

# UNOFFICIAL COPY

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RECORDING

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## LOAN MODIFICATION AGREEMENT

TRAN 3967 10/30/96 14:19:00  
PKP 8-96-828935  
COOK COUNTY RECORDER

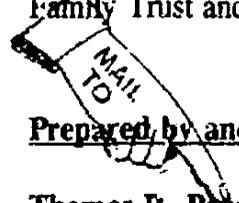
This Loan Modification Agreement (the "Agreement") is made as of this 29th day of October, 1996, by and among Allen L. Ginsberg and David B. Dahl, not individually but as Co-Trustees of the Steven A. Schultz Family Trust I ("Family Trust"), CP Newport Beach Limited Partnership, an Illinois limited partnership ("Partnership"), LaSalle National Trust, N.A., not personally but as Trustee under Trust Agreement dated October 7, 1994 and known as Trust No. 112125 ("Trust"), Steven A. Schultz ("Schultz"), and LaSalle Bank, FSB ("Lender").

4950  
92

### RECITALS:

A. On December 27, 1995, LaSalle Bank, N.I. ("Original Lender") made a mortgage loan to Trust and Partnership in the original principal amount of \$2,660,000 (the "Loan") evidenced by that certain Mortgage Note dated as of December 27, 1995 (the "Note") and secured by, among other things: (i) a Mortgage dated as of December 27, 1995 (the "Clark Mortgage") made by Trust in favor of Original Lender and recorded January 4, 1996 in the Office of the Cook County Recorder of Deeds as Document No. 96009429 encumbering the real property described in Exhibit A attached hereto and made a part hereof (the "Clark Property"); (ii) a Mortgage dated as of December 27, 1995 (the "Addison Mortgage") made by Family Trust and Partnership in favor of Original Lender and recorded January 4, 1996 in the Office of the Recorder of Deeds as Document No. 96009432 encumbering the real property described in Exhibit B attached hereto and made a part hereof (the "Addison Property"); (iii) an Assignment of Rents and Leases ("Clark Assignment of Rents") made by Trust and Schultz to Original Lender dated as of December 27, 1995 and recorded January 4, 1996 as Document No. 96009430 in the Office of the Cook County Recorder of Deeds with respect to the Clark Property; (iv) an Assignment of Rents and Leases ("Addison Assignment of Rents") made by Family Trust and Partnership to Original Lender dated as of December 27, 1995 and recorded

96828935



### Prepared by and return to:

Thomas R. Brashler  
Schwartz & Freeman  
401 N. Michigan Ave.  
Suite 1900  
Chicago, IL 60611

### Common Addresses:

1015-25 W. Addison St.  
3545-3549 N. Clark St.  
3541 N. Clark St.  
Chicago, IL

### PINS:

14-20-403-003  
14-20-403-004  
14-20-403-005  
14-20-403-023  
14-20-403-024

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January 4, 1996 as Document No. 96009433 in the Office of the Cook County Recorder of Deeds with respect to the Addison Property; (vi) a Collateral Assignment of Beneficial Interest in Land Trust dated as of December 27, 1995 (the "Collateral ABI") made by Schultz to Original Lender and endorsed by Trustee under the Trust on January 4, 1996; and (vii) Security Agreement dated as of December 27, 1995 made Trust, Partnership and Family Trust to and for the benefit of Original Lender (the "Security Agreement") (the Note, Clark Mortgage, Addison Mortgage, Collateral ABI, Clark Assignment of Rents, Addison Assignment of Rents, Security Agreement, and all other instruments evidencing or securing the Loan are referred to collectively herein as "Loan Documents").

B. Lender has succeeded to all interests of Original Lender in, to and under the Note and the other Loan Documents.

C. Partnership and Trust (hereinafter jointly referred to as "Borrower") have asked Lender to increase the amount of the Loan by disbursing additional principal in the amount of \$296,112, and Lender has agreed to do so as an additional advance under the Clark Mortgage and the Addison Mortgage, on the terms and conditions set forth in this Agreement.

