONAL BANK, A NATIONAL BANKING ASSOCIATION**, Not Personally But Solely as Trustee, under and pursuant to an Amended and Restated Trust Agreement dated as of September 1, 1987, and known as Trust No. 111270, having its principal place of business at 135 South LaSalle Street, Chicago, Illinois 60603 ("Mortgagor"), and **PAINEWEBBER HOUSING AND HEALTHCARE FUNDING, INC.**, a corporation organized and existing under the laws of the State of Delaware and having its principal place of business at 1285 Avenue of the Americas, New York, New York 10019, and any successors thereof as the holder or holders of the Note, as hereinafter defined ("Mortgagee").

R E C I T A L S

WHEREAS, the Mortgagor is indebted to the Mortgagee in the sum of TWENTY MILLION SEVEN HUNDRED SIXTY-SIX THOUSAND SEVEN HUNDRED AND NO/100THS DOLLARS ($20,766,700.00) (the "Mortgage Loan") as evidenced by a Mortgage Note of even date herewith (the "Note"), which Note has a maturity date of not later than January 1, 2030; and

WHEREAS, Mortgagee has obtained a Commitment to Guarantee Mortgage Backed Securities from the Government National Mortgage Association ("GNMA") based upon the Mortgage Loan and the pledge of this Mortgage as required by GNMA (the "GNMA Commitment"); and

WHEREAS, Mortgagee intends to issue and present to GNMA for its guarantee "fully modified pass through" mortgage backed securities (including both Construction Loan Securities and with respect to permanent financing, a Project Loan Security) guaranteed as to timely payment of principal and interest by GNMA (the "GNMA Securities"); and

WHEREAS, the Mortgage Loan is made to provide construction and long-term financing for the acquisition of certain premises and construction thereon of approximately 254 apartment units located in Hazel Crest, Cook County, Illinois (the "State"), including related parking and other ancillary facilities (the "Project"), pursuant to an agreement between Mortgagee and **LINCOLN PARK SOUTH RETIREMENT APARTMENTS LIMITED PARTNERSHIP**, an Illinois limited partnership, sole beneficiary of the Mortgagor under the aforesaid Trust ("Beneficiary"), dated as of August 24, 1987, and including any amendments thereto (the "Coinsured Loan Commitment"); and

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WHEREAS, this Mortgage shall be a valid first lien on the real and personal property comprising the Project; and

WHEREAS, pursuant to the terms of a certain Building Loan Agreement of even date herewith between Mortgagee, Mortgagor and Beneficiary (the "Loan Agreement"), Mortgagee has agreed to advance from time to time to Mortgagor an aggregate amount not to exceed the aforesaid principal sum of the Mortgage Loan; and

WHEREAS, each advance of the Mortgage Loan proceeds made to Mortgagor, including the first and final advance, shall be coinsured by Mortgagee and the Federal Housing Administration ("FHA") of the United States Department of Housing and Urban Development ("HUD") under Section 221(d)(4) and pursuant to Section 244 of the National Housing Act, as amended (the "Housing Act"), and the regulations thereunder (the "Coinsurance Regulations"), such coinsurance being evidenced by HUD's initial endorsement of the Note; and

WHEREAS, all things necessary to make the Note and the Loan Agreement valid, binding and legal obligations of the Mortgagor, and to make this Mortgage a valid, binding and legal instrument for the security of the Note, the Loan Agreement and the performance of Mortgagor's obligations thereunder and hereunder have been duly performed.

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

That, for good and valuable consideration, including the indebtedness herein recited, the receipt of which is hereby acknowledged, Mortgagor has granted and conveyed, and does hereby grant and convey unto Mortgagee, its successors and assigns forever, for the benefit and security of the Mortgagee, its successors and assigns, all its right, title and interest in and to the following-described land located in the State, and more particularly described in Exhibit "A" attached hereto and made a part hereof;

TOGETHER WITH the collateral described in Exhibit "B" attached hereto and incorporated herein;

AND TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, all water rights and all right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining said land, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the said land and the improvements thereon;

AND TOGETHER WITH all of the rents, issues and profits and insurance or condemnation proceeds which may arise or be had from any of the foregoing, and all articles of personal property now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on said land which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all goods and chattels and personal property as are ever used or furnished in operating a building or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said building or buildings in any manner (Mortgagor agrees that, to the extent permitted by law, the foregoing property shall be deemed to be real estate and affixed to the realty);

AND TOGETHER WITH all right, title and interest of Mortgagor in and to all leases or subleases covering the Project or any portion thereof now or hereafter existing or entered into, any and all right, title and interest of Mortgagor thereunder, including, and without limitation, all cash and, subject to the rights of tenants therein, all security deposits, advance deposits, advance rentals and deposits or payments of similar nature;

TO HAVE AND TO HOLD the above granted and bargained land and property as described in the aforesaid granting clauses, together with all the appurtenances unto and to the use and benefit of Mortgagee, its successors and assigns, and as to all real property conveyed hereunder.

IN AND UPON THE USES FOLLOWING, that is to say, until any Event of Default, as hereinafter defined, has occurred, to permit Mortgagor, its successors and assigns, to possess and enjoy the Property, as hereinafter defined, and to receive the rents, issues and profits thereof; and upon Mortgagor's performance of all obligations hereunder and under the Loan Documents, and on full payment of the Indebtedness Hereby Secured, as hereinafter defined, and any extensions or renewals thereof, and interest thereon, and all sums advanced or expended on behalf of Mortgagor as herein provided, and all other proper costs, charges, expenses and commissions, at any time before the sale hereinafter provided, to release and reconvey the Property to and at the cost of Mortgagor, or the party or parties then claiming under it.

AND THIS MORTGAGE FURTHER WITNESSETH, that to protect the security of this Mortgage, Mortgagor, for itself, its successors and assigns, has covenanted and agreed and does hereby covenant and agree with Mortgagee, its successors and assigns, as follows.

ARTICLE I

DEFINITIONS

Section 1.01 Defined Terms. Capitalized terms defined in the recitals hereto shall have the meanings specified therein, certain capitalized terms not defined herein shall have the meanings specified in the Loan Agreement, and the following capitalized terms shall have the following meanings:

"Beneficiary" means LINCOLN PARK SOUTH RETIREMENT APARTMENTS LIMITED PARTNERSHIP, an Illinois limited partnership, the sole owner of the beneficial interest of Trust No. 111270 under which LaSalle National Bank is the Trustee.

"Coinsurance Contract" means the agreement between Mortgagee and HUD for coinsurance of the Mortgage Loan under Section 221(d)(4) and pursuant to Section 244 of the National Housing Act and the Coinsurance Regulations, created by HUD's initial and final endorsement of the Note.

"Mortgagee" means PaineWebber Housing and Healthcare Funding, Inc., as payee of the Note as long as it shall own the same, and such other person, firm or corporation to whom the Note shall have been endorsed, pledged, transferred or assigned and by whom, as the lawful holder thereof, the Note is then held, subject, however, to the terms of any agreement for any such pledge, transfer or assignment.

"HUD Regulatory Agreement" means the agreement entitled Regulatory Agreement for Multifamily Housing Projects Coinsured by HUD, between PaineWebber Housing and Healthcare Funding, Inc., the Beneficiary and the Mortgagor with respect to the operation of the Project.

"Indebtedness Hereby Secured" means, as of any particular time, the then unpaid balance of the principal sum of the Note together with interest thereon, all other payments due under the Note and hereunder and such additional unrepaid sums as shall have been paid or advanced by or on behalf of Mortgagee, on behalf of Mortgagor, pursuant to the Note, the Loan Agreement or hereunder, or which shall otherwise be payable by Mortgagor to Mortgagee, with interest thereon, all as herein and in the Loan Documents provided.

"Loan Documents" means this Mortgage, the Note, the Loan Agreement, the Coinsured Loan Commitment, the HUD Regulatory Agreement, the Construction Contract and any other instrument

given to evidence or further secure the payment or performance of any obligations secured under this Mortgage.

