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MODIFICATION AGREEMENT

THIS AGREEMENT, made and executed this 31st day of August, 1990, between THE FIRST NATIONAL BANK OF CHICAGO, not personally but as Trustee of THE LIVING ENVIRONMENTS FOR AN AGING AMERICA FUND, under Declaration of Trust effective August 1, 1986, as amended ("Mortgagor"), and KEMPER INVESTORS LIFE INSURANCE COMPANY, an Illinois insurance corporation ("Mortgagee")

DEPT-01 RECORDING \$36.00
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COOK COUNTY RECORDER

WITNESSETH:

WHEREAS, Mortgagor holds a leasehold estate in certain real estate situated in the City of Chicago, Cook County, Illinois, as more fully described in Exhibit A attached hereto and made a part hereof (the "Premises") upon which Mortgagor has constructed a 37-story retirement housing complex; and

WHEREAS, Mortgagor executed and delivered a certain Mortgage Note in the amount of \$32,750,000.00 in favor of Chemical Bank, a New York banking corporation ("Construction Lender") dated March 10, 1989 (the "Note") to evidence a construction loan made by Construction Lender to Mortgagor pursuant to a Building Loan Agreement dated as of March 10, 1989 (the "Building Loan Agreement"); and

WHEREAS, the Note is secured by a certain Building Loan Leasehold Mortgage dated March 10, 1989, and recorded in the records of the Recorder of Cook County, Illinois as document number 89,114,491 (the "Mortgage"); a certain Assignment of Leases and Rents dated March 10, 1989 and recorded in the records of the Recorder of Cook County, Illinois, as document number 89,114,492 (the "Assignment"), a certain Security Agreement dated March 10, 1989 (the "Security Agreement"), and certain other security documents; and

This instrument prepared by and when recorded return to:

Laurance P. Nathan
Keck, Mahin & Cate
233 S. Wacker Drive
8300 Sears Tower
Chicago, Illinois 60606

Permanent Index Numbers:

14-28-203-015
14-28-203-016
14-28-203-017

Property Address:

2960 North Lake Shore Drive
Chicago, Illinois

Please return to: Sandra Rybak
Ticor Title Insurance Co.
203 N. LaSalle St., Suite 1400
Chicago, IL 60601

Re: 19962-14

Box 15 *[Signature]*

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WHEREAS, Mortgagee issued a certain loan commitment dated July 29, 1988, to Mortgagor (the "Permanent Commitment") whereby Mortgagee agreed, pursuant to the terms of the Permanent Commitment, to enter into a first mortgage loan upon the Premises upon completion of construction of the 37-story retirement housing complex; and

WHEREAS, the Note, Mortgage and Building Loan Agreement and certain other documents evidencing and securing the construction loan listed on Exhibit B attached hereto and made a part hereof (the "Assigned Loan Documents") have been assigned by the Construction Lender to the Mortgagee pursuant to a certain Buy-Sell Agreement dated March 10, 1989 by and among Construction Lender, Mortgagor and Mortgagee; and

WHEREAS, Mortgagor and Mortgagee have executed an Amended and Restated Loan Agreement of even date herewith; and

WHEREAS, Mortgagor and Mortgagee wish to modify the Note, the Mortgage, the Assignment, the Security Agreement and certain of the other Assigned Loan Documents in the manner set forth hereinafter.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor and Mortgagee hereby agree as follows:

PART A AMENDMENTS TO NOTE AND MORTGAGE

The Note is hereby amended as follows:

1. The stated original principal amount on page 1 of the Note shall be \$38,310,000, rather than \$38,750,000.
2. Paragraph 22 1(iii) on page 18 of the Note is hereby amended in its entirety to read as follows: "The 'Loan' shall mean the loan in the aggregate principal sum of \$38,310,000."

The Mortgage is hereby amended as follows:

1. The words "Building Loan" are hereby deleted from the title of the document, which shall be denominated "Leasehold Mortgage."
2. In the second and third lines of the recital on page 1 of the mortgage, the figure "Thirty Eight Million Three Hundred Ten Thousand (\$38,310,000) Dollars" shall be substituted in lieu of "Thirty Eight Million Seven Hundred Fifty Thousand (\$38,750,000) Dollars."
3. The term "Mortgagee" is hereby redefined to mean Kemper Investors Life Insurance Company, an Illinois insurance

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corporation, having an office at Kemper Financial Services, 120 South LaSalle Street, Chicago, Illinois 60603. The term "Loan Agreement" is hereby redefined to mean the aforesaid Amended and Restated Loan Agreement. The term "Loan Documents" is hereby redefined to mean the Assigned Loan Documents, the Amended and Restated Loan Agreement, this Modification Agreement, the Inducement Affidavit from Mortgagor to Mortgagee dated of even date herewith, and any other documents or instruments evidencing or securing the Loan. The term "Loan" is hereby redefined to mean the first mortgage loan upon the Premises from Mortgagee to Mortgagor secured by, among other things, the Mortgage. The term "Mortgage" is hereby redefined to mean the Building Loan Leasehold Mortgage, as modified by this Modification Agreement.

4. The eighth line of Paragraph 2, entitled "Warranty of Title," is hereby amended to read "the execution and delivery of the Modification Agreement (hereinafter)".

