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INDENTURE OF MORTGAGE
AND DEED OF TRUST

FROM

SEVENTH DUNKIN' DONUTS
REALTY, INC.

TO

SHAWMUT BANK, N.A.

and

MAX GOLDSMITH

as Trustees

Dated as of October 26, 1988

THIS IS A SECURITY AGREEMENT OR
MORTGAGE OF CHATTELS AS WELL AS A MORTGAGE
OF REAL PROPERTY

This Instrument Was Prepared By:

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INDENTURE OF MORTGAGE AND DEED OF TRUST dated as of October 26, 1988 from SEVENTH DUNKIN' DONUTS REALTY, INC., a Delaware corporation (the "Company") having an address at 14 Pacella Park Drive, Randolph, Norfolk County, Massachusetts 02368 to SHAWMUT BANK, N.A., a national banking association (hereinafter in its capacity as Trustee, together with each successor as such trustee hereunder, the "Trustee"), and MAX GOLDSMITH (herein in his capacity as Individual Trustee, together with each successor as such trustee hereunder, the "Individual Trustee"), each having an address at One Federal Street, Boston, Massachusetts 02211.

PRELIMINARY STATEMENT

The defined terms used in this Indenture and not hereinabove defined have the meanings indicated in Article I hereof.

The Company deems it necessary to borrow money not in excess of \$20,000,000 for its proper corporate purposes, to issue the 9.45% Notes as evidence of such indebtedness and to Grant every interest it may have in the property described in the Granting Clauses of this Indenture as security for the payment of the 9.45% Notes.

The Allocable Portion of the Notes originally attributable to each Property is set forth on Schedule A hereto.

The Company is duly authorized under all applicable provisions of law, its Certificate of Incorporation and By-Laws to issue the 9.45% Notes, to execute and deliver this Indenture and to Grant every interest it may have in the property described in the Granting Clauses of this Indenture to the Trustees; and all necessary action and all consents, approvals and other authorizations or filings with, of or by courts, administrative agencies or other governmental authorities required therefor have been duly taken or obtained.

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Company, in consideration of the premises, the acceptance by the Trustees of the trusts hereunder, and of other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest and any other sums payable on, the Notes, according to their tenor and effect, and to declare the provisions upon and subject to which the Notes are to be issued and secured, has executed and delivered this Indenture, and has Granted and by this Indenture does Grant

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unto the Trustees (in the case of the Trustee, only to the extent of its legal qualification and capacity under the laws of any particular jurisdiction to receive and hold property therein for the purposes hereof), and to their successors in the trusts hereunder and assigns forever, all of the Company's estate, right, title, interest, claim and demand in, to or under any of the following (including, without limitation, any and all rights of the Company thereunder or with respect thereto to make claim for, collect, receive and receipt for any and all rents, income, revenues, issues, profits, insurance proceeds, condemnation awards and other moneys payable or receivable thereunder or with respect thereto, to bring Proceedings thereunder or for the specific or other enforcement thereof or with respect thereto, in the name of the Company or otherwise, and to do any and all things which the Company is or may be or become entitled to do thereunder or with respect thereto; provided that no obligation of the Company under the provisions thereof or with respect thereto shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon the Trustees):

GRANTING CLAUSE FIRST

The Properties

The Properties, consisting of the parcels of land described under separate property numbers on Schedule A hereto, in which the Company has a fee estate together with (a) all the estate, right, title and interest of the Company in and to all buildings, structures and other improvements now standing, or at any time hereafter constructed or placed thereon, including, without limitation, all right, title and interest of the Company in and to all building equipment and building fixtures of every kind and nature on the Properties or in any such building, structure or other improvement and the reversions and remainders in and to the Properties, but excluding however, any Equipment which may from time to time be located or placed on or within the land parcels and such buildings, structures and other improvements, (b) all the estate, right, title and interest of the Company in and to all and singular the tenements, hereditaments, easements, rights of way, rights, privileges and appurtenances to the Properties, belonging or in any way appertaining thereto, including, without limitation, all the estate, right, title and interest of the Company in, to and under any streets, ways, alleys, vaults, gores or strips of land adjoining the Properties, and (c) all claims or demands of the Company, in law or in equity, in possession or expectancy of, in and to the Properties; it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove

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described, which is now owned or is hereafter acquired by the Company and is affixed, attached or annexed to the Properties (other than Equipment) shall be and remain or become and constitute a portion of the Properties and the security covered by and subject to the lien of this Indenture; and together with all rents, income, revenues, issues and profits thereof, all of which are hereby specifically assigned, transferred and set over to the Trustees, and the present and continuing right to make claim for, collect, receive and receipt for the same, and all proceeds of the conversion, voluntary or involuntary of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards, provided that until an Event of Default hereunder shall occur and be continuing, the Company may continue to collect and appropriate such rents, income, revenues, issues, profits, claims and awards.

GRANTING CLAUSE SECOND

Other And After-Acquired Property

Any and all moneys and other property (including each amendment or supplement to any and all instruments included in the Trust Estate) which may from time to time, by delivery to the Trustees or by any instrument, be subjected to the lien hereof by the Company or by anyone on the behalf or with the consent of the Company, or which may come into the possession or be subject to the control of the Trustees pursuant to this Indenture or pursuant to any instrument included in the Trust Estate, it being the intention of the Company and the Trustees and it being hereby agreed by them that all property hereafter acquired by the Company and required to be subjected to the lien of this Indenture or intended so to be shall forthwith upon the acquisition thereof by the Company be as fully embraced within the lien of this Indenture as if such property were now owned by the Company and were specifically described in this Indenture and Granted hereby or pursuant hereto; and the Trustees are hereby authorized to receive any and all such property as and for additional security for the payment of the Notes and all other sums secured or intended to be secured hereby.

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or held or hereafter acquired, unto the Trustees, their successors in the trusts hereunder and assigns, forever;

SUBJECT, HOWEVER, to the exceptions and reservations and matters herein recited and to Permitted Encumbrances;

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IN TRUST, NEVERTHELESS, with power of sale, for the equal and ratable benefit and security of the Notes, without preference, priority or distinction of any thereof over any other by reason of difference in time of issuance or otherwise, and for the enforcement of the payment of the principal of, premium, if any, and interest on the Notes in accordance with their respective terms, and all other sums payable under this Indenture, or on the Notes, and compliance with the provisions of the Indenture, all as herein provided.

IT IS HEREBY COVENANTED, DECLARED AND AGREED that the Notes are to be issued and secured, and that the Trust Estate is to be held, dealt with and disposed of by the Trustees, upon and subject to the provisions of this Indenture.

ARTICLE I

DEFINED TERMS

When used in this Indenture, each term defined in this Article I shall have the meanings indicated:

"Additional Improvements" means additions or improvements to, or alterations of, the buildings or improvements now or hereafter constructed on a Property, but not including Equipment and maintenance and repair of the character described in Section 3.13 hereof. The demolition of an existing building or improvement and the construction of another building or improvement in place thereof shall be deemed the making of an Additional Improvement.

"Affiliated Person" of another person means (i) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (ii) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (iii) any person directly or indirectly controlling, controlled by, or under common control with, such other person; (iv) any officer, director, partner, co-partner, or employee of such other person.

"Allocable Portion of the Notes" with respect to a Property means the aggregate unpaid principal amount of the Notes outstanding with respect to such Property and shall equal at any time the product of (i) the aggregate principal amount of 9.45% Notes outstanding at the time of determination, times (ii) a fraction, the numerator of which is the Cost of the Property for which the determination is being made and the denominator of which is the aggregate Cost of all Properties.

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"Appraisal Procedure" means a procedure whereby the Company and the Trustee each appoints an appraiser and if the appraisers so appointed are unable to agree upon the value they are requested to determine, such value shall be determined by a third appraiser to be selected by such appraisers and, in the event such appraisers are unable to agree on a third appraiser, such third appraiser shall be appointed by the American Arbitration Association. The Company shall bear the costs of such appraisal.

"Appraised Value" of any Property means the combined total of the fair market value of the land and the replacement cost of any buildings or improvements situated on such land as such value has been established by a written appraisal prepared within 60 days by an appraiser reasonably satisfactory to the holders of the Notes.

"Board of Directors" means either the Board of Directors of the corporation referred to or any committee of such Board of Directors, however designated, authorized to exercise the powers of such Board of Directors in respect of the matters in question.

"Book Value" of a Property means the amount appearing as the value of such Property on the Company's balance sheet, and shall equal the capitalized cost of such Property less all reserves with respect thereto for depreciation, as determined in accordance with generally accepted accounting principles.

"business day" means any day other than a Saturday, a Sunday or any other day on which banking institutions in Boston are authorized by law to suspend operations.

"Certified Resolution" means a copy of a resolution certified, by the Secretary, an Assistant Secretary, the Clerk or an Assistant Clerk of the corporation referred to, under the corporate seal thereof, to have been duly adopted by the Board of Directors of such corporation and to be in full force and effect on the date of such certification.

"Closing Date" means the date of closing for the issuance and sale of the 9.45% Notes, as defined in the Note Purchase Agreement.

"Company" has the meaning specified in the first paragraph of this Indenture.

"control" means, with respect to any person, the possession of the power to direct or cause the direction of the management or policies of such person, whether through the

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ownership of voting securities or by contract or otherwise.

"Cost of Additional Improvements or New Buildings" on a Property has the meaning specified in paragraph 1 of Exhibit J to the Note Purchase Agreement.

"Corporate Trust Office" means the office of the Trustee where its corporate trust department is at the time located, which office is, on the date of delivery of this Indenture, located at One Federal Street, Boston, Massachusetts 02210.

"Cost of a Property" means the cost of that Property shown on the certificate of DDI delivered to the Trustees at the Closing pursuant to Section 6.8 of the Note Purchase Agreement.