D. All recorded instruments modified by this Agreement are described in Exhibit C attached hereto and made a part hereof, and all capitalized terms not defined in this Agreement shall have the same meanings as set forth in the Loan Documents.

## AGREEMENTS:

NOW THEREFORE, in consideration of the covenants, promises and recitals set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Adoption of Recitals. The parties acknowledge that the Recitals are true and correct and are incorporated into this Agreement as though fully set forth herein.

2. Acknowledgements.

a. Partnership, Trust, and Schultz jointly and severally acknowledge and confirm to Lender that the outstanding principal balance of the Loan as of the date hereof is \$2,633,888.

b. Partnership, Trust and Schultz jointly and severally acknowledge and confirm to Lender that: (i) all sums due Lender under the Note, as stated above, are due and payable without any defense or right of setoff or reduction by Borrower existing as of the date hereof; (ii) that the security interests and liens granted under the Loan Documents and other related security documents are valid, binding and enforceable in accordance with their terms; and (iii) that Original Lender has fully performed all of its obligations which were required to be performed prior to the date hereof with respect to the Loan.

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c. Partnership, Family Trust, Trust and Schultz hereby affirm and restate all representations, warranties and covenants made respectively by them under the Loan Documents.

3. Modification of Loan Documents. As of the Effective Date, the Loan Documents are modified as follows:

a. Restated Note. The Amended and Restated Mortgage Note in the form attached hereto as Exhibit D ("Restated Note") is hereby substituted as and for the Note. The principal amount of the Restated Note reflects an additional advance of \$296,112 by Lender, which amount shall be disbursed on the Effective Date.

b. Loan Documents. All Loan Documents are hereby amended to conform to the terms of the Restated Note, and all references therein to the Note are hereby amended to refer to the Restated Note.

Except as specifically set forth in this Agreement or in the Restated Note, the terms of the Loan Documents shall remain unamended and in full force and effect.

4. Conditions. Lender's agreement to modify the Loan Documents in accordance with the terms hereof shall be conditioned upon satisfaction of the following on or before the Effective Date:

a. Delivery to Lender of the Restated Note, properly executed by Trust and Partnership.

b. Lender's receipt and approval of a date-down endorsement to Lender's existing title insurance policy insuring the Clark Mortgage and Addison Mortgage (as modified hereby) as a first lien on the Clark Property and Addison Property respectively, subject only to the title exceptions contained in the policy and such additional exceptions as Lender may approve and increasing the policy amount to \$2,930,000;

c. a current ALTA owner's affidavit, rent roll, and such other documents as the title insurer may reasonably require;

d. the absence of any default or Event of Default, or an occurrence which with the passage of time would constitute a default or Event of Default, under any of the Loan Documents as of the Effective Date;

e. Lender's receipt and approval of certified borrowing resolutions of Partnership and the general partner of Partnership authorizing Partnership's execution and delivery of this Agreement, a certified copy of Partnership's Certificate of Limited Partnership, and an incumbency certificate and good standing certificate for the general partner of Partnership;

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f. Delivery to Lender of a certified copy of Trust's trust agreement, certified copy of Schultz's direction to Trust to execute this Agreement and the Restated Note, and certified copy of the Family Trust trust agreement;

g. Payment by Borrower to Lender of a loan fee in the amount of \$3,000, together with all costs and other fees incurred by Lender in connection herewith, including the fees and expenses of Lender's attorneys;

h. Lender's receipt and approval of an attorney's opinion letter from the attorney for Schultz, Partnership and Family Trust with respect to the enforceability of the Loan Documents as modified by this Agreement and the Restated Note, and such other matters reasonably required by Lender;

i. Delivery of UCC, tax lien, judgment and pending litigation searches with respect to Trust, Partnership, Schultz and Family Trust;

j. Delivery of certificates of property and casualty insurance relating to the Property in form and content acceptable to Lender; and

k. Lender's receipt and approval of such additional documents, and Borrower's satisfaction of such additional requirements, as Lender may reasonably require.

Lender in its discretion may elect to waive any of the foregoing conditions.

5. **Effective Date.** The Effective Date for purposes of this Agreement shall be the date on which this Agreement is recorded.