"Property" means and shall include all such property of the Mortgagor as is defined in the granting clauses hereof, which shall be from time to time subject to the lien of this Mortgage, or any security interest created pursuant to the provisions of this Mortgage.

ARTICLE II

MORTGAGOR'S REPRESENTATIONS AND COVENANTS

Section 2.01 Due Authorization, Etc. Mortgagor represents and covenants that it has duly authorized, executed and delivered the Note and has duly authorized, executed, acknowledged and delivered the other Loan Documents to secure the repayment of the Indebtedness Hereby Secured, and to secure the performance of the covenants, agreements and conditions contained therein and herein.

Section 2.02 Validity of Loan Documents. Mortgagor represents and covenants that all things necessary to make the Loan Documents valid, binding and legal obligations of Mortgagor for the security of the Indebtedness Hereby Secured, in accordance with their respective terms, have been duly performed.

Section 2.03 Business Loan. Mortgagor certifies and agrees that the proceeds of the Note will be used for the purposes specified in Illinois Revised Statutes, Chapter 17, Section 6404, and that the principal obligation secured hereby constitutes a "business loan" coming within the definition and purview of said Section.

ARTICLE III

PAYMENT BY MORTGAGOR

Section 3.01 Covenant to Pay. Mortgagor hereby expressly covenants, promises and agrees that it will duly and punctually pay the Indebtedness Hereby Secured at the times and in the manner herein, or in the Note or in the other Loan Documents provided, according to the true intent and meaning hereof and thereof, time being of the essence for such payments. Any remittance by check or draft shall be made subject to the condition that such check or draft may be handled for collection in accordance with the practice of the collecting bank or banks, and any receipt issued therefor shall be ineffective until the amount due is actually received by the Mortgagee of the Note.

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Section 3.02 **Limitation on Liability.** The Note and this Mortgage are given upon the condition, to which the Mortgagee by acceptance of the Note agrees, that neither Mortgagor nor any general or limited partner of Beneficiary, from time to time, shall be personally liable, either at law or in equity, for the repayment of the Indebtedness Hereby Secured or the failure of performance of any other obligations evidenced by the Note or contained in the other Loan Documents, and the Mortgagee, its successors and assigns, will satisfy any judgments, orders or decrees on account of the failure to repay such Indebtedness Hereby Secured or the failure to perform any such obligation, from the Property and any such other real or personal property, tangible or intangible, as the Mortgagor shall have pledged or assigned to secure the Note, and the Mortgagee shall not seek or obtain a deficiency judgment against Mortgagor or any partner of Beneficiary. This paragraph shall not be deemed to limit the remedies of the Mortgagee, its successors or assigns, in law or in equity, pursuant to this Mortgage, provided that the exercise of any such remedies, including the obtaining of any judgments or decrees at law or in equity or other orders, shall not impose any personal liability on Mortgagor or any partner of Beneficiary. The provisions of this paragraph shall not impair any rights or remedies of Mortgagee or limit any obligations of Mortgagor or Beneficiary under the HUD Regulatory Agreement (including, with respect thereto, the rights of HUD), nor shall it be deemed applicable to claims under Section 4.12 hereof, nor shall it be deemed applicable to claims by Mortgagee for the following:

(a) Misapplication of insurance or condemnation proceeds.

(b) Misapplication of Loan proceeds.

(c) Improper application of tenant security deposits or prepaid rents.

(d) Failure, prior to Mortgagor's default hereunder, to properly apply rents and other revenue of the Property actually collected by Mortgagor to necessary and proper expenses of the Property or failure after Mortgagor's default hereunder to properly apply rents and other revenue of the Property actually collected by the Mortgagor (i) to necessary and proper expenses of the Property or (ii) to reduce the Indebtedness Hereby Secured by applying such amounts first to costs, then to unpaid interest due and finally to the principal balance outstanding on the Note or other Indebtedness Hereby Secured.

(e) Failure to pay valid mechanic's and/or materialmen's liens filed against the Property prior to Mortgagor's default under the Indebtedness Hereby Secured or filed after Mortgagor's default under the Indebtedness Hereby Secured to the extent the claim set forth in such lien relates to labor performed or materials supplied prior to the date of Mortgagor's default under the Indebtedness Hereby Secured.

ARTICLE IV

PARTICULAR COVENANTS

Section 4.01 Title to Property and Authority to Convey. Mortgagor covenants that, at the time of the execution and delivery of this Mortgage, it is the absolute and lawful owner of the legal and beneficial title to, and is lawfully seized and possessed of, and has good title to all of the Property described in the granting clauses of this Mortgage as being presently bargained, sold, granted and conveyed hereunder, and it has good right and lawful authority to bargain, sell, grant and convey the same as provided in this Mortgage, in fee simple as to all real property described in Exhibit "A", and that said Property is free and clear of all encumbrances except for those encumbrances approved by Mortgagee as specified in Exhibit "C" attached hereto and made a part hereof. Mortgagor hereby covenants and agrees that it will warrant specially, and will defend the title of such Property, and every part thereof, unto Mortgagee, its successors and assigns, against all claims and demands by any person or persons claiming or to claim by, through or under Mortgagor, and will execute such further assurances thereof as may be requisite.

Section 4.02 Recordation and Filings. At any and all times, Mortgagor will do, prepare, execute, acknowledge, deliver, file and record and will cause to be done, prepared, executed, acknowledged, delivered, filed and recorded all and every such actions, deeds, indentures, conveyances, transfers, assignments, instruments and financing statements under the Uniform Commercial Code and assurances in law as Mortgagee shall reasonably require for the better assuring, conveying, transferring, assigning and confirming unto Mortgagee all and singular the hereditaments and premises, estates and property, real and personal, hereby granted, conveyed or transferred, or intended to be; and Mortgagor will bear all expenses, charges and taxes in connection therewith. Mortgagor shall take all actions necessary to perfect and maintain the priority and validity of Mortgagee's interests in the Property as a first and paramount lien and charge against the rights, claims and interests of all other persons and

parties. Upon failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record or refile any such actions, deeds, indentures, conveyances, transfers, assignments, instruments and financing statements under the Uniform Commercial Code and assurances in law for and in the name of Mortgagor, and Mortgagor hereby appoints Mortgagee its agent and attorneys-in-fact to do so, such appointment to stand irrevocable as being coupled with an interest.

Section 4.03 Use or Alteration of the Project. Mortgagor covenants that it will not permit or suffer the use of the Project, the Property or any portion thereof for any purpose other than for an apartment project (including the commercial and other ancillary uses permitted or approved by Mortgagee), and as is further provided in the HUD Regulatory Agreement, nor permit any material alterations of or additions to the building or improvements now existing or hereafter constructed with respect to the Project without the written consent of the Mortgagee.

Section 4.04 HUD Regulatory Agreement. Mortgagor agrees that the HUD Regulatory Agreement shall be recorded simultaneously herewith, immediately following this instrument, and that it is incorporated in and hereby made a part of this Mortgage. Upon default under the HUD Regulatory Agreement, and after the expiration of any applicable grace period, and with the prior written approval of HUD as long as the contract of coinsurance is in effect, Mortgagee may declare such default to be an Event of Default under this Mortgage as provided in Article VI hereof and may proceed as provided in Article VI hereof.

Section 4.05 Restriction on Transfer; Leases. Anything herein to the contrary notwithstanding, Mortgagor shall not convey, sell, assign, lease (except for leases of residential units or commercial space leases previously approved by Mortgagee), transfer or otherwise dispose of, or obtain secondary financing on, the Property or any part thereof or any interest therein, whether voluntarily or involuntarily, by operation of law or otherwise, without the prior written consent of Mortgagee.