"counsel" means any legal counsel satisfactory to the Trustee, who may be of counsel to the Trustee, or of counsel to, or employed in the law department of, the Company or an Affiliated Person thereof.

"DDI" means Dunkin' Donuts Incorporated, a Delaware corporation, together with any corporation succeeding thereto by merger, consolidation or acquisition of all or substantially all of its assets.

"Debt", with respect to any person, means (i) all indebtedness for borrowed money (determined in accordance with generally accepted accounting principles) which is created, guaranteed or assumed by or on behalf of such person, directly or indirectly, or upon which it customarily pays interest charges; (ii) all liabilities (including contingent liabilities) of such person to discharge directly or indirectly indebtedness for borrowed money (determined in accordance with generally accepted accounting principles) of other persons; (iii) all indebtedness for borrowed money secured by liens, encumbrances or charges upon the property of such person, even though not assumed by such person and (iv) all guaranties of the foregoing.

"Default" under this Indenture means any act or occurrence which, with notice or lapse of time, or both, would constitute an Event of Default under this Indenture.

"Donut Shop" means a retail store and restaurant operated by an Affiliated Person of DDI, or a franchisee of DDI, for the preparation and sale of donuts, baked goods, coffee, soups, sandwich items, other nonalcoholic beverages and other foods and beverages generally required or permitted to be offered for sale in Donut Shops operated or franchised by DDI.

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"Equipment" means the equipment, signs and other components included in the Dunkin' Donuts Equipment Package as set forth in Exhibit I attached to the Note Purchase Agreement, and any other items including freezer equipment which may from time to time be added or otherwise included in the Dunkin' Donuts Equipment Package as standard items required or permitted in Donut Shops franchised by DDI.

"Event of Default" under this indenture means any occurrence or act of the character specified in Section 7.01 hereof.

"Exchange Provision" means Section 2.05 (a), 2.05(b), 2.05(c) or 9.01 hereof.

"Executive Officer" means, with respect to any corporation, the Chairman of the Board, the Vice Chairman of the Board, the President, the Chairman of the Executive Committee, any Vice President, the Controller, the Secretary, the Treasurer, any Assistant Secretary, any Assistant Treasurer, the Clerk, or any Assistant Clerk of such Corporation.

"Fair Market Value" of any Property means the amount a willing and independent buyer would pay to a willing and independent seller (neither party being forced to buy or sell) if such Property were being used for its highest and best use. If the Company and the Trustee are unable to agree on the Fair Market Value of the Property or any portion thereof such Fair Market Value shall be determined by the Appraisal Procedure.

"Full Insurable Value" means actual replacement cost less physical depreciation. "Full Insurable Value" shall include, the costs of debris removal, but shall not include the costs of soil tests, trenches, foundations and other improvements below ground which are not ordinarily insurable.

"Grant" means grant, bargain, sell, give, warrant, alien, remise, release, convey, assign, transfer, mortgage, pledge, deposit, set over, confirm and create a security interest under the Uniform Commercial Code.

"Guaranty" means the Guaranty and Agreement of even date herewith from DDI to the Trustees, guarantying payment and performance by the Company of its obligations under the Notes, this Indenture, and the Note Purchase Agreement, as the same may be amended or supplemented from time to time as required or permitted thereby, by the Note Purchase Agreement or hereby.

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"holder", when used with respect to any Note, means a person whose name appears on the Register as the registered owner of such Note, provided that until such Note has been registered in the Register the holder thereof shall be deemed to be the person in whose name such Note has been issued.

"Impositions" means all taxes (including, without limitation, income, franchise, general excise and receipts taxes but excluding any taxes so levied or assessed which are based on the net income or profits of any holder of any Note), assessments (including without limitation, all assessments for public improvements or benefits, whether or not commenced or completed within the term hereof), ground rents or communications, water, sewer or other rents, rates and charges, excises, levies, license fees, permit fees, inspection fees and other authorization fees and charges, and other governmental and similar charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character (including all interest and penalties thereon), which at any time during or in respect of the term hereof may be assessed, levied, confirmed or imposed on or in respect of or be a lien upon the Company, or the Trust Estate or any portion thereof, any other property of the Company or any income therefrom, or the interest of the Trustees in any thereof.

"Indenture" means this instrument as originally executed or as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental hereto entered into pursuant to the applicable provisions hereof.

"Individual Trustee" has the meaning specified in the first paragraph of this Indenture.

"Insurance Requirements" means all of the terms of any insurance policy covering or applicable to all or any part of a Property, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to or affecting all or any part of the Property, or the use or condition thereof.

"Lease of a Dunkin' Donuts Shop" means a lease of any of the Properties or a portion thereof from the Company, DDI or an Affiliated Person of DDI to a Lessee which is made under the Form of Lease of Dunkin' Donuts Shop DDSL/R/07/82 attached to the Note Purchase Agreement as Exhibit G, or on any other form, which may have predated such form of lease or may in the future be adopted by DDI, so long as such alternative form has provisions for subordination and possession and quiet enjoyment similar to those in the Form of Lease of Dunkin' Donuts Shop

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DDSL/R/07/82, and further provided that a copy of such alternative form shall have been filed with the Trustee by the Company accompanied by an opinion of counsel in form and substance satisfactory to the Trustee to the effect that (A) the provisions for subordination and possession and quiet enjoyment and (B) all other terms and conditions thereunder, including, without limitation, the provisions relating to insurance, condemnation, casualty, payment of taxes and other impositions, attornment, no set off and no prepayment, do not adversely change the position of the Trustees and the holders of the Notes from that available under the Form of Lease of Dunkin' Donuts Shop DDSL/R/07/82.

"Legal Requirements" means all laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements of, and agreements with, all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen or unforeseen, ordinary or extraordinary, arising from any restrictions or agreements of record, which now or at any time hereafter may be applicable to a Property or any part thereof, or any of the adjoining sidewalks, vaults and vault space, if any, streets or ways, or any use or condition of the Property or any part thereof.

"Lessee" means a franchisee of DDI or an Affiliated Person of such a franchisee who has entered into a Lease of a Dunkin' Donuts Shop with the Company, DDI or an Affiliated Person of DDI pursuant to which it leases or subleases a Property from the Company, DDI or an Affiliated Person of DDI for operation as a Donut Shop.

"Lien" means any mortgage, pledge, lien, charge, encumbrance, lease or security interest of any kind, including any conditional sale or other title retention agreement and any lease in the nature thereof.

"lien of this Indenture" and terms of like import mean the lien, security title or other interest or charge granted to the Trustees by this Indenture (including the after-acquired property clauses hereof) or pursuant hereto (whether made by the Company or any other person) or otherwise created, effectively constituting any Property a part of the Trust Estate.

"Make Whole Amount" shall mean the product of:

- (a) the remainder (but in no event less than zero) of

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(i) the present value as of the date of any prepayment or payment (whether on account of acceleration or otherwise), as the case may be, discounted at the Treasury Rate, on a semi-annual basis of the required principal prepayments of the 9.45% Notes provided for in Section 6.02(a), the principal payment at final maturity and scheduled interest payments on and in respect of the 9.45% Notes from the respective dates on which such required principal prepayments and payment at maturity and interest payments are payable, to the date of such prepayment, with all such discounts to be computed on the basis of a 360-day year of twelve 30-day months,

MINUS

(ii) 100% of the principal amount of the outstanding 9.45% Notes,

TIMES

(b) a fraction, the numerator of which is the principal amount of the 9.45% Notes to be prepaid or paid on such date, and the denominator of which is 100% of the principal amount of the outstanding 9.45% Notes, all calculated in the manner set forth below. To the extent that the Treasury Rate at the time of such prepayment or payment is equal to or higher than 9.45% per annum, the Make Whole Amount is zero.

COMPUTATION OF MAKE WHOLE AMOUNT

The following is provided by way of example in calculating a Make Whole Amount:

Assumptions:

1. Unpaid principal amount of 9.45% Notes at date of prepayment or acceleration: \$20,000,000.
2. The entire unpaid principal amount is prepaid or accelerated.
3. Interest rate on 9.45% Notes: 9.45%
4. Date of prepayment or acceleration: November 1, 1990.
5. Treasury Rate: 8%

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<u>Scheduled Payment Date</u>	<u>Periods Until Payment Due</u>	<u>9.45% Interest Due</u>	<u>Principal Due</u>	<u>Present Value</u>
05/01/91	1	945,000		908,654
11/01/91	2	945,000		873,706
05/01/92	3	945,000		840,102
11/01/92	4	945,000	2,857,143	3,250,088
05/01/93	5	810,000		665,761
11/01/93	6	810,000	2,857,143	2,898,196
05/01/94	7	675,000		512,945
11/01/94	8	675,000	2,857,143	2,580,902
05/01/95	9	540,000		379,397
11/01/95	10	540,000	2,857,143	2,294,988
05/01/96	11	405,000		263,080
11/01/96	12	405,000	2,857,143	2,037,525
05/01/97	13	270,000		162,155
11/01/97	14	270,000	2,857,143	1,805,847
05/01/98	15	135,000		74,961
11/01/98	16	135,000	2,857,143	<u>1,597,529</u>

Total \$21,145,835

Make Whole
Payment Due
to Note Holder \$ 1,145,835

"Mortgage Title Policy" means one of the policies of mortgage title insurance of the character required by Section 6.4 of the Note Purchase Agreement, as such policy may be amended or supplemented by endorsement from time to time, provided that until any such policy is issued as required by Section 6.4 of the Note Purchase Agreement, such term means the binding commitment for the issuance of such policy, delivered pursuant to Section 6.4 of the Note Purchase Agreement.