5. The initial two sentences of Paragraph 3, entitled "Insurance," said sentences beginning "Mortgagor (i) will keep . . ." and ending on line 19 of page 4 with the phrase "company shall be paid." are hereby deleted and the following inserted in lieu thereof:

"Mortgagor (i) will keep the Improvements, the Equipment and the Collateral (defined in the Security Agreement) insured against loss or damage by fire, standard extended coverage perils and other such hazards, as Mortgagee shall from time to time require in amounts approved by Mortgagee, which amounts shall in no event be less than the full replacement cost of the Improvements, the Equipment, and the Collateral, and (ii) will maintain general liability and casualty coverage in an amount approved by Mortgagee, which amount shall in no event be less than \$10,000,000.00, (iii) will maintain at least 12 months rent loss or business interruption insurance, and (iv) will maintain such other forms of insurance coverage with respect to the Mortgaged Property, including, without limiting the generality of the foregoing, flood insurance (where applicable), as Mortgagee shall from time to time require in amounts approved by Mortgagee. All policies (or a single blanket policy, as the case may be) of insurance (hereinafter referred to as the "Policies") shall be in a form approved by Mortgagee, shall be issued by an insurer approved by Mortgagee, and shall contain the standard mortgagee non-contribution clause endorsement or an equivalent endorsement satisfactory to Mortgagee naming Mortgagee as the person to which all payments and proceeds made by such insurance company shall be paid."

6. Paragraph 3, entitled "Insurance," shall be further modified by the deletion of the 11th line from the bottom of page 4 and the insertion in lieu thereof of the following:

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"insurance and keeping it in effect shall bear interest from the date of such advance at the Rate after Default defined in the Note, and shall be paid by Mortgagor"

7. Subparagraph (a) of Paragraph 4, entitled "Adjustment of Losses with Insurer and application of Proceeds with Insurance," is deleted in its entirety and the following is inserted in lieu thereof:

"If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Mortgagor will give prompt notice thereof to Mortgagee. In case of fire or other casualty, Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) and Mortgagor jointly will adjust, collect and compromise all claims in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00) under insurance policies covering the loss, provided that to the extent any such claim exceeds \$15,000,000.00 the Ground Lessor shall be joined for such purpose as provided in the Ground Lease. In case of fire or casualty where the cost of rebuilding or restoration of the Improvements on the Premises ("Restoration") is estimated by Mortgagee to be \$500,000.00 or less, Mortgagor shall have the right to adjust and settle the claim itself. All insurance proceeds, regardless of whether a claim is adjusted by Mortgagor, Mortgagee, Ground Lessor, or any combination thereof, shall be paid directly and solely to Mortgagee to be applied in accordance with this Mortgage. Such insurance proceeds shall be held by Mortgagee and used to reimburse Mortgagor for the cost of Restoration; provided, however, that (i) no Default, or event or circumstance which with the giving of notice, the passage of time, or both, would constitute a Default hereunder, has occurred (an "Unmatured Default"), (ii) Mortgagee determines that the insurance proceeds when combined with Mortgagor's own funds deposited with Mortgagee, are sufficient, in Mortgagee's judgment, to restore the Premises, (iii) neither Ground Lessor nor Mortgagor have terminated or have the right to terminate the Ground Lease (unless such right has been waived), (iv) Restoration is required or permitted under the terms of the Ground Lease, and (v) Mortgagee determines that Restoration can be completed prior to the sooner to occur of the maturity date of the Note and the date which is twelve (12) months after such casualty (or if the period by which such Restoration can be completed is more than twelve (12) months, Mortgagor shall have delivered to Mortgagee such assurances as Mortgagee may reasonably require with respect to payment of the Note until the Improvements are projected to be leased at the same occupancy level as immediately prior to such casualty). Notwithstanding the foregoing, if an Unmatured Default is cured within applicable notice and cure periods, such proceeds shall be applied to the Restoration, but such proceeds shall not be applied to Restoration unless and until the Unmatured Default

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shall have been cured within such applicable notice and grace periods. In the event Mortgagee makes proceeds of insurance available for Restoration, the Improvements shall be so restored so as to be of at least equal value and substantially the same character as immediately prior to such damage or destruction, in a good and workmanlike manner in conformity with all governmental statutes, ordinances and regulations. If the insurance proceeds are made available for Restoration, such proceeds shall be disbursed by Mortgagee or a disbursing party (the "Disbursing Party") chosen by Mortgagee in accordance with procedures satisfactory to the Mortgagee including delivery of plans and specifications for approval by the Mortgagee, satisfactory evidence of the cost of completion thereof, and architects' certificates, waivers of lien, contractors' and subcontractors' sworn statements, title continuations and other evidence of cost and payments so that the Disbursing Party can verify that the amounts disbursed from time to time are represented by completed and in-place work and that such work is free and clear of mechanics' lien claims except for liens which are being contested by the Mortgagor in accordance with the terms of this Mortgage. No payment made prior to the final completion of the work shall exceed 90% of the value of the work performed from time to time, and at all times the undisbursed balance of such proceeds remaining in the hands of the Disbursing Party shall be at least sufficient to pay for the cost of completion of the work free and clear of liens. If such insurance proceeds are insufficient to pay for the cost of completion of such work, the Mortgagor shall promptly pay any additional amounts required therefor. Any surplus which may remain out of such insurance proceeds, after payment of the cost of Restoration, and the reasonable charges of the Disbursing Party, shall, at the option of the Mortgagee, be applied on account of the indebtedness evidenced by the Note, without prepayment premium or penalty, or paid to any party entitled thereto as the same appear on the records of the Mortgagee. Any interest earned on the proceeds of insurance held by the Disbursing Party shall be deemed, used and applied as insurance proceeds."

