

96932914

THIRD AMENDMENT TO
MORTGAGE AND SECURITY AGREEMENT

727 11/1/95

This Third Amendment to Mortgage and Security Agreement (this "Third Amendment"), is made as of November 1, 1995, by Wacker/Randolph Investment Company, an Illinois limited partnership having its principal place of business at 150 North Wacker Drive, Chicago, Illinois (hereinafter referred to as "Mortgagor"), in favor of Connecticut General Life Insurance Company, a Connecticut corporation having its principal place of business at 900 Cottage Grove Road, Bloomfield, Connecticut 06002 (hereinafter referred to as "Mortgagee").

RECITALS:

- 3906
- A. Mortgagor is the owner of the real property and improvements commonly known as 150 North Wacker Drive, Chicago, Cook County, Illinois, which real property and improvements are legally described on Exhibit A attached hereto and made a part hereof (the "Property").
- B. Mortgagor has executed and delivered to Mortgagee that certain Amended and Restated Promissory Note, dated as of March 1, 1992, and made payable to the order of the Mortgagee in the original principal amount of \$26,853,826.00, as amended by that First Amendment to Amended and Restated Promissory Note, dated as of January 1, 1995 and by a certain Loan Modification and Settlement Agreement (the "Modification Agreement") of even date herewith (collectively, the "Note"), which

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Restated Note was delivered by Mortgagor as a replacement and substitute for that certain Promissory Note, dated April 11, 1990, made payable to the order of Mortgagor in the original principal amount of \$27,500,000.00. The current principal amount outstanding on the Note is \$26,902,387.00.

- C. Mortgagor has executed and delivered to Mortgagee that certain Mortgage and Security Agreement, dated as of April 17, 1990, and recorded in the Office of the Cook County Recorder of Deeds (the "Recorder's Office") on April 17, 1990 as Document No. 90172721, that certain First Amendment to Mortgage and Security Agreement, dated as of March 1, 1992, and recorded in the Recorder's Office on July 2, 1993 as Document 93512006, and that certain Second Amendment to Mortgage and Security Agreement, dated as of January 1, 1995, and recorded in the Recorder's Office on March 14, 1995 as Document 95171298 (together, the "Mortgage"), pursuant to which Mortgagor granted and conveyed to Mortgagee a first mortgage lien upon and security interest in the Property.
- D. Mortgagor and Mortgagee are parties to the Modification Agreement pursuant to which Mortgagor and Mortgagee amended and modified certain of the terms and conditions of the Note, and the other Loan Documents (as defined in the Modification Agreement). All capitalized terms used herein which are not otherwise defined herein shall have

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the same meanings herein as ascribed to such terms in the Modification Agreement.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are true and correct and are incorporated herein by reference.

2. Mortgagor and Mortgagee acknowledge and agree that (a) the principal balance of the Note outstanding as of January 1, 1995 is \$26,902,387.00; and (b) that the maturity date of the Note has been extended by agreement of the parties until January 10, 2011.

3. No Offsets. Section 37 of the Mortgage is hereby amended by adding the following clause at the end of Section 37 with references to "the date hereof" being references to the date of this Third Amendment: "Mortgagor acknowledges and agrees that as of the date hereof, it has no defenses or offsets (and does not currently have any basis therefor) to its obligations under the Note, this Mortgage or any of the other Loan Documents, nor does Mortgagor, as of the date hereof, have any claims or counterclaims against Mortgagee (and does not currently have any basis therefor) relating to or arising out of the Note, this Mortgage or any of the other Loan Documents or the administration of the Indebtedness by Lender; Mortgagor specifically and irrevocably waives any

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and all rights Mortgagor now has to offset any amount due Mortgagee under the terms of the Note, this Mortgage or any of the other Loan Documents to satisfy any claims Mortgagor currently has against Mortgagee. Mortgagor represents and warrants that, as of the date hereof, it has no knowledge of any fact or circumstance which, with notice, the passage of time or otherwise would provide Mortgagor with any defense or offset to its obligations under the Note, this Mortgage or any of the other Loan Documents."

