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## MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT

72-213

LaSALLE NATIONAL TRUST, N.A. Successor Trustee to  
THIS MORTGAGE, ASSIGNMENT OF RENTS AND LEASES AND SECURITY  
AGREEMENT (hereinafter referred to as this "Mortgage") is made as of March 5, 1992 by  
and between the LaSalle National Bank, not personally but as Trustee under Trust Agreement  
dated November 10, 1989 and known as Trust No. 114980<sup>and not personally</sup> ("Trustee") and DIVERSEY  
INVESTORS LIMITED PARTNERSHIP, an Illinois limited partnership ("Beneficiary")  
(Trustee and Beneficiary are hereinafter sometimes collectively referred to as "Mortgagor")  
and THE HONGKONG AND SHANGHAI BANKING CORPORATION LIMITED, a  
banking association licensed in the State of Illinois as of October 19, 1973 (hereinafter  
referred to as "Mortgagee" or "Secured Party"), who agree as follows:

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### 1. DEFINITIONS

DEPT-01 RECORDING 469.50  
153333 TRAN 0804 03/06/92 14:56:00  
#0181 # -92-147644  
COOK COUNTY RECORDER

Whenever used in this Mortgage:

1.1 "Borrowers" means the Mortgagor and Capital and Regional Properties Corporation, a Delaware corporation ("Capital"), individually and collectively.

1.2 "Borrowers' Liabilities" means any and all of the following: (a) the payment of any and all monies, including, but not limited to, the payment, when due or declared due, of the principal sum thereof and interest thereon, attorneys' fees and costs of collection now or hereafter owed or to become owing under the promissory note from Borrowers to Mortgagee in the face amount of \$1,000,000.00 (hereinafter referred to as the "Note") and (b) the payment of any and all other debts, claims, obligations, demands, monies, liabilities and indebtedness of any and every kind or nature now and hereafter owing, arising, due or payable from Borrowers to Mortgagee under any of the terms and provisions of this Mortgage, the Note or other Loan Documents (hereinafter defined). Notwithstanding anything in this Mortgage to the contrary, this Mortgage shall not in any event secure indebtedness in excess of five times the aggregate face amount of the Note.

1.3 "Borrowers' Obligations" means the prompt, full and faithful performance, discharge, compliance and observance by Borrowers of each and every term, condition, warranty, representation, agreement, undertaking, covenant and provision to be performed, discharged, observed or complied with by Borrowers in this Mortgage, the Note and the Loan Documents with the exception of any Borrowers' Liabilities.

1.4 "Loan Documents" means the Credit Agreement of even date herewith (the "Credit Agreement") between Borrowers and Mortgagee and the Collateral Documents (as defined in the Credit Agreement).

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1.5 "Mortgaged Property" means any and all of the following:

(a) all of the following described real estate, and all of Borrowers' estate, right, title and interest therein, whether now owned or hereafter acquired, situated, lying and being commonly known as 4833 West Diversey, Chicago, Illinois, being legally described on Exhibit A, attached hereto and made a part hereof, together with all buildings, improvements, tenements, easements, hereditaments, and appurtenances now or at any time or times hereafter upon, belonging or otherwise appertaining to or situated on said real estate and all rights with respect to all heretofore or hereafter constructed roads, alleys, streets and other public ways abutting said real estate, whether before or after vacation thereof (hereinafter referred to as the "Premises"); (b) all present and future apparatus, machinery, equipment, fixtures and articles of personal property of any and every kind and nature whatsoever now owned or hereafter acquired by the Borrowers, and used, attached to, installed or located in or on the Premises, or required for use in or on or in connection with the Premises or the management, maintenance, operation or business thereof and all replacements thereof and accessions thereto (hereinafter referred to as the "Equipment"), including, but not limited to, any such item of Equipment now or at any time or times hereafter situated on the Premises and used to supply or otherwise deliver heat, gas, air conditioning, water, light, electricity, power, plumbing, refrigeration, sprinkling, ventilation, mobility, communication, incineration, recreation and all other related or other such services (all of the immediately above mentioned items of Equipment being deemed to be a part of the Premises, whether physically attached hereto or not); (c) all present and future leases, tenancies, licenses and franchises (hereinafter referred to as the "Leases"), of or relating to the Premises or the Equipment or in any way, manner or respect required, existing, used or usable in connection with the Premises or the Equipment or the management, maintenance, operation or business thereof, and all deposits of money as advance rent or for security under any or all of the Leases and all guaranties of lessees' performances thereunder; (d) all present and future rents, issues, avails, profits and proceeds (hereinafter referred to as the "Rents"), of or from the Premises, the Leases or the Equipment howsoever occurring, existing, created or arising, which are pledged primarily and on a parity with said Premises, Leases and Equipment and not secondarily; (e) all present and future judgments, awards of damages and settlements made as a result or in lieu of any taking of the Premises, the Equipment or the Leases, or any part thereof, under the power or eminent domain, or for any damage thereto (whether caused by such taking or otherwise); (f) all present and future insurance policies in force or effect insuring the Premises, the Rents, the Leases or the Equipment; and (g) all proceeds of each and every of the foregoing.

## 2. CONVEYANCE

2.1 To secure the payment by Borrowers of Borrowers' Liabilities and the performance by Borrowers of Borrowers' Obligations, Mortgagor hereby does mortgage, grant, convey and assign to Mortgagee, its successors and assigns, forever, the Mortgaged Property for the purposes and uses set forth in this Mortgage subject to any permitted exceptions as set forth on Exhibit B attached hereto and made a part hereof; provided, nevertheless, that if the Borrowers' Liabilities shall be paid in full, satisfied and discharged and all of Borrowers'

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Obligations shall be kept and performed, then this Mortgage shall become null and void and shall be released at Mortgagor's expense.

2.2 This Mortgage shall operate as and constitute a Security Agreement between Borrowers and Mortgagee with respect to that portion of the Mortgaged Property constituting property or interests in property, whether real or personal, tangible or intangible, which are subject to the priority and perfection of security interest provisions of the Uniform Commercial Code or any similar and applicable law, statute, code or other governing body of law. Therefore, to secure the payment of Borrowers' Liabilities and the performance of Borrowers' Obligations, Mortgagor hereby grant to Mortgagee as Secured Party a security interest in the Mortgaged Property and hereby set over, assign, and transfer to Mortgagee all of the Leases and Rents subject to the terms and conditions of this Mortgage.

2.3 Borrowers, within ten (10) business days after request by Mortgagee therefor, will certify, in writing, to Mortgagee, or to any proposed assignee of this Mortgage, the amount of principal and interest then owing and unpaid under the Note and whether Borrowers have or assert any offsets or defenses thereto.