8. Subparagraph (b) of Paragraph 5, entitled "Payment of Taxes," is hereby amended by the insertion of the following after subparagraph "(i)" on line 3 of said subparagraph (b):

"any whole or partial payment of such Taxes required by law as a condition precedent to the contest of such Taxes shall have been paid and"

9. Paragraph 6, entitled "Escrow Fund" is modified by deleting the last line thereof and inserting the following in lieu thereof:

"non-payment and (d) after the initial date on which the Premises are eighty-five percent leased, the Net Operating

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Income, as defined in the Loan Agreement, derived from the Premises, on an annualized basis, exceeds 110% of the aggregate amount of the annual debt service due under the Loan."

10. Paragraph 7, entitled "Condemnation," is deleted in its entirety and the following is substituted in lieu thereof:

"Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds ("Condemnation Proceeds") of any award or any claim for damages for any of the Mortgaged Property (or any interest therein) taken or damaged by the power of eminent domain or by condemnation ("Taking"). Mortgagee shall be entitled (but shall not be obligated) to participate in the collection of such Condemnation Proceeds. In the event the Taking results in the loss of more than 10% of the gross square footage of the Improvements, the entire Debt shall immediately become due and payable and all Condemnation Proceeds shall be applied in payment of the Debt. In the event a Taking does not result in the loss of more than 10% of the gross square footage of the Improvements, Mortgagee may retain the Condemnation Proceeds in payment or reduction of the Debt in such order as Mortgagee shall determine, whether due or not, unless Mortgagee is obligated hereunder to make such proceeds available to reimburse Mortgagor for the cost of Restoration. Mortgagee shall hold the Condemnation Proceeds and permit the same to be used to reimburse Mortgagor for the cost of Restoration upon satisfaction of all conditions applicable to the usage of insurance proceeds for a Restoration pursuant to paragraph 4 of this Mortgage. If Condemnation Proceeds are to be used to reimburse Mortgagor for Restoration, the Condemnation Proceeds shall be paid out in the same manner as is provided in Section 4 hereof for the payment of insurance proceeds toward the cost of Restoration. Any surplus which may remain out of a condemnation award after payment of such cost of Restoration shall be divided between Ground Lessor and Ground Lessee according to Article 11 of the Ground Lease and Mortgagee shall be entitled to receive and apply to payment or reduction of the Debt, in any such order as Mortgagee shall determine, whether due or not, any surplus otherwise payable to Mortgagor in accordance with Article 11 of the Ground Lease."

Further, any reference to "Net Condemnation Proceeds" in the Loan Documents shall be deemed to refer to "Condemnation Proceeds".

11. Paragraph 10, entitled "Transfer or Encumbrance of the Mortgaged Property," is deleted in its entirety and the following is substituted in lieu thereof:

"No mortgage, lien or other encumbrance, senior or junior to, the lien of the Mortgage, shall voluntarily or involuntarily be created against the Mortgaged Property (with

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the exception of general real estate taxes and special assessments not delinquent and liens contested in accordance with the terms of paragraph 8(b) hereof) without the prior written consent of Mortgagee. Mortgagor shall not sell, lease, transfer or otherwise dispose of the Mortgaged Property or any part thereof, or any interest therein except for the Service Corporation Sublease (as defined in the Loan Agreement) and Leases (as defined in the Loan Agreement) in the ordinary course of business and utilizing a form approved by Mortgagee, without the prior written consent of Mortgagee. Except as provided in the preceding sentence, the provisions of this paragraph shall apply to each and every mortgage, lien, other encumbrance, sale, lease, transfer or other disposition of the Premises, regardless of whether or not Mortgagee has consented to or waived by its action or inaction its rights hereunder with respect to any previous mortgage, lien, other encumbrance, sale, lease, transfer, or other disposition. Notwithstanding the foregoing, Mortgagee may enter into the Service Corporation Sublease and sell and assign certain personal property used in the operation thereof to the Service Corporation (as defined in the Loan Agreement), and Mortgagee's consent thereto shall not be required, subject to the condition that the Service Corporation shall subordinate the Service Corporation Sublease to the Mortgage and grant to Mortgagee a first priority security interest in such personal property. Mortgagee's consent also shall not be required for the granting by the Service Corporation of a junior security interest in any personal property to secure a loan from Mortgagor, the proceeds of which will be used by Service Corporation to purchase such personal property from Mortgagor or such other party as may own such personal property (provided that such other party shall not receive any security interest in such personal property) for use in connection with the Premises and for working capital purposes. The Service Corporation may grant a junior security interest in such personal property to Mortgagor to secure the borrowing of the Service Corporation, provided that, in any event, such personal property shall be subject to a first security interest of Mortgagee therein."

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12. Paragraph 11, entitled "Notice," is amended by the deletion of the addresses of Mortgagor and Mortgagee and the substitution of the following in lieu thereof:

"If to Mortgagor:

The First National Bank of Chicago
as Trustee of the Living Environments
for an Aging America Fund
One First National Plaza
Chicago, Illinois 60670
Attention: Law Department

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With copies to:

JMB Institutional Realty Corporation
900 N. Michigan Avenue
Chicago, Illinois 60611
Attention: Jacqueline Atkins

and

Sonnenschein, Nath & Rosenthal
233 S. Wacker Drive
8000 Sears Tower
Chicago, Illinois 60606
Attention: Dustin E. Neumark, Esq.

