

1988 JUL -1 PM 2: 20

88289934

2042

18 96 1916

25.00

Property of Cook County Clerk's Office

MODIFICATION TO ASSIGNMENT

OF LEASES

AMONG

LA SALLE NATIONAL BANK, not individually but
as Trustee under Trust Agreement dated June 16, 1986
and known as Trust Number 111236,

WACKER DRIVE LIMITED PARTNERSHIP,

AND

CITICORP REAL ESTATE, INC.

BOX 883-GG

This document prepared by and
after recording return to:

Robert Hayn, Esq.
Teachers Insurance and Annuity
Association of America
730 Third Avenue, 9th Floor
New York, NY 10017

88289934

- 17-16-227-001
- 17-16-227-007
- 17-16-227-008
- 17-16-227-009
- 17-16-227-020
- 17-16-227-029

Jackson and Franklin
Chicago, IL

UNOFFICIAL COPY

MODIFICATION TO ASSIGNMENT OF LEASES dated as of the 20th day of June, 1987, among LA SALLE NATIONAL BANK, not individually but as Trustee under Trust Agreement dated June 16, 1986 and known as Trust Number 111236 (hereinafter called "Trustee"), WACKER DRIVE LIMITED PARTNERSHIP, an Illinois limited partnership (hereinafter called "Beneficiary"), and CITICORP REAL ESTATE, INC., a Delaware corporation (hereinafter called "Assignee").

WHEREAS, Trustee is the fee owner of the land described in Exhibit A attached hereto (hereinafter called the "Land") and Beneficiary is the beneficiary under the land trust of which Trustee is trustee; and

WHEREAS, Trustee has executed and delivered to Assignee that certain Note dated December 18, 1986 by Trustee to Assignee in the principal amount of \$232,800,000.00, as modified by that certain Modification Agreement (hereinafter called the "Modification Agreement") dated January 13, 1987 among Trustee, Beneficiary, and Assignee, recorded in the Office of the Recorder, Cook County, Illinois (hereinafter called the "Recording Office"), on January 26, 1987 as Document No. 87050598, as further modified and extended by that certain Note Modification and Extension Agreement of even date herewith between Trustee and Assignee (hereinafter, as so modified and extended, called the "Note"); and

WHEREAS, the Original Note is secured by that certain Mortgage dated December 18, 1986 by Trustee to Assignee recorded in the Recording Office on December 24, 1986 as Document No. 86617351, as modified by the Modification Agreement, and as modified and spread by that certain Mortgage Modification and Spreader Agreement of even date herewith between Trustee and Assignee intended to be recorded in the Recording Office (hereinafter, as so modified and spread, called the "Mortgage"); and

WHEREAS Trustee and Beneficiary (hereinafter collectively called "Assignor") have executed and delivered to Assignee that certain Assignment of Leases dated December 18, 1986 recorded in the Recording Office on December 24, 1986 as Document No. 86617352 (hereinafter called the "Original Assignment of Leases"); and

WHEREAS, Assignor and Assignee wish to modify the Original Assignment of Leases to incorporate therein provisions to become effective on the date (hereinafter called the "Permanent Loan Take-Out Date") on which the principal balance of the Note is reduced to \$143,100,000 and Teachers Insurance and Annuity Association of America or a nominee thereof (hereinafter called "Teachers") purchases the Note, the Mortgage, and the Original Assignment of Leases, as modified hereby (the Original Assignment of Leases, as so modified, being hereinafter called the "Assignment of Leases").

NOW, THEREFORE, Assignor and Assignee agree as follows:

A. The terms and provisions of the Original Assignment of Leases are hereinafter called "Part I of the Assignment of Leases". The provisions set forth in Exhibit B attached hereto are incorporated into the Assignment of Leases and are hereinafter called "Part II of the Assignment of Leases". Until the Permanent Loan Take-Out Date, (a) Part I of the Assignment of Leases shall be in full force and effect and Assignor shall comply with the terms and provisions of Part I of the Assignment of Leases, and (b) Part II of the Assignment of Leases shall not be in force and effect. Without limiting the generality of the foregoing, the provisions of paragraph 16 of the Original Assignment of Leases shall continue in force and effect until the Permanent Loan Take-Out Date. From and after the Permanent Loan Take-Out Date, automatically and without the need for the execution and delivery of any further documents or instruments, (a) Part II of the Assignment of Leases shall be in full force and effect and Assignor shall comply with the terms and provisions of Part II of the Assignment of Leases, and (b) Part I of the Assignment of Leases shall not be in force and effect.

