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COLLATERAL ASSIGNMENT OF LEASES AND RENTS

90-450 GALT

This Collateral Assignment of Leases and Rents ("Assignment") is made as of May 23, 1990, by American National Bank and Trust Company of Chicago, a national banking association, not personally but solely as Trustee under Trust Agreement dated August 1, 1989 and known as Trust No. 109168-07 ("Trustee"), with a mailing address at 33 North LaSalle Street, Chicago, Illinois 60690, and by Citiscape Superior Limited Partnership, an Illinois limited partnership ("Beneficiary"), with a mailing address at c/o Neil B. Freeman, 230 W. Superior, 5th Floor, Chicago, Illinois 60610 (Trustee and Beneficiary being referred to collectively herein as "Borrower" or "Assignor"), to Continental Bank N.A., a national banking association, ("Lender"), with a mailing address at 231 South LaSalle Street, Chicago, Illinois 60697, and pertains to the real estate described in Exhibit A attached hereto and made a part hereof ("Premises").

I

RECITALS

1.1 Note. Borrower has executed and delivered to Lender a Mortgage Note ("Note") of even date herewith, wherein Borrower promised to pay to the order of Lender the principal amount of Two Million Nine Hundred Thousand and 00/100 Dollars (\$2,900,000.00) in repayment of a loan from Lender to Borrower in like amount or so much thereof as may now or hereafter be disbursed by Lender under the Note (the "Loan"), together with interest thereon.

1.2 Other Loan Documents. As further security for the repayment of the Loan, Trustee has executed and delivered to Lender a Mortgage and Security Agreement joined in by Beneficiary ("Mortgage") of even date herewith, granting to Lender a first lien on the Premises, and Trustee and Beneficiary have executed and delivered certain other loan documents further evidencing or securing the Loan, which are described in the Construction Loan Agreement. (The Note, the Mortgage, this Assignment, and all such other loan documents, whether now or hereafter existing, are collectively referred to herein as the "Loan Documents").

This instrument was prepared by and should be returned to:
Sandra K. Principe, Esq.
Law Department (105/9)
Continental Bank N.A.
231 South LaSalle Street
Chicago, Illinois 60697

. DEPT-01 RECORDING \$28.50
. T83333 TRAN 0208 06/21/90 14:54:00
. #3126 # C #-90-295686
. COOK COUNTY RECORDER

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28th Mail
9798RR - 06/07/90

1.3 This Assignment. As further security for the repayment of the Loan and for the payment and performance of all other Liabilities, in addition to the other Loan Documents, Assignor is required by the Loan Documents to execute and deliver to Lender this Assignment. Since Beneficiary is the sole beneficiary of Trustee, it is in the direct financial interest and to the benefit of Beneficiary as well as Trustee to make this Assignment to induce Lender to make the Loan.

II

THE GRANT

Now, therefore, as additional security for the prompt payment when due of all principal of and interest on the Note; payment in full and performance of all obligations of Trustee and Beneficiary under the Loan Documents; payment in full of all expenses and charges, legal or otherwise, including attorney's fees and expenses paid or incurred by Lender in realizing or protecting this Assignment or the Loan; and any and all obligations, indebtedness, and liability of Beneficiary and Trustee (and of any other borrower for whose indebtedness this Assignment is pledged as collateral) to Lender, whether such obligations, indebtedness, or liability are now existing or hereafter created, direct or indirect, absolute or contingent, joint and several or joint or several, due or to become due, however created, evidenced, or arising and however acquired by Lender, and all renewals and extensions thereof (all collectively, the "Liabilities") and in consideration of the matters recited above, Assignor hereby grants, sells, assigns, and transfers to Lender all of Assignor's right, title and interest in, to, and under the following (collectively, the "Assigned Security"):

- (a) That certain lease or those certain leases described in Exhibit B attached hereto and made a part hereof (collectively "Identified Leases");
- (b) any and all leases, options, contracts for sale, or other agreements executed hereafter for the occupancy, sale or use (including concessions) of all or any part of the Premises (collectively "Future Leases");
- (c) any and all addenda, extensions, renewals, amendments, and modifications, to or of the Identified Leases and Future Leases, whether now or hereafter existing (being referred to herein collectively with the Identified Leases and Future

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Leases as the "Leases," and each of the Leases being referred to herein as a "Lease");