"Net Award" means any insurance proceeds or condemnation award payable in connection with any damage, destruction or Taking, less the costs, fees and expenses incurred in the collection thereof.

"New Buildings" means new buildings and improvements (other than Equipment) on any portion of any Property not improved with an existing building or improvement, provided that such new buildings or improvements are not deemed to be Additional Improvements.

"New Note" means any Note being issued pursuant to an Exchange Provision.

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"Note" means any of, and "the Notes" mean all of, the Notes issued and, unless the context otherwise specifies or requires, outstanding under this indenture. "9.45% Notes" means all Notes complying with the specific requirements of 9.45% Notes specified in Section 2.01(b) hereof, and New Notes issued in exchange and/or substitution therefor pursuant to an Exchange Provision.

"Note Purchase Agreement" means the Note Purchase Agreement dated October 26, 1988, between the Company and the Purchaser which provides for the purchase and sale of the 9.45% Notes, as the same may be amended or supplemented from time to time as permitted thereby.

"Old Note" means any Note for which a New Note is being issued pursuant to an Exchange Provision.

"outstanding" means, with reference to Notes, as of any particular time, all Notes theretofore issued under this Indenture, except

(i) Notes theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;

(ii) Notes theretofore paid in full or Notes required to be prepaid in whole within 30 days thereafter, provided that, in the case of Notes so to be prepaid, moneys sufficient for such prepayment thereof shall theretofore have been deposited with, or shall then be held by, the Trustee in accordance with the provisions of this Indenture and notice of such prepayment shall have been given or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Notes for which other Notes shall theretofore have been issued pursuant to an Exchange Provision,

and except also that for the purpose of determining whether the holders of the requisite principal amount of Notes have made or concurred in any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to this Indenture, Notes registered in the name of the Company or any Affiliated Person thereof shall be disregarded and deemed not to be outstanding.

"Payment Date" means each May 1 and November 1 and any other date for the payment of principal of, premium, if any, or interest on any Note.

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"Permitted Contest" means that the Company is contesting by appropriate Proceedings, the amount, validity or application of any Legal Requirement, Insurance Requirement or Imposition, or any lien, charge, or other encumbrance referred to in Section 3.08 (a) hereof, provided that (a) such proceedings shall suspend the collection or enforcement thereof, (b) no part of the Trust Estate or income therefrom would be subject to loss, sale or forfeiture during such Proceedings, (c) the Company would not be subject to any criminal liability for failure to satisfy such Legal Requirement or to pay such Imposition, (d) the Company shall have furnished such security as may be required in the Proceedings or reasonably requested by the Trustee, (e) such Proceedings shall not affect the payment of any principal of, premium, if any, or interest due on the Notes or prevent the Company or any Lessee from using the Property for its intended use as a Donut Shop, and (f) the Company shall notify the Trustee of any such Proceedings in which the amount in contest exceeds \$25,000, within 10 days after the commencement thereof, and shall describe such Proceedings in reasonable detail. The Company will conduct all such contests in good faith and with due diligence and will, promptly after the determination of such contest, pay and discharge all amounts which shall be determined to be payable therein.

"Permitted Encumbrances" means, with respect to any Property, but only to the extent applicable to such Property: (i) rights reserved to or vested in any municipality or public authority by the terms of any right, power, franchise, grant, license, permit or provision of law, affecting such Property, to (A) terminate such right, power, franchise, grant, license or permit, provided that the exercise of such right would not materially impair the use of such Property or materially and adversely affect the value thereof, or (B) purchase, condemn, or designate a purchaser of, such Property pursuant to an eminent domain or similar proceeding; (ii) any liens thereon for taxes, assessments, levies, fees, water and sewer rents, and other governmental and similar charges and any liens of mechanics, materialmen and laborers for work or services performed or materials furnished in connection with such Property, which are not due and payable or which are not delinquent or which, or the amount or validity of which, are the subject of a Permitted Contest; (iii) easements, rights-of-way, servitudes, restrictions and other minor defects, encumbrances, and irregularities in the title to such Property which do not materially impair the use of such Property as a Donut Shop or materially and adversely affect the value thereof; (iv) rights reserved to or vested in any municipality or public authority to control or regulate such Property or to use such Property in any manner, which rights do not materially impair the use of such Property or materially

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and adversely affect the value thereof; (v) any Lease of a Dunkin Donuts Shop, any other lease of a Property by the Company to DDI or an Affiliated Person thereof for operation as a Donut Shop or for subleasing to a Lessee, and any lease or sublease for any lawful purpose of an abandoned or vacated Property other than a Temporarily Vacated Property; (vi) any lien or other security interest in or lease of Equipment; and (vii) this Indenture (and any rights granted as provided herein), and any exceptions to title set forth in any Mortgage Title Policy.

"person" means any individual, partnership, corporation, trust, unincorporated association or joint venture, a government or any department or agency thereof, or any other entity.

"premium" when used in conjunction with references to principal of and interest on the 9.45% Notes, shall mean the Make Whole Amount and any other payment in the nature thereof required to be paid on the 9.45% Notes.

"Proceeding" means any suit in equity, action at law or other legal, administrative or equitable proceeding.

"Property" means each parcel of land described under a separate property number in Schedule A hereto and the easements, rights-of-way, rights, privileges and appurtenances thereto, and all buildings and other improvements constructed and which may be constructed thereon, and including also any property which may hereafter become subject to the lien of this Indenture, but excluding any Property after the same shall have been released from the lien of this Indenture.

"Properties" means all of the properties which from time to time are a Property.

"Purchaser" means Massachusetts Mutual Life Insurance Company, a Massachusetts corporation.

"Register" means the register or registers maintained by the Trustee in accordance with Section 2.03 hereof for the registration and registration of transfer of the Notes.

"Restoration" means the restoration, replacement or rebuilding (including any temporary repairs and property protection pending completion of the work) of a Property or any portion thereof as nearly as practicable to its value, condition and character immediately prior to damage, destruction or Taking, with only such alterations and additions as may be made at the Company's election in conformity with the requirements, and subject to the conditions of Section 4.02 hereof.

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"Taking" means a taking of all or any part of a Property, or any interest therein or right accruing thereto, as the result of or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain pursuant to any law, general or special, or by reason of the temporary requisition of the use or occupancy of a Property or any part thereof, by any governmental authority, civil or military.

"Temporarily Vacated Property" means a Property which has been closed for at least 270 consecutive days and with respect to which the Board of Directors of the Company has not made a determination that the Property is no longer suitable or economical for use in the Company's business.

"Treasury Rate" shall mean the arithmetic mean of the rates published in the weekly statistical release designated H.15(519) of the Federal Reserve System under the caption "U. S. Government Securities - Treasury Constant Maturities" (the "Statistical Release") or if the Statistical Release is not published, of such reasonably comparable index as may be designated by the holders of 66-2/3% in aggregate principal amount of the outstanding 9.45% Notes, for the maturity corresponding to the remaining Weighted Average Life to Maturity of the 9.45% Notes as of the date of such prepayment or payment (whether on account of acceleration or otherwise), as the case may be, rounded to the nearest month. If no maturity exactly corresponds to such rounded Weighted Average Life to Maturity, yields for the two most closely corresponding published maturities shall be calculated pursuant to the immediately preceding sentence and the Treasury Rate shall be interpolated from such yields on a straight-line basis, rounding in each of such relevant periods to the nearest month. For purposes of calculating the Treasury Rate, the most recent Statistical Release published prior to the date of such prepayment or payment hereunder shall be used.

"Trust Committee" means a committee of at least three persons selected by the Trustee, which committee shall include at least one Executive Officer of the Trustee and shall be otherwise selected from among the Trustee's Executive Officers, Assistant Vice Presidents, Trust Officers, Assistant Trust Officers and other officers or assistant officers customarily performing functions similar to those performed by the enumerated officers, respectively, or to whom any corporate trust matter is referred because of their knowledge of or familiarity with the particular subject.

"Trustee" has the meaning specified in the first paragraph of this Indenture.

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"Trustees" means the Trustee, the Individual Trustee and each additional trustee appointed under the provisions of Section 8.06 hereof for the time being, and their respective successors in the trusts hereunder, collectively, or any of them, as the case may be.

"Trust Estate" means all moneys and other property subject or intended to be subject to the lien of this indenture including, without limitation, the Properties, each instrument referred to in the Granting Clauses, each Mortgage Title Policy and all of the Company's and the Trustees' estate, right, title, interest, claim and demand therein, thereto and thereunder.

"Weighted Average Life to Maturity" of any Debt or obligation shall mean, at any date, the number of years obtained by dividing the then Remaining Dollar-years of such Debt or obligation by the then outstanding principal amount of such Debt or obligation. For purposes of this definition, the "Remaining Dollar-years" of any Debt or obligation shall mean, at any date, the total of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) which will elapse between such date and the making of such payment.

ARTICLE II

THE NOTES

Section 2.01. The Notes; the 9.45% Notes. (a) Each Note shall be issued pursuant to either Section 2.12 hereof or an Exchange Provision, and shall comply with the applicable provisions of this Article II. Any Note may have such letters, numbers and other marks of identification and such legends or endorsements thereon as the Company may determine with the approval of the Trustee and as are not inconsistent with the provisions of this Indenture.