Whether in violation of the provisions of this Section or pursuant to consent, if Mortgagor has demised, or shall hereafter demise, the Property or any part thereof by leases subordinate or junior either by the date thereof or by the express terms thereof to the lien of this Mortgage, any such lease shall be subject to the condition that in the event of any foreclosure sale or sales hereunder, by virtue of judicial proceedings or otherwise, such leases shall, at the option of the Mortgagee, continue in full force and effect and the tenants thereunder will, upon request, attorn to and acknowledge the foreclosure purchaser or purchasers at such sale as landlord thereunder. The Mortgagee may, at its

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option and in its sole discretion, require that any or all of the leases affecting the Property, other than leases for individual rental units, be made subject and subordinate to the lien of this Mortgage, or, without otherwise affecting the security afforded by this Mortgage, may require, or permit, any or all of said leases to be made superior and prior to this Mortgage. In absence of a recorded agreement expressly subordinating this Mortgage to any or all of such leases, said leases shall be deemed to be subordinate in all respects to this Mortgage.

Section 4.06 **Aggregate Monthly Payments.** In order more fully to protect the security of this Mortgage, Mortgagor, together with and in addition to the monthly payments of principal and interest (or interest only until the first payment to principal) under the terms of the Note, beginning on the first day of the month after the date hereof and monthly thereafter until the Note is fully paid, will pay to Mortgagee the following sums:

(i) So long as the Mortgage Loan is coinsured under the provisions of the National Housing Act and the Coinsurance Regulations, an amount sufficient to accumulate in the hands of Mortgagee one month prior to the due date (A) the annual mortgage insurance premium payable to HUD and Mortgagee aggregating 0.50%, and (B) the annual premium payable to Mortgagee of 0.25%, each calculated on the average daily principal balance of the Mortgage Loan scheduled to be outstanding during the year covered thereby (without taking into account delinquent payments or prepayments).

(ii) A sum equal to the ground rents, if any, within twelve (12) months of the due date for such payments, plus the premiums next due on all required insurance policies, plus sewer and water rates, taxes and special assessments next due on the Property (all as estimated by the Mortgagee), less all sums already paid therefor, divided by the number of months to elapse before one month prior to the date when such ground rents, premiums, sewer and water rates, taxes and special assessments will become delinquent, such sums to be held by Mortgagee in trust to pay said ground rents, premiums, sewer and water rates, taxes and special assessments.

(iii) Beginning with the first payment to principal under the Note, all monthly payments required to be made under the HUD Regulatory Agreement to the Reserve for Replacements.

(iv) All payments mentioned in the three preceding clauses and all other payments to be made under the Note shall be added together and the aggregate amount shall be paid each month in a single payment to be applied by Mortgagee in the following order:

(A) amounts payable under clause (i) above;

(B) amounts payable under clause (ii) above;

(C) interest on the Note;

(D) amortization of the principal sum of the Note; and

(E) amounts payable under clause (iii) above.

Section 4.07 Treatment of Accumulations of Monthly Payments. Any excess funds paid by Mortgagor pursuant to Section 4.06(i) and (ii) remaining after payment of the items herein provided on an annual basis, shall be credited to subsequent monthly payments of the same nature; but if any such item shall exceed the estimate therefor, Mortgagor shall, without demand, forthwith make good the deficiency. In the event the Indebtedness Hereby Secured is paid in full by Mortgagor, accumulations under Section 4.06 not required to meet obligations due for which the payments were collected shall be refunded to Mortgagor. If the Property is sold through foreclosure or is acquired by Mortgagee after default, any then remaining balance of the accumulation under Section 4.06 hereof shall be credited against the Indebtedness Hereby Secured.

Section 4.08 Payment of Impositions.

(i) Mortgagor will pay all ground rents, if any, sewer and water rates, taxes, special assessments and other governmental or municipal charges or impositions, to the extent provision therefor has not been made by monthly payments as hereinabove provided, before the same become delinquent or subject to interest or penalties, and in default thereof Mortgagee may pay the same without waiving or affecting its option to foreclose on any other rights hereunder. All such sums paid by Mortgagee, plus any sums which Mortgagee has advanced to pay mortgage insurance premiums or other insurance premiums not paid for by monthly payments hereunder or not otherwise paid by Mortgagor, shall be added to the Indebtedness Hereby Secured, shall bear interest at the Mortgage Loan rate specified in the Note from the date of the

advance and shall be due and payable to Mortgagee upon demand. Nothing contained in this paragraph shall be construed as requiring Mortgagee to advance or expend monies for any purposes mentioned in this paragraph.

(ii) In the event of the passage, after the date of this Mortgage, of any law of the State deducting from the value of real property for the purposes of taxation any lien thereon or changing in any way the laws for the taxation of mortgages or debts secured by mortgage for state or local purposes or the manner of the collection of any such taxes, and imposing a tax, either directly or indirectly, on this Mortgage, the Note or the debt which it secures, the Mortgagee shall have the right to declare the principal sum and the interest due on the date to be specified by not less than one hundred twenty (120) days' written notice to be given to Mortgagor by Mortgagee; provided, however, that such election shall be ineffective if Mortgagor is permitted by law to pay the whole of such tax in addition to all other payments required hereunder, and if Mortgagor, prior to such specified date, does pay such tax and agrees to pay any such tax when thereafter levied or assessed against the premises, and such agreement shall constitute a modification of this Mortgage. This Section 4.08(ii) shall not be applicable so long as this Mortgage is coinsured by HUD.

Section 4.09 <u>Permitted Contests.</u> Mortgagor may in good faith contest, by proper legal proceedings, the validity or amount of any tax, special assessment or other charge or imposition which Mortgagor has agreed to pay pursuant to the provisions of Section 4.08 hereof and may delay payment or discharge thereof during the period in which the same is being contested; provided, however, that if payment is delayed: (i) such proceedings shall suspend the collection thereof from Mortgagor, Mortgagee, or either of them, and from the Property; (ii) in any such event, Mortgagor shall deposit with Mortgagee, from time to time, such amounts as may be required by Mortgagee as security for the payment or discharge of such contested item, an amount equal thereto plus interest, penalties and costs (to the extent such amount is not already in the hands of Mortgagee); and (iii) such contested item and all costs and penalties, if any, shall have been paid at least sixty (60) days before the date on which the Property, or any portion thereof, may be sold in order to satisfy any such contested item.

Section 4.10 <u>Insurance.</u> Mortgagor will at all times keep the Property insured against loss by fire and any of the risks covered by insurance of the type known as "fire and extended coverage" in such amounts as may be reasonably required from time to time by Mortgagee. All such insurance shall be carried in such companies and be for such periods as may reasonably be required

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by Mortgagee, and shall be in an amount which will comply with the Coinsurance Regulations but, as to losses, other than loss of rental income, not less than the greatest of (i) 80% of the actual cash value of the Property, (ii) the unpaid principal amount of the Mortgage Loan, and (iii) such amount as will avoid treatment of Mortgagor as a coinsurer with the issuer of the policy. Mortgagor will at all times keep and maintain public liability and property damage insurance covering injury and damage to persons and property with limits reasonably satisfactory to Mortgagee. All such policies as aforesaid shall be in standard form and endorsed with standard mortgagee clauses with loss payable to Mortgagee, GNMA and the Secretary of HUD, as their interests may appear, and shall contain a clause providing that the policy may not be cancelled without thirty (30) days' prior written notice to Mortgagee. Mortgagor shall deliver all such policies evidencing the insurance required hereunder to Mortgagee, and will likewise deliver renewals of such policies not less than thirty (30) days in advance of the expiration of same, stamped "paid" by the issuer thereof. The carriers providing the insurance shall be chosen by Mortgagor subject to approval by Mortgagee; provided that such approval shall not be unreasonably withheld.

During the course of any construction or repair improvements with respect to the Project, Mortgagor shall provide and maintain additional insurance as required under the Loan Agreement.

Section 4.11 <u>**Maintenance and Repairs.**</u> Mortgagor shall keep the Property in good condition and repair, and will not permit or suffer any waste of the Property. Mortgagor will, at its sole cost and expense, promptly and in a good workmanlike manner make all needful and proper renewals, replacements and repairs to the Property, including alterations and repairs as may be required by laws, ordinances and regulations necessary to insure that the value of the Property as security shall not be impaired.