- (d) all rents, escrow deposits, income, revenues, issues, profits, condemnation awards, use and occupancy payments, damages, monies and security payable or receivable under or with respect to the Leases or pursuant to any of the provisions thereof, whether as rent or otherwise, and profits arising from the Leases or from the use and occupation of all or any portion of the Premises described in any of the Leases or in the Mortgage (collectively "Rents");
- (e) all proceeds payable under any policy of insurance covering loss of Rents for any cause ("Insurance Proceeds");
- (f) all rights, powers, privileges, options and other benefits of Assignor as lessor under such Leases (collectively "Assignor's Rights"), including, without limitation, (a) the immediate and continuing right to receive and collect all Rents, and (b) the right to make all waivers, agreements and settlements, to give and receive all notices, consents and releases, to take such action upon the happening of a default under any of the Leases, including the commencement, conduct and consummation of such legal proceedings as may be permitted under any provision of any of the Leases or by law, and to do any and all other things whatsoever which the Assignor is or may become entitled to do under any of the Leases; and
- (g) all guaranties, if any, of the tenants' performance of the Leases ("Guaranties").

This Assignment constitutes a present, perfected and absolute assignment. This Assignment confers upon Lender a power coupled with an interest and cannot be revoked by Assignor.

III

GENERAL AGREEMENTS

3.1 Present Status. Trustee represents and Beneficiary represents and warrants to Lender that:

- (a) Assignor is the sole owner of the entire lessor's interest in the Identified Leases;

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- (b) the Identified Leases are and will remain valid and enforceable and have not been altered, modified, or amended in any manner whatsoever except as may be herein set forth;
- (c) neither Assignor nor any lessee is in default under any of the terms, covenants, or conditions of the Identified Leases;
- (d) other than this Assignment, no Rent has been assigned or anticipated and no Assignor's Rights or Guaranties have been assigned;
- (e) no Rent for any period subsequent to the date of this Assignment, other than security or other deposits provided for in the Leases, has been collected in advance of the times when due under the terms of the respective Identified Leases; and Assignor shall not claim or permit any lessee or any person in possession of any portion of the Premises to claim any right of set-off against any such Rent; and
- (f) Assignor has delivered to Lender true and complete copies of all Identified Leases described in Exhibit B and that such Identified Leases are all of the Leases currently in effect affecting the Premises.

3.2 Future Performance. Assignor covenants:

- (a) to observe and perform all of the obligations imposed upon the lessor under the Leases and not to do or permit to be done anything to impair the security thereof;
- (b) upon written notice from Lender of its desire to approve leases, modifications and terminations of Leases, thereafter not to consent to or allow the assignment or subletting of the lessee's interest in any of the Leases without the prior written consent of Lender unless such assignment or subletting is permitted by the terms of the Lease;
- (c) not to collect any of the Rents, other than security or other deposits provided for in the Leases, or the first and last month's rent, in advance of the time when the same becomes due;
- (d) not to hereafter assign, sell, pledge, or encumber any of the Assigned Security except as hereinafter set forth;

- (e) upon written notice from Lender of its desire to approve leases, modifications and terminations of Leases, thereafter not to alter, modify, or change the terms of any Lease, Assignor's Rights or Guaranty, cancel or terminate the same (unless such termination is due to tenant being in default in the payment of rent), accept a surrender thereof, or in any manner release or discharge any lessee from any obligation or covenant of any Lease, Assignor's Rights or Guaranty, without the prior written consent of Lender, and any attempted termination, modification or amendment of any of the Leases, Assignor's Rights or Guaranties without such written consent shall be null and void. Notwithstanding the foregoing Assignor shall have the right to settle minor monetary disputes with tenants involving amounts not exceeding one month's rent;
- (f) at Lender's request, to assign and transfer to Lender specifically in writing any and all Future Leases and to execute and deliver, at the request of Lender, all such further assurances and assignments pertaining to the Premises as Lender may from time to time require;
- (g) to warrant and defend the Assigned Security against all adverse claims, whether now or hereafter arising;
- (h) to enforce or secure the performance of each and every obligation, covenant, condition and agreement to be performed by the tenant under each and every Lease, Assignor's Right and Guaranty. Assignor, upon notice to Lender, may evict tenants or terminate Leases in response to tenant defaults under the Leases;
- (i) to observe and comply with all provisions of law applicable to the operation, use, occupancy, maintenance and ownership of the Premises; and
- (j) to give prompt, written notice to the Lender of any notice given by a lessee claiming default on the part of the Assignor with respect to any Lease, Assignor's Rights or Guaranty, and to also appear in and defend any action or proceeding arising under, growing out of or in any manner connected with any Assigned Security;

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- (k) to carry rental insurance as required in the Mortgage.