(b) The 9.45% Notes shall:

(i) be designated "9.45% Secured Notes Due November 1, 1998";

(ii) be limited in aggregate principal amount (exclusive of 9.45% Notes issued pursuant to an Exchange Provision) to \$20,000,000;

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(iii) be issuable only as fully registered 9.45% Notes in denominations of \$25,000 or greater;

(iv) be dated the Closing Date;

(v) mature, unless sooner paid in full pursuant to the provisions thereof and of this Indenture, on November 1, 1998;

(vi) each bear interest (computed as if each full calendar year consisted of 360 days and each full calendar month consisted of 30 days) on the unpaid principal amount thereof from the date thereof to maturity, whether by acceleration or otherwise, at the rate of 9.45% per annum payable semi-annually on each May 1 and November 1 commencing May 1, 1989, and, unless prohibited by applicable law, interest on any overdue principal, premium, if any, or interest, at the rate of 10.45% per annum (or at the highest rate permitted by applicable law, whichever is less);

(vii) be prepayable only as provided in Articles V and VI hereof; and

(viii) be substantially in the form, and bear thereon the Trustee's certificate of authentication and a marking grid substantially in the respective forms, set forth in Schedule B to this Indenture, with such omissions, insertions and variations as the Company may determine with the approval of the Trustee and as are not inconsistent with the provisions of this Indenture or as may be provided for in this Indenture.

Section 2.02. Payments on the Notes; Home Office Payment. (a) The principal of, premium, if any, and interest on the Notes shall be payable at the Corporate Trust Office in lawful money of the United States of America, against presentation of the Notes for notation of the payment or prepayment made thereon or, in the case of a payment or prepayment which will discharge all indebtedness of the Company evidenced thereby, against surrender thereof.

(b) Notwithstanding the foregoing provisions of this Section 2.02, if there shall be filed with the Trustee a copy of an agreement between the Company and the holder of any Note to the effect that (i) the Company will cause the interest on such Note and all payments and prepayments (except a payment or prepayment which will discharge all indebtedness of the Company evidenced by such Note) of the principal thereof, and any premium thereon, to be paid by the Trustee by intra-bank or wire transfer of federal funds to such holder in the manner

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specified in such agreement, without presentation of such Note to the Trustee, and (ii) such holder will effect any sale, transfer or other disposition of such Note only by presenting such Note for registration of transfer in accordance with Section 2.06 hereof, or will cause the same to be done, the Trustee shall, until such Note has been duly presented for registration of transfer, pay the interest on such Note and make payments and prepayments of the principal thereof, and any premium thereon, in accordance with the provisions of such agreement and without presentation of such Note to the Trustee. The Trustee shall be under no duty with respect to any notations of any payments of principal, premium or interest made without presentation of the Note in respect of which such payments are made except such notations as shall have been made by one of its authorized officers and shall have no liability by reason of any claim arising on account of a payment made in accordance with the provisions of any agreement filed with it pursuant to the foregoing provisions of this Section 2.02(b). The Note Purchase Agreement constitutes an agreement contemplated by this Section 2.02(b) and the Trustee acknowledges receipt of an executed copy thereof.

Section 2.03. Register. The Company shall keep or cause to be kept at the Corporate Trust Office a sufficient register or registers for the registration and registration of transfer of Notes, which shall be denominated the Register and maintained by the Trustee. The Notes, the names and addresses of the holders of the Notes, the transfers of the Notes and the names and addresses of the transferees of the Notes shall be registered in the Register under such reasonable regulations as the Trustee may prescribe.

Section 2.04. Execution of the Notes. The Notes shall be signed on behalf of the Company by its President or one of its Vice Presidents, or its Treasurer or an Assistant Treasurer, and its corporate seal shall be thereunto affixed and attested by its Secretary, or an Assistant Secretary. In case any officer who shall have signed, or attested the corporate seal upon, any Note shall cease to be such officer before such Note shall have been authenticated and delivered by the Trustee, such Note may nevertheless be authenticated and delivered with the same effect as though such person had not ceased to be such officer of the Company. Any Note may be signed on behalf of the Company, and the corporate seal attested thereon, by a person who, at the actual date of the execution of such Note, shall be a proper officer of the Company, although at the date of such Note or the date of authentication or delivery thereof, such person was not then such officer of the Company.

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Section 2.05. Certificate of Authentication. No Note shall be valid or become obligatory for any purpose or be binding upon the Company or be entitled to the benefits and security of this Indenture unless and until it has been authenticated by the Trustee's execution of the certificate of authentication thereon. The authentication and delivery by the Trustee of any Note shall be conclusive, and the only competent, evidence that such Note has been duly issued hereunder and is entitled to the benefits and security of this Indenture.

Section 2.06. Transfer and Exchange of Notes. (a) The transfer of any Note may be registered if such Note is surrendered for cancellation at the Corporate Trust Office and is accompanied by an instrument or instruments of transfer satisfactory to the Trustee. A New Note of the same tenor as such Old Note, executed by the Company and payable to the transferee in an original principal amount (subject to Section 2.07 hereof) equal to the original principal amount of such Old Note and dated as of the same date as the date of such Old Note, shall be authenticated and delivered by the Trustee to the transferee in exchange for such Old Note.

(b) Any Note or Notes may be exchanged for a New Note or Notes of the same tenor as such Old Note or Notes if such Old Note or Notes are surrendered for cancellation at the Corporate Trust Office and are accompanied by the request of the holder thereof specifying the authorized denomination or denominations of the New Note or Notes to be issued in exchange therefor. A New Note or Notes of the same tenor and dated as of the same date as such Old Note or Notes, executed by the Company and payable to such holder in the authorized denomination or denominations so requested and in aggregate original principal amount equal to the aggregate original principal amount of such Old Note or Notes, shall be authenticated and delivered by the Trustee to such holder in exchange for such Old Note or Notes.

(c) If any Note shall become mutilated or be destroyed, lost or stolen, upon request of the holder thereof a New Note of the same tenor and dated as of the same date as such Old Note or Notes, executed by the Company and payable to such holder in the same original principal amount as such Old Note, shall be authenticated and delivered by the Trustee to such holder in exchange for such Old Note if mutilated, or in substitution for such Old Note if destroyed, lost or stolen; provided that (i) in the case of a mutilated Old Note, such Old Note shall be surrendered for cancellation at the Corporate Trust Office, or (ii) in the case of a destroyed, lost or stolen Old Note, the holder thereof shall furnish to the Company and the Trustee such security and indemnity as may be

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reasonably required by them to save each of them harmless from any loss or liability in connection therewith (except that any holder which is the Purchaser or a financial institution or is a nominee of the Purchaser or a financial institution shall be required only to furnish such agreement of such Purchaser to indemnify the Company and the Trustee for any loss or liability in connection therewith), and evidence to their satisfaction of the destruction, loss or theft of such Old Note and the ownership thereof.

(d) The Trustee shall not be required to authenticate and deliver any New Note or Notes (i) during the period commencing at the close of business on the 25th day of the calendar month next preceding the month in which occurs any Payment Date and ending at the start of business on the day next succeeding such Payment Date, or (ii) during the period commencing at the close of business on the fifth day prior to any date on which the Trustee plans to send notice of prepayment to the holders of Notes and ending at the start of business on the day next succeeding the date fixed for prepayment specified in such notice.

Section 2.07. New Notes. (a) Before any New Note is issued in exchange, transfer or substitution for an Old Note or Notes pursuant to any Exchange Provision, the Trustee shall mark on such New Note (i) the date to which interest has been paid on such Old Note or Notes and (ii) the aggregate amount of all payments and prepayments of principal previously made on such Old Note or Notes which are allocable to such New Note, such allocation to be made by the Trustee in proportion, as nearly as may be practicable, to the principal amount of each such New Note. Interest shall be deemed to have been paid on such New Note to the date to which interest shall have been paid on such Old Note or Notes, and the aggregate amount of all payments and prepayments of principal marked on such New Note shall be deemed to have been made thereon.

(b) Upon the issuance of a New Note pursuant to Section 2.06(a) hereof, the Company may require the payment of a sum to reimburse it, or to provide it with funds, for the payment of any transfer tax or similar governmental charge paid or payable by the Company in connection with such exchange.

(c) Each New Note issued in exchange or in substitution for an Old Note or Notes pursuant to any Exchange Provision shall be a valid obligation of the Company evidencing the same debt as such Old Note or Notes or the portion thereof allocable to such New Note, and shall be entitled to the benefits and security of this Indenture to the same extent.

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Section 2.08. Trustee as Agent. The Trustee is hereby appointed the agent of the Company for the payment, registration, registration of transfer and exchange of Notes, and to receive all notices to or demands upon the Company with respect to the Notes or this Indenture. Notes may, subject to the provisions of Section 2.02(b) hereof, be presented for payment, and notices to or demands upon the Company with respect to the Notes or this Indenture may be given or made, at the Corporate Trust Office. The Trustee will notify the Company of its receipt of any such notices or demands within two business days after receipt thereof, but the failure of the Trustee so to notify the Company will not relieve the Company of any of its obligations hereunder.

Section 2.09. Registered Owner. Prior to due presentment for registration of transfer of any Note, the Company and the Trustees may deem and treat the holder of such Note as the absolute owner thereof (whether or not such Note shall be overdue) for all purposes, and neither the Company nor the Trustees shall be affected by any notice to the contrary; and, subject to the provisions of Section 2.02(b) hereof, payment of or on account of the principal of, premium, if any, and interest on such Note shall be made only to or upon the order of such holder. All such payments so made, including, without limitation, all payments made pursuant to Section 2.02(b) hereof, shall be valid and effectual to satisfy and discharge the liability of the Company upon such Note to the extent of the sum or sums so paid, and the Trustee shall have no liability in respect of any such payment.

Section 2.10. Lien of Indenture. This Indenture creates a continuing lien to secure equally and ratably the payment in full of the principal of, premium, if any, and interest on all Notes which may, from time to time, be outstanding hereunder.

Section 2.11. Cancellation of Notes. All Notes surrendered to the Trustee for payment in full or for exchange or for registration of transfer shall be promptly cancelled. Such Notes shall, thereafter, be delivered or disposed of as directed by an Executive Officer of the Company, and no Notes shall be issued in exchange or substitution therefor except as expressly permitted hereby.