2.4 Borrowers, immediately upon request by Mortgagee, at Borrowers' sole expense, will or will cause to be made, executed and delivered to Mortgagee, in form and substance acceptable to Mortgagee, all Loan Documents that Mortgagee is advised are or reasonably deems necessary or appropriate to evidence, document or conclude the transactions described in or contemplated by this Mortgage, the Note, or which are required to perfect or continue perfected, as valid encumbrances, the encumbrances granted herein by or for Borrowers to Mortgagee upon the Mortgaged Property.

### 3. COVENANTS AND REPRESENTATIONS

3.1 Mortgagor covenants with and represents to Mortgagee as of the date hereof and at all times hereafter until all Borrowers' Liabilities have been paid in full and all Borrowers' Obligations have been performed and discharged as follows:

(a) Borrowers promptly will pay, or cause to be paid, when due or declared due, all of Borrowers' Liabilities and promptly, fully and faithfully will perform, discharge, observe and comply with each and every one of Borrowers' Obligations.

(b) Borrowers now have and hereafter shall maintain the standing, right, power and lawful authority to own the Mortgaged Property, to carry on the business of and operate the Mortgaged Property, to enter into, execute and deliver this Mortgage, the Note and the Loan Documents, to encumber the Mortgaged Property to Mortgagee as provided herein and in the Loan Documents and to perform all of Borrowers' Obligations and to consummate all of the transactions described in or contemplated by this Mortgage and any other Loan Documents.

(c) The location, existence and use of the Premises and the Equipment are and shall remain in compliance with all applicable laws, rules, ordinances and

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regulations, including, but not limited to, building and zoning laws, and all covenants and restrictions of record.

(d) Borrowers will not change the use or character of or abandon the Mortgaged Property and at all times hereafter shall keep the Mortgaged Property in good condition and repair and will not commit or suffer waste and will make all necessary repairs, replacements and renewals (including the replacement of any items of the Equipment) to the Mortgaged Property so that the value and operating efficiency thereof shall at all times hereafter be maintained and preserved. Borrowers shall not, without Mortgagee's prior written consent, remove any fixture or demolish any building or improvement located in or on the Premises. Borrowers shall pay for and complete, within a reasonable time, any building or improvement at any time in the process of erection upon the Premises, shall refrain from impairing or diminishing the value of the Mortgaged Property and shall make no material alterations to the Mortgaged Property which in the opinion of Mortgagee diminishes its value, and promptly shall repair, restore or rebuild any building or improvement now or hereafter on the Premises which may become damaged or destroyed. Borrowers shall comply with all requirements of law and all municipal ordinances governing the Mortgaged Property and the use thereof. Borrowers shall permit Mortgagee, and its agents on reasonable advance notice, access to inspect the Mortgaged Property at all reasonable times.

(e) Borrowers promptly shall pay and discharge or cause to be paid and discharged, as and when due and payable, before any penalty attaches, all charges, impositions, levies, assessments and taxes (whether general, special or otherwise), water charges, sewer service charges and all other municipal or governmental charges, impositions, levies, assessments and taxes of any kind or nature that may be at any time levied, assessed or imposed upon or against the Mortgaged Property, or any part thereof, and shall deliver to Mortgagee duplicate receipts evidencing payment thereof before delinquency. To prevent default hereunder, in the event of a disputed charge, imposition, levy, claim, demand, assessment or lien, Borrowers shall be permitted to contest same so long as Borrowers shall

(i) contest, in good faith and at their sole cost and expense, the existence, amount or validity of any such charge, imposition, levy, claim, demand, assessment or lien which, if unpaid, might result in or permit the creation of a lien on the Mortgaged Property, by appropriate legal proceedings which shall operate during the pendency thereof to prevent

(A) the collection or other realization upon said charge, imposition, levy, claim, demand, assessment or lien,

(B) the sale, forfeiture or loss of any part of the Mortgaged Property to satisfy the same or pay damages on account thereof, and

(C) any interference with the use or occupancy of the Mortgaged Property or any part thereof, (ii) give written notice to Mortgagee of the intention of Borrowers to proceed with a contest, such notice to specify the nature and amount of the charge, imposition, levy, claim, demand,

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assessment or lien to be contested, as may be appropriate, and (iii) post with Mortgagee or with the holder of any mortgage to which this Mortgage has been subordinated or with a title insurance company licensed to do business in Illinois and reasonably acceptable to Mortgagee, security acceptable to bond over such charge, imposition, levy, claim, demand, assessment or lien, including interest and penalties. Upon payment in full, performance, settlement, release or other complete discharge or satisfaction of the charge, imposition, levy, claim, demand, assessment or lien that has been contested as provided herein, any balance of the funds deposited with Mortgagee as provided herein as a condition to the right to prosecute such contest and not utilized in effecting such payment shall be paid to Borrowers, without interest. Borrowers agree that each contest hereunder shall be promptly prosecuted to a final conclusion. Borrowers further agree to pay, indemnify and save Mortgagee harmless against, any and all losses, judgments, decrees and costs (including all attorneys' fees and expenses) in connection with any such contest and will, promptly with the final settlement, compromise or determination of such contest, fully pay and discharge the amounts which may be levied, assessed, charged or imposed or be determined to be payable therein or in connection therewith, together with penalties, fines, interest, costs and expenses thereof or in connection therewith, and perform all acts the performance of which shall be ordered or decreed as a result thereof. No such contest may be pursued which shall subject Mortgagee to the risk of any loss, damage, civil liability or criminal liability. In the event Borrowers shall fail to contest the validity of any charge, imposition, levy, claim, demand, assessment, or lien or give security as aforesaid to insure payment thereof, or having commenced to contest the same and having given such security, shall fail to prosecute such contest with diligence, or shall fail to have the same released and satisfy any judgment rendered thereon, then Mortgagee may, at its election (but shall not be required to do so), remove or discharge the same by paying said charge, imposition, levy, claim, demand, assessment or lien, or any judgment resulting therefrom, in full without obligation to verify the validity thereof (or, in its sole and absolute discretion, to settle or compromise the same), and any amounts advanced by Mortgagee for such purposes shall be an additional indebtedness due under the Note and secured hereby and due Mortgagee and payable immediately upon demand, with interest thereon at the Default Rate specified in the Note. If Mortgagee is required by legislative enactment or judicial decision to pay the United States of America, the State of Illinois or any political subdivision thereof, any charge, imposition, assessment, levy or tax on the Mortgaged Property (or on any interest therein), this Mortgage or Borrowers' Liabilities, all of Borrowers' Liabilities shall become and be due and payable, at the election of Mortgagee, thirty (30) days after the mailing of notice of such election to Borrowers unless Borrowers are permitted by law to pay and do in fact pay such charge, imposition, assessment, levy or tax to or for Mortgagee. Notwithstanding the

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foregoing, Borrowers shall have no obligation to pay any income or profit tax that is or may be imposed upon Mortgagee as a consequence of its general business activities, including the receipt of interest or other charges under the Note or this Mortgage.