Any consent requested of Lender shall be made in writing, accompanied by a copy of the Lease, modification, or other relevant material. In the event Lender fails to respond to such request for consent pursuant to Paragraph 3.2(b) and (e) above within 7 calendar days of the receipt of such request and material, Lender shall be deemed to have consented to such request.

IV

DEFAULTS AND REMEDIES

4.1 Absence of Default. Although this Assignment is intended to be a present assignment, Assignor shall have the right to collect at the time of, but not prior to, the payment dates provided in the Leases, all Rents, and to retain, use, and enjoy the same; provided that none of the following events shall occur, each of which shall constitute a default ("Default") hereunder:

- (a) Assignor's failure to timely pay any amount due herein or secured hereby, which failure continues for a period of five (5) days from the due date;
- (b) Assignor's failure to timely perform or observe any duty, obligation, covenant, agreement, condition or provision of this Assignment which remains uncured for more than five (5) days after notice thereof given by Lender to Assignor, provided however, in the event of a non monetary default and in the event Assignor is diligently pursuing cure of such failure within such 5 day period but the failure is not capable of being cured within the 5 day period, then the 5 days shall be extended to 30 days, as long as Assignor continues to diligently pursue curing such failure;
- (c) Lender's finding that any statement, representation or warranty made herein by Borrower or Beneficiary is untrue or incomplete in any material respect; or
- (d) a default, "Event of Default" or "Default" pursuant to the Note or any of the other Loan Documents, subject to applicable notice and cure provisions, if any.

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- (e) An indictment or other charge is filed against the Beneficiary, in any jurisdiction, under any federal or state law, for which forfeiture of the Collateral securing the Loan or of any other funds, property or other assets of Beneficiary or Lender is a potential penalty unless such charge is dismissed within ten days after filing.

All Rents which accrue prior to a Default but are paid thereafter shall be paid to the Lender.

4.2 Exercise of Lender's Rights. Any time after the occurrence of a Default, Lender may, at its option, take the actions described below, without in any way waiving such Default, without notice and without regard to the adequacy of the security for the Liabilities. Lender may act either in person or by an agent or by a receiver appointed by a court.

- (a) take possession of all or any part of the Premises or any other property described in any or all of the Leases, the Mortgage and the other Loan Documents, to have, hold, manage, lease, sell, and operate the same on such terms and for such periods of time as Lender may deem proper;
- (b) either with or without taking possession of such Premises, in Lender's own name, sue for or otherwise collect and receive all Rents, including those past due and unpaid, with full power to make, from time to time, all alterations, renovations, repairs, or replacements to or of any part of the Premises as may seem proper to Lender and to apply such Rents, in payment of any or all of the following, in such order and manner as Lender may in its sole discretion determine, any statute, law, custom, or use to the contrary notwithstanding:
 - (i) all expenses of managing the Premises, including, without limitation, the salaries, fees, and wages of any managing agent and such other employees as Lender may deem necessary or desirable;
 - (ii) all expenses of operating and maintaining the Premises, including, without limitation, all taxes, charges, claims, assessments, water rents, sewer rents, any other liens, and premiums for all insurance that Lender may deem necessary or desirable, and the

- cost of all alterations, renovations, repairs, or replacements;
- (iii) all expenses incident to taking and retaining possession of the Premises; and
- (iv) the Liabilities, including, without limitation, all costs and attorneys' fees;
- (v) at Lender's option, perform Assignor's obligations hereunder or pursuant to any of the Assigned Security, or cure Assignor's default, in such manner and to such extent as Lender deems appropriate;
- (d) make, enforce, modify and accept surrender of the Leases, Assignor's Rights and Guaranties;
- (e) perform any and all other acts necessary or proper to protect the security of this Assignment;
- (f) apply for, and the Assignor hereby consents to, the appointment of a receiver of the Premises or any portion thereof, whether or not foreclosure proceedings have been commenced under the Mortgage, and if such proceedings have been commenced, whether or not a foreclosure sale has occurred; and
- (g) avail itself of any rights, powers or remedies granted in the other Loan Documents, which remedies are cumulative to those granted herein.

The Assignor hereby appoints irrevocably the Lender its true and lawful attorney in its name and stead and authorizes Lender to take any or all of the actions described above. Powers of attorney conferred upon Lender pursuant to this Assignment are powers coupled with an interest and cannot be revoked, modified or altered without Lender's written consent. The exercise by Lender of the rights, powers and remedies granted it in this Paragraph 4.2, collection of the Rents and their application as provided herein, shall not be considered a waiver of any Default. Assignor's obligations hereunder shall survive foreclosure of the Mortgage, and Assignor covenants to observe and comply with all its obligations under this Assignment and the other Loan Documents throughout any period of redemption after foreclosure of the Mortgage.