In the event the Property suffers an uninsured loss, Mortgagor, if required to do so by Mortgagee, with HUD approval, shall use its own funds to repair and restore the Property. If, in any such event, Mortgagor fails to make such repairs or restoration, Mortgagee may advance sums necessary to complete such repair and restoration. Any such advance by Mortgagee shall become part of the Indebtedness Hereby Secured, shall bear interest at the Mortgage Loan rate specified in the Note from the date of the advance and shall be due and payable to Mortgagee upon demand.

Section 4.12 <u>**Indemnification by Mortgagor.**</u> Subject to the provisions of Section 3.02 hereof, Mortgagor will protect, indemnify and save harmless Mortgagee, GNMA and the Secretary of HUD from and against all liabilities, obligations, claims, damages,

penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses at or prior to trial and on appeal) imposed upon or incurred by or asserted against any such indemnitee by reason of (i) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Property or the adjoining sidewalks, curbs, streets or ways; (ii) any use, non-use or condition of any of the Property or the adjoining sidewalks, curbs, streets or ways; (iii) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; or (iv) performance of any labor or services or the furnishing of any materials or other property in respect of any portion of the Property by Mortgagor. In case any action, suit or proceeding is brought against any such indemnitee by reason of any such occurrence, Mortgagor, upon the request of any such indemnitee, will, at Mortgagor's expense, resist and defend such action, suit or proceeding or will cause the same to be resisted or defended by counsel designated by and approved by any such indemnitee, provided that such approval shall not be required in the case of defense by counsel designated by any insurance company undertaking such defense pursuant to any applicable policy of insurance. Any amounts payable to Mortgagee by reason of the application of this paragraph shall become immediately due and payable, shall be secured by the Property as if part of the Indebtedness Hereby Secured, and shall bear interest at the Mortgage Loan rate specified in the Note from the date loss or damage is sustained by Mortgagee until paid. This obligation of Mortgagor shall survive any termination or satisfaction of this Mortgage. The rights and benefits afforded to Mortgagee under this Section 4.12 shall not be applicable in the event of loss or damage which results from the gross negligence or willful misconduct of Mortgagee.

Section 4.13 <u>**Operation of the Property to be Sole Activity of Mortgagor.**</u> So long as any of the Indebtedness Hereby Secured remains outstanding, Mortgagor shall not engage in any business or activity other than, or in addition to, the ownership, operation and management of the Property. This Section shall not apply to the general or limited partners of Beneficiary.

Section 4.14 <u>**Permitted Liens.**</u> Mortgagor will not create or permit a lien to exist against the Property inferior or superior to the lien of this Mortgage, other than liens for real estate taxes and assessments not yet due and payable, and inferior liens for which the prior written consent of Mortgagee has been obtained, in accordance with the Coinsurance Regulations.

Section 4.15 <u>**Assignment of Rents and Leases.**</u> To further secure the obligations of Mortgagor under the Note and this Mortgage, as collateral security therefor, Mortgagor hereby assigns to Mortgagee all the rents, profits, issue and income of the Pro-

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perty, and any and all leases thereof which are in force on the date hereof or which may be hereafter entered into, as further security for the Indebtedness Hereby Secured, and the Mortgagor shall not further assign nor encumber the rents of the Property, or any part thereof, without the prior written consent of the Mortgagee. The Mortgagor, upon the occurrence of an Event of Default in the performance of any of the terms and conditions of the Note or this Mortgage, hereby authorizes the Mortgagee, at its option, to enter and take possession of the Property, as Mortgagor's true and lawful attorneys-in-fact, and to manage and operate the Property, to collect the rents or any portion thereof accruing from said leases and subleases, to let or re-let portions of the Property, terminate or modify any defaulted lease or sublease, evict tenants or occupants, bring or defend any suits in connection with the possession of said Property in its own name or Mortgagor's name, make repairs as Mortgagee deems appropriate, and perform such other acts in connection with the management and operation of the Property as the Mortgagee, in its sole judgment, may deem proper. Mortgagee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Mortgagor under any of the leases or subleases, and this assignment shall not place any responsibility upon Mortgagee for the control, care, management or repair of the Property or make the Mortgagee derivatively responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property, whenever occurring. At the option of the Mortgagee, this assignment shall become effective immediately upon the occurrence of an Event of Default hereunder. Provided, however, that all such rents and all rents, profits and payments due Mortgagor under such leases shall be payable to Mortgagor and be its sole property until such times as an Event of Default as hereinafter described shall occur and be continuing; provided, further, that no rent more than one month in advance plus a security deposit and cleaning deposit shall be collected or accepted without the prior written consent of Mortgagee, and no rent shall be collected or accepted in violation of any law, ordinance, rule, regulation or order. Mortgagor agrees that said assignment of rents and leases is an essential consideration for the making of the Mortgage Loan by Mortgagee. Mortgagor agrees that it will faithfully perform and comply with all terms, conditions and covenants of any lease covering any part of the Property.

Section 4.16 <u>**Financial Statements.**</u> Mortgagor hereby agrees to furnish Mortgagee with a copy of its annual financial statements within sixty (60) days after the end of each fiscal year and a copy of its balance sheet and profit and loss statement for each quarter of each fiscal year within thirty (30) days after the end of such quarter.

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Section 4.17 Maximum Amount Secured by Mortgage. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures as part of the Indebtedness Hereby Secured the payment of any and all loan commissions, service charges, liquidated damages, attorney's fees, expenses and advances due to or incurred by Mortgagee in connection with the Indebtedness Hereby Secured, all in accordance with the Note, this Mortgage, and the Loan Agreement; provided, however, that in no event shall the total amount of the Indebtedness Hereby Secured, including loan proceeds disbursed plus any additional charges, exceed 500% of the face amount of the Note.

ARTICLE V

CASUALTY AND CONDEMNATION; CERTAIN PREPAYMENTS

Section 5.01 Casualty. If the Property, or any part thereof, shall be damaged by fire or other hazard against which insurance is held, the amounts paid by any insurance company pursuant to the contract of insurance shall, to the extent of the Indebtedness Hereby Secured then remaining unpaid, be paid to Mortgagee, and at Mortgagee's election, following consultation with Mortgagor, such amounts may be applied to reduction of the Indebtedness Hereby Secured as set forth in Section 5.03 hereof or released for the repair or restoration of the Property to substantially the same condition as existed before the casualty. Any funds to be released by Mortgagee for repair or restoration of the Property shall be advanced to Mortgagor in such incremental amounts, or in full, and upon receipt by Mortgagee of such certifications from Mortgagor as Mortgagee shall require. All such amounts together with amounts, if any, earned thereon pending the decisions whether to repair and restore are herein referred to as the "Insurance Fund".

Section 5.02 Condemnation: Application of Proceeds. Mortgagor agrees that if the Property, or any part thereof, is condemned under any power of eminent domain or acquired for any public use or quasi-public use, Mortgagor shall give prompt written notice thereof to Mortgagee, and the damages, proceeds and consideration for such acquisition, to the extent of the full amount of Indebtedness Hereby Secured remaining unpaid, are hereby assigned by Mortgagor to Mortgagee and shall be paid forthwith to Mortgagee for the account of Mortgagor, to be applied by Mortgagee on account of the Indebtedness Hereby Secured as set forth in Section 5.03 hereof. Mortgagee shall be entitled, at its option, to appear in its own name in any action or proceeding relating to such condemnation. In case of any partial condemnation, Mortgagee may in its sole discretion, following consultation with Mortgagor, elect to release a portion or

all of the proceeds to Mortgagor for repairs and restoration of the Property. Any funds to be released by Mortgagee for repair or restoration of the Property shall be advanced to Mortgagor in such incremental amounts, or in full, and upon receipt by Mortgagee of such certifications from Mortgagor as Mortgagee shall require. All such amounts, together with amounts, if any, earned thereon pending the decision whether to repair and restore, are herein referred to as the "Condemnation Fund".