(f) Borrowers shall keep the Mortgaged Property free and clear of all encumbrances (including, but not limited to, mechanics liens and other similar liens or claims for liens) of any and every kind and nature, except the Permitted Exceptions and the encumbrances created by this Mortgage and other Loan Documents (hereinafter referred to as an "Unpermitted Encumbrance"), shall promptly pay or cause to be paid, as and when due and payable or when declared due and payable, any indebtedness which may become or be secured by such an Unpermitted Encumbrance and, immediately upon request by Mortgagee, shall deliver to Mortgagee evidence satisfactory to Mortgagee of the payment and discharge thereof. To prevent default hereunder, Borrowers may indemnify Mortgagee, by suitable performance bond or title insurance endorsement, or by another means reasonably acceptable to Mortgagee, against loss by reason of such an Unpermitted Encumbrance which Borrowers may desire, in good faith, to contest (provided Borrowers comply with the terms of Paragraph 3.1(k) in contesting same). If, in accordance with the terms of this Mortgage, Mortgagee makes payment of any such Unpermitted Encumbrance, Mortgagee shall be subrogated to the rights of such claimant notwithstanding that the Unpermitted Encumbrance may be released of record.

(g) Borrower shall not permit during the term of this Mortgage any Hazardous Materials or dangerous substances to be illegally stored on or about or produced on the Mortgaged Property. If required pursuant to any Environmental Action or as otherwise required by law, Borrower shall abate or remove any Hazardous Material on the mortgaged Property.

For purposes hereof, (a) "Hazardous Material" means and includes:

- (i) any "hazardous substance" as now defined pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, and including the judicial interpretation thereof (all of the foregoing are hereinafter collectively referred to as "CERCLA");
- (ii) any "pollutant or contaminant" as defined in CERCLA;
- (iii) any material now defined as "hazardous waste" pursuant to 40 C.F.R. Part 261;
- (iv) any petroleum, including crude oil and any fraction thereof;
- (v) natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel;

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(vi) any "hazardous chemical" as defined pursuant to 29 C.F.R. Part 1910;

(vii) any asbestos, polychlorinated biphenyl or isomer of dioxin, or any material or thing containing or composed of such substance, regardless of physical form, that is subject to any past, present or future Federal, state or local governmental statute, requirement, rule of liability or standard of conduct.

(viii) any underground storage tank ("UST") including but not limited to any substance(s) stored, accumulated and/or stored in any UST, and/or any contamination of soil and/or groundwater which contamination is the direct or indirect result of any UST and/or any substance(s) which is currently or at any time in the past has (or have) been accumulated and/or stored therein, storage area, waste disposal device, method of transportation, pollutant, contaminant, hazardous, dangerous or toxic chemical, material or substance within the meaning of any Environmental Law (as hereinafter defined) which Environmental Laws prohibit, limit or otherwise regulate exposure, release, generation, manufacture, sale, transportation, handling, storage, treatment, recycling, reclamation, reuse, presence, emission or disposal of any pollutant, contaminant, hazardous, dangerous or toxic chemical, material or substance;

(ix) any substance, material, waste, compound, and/or constituent, defined, regulated, prohibited and/or limited by any Environmental Law(s) (as hereinafter defined);

(x) any radioactive material, including any source, special nuclear or byproduct material as defined at 42 U.S.C. §2011 et seq., and amendments thereto and reauthorizations thereof;

(h) "Environmental Action" means:

(i) any notice of violation, correspondence, memoranda, complaint, claim, citation, demand, inquiry, report, action or proceeding, brought or issued by any governmental agency or any other person or entity regarding the Premises respecting:

(A) any Environmental Laws;

(B) public health risks associated with existence of Hazardous Materials on the Property;

(C) the environmental condition of the Premises, any portion thereof or any property near the Premises, including, without limitation, damage, alleged damage, injury or alleged injury to fish, wildlife, biota, air, surface or subsurface soil or water, drinking water supplies or other natural resources; or

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(D) the use, exposure, release, generation, manufacture, sale, transportation to or from, handling, storage, treatment, recycling, reclamation, reuse, emission, disposal or presence of Hazardous Material regardless of whether such notice of violation, correspondence, memoranda, complaint, claim, citation, demand, inquiry, report, action or proceeding pertain to the Premises or to materials or substances which, while used, generated, manufactured, transported to or from, handled, stored, treated or present on the Premises, were transported off-site for treatment, storage, recycling, reclamation, reuse and/or disposal.

(ii) any lien or governmental action, notice of violation, notice of noncompliance or other action or proceeding of any kind relating to Hazardous Materials or Environmental Law which could cause a detriment to or impair the beneficial use and/or value of the Premises, or any portion thereof, or the priority of the mortgage lien or any other rights which Lender may have pursuant to the Mortgage or the Loan Documents (as defined in the Mortgage).

(iii) any claim, action, demand, cause of action or damage relating to or in connection with any personal injury concerning or relating to the presence of asbestos or other Hazardous Material on the Premises.

(i) "Environmental Laws" means any or all federal, state, or local statutes, laws, codes, rules, regulations, ordinances, orders, standards, permits, licenses and requirements (including, without limitation, any consent decree, judicial decision and order, resolution, standard, permits, licenses and requirements imposed by any administrative body) now or hereafter in force or effect, together with all amendments thereto and reauthorizations thereof now or hereafter in force or effect, including, without limitation, any common law or statutory tort, nuisance or absolute liability theories, CERCLA, the Illinois Environmental Protection Act, and RCRA, the Clean Air Act, 42 U.S.C. §7401 et seq., and all present and future amendments thereto and reauthorizations thereof, the Clean Water Act of 1986, 33 U.S.C. §1251 et seq., and all present and future amendments thereto and reauthorizations thereof, and the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., and all present and future amendments thereto and reauthorizations thereof, and all rules and regulations promulgated to interpret or implement the foregoing.

(j) Borrowers, at their cost and expense, shall comply with all laws, statutes, ordinances, rules and regulations of any governmental authority ("Agency") having jurisdiction thereof concerning environmental matters, including, but not limited to, any discharge into the air, waterways, sewers, soil or ground water or any substance or "pollutant". Mortgagee and its agents and representatives shall have access to the Premises and to the books and records of the Borrowers and any lessee claiming under the Borrowers for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind and quantity of all products, materials and substances brought onto the Premises or made or produced thereon. Borrowers and any lessee claiming under Borrowers shall provide to the Mortgagee

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copies of all manifests, schedules, correspondence and other documents of all types and kinds when filed or provided to an Agency or otherwise required to be maintained by an Agency or as such are received from any Agency. If Borrowers are in default or if there has been a complaint or notice of a problem from any such Agency, Mortgagee and its agents and representatives shall have the right to take samples in quantity sufficient for scientific analysis of all products, materials and substances present on the Premises including, but not limited to, samples of products, materials and substances brought onto or made or produced on the Premises by the Borrowers or a lessee claiming under Borrowers or otherwise present on the Premises.