B. The modification of the terms of the Assignment of Leases effective from and after the Permanent Loan Take-Out Date, as described above, shall not be deemed to constitute the creation of a new assignment and such modification shall not affect the priority of the Assignment of Leases or the Mortgage. No defenses, offsets or counterclaims available to Trustee or

UNOFFICIAL COPY

Beneficiary under Part I of the Assignment of Leases or under Part I of the Note (as defined in the Note Modification and Extension Agreement referred to above) or under Part I of the Mortgage (as defined in the Mortgage Modification and Spreader Agreement referred to above) or under any other Loan Documents (as defined in Part I of the Note) shall be effective from and after the Permanent Loan Take-Out Date.

C. The terms "Note" and "said Note" as used in Part II of the Assignment of Leases shall mean the "Note", as defined herein, including any extensions and renewals thereof and any supplemental note or notes. The terms "Mortgage or Deed of Trust" and "said Mortgage or Deed of Trust" as used in Part II of the Assignment of Leases shall mean the "Mortgage", as defined herein, and any extensions, supplements and consolidations thereof. The term "said premises" as used in Part II of the Assignment of Leases shall have the meaning ascribed to the word "Land" herein. The terms "Trustee", "Beneficiary", "Assignor" and "Assignee", as used in Part I and Part II of the Assignment of Leases, shall have the meanings ascribed to them herein. The definitions set forth in Part I of the Assignment of Leases shall be applicable to the defined terms only when the defined terms are used in Part I of the Assignment of Leases. The definitions set forth in Part II of the Assignment of Leases shall be applicable to the defined terms only when the defined terms are used in Part II of the Assignment of Leases.

D. The Original Assignment of Leases, as modified hereby, is ratified and continues in full force and effect.

E. This Modification may not be changed orally.

F. The provisions of this Modification shall supersede any conflicting provisions in the Original Assignment of Leases.

G. The covenants, agreements and conditions contained herein shall bind and inure to the benefit of the parties hereto and their respective successors and assigns, and shall run with the land and (without limiting the restrictions on transfer of the Land contained in the Note and in the Mortgage) bind all subsequent owners of all or part of the Land until all sums evidenced by the Note shall be paid in full.

H. This Agreement shall be construed in accordance with the law of the State of Illinois.

I. This Modification is executed by Trustee not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said Trustee hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on Trustee or its successors and assigns to pay the Note or any interest that may accrue thereon, or any indebtedness accruing thereunder, or to perform any covenant either express or implied therein contained or contained in the Assignment of Leases (it being understood and agreed that each of the provisions hereof, except the warranty hereinabove contained in this execution clause, shall constitute a condition and not a covenant or agreement, regardless of whether the same may be couched in language of a promise or a covenant or agreement), all such liability, if any, being expressly waived by Assignee and by every person now or hereafter claiming any right or security hereunder.

88289934

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed on the day and year first above written.

LA SALLE NATIONAL BANK, not individually but as Trustee under Trust Agreement dated June 16, 1986 and known as Trust Number 111236

Attest: *William J. Albion*
Assistant Secretary

BY: *James B. [Signature]*
Assistant Vice President

WACKER DRIVE LIMITED PARTNERSHIP,
an Illinois limited partnership

BY: Lincoln Property Company
No. 1272 Ltd., an Illinois
limited partnership, its
general partner

By: *William J. Albion*
General Partner

CITICORP REAL ESTATE, INC.

BY: *James M. [Signature]*

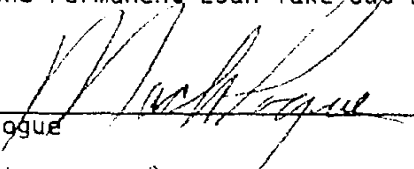
Property of Cook County Clerk's Office

88289934

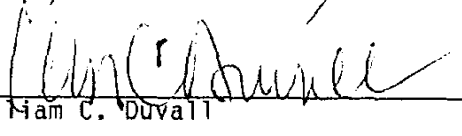
UNOFFICIAL COPY

CONSENT

The undersigned hereby consent to the terms and provisions of this Modification to Assignment of Leases and affirm that the obligations of the Guarantors under that certain Guaranty dated December 18, 1986 remain in full force and effect, and the Guaranty shall apply in all respects to the Loan Documents (as defined in the Guaranty) as amended herein in accordance with the terms conditions, and limitations set forth in the Guaranty, but (except as provided in paragraph 5 of the Buy-Sell Agreement dated December 15, 1987 among Maker, Citicorp, Maker's beneficiary and Teachers Insurance and Annuity Association of America) only until the Permanent Loan Take-Out Date.