Section 5.03 **Prepayment from Amounts in the Insurance or Condemnation Funds.** Upon any election by Mortgagee to apply amounts referred to in Sections 5.01 or 5.02 hereof to a reduction of the Indebtedness Hereby Secured, upon any total condemnation referred to in Section 5.02 hereof and, in the event of any partial condemnation referred to in said Section 5.02, upon determination by Mortgagee of the portion, if any, of amounts referred to in said Sections 5.01 or 5.02 which is not to be released for repairs and restoration of the Property, Mortgagee shall promptly give notice to Mortgagor that the Indebtedness Hereby Secured, or so much of the principal thereof as can be paid from the Insurance Fund or Condemnation Fund, must be prepaid as hereinafter set forth. The amount of such fund shall be deemed to have been received on the date of such notice. The effective date of such prepayment, in case of any such notice which has been given prior to the 25th day of any month, shall be the 16th day of the next following month or, in case of any such notice given on or after the 25th day of any month, the 16th day of the second following month. On the effective date, the Indebtedness Hereby Secured shall be deemed prepaid to the extent hereinafter provided. If, after giving effect to such prepayment, the entire amount of the Indebtedness Hereby Secured has not been discharged, the amount of the applicable fund shall be deemed to have been applied first to the accrued and unpaid interest on the amount prepaid through the effective date, and then to the prepayment of the principal balance of the Mortgage Loan. In the event of any partial prepayment of the principal balance of the Mortgage Loan pursuant to the provisions of this Section, an amount equal to (i) the amount of interest on the principal balance of the Mortgage Loan prepaid pursuant to the provisions of this Section from the first day of the month in which the effective date occurs to the effective date, plus (ii) all interest earned by Mortgagee from investment of the Insurance Fund or Condemnation Fund, as applicable, from the date of the initial notice of the prepayment by Mortgagee to Mortgagor through the day immediately preceding the effective date of the prepayment, shall be credited to Mortgagor's next scheduled installment of principal and interest on the Mortgage Loan. Following any prepayment which discharges the entire amount of the Indebtedness Hereby Secured, Mortgagee shall refund to Mortgagor the amount referred to in clause (ii) of the immediately preceding sentence.

Section 5.04 **Due Diligence by Mortgagor to Complete Repairs or Restoration Disbursement.** If, at Mortgagee's election, insurance or condemnation proceeds have been or will be released for repair or restoration of the Property, Mortgagor shall promptly commence and diligently prosecute the completion of such repairs or restoration. Mortgagor, if required to do so by Mortgagee with HUD approval, shall use its own funds to complete repair or restoration of the Property if insurance or condemnation proceeds, as applicable, are insufficient to accomplish same. If, in order to complete the repair or restoration of the Property to the satisfaction of Mortgagee, it is necessary for Mortgagor to use its own funds, and Mortgagor fails to do so, Mortgagee may advance sums necessary to complete such repair and restoration. Any such advance by Mortgagee shall become part of the Indebtedness Hereby Secured, shall bear interest at the Mortgage Loan rate specified in the Note from the date of the advance and shall be due and payable to Mortgagee upon demand.

ARTICLE VI

EVENTS OF DEFAULT AND REMEDIES

Section 6.01 **Event of Default.** The occurrence of any one of the following events shall constitute an Event of Default:

(i) Any default in any payment on the Note or hereunder, as set forth in Section 4.06 hereof, or any renewal or extension thereof or of any note or notes hereafter given for interest covering any extension, with interest thereon from maturity of the same, when and as the same shall become due and payable, and if such default is not made good prior to the due date of the next installment payment under the Note.

(ii) Any default in payment when due (except under circumstances provided for in Section 4.09 hereof) of any tax, sewer or water rate or special assessment now or hereafter assessed against the Property, or any part thereof, while this Mortgage exists; or any default in failing to maintain any insurance required hereunder or under the Loan Agreement while this Mortgage exists, or default in payment on demand of any sum or sums advanced by Mortgagee on account of any costs and expenses of this Mortgage, or on account of any such tax or special assessment, sewer and water rate or insurance, or expense of litigation, or on account of any lien on said land and premises prior in lien to this Mortgage, with interest thereon at the Mortgage Loan rate specified in the Note from date of advance, or upon

default of any other payment provided for in this Mortgage, when and as due, and the continuation of any such default for a period of thirty (30) days or more following written notice given to Mortgagor by Mortgagee specifying the default, provided that a default in payment as provided in Section 4.06 hereof shall not require notice to Mortgagor, but shall be treated in accordance with clause (i) above.

(iii) Any default in the observance or performance of any other of the covenants or agreements contained herein or under the Note, or any other of the Loan Documents if such default shall continue for thirty (30) days after written notice given to Mortgagor by Mortgagee specifying the default.

(iv) Mortgagor having filed a voluntary petition or having been adjudicated a bankrupt or insolvent after the filing of a voluntary petition, or having filed any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or seeking or consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of borrower or of all or any part of its properties or assets, or making any general assignment for the benefit of creditors, or admitting in writing its inability to pay its debts generally as they become due.

(v) A court of competent jurisdiction having entered an order, judgment or decree approving a petition filed against Mortgagor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree remaining unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Mortgagor or of all or any part of its properties or assets, being appointed without the consent or acquiescence of Mortgagor and such appointment remaining unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive).

(vi) For the purpose of clauses (iv) or (v) above, any reference to Mortgagor shall be deemed to separately apply to Beneficiary or any general partner of Beneficiary.

(vii) Final judgment for the payment of money in excess of Twenty Thousand Dollars having been rendered against Mortgagor and such judgment not being discharged or a stay of execution thereon or writ of supersedeas having not been procured within thirty (30) days from the date of entry thereof in the amount of such judgment, or if thereafter such judgment remains unsatisfied for a period of fifteen (15) days after the termination of any such stay of execution thereon or writ of supersedeas.

Provided, however, that notwithstanding anything contained herein to the contrary, as long as this Mortgage is coinsured by HUD, Sections 4.05, 4.06(iii), 4.13, 4.16, 6.01(iii), 6.01(iv), 6.01(v), 6.01(vi) and 6.01(vii) shall be subject to paragraph C(1)(a) of the HUD Regulatory Agreement.

Section 6.02 Acceleration. If any Event of Default shall occur, not be cured within any applicable grace period and be continuing, then, at the option of Mortgagee, the entire Indebtedness Hereby Secured shall become due, payable and collectible at once and thereafter as Mortgagee may elect, regardless of the date of maturity and without notice, and may be enforced and recovered at once.

Section 6.03 Remedies. If any Event of Default shall have occurred and not be cured within any applicable grace period, Mortgagee may elect to exercise or cause to be exercised any or all of the remedies provided for in this Mortgage and at law, including without limitation the following:

(i) When the Indebtedness Hereby Secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof in accordance with the laws of the state in which the Property is located and to exercise any other remedies of Mortgagee provided in the Note, this Mortgage and the Loan Agreement, or which Mortgagee may have at law, at equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Indebtedness Hereby Secured in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data

and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Property. All expenditures and expenses of the nature mentioned in this Section, and such other expenses and fees as may be incurred in the protection of the Property, and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Property, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional Indebtedness Hereby Secured and shall be immediately due and payable by Mortgagor, with interest thereon at the rate of interest specified in the Note.

(ii) When the Indebtedness Hereby Secured shall become due, whether by acceleration or otherwise, or in any case in which, under the provisions of this Mortgage, Mortgagee has a right to institute foreclosure proceedings, Mortgagor shall, forthwith upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of the Property or any part thereof, personally or by its agent or attorneys, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts of Mortgagor or the then owner of the Property relating thereto, and may exclude Mortgagor, such owner, and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor or such owner, or in its own name as Mortgagee and under the powers herein granted:

(a) hold, operate, manage and control all or any part of the Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits and avails of the Property, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

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(b) cancel or terminate any lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Mortgagor to cancel the same;

(c) elect to disaffirm any lease or sublease of all or any part of the Property made subsequent to this Mortgage without Mortgagee's prior written consent;

(d) extend or modify any then existing leases and make new leases of all or any part of the Property, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the loan evidenced by the Note and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Property are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness Hereby Secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

(e) make all necessary or proper repairs, decoration renewals, replacements, alterations, additions, betterments and improvements in connection with the Property as may seem judicious to Mortgagee, to insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation, and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

(f) apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Property, to the payment of taxes, insurance premiums and other charges applicable to the Property or in reduction of the Indebtedness Hereby Secured in such order and manner as Mortgagee shall select.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee-in-possession in the absence of the actual taking of possession of the Property.