To Mortgagee:

Kemper Investors Life Insurance Company
c/o Kemper Financial Services, Inc.
120 South LaSalle Street
Chicago, Illinois 60603
Attn: Real Estate Investment Group

With a copy to:

Keck, Mahin & Cate
233 South Wacker Drive
8300 Sears Tower
Chicago, Illinois 60606
Attn: Laurance P. Nathan or Jeffrey A. Usow"

13. Subparagraph (b) of Paragraph 17, entitled "Books and Records is deleted in its entirety and the following is substituted in lieu thereof:

"Mortgagor shall furnish Mortgagee annually, within ninety (90) days following the end of each fiscal year of Mortgagor, (i) a copy of the financial statements of Mortgagor for such fiscal year prepared and certified by a certified public accountant of national standing and containing a consolidated statement of condition, and a consolidated statement of operations and a consolidated statement of changes in participant's equity, all in accordance with generally accepted accounting principles, applied on a consistent basis, modified as reflected in note 1(a) of Mortgagor's 1988 consolidated financial statements audited by Peat, Marwick, Main & Company, and (ii) a statement by an authorized representative of Mortgagor certifying that, to Mortgagor's knowledge, as of the date thereof, there does not exist an event which constitutes, or which upon notice, lapse of time, or both, would constitute, a Default, and if such an event exists, the nature thereof and the curative action being taken by Mortgagor. Within thirty (30) days following the end

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of each calendar quarter during the term of the Loan, Mortgagor shall furnish Mortgagee unaudited, certified (by an officer of Mortgagor familiar with the finances of Mortgagor) financial statements of Mortgagor. Mortgagor shall furnish Mortgagee annually, within sixty (60) days following the end of each fiscal year of Mortgagor certified (by an officer of Mortgagor familiar with the finances of Mortgagor) financial statements with respect to the operation of the Premises, and within sixty (60) days following the end of each fiscal year of the Service Corporation, Mortgagor shall furnish Mortgagee the financial statements of the Service Corporation, certified by an officer of the Service Corporation familiar with the finances of the Service Corporation. Within thirty (30) days following the end of each calendar quarter during the term of the Loan, Mortgagor shall furnish Mortgagee financial statements with respect to the operation of the Premises and of the Service Corporation. Mortgagor shall also provide to Mortgagee (i) all reports of Mortgagor to the Participants (as defined in the Loan Agreement) at such time as such reports are released to the Participants, (ii) a list of investments of the Mortgagor and a list of Participants in Mortgagor as reasonably requested by Mortgagee, and (iii) such other reports and financial statements covering the Premises, Mortgagor and the Service Corporation, as Mortgagee may reasonably require at the request of Mortgagee, given in the ordinary course no more frequently than once each 1 year, Mortgagor shall furnish Mortgagee a comprehensive, certified rent roll including for each tenant (A) the tenant's name, (B) a description of the space leased, (C) the rental rate and any rent adjustments, (D) the amount of prepaid rent, (E) the amount of any security deposit, (F) the date of the lease, (G) the commencement and expiration date of the term of the lease, (H) any renewal options (and the number and length of each), (I) any purchase option or right of first refusal, (J) any termination options, and (K) an indication as to whether any lease materially deviates from any standard form approved by Mortgagee. Mortgagee shall keep all financial statements, lists and reports delivered to it pursuant to the Loan Documents confidential and agrees to use such documents only for purposes directly related to the Loan."

14. Paragraph 18, entitled "Performance of Other Agreements" is hereby deleted in its entirety and the following is substituted in lieu thereof:

"Mortgagor shall observe and perform each and every term to be observed or performed by Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property, including, without limitation, the Ground Lease, the Declaration of Trust, the Service Corporation Sublease, the Consulting Agreement (but nothing shall be deemed to limit Mortgagor's rights to terminate the Consulting Agreement in accordance with its

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terms), and the Development Plan (all as defined in the Loan Agreement). Mortgagor covenants and agrees not to amend, modify, cancel or terminate the Declaration of Trust, or the Service Corporation Sublease, without Mortgagee's prior written consent; provided that Mortgagee's prior written consent shall not be required for immaterial amendments to the foregoing documents that do not adversely affect the Mortgagee's security or Mortgagor's ability to repay the Loan."

15. Subparagraph (e) of Paragraph 19 is amended by the deletion of the words "Section 31 of."

16. Subparagraph (f)(ii) of Paragraph 19 is amended by the deletion of the phrase "(or before the Funding Date if such notice is less than thirty (30) days prior to the Funding Date)."

17. The heading of Paragraph 44 is amended by the deletion of the word "Building" therefrom and the seventh line of said Paragraph 44 is amended by the deletion of the word "building" therefrom.

18. Paragraph 15, entitled "Construction Mortgage," is deleted in its entirety and the following provision is substituted in lieu thereof:

"ERISA. Mortgagor covenants that, pursuant to a statutory or administrative exemption under ERISA (as defined in the Loan Agreement), neither Mortgagor's execution of the Loan Documents nor the performance of any of Mortgagor's obligations thereunder nor the making of the Loan by Mortgagee (referred to hereinafter as the "Transactions") would be a Prohibited Transaction (as defined in the Loan Agreement) by reason of Mortgagee's being a Disqualified Person or a Party in Interest (each as defined in the Loan Agreement) with respect to Mortgagor or any of the Participants. It shall be a Default if such exemption does not apply to any of the Transactions for any reason, except as hereinafter expressly set forth; provided that Mortgagee may not exercise its remedies under the Loan Documents if Mortgagor (i) corrects or causes to be corrected any Prohibited Transaction which consists of a non-exempt Transaction within sixty (60) days after notice thereof, or (ii) if such Prohibited Transaction cannot reasonably be corrected within said sixty (60) day period, proceeds diligently to refinance, and refinances, the Loan within twelve (12) months after such notice, or (iii) promptly applies for an administrative exemption from the Department of Labor, diligently pursues such exemption and obtains such exemption within twelve (12) months after notice of the inapplicability of an exemption; provided further, however, that, in any event, Mortgagee may immediately declare a Default and exercise its remedies under the Loan Documents if at any time the Internal Revenue Service indicates, by