(k) Borrower shall permit Mortgagee or its representatives is hereby authorized to enter into or upon the Mortgaged Premises and inspect the Mortgaged Property at any time upon reasonable notice during normal business hours.

3.2 If Borrowers shall neglect or refuse to keep the Mortgaged Property in good operating condition and repair or maintain the same as herein provided; or shall fail to pay any taxes or the premiums for the insurance which is required to be maintained hereunder, to pay and discharge all encumbrances as herein agreed, make a representation which is or becomes untrue, or otherwise fail to perform any of Borrowers' Obligations, Mortgagee, at its sole election, may cause such repairs or replacements to be made, pay such taxes, obtain such insurance, pay to discharge such encumbrances or perform such acts as may be necessary to fulfill such representations or Obligations. Any amounts paid by Mortgagee in taking such action, together with interest thereon at the Default Rate specified in the Note from the date of Mortgagee's payment thereof until repaid, shall be due and payable by Borrowers to Mortgagee upon demand, and, until paid, shall constitute a part of Borrowers' Liabilities secured by this Mortgage. Notwithstanding the foregoing, such advances by Mortgagee shall not be deemed to relieve Borrowers from any default hereunder or impair any right or remedy consequent thereon. The exercise of the right to take such action shall be optional with Mortgagee and not obligatory upon Mortgagee and Mortgagee shall not in any case be liable to Borrowers for failure or refusal to exercise any such right. In making any payments pursuant to the exercise of any such right, Mortgagee may rely upon any bills delivered to it by Borrowers or upon any reasonable bills from any such claimant.

3.3 Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Borrowers, whether hereunder, under any of the Leases affecting the Mortgaged Property, under any contract relating to the Mortgaged Property or otherwise, and Mortgagor hereby agrees to indemnify and hold Mortgagee harmless against any and all liability, loss or damage which Mortgagee may incur under or with respect to any exercise of any of its rights hereunder, and any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligation or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in any of the contracts, documents or instruments affecting any portion of the Mortgaged Property or effecting any rights of the Borrowers thereto. Mortgagee shall not have responsibility for the control, care, management, or repair of the Mortgaged Property or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, licensee, employee, stranger or other person. No liability shall be enforced or asserted against Mortgagee in its exercise of the powers

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herein granted to it, and Borrowers expressly waive and release any such liability. Should Mortgagee incur any such liability, loss or damage under any of the leases affecting the premises or under or by reason hereof, or in the defense of any claims or demands, Borrowers agree to reimburse Mortgagee immediately upon demand for the full amount thereof, including costs, expenses and attorneys' fees.

3.4 Borrowers and Mortgagee acknowledge and agree that in no event shall Mortgagee be deemed to be a partner or joint venturer with Borrowers or any beneficiary of Borrowers.

## 4. TAXES, INSURANCE AND CONDEMNATION

4.1 Borrowers, at all times, shall keep and maintain or cause to be kept and maintained the Mortgaged Property fully insured (without co-insurance) against loss or damage by, or abatement of rental income resulting from, fire and extended coverage, malicious mischief and vandalism, and if the Mortgaged Property lies within a flood plain as determined by the then prevailing governmental standards, flood, as well as such other hazards, casualties and contingencies as Mortgagee, from time to time, may require, in companies, form, amounts and for such periods as is satisfactory to Mortgagee, but, in any event, for not less than the unpaid balance on the Note from time-to-time (provided that such amount is sufficient to prevent a reduction in the settlement of a loss due to the co-insurance provisions of the policies of insurance). Borrowers shall also provide and keep in effect plate glass, sprinkler, boiler and comprehensive public liability insurance with such limits for personal injury and death and property damage as Mortgagee may require, and will also keep in effect rent loss insurance and/or business interruption insurance, employer's liability and workmen's compensation insurance, in such amounts as Mortgagee may require. All such policies and renewals thereof (hereinafter referred to as the "policies") shall contain, in form and substance acceptable to Mortgagee, standard mortgagee loss payable clauses naming Mortgagee, as well as a standard waiver of subrogation endorsements and a "Replacement Cost Endorsement" together with an "agreed amount endorsement" sufficient to prevent Borrowers from being deemed co-insurers. All such policies shall be delivered, as issued, to Mortgagee, with premiums therefor paid in full by Borrowers. All policies shall provide that they are non-cancellable by the insurer without first giving at least thirty (30) days prior written notice to Mortgagee of any intended cancellation. In case of policies about to expire, Borrowers will deliver to and deposit with Mortgagee renewal policies not less than forty-five (45) days prior to the respective dates of expiration. Borrowers will deliver and deposit with Mortgagee receipts for the payment of the current annual premiums on all policies. In the event of foreclosure of this Mortgage or assignment hereof by Mortgagee or transfer of title to the Mortgaged Property in extinguishment of Borrowers' Liabilities, all right, title and interest of Borrowers in and to any policies then in force shall pass to the purchaser, grantee or assignee.

Upon the occurrence of an Event of Default, Borrowers agree to deposit with the Mortgagee, with each monthly installment payable under the Note, an amount equal to 1/12 of the annual premium for the insurance for the Mortgaged Property. Upon advice from the Mortgagee that the amounts theretofore deposited with it are insufficient to pay the insurance

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for the Mortgaged Property, Borrowers agree to deposit with the Mortgagee promptly and upon demand the amount of such deficiency. The payment of said funds to Mortgagee does not relieve Borrowers of the obligation to provide insurance as set forth herein but shall merely provide funds for the payment of premiums thereon.

4.2 If there shall occur any loss or damage to the Mortgaged Property or any part thereof as a result of any casualty:

(a) Borrowers shall give prompt written notice thereof to Mortgagee.

(b) All proceeds of insurance shall be payable to Mortgagee and Borrowers hereby authorize and direct any affected insurance company to make payment of such proceeds directly to Mortgagee. The Mortgagee is hereby authorized and empowered by the Borrowers to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance; provided, however, Mortgagee will give Borrowers notice of the amount of such settlement, adjustment or compromise and Borrowers shall have the right to object to such settlement, adjustment or compromise in writing to Mortgagee within ten (10) business days of such notice; and further provided, that if the loss is less than \$100,000 Borrower shall have the right to settle and adjust the claim.