(iii) Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Property or whether the same shall be then occupied as a homestead or not; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have the power to collect the rents, issues and profits of the Property during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. The court may, from time to time, authorize the receiver to apply the net income from the Property in payment in whole or in part of: (a) the Indebtedness Hereby Secured or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency.

(iv) The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority:

First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in Section 6.03(i) hereof;

Second, all other items which, under the terms hereof, constitute Indebtedness Hereby Secured additional to that evidenced by the Note, with interest on such items as herein provided;

Third, to interest remaining unpaid upon the Note;

Fourth, to the principal remaining unpaid upon the Note; and

Lastly, any overplus to Mortgagor, or any other party legally entitled to the same, as their rights may appear.

(v) In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy, if not applied in rebuilding or restoring the improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree or foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In the case of foreclosure of this Mortgage, the court, in its decree, may provide that the Mortgagee's clause attached to each of the casualty insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said decree creditors; and any such foreclosure decree may further provide that in case of one or more redemptions under said decree, pursuant to the statutes in such case made and provided, then in every such case, each and every successive redemptor may cause the preceding loss clause attached to each casualty insurance policy to be cancelled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redemptor. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of the insurance policies without credit or allowance to Mortgagor for prepaid premium thereon.

(vi) Mortgagee may take such other and further actions as may be required and permitted, it being understood that no remedy under this Mortgage is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or as now or hereafter existing at law or in equity or by statute.

Section 6.04 **Reinstatement.** If, after the occurrence of an Event of Default, Mortgagor, with the prior written consent of

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Mortgagee, cures the default prior to completion of foreclosure, receivership or other proceedings pursuant to Section 6.03 above, and Mortgagor pays to Mortgagee all reasonable and actual expenses incurred by Mortgagee in connection with the foreclosure, receivership or other proceedings, including, without limitation, all reasonable attorney's fees and expenses prior to and at trial and on appeal, advertising costs, Mortgagee's fees, auctioneer's commissions and payments or reimbursements made by Mortgagee on account of the GNMA Securities, the Mortgage Loan shall be reinstated as if an Event of Default had not occurred.

Section 6.05 **Mortgagee's Role at Sale.** Upon any foreclosure sale, Mortgagee may bid and become the purchaser of the Property, and, upon compliance with the terms of the sale, may hold, retain, possess and dispose of such Property in its own absolute right, without further accountability except as may be specifically provided otherwise by law.

Section 6.06 **Waiver of Right of Redemption and other Rights.** To the full extent permitted by law, Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisement of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale or sales claim or exercise any rights under any statute now or hereafter in force to redeem the Property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor, and all other persons, are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee, but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent

permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Note. Mortgagor further hereby waives any right to assert in any bankruptcy proceeding in which Mortgagor is debtor: (i) that the Property should be valued by any method other than liquidation value where Mortgagee seeks "adequate protection" or relief from the automatic stay under the Bankruptcy Code; (ii) that Mortgagee's security interest in cash proceeds of the Property, including rent payments received, is limited to any amount less than the actual amount of such proceeds deposited in deposit accounts of Mortgagor and commingled with other funds; (iii) use of cash proceeds of the Property, including rent payments received, without consent of Mortgagee unless authorized by the bankruptcy court in which such bankruptcy is pending, after notice and a hearing; and (iv) use of cash proceeds of the Property, including rent payments received, unless Mortgagee is granted an additional substitute lien in other property to the extent such cash proceeds are used by Mortgagor. If an Event of Default occurs, Mortgagor shall pay all costs and expenses, including reasonable attorney's fees, at and prior to trial and on appeal, incurred in the collection of the Note, the Indebtedness Hereby Secured or obligations under this Mortgage.

Section 6.07 No Waiver, Etc. Any waiver of any Event of Default hereunder shall not extend to or affect any subsequent or other then existing Event of Default, nor shall it impair any rights or remedies relating to any such subsequent or other then existing Event of Default. No delay or omission of Mortgagee to exercise any right or power accruing upon any Event of Default shall impair any such right or power or be construed to be a waiver of any such Event of Default or an acquiescence therein, or extend to any subsequent Event of Default, and every power and remedy given by the Mortgage may be exercised, from time to time, and as often as may be deemed expedient by Mortgagee.

Section 6.08 Mortgagee's Right to Institute Partial Foreclosure. It is further agreed that if default be made in the payment of the Indebtedness Secured Hereby, or any part thereof, as an alternative to the right of foreclosure for the full Indebtedness Secured Hereby after acceleration thereof, Mortgagee shall have the right to institute partial foreclosure proceedings with respect to the portion of said Indebtedness Secured Hereby so in default, as if under a full foreclosure, and without declaring the entire Indebtedness Secured Hereby due (such proceedings being hereinafter referred to as "Partial Foreclosure"), and provided that if a foreclosure sale is made because of default of a part of the Indebtedness Secured Hereby, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of the Indebtedness Secured Hereby; and it is

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agreed that such sale pursuant to a Partial Foreclosure, if so made, shall not in any manner affect the unmatured part of the Indebtedness Secured Hereby, but as to such unmatured part, this Mortgage and the lien thereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this Section. Notwithstanding the filing of any Partial Foreclosure or entry of a decree of sale therein, Mortgagee may elect at any time prior to a foreclosure sale, pursuant to such decree, to discontinue such Partial Foreclosure and to accelerate the Indebtedness Secured Hereby by reason of any uncured default or defaults upon which such Partial Foreclosure was predicated or by reason of any other defaults and proceed with full foreclosure proceedings. It is further agreed that several foreclosures may be made pursuant to Partial Foreclosure without exhausting the right of full or Partial Foreclosure sale for any unmatured part of the Indebtedness Secured Hereby, it being the purpose to provide for a Partial Foreclosure sale of the Indebtedness Secured Hereby for any matured portion of the Indebtedness Secured Hereby without exhausting the power to foreclose and to sell the Property pursuant to any such Partial Foreclosure for any other part of the Indebtedness Secured Hereby, whether matured at the time or subsequently maturing, and without exhausting any right of acceleration and full foreclosure.

Section 6.09 Certain Remedies Subject to HUD Approval. Before Mortgagee may accelerate and declare the Indebtedness Hereby Secured due and payable for an Event of Default hereunder arising from (i) a default under the HUD Regulatory Agreement, (ii) a violation of the restrictions on transfers under Section 4.05, (iii) a failure to make monthly payments to the Replacement Reserve Fund, (iv) a violation of Section 4.13 as to sole business of Borrower being operation of Property, or (v) a failure to provide financial statements under Section 4.15, Mortgagee shall obtain the prior written consent of the Secretary of HUD.

ARTICLE VII

MISCELLANEOUS PROVISIONS

Section 7.01 Assignment of Mortgage. Subject to any applicable requirements of HUD, Mortgagee may sell, assign, transfer, convey, pledge or encumber the Note or all or any part of its interests, rights and obligations thereunder or under this Mortgage to one or more persons or parties, and Mortgagor hereby consents to any such sale, assignment, transfer, conveyance, pledge or encumbrance and agrees upon the request of Mortgagee or its assignee to execute and deliver any instrument confirming Mortgagor's consent as effectuating, as necessary, such sale, assignment, transfer, conveyance, pledge or encumbrance.

Section 7.02 Notices. Any notice, demand or request required or permitted hereunder to be given to Mortgagor or Mortgagee shall be sufficiently given if in writing and personally delivered or mailed by registered or certified first class mail, postage prepaid, addressed to:

Mortgagor: LaSalle National Bank
Trust No. 111270
135 South LaSalle Street
Chicago, Illinois 60603

Lincoln Park South Retirement
Apartments Limited Partnership
c/o Rudolph Tessler
Imperial Convalescent and Geriatric Center
1366 West Fullerton Street
Chicago, Illinois 60614

with a copy to:

Katz, Randall & Weinberg
Suite 2300
200 North LaSalle Street
Chicago, Illinois 60601
Attention: Arnold Weinberg, Esq.