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delivery of notice to the Department of Labor or other notice required by law, that it will assess a so-called 100% penalty with respect to any Transaction. If Mortgagor gains actual knowledge of an occurrence that would result in the inapplicability of such an exemption to any of the Transactions or that any of the Transactions would be a non-exempt Prohibited Transaction, Mortgagor agrees promptly to notify Mortgagee thereof. The inapplicability of such an exemption to any of the Transactions shall not be a Default hereunder if such inapplicability is the result of Mortgagee's use of funds other than from its general account to fund the Loan, or Mortgagee's acquisition prior to funding the Loan of a sufficient equity interest in The First National Bank of Chicago to be deemed an "affiliate" of said Bank under ERISA. Mortgagor agrees to indemnify, defend and hold Mortgagee harmless from and against any loss, damage, cost, expenses (including reasonable attorneys fees) or penalties (statutory or otherwise) incurred by Mortgagee as a result of the inapplicability of such exemption to any of the Transactions, unless such exemption is not applicable as a result of Mortgagee's use of funds other than from its general account to fund the Loan, or Mortgagee's acquisition prior to funding the Loan of a sufficient equity interest in The First National Bank of Chicago to be deemed an "affiliate" of said Bank under ERISA, in which case Mortgagee shall indemnify, defend and hold Mortgagor harmless from any and all such loss, damage, cost or expense (including reasonable attorneys fees) or penalty (statutory or otherwise) incurred by Mortgagor as a result of the inapplicability of such exemption by reason of such use or such acquisition.

19. Paragraph 47, entitled "Choice of Law," is hereby deleted in its entirety and the following is substituted in lieu thereof:

"This Mortgage is and shall be deemed to be a contract entered into pursuant to the laws of the State of Illinois and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Illinois."

20. Numbered paragraph 48, entitled "Hazardous Materials," is deleted in its entirety and the following is substituted in lieu thereof:

"Mortgagor hereby represents, warrants and covenants to Mortgagee that: (i) to the best of its knowledge, the Premises have never been used for either a sanitary landfill or as a disposal site for waste, petroleum products, pesticides, asbestos, poly-chlorinated biphenyl compounds ("PCBs") or toxic or hazardous substances or materials of any kind (the foregoing being collectively referred to as "Hazardous Substances"), and, to the best of its knowledge, no such Hazardous Substances or underground storage tanks have been

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deposited or are located in, under, or upon the Premises and, to the best of its knowledge, no part of the Premises is presently contaminated by any such Hazardous Substances; (ii) to the best of its knowledge, no parcel adjacent to the Premises has ever been used for either a sanitary landfill or as a disposal site for Hazardous Substances, and, to the best of its knowledge, no Hazardous Substances or underground storage tanks have been deposited or are located in, under or upon any parcel adjacent to the Premises and, to the best of its knowledge, no part of any parcel adjacent to the Premises is presently contaminated by any such Hazardous Substances; (iii) it has not received any notice of any Hazardous Substance in, under or upon the Premises or of any violation of any environmental protection laws or regulations with respect to the Premises, nor has any actual knowledge of any state of facts or condition which would provide a basis for any such violation with respect to the Premises; (iv) it will notify the Mortgagee of any such violation or asserted violation or any "superlien", and promptly cure and dismiss with prejudice, or have removed of record, any such actions or proceedings or liens to the satisfaction of the Mortgagee; and (v) no Hazardous Substances shall be used or stored upon the Premises; and Mortgagor shall protect, defend, indemnify and hold Mortgagee, and Mortgagee's directors, officers, employees, agents, successors and assigns, harmless, from and against any and all loss, costs (including reasonable attorney's fees), liability and damage whatsoever because of or in any way relating to any violation or claimed violation of any of the foregoing representations, warranties or covenants, or any violation or claimed violation of any applicable statute or regulation for the protection of the environment which occurs or has occurred upon the Premises, or by reason of the imposition of any governmental lien for the recovery of the environmental clean up costs expended by reason of such violation. The provisions of this Section 48 shall be in addition to any and all other obligations and liabilities Mortgagor may have to Mortgagee at common law or by statute, and shall survive the transactions contemplated herein and the foreclosure of this Mortgage."

21. Paragraph 52, entitled "Future Advances," is amended by the deletion of the number "THIRTY-EIGHT MILLION SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$38,750,000)" and the substitution in lieu thereof of the phrase "the Loan Amount, as defined in the Loan Agreement."

22. The following paragraph, numbered 58, is hereby added:

"58. Limited Recourse. Notwithstanding anything to the contrary contained herein, Mortgagor shall not have any personal liability for the obligation to pay any principal, interest or other sums payable under the Note, or for the obligation to observe, perform or discharge any of the terms,