(c) In case of an Event of Default, the Mortgagee shall apply all of the insurance proceeds (or any portion thereof as the Mortgagee shall determine in its sole discretion) to the prepayment of the Note. Provided, however, so long as the Borrowers are not in default hereunder, any proceeds of insurance relating to such damage or destruction received by the Mortgagee shall be released from time to time by the Mortgagee to the Borrowers (or to such construction escrow account or contractor or supplier as the Mortgagee may deem appropriate) upon the receipt of:

(i) The written request of the Borrowers specifying the expenditures made or to be made or the indebtedness incurred in connection with the restoration of the Mortgaged Property;

(ii) The written certificate of an architect reasonably acceptable to the Mortgagee stating that the proceeds of insurance then held by the Mortgagee, together with any other moneys then held by the Mortgagee and available for such purpose, will be sufficient to complete the restoration of the Mortgaged Property; and

(iii) Such other information and showings as the Mortgagee may require in order to be assured that the insurance proceeds will be used for repair or replacement of the Mortgaged Property and that upon completion of such repair or replacement the Mortgaged Property will provide adequate security for the Borrowers' Liabilities.

(d) Nothing herein contained shall be deemed to excuse Borrowers from repairing or maintaining the Mortgaged Property as provided herein or restoring all damage or destruction to the Mortgaged Property, regardless of whether or not there

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are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Mortgagee of any insurance proceeds shall not cure or waive any default under this Mortgage.

(e) Any insurance proceeds remaining upon completion of the restoration of the Mortgaged Property to the satisfaction of the Mortgagee shall, in the absence of default under the Note or hereunder, be paid by the Mortgagee to the Borrowers.

4.3 Subject to Borrowers right to contest as provided in Paragraph 3.1(k) hereof, Borrowers shall pay immediately when due and payable and prior to the date when the same shall become delinquent, all real estate taxes, special assessments, water charges, sewer service charges and other taxes, fees, liens and charges now or hereafter levied or assessed or charged against the Mortgaged Property or any part thereof or any improvements thereon and shall furnish Mortgagee with the original or duplicate receipts evidencing such payments.

Upon the occurrence of an Event of Default, Borrowers agree to deposit with the Mortgagee, with each monthly installment payable under the Note, an amount equal to 1/12 of the last ascertainable real estate tax bill for the Mortgaged Property. Upon advice from the Mortgagee that the amounts theretofore deposited with it are insufficient to discharge the taxes levied against the Mortgaged Property, Borrowers agree to deposit with the Mortgagee promptly and upon demand the amount of such deficiency.

4.4 All awards now or hereafter made by any public or quasipublic authority to or for the benefit of Borrowers in any way, manner or respect affecting, arising from or relating to the Mortgaged Property, or any portion thereof by virtue of an exercise of the right of eminent domain by such authority (including, but not limited to, any award for taking title, possession or right of access to a public way, or for any change of grade of streets affecting the Mortgaged Property) hereby are assigned to the Mortgagee as additional security for the payment of Borrowers' Liabilities (and for such purpose, Borrowers hereby grant to Mortgagee a security interest therein). Mortgagee may claim and obtain payment of all such awards and apply all of the same (or any portion thereof as Mortgagee shall determine in its sole discretion) to the prepayment of the Note or (at Mortgagee's sole discretion), so long as the Borrowers are not in default hereunder, such part or all of such award may be applied to any repair or restoration of the Mortgaged Property as may be necessary because of such taking if Mortgagee, in its sole discretion, determines that upon completion of such repair or restoration the Mortgaged Property will provide adequate security for Borrowers' Liabilities. The procedure for using such award for repair or restoration shall be the same as that set forth for use of insurance proceeds as described in Paragraphs 4.2(c) and (d) and no surplus shall be returned to Borrowers but shall instead be applied as a prepayment of the indebtedness evidenced by the Note.

#### 4.5 Stamp Tax

If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note or recording of this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability

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incurred by reason of the imposition of any tax on the issuance of the Note or recording of this Mortgage.

## 5. LEASES AND RENTS

5.1 If no Event of Default under this Mortgage has occurred, Borrowers shall have the right to collect all of the Rents arising from the Leases, or renewals thereof, and shall hold the same, in trust, to be applied first to the payment of all impositions, levies, taxes, assessments and other charges upon the Mortgaged Property, second to the cost of the maintenance of insurance policies upon the Mortgaged Property required hereby, third to the maintenance and repairs required hereby, fourth to the payment of amounts due on any mortgage or lien to which this Mortgage is subordinate and lastly to the payment of Borrowers' Liabilities then due and payable, before using any part of the Rents for any other purposes.

5.2 Borrowers shall: (a) promptly upon Borrowers' learning thereof, inform Mortgagee, in writing, of any assertion of any claims, offsets or counterclaims by any of the lessees under the Leases; (b) not permit or agree to any material extension, compromise or settlement or make any material change or modification of any kind or nature of or with respect to the Leases or the terms thereof without Mortgagee's written consent at substantially below market rate and terms; (c) not terminate any existing Lease except upon material default of tenant or execute any new Leases at substantially below market rate and terms without Mortgagee's prior written consent; and (d) promptly upon Borrowers learning thereof, furnish to and inform Mortgagee of all material adverse information relating to or affecting the financial condition of any of the lessees under the Leases.

5.3 Within fifteen (15) days after written demand therefor by Mortgagee, Borrowers shall deliver to Mortgagee, in form and substance acceptable to Mortgagee, a detailed certified rent roll (which shall show all past due rentals) of all the Leases and such other matters and information relating thereto as Mortgagee may request.

5.4 Upon the occurrence of an Event of Default under this Mortgage:

(a) Mortgagee, then or at any time or times thereafter, at its sole election, without notice thereof to Borrowers, may notify any or all of the obligors of the Leases that the Leases have been assigned to Mortgagee and Mortgagee (in its name or the name of Borrowers or in both names) may direct said obligors thereafter to make all payments due from them under the Leases directly to Mortgagee.

(b) Borrowers, immediately upon demand by Mortgagee, irrevocably shall direct all obligors of the Leases then and thereafter to make all payments then and thereafter due from them under the Leases directly to Mortgagee.

(c) Mortgagee shall have the right at any time or times thereafter, at its sole election, without notice thereof to Borrowers, to enforce the terms of the Leases



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and obtain payment of and collect the Rents, by legal proceedings or otherwise, in the name of Borrowers, Mortgagee or in both names.

(d) All of the foregoing payments and proceeds received by Mortgagee shall be utilized by Mortgagee, at its sole election and in its sole discretion, for any one or more of the following purposes: (i) to be applied to Borrowers' Liabilities in such manner and fashion and to such portions thereof as Mortgagee, at its sole election, shall determine; (ii) to be applied to such other obligations of Borrowers or the Mortgaged Property or the operation or business thereof as Mortgagee, in its sole discretion, shall determine appropriate or warranted under the then existing circumstances; or (iii) to be remitted to Borrowers.