6. **Waiver and Release of Claims and Defenses.** Trust, Partnership, Family Trust and Schultz (the "Releasing Parties") hereby waive, discharge and forever release Original Lender, Lender and their respective employees, officers, directors, attorneys, stockholders, successors and assigns (the "Released Parties") from and of any and all claims, causes of action, allegations or assertions that any one or more of the Releasing Parties has, had, or may have had at any time up through and including the Effective Date against any or all of the Released Parties relating to the Loan, the Loan Documents or Lender's or Original Lender's actions or omissions in connection therewith, regardless of when any of such claims, defenses, causes of action, allegations or assertions arose.

7. **Continuing Performance.** Trust, Partnership, Family Trust, and Schultz hereby affirm and restate all respective representations and warranties made by them and agree to continue performance of all respective covenants made by them under the Loan Documents. Nothing in this Agreement shall in any manner impair the indebtedness payable under the Note or Restated Note, or any of the other Loan Documents (as modified hereby) or the liens and security interests created under the Loan Documents, and nothing herein shall alter, waive, modify or affect any promise, agreement, covenant or condition recited in any of the Loan

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Documents (except as specifically set forth herein) or affect or impair any rights, powers or remedies of Lender under the Loan Documents. Except as specifically set forth herein, all other terms and conditions of the Loan Documents shall remain unmodified and in full force and effect. The instruments listed on Exhibit C to this Agreement, and all additional Loan Documents evidencing or securing repayment of the Loan evidenced by the Note and the Restated Note, are hereby modified to the extent necessary to conform to the modifications set forth herein.

8. **Guarantor Consent.** This Agreement is expressly subject to and conditioned upon execution and delivery by the Steven A. Schultz of his consent to the modifications set forth herein, in the form set forth in the attached Guarantor Consent.

9. **Land Trustee Exculpation.** This Agreement is executed by LaSalle National Trust, N.A., not personally but solely as land trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as land trustee (and such trustee hereby warrants in its individual capacity that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on such land trustee personally to perform any covenant, either express or implied herein contained, except the warranty contained in this exculpatory paragraph, all such liability, if any, being expressly waived by Schultz, Lender and by every person now or hereafter claiming any right or security hereunder; provided that nothing herein contained shall be construed in any way so as to affect or impair the lien of the aforementioned mortgage or Lender's right to foreclose same, or construed in any way so as to limit any of the rights and remedies of Lender in any such foreclosure proceedings or other enforcement of the Loan Documents as modified hereby.

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IN WITNESS WHEREOF, the parties have executed this Loan Modification Agreement as of the date first above written.

LENDER:

LASALLE BANK FSB

TRUST:

LASALLE NATIONAL TRUST, N.A., as Trustee under Trust Agreement dated October 7, 1994 and known as Trust No. 119125

By: \_\_\_\_\_  
Its: \_\_\_\_\_

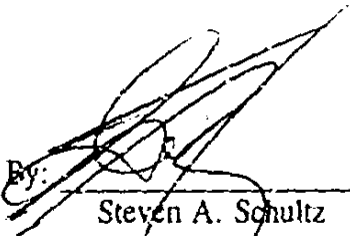
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest: \_\_\_\_\_  
Its: \_\_\_\_\_

PARTNERSHIP:


CP NEWPORT BEACH LIMITED PARTNERSHIP, by its general partner

Central Park California, Inc.  
an Illinois Corporation

By:   
Steven A. Schultz

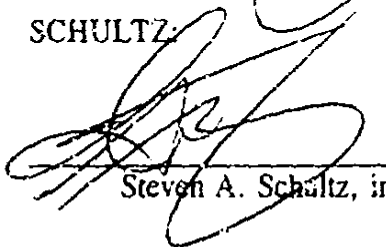
FAMILY TRUST:

STEVEN A. SCHULTZ FAMILY TRUST I

By:   
Allen L. Ginsberg, Co-Trustee

By:   
David B. Dahl, Co-Trustee

SCHULTZ:

  
Steven A. Schultz, individually

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IN WITNESS WHEREOF, the parties have executed this Loan Modification Agreement as of the date first above written.