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covenants or conditions contained in the Mortgage or other Loan Documents; and (i) no attachment, execution, writ or other process shall be sought and no judicial proceeding shall be initiated by or on behalf of the Mortgagee against Mortgagor as a result of a breach or default under the Note, the Mortgage or other Loan Documents unless such attachment, execution, writ or judicial proceeding shall be necessary to enforce any of the rights, remedies or recourses of Mortgagee against or with reference to the Premises, and (ii) in the event that any suit is brought under the Note, the Mortgage or other Loan Documents, whether before or after the maturity by acceleration, by passage of time or otherwise, any judgment obtained in or as a result of such suit shall be enforceable and/or enforced solely against the Premises; provided, however, that Mortgagee shall have full recourse against the Mortgagor and Mortgagor shall be personally liable for and will promptly account to Mortgagee for all rents, issues, profits and income derived from the Premises and received by Mortgagor or the Service Corporation, that accrue from and after the occurrence of a Default under any of the Loan Documents which is not cured within applicable notice and grace periods, except to the extent such rents, issues, profits and income are applied by Mortgagor in good faith to the payment of the reasonable and customary expenses of operating the Premises. The limitation of liability set forth above shall not be construed to: (a) be a release or impairment of the indebtedness evidenced by the Note or of the lien of the Mortgage; (b) prevent Mortgagee from exercising and enforcing any other remedy allowed by law or in equity or by any statute or by the terms of the Note, Mortgage or other Loan Documents (except that the exercise or enforcement of any such remedy shall not result in Mortgagor assuming personal liability for the obligations under the Note or the Loan Documents in contravention of the limitation of liability set forth above); (c) prevent Mortgagee from seeking recourse against Mortgagor, any guarantor or any other party under or in connection with any guaranty, indemnity, bond, separate certificate, or affidavit (including without limitation the Inducement Affidavit) executed in connection with the Loan, and Mortgagor, any such guarantor or any such other party shall be personally liable for any fraud, intentional misrepresentation, intentional breach of warranty or intentional misstatement contained therein, or for any other representation or warranty contained therein which is or proves to be false or inaccurate and which causes material monetary damage to Mortgagee or materially adversely affects (i) Mortgagee's security or (ii) Mortgagor's ability to repay the Loan, or any indemnification, surety or guaranty obligation contained therein; (d) prevent Mortgagee from recovering any funds, damages or costs (including, without limitation, legal expenses) incurred by Mortgagee as a result of any deliberate, intentional or willful action taken in bad faith or as a result of fraud or intentional misrepresentation

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by or on behalf of Mortgagor; or (e) prevent Mortgagee from recovering any condemnation or insurance proceeds, or other similar funds or payments attributable to the Premises, which under the terms of the Mortgage or any of the other Loan Documents should have been, but were not, paid to Mortgagee. If by virtue of a final unappealable judgment against Mortgagor, Mortgagor becomes personally liable to Mortgagee in connection with the Loan, Mortgagor agrees promptly to make one or more calls upon the Participants for capital contributions under the subscription agreements executed by the Participants, and to collect such capital contributions, up to the maximum funding obligations of the Participants under such subscription agreements, to the extent required to satisfy such personal liability in full."

PART B AMENDMENTS OF OTHER ASSIGNED LOAN DOCUMENTS

1. The Assigned Loan Documents listed on Exhibit B hereto, other than the Note, the Mortgage and the Building Loan Agreement, are deemed amended to the extent necessary to make them consistent with this Modification Agreement and the Amended and Restated Loan Agreement. Specifically, but without limitation to the effect of the general amendment above, documents numbered 4, 5 and 7 - 10 on Exhibit B hereto are amended as follows: (i) the term "Assignee" is hereby redefined to mean Kemper Investors Life Insurance Company, an Illinois insurance corporation; (ii) the figure "Thirty Eight Million Three Hundred Ten Thousand (\$38,310,000) Dollars" shall be substituted in lieu of "Thirty-Eight Million Seven Hundred Fifty Thousand (\$38,750,000) Dollars"; (iii) notice to Assignee shall be addressed in the same manner as notice to Mortgagee under Paragraph 12 of Part A of this Modification Agreement; (iv) a "Limited Recourse" provision in the same form as set forth in Paragraph 22 of Part A of this Modification Agreement shall be deemed to be added to each of such Assigned Loan Documents; and (v) any choice of law provision found within said documents is hereby deleted and the following is substituted in lieu thereof:

"This Assignment is and shall be deemed to be a contract entered into pursuant to the laws of the State of Illinois and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Illinois."

2. Paragraph 12 of the Security Agreement is hereby deleted in its entirety.

3. Subparagraph (1) of Paragraph II B and Article IV of each of (i) the Assignment of Architectural and Engineering Documents dated March 10, 1989 and (ii) the Assignment of Development and Construction Documents dated March 10, 1989, are hereby deleted in their entirety.

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4. Paragraph 2 of the Assignment of Leases and Rents is amended by inserting the following as the penultimate sentence of said paragraph:

"Assignor covenants and agrees not to amend, cancel or modify, cancel or terminate the Service Corporation Sublease, without Assignee's prior written consent; provided that Assignee's prior written consent shall not be required for immaterial amendments hereto that do not adversely affect Assignee's security for, or Assignor's ability to repay, the indebtedness and obligations secured hereby."

PART C GENERAL PROVISIONS

1. Except as amended, modified or supplemented by this Modification Agreement or the Amended and Restated Loan Agreement, the Mortgage and the other Assigned Loan Documents shall continue in full force and effect in accordance with their respective terms.

2. This Modification Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

3. This Modification Agreement shall be construed according to the laws of the State of Illinois.

4. If any provision of this Modification Agreement shall be held to be invalid, illegal or unenforceable in any respect, the remainder of this Modification Agreement shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

5. All notices, requests, consents and other communications required or permitted under this Modification Agreement or the Assigned Loan Documents shall be given in accordance with Paragraph 11 of the Mortgage, as modified by this Modification Agreement.

6. Mortgagee acknowledges and agrees that The First National Bank of Chicago has executed this Agreement not personally, but solely as Trustee as aforesaid. The agreements of Mortgagor contained herein shall only be enforceable against the property of Mortgagor for the payment of any claim hereunder. It is expressly understood and agreed that (i) Mortgagee will look solely to the property of Mortgagor for the enforcement of its rights hereunder, and (ii) Mortgagee hereby waives any claim or any right to proceed for the enforcement of any of Mortgagee's rights hereunder against The First National Bank of Chicago or any subsidiary or affiliate of First Chicago Corporation in their personal or corporate capacities.