5.5 All Leases shall be subordinate to this Mortgage.

## 6. DEFAULT AND REMEDIES

6.1 The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Mortgage:

(a) Failure of Borrowers to pay any of Borrowers' Liabilities within five (5) days after the same are due.

(b) Failure of Mortgagor, within thirty (30) days after notice and demand, promptly, fully and faithfully to satisfy, perform, discharge, observe and comply with any of Borrowers' Obligations.

(c) Determination that any representation made herein or in the Loan Documents is untrue.

(d) Filing of a petition in bankruptcy by or against any Borrower (and in the case of an involuntary petition in bankruptcy, such petition is not discharged within 60 days of its filing), or a custodian, receiver or trustee for any of the Mortgaged Property is appointed or if any Borrower makes an assignment for the benefit of creditors, or if any of them are adjudged insolvent by any state or federal court of competent jurisdiction, or an attachment or execution is levied against any of the Mortgaged Property.

(e) The making of any Prohibited Transfer of title described in Paragraph 7.7 hereof.

(f) Borrower's default under any of the Loan Documents and failure to cure such default within the time period permitted under the applicable Loan Document.

(g) A material adverse change in the financial condition of any of Borrowers.

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6.2 Upon the occurrence of an Event of Default, Mortgagee, after notice and demand insofar as required hereby, in its sole discretion and at its sole election, without notice of such election, and without further demand, may do any one or more of the following:

(a) Declare all of Borrowers' Liabilities immediately due and payable and collect the same at once by foreclosure or otherwise, without notice of broken covenant or condition (and in case of such default and the exercise of such option, Borrowers' Liabilities shall bear interest, from the date of such default, at the Default Rate set forth in the Note).

(b) Subject to the rights, if any, of tenants not in default under the Leases or of tenants under Illinois law, enter upon and take immediate possession of the Mortgaged Property, expel and remove any persons, goods or chattels occupying or upon the same, receive all Rents, and issue receipts therefor, manage, control and operate the Mortgaged Property as fully as Borrowers might do if in possession thereof, including without limitation, the making of all repairs and replacements deemed necessary by Mortgagee and the leasing of the same, or any part thereof, from time to time, and, after deduction all reasonable attorneys' fees and all costs and expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income, if any, to Borrowers' Liabilities and in general exercise all rights afforded to Mortgagees in Possession. Borrowers agree to surrender possession of the Mortgaged Property to Mortgagee immediately upon the occurrence of an Event of Default. If Borrowers shall remain in physical possession of the Mortgaged Property, or any part thereof, after Mortgagee's entry into possession or the appointment of a receiver as hereinafter provided, Borrowers agree to pay to Mortgagee, or to such receiver, a reasonable monthly rental for the Mortgaged Property or the part thereof so occupied by Borrowers for the period commencing with such Event of Default, to be applied as provided above in the first sentence of this subparagraph, and to be paid in advance on the first day of each calendar month, and, in default of so doing, Borrowers may be dispossessed by the usual summary proceedings. In the event any Borrower shall so remain in possession of all, or any part of, the Mortgaged Property, said reasonable monthly rental shall be in amounts established by Mortgagee in its sole discretion. This subparagraph shall be effective irrespective of whether any foreclosure proceeding shall have been instituted and irrespective of any application for, or appointment of, a receiver.

(c) File one or more suits at law or in equity for the foreclosure of this Mortgage or to collect Borrowers' Liabilities. In the event of the commencement of any such suit by Mortgagee, Mortgagee shall have the right, either before or after sale, without notice and without requiring bond (notice and bond being hereby waived), without regard to the solvency or insolvency of Borrowers at the time of application and without regard to the then value of the Mortgaged Property or whether the same is then occupied, to be designated as a Mortgagee in Possession or, at its option, even if it has previously been designated as Mortgagee in Possession, to make application for and obtain the appointment of a receiver for the Mortgaged Property. If a receiver is appointed, such receiver shall have the power to collect the Rents during the

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pendency of such suit and, in case of a sale and a deficiency, during the full statutory period of redemption, as well as during any further times when Borrowers, except for the intervention of such receiver, would be entitled to collect the Rents, and shall have all other powers which may be necessary or usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property. The court before which such suit is pending may from time to time authorize the receiver to apply the net income in his hands in payment, in whole or in part, of Borrowers' Liabilities. In case of a sale pursuant to foreclosure, the Premises may be sold as one parcel and Mortgagee may bid upon and purchase the Mortgaged Property and credit all or any part of Borrowers' Liabilities against the purchase price.

(d) Act as attorney in fact for Borrowers for the purpose of doing such acts and executing such assignments and other documents as Borrowers have agreed to do or execute hereunder.

(e) Exercise any other remedies or rights permitted or provided under or by the laws or decisions of the State of Illinois (including all rights of a secured party under the Uniform Commercial Code), accruing to a mortgagee and/or secured party upon a default by a mortgagor and/or debtor.

(f) Sell the Mortgaged Property, either in whole or in parcels, at public auction pursuant to the Statutes of the State of Illinois, and apply the proceeds of such sale in the manner set forth in Paragraph 6.5 hereof.

6.3 In the Event of Default under this Mortgage, there will be added to and included as part of Borrowers' Liabilities (and allowed in any judgment for sale of the Mortgaged Property or in any judgment rendered upon this Mortgage or the Note) the following: the costs, charges, expenses and attorneys' fees specified in Paragraph 6.4 below; any and all expenditures which may be paid or incurred by or on behalf of Mortgagee for appraisers' fees, documentary and expert evidence, stenographers' charges, publication costs, fees and expenses for examination of title, title searches, guaranty policies, Torrens certificates and similar data and assurances with respect to the title to the Mortgaged Property; all prepayment of like premiums, if any, provided for in the Note; and all other fees, costs and expenses which Mortgagee deems necessary to prosecute any remedy it has under this Mortgage, or to inform bidders at any sale which may be had pursuant to its rights hereunder, of the true condition of title or of the value of the Mortgaged Property. All such costs, charges, expenses, fees and other expenditures shall be a part of Borrowers' Liabilities, secured by this Mortgage, payable on demand and shall bear interest at the Default Rate set forth in the Note from the date of Mortgagee's payment thereof until repaid to Mortgagee.

6.4 If foreclosure proceedings are instituted upon this Mortgage, or if Mortgagee shall be a party to, shall intervene, or file any petition, answer, motion or other pleading in any suit or proceeding relating to this Mortgage, the Note or Borrowers' Liabilities, all expenses and all of Mortgagee's reasonable attorneys' fees incurred in connection therewith shall be part of Borrowers' Liabilities, secured by this Mortgage, payable on demand and shall bear interest at the Default Rate set forth in the Note from the date of Mortgagee's payment thereof until repaid to Mortgagee.