 Mack Pogue



 William C. Duvall



 Gerald J. Kostelny

Property of Cook County Clerk's Office

88289934

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Denise L. Setzke, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William H. Dillon, Assistant Vice President of LA SALLE NATIONAL BANK, a national banking association, and William H. Dillon, Assistant Secretary of said Association, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Secretary and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Association, as Trustee as aforesaid, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30th day of June, 1988

Denise L. Setzke
Notary Public

My Commission Expires:
4-28-90

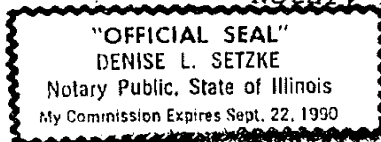
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Denise L. Setzke, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jeanne M. Guercio, Vice President of CITICORP REAL ESTATE, INC., a Delaware corporation, and Jeanne M. Guercio, Vice President of said corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice Presidents and Vice Presidents respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 21st day of June, 1988.

Denise L. Setzke
Notary Public

My Commission Expires:
9/22/90



88289934

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

PARCEL 1

THAT PART OF LOT 1 IN BLOCK 84, LYING EAST OF SOUTH MARKET STREET, IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOTS 5, 6, 7, 8, 11, 12, 13, 14, 17 AND 18 IN EGAN AND MORRIS' SUBDIVISION OF LOTS 2, 3 AND 4 IN BLOCK 84 AFORESAID; TOGETHER WITH LOTS 1 TO 9, BOTH INCLUSIVE, IN ASSESSOR'S DIVISION OF LOTS 1 AND 2 IN EGAN AND MORRIS' SUBDIVISION AFORESAID, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 1 IN BLOCK 84 AFORESAID; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK, BEING ALSO THE WEST LINE OF SOUTH FRANKLIN STREET A DISTANCE OF 397.86 FEET TO THE SOUTHEAST CORNER OF LOT 2 IN THE ASSESSOR'S DIVISION AFORESAID; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF BLOCK 84 AFORESAID, BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET A DISTANCE OF 86.00 FEET TO A POINT; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID BLOCK A DISTANCE OF 85.81 FEET TO A POINT, SAID POINT BEING 86.00 FEET WEST (MEASURED PERPENDICULARLY) OF THE EAST LINE OF SAID BLOCK; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 71.39 FEET TO A POINT, SAID POINT BEING 261.86 FEET SOUTH OF THE NORTH LINE OF SAID BLOCK AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 124.88 FEET TO A POINT, SAID POINT BEING 136.98 FEET SOUTH OF SAID NORTH LINE AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 71.39 FEET TO A POINT, SAID POINT BEING 86.32 FEET SOUTH OF SAID NORTH LINE AND 86.00 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 86.32 FEET TO A POINT ON SAID NORTH LINE, SAID POINT BEING 86.00 FEET WEST OF THE HEREINABOVE DESIGNATED POINT OF BEGINNING AS MEASURED ON SAID NORTH LINE, BEING ALSO THE SOUTH LINE OF WEST JACKSON BOULEVARD; THENCE SOUTH 89 DEGREES 47 MINUTES 33 SECONDS EAST ALONG SAID NORTH LINE A DISTANCE OF 86.00 FEET TO THE HEREINABOVE DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

Easements, liens, and other rights for the benefit of Parcel 1 over the Easement Property (defined below) granted under that certain Construction, Operation, and Reciprocal Easement Agreement among Chicago Title and Trust Company, as Trustee under Trust Agreement dated October 2, 1985 and known as Trust Number 10-90000, Chicago Title and Trust Company, as Trustee under Trust Agreement dated April 21, 1986 and known as Trust No. 10-90001, and La Salle National Bank, as Trustee under Trust Agreement dated June 16, 1986 and known as Trust Number 111236, dated June 26, 1986 and recorded in the Office of the Recorder, Cook County, Illinois, in June 27, 1986 as Document Number 86265341, as supplemented by Supplemental Agreement among the same parties dated June 26, 1986 (herein collectively called the "Easement Agreement") including, without limitation, easements for the following purposes: construction, use, management, operation, maintenance, reconstruction and repair of the Winter Garden CAI, Garage Area CAI, and other Common Areas and Common Area Improvements (as all such terms are defined in the Easement Agreement); parking; ingress, egress, and access; construction related purposes; storage; utilities; repair and maintenance; support; maintenance of encroachments; use of mechanical room; exclusive use of loading dock and related facilities and passageway; lights and signs; self help; escalators and stairways; and including, without limitation, the right to receive payments from the owners of Site II and Site III (as described in Annex A hereto) under Section 4.2 of the Easement Agreement and other provisions of the Easement Agreement.

The Easement Property is Site II and Site III, as described in Annex A hereto, and all buildings and improvements now or hereafter located on Site II and Site III.