Mortgagee: PaineWebber Housing and Healthcare
Funding, Inc.
1285 Avenue of the Americas
New York, New York 10019

with a copy to:

Krooth & Altman
Suite 210
2101 L Street, N.W.
Washington, D. C. 20037

or at such other address as Mortgagor may have furnished to the Mortgagee in writing, and shall be deemed to be given when mailed.

Section 7.03 Security Agreement. Subject to the provisions of Section 3.02 hereof, Mortgagor agrees that this Mortgage shall constitute a security agreement under the Uniform Commercial Code as the same is in force in the State and hereby grants to Mortgagee a security interest in all property to which Article 9 of said Uniform Commercial Code is applicable and which is described in the granting clauses hereof.

Section 7.04 Governing Law. The Note and this Mortgage are made and delivered and shall be governed by and construed in accordance with the laws of the State of Illinois.

Section 7.05 Nondiscrimination. Mortgagor covenants and agrees that so long as this Mortgage and the Note secured hereby are coinsured by HUD, or held under the provisions of the National Housing Act, it will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the Property on the basis of race, color or creed. Upon any violation of this undertaking, Mortgagee may, at its option, declare the Indebtedness Hereby Secured immediately due and payable.

Section 7.06 Construction Mortgage. This Mortgage is executed and delivered to secure monies advanced or to be advanced and to be used in the construction of certain improvements on the land herein described, in accordance with the Loan Agreement, which Loan Agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this Mortgage, which said Loan Agreement Mortgagor hereby covenants to perform; and if the construction of the improvements to be made pursuant to the Loan Agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lock-outs, Mortgagee, after due notice to Mortgagor or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury, and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into contracts and obligations wherever necessary, either in its own name or in the name of Mortgagor, or other owner, and to pay and discharge all debts, obligations and liabilities incurred thereby. All such sums so advanced by Mortgagee (exclusive of advances of the principal of the Indebtedness Secured Hereby) shall be added to the principal of the Indebtedness Secured Hereby, shall be secured by this Mortgage and shall be due and payable on demand with interest at the rate specified in the Note. The principal sum, with interest and other charges provided for herein, shall, at the option of Mortgagee, become due and payable on the failure of Mortgagor, or owner, to keep and perform any of the covenants, conditions and agreements of the Loan Agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of Mortgagee and the making of the final advance as provided in the Loan Agreement.

Section 7.07 **Amendments.** This Mortgage may be amended or modified only by a written instrument executed by Mortgagor and Mortgagee and any purported modification or amendment hereof, by whatever means, which is not in strict conformance with the foregoing, shall be null and void and absolutely ineffective.

See Rider attached hereto and made a part hereof.

IN TESTIMONY WHEREOF, Mortgagor has caused these presents to be executed in its name by its Vice President and Assistant Secretary as of the date first hereinabove written.

ATTEST:

Name: Rosemary Collins
Title: ASSISTANT SECRETARY

LASALLE NATIONAL BANK
A NATIONAL BANKING ASSOCIATION, NOT PERSONALLY BUT SOLELY AS TRUSTEE, UNDER AND PURSUANT TO AN AMENDED AND RESTATED TRUST AGREEMENT DATED AS OF SEPTEMBER 1, 1987, AND KNOWN AS TRUST NO.111270

By:
Name: JOSEPH W. LANG
Title: VICE PRESIDENT

[ACKNOWLEDGMENT APPEARS ON SUCCEEDING PAGE]

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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS:

Exculpatory Rider

Attached to and made a part of that instrument executed by LASALLE NATIONAL BANK, a National Banking Association, Not Personally But Solely as Trustee under and pursuant to an Amended and Restated Trust Agreement dated as of September 1, 1987 and known as Trust No. 111270.

This Document is executed by LASALLE NATIONAL BANK, a National Banking Association, Not Personally But Solely as Trustee under and pursuant to an Amended and Restated Trust Agreement dated as of September 1, 1987 and known as Trust No. 111270, in the exercise of the power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing contained in this Instrument shall be construed as creating any monetary liability on said Trustee personally to pay any indebtedness accruing thereunder, or any personal monetary liability on said Trustee with respect to the performance of any warranty or covenant, either expressed or implied in said Instrument (all such personal monetary liability, if any, being expressly waived by the parties hereto and by every person now or hereafter claiming any right or security thereunder) except that the said Trustee shall be liable for funds or property of the project coming into its hands which, by the provisions of the Regulatory Agreement of even date between said Trustee, LINCOLN PARK SOUTH RETIREMENT APARTMENTS LIMITED PARTNERSHIP, it is not entitled to retain and it own acts and the acts and deeds of others which it has authorized in violation of the Regulatory Agreement.

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Exhibit "A"
Legal Description

***PARCEL 1: That part of the South East quarter of the South East quarter of Section 26, Township 36 North, Range 13 East of the Third Principal Meridian, described as follows: Commencing at the North East corner of said South East quarter of the South East quarter of Section 26; thence South along the East line thereof, 461.10 feet to the point of beginning; thence continuing South along said East line 396.18 feet to the North line of the South 466.00 feet of said South East quarter of Section 26; thence West parallel with the South line of said South East quarter, 650.50 feet; thence North perpendicular to the last described course, 741.44 feet to the South line of 173rd St. said South line being 116 feet South of and parallel with the North line of said South East quarter of the South East quarter of Section 26; thence East along said South line, a distance of 104.51 feet to a point of curve; thence Northeasterly along said South line of 173rd St. being a curve convex Southerly, tangent to the last described course and having a radius of 426 feet, a chord distance of 129.61 feet; thence Northeasterly along a line tangent to said curved line, 165.23 feet to a point of curve; thence Northeasterly along a curve convex North and having a radius of 294.27 feet, an arc distance of 19.52 feet to the West line of the East 240 feet of said South East quarter of the South East quarter of Section 26; thence South along the last described line, 419.73 feet to the South line of the North 461.10 feet of said South East quarter of the South East quarter of Section 26; thence East 240.00 feet to the point of beginning, all in Cook County, Illinois (except the East 50.00 feet thereof taken for Kedzie Avenue) and containing 8.917 acres, more or less. 28-26-402-061

PARCEL 2:
The East 5 acres of the South 466 feet of the South East quarter of the South East quarter of Section 26; (except the East 183.00 feet of the South 233.00 feet thereof) and (except the South 250.00 feet of the West 200.00 feet thereof) all in Township 36 North, Range 13 East of the Third Principal Meridian (except those parts taken for Kedzie Avenue and 175th Street) in Cook County, Illinois and containing 2.506 acres more or less. 28-26-402-040

PARCEL 3:
The South 250.00 feet of the West 200.00 feet of the East 5 acres of the South 466.00 feet of the South East quarter of the South East quarter of Section 26; Township 36 North, Range 13 East of the Third Principal Meridian (except the South 50.0 feet thereof taken for 175th Street) in Cook County, Illinois and containing 0.918 acres, more or less. 28-26-402-005

PARCEL 4:
The South 70.0 feet of the North 461.10 feet of the East 240.00 feet of the South East quarter of the South East quarter of Section 26, Township 36 North, Range 13 East of the Third Principal Meridian (except that part thereof falling within Kedzie Avenue) all in Cook County, Illinois and containing 13,300 square feet.***

28-26-402-059

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LINC02EXB
REV 09/87

EXHIBIT "B" TO MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

As used herein, the term "Debtor" shall mean **LASALLE NATIONAL BANK**, A National Banking Association, Not Personally But Solely as Trustee Under and Pursuant to an Amended and Restated Trust Agreement, dated as of September 1, 1987 and known as Trust No. 111270 and shall include the terms "Mortgagor", "Grantor" and "Borrower; and the term "Creditor" shall mean **PAINEWEBBER HOUSING AND HEALTHCARE FUNDING, INC.**, a Delaware corporation and shall include the terms "Lender", Beneficiary" and "Secured Party", and the successors and assigns of each of the foregoing.