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6.5 The proceeds of any foreclosure sale of the Mortgaged Property shall be applied and distributed first on account of the fees, charges, costs and expenses described in Paragraph 6.3 above and then to the balance of Borrowers' Liabilities, and thereafter as the court may direct.

6.6 Borrowers agree, to the full extent permitted by law, that in case of an Event of Default, neither Borrowers nor anyone claiming through or under them shall or will set up, claim or seek to take advantage of any appraisement, valuation, stay, or extension laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Mortgaged Property or the final and absolute putting into possession thereof, immediately after such sale, of the purchaser thereat, and Borrowers, for themselves and all who may at any time claim through or under them, hereby waive, to the full extent that they may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agree that Mortgagee or any court having jurisdiction to foreclose such lien may sell the Mortgaged Property in part or as an entirety to the full extent permitted by law. Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, on behalf of the trust estate and all persons beneficially interested therein, and on behalf of each and every person, except judgment creditors of Mortgagor acquiring any interest in or title to the Mortgaged Property subsequent to the date hereof.

6.7 Mortgagee shall have the right from time to time to sue for any sums, whether interest, principal or any other sums required to be paid by or for the account of Borrowers under the term of this Mortgage or the Note, as the same become due under the Note, by acceleration or otherwise, or any other of Borrowers' Liabilities as the same shall be due and without prejudice to the right of the Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by the Borrowers existing at the time such earlier action was commenced.

6.8 No right or remedy of Mortgagee hereunder is exclusive of any other right or remedy hereunder or now or hereafter existing at law or in equity, and is cumulative and in addition thereto and the holder of the Note may recover judgment thereon, issue execution therefor, and resort to every other right or remedy afforded by this Mortgage. No delay in exercising, or omission to exercise, any such right or remedy will impair any such right or remedy or will be construed to be a waiver of any default by Borrowers hereunder, or acquiescence therein, nor will it affect any subsequent default hereunder by Borrowers of the same or different nature. Every such right or remedy may be exercised independently or concurrently, and when and so often as may be deemed expedient by Mortgagee. No terms or conditions contained in this Mortgage or the Note may be waived, altered or changed except as evidenced in writing signed by Borrowers and Mortgagee.

6.9 Mortgagee shall release this Mortgage by proper instrument upon payment and discharge of all of Borrowers' Liabilities, including all prepayment or like premiums, if any, provided for in the Note and payment of all costs, expenses and fees, including reasonable attorneys' fees, incurred by Mortgagee for the preparation, execution and/or recording of such release.

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6.10 Any failure of Mortgagee to insist upon the strict performance by Borrowers of any of the terms and provisions of this Mortgage or the Note shall not be deemed to be a waiver of any of the terms and provisions thereof, and Mortgagee, notwithstanding any such failure, shall have the right at any time or times thereafter to insist upon the strict performance by Borrowers of any and all of the terms and provisions hereof to be performed by Borrowers. Neither Borrowers, nor any other person now or hereafter obligated for the payment of the whole or any part of Borrowers' Liabilities, shall be relieved of such obligation by reason of the sale, conveyance or other transfer of the Mortgaged Property or the failure of Mortgagee to comply with any request of Mortgagor, or of any other person, to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage or the Note, or by reason of the release, regardless of consideration, of the whole or any part of the security held for Borrowers' Liabilities, or by reason of any agreement or stipulation between any subsequent owner or owners of the Mortgaged Property and Mortgagee extending the time of payment or modifying the terms of the Note, or this Mortgage without first having obtained the consent of Borrowers or such other person, and, in the latter event, Borrowers, and all such other persons, shall continue liable on account of Borrowers' Liabilities and to make such payments according to the terms of any such agreement, extension or modification unless expressly released and discharged in writing by Mortgagee. Mortgagee, without notice, may release, regardless of consideration, any part of the security held for Borrowers' Liabilities, without, as to the remainder of the security therefor, in any way impairing or affecting the lien of this Mortgage or the priority of such lien over any subordinate lien. Mortgagee may resort for the payment of Borrowers' Liabilities to any other security therefor held by the Mortgagee in such order and manner as Mortgagee may elect.

6.11 Notwithstanding anything to the contrary contained in this Mortgage, the Mortgagee shall have no obligation or liability under, or with respect to, or arising out of this Mortgage and shall not be required or obligated in any manner to perform or fulfill any of the obligations of the Borrowers hereunder.

## 7. MISCELLANEOUS

7.1 Every provision for notice, demand or request in connection with this Mortgage or the Note shall be deemed fulfilled by written notice, demand or request personally served on or mailed to the party entitled thereto or on its successors or assigns. If mailed, such notice, demand or request shall be made by certified or registered mail, return receipt requested, and deposited in any post office station or letter-box, enclosed in a postage paid envelope addressed to such party at the address set forth below or to such other address as either party hereto shall direct by like written notice and shall be deemed to have been given on the second (2nd) day following posting as aforesaid. The addresses of the parties are as follows:

Borrowers: Capital and Regional Properties Company  
333 North Michigan Avenue, 30th Floor  
Chicago, IL 60601  
Attention: Paul S. Fisher, Vice President

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with a copy to:

Coffield, Ungaretti & Harris  
3500 Three First National Plaza  
Chicago, IL 60602  
Attention: Richard A. Ungaretti, Esq.

Mortgagee: The Hongkong and Shanghai Banking  
Corporation Limited  
190 South LaSalle Street  
Suite 1100  
Chicago, IL 60603-3410  
Attention: James R. Cote, Vice President

with a copy to:

Alzheimer & Gray  
100 South Wacker Drive  
Suite 4000  
Chicago, IL 60606  
Attention: James E. Carroll, Esq.

7.2 All the covenants contained in this Mortgage will run with the land. Time is of the essence of this Mortgage and all provisions herein relating thereto shall be strictly construed.

7.3 This Mortgage, and all the provisions hereof, will be binding upon and inure to the benefit of the successors and assigns of the Borrowers and Mortgagee.

7.4 This Mortgage was executed and delivered in, and shall be governed as to the validity, interpretation, construction, effect and in all other respects by the laws and decisions of the State of Illinois.

7.5 Any provision of this Mortgage which is unenforceable or is invalid or contrary to law, or the inclusion of which would affect the validity, legality or enforcement of this Mortgage, shall be of no effect, and in such case all the remaining terms and provisions of this Mortgage shall subsist and be fully effective according to the tenor of this Mortgage, the same as though no such invalid portion had ever been included herein.