Section 2.12. Issuance of 9.45% Notes. On the Closing Date, the Company shall deliver to the Trustee the 9.45% Notes to be issued and sold on the Closing Date in the form prescribed by this Indenture and in the amount provided for in the Note Purchase Agreement, together with the written order of the Company, signed by an Executive Officer, requesting authentication and delivery of such 9.45% Notes.

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The Trustee shall authenticate and deliver such 9.45% Notes in accordance with such written order. Such order shall be the only authority required by the Trustee for the authentication and delivery of 9.45% Notes provided for in this Section 2.12.

ARTICLE III

PARTICULAR COVENANTS OF THE COMPANY

Anything in this Indenture or in the Notes to the contrary notwithstanding, the Company, expressly for the benefit of the present and future holders of the Notes, represents and warrants the truth and correctness of the information set forth in the Preliminary Statement to this Indenture, and covenants and agrees as follows:

Section 3.01. Title to the Properties; First Lien. The Company has a good and marketable fee simple title to the Properties, free and clear of all liens, encumbrances, charges and other exceptions to title, except Permitted Encumbrances. The Company has full power and lawful authority to Grant (or cause to be Granted) the Trust Estate to the Trustees. The Company warrants that this Indenture is and will remain a valid and enforceable first lien on the Trust Estate, subject to Permitted Encumbrances, and that the Trust Estate is free and clear of all liens, charges and other encumbrances except Permitted Encumbrances. The Company will not create or permit to be created or to remain, and will promptly discharge or cause to be discharged at its own expense, any lien, charge or encumbrance on the Trust Estate other than Permitted Encumbrances. The Company will at all times protect or cause to be protected the title to the Trust Estate, and will forever warrant and defend the same and the rights of the Trustees therein and thereto against the claims and demands of all persons, and will maintain the lien of this Indenture so long as any Note remains outstanding.

Section 3.02. Further Assurances. The Company will, at its expense and from time to time, execute and deliver any and all such instruments of further assurance and other instruments, and do any and all such acts, or cause the same to be done, as the Trustee shall reasonably deem necessary or advisable to better Grant to the Trustees the Trust Estate or to carry out more effectually the purposes of this Indenture.

Section 3.03. Recording. (a) The Company, forthwith upon the execution and delivery of this Indenture and thereafter from time to time, will promptly cause this Indenture and financing statements, continuation statements or other instruments with respect to any part of the Trust Estate

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or the property intended to be subject to any such instrument or subject to the lien of this Indenture, to be filed, registered or recorded (and, when and if necessary, to be refiled, reregistered or rerecorded) in such manner and in such places as may be required by any present or future law in order to, as the case may be, create or protect the lien hereof or thereof, if any, upon the property subject hereto or thereto or intended to be subject hereto or thereto or to protect the validity hereof or thereof or to publish notice hereof or thereof or to entitle the holders of the Notes, directly or indirectly, to the benefits and security intended to be provided hereby or thereby, or to protect and maintain the estate, right, title, interest, claim and demand of the Trustees in to and under the Trust Estate.

(b) To the extent that it lawfully may, the Company will pay, or cause to be paid, all taxes and fees incident to each filing, registration, recording, refiling, reregistration and re-recording required by this Indenture, the costs and expenses incurred in obtaining each opinion of counsel required by Section 3.03(c) hereof, all federal or state stamp taxes and other taxes, duties, imposts, assessments and charges and all other expenses arising out of or incident to the issuance of the Notes and the preparation, execution and delivery of the instruments referred to in Section 3.03 (a) hereof.

(c) Within 60 days after any written request by the Trustee, but no more frequently than annually, the Company will deliver to the Trustee and the holders of the Notes a favorable opinion of counsel (as defined in this Indenture) as to all filing, registration, recording, refiling, reregistration and re-recording then required by this Indenture having been duly accomplished in compliance with all applicable Legal Requirements.

Section 3.04. Payment of the Notes. (a) The Company will punctually pay, or cause to be paid, the principal premium, if any, and interest to become due in respect of the Notes according to the provisions thereof and hereof, and will not claim any credit on or make any deduction from the payments thereon by reason of the payment of any taxes levied at any time or from time to time upon the Trust Estate or any portion thereof, other than any taxes so levied which are based on the income or profits of any holder of any Note.

(b) Notwithstanding the provisions of Section 3.04(a) hereof, the Trustee may deduct from any payment on account of the Notes, and dispose of in accordance with applicable laws, the amount of any income or profits tax payable by the holders of the Notes, only to the extent that such withholding is required to be made by the Company or the Trustee pursuant to

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any law or regulation of the United States of America, of any state or states or of any other governmental authority.

Section 3.05. Corporate Existence and Status. The Company will do or cause to be done all things necessary to preserve and keep in full force and effect its existence, its rights (charter and statutory), its franchise as a corporation under the laws of the State of Delaware and its status as a wholly-owned subsidiary of DDI, and if the qualification of the Company as a foreign corporation to transact business in any jurisdiction shall be necessary to protect the validity and enforceability against the Company of this Indenture, the Notes or any instrument included in the Trust Estate, or against any other person of any instrument included in the Trust Estate, then the Company will do or cause to be done all things necessary to obtain, preserve and keep in full effect such qualification.

Section 3.06. Compliance with Requirements. Except for those matters which are the subject of a Permitted Contest, the Company will promptly (a) comply with, and cure any violations of, all Legal Requirements and Insurance Requirements applicable to the Company, the Properties, the Trust Estate or any portion thereof, (b) procure, maintain and comply with all permits, licenses and other authorizations required for any use of the Properties or any part thereof then being made, and for the proper construction, operation, maintenance and repair of the Properties or any part thereof, and (c) comply with all instruments of record and all contracts and agreements at the time in force affecting the Properties, the Company, the Trust Estate or any part thereof or any services rendered to or for the benefit of the Properties, the Company, the Trust Estate or any part thereof, whether or not any of the foregoing shall require structural changes in, or interfere with the use and enjoyment of, the Properties or any part thereof. The Company will not do or permit any act or thing to be done which might materially impair the value or usefulness of the Properties in its business or which constitutes a public or private nuisance.

Section 3.07. After-acquired Property. All right, title and interest of the Company in and to all extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the Trust Estate or any portion thereof other than Equipment, hereafter constructed or acquired by the Company, immediately upon such construction or acquisition, and without any further mortgaging, conveyance or assignment, shall become and be a part of the Trust Estate and shall be subject to the lien of this Indenture as fully and completely, and with the same effect, as though now owned by the Company.

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Section 3.08. Impositions; Compensation to Trustee.

(a) The Company will pay and discharge, or cause to be paid and discharged, before they become delinquent, all Impositions before any interest or penalty may be added, and will furnish to the Trustee, upon request, satisfactory proof evidencing such payment. If any Imposition may legally be paid in installments, the Company shall have the option to pay such Imposition in installments and, with respect to special assessments, regardless of whether interest shall accrue on the unpaid balance. The Company will also promptly discharge, or cause to be discharged, any liens, charges or other encumbrances whatsoever, other than Permitted Encumbrances and other than any encumbrances for unpaid taxes based on the net income or profit of any holder of any Note, which may heretofore have been or may hereafter be levied or created on the Company or the Trust Estate or any portion thereof, any other property of the Company or any income therefrom or the interest of the Trustees in any thereof.

(b) The Company shall not be required to pay or discharge, nor shall the Trustee pay or discharge, any Imposition or any lien, charge or encumbrance referred to in Section 3.08 (a) hereof, so long as the same be the subject of a Permitted Contest.

(c) The Company will pay the compensation to which the Trustees are entitled hereunder and all proper disbursements and expenses incurred by them hereunder, all taxes assessed against the Trustees as such and not on account of their income, or against any funds on deposit with the Trustee which the Trustees might be required or permitted by law to deduct from such deposit or payment, and all statutory penalties and other payments which the Trustees may be required to pay or make hereunder or by virtue hereof.

Section 3.09. Insurance. (a) The Company will maintain or cause to be maintained with insurers authorized to do business in the jurisdictions in which the Properties are located and which are well rated by any recognized national rating organization:

(i) fire insurance and insurance with respect to risks from time to time included under the standard extended coverage endorsement, including but not limited to vandalism and malicious mischief, in amounts sufficient to prevent the Company and any Lessee from becoming co-insurers of any loss but in any event in amounts not less than 80% of the then Full Insurable Value of each Property as determined from time to time (but not less often than once every three years) by the insurer or

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insurers or by an expert approved by the Company (who may be DDI's Vice President - Architecture);

(ii) comprehensive general public liability insurance (including coverage for any elevators located upon each Property and any construction on or about each Property) against claims for bodily injury, death or property damage occurring on, in or about any Property and the adjoining streets, sidewalks and passageways, or as a result of ownership of facilities located on any Property or as a result of the use of materials manufactured, processed, constructed, or sold, or services rendered, on any Property, in such amounts with respect to each such Property as DDI requires its franchisees to furnish from time to time, but in any event not less than general liability coverage with respect to each such Property with a single limit of \$500,000 for bodily injury and property damage combined;

(iii) workmen's compensation insurance coverage of the full statutory liability of the Company;

(iv) such other insurance, in such amounts and against such risks, as is customarily maintained by DDI or its Affiliated Persons with respect to other similar properties owned or leased by any of them;

(b) The policies of insurance required to be maintained with respect to each Property pursuant to subparagraphs (i), (ii), and (iv) of Section 3.09(a) hereof shall name as the insured parties the Company and any Lessee of the Property, as their respective interests may appear, shall be satisfactory to the Trustees and may be carried under blanket policies maintained by the Company if such policies comply with the provisions of this Section 3.09. The policies of insurance required to be maintained by the Company with respect to each Property pursuant to Section 3.09(a)(i) hereof shall (i) bear a standard first mortgagee endorsement in favor of the Trustees with loss payable to the Trustees, (ii) include a waiver of all rights of subrogation against the Company, the Trustees, and any Lessee of the Property, (iii) provide for the benefit of the Trustees that 30 days' prior written notice of suspension, cancellation, termination, modification, non-renewal or lapse or material change of coverage shall be given and that such insurance shall not be invalidated by any act or neglect of the Company or any Lessee or any subsequent owner of a Property, nor by any foreclosure or other proceedings or notices thereof relating to such Property or any interest therein, nor by any change in the title or ownership of such Property, nor by occupation of such Property for purposes more hazardous than are permitted by such policy, and

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(iv) not contain a provision relieving the insurer thereunder of liability for any loss by reason of the existence of other policies of insurance covering the Property against the peril involved, whether collectible or not.