88289934

UNOFFICIAL COPY

ANNEX A

SITE II

THAT PART OF LOT 1 IN BLOCK 84, LYING EAST OF SOUTH MARKET STREET, IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOTS 5, 6, 7, 8 11, 12, 13, 14, 17 AND 18 IN EGAN AND MORRIS' SUBDIVISION OF LOTS 2, 3 AND 4 IN BLOCK 84 AFORESAID; TOGETHER WITH LOTS 1 TO 9, BOTH INCLUSIVE, IN ASSESSOR'S DIVISION OF LOTS 1 AND 2 IN EGAN AND MORRIS' SUBDIVISION AFORESAID, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN BLOCK 84 AFORESAID; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK, BEING ALSO THE WEST LINE OF SOUTH FRANKLIN STREET A DISTANCE OF 397.86 FEET TO THE SOUTHEAST CORNER OF LOT 2 IN THE ASSESSOR'S DIVISION AFORESAID; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF BLOCK 84 AFORESAID, BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET A DISTANCE OF 86.00 FEET TO THE HEREIN DESIGNATED POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID BLOCK A DISTANCE OF 86.00 FEET TO A POINT, SAID POINT BEING 86.00 FEET WEST (MEASURED PERPENDICULARLY) OF THE EAST LINE OF SAID BLOCK; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 71.39 FEET TO A POINT SAID POINT BEING 261.67 FEET SOUTH OF THE NORTH LINE OF SAID BLOCK AND 136.43 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 62.36 FEET TO A POINT, SAID POINT BEING 199.31 FEET SOUTH OF SAID NORTH LINE AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 89 DEGREES 47 MINUTES 33 SECONDS WEST PARALLEL WITH THE NORTH LINE OF SAID BLOCK A DISTANCE OF 188.85 FEET TO A POINT ON THE WEST LINE OF EGAN AND MORRIS' SUBDIVISION AFORESAID BEING ALSO THE EAST LINE OF SOUTH MARKET STREET (NOW SOUTH WACKER DRIVE), SAID POINT BEING 199.31 FEET SOUTH (AS MEASURED ALONG THE EAST LINE OF SOUTH MARKET STREET (NOW SOUTH WACKER DRIVE)) OF THE NORTH LINE OF SAID BLOCK; THENCE SOUTH 0 DEGREES 08 MINUTES 18 SECONDS WEST ALONG SAID WEST LINE OF EGAN AND MORRIS' SUBDIVISION AND ALONG THE WEST LINE OF THE ASSESSOR'S DIVISION AFORESAID, BEING ALSO THE EAST LINE OF SOUTH MARKET STREET (NOW SOUTH WACKER DRIVE), A DISTANCE OF 198.97 FEET TO THE SOUTHWEST CORNER OF LOT 9 IN ASSESSOR'S DIVISION AFORESAID; THENCE SOUTH 89 DEGREES 52 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID BLOCK, BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET, A DISTANCE OF 239.81 FEET TO THE HEREINABOVE DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