4.3 Non-Liability of Lender and Indemnity. Lender shall not be liable for any loss sustained by Assignor resulting from Lender's failure to let the Premises after a Default or from

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any other act or omission of Lender in managing, using, occupying or maintaining the Premises after a Default unless such loss is directly and solely caused by the willful misconduct or gross negligence of Lender. Nor shall Lender be obligated to perform or discharge, nor does Lender hereby undertake to perform or discharge, any obligation, duty, or liability of Assignor or any other party under any Assigned Security or under or by reason of this Assignment. This Assignment shall not operate to make Lender responsible for (i) the control, care, management, or repair of the Premises; (ii) the carrying out of any of the terms and conditions of any Lease; (iii) any waste committed on the property by the lessees or by any other parties or for any dangerous or defective conditions of the Premises; or (iv) any negligence in the management, upkeep, repair, or control of the Premises resulting in loss or injury or death to any lessee, licensee, employee, or stranger. This Assignment shall not be construed as constituting the Lender a "mortgagee in possession" of the Premises. Lender has not received any security deposit with respect to any Lease, and assumes no responsibility for any such security deposit until such time such security deposit (specified as such with specific reference to the Lease pursuant to which deposited) may be transferred to Lender and accepted by Lender by notice to the tenant under such Lease.

Assignor shall, and does hereby agree to, protect, defend, indemnify, and hold Lender harmless from and against any and all claims, liability, loss, cost, damage or expense, including reasonable attorney's fees, which Lender may or might incur by reason of (a) the Leases, Lessor's Rights or Guaranties; (b) this Assignment; (c) any alleged obligations or undertakings on Lender's part to perform or discharge any of the terms, covenants, or agreements contained in the Leases; or (d) any action taken or omitted by Lender or its agents under this Assignment, unless constituting willful misconduct or gross negligence or unless occurring after Lender has taken title to and possession of the Premises. Should Lender incur any such liability, loss or damage, the amount thereof, including costs, expenses, and reasonable attorneys' fees, shall be paid by Assignor upon demand of Lender and shall constitute a part of the Liabilities.

4.4 Collection of Rent. Assignor hereby and irrevocably authorizes and directs the lessee named in any Lease, whether now or hereafter existing, the occupant of all or any part of the Premises, or the obligor named in any Guaranty, upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that a Default exists, to pay over to Lender all Rents, arising or accruing under such Lease or from all or any part of the premises described therein and to continue so to do until otherwise notified by Lender.

Assignor agrees that lessees shall have the right to rely upon such demand and notice from Lender and shall pay such Rents to Lender without any obligation or right to determine the actual existence of any such Default or the Lender's right to receive such Rents, notwithstanding any notice from or claim of Assignor to the contrary, and without the need for a judicial determination that a Default has occurred. Assignor shall have no right or claim against such lessees for any such Rents so paid by tenants to Lender. Assignor agrees that it will at Lender's request take such action as Lender may from time to time request to assist Lender in exercising any rights hereunder, including joining in a written direction to lessees to pay Rents to Lender.

4.5 Other Security. Lender may take or release other security for the Liabilities, release any party primarily or secondarily liable therefor, apply any other security held by it to the satisfaction thereof; all without prejudice to any of its rights under this Assignment.

4.6 Waivers. Nothing contained in this Assignment and no act done or omitted by Lender pursuant to the rights, powers and remedies granted it shall be deemed to be a waiver by Lender of its rights, powers and remedies under the other Loan Documents. This Assignment is made and accepted without prejudice to any of the rights, powers and remedies possessed by Lender under any of the other Loan Documents. The right of Lender to collect the Liabilities and to enforce any other security held by it may be exercised by Lender either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

4.7 Amounts Held in Trust for Lender. Any amounts received by Assignor or its agents for performance of any actions prohibited by the terms of this Assignment, including any amounts received in connection with any cancellation, modification or amendment of any of the Leases prohibited by the terms of this Assignment, and any amounts received by Assignor as Rents, from and after the date of any Default, shall be held by Assignor as trustee for Lender and all such amounts shall be accounted for to Lender and shall not be commingled with other funds of the Assignor. Any person acquiring or receiving all or any portion of such trust funds shall acquire or receive the same in trust for Lender as if such person had actual or constructive notice that such funds were impressed with a trust in accordance herewith. For example, such notice may be given by an instrument recorded with the Recorder of Deeds of the county in which the Premises are located stating that Assignor has received or will receive such amounts in trust for Lender.