(c) The Company shall deliver to the Trustees original or duplicate policies or certificates of the insurers evidencing all the insurance which is required to be maintained hereunder by the Company, and, within 10 days prior to the expiration of any such insurance, other original or duplicate policies or certificates evidencing the renewal of such insurance.

(d) Neither the Company nor any Lessee of any Property shall obtain or carry separate insurance concurrent in form or contributing in the event of loss with that required by this Section 3.09 unless the Trustees are included therein as named insured with loss payable to the Trustees under a first mortgagee endorsement. The Company shall immediately notify the Trustees whenever any such separate insurance is taken out, specifying the insurer and full particulars as to the policies evidencing the same.

(e) All insurance proceeds received by the Trustees as first mortgagee of the Properties shall be applied in the manner set forth in Section 5.01 of this Indenture.

Section 3.10. Negative Covenants. Without the prior consent of the holders of not less than $66 \frac{2}{3}\%$ in unpaid principal amount of the Notes, the Company will not:

(a) directly or indirectly create, incur, assume or suffer to exist any Debt, except (i) the Notes; and (ii) Debt to DDI or any Affiliated Person thereof incurred to finance the Company's acquisition of the Properties and the construction of the improvements thereon necessary to enable the Properties to be used as Donut Shops;

(b) create, assume or suffer to exist any mortgage, pledge, lien, charge or other encumbrance upon the Trust Estate or any portion thereof or interest therein, or upon any income therefrom, or upon any other real or personal property of the Company, whether now owned or hereafter acquired, except (i) Permitted Encumbrances and (ii) as otherwise permitted by this Indenture;

(c) make or permit to remain outstanding any loan or advance to, or guarantee or otherwise become contingently liable with respect to the obligations, stock or dividends of, or own or acquire any stock or other securities of, any other person, except that the Company may (i) make any advance

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required to be made pursuant to this Indenture or the Note Purchase Agreement and permit the same to remain outstanding, (ii) own or acquire any obligations, stock or other securities which constitute or are to constitute a portion of the Trust Estate, and (iii) permit rents paid by the Lessees of the Properties to be deposited in bank accounts maintained by DDI or any of its Affiliated Persons so long as all such inter-company transactions are recorded on the books and records of the Company and DDI or such Affiliated Persons in accordance with generally accepted accounting principles, consistently applied;

(d) merge or consolidate with any other person or issue any shares of its capital stock to any person other than DDI or any Affiliated Person thereof;

(e) sell, lease, transfer or otherwise dispose of the Trust Estate or any portion thereof or interest therein, except as follows:

(i) the Company may lease or permit any sublease to be made of any of the Properties pursuant to a Lease of a Dunkin' Donuts Shop;

(ii) the Company may lease any of the Properties to DDI or an Affiliated Person of DDI for operation by such lessee as a Donut Shop;

(f) permit the aggregate value of the Properties subject to the lien of this Indenture (as determined in good faith by the Company) to be less than 110% of the principal amount of the outstanding Notes;

(g) directly or indirectly engage in any business or enter into any transaction other than such business or transactions as are contemplated by the Note Purchase Agreement, this Indenture or any instrument included in the Trust Estate and such other business or transactions as are incidental thereto;

(h) declare or pay any dividends on, or make any payments in connection with the purchase, redemption or retirement of, or make any other distribution upon or in respect of, the shares of the Company, or make any change in the authorized shares of the Company, or issue any additional shares of the Company, or directly or indirectly reclassify the shares of the Company or any portion thereof, except that the Company may pay dividends to any Affiliated Person of the Company if such payment would not result in the insolvency of the Company;

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(i) issue or permit to be issued any Notes in any manner other than in accordance with the provisions of this Indenture;

(j) take any action or permit any action to be taken by others, which would release any person from any of its covenants or obligations under any instrument included in the Trust Estate, or which would result in the amendment, hypothecation, subordination, termination or discharge or impair the validity or effectiveness, of any such instrument, except as expressly provided herein or therein;

(k) except as permitted by this Indenture, use or permit the Properties to be used for any purpose other than a Donut Shop;

(l) amend, waive or modify any term or provision of any Lease of a Dunkin' Donuts Shop to which the Company is a party or permit DDI or any Affiliated Person of DDI to amend, waive or modify any term or provision of any Lease of a Dunkin' Donuts Shop to which DDI or such Affiliated Person is a Party, except that such Consent shall not be necessary with respect to any amendment which does not materially and adversely affect the rights of the Trustees and the holders of the Notes.

Section 3.11. Books and Records. (a) The Company will (i) keep adequate records and books of account in accordance with generally accepted accounting principles reflecting all financial transactions of the Company, and (ii) permit the Trustees personally or by their agents, accountants and attorneys, to visit or inspect any of the Properties, examine the records and books of account and discuss the affairs, finances and accounts, of the Company, with the officers of the Company and its independent public accountants, if any, at such reasonable times as may be reasonably requested by the Trustee. The Trustees shall be under no duty to make any such visit, inspection or examination unless requested to do so by the Purchaser or by the holders of not less than 25% in unpaid principal amount of the Notes and furnished with funds for the purpose.

(b) The Company will deliver to the Trustee, promptly after their original distribution, copies of all financial statements and reports, if any, as it shall send to its stockholders or file with any federal or state agency or commission.

(c) The Company will file with the Trustee, and will deliver in duplicate to each holder of not less than 25% in unpaid principal amount of the Notes (i) within 90 days after

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the end of each fiscal year of the Company, statements of income and retained earnings of the Company for such fiscal year and a balance sheet of the Company as at the end of such fiscal year, setting forth in each case (except the first fiscal year of the Company) in comparative form figures for the preceding fiscal year, all in reasonable detail and scope and certified by the principal financial officer of the Company, or, if requested in writing by such a holder, certified by independent public accountants of recognized national standing selected by the Company; (ii) promptly upon receipt thereof, copies of all detailed reports, if any, submitted to the Company by accountants in connection with each annual or interim audit of the books of the Company made by such accountants, and (iii) with reasonable promptness, such other data and information as such holder or the Trustee may reasonably request. Together with each delivery of financial statements required by clause (i) above, the Company will deliver to the Trustee and such holder a certificate signed by the President or a Vice President and by the Treasurer or an Assistant Treasurer of the Company, stating, as to each signer thereof, that (1) a review of the activities of the Company during such year and to the date of such certificate and of performance under the Note Purchase Agreement and this Indenture has been made under his supervision, and (2) to the best of his knowledge, based on such review, the Company has fulfilled all its obligations under the Note Purchase Agreement and this Indenture throughout such year and to the date of such certificate, or, if there has been a default in the fulfillment of any such obligation, specifying each such default known to him and the nature and status thereof.

Section 3.12. Advances by Trustee. If the Company shall fail to perform or fail to cause to be performed any of the covenants contained in Sections 3.03, 3.08(a), 3.08(c), 3.09, 3.13, 3.14, 3.16 or 8.01(o) hereof within five days after notice specifying such failure shall have been given to the Company, the Trustee may make advances to perform the same on its behalf (which advances shall be made by the Trustee if requested so to do by the Purchaser or by the holders of not less than 25% in unpaid principal amount of the Notes and if furnished with funds for the purpose), and all sums so advanced shall be a lien upon the Trust Estate and shall be secured hereby prior to the Notes; and the Company will repay on demand all sums so advanced on its behalf with interest at the rate of 10.45% per annum (or the highest rate permitted by law if less) from the date of the advance.

Section 3.13. Maintenance and Repairs. The Company will keep, or will cause to be kept, each Property in good order and condition (except for ordinary wear and tear and condemnation or casualty resulting in a partial prepayment of

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the Notes or a substitution of a new Property for the Property subject to such condemnation or casualty under Section 5.01 hereof) and will make or cause to be made all structural and nonstructural, ordinary and extraordinary, foreseen or unforeseen repairs, replacements and renewals and shall take such other action as may be necessary or appropriate to keep and maintain each Property in good order and condition (subject to the foregoing exception) and to keep any manufacturer's warranties or undertakings in effect.

Section 3.14. Utility Services. The Company will pay or cause to be paid all charges which it is obligated to pay for all public and private utility services at any time rendered to or in connection with the Trust Estate or any part thereof, and will do all other things it is legally obligated to do to maintain and continue such utility services as shall be necessary for the operation of the Trust Estate.

Section 3.15. No Credit or Deduction. The Company shall not be entitled to any credit against the principal of, or premium, if any, or interest on the Notes, or any other sums payable under the terms thereof or hereof, by reason of the payment of any tax on the Trust Estate or any part thereof or of any other transaction and shall not apply for or claim any deduction from the taxable value of the Trust Estate or any part thereof by reason of this Indenture if such deduction shall adversely affect this Indenture or the Notes.