88289934

UNOFFICIAL COPY

SITE III

THAT PART OF LOT 1 IN BLOCK 84, LYING EAST OF SOUTH MARKET STREET, IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH LOTS 5, 6, 7 8, 11, 12, 13, 14, 17 AND 18 IN EGAN AND MORRIS' SUBDIVISION OF LOTS 2, 3 AND 4 IN BLOCK 84 AFORESAID; TOGETHER WITH LOTS 1 TO 9, BOTH INCLUSIVE, IN ASSESSOR'S DIVISION OF LOTS 1 AND 2 IN EGAN AND MORRIS' SUBDIVISION AFORESAID, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1 IN BLOCK 84 AFORESAID; THENCE SOUTH 0 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE EAST LINE OF SAID BLOCK, BEING ALSO THE WEST LINE OF SOUTH FRANKLIN STREET A DISTANCE OF 397.86 FEET TO THE SOUTHEAST CORNER OF LOT 2 IN THE ASSESSOR'S DIVISION AFORESAID; THENCE NORTH 89 DEGREES 52 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF BLOCK 84 AFORESAID, BEING ALSO THE NORTH LINE OF WEST VAN BUREN STREET A DISTANCE OF 86.00 FEET TO A POINT; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST PARALLEL WITH THE EAST LINE OF SAID BLOCK A DISTANCE OF 86.00 FEET TO A POINT, SAID POINT BEING 86.00 FEET WEST (MEASURED PERPENDICULARLY) OF THE EAST LINE OF SAID BLOCK; THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 71.39 FEET TO A POINT, SAID POINT BEING 261.67 FEET SOUTH OF THE NORTH LINE OF SAID BLOCK AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 62.36 FEET TO THE HEREIN DESIGNATED POINT OF BEGINNING, SAID POINT BEING 199.31 FEET SOUTH OF SAID NORTH LINE AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE CONTINUING NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 62.65 FEET TO A POINT, SAID POINT BEING 136.66 FEET SOUTH OF SAID NORTH LINE AND 136.48 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 71.39 FEET TO A POINT, SAID POINT BEING 86.00 FEET SOUTH OF SAID NORTH LINE AND 86.00 FEET WEST OF SAID EAST LINE (MEASURED PERPENDICULARLY RESPECTIVELY); THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 86.00 FEET TO A POINT ON SAID NORTH LINE, SAID POINT BEING 86.00 FEET WEST OF THE NORTHEAST CORNER OF LOT 1 AFORESAID; THENCE NORTH 80 DEGREES 47 MINUTES 33 SECONDS WEST ALONG SAID NORTH LINE, BEING ALSO THE SOUTH LINE OF WEST JACKSON BOULEVARD A DISTANCE OF 238.85 FEET TO THE POINT OF INTERSECTION WITH THE EAST LINE OF SOUTH MARKET STREET (NOW SOUTH WACKER DRIVE); THENCE SOUTH 0 DEGREES 08 MINUTES 18 SECONDS WEST ALONG SAID EAST LINE OF SOUTH MARKET STREET AND ALONG THE WEST LINE OF EGAN AND MORRIS' SUBDIVISION AFORESAID A DISTANCE OF 199.31 FEET TO A POINT; THENCE SOUTH 89 DEGREES 47 MINUTES 33 SECONDS EAST PARALLEL WITH THE NORTH LINE OF SAID BLOCK A DISTANCE OF 188.85 FEET TO THE HEREIN ABOVE DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

88289934

UNOFFICIAL COPY

EXHIBIT B Part II of Assignment of Leases

FOR VALUE RECEIVED, Assignor does hereby SELL, ASSIGN, TRANSFER, SET OVER and DELIVER unto the Assignee, the lease(s) more particularly identified in the Schedule of Leases attached hereto as Exhibit "A" which said lease(s) cover(s) portions of the premises together with buildings and improvements thereon (hereinafter called "said premises"), situate in the City of Chicago, County of Cook, State of Illinois, and more particularly described in the Mortgage or Deed of Trust hereinafter identified.

TOGETHER with any and all extensions and renewals thereof and any and all further leases (including sub-leases thereof, tenancies following attornment and oil and gas leases) upon all or any part of the said premises (all such leases, subleases and tenancies heretofore mentioned are hereinafter collectively included in the designation "said lease(s)").

TOGETHER with any and all guarantees of lessee's performance under any of said lease(s), and

TOGETHER with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due or to which Assignor may now or shall hereafter (including the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the said lease(s) or from or out of the said premises or any part thereof, including but not by way of limitation: minimum rents, additional rents, percentage rents, parking maintenance, tax and insurance contributions, proceeds of sale of electricity, gas, chilled and heated water and other utilities and services, deficiency rents and liquidated damages following default, the premium payable by any lessee upon the exercise of a cancellation privilege originally provided in any said lease, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the said premises together with any and all rights and claims of any kind which Assignor may have against any lessee under such lease(s) or any sub-tenants or occupants of the said premises (all such moneys, rights and claims in this paragraph described being hereinafter called "rents"), EXCEPTING THEREFROM, any sums which by the express provisions of any said lease are payable directly to any governmental authority or to any other person, firm or corporation other than the lessor under the said lease;

SUBJECT, however, to a license hereby granted by Assignee to Assignor, but limited as hereinafter provided, to collect and receive all of the said rents.

TO HAVE AND TO HOLD the same unto the Assignee, its successors and assigns forever, or for such shorter period as hereinafter may be indicated.

FOR THE PURPOSE OF SECURING the payment of the indebtedness evidenced by the ^{the} Main Note ~~made~~ in the original, principal sum of TWO HUNDRED THIRTY-TWO MILLION EIGHT HUNDRED THOUSAND AND NO/100THS (\$232,800,000.00) DOLLARS made by Assignor payable to the order of Citicorp Real Estate, Inc.

and presently held by Assignee, including any extensions and renewals thereof and any supplemental note or notes increasing such indebtedness as well as the payment, observance, performance and discharge of all other obligations, covenants, conditions and warranties contained in the Mortgage or Deed of Trust ~~recorded in Book XXXXX at Page XXXX of the~~ ~~BOOK XXXX OF DEEDS IN THE COUNTY OF COOK, ILLINOIS, AND IN ANY~~ extensions, supplements and consolidations thereof, covering the said premises and securing the said Note and supplemental notes, if any ~~(hereinafter collectively referred to as the "Mortgage or Deed of Trust")~~