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IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the County of Cook, Illinois, this _____ day of _____, 20____.

Property of Cook County Clerk's Office

11/11/10

COOK COUNTY CLERK'S OFFICE
100 N. LAUREL ST. CHICAGO, IL 60602
TEL: (773) 309-3000 FAX: (773) 309-3001
WWW.COOKCOUNTYCLERK.COM

UNOFFICIAL COPY

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IN WITNESS WHEREOF, this Modification Agreement has been executed by Mortgagor and Mortgagee as of the day and year first above written.

THE FIRST NATIONAL BANK OF CHICAGO,
not personally but solely as Trustee
as aforesaid

By: *Samy A. Lewis*
Vice President

KEMPER INVESTORS LIFE INSURANCE
COMPANY, an Illinois insurance
corporation

By: _____
Its: _____

By: _____
Its: _____

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, this Modification Agreement has been executed by Mortgagor and Mortgagee as of the day and year first above written.

THE FIRST NATIONAL BANK OF CHICAGO,
not personally but solely as Trustee
as aforesaid

By: _____
Vice President

KEMPER INVESTORS LIFE INSURANCE
COMPANY, an Illinois insurance
corporation

By: *H. E. Gantner*
Its: VICE PRESIDENT

By: *Al B. Dink*
Its: EXECUTIVE VICE PRESIDENT

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JOINDER

2960 Service Company, Inc., an Illinois corporation, hereby joins in the execution of the foregoing Modification Agreement for the sole purpose of amending and modifying that certain Assignment of Service Agreement dated March 10, 1989 between 2960 Service Company, Inc. and Chemical Bank (the "Assignment"), which Assignment has been assigned to Kemper Investors Life Insurance Company as one of the Assigned Loan Documents (as defined in the Modification Agreement). The Assignment is hereby amended and modified by the application of Parts B and C of the foregoing Modification Agreement to said Assignment.

This Joinder has been executed by 2960 Service Company, Inc. as of the date and year of the Modification Agreement.

2960 SERVICE COMPANY, INC., an
Illinois corporation

By:

Its:

Samuel Lewis
Asst. Secretary &
Asst. Treasurer

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

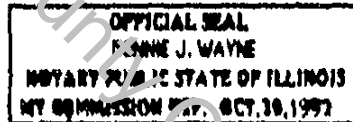
I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that the above named LARRY A. LUNIS a Vice President of THE FIRST NATIONAL BANK OF CHICAGO, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, not personally but as Trustee of THE LIVING ENVIRONMENTS FOR AN AGING AMERICA FUND, for the uses and purposes therein set forth;

Given under my hand and Notarial Seal this 11th day of SEPT., 1990.

Bonnie J. Wayne
Notary Public

My commission expires:

OCT. 20 1992



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Property of Cook County Clerk's Office

JAN 20 1994
CLERK OF COURT
COURT HOUSE
100 S. DEARBORN ST. CHICAGO, IL 60604

UNOFFICIAL COPY

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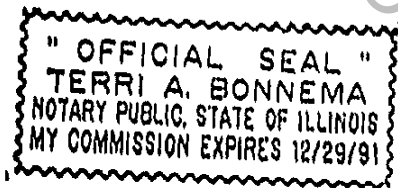
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 11th day of September, 1990, before me personally appeared H.E. Greenblatt, a vice president and Edward B. Timbers, an Executive Vice President respectively, of Kemper Investors Life Insurance Company, an Illinois insurance corporation, to me known to be the same persons who signed the foregoing instrument, and acknowledged that they signed and delivered said instrument as their free act and deed as such authorized signatories for the use and purpose therein mentioned, and that the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Chicago in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

TERRI A. BONNEMA
Notary Public



My Commission Expires: 12/29/91

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 11th day of SEPT., 1990, before me personally appeared LARRY A. LONIS, a 1357th STREET SECRETARY & TREASURER of 2960 Service Company, Inc., an Illinois corporation, to me known to be the same person whose name is subscribed to the foregoing instrument as such 1357th STREET SECRETARY & TREASURER, and acknowledged that he signed and delivered the foregoing instrument as his free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of said corporation.

WITNESS my signature and official seal at Chicago in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

Bonnie J. Wayne
Notary Public

My Commission Expires: OCT. 20, 1992

OFFICIAL SEAL
BONNIE J. WAYNE
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. OCT. 20, 1992

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Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE
JAN 10 2010 10:00 AM
100 N. LAUREL ST. CHICAGO, IL 60602
TEL: 312.603.1000 FAX: 312.603.1001

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EXHIBIT A

LEGAL DESCRIPTION

Leasehold Estate as created and defined in the Ground Lease dated April 12, 1988 by and between Chicago Title and Trust and Company, as Trustee under Trust No. 1084719, as Lessor, and The First National Bank of Chicago, as Trustee of the Living Environments for an Aging America Fund under Declaration of Trust effective August 1, 1986, as Lessee, a Short Form of which Lease was recorded April 13, 1988 as Document Number 88,154,208, demising and leasing for a term of 60 years commencing April 15, 1988 and ending April 14, 2048, as amended by First Amendment to Ground Lease dated February 28, 1989:

PARCEL 1:

The North 50 feet of the South 105 feet of the East 180 feet of that part of Lot 3 lying West of the West boundary line of Lincoln Park, as established by decree of the Circuit Court of Cook County, Illinois entered October 31, 1904, in Case General Number 256886, all in County Clerk's Division of Lots 2, 3 and 4 and of the South 33 feet of Lot 1 in the Assessor's Division of Lots 1 and 2 in the City of Chicago Subdivision of the East Fractional Half of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian, meaning and intending to describe a tract of land bounded as follows:

Beginning on the West boundary line of Lincoln Park established as aforesaid, at a point 55 feet North of the North line of Oakdale Avenue; thence North 50 feet; thence West 180 feet; thence South 50 feet; thence East 180 feet to the point of beginning in Cook County, Illinois.