4. Mortgage Secures Amended Note. Mortgagor and Mortgagee acknowledge and agree that any and all references in the Mortgage to the Note or any of the other Loan Documents shall be deemed to be references to the Note or such other Loan Documents, as the same were amended and modified pursuant to the Modification Agreement. In furtherance thereof, the Mortgage and the other Loan Documents shall secure all obligations of Borrower under the Note as modified by the Modification Agreement.

5. References to Mortgage. All references in the Mortgage to the Mortgage shall be deemed to mean and include the Mortgage as supplemented, amended, modified and restated hereby.

6. Not a Novation. Mortgagor expressly agrees and understands that this Third Amendment shall not be construed as a novation of the Mortgage.

7. Ratification of Mortgage. Except as and to the extent supplemented, amended, modified and restated by this

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Third Amendment, the Mortgage and all of the terms, conditions and provisions thereof and all representations, warranties and covenants of Mortgagor therein made shall, in all respects, remain unmodified and unchanged and are hereby reaffirmed, ratified, remade and confirmed, and shall remain in full force and effect.

8. Successors and Assigns. This Third Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

9. Counterparts. This Third Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

10. Captions. The captions and headings used in this Third Amendment are for the convenience of reference only and shall not affect the meaning or interpretation of the provisions of the Third Amendment.

[SIGNATURES APPEAR ON PAGE 6]

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11/15/2011

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IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be duly executed and delivered, pursuant to proper authority duly granted, as of the date first above written.

MORTGAGOR:

WACKER/RANDOLPH INVESTMENT COMPANY
an Illinois limited partnership

By: Tomasz/Shidler Investment
Corporation

By: Michael T. Tomasz
Michael T. Tomasz
President

MORTGAGEE:

Connecticut General Life Insurance
Company, a Connecticut corporation

By: Cigna Investments, Inc.

By: _____
Title: _____

This instrument prepared by,
and after recording should be
returned to:

Donald S. Horvath, Esq.
JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611

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IN WITNESS WHEREOF, the parties hereto have caused this Third Amendment to be duly executed and delivered, pursuant to proper authority duly granted, as of the date first above written.

MORTGAGOR:

WACKER/RANDOLPH INVESTMENT COMPANY
an Illinois limited partnership

By: Tomasz/Shidler Investment
Corporation

By: _____
Michael T. Tomasz
President

MORTGAGEE:

Connecticut General Life Insurance
Company, a Connecticut corporation

By: Cigna Investments, Inc.

By: _____
Title: _____
Managing Director

This instrument prepared by,
and after recording should be
returned to:

Donald S. Horvath, Esq.
JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611

CONFIDENTIAL

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STATE OF Connecticut)
COUNTY OF Hartford) SS.

I, SUSAN M GINSBERG, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John W. [unclear], the Attorney in Charge of Cigna Investments, Inc., the authorized agent of CONNECTICUT GENERAL LIFE INSURANCE COMPANY, a Connecticut corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such John W. [unclear] appeared before me this day in person and acknowledged he/she signed and delivered and attested the same instrument as his/her free and voluntary act as such [unclear], and as the free and voluntary act of Connecticut General Life Insurance Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30 day of November, 1996.

[Signature]
Notary Public

SUSAN M GINSBERG
NOTARY PUBLIC
MY COMMISSION EXPIRES SEPT. 30, 1997

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EXHIBIT A

Legal Description . DEPT-01 RECORDING \$39.00
: T#0012 TRAN 3330 12/10/96 11:34:00
: #6558 + CG *-96-932914
: COOK COUNTY RECORDER

Parcel 1:

The South ½ of Wharfing Lots 29, 30 and 31 (except that portion of said Lot 29 condemned and taken for widening North Market Street) as laid out by plat by Asa F. Bradley dated February 11, 1848 and recorded February 11, 1848, in Book 29 of Maps, Page 1, in the original Town of Chicago, Section 9, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

The South ½ of the North ½ of Wharfing Lots 29, 30 and 31 (except that portion of said Lot 29 condemned and taken for widening North Market Street) as laid out by plat by Asa F. Bradley dated February 11, 1848 and recorded February 11, 1848, in Book 29 of Maps, Page 1 in the original Town of Chicago, Section 9, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Address: 150 North Wacker Drive
Chicago, Illinois

PIN: 17-09-427-003-0000
17-09-427-004-0000

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