LENDER:

TRUST:

LASALLE BANK FSB

LASALLE NATIONAL TRUST, N.A., as Trustee under Trust Agreement dated October 7, 1994 and known as Trust No. 119125

By: [Signature]  
Its: Real Estate Officer

By: [Signature]  
Its: \_\_\_\_\_

Attest: [Signature]  
Its: \_\_\_\_\_

PARTNERSHIP:

FAMILY TRUST:

CP NEWPORT BEACH LIMITED PARTNERSHIP, by its general partner

STEVEN A. SCHULTZ FAMILY TRUST I

Central Park California, Inc.  
an Illinois Corporation

By: [Signature]  
Allen L. Ginsberg, Co-Trustee

By: [Signature]  
Steven A. Schultz

By: [Signature]  
David B. Dahl, Co-Trustee

SCHULTZ:

[Signature]  
Steven A. Schultz, individually

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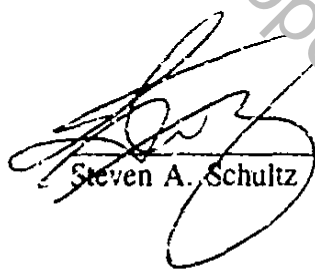
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## GUARANTOR CONSENT

The undersigned Guarantor hereby (i) consents to the modifications of the Loan Documents as set forth in the foregoing Loan Modification Agreement, including but not limited to the increase in the principal amount of the Loan to \$2,930,000, (ii) waives all claims, defenses and rights of setoff, if any, arising in connection with such modifications, and (iii) restates and affirms for the benefit of Lender all of covenants and agreements under the Guaranty of the Loan executed and delivered by him dated as of December 27, 1995.

Dated as of October 25, 1996

  
\_\_\_\_\_  
Steven A. Schultz

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STATE OF ILLINOIS     )  
                                          ) SS.  
COUNTY OF COOK     )

I, Ruth A. Yunker, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Rosemary Collins and Nancy A. Stack the Assistant Vice President and Assistant Secretary respectively, of **LaSalle National Trust, N.A.**, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice Pres. and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Company, as Trustees as aforesaid, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that he, as custodian of the corporate seal of said Company, did affix the corporate seal of said Company to said instrument as his own free and voluntary act and as the free and voluntary act of said Company, as Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 29th day of October, 1996.



Ruth A. Yunker  
Notary Public

My Commission Expires:

\_\_\_\_\_, 19\_\_\_\_

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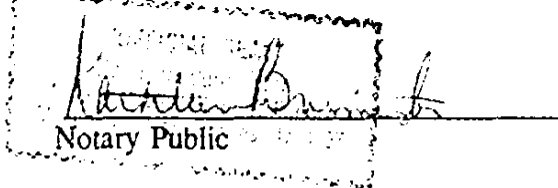
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STATE OF ILLINOIS     )  
                                          ) SS.  
COUNTY OF COOK     )

I, Kathleen Burmeister Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Steven A. Schultz, as President of Central Park California, Inc., an Illinois corporation, the sole general partner of CP Newport Beach Limited Partnership, personally known to me to be the same person whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument and executed same as his free and voluntary act in said capacity, and as the free and voluntary act of such corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25<sup>th</sup> day of October, 1996.

  
Notary Public

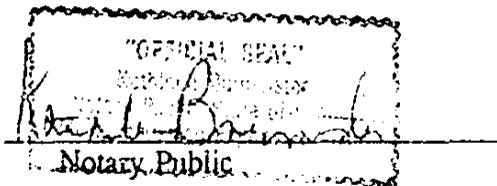
My Commission expires:

\_\_\_\_\_, 19\_\_

STATE OF ILLINOIS     )  
                                          ) SS.  
COUNTY OF COOK     )

I, Kathleen Burmeister, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Steven A. Schultz, personally known to me to be the same person whose name is subscribed to the foregoing Guarantor Consent appeared before me this day in person and acknowledged that he signed and delivered the said instrument and executed same as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 25<sup>th</sup> day of October, 1996.