PARCEL 2:

That part of Lot 2 in Assessor's Division of Lots 1 and 2 in the City of Chicago Subdivision of the East Fractional Half of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian described as follows:

Beginning at a point on the West boundary line of Lincoln Park, as established by Decree of the Circuit Court of Cook County, Illinois entered October 31, 1904 in Case 256886, said point of beginning being 80 feet due South from the South line of Wellington Street extended East; thence running West 200 feet along a line at all points 80 feet due South from the South line of Wellington Street extended East; running thence Southerly on a line at all points 200 feet West of said West boundary line of Lincoln Park to a point on the North line of the alley as dedicated by instrument recorded in the Recorder's Office of Cook County, Illinois on March 16, 1915 as Document 5594071; running thence East on the North line of said alley to a point 180 feet West of said West boundary line of Lincoln Park; running thence Southerly on the East line of said alley to a point 105 feet North of the North line of Oakdale Avenue, said point being on the North line of the premises conveyed to Frank A. Hecht, Clara K. Hecht and Frank A. Hecht, Jr. by Deed dated November 16, 1917 and recorded in the

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Recorder's Office of Cook County, Illinois as Document 6231480; running thence East on a line parallel with the North line of Oakdale Avenue and being the North line of the premises so conveyed to Frank A. Hecht, Clara K. Hecht and Frank A. Hecht, Jr., 190 feet to said West boundary line of Lincoln Park and running thence North along said West boundary line of Lincoln Park to the place of beginning, in Cook County, Illinois.

PARCEL 3:

That part of Lots 2 and 3 in the Assessors Division of Lots 1 and 2 in a subdivision by the City of Chicago of the East Fractional Half of Section 28, Township 40 North, Range 14 East of the Third Principal Meridian and of the accretions East of and adjoining said premises described as follows:

Commencing at a point in the West boundary line of Lincoln Park, as established by Decree of the Circuit Court of Cook County, Illinois entered October 31, 1904 in Case 256886, where said boundary line is intersected by the North line of Oakdale Avenue, thence North along said boundary line 55 feet, thence West along a line parallel with the North line of said Oakdale Avenue 180 feet, thence South parallel with the boundary line of Lincoln Park as established in Case 256886, 55 feet to the North line of said Oakdale Avenue, thence East along the North line of said Oakdale Avenue 190 feet to the point of beginning in Cook County, Illinois.

The Leasehold Estate created by the instrument herein referred to as the Short Form of Ground Lease dated April 13, 1988, executed by Chicago Title and Trust Company, an Illinois Corporation, not personally but as Trustee under a trust agreement dated March 2, 1984 and known as Trust No. 1084719, as Lessor, and by The First National Bank of Chicago, a national banking association, not personally, but as Trustee of the Living Environments for an Aging America Fund, under Declaration of Trust effective August 1, 1986, as Lessee, said estate having a term of 60 years commencing on April 15, 1988 and terminating on April 14, 2048. Such term may be extended for one 15-year period, in the manner and on the terms and conditions provided in the Lease said lease being amended by the First Amendment to Ground Lease dated February 28, 1989.

Permanent Tax Numbers: 14-28-203-015
14-28-203-016
14-28-203-017

Volume: 486

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EXHIBIT D

ASSIGNED LOAN DOCUMENTS

1. Building Loan Agreement dated as of March 10, 1989.
2. Mortgage Note in the amount of \$38,750,000.00.
3. Building Loan Leasehold Mortgage dated March 10 1989 and recorded in the Recorder's Office of Cook County, Illinois as Document No. 89114491.
4. Assignment of Leases and Rents dated March 10, 1989 and recorded in the Recorder's Office of Cook County, Illinois as Document No. 89114492.
5. Security Agreement dated March 10, 1989.
6. Assignment of Maintenance, Management and Service Documents from Borrower dated March 10, 1989.
7. Assignment of Architectural and Engineering Documents dated March 10, 1989.
8. Assignment of Development and Construction Documents dated March 10, 1989.
9. Assignment of Service Agreement from 2960 Service Company, Inc. dated March 10, 1989.
10. UCC-2 Financing Statement recorded in the Cook County Recorder's Office on March 15, 1989 as Document No. 89-U-06322.
11. UCC-2 Financing Statement recorded in the Cook County Recorder's Office on March 15, 1989 as Document No. 89-U-06323.
12. UCC-1 Financing Statement filed with the Illinois Secretary of State on March 24, 1989 as Document No. 2552108.
13. UCC-1 Financing Statement filed with the Illinois Secretary of State on March 24, 1989 as Document No. 2552107.
14. Consent and Estoppel Agreement dated March 10, 1989 from Ground Lessor.
15. Consent and Agreement to Assignment of General Contract dated March 3, 1989 from General Contractor.
16. Consent and Agreement to Assignment of Architect's Contract dated May 2, 1989 from Architect.

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17. Consent and Agreement to Assignment of Interior Design Agreement dated March 2, 1989 from Interior Designer.
18. Consent and Agreement to Assignment of Developer's Agreement dated May 2, 1989 from RESCORP Development, Inc.; and
19. Consent and Agreement to Assignment of Service Agreement dated March 10, 1989 from Saint Joseph Hospital and Health Care Center.

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