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5.1 Notices. Any notice that Lender or Borrower or Beneficiary may desire or be required to give to either of the others shall be given in accordance with Section 4.02 of the Mortgage. Except as otherwise specifically required, notice of the exercise of any right or option granted to Lender by this Assignment is not required to be given.

5.2 Governing Law. The place of negotiation, execution, and delivery of this Assignment, the location of the Premises, and the place of payment and performance under the Loan Documents being Illinois, this Assignment shall be construed and enforced according to the laws of Illinois.

5.3 Severability. If any provision of this Assignment, or any paragraph, sentence, clause, phrase, or word, or their application, in any circumstance, is held invalid, the validity of the remainder of this Assignment shall be construed as if such invalid part were never included.

5.4 Headings. The headings of sections and paragraphs in this Assignment are for convenience or reference only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions of this Assignment.

5.5 Grammar. As used in this Assignment, singular and plural nouns, and masculine, feminine, and neuter pronouns, shall be fully interchangeable where the context so requires.

5.6 Successors and Assigns. This Assignment shall be binding upon Trustee, its successors, assigns, legal representatives, and all other persons or entities claiming under or through Trustee. This Assignment shall be binding upon Beneficiary, its successors, assigns, legal representatives and all other persons or entities claiming under or through Beneficiary. The word "Lender," when used herein, shall include Lender's successors, assigns, and legal representatives, including all other holders, from time to time, of the Note.

5.7 Conflicts. In case of any conflict between the terms of this Assignment and those of the Mortgage, the terms of the Mortgage shall prevail.

5.8 Joint and Several Liability. Beneficiary and Trustee shall be jointly and severally liable hereunder. An action to enforce this Assignment may be brought against either Beneficiary or Trustee without any requirement of joinder of

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the other party in such action. Any amounts due under this Assignment may be recovered in full from either Beneficiary or Trustee.

5.9 Trustee Exculpation. This Assignment is executed and delivered by Trustee, not personally, but solely as trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee. The Trustee hereby personally warrants that it possesses full power and authority to execute and deliver this Assignment. It is expressly understood and agreed that nothing contained in this Assignment shall be construed as creating any liability on the Trustee personally to pay or perform the Liabilities secured by this Assignment or any interest that may accrue thereon or to perform any covenant, express or implied, contained herein, all such personal liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder.

5.10 Waiver of Jury Trial. BORROWER WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS COLLATERAL ASSIGNMENT OF LEASES AND RENTS. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY BORROWER AND BORROWER ACKNOWLEDGES THAT NEITHER LENDER NOR ANY PERSON ACTING ON BEHALF OF LENDER HAS MADE REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. BORROWER FURTHER ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED (OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS COLLATERAL ASSIGNMENT OF LEASES AND RENTS AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL. BORROWER FURTHER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER PROVISION.

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In Witness Whereof, Trustee and Beneficiary have caused this Assignment to be executed as of the date stated above.

Trustee:

American National Bank and Trust Company of Chicago, not personally but solely as trustee as aforesaid

By: [Signature]
Title: [Signature]

Attest: [Signature]

By: [Signature]
Title: [Signature]

Beneficiary:

Citiscaps Superior Limited Partnership, an Illinois limited partnership, by its general partners.

[Signature]
Neil D. Freeman,
General Partner

[Signature]
Robert W. Baxter, Jr.,
General Partner

[Signature]
Myron H. Shure,
General Partner

Property of Cook County Office

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EXHIBIT A

LEGAL DESCRIPTION

LOTS 21 AND 22 IN BLOCK 18 IN NEWBERRY'S ADDITION TO CHICAGO BEING THE EAST 1/2 OF THE WEST 1/2 OF THE NORTH EAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

Street Address: 230 West Superior Street, Chicago, Illinois

PIN: 17-09-202-005

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EXHIBIT B

IDENTIFIED LEASE(S)

Lessee: Mark Anderson Design, Inc.

Dated: May 7, 1990

Lessee: Kay Garvey Gallery

Dated: May 9, 1990

Lessee: The Freeman Group

Dated: February 19, 1990

Lessee: Martha Schneider Gallery, Inc.

Dated: February 17, 1990

Lessee: Thomas Boland

Dated: Undated - Commencing October 1, 1989

Property of Cook County Clerk's Office

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