7.6 It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Mortgagee acquire an additional or other interests in and to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee, as evidenced by an express statement to the effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

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7.7 In determining whether or not to make the loan secured hereby, Mortgagee examined the credit-worthiness of the Borrower, found it acceptable and relied and continues to rely upon same as the means of repayment of the loan. Mortgagee also evaluated the background and experience of the Borrowers in owning and operating property such as the Mortgaged Property, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Mortgaged Property which is Mortgagee's security for the loan. Borrowers acknowledge that they are individuals well experienced in borrowing money and owning and operating property such as the Mortgaged Property, were ably represented by a licensed attorney at law in the negotiation and documentation of the loan secured hereby and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loan, including these provisions. Borrowers recognize that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Borrowers. Borrowers further recognize that any secondary or junior financing placed upon the Mortgaged Property (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Mortgaged Property should Mortgagee come into possession thereof with the intention of selling same; and (d) impair Mortgagee's right to accept a deed in lieu of foreclosure.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment by Borrowers and of value of the Mortgaged Property; (ii) giving Mortgagee the full benefit of its bargain and contract with Borrowers; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees; and (iv) keeping the Mortgaged Property free of subordinate financing liens, Borrowers agree that if this paragraph be deemed a restraint on alienation, that it is a reasonable one and that any sale, conveyance, assignment, further encumbrance or other transfer of title to the Mortgaged Property or any interest therein (whether voluntary or by operation of law) or sale, assignment or other transfer of a controlling interest in Capital's Stock or assignment or transfer of a general partnership interest in Beneficiary without the Mortgagee's prior written consent shall be an Event of Default hereunder. For the purpose of, and without limiting the generality of, the preceding sentence, it shall be deemed to be an unpermitted "Prohibited Transfer" of title to the Mortgaged Property and therefore an Event of Default hereunder, giving Mortgagee the right at its election under the provision of this Mortgage, to declare immediately due and payable the entire indebtedness secured hereby, if without Mortgagee's prior written consent.

- (a) any transfer in violation of the preceding sentence is made; or
- (b) Any Borrower shall transfer, convey, alienate, pledge, hypothecate or mortgage the Mortgaged Property or any part thereof; or
- (c) Any Borrower or any other beneficiary of Mortgagor shall transfer, convey, alienate, pledge, hypothecate or alter in any way any interest held in the Mortgagor (whether in the form of a beneficial interest therein or otherwise) or in any entity which holds an interest in the Mortgagor (whether in the form of a beneficial interest therein or otherwise) at the time this Mortgage is executed.

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Any consent by the Mortgagee or any waiver of an Event of Default, under this Section shall not constitute a consent to or waiver of any right, remedy or power of the Mortgagee upon a subsequent Event of Default under this Section.

7.8 Revolving Credit and Future Advances. This Mortgage is given to and shall secure not only existing indebtedness, but also such future advances, whether such advances are obligatory or to be made at the option of Mortgagee, or otherwise, as are made within twenty years from the date hereof, to the same extent as if future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage, and although there may be no indebtedness outstanding at the time any advance is made. The lien of this Mortgage as to third persons without actual notice thereof shall be valid as to all such indebtedness and future advances from the time this Mortgage is filed for record in the office of the Recorder of Deeds or the Registrar of Titles of the county where the real property described therein is located. The total amount of indebtedness that may be so secured may increase or decrease from time to time, but the total unpaid balance so secured at any one time shall not exceed \$5,000,000.00, plus interest thereon, and any disbursements made for the payment of taxes, special assessments, or insurance on the Mortgaged Premises, with interest on such disbursements.

7.9 This document is executed by ~~LaSalle National Bank~~ LaSALLE NATIONAL TRUST, N.A. Successor Trustee to 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 or in the Note shall be construed as creating any liability on ~~LaSalle National Bank~~ LaSalle National Bank, personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by every person now or hereafter claiming any right or security hereunder.

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage the day and year first above written.

LASALLE NATIONAL TRUST, N.A. Successor Trustee to  
LASALLE NATIONAL BANK, as Trustee aforesaid and not personally

By: *Anthony Green*  
Title: ASST VICE PRESIDENT

Attest: *Susan M. Bean*  
Title: ASSISTANT SECRETARY

## DIVERSEY INVESTORS LIMITED PARTNERSHIP

By: Capital and Regional Properties Corporation  
Its: General Partner

By: *Paul G. [Signature]*  
Title: President

Attest: *Paul G. [Signature]*  
Title: SECRETARY

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STATE OF ILLINOIS )

COUNTY OF COOK )

LaSALLE NATIONAL TRUST, N.A. Successor Trustee to

) SS:

ASSISTANT SECRETARY

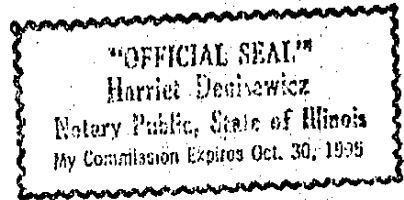
I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Rosemary Collins & SUSAN M. LOGAN, ASST VICE PRESIDENT

LaSalle National Bank, an Illinois trust corporation, personally known to me to be the same persons whose name is subscribed to the foregoing instrument as such respective officers, appeared before me this day in person and acknowledged that they signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said corporation, (on behalf of which said corporation has executed the foregoing), all for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal, this 5th day of March, 1992

Harriet Deniewicz  
Notary Public

My Commission Expires:



STATE OF ILLINOIS )

COUNTY OF COOK )

) SS:

I, Margaret L. Gielczewski, a Notary Public in and for said County in the State aforesaid, do hereby certify that John S. Gates, Jr. and Paul S. Fisher, respectively the President and Secretary of Capital and Regional Properties Corporation, a Delaware corporation, the general partner of Diversey Investors Limited Partnership, an Illinois limited partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they signed and delivered such instrument as their own free and voluntary acts, as the free and voluntary act of said corporation and partnership, all for the uses and purposes set forth therein.

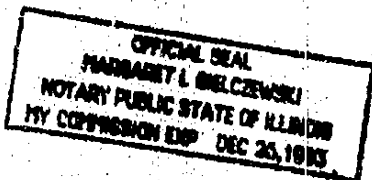
GIVEN under my hand and notarial seal, this 5th day of March, 1992

Margaret L. Gielczewski  
Notary Public

My Commission Expires:

12/26/93

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COOK COUNTY, ILLINOIS  
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## EXHIBIT A

Lots 16 to 27, both inclusive, in Block 1 in Edward F. Kennedy's Resubdivision of the East Half of the Southeast Quarter of Section 28, Township 40 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

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## EXHIBIT B

### PERMITTED EXCEPTIONS

1. General Real Estate Taxes for 1991 (second installment only) and subsequent years, Permanent Tax Index Number 13-28-403-040, Volume 359.
2. Unrecorded easement for water service as shown by Water Service Pipe Plat dated July 28, 1975, in Book Number 136, Page Number 2.

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