  
Notary Public

My Commission Expires:

\_\_\_\_\_

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STATE OF ILLINOIS )  
 )ss  
COUNTY OF COOK )

I, Suzanne L. Simoneit, a Notary Public in and for said County, in the State of aforesaid, do hereby certify that Allen L. Ginsberg, as co-trustee of the Steven A. Schultz Family Trust I, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 25<sup>th</sup> day of October, 1996.

Suzanne L. Simoneit  
NOTARY PUBLIC  
"OFFICIAL SEAL"  
Suzanne L. Simoneit  
Notary Public, State of Illinois  
My Commission Expires 06/30/99

STATE OF ILLINOIS )  
 )ss  
COUNTY OF COOK )

I, Abraham Gutwaks, a Notary Public in and for said County, in the State of aforesaid, do hereby certify that David B. Dahl, as co-trustee of the Steven A. Schultz Family Trust I, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 25<sup>th</sup> day of October, 1996.

"OFFICIAL SEAL"  
ABRAHAM GUTWAKS  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 12/27/97

Abraham Gutwaks  
NOTARY PUBLIC

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STATE OF ILLINOIS )

)SS.

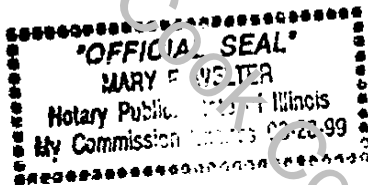
COUNTY OF COOK )

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I, *the undersigned*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that *John G. Arnold, Com. P.K. Officer* of LaSalle Bank FSB, personally known to me to be the same person who name is subscribed to the within instrument, appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument and executed same as his/her free and voluntary act in said capacity, and as the free and voluntary act of such Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this *29<sup>th</sup>* of October, 1996.

*Mary F. Walter*  
\_\_\_\_\_  
Notary Public



My Commission Expires:

*8/28/99*

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## EXHIBIT A

### CLARK PROPERTY LEGAL DESCRIPTION

LOTS 3, 4 AND 5 AND NORTH 1/2 OF LOT 6 IN BLOCK 1 IN WEAGE AND HYDE'S SUBDIVISION ON BLOCK 1 OF ASSESSOR'S SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 14, LYING EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

AND

THE SOUTH 1/2 OF LOT 6 AND ALL OF LOT 7 IN WEAGE AND HYDE'S SUBDIVISION OF LOT 1 IN ASSESSOR'S DIVISION OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Common Addresses:

445-3549 N. Clark St.  
441 N. Clark St.  
Chicago, IL

PINS:

14-20-403-003  
14-20-403-004  
14-20-403-005

14-20-403-005

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## EXHIBIT B

### ADDISON PROPERTY LEGAL DESCRIPTION

Lots 26 and 27 in Weage and Hyde's Subdivision of Lot 1 in Assessor's Division of the Northwest 1/4 of the Southeast 1/4 of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

and

Lots 28, 29 and the East 23 feet of Lot 30 in Weage and Hyde's Subdivision of Lot 1 in the North 1/2 of the West 1/2 of the Southeast 1/4 of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Index Numbers: 14-20-403-023-0000  
14-20-403-024-0000

Property Address: 1015-1025 West Addison Street, Chicago, Illinois

100200000

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## EXHIBIT C

### RECORDED LOAN DOCUMENTS

1. A Mortgage dated as of December 27, 1995 made by Trust in favor of Original Lender and recorded January 4, 1996 in the Office of the Cook County Recorder of deeds as Document no. 96009429;
2. A Mortgage dated as of December 27, 1995 made by Family Trust and Partnership in favor of Original Lender and recorded January 4, 1996 in the Office of the Recorder of Deeds as Document No. 96009432;
3. An Assignment of Rents and Leases made by Trust and schultz to Original Lender dated as of December 27, 1995 and recorded January 4, 1996 as Document No. 96009430 in the Office of the Cook County Recorder of Deeds;
4. An Assignment of Rents and Leases made by Family Trust and Partnership to Original Lender dated as of December 27, 1995 and recorded January 4, 1996 as Document No. 96009433 in the Office of the Cook County Recorder of Deeds.

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