Section 3.16. Taxation of Mortgages. If at any time any state in which the Properties are located shall determine that the taxes, duties, imposts, assessments and charges and all other expenses paid and arising out of or incident to the issuance of the Notes and the preparation, execution and delivery of this Indenture, are insufficient or that the documentary stamps affixed to this Indenture are insufficient, and that additional taxes, duties, imposts, assessments and charges should be paid or that additional stamps should be affixed, or if at any time any state in which the Properties are located or any other jurisdiction shall determine that any other tax or charge, however described, shall be imposed upon the Company or the Trustees on account of the existence, filing, recording or enforcement of this Indenture or any financing statement executed and delivered in connection herewith, then the Company shall cause the same to be paid or affixed, as the case may be, and shall cause to be paid any interest or penalties imposed in connection with such determination.

Section 3.17. Other Contracts. The Company will not enter into any contracts, leases, indentures or other agreements except in the ordinary course of the construction,

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acquisition, ownership, operation and maintenance of the Properties and the administration of the affairs of the Company.

Section 3.18. Pension Plans. The Company will not create or maintain an "employee benefit plan" as such term is defined in the Employee Retirement Income Security Act of 1974, as amended.

Section 3.19. Hazardous Material. The Company will not release or permit the release, and will not create or permit the threat of release, of any materials or substances that are prohibited or regulated by federal, state or local laws or that are known to pose a hazard to the environment or human health from, into or onto the Properties, except such substances as have been disclosed in writing to the Trustees and are used in the ordinary operation of the Premises.

Section 3.20. Other Affirmative Covenants. (a) The Company will observe and perform all provisions to be observed or performed by it contained in the Note Purchase Agreement and in each instrument included in the Trust Estate, in accordance with the terms thereof and within the time permitted thereby, and will maintain, or cause to be maintained, the validity and effectiveness of each such instrument and any assignment thereof or of rights with respect thereto to the Trustees.

(b) The Company will give notice to the Trustees of any Default by any person under this Indenture or under any instrument included in the Trust Estate promptly after the Company obtains knowledge of the same.

(c) The Company will, at its expense but subject to the direction and control of the Trustee, take such action, or upon the Trustee's request furnish the Trustee with funds sufficient to enable the Trustees to take such action at the Company's expense, as the Trustee may deem necessary or advisable for enforcing payment by any and all persons of any moneys payable under or pursuant to this Indenture, the Trust Estate or any instrument included therein.

ARTICLE IV

RECEIPT OF MONEYS; ALTERATIONS AND ADDITIONS; CONDEMNATION

Section 4.01. Receipt of Moneys by Trustee. The Trustee shall receive and collect directly and without the intervention or assistance of any fiscal agent or other intermediary all moneys referred to in Article V hereof and all other moneys and property paid or payable to or received or

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receivable by the Trustees under or pursuant to the provisions of or otherwise in respect of any instrument or other property included in the Trust Estate or under or pursuant to the provisions of this Indenture; and the Trustees may demand and enforce payment thereof, and may take such other action as the Trustee shall deem necessary or advisable in connection therewith. All such moneys received by the Trustees shall be held by the Trustee as part of the Trust Estate and applied as provided in this Indenture.

Section 4.02. Alterations and Additions. If there is no continuing Event of Default, the Company or any tenant may make additions or improvements to or alterations of any Property including the construction of Additional Improvements and New Buildings. All maintenance and repair, and each such addition, improvement or alteration (i) must not individually or in the aggregate, lessen the Fair Market Value of the Property upon which constructed or adversely affect such Property's usefulness in the Company's business, (ii) shall be completed expeditiously in a good and workmanlike manner, and in compliance with all Legal Requirements and all Insurance Requirements, and (iii) shall become part of the Property upon which constructed and subject to this Indenture. If the Company shall construct Additional Improvements or New Buildings, the Company and the Trustees shall have the additional rights and obligations specified in Exhibit J to the Note Purchase Agreement.

Section 4.03. Condemnation. (a) If any Proceedings or negotiations are instituted which do or may result in a Taking of all or a part of any Property, the Company, immediately upon obtaining knowledge of such Proceedings or negotiations, shall so notify the Trustee. The Trustee shall be entitled at the Company's expense to participate in any negotiations or Proceedings in connection with any Taking and the Company will promptly deliver or cause to be delivered to the Trustees all instruments reasonably requested by the Trustee to permit such participation. The Trustee shall be under no obligation to question the amount of the award or compensation and may accept the same. In any such negotiations or Proceedings the Trustee may be represented by counsel satisfactory to the Trustee and not reasonably unacceptable to the Company.

(b) The Company hereby Grants to the Trustees any award or payment on account of any Taking which is payable to the Company. All amounts paid pursuant to an agreement with a condemning authority shall be deemed to constitute an award on account of such Taking.

(c) All such awards and payments received by the

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Trustees shall be applied as provided in Section 5.01 of this Indenture. The Company hereby agrees that this Indenture shall control its rights to all such awards and payments, and any contrary provision of any present or future law is hereby waived.

ARTICLE V

APPLICATION OF PROCEEDS AND RELEASE OF PROPERTY

Section 5.01. Application of Proceeds and Release of Property in case of Condemnation or Casualty. (a) The Company will, after any damage to or destruction or Taking of a Property promptly commence and complete Restoration of such Property regardless of the availability or sufficiency of any Net Award, unless the Company is excused from effecting such Restoration by Section 5.01(b) below. Upon receipt by the Trustees of satisfactory evidence of the completion of Restoration and if there is no continuing Event of Default, the Trustees will pay any such Net Award to the Company.

(b) The Company may elect not to effect such Restoration if it so notifies the Trustees in writing within 60 days after (i) the Taking of the Company's entire interest in a Property, or (ii) any damage to, or destruction or Taking of, a Property which at the time of such notice shall have been determined in good faith by the Board of Directors of the Company to have rendered the Property unsuitable for restoration for continued use in the Company's business operations, which use, whether direct or indirect, has been, or will within 90 days thereafter be, discontinued by the Company and its Affiliated Persons in the ordinary course of business for a period of at least three years after such discontinuance. Such notice shall be accompanied by a certificate of the Company signed by its President, any Vice President or its Treasurer stating that the requirements of this Section 5.01(b) have been met and that the Company in lieu of such Restoration has elected on a specified date occurring not less than 90 days or more than 150 days after the date of delivery of such notice either (i) to substitute a new property for the Property subject to such casualty or Taking in accordance with the provisions of Section 5.05 hereof, or (ii) to prepay without premium the Allocable Portion of the Notes attributable to such Property together with accrued and unpaid interest thereon. On such specified date, the Trustees shall release the Property subject to such casualty or Taking from the lien of this Indenture and shall pay over or assign to the Company all of the Trustees' rights to receive any Net Award against (A) receipt of such prepayment, or (B) the delivery of

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a supplement to this Indenture and the other documents required by Section 5.05 hereof to be delivered with respect to the substituted property.

Section 5.02. Release of Property for Uneconomic Use. If at any time the Board of Directors of the Company has determined in good faith that a Property is no longer suitable or economical for use in the Company's business, the Company shall immediately give the Trustees notice of such fact and whether the Company elects to prepay without premium the Allocable Portion of the Notes attributable to such Property on a specified date occurring not less than 90 days after the date on which the Trustees shall have received such notice or whether the Company will on such specified date substitute a new property in accordance with the provisions of Section 5.05 hereof for such Property. Such notice shall be accompanied by a certificate of the Company, signed by its President, any Vice President or its Treasurer, stating that all conditions to such prepayment or substitution have been met and that the use, whether direct or indirect, of the Property has been, or will be, discontinued on or before such specified date and that, after such specified date, the Company and its Affiliated Persons will discontinue the use of the Property in the ordinary course of business for a period of at least three years. On such specified date, the Trustees shall release the Property from the lien of this Indenture against (A) receipt of such prepayment, or (B) the delivery of a supplement to this Indenture and the other documents required by Section 5.04 hereof to be delivered with respect to the substituted property.

Section 5.03. Release of Property Because of Hazardous Conditions. If at any time the Board of Directors of the Company has determined that there exist at any Property, conditions which pose a hazard to the environment or to human health, the Company shall immediately give the Trustees notice of such fact and whether the Company elects to prepay the Allocable Portion of the Notes attributable to such Property on a specified date occurring not less than 90 days or more than 150 days after the date on which the Trustees shall have received such notice or whether the Company will on such specified date substitute a new property or properties in accordance with the provisions of Section 5.05 hereof for such Property. Such notice shall be accompanied by a certificate of the Company, signed by its President, any Vice President or its Treasurer, stating that all conditions to such prepayment or substitution have been met and that the use, whether direct or indirect, of the Property has been, or will be, discontinued on or before such specified date and that, after such specified date, the Company and its Affiliated Persons will cease all operations at the Property for a period ending at least six months after the problem giving rise to such substitution has

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been permanently cured. On such specified date, the Trustees shall release the Property from the lien of this Indenture against (A) receipt of such prepayment and the applicable Make Whole Amount or (B) the delivery of a supplement to this Indenture and the other documents required by Section 5.05 hereof to be delivered with respect to the substituted property.

Section 5.04. Temporarily Vacated Properties. If at any time more than ten (10) percent of the total number of Properties subject to the lien of this Indenture are Temporarily Vacated Properties, the Company shall immediately give the Trustees notice of such fact and whether the Company elects to prepay the Allocable Portion of the Notes attributable to such excess number of Temporarily Vacated Properties on a specified date occurring not less than 90 days or more than 150 days after the date on which the Trustees shall have received such notice or whether the Company will on such specified date substitute a new property in accordance with the provisions of Section 5.05 hereof for each of such excess number of Temporarily Vacated Properties. Such notice shall be accompanied by a certificate of the Company signed by President, any Vice President or Treasurer stating that all conditions to such prepayment or substitution have been met. On such specified date, the Trustees shall release from the lien of this Indenture so many of such Temporarily Vacated Properties as shall be required to reduce the total number of Temporarily Vacated Properties to less than ten (10) percent of the total number of Properties then subject to the lien of this Indenture, against (A) receipt of such prepayment and the applicable Make Whole Amount or (B) the delivery of a supplement to this Indenture and the other documents required by Section 5.05 hereof to be delivered with respect to the substituted property.