TO PROTECT THE SECURITY OF THIS ASSIGNMENT, IT IS COVENANTED AND AGREED AS FOLLOWS:

I. That Assignor represents and warrants: That ~~Assignor~~ ^{Trustee} is the owner in fee simple absolute of the said premises and has good title to the identified lease(s) and rents hereby assigned and good right to assign the same, and that no other person, firm or corporation has any right, title or interest therein; that Assignor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the identified lease(s) on Assignor's part to be kept, observed and performed; that the identified

Trustee and/or Beneficiary

UNOFFICIAL COPY

neither
Trustee nor
Beneficiary

lease(s) is (are) valid and unmodified except as indicated herein and in full force and effect; that ~~ASSIGNOR~~ has ~~not~~ previously sold, assigned, transferred, mortgaged or pledged the said rents, from said premises, whether now due or hereafter to become due; that any of said rents due and issuing from said premises or from any part thereof for any period subsequent to the date hereof have not been collected and that payment of any of same has not otherwise been anticipated, waived, released, discounted, set-off, or otherwise discharged or compromised; that ~~ASSIGNOR~~ has ~~not~~ received any funds or deposits from any lessee for which credit has not already been made on account of accrued rents; that ~~ASSIGNOR~~ has ~~not~~ received, prior to the date of recording of the said Mortgage or Deed of Trust, any bona fide and acceptable offer to purchase the said premises or any part thereof which would in any way affect any right or option of first refusal to purchase same now contained in the identified lease(s); and that the lessee(s) under the identified lease(s) is (are) not in default of any of the terms thereof.

2. That Assignor covenants and agrees as follows: To observe, perform and discharge, duly and punctually, all and singular the obligations, terms, covenants, conditions and warranties of the said Note and Mortgage or Deed of Trust, of the identified lease(s) and of all future leases affecting the said premises, on the part of the Assignor to be kept, observed and performed, and to give prompt notice to Assignee of any failure on part of Assignor to observe, perform and discharge same; to notify and direct in writing each and every present or future lessee or occupant of the said premises or of any part thereof that any security deposit or other deposits heretofore delivered to Assignor have been retained by Assignor or assigned and delivered to Assignee as the case may be; to enforce or secure in the name of the Assignee the performance of each and every obligation, term, covenant, condition and agreement in said lease(s) by any lessee to be performed; to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the said lease(s) or the obligations, duties, or liabilities of the Assignor and any lessee thereunder, and, upon request by Assignee, will do so in the name and behalf of the Assignee but at the expense of the Assignor, and to pay all costs and expenses of the Assignee, including attorney's fees in a reasonable sum in any action or proceeding in which the Assignee may appear.

3. That Assignor further covenants and agrees as follows: Not to receive or collect any rents from any present or future lessee of said premises or any part thereof for a period of more than one month in advance, (whether in cash or by promissory note), nor pledge, transfer, mortgage or otherwise encumber or assign future payments of said rents; not to waive, excuse, condone, discount, set-off, compromise, or in any manner release or discharge any lessee thereunder, of and from any obligations, covenants, conditions and agreements by said lessee to be kept, observed and performed, including the obligation to pay the rents thereunder, in the manner and at the place and time specified therein; not to cancel, terminate or consent to any surrender of any said lease, or commence an action of ejectment or any summary proceeding for dispossession of the lessee under any said lease, or exercise any right of recapture provided in any said lease, nor modify, or in any way alter the terms thereof; not to lease any part of the said premises, nor renew or extend the term of any lease of said premises unless an option therefor was originally so reserved by lessee in said lease and for a fixed and definite rental, not to relocate any said lessee within said premises, nor consent to any modification of the express purposes for which the premises have been leased, nor consent to any subletting of said premises or any part thereof, or to any assignment of said lease(s) by any lessee thereunder or to any assignment or further subletting of any sublease, without, in each such instance enumerated in this paragraph, the prior written consent of the Assignee.

4. That in the event any representation or warranty herein of Assignor shall be found to be untrue or Assignor shall default in the observance or performance of any obligation, term, covenant, condition or warranty herein, then, in each such instance, the same shall constitute and be deemed to be a default under the said Note and Mortgage or Deed of Trust thereby entitling Assignee to declare all sums secured thereby and hereby immediately due and payable and to exercise any and all of the rights and remedies provided thereunder and hereunder as well as by law.