This Exhibit "B" refers to the following, which may be located on the premises of, relate to, or be used in connection with, the acquisition, construction, equipping, repair, ownership management, or operation of a multifamily apartment complex known as Lincoln Park South Retirement Village (the "Project"), FHA Project No. 071-36627-PM, located in Hazel Crest, County of Cook, State of Illinois, in which the Debtor has an interest now or hereafter existing or acquired:

1. All materials now owned or hereafter acquired by the Debtor and intended for construction, reconstruction, alteration and repair of any building, structure or improvement now or hereafter erected or placed on the property described in Exhibit "A" (the "Property"), all of which materials shall be deemed to be included within the Project immediately upon the delivery thereof to the Project.

2. All of the walks, fences, shrubbery, driveways, fixtures, machinery, apparatus, equipment, fittings, and other goods and other personal property of every kind and description whatsoever, now owned or hereafter acquired by the Debtor and attached to or contained in and used or usable in connection with any present or future operation of the Project, including, by way of example rather than of limitation, all lighting, laundry, incinerating and power equipment; all engines, boilers, machines, motors, furnaces, compressors and transformers; all generating equipment; all pumps, tanks, ducts, conduits, wire, switches, electrical equipment and fixtures, fans and switchboards; all telephone equipment; all piping, tubing, plumbing equipment and fixtures; all heating, refrigeration, air conditioning, cooling, ventilating, sprinkling, water, power and communications equipment, systems and apparatus; all water coolers and water heaters; all fire prevention, alarm and extinguishing systems and apparatus; all cleaning equipment; all lift, elevator and

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escalator equipment and apparatus; all partitions, shades, blinds, awnings, screens, screen doors, storm doors, exterior and interior signs, gas fixtures, stoves, ovens, refrigerators, garbage disposals, dishwashers, cabinets, mirrors, mantles, floor coverings, carpets, rugs, draperies and other furnishings and furniture installed or to be installed or used or usable in the operation of any part of the Project or facilities erected or to be erected in or upon the Property; and every renewal or replacement thereof or articles in substitution therefor, whether or not the same are now or hereafter attached to the Property in any manner; all except for any right, title or interest therein owned by any tenant (it being agreed by the parties to the Security Agreement and Financing Statement that all personal property owned by the Debtor and placed by it on the Property shall, so far as permitted by law, be deemed to be affixed to the Property, appropriated to its use, and covered by the Security Agreement and/or any Financing Statements, as applicable).

3. All of the Debtor's right, title and interest in and to any and all judgments, awards of damages (including but not limited to severance and consequential damages), payments, proceeds, settlements or other compensation (collectively, the "Awards") heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, in connection with, or in lieu of (i) any taking of the Property or any part thereof by the exercise of the power of condemnation or eminent domain, or the police power, (ii) any change or alteration of the grade of any street, or (iii) any other injury or decrease in the value of the Property or any part thereof (including but not limited to destruction or decrease in value by fire or other casualty), all of which Awards, rights thereto and shares therein are hereby assigned to the Creditor, who is hereby authorized to collect and receive the proceeds thereof and to give property receipts and acquittances therefor and to apply, at its option, the net proceeds thereof, after deducting expenses of collection, as a credit upon any portion, as selected by the Creditor, of the indebtedness secured hereby.

4. All of the Debtor's right, title and interest in any and all payments, proceeds, settlements or other compensation heretofore or hereafter made, including any interest thereon, and the right to receive the same from any and all insurance policies covering the Property or any portion thereof, or any of the other property described herein.

5. The interest of the Debtor in all of the rents, royalties, issues, profits, revenues, income and other benefits of the

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Property, or arising from the use or enjoyment of all or any portion thereof, or from any lease or agreement pertaining thereto, and all right, title and interest of the Debtor in and to, and remedies under, all contract rights, accounts receivable and general intangibles arising out of or in connection with any and all leases and subleases of the Property, or any part thereof, and of the other property described herein, or any part thereof, both now in existence or hereafter entered into, together with all proceeds (cash and non-cash) thereof; and including, without limitation, all cash or securities deposited thereunder to secure performance by the lessees of their obligations thereunder.

6. All of the Debtor's rights, options, powers and privileges in and to (but not the Debtor's obligations and burdens under) any construction contract, architectural and engineering agreements and management contract pertaining to the construction, development, ownership, equipping and management of the Property and all of the Debtor's right, title and interest in and to (but not the Debtor's obligations and burdens under) all architectural, engineering and similar plans, specifications, drawings, reports, surveys, plats, permits and the like, contracts for construction, operation and maintenance of, or provision of services to, the Property or any of the other property described herein, and all sewer taps and allocations, agreements for utilities, bonds and the like, all relating to the Property.

7. All intangible personal property, accounts, licenses, permits, instruments, contract rights, and chattel paper of the Debtor, including but not limited to cash; accounts receivable; bank accounts; certificates of deposit; securities; promissory notes; rents; rights (if any) to amounts held in escrow; insurance proceeds; condemnation rights; deposits; judgments, liens and causes of action; warranties and guarantees.

8. The interest of the Debtor in any cash escrow fund and in any and all funds, securities, instruments, documents and other property which are at any time paid to, deposited with, under the control of, or in the possession of the Creditor, or any of its agents, branches, affiliates, correspondents or others acting on its behalf, which rights shall be in addition to any right of set-off or right of lien that the Creditor may otherwise enjoy under applicable law, regardless of whether the same arose out of or relates in any way, whether directly or indirectly, to the project located upon the property referred to in Exhibit "A".

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9. The interest of the Debtor in any and all funds created or established and held by the Trustee pursuant to any indenture of trust or similar instrument authorizing the issuance of bonds or notes for the purpose of financing the project located upon the property described in Exhibit "A".

10. Any collateral owned by the Debtor and provided by the Debtor to each and every issuer of a letter of credit, subject to the prior claim of the issuer of any such letter of credit to such collateral.

11. All inventory, including raw materials, components, work-in-process, finished merchandise and packing and shipping materials.

12. Proceeds, products, returns, additions, accessions and substitutions of and to any or all of the above.

13. Any of the above arising or acquired by the Debtor or to which the Debtor may have a legal or beneficial interest in on the date hereof and at any time in the future.

14. Any of the above which may become fixtures by virtue of attachment to the real property described in Exhibit "A".

EXHIBIT "B"

PERMITTED ENCUMBRANCES

1. Grant made by Chicago Title and Trust Company under Trust Number 38773 to Northern Illinois Gas Company, recorded February 7, 1961, as Document #18079758 granting.

2. Rights of the Public, the State of Illinois, and the Municipality in and to other parts of the land, if any, taken or used for Kedzie Avenue.

3. Terms, conditions, provisions, and limitations contained in the Notice of Requirements for Storm Water Detention recorded August 20, 1978 as Document # 24597812.

4. Perpetual easement for watermain in favor of the Village of Hazel Crest as established by Document # 27055154.

5. Covenants and Restrictions contained in Warranty Deed dated July 14, 1958 and recorded July 29, 1958 as Document # 17273781, made by Standard Oil Company, a Corporation of Indiana, to the Commonwealth Edison Company, a corporation of Illinois.

6. Easement in, upon, under over and along the West 12 feet of Parcel 4 to install and maintain all equipment for the purpose of serving the land and other property with telephone and electric service, together with right of access to said equipment, as created by grant to Commonwealth Edison Company and Illinois Bell Telephone Company recorded January 28, 1975 as Document # 22976952.

7. Rights of the public, the State of Illinois, and the Municipality in and to so much of the West 17 feet of the East 50 feet of Parcel 4 as dedicated for road purposes by instrument dated February 19, 1975 and recorded March 25, 1975 as Document # 23030763.

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COOK COUNTY RECORDER

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