5. That so long as there shall exist no default by ~~ASSIGNOR~~ in the payment of any indebtedness secured hereby or in the observance and performance of any other obligation, term, covenant or condition or warranty herein or in said Note and Mortgage or Deed of Trust or in said lease(s) contained, Assignor shall have the right under a license granted hereby (but limited as provided in the following paragraph) to collect upon, but not prior to accrual, as aforesaid, all of said rents, arising from or out of the said lease(s) or any renewals or extensions thereof, or from or out of the said premises or any part thereof, and Assignor shall receive such rents, and shall hold same, as well as the right and license to receive same, as a trust fund to be applied, and Assignor hereby covenants to so apply same, first to the payment of taxes and assessments upon said premises before penalty or interest are due thereon, secondly to the cost of such insurance and of such maintenance and repairs as is required by the terms of the said Mortgage or Deed of Trust, and thirdly to satisfaction of all obligations under the said leases, and fourthly to the payment of interest and principal becoming due on the said Note and Mortgage or Deed of Trust, before using any part of the same for any other purposes.

6. That upon the sale and conveyance by ~~ASSIGNOR~~ and its successors and assigns of the fee title to the said premises, all right, title and interest and powers granted under the license aforesaid shall automatically pass to and may be exercised by each such subsequent owner and upon or at any time after default in the payment of any indebtedness secured hereby or in the observance or performance of any obligation, term, covenant, condition or warranty herein or in the said Note and Mortgage or Deed of Trust or in the said lease(s) contained, Assignee, at its option, shall have the complete right, power and authority hereunder then or thereafter to exercise and enforce any or all of the following rights and remedies: (a) to terminate the license granted to Assignor to collect as aforesaid the said rents, and then and thereafter, without taking possession, in Assignee's own name, to demand, collect, receive, sue for, attach and levy the said rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and proper costs and expenses of operation and collection, as determined by Assignee, including reasonable attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby and in such order as Assignee may determine; (b) to declare all sums secured hereby immediately due and payable and, at its option, exercise all of the rights and remedies contained in said Note and Mortgage or Deed of Trust; and (c) without regard to the adequacy of the security, with or without any action or proceeding through any person or by agent, or by the trustee(s) under the Deed of Trust secured hereby, or by a receiver to be appointed by court and irrespective of said Assignor's possession, then or thereafter to enter upon, take possession of, manage and operate said premises or any part thereof, make, modify, enforce, cancel or accept surrender of any lease now in effect or hereafter in effect on said premises or any part thereof; remove and evict any lessee; increase or decrease rents; decorate, clean and repair; and otherwise do any act or incur any costs or expense as Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession, and in such event to apply the rents so collected to the operation and management of said premises, but in such order as Assignee shall deem proper, and including the payment of reasonable management, brokerage and attorneys' fees, payment of the indebtedness under said Note and Mortgage or Deed of Trust and maintenance, without interest, of a reserve for replacement;

UNOFFICIAL COPY

Provided, however, that the acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking of possession of said premises by Assignee, be deemed or construed to constitute Assignee a mortgagee in possession nor thereafter or at any time or in any event obligate the Assignee to appear in or defend any action or proceeding relating to the said lease(s) or to the said premises, or to take any action hereunder, or to expend any money or incur any expenses or perform or discharge any obligation, duty or liability under said lease(s), or to assume any obligation or responsibility for any security deposits or other deposits delivered to or by any lessee hereunder and not assigned and delivered to Assignee, nor shall Assignee be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the said premises: Trustee or Beneficiary

And provided further that the collection of said rents and application as aforesaid and/or the entry upon and taking possession of the said premises shall not cure or waive any default or waive, modify or affect any notice of default under said Note and Mortgage or Deed of Trust or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, notwithstanding that the collection and application aforesaid of such rents may have cured for the time the original default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be asserted at any time and from time to time following any subsequent default.

7. That Assignor does hereby constitute and appoint Assignee the true and lawful attorney, coupled with an interest, of said Assignor and in the name, place and stead of Assignor, to demand, sue for, attach, levy, recover and receive any premium or penalty payable upon the exercise, by any lessee under any lease of the said premises, of a privilege of cancellation originally provided in said lease, and to give proper receipts, releases and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Assignee, of the indebtedness secured hereby, notwithstanding the fact that the amount owing thereunder may not then be due and payable or that the indebtedness is otherwise adequately secured, and Assignor does hereby authorize and direct any such lessee to deliver such payment to Assignee in accordance with the foregoing, and does hereby ratify and confirm all whatsoever that its said attorney, the Assignee herein shall do or cause to be done by virtue of the powers granted hereby. The within appointment shall be irrevocable and continuing and such rights, powers and privileges shall be exclusive in Assignee, its successors and assigns so long as any part of the indebtedness secured hereby shall remain unpaid.

8. That Assignor does hereby constitute and appoint Assignee the true and lawful attorney, coupled with an interest of said Assignor and in the name, place and stead of said Assignor to subject and subordinate at any time and from time to time, any lease affecting the said premises or any part thereof, to the lien of the said Mortgage or Deed of Trust or any other mortgage or deed of trust on or to any ground lease of said premises or to request or require such subordination, where such reservation, option or authority was reserved under any said lease to the Assignor, or in any case, where the Assignor otherwise would have the right, power or privilege so to do. This appointment is to be irrevocable and continuing and these rights, powers and privileges shall be exclusive in Assignee, its successors and assigns so long as any part of the indebtedness secured hereby shall remain unpaid, and Assignor does hereby warrant that Assignor has not, at any time prior to the date hereof, exercised any such right and covenants not to exercise any such right to so subordinate any such lease to this Mortgage or Deed of Trust or to any other mortgage or deed of trust or to any ground lease.

9. That Assignor hereby agrees to indemnify and hold the Assignee harmless of and from any and all liability, loss, damage or expense which it may or might incur under or by reason of this Assignment, or for any action taken by the Assignee hereunder, or by reason of in defence of any and all claims and demands whatsoever which may be asserted against Assignee arising out of said lease(s), including, but without limitation thereto, any claim by any lessee of credit for rental paid to and received by Trustee or Beneficiary but not delivered to Assignee, for any period under any said lease more than one month in advance of the due date thereof; should the Assignee incur any such liability, loss, damage or expense, the amount thereof (including reasonable attorney's fees) with interest thereon at the penalty rate set forth in said Note and Mortgage or Deed of Trust shall be payable by Assignor immediately without demand, and shall be secured hereby and by said Mortgage or Deed of Trust.

10. That until the indebtedness secured hereby shall have been paid in full, Assignor will deliver to the Assignee executed copies of any and all other and future leases upon all or any part of the said premises and will transfer and assign such other and future leases upon the same terms and conditions as herein contained and Assignor hereby covenants and agrees to make, execute and deliver unto Assignee upon demand and at any time or times, any and all assignments and other instruments sufficient for the purpose or that the Assignee may deem to be advisable for carrying out the true purposes and intent of this Assignment including assignment of the rent under any lease with the United States Government after allowance of the rental claim, ascertainment of the amount due and issuance of the warrant for payment thereof.

11. That the failure of the Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time or times, shall not be construed or deemed to be a waiver of any such right, and nothing herein contained, nor anything done or omitted to be done by Assignee pursuant hereto shall be deemed a waiver by Assignee of any of its rights and remedies under said Note and Mortgage or Deed of Trust, or under the laws of the state in which the said premises are situate. The right of the Assignee to collect the said indebtedness and to enforce any other security therefor may be exercised by Assignee, either prior to, simultaneously with, or subsequent to any action taken hereunder.

12. That so long as any of the indebtedness secured hereby and by the said Note and Mortgage or Deed of Trust shall remain unpaid, unless the Assignee shall otherwise consent in writing, the fee title and the leasehold estate(s) on said premises as hereinbefore described shall not merge, but shall always be kept separate and distinct, notwithstanding the union of said estate(s) either in the Assignor or in any lessee or in a third party by purchase or otherwise.

13. That upon payment in full of all of the indebtedness secured by said Note and Mortgage or Deed of Trust and of

UNOFFICIAL COPY

all sums payable hereunder, this Assignment shall become and be void and of no effect, but the affidavit, certificate, letter or statement of any officer of Assignee showing any part of said indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment, and any person, firm or corporation, may and is hereby authorized to rely thereon. A demand on any lessee made by Assignee for payment of rents by reason of any default claimed by Assignee shall be sufficient warrant to said lessee to make future payments of rents to Assignee without the necessity for further consent by the said Assignor.

14. That all notices, demands or documents of any kind which Assignee may be required or may desire to serve upon Assignor hereunder shall be sufficiently served by ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ ~~XXXXXX~~ leaving a copy of same addressed to Assignor at the said premises, or by depositing a copy of same in the United States mail, postage prepaid and addressed to Assignor at said premises.

15. That the terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land, shall inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all lessees, sub-tenants and assigns of same, and all subsequent owners of the said premises, and all subsequent holders of the said Note and Mortgage or Deed of Trust. In this Assignment, whenever the context so requires, the masculine gender shall include the feminine and, or neuter and the singular number shall include the plural and conversely in each case. All obligations of each Assignor hereunder shall be joint and several.

Property of Cook County Clerk's Office

88289934

UNOFFICIAL COPY

EXHIBIT "A" TO EXHIBIT B

SCHEDULE OF LEASES

THOSE CERTAIN LEASES dated as indicated below by and between
, as Lessor and the following named

Lessees: NONE

Property of Cook County Clerk's Office

88289934