Section 5.05. Substitution of New Property. The Company shall have the right to subject a new property to, and have any Property released from, the lien of this Indenture, provided that (i) the Company shall have given the Trustees at least 90 days prior written notice of its intention to exercise its right of replacement under this Section 5.05, (ii) on the date of such release the Company delivers to the Trustees a supplement to this Indenture subjecting a new property to the lien of this Indenture, which new property on such date satisfies the following requirements:

(A) Such new property shall be unencumbered by any Lien other than Permitted Encumbrances and shall be suitable for use as a Donut Shop;

(B) The Book Value of such new Property as determined not more than 60 days before the specified date

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on which substitution pursuant to this Section 5.05 shall be effected, or the Appraised Value as of such date shall not be less than the greater of (i) the Book Value of the Property, as determined not more than 60 days before such specified date, or (ii) the Allocable Portion of the Notes attributable to such Property;

(C) The remaining useful life of the new Property shall be at least equal to the remaining useful life of the Property;

(D) The Trustee shall receive from the Company substantially the same mortgage title insurance, documents, certificates and opinions with respect to such new Property as the Trustee received in connection with the Company's acquisition of the Property, and the execution and delivery of the Supplement subjecting the new Property to the lien of this Indenture and all of the documents and proceedings in connection therewith shall be reasonably satisfactory to the Trustee. The Company shall pay all costs, charges and expenses in any way related to or incurred in connection with the subjection of such new property to the lien of this Indenture, including attorneys' fees and expenses, recording fees, the costs of appraisals, premiums covering title insurance, and all applicable transfer and other taxes which may be incurred or imposed by reason of such transaction.

Upon satisfaction of the above requirements, the Trustees shall release the Property from the lien of this Indenture and transfer any Net Award to the Company in accordance with Section 5.01 hereof.

Section 5.06. Waiver and Consent. The Trustees shall, upon the request of the Company, execute and deliver a Mortgagee's Waiver and Consent with respect to the Equipment at any Property in the form attached to the Note Purchase Agreement as Exhibit H or in such other form as shall be furnished by the Company, if accompanied by an opinion or counsel satisfactory to the Trustee to the effect that such alternative form of waiver is not materially different from that provided in such Exhibit.

Section 5.07. Removal of Trade Fixtures. The Company or any tenant under a Lease of a Dunkin' Donuts Shop may install or place or re-install or replace Equipment and any other trade fixtures and machinery upon any Property and, if there is no continuing Event of Default, or as permitted by a Mortgagee's Waiver and Consent referred to in Section 5.06 hereof, may remove the same from such Property, provided that the Company shall repair all damage caused by such removal.

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Section 5.08. Proceeds from Mortgage Title Insurance. Any moneys received by the Trustee as payment for any loss under any Mortgage Title Policy shall be held by the Trustee as part of the Trust Estate until they shall have received satisfactory evidence of the cure of the defect giving rise to the loss at which time, if there is no continuing Event of Default, the Trustee will pay such moneys to the Company. The Company may elect not to effect such cure if it notifies the Trustees in writing within 60 days after the Trustee has received payment of a loss under a Mortgage Title Policy that the Board of Directors of the Company has determined in good faith that such cure cannot be effected on an economically reasonable basis and that the defect giving rise to the loss has rendered the Property unsuitable for continued use in the Company's business operations, which use, whether direct or indirect, has been, or will within 90 days thereafter be, discontinued by the Company and its Affiliated Persons in the ordinary course of business for a period of at least three years after such discontinuance. Such notice shall be accompanied by a certificate of the Company signed by its President, any Vice President or its Treasurer stating that the requirements of this Section 5.08 have been met and that the Company in lieu of such cure has elected on a specified date occurring not less than 90 days or more than 150 days after the date of delivery of such notice either (i) to substitute a new property for the Property subject to such loss in accordance with the provisions of Section 5.05 hereof, or (ii) to prepay without premium the Allocable Portion of the Notes attributable to such Property together with accrued and unpaid interest thereon. On such specified date, the Trustees shall release the property subject to such loss from the lien of this Indenture and shall pay over to the Company all moneys held by the Trustee in respect of such loss against (A) receipt of such prepayment, or (B) the delivery of a supplement to this Indenture and the other documents required by Section 5.05 hereof to be delivered with respect to the substituted property.

Section 5.09. Other Moneys. If no Default or Event of Default hereunder has occurred and is continuing, any moneys received by the Trustee under or pursuant to the provisions of or otherwise in respect of any instrument or other property included in the Trust Estate or under or pursuant to the provisions of this Indenture and which are not expressly required by any other provision of this Indenture to be applied to any purpose or purposes, shall be held by the Trustee in the Trust Estate and shall be applied to the purpose or purposes for which such moneys were paid.

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ARTICLE VI

PREPAYMENT OF NOTES

Section 6.01. Method of Prepayment. No prepayment of any Notes may be made except to the extent and in the manner expressly permitted or required by Section 5.01, 5.02, 5.03, 5.04 or 5.08 hereof or this Article VI. Any prepayment of Notes shall be in addition to any principal of, premium, if any, or interest on the Notes specified to be due and payable on the date fixed for such prepayment.

Section 6.02. Mandatory and Optional Prepayment of 9.45% Notes.

(a) In addition to paying the entire outstanding principal amount and the interest due of the 9.45% Notes on the maturity thereof, on November 1, 1992 and on each November 1, thereafter until the 9.45% Notes have been paid in full, the Company will prepay without premium \$2,857,143 principal amount of the 9.45% Notes or such lesser principal amount as then remains unpaid. No partial prepayment of the 9.45% Notes pursuant to any provisions of this Indenture shall release the Company from the obligation to make the required prepayments provided for in this Section 6.02(a); any such partial prepayment shall be applied to the payment of installments of principal in inverse order of maturity.

(b) At any time or from time to time, the Company may, at its option, upon notice as provided in Section 6.03, prepay all or any part (an integral multiple of \$1,000 and a minimum of \$100,000 or such lesser amount as shall be the then outstanding principal amount of the 9.45% Notes) of the principal amount of the 9.45% Notes upon the concurrent payment of an amount equal to the Make Whole Amount.

Section 6.03. Notice of Prepayment to Note Holders. In the case of any prepayment of Notes, other than the required prepayments provided for in Section 6.02(a), notice thereof shall be sent by the Trustee to the holders of the Notes to be prepaid at least 20 days prior to the date fixed for prepayment.

Each such notice shall specify the date fixed for prepayment, designate the respective principal amounts so to be prepaid on the respective Notes to be prepaid, specify the applicable Make Whole Amount thereon, if any, and specify the amounts of the accrued interest to be paid on the respective Notes to be prepaid. Each prepayment under Section 6.02(b) shall be accompanied by a certificate of the Company signed by its President, any Vice President or its Treasurer setting

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forth the amount of the applicable Make Whole Amount, if any, and demonstrating in reasonable detail the calculation thereof.

Except as herein otherwise expressly provided, in the event of any partial prepayment of Notes, the aggregate principal amount so to be prepaid shall be prorated by the Trustee among the Notes to be prepaid in proportion to the aggregate unpaid principal amount of Notes to be prepaid registered in the name of each holder of any such Notes, as nearly as may be practicable, and the Trustee shall designate Notes or portions thereof registered in the name of each such holder and so to be prepaid.

Interest on any Note, or portion thereof, designated for prepayment shall cease upon the date fixed for prepayment unless default shall be made in the payment to the Trustee of the amount payable upon the prepayment thereof.

Section 6.04. Maturity; Surrender, etc. In the case of each prepayment, the principal amount of each Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment together with interest on such principal amount accrued to such date, and in the case of a prepayment under Section 6.02(b), the applicable Make Whole Amount, if any. Any Note prepaid in full shall be surrendered at the Corporate Trust Office and cancelled and shall not be reissued, and no Note shall be issued in lieu of any prepaid principal amount of any Note.

Section 6.05. Deposit of Moneys with Trustee. On the day prior to any date fixed for prepayment of Notes pursuant to this Indenture, the moneys required therefor shall be deposited with the Trustee by or on behalf of the Company, and such moneys shall be applied by the Trustee to the prepayment of Notes pursuant to the applicable provisions of this Indenture.

Section 6.06. Purchase of Notes. The Company will not, and will not permit any Affiliate of the Company to directly or indirectly, purchase or otherwise acquire any of the outstanding Notes except (a) by way of payment or prepayment in accordance with the provisions of the Notes and this Indenture or (b) pursuant to an offer made pro rata and on the same terms to each holder of the Notes at the time outstanding.

Section 6.07. Payment on Non-Business Days. If any amount hereunder or under the Notes shall become due on a non-business day, such payment shall be due on the next succeeding business day.

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ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. Any of the following occurrences or acts shall constitute an Event of Default under this Indenture:

(a) if default shall be made in the payment of (i) any interest on any Note when and as the same shall become due and payable, and such default shall have continued for a period of five business days, or (ii) any payment of the principal of (or premium, if any, on) any Note, when and as the same shall become due and payable, whether at maturity or by acceleration or as part of any prepayment or otherwise, in each case as in such Note and this Indenture provided; or

(b) if any representation or warranty of the Company or DDI set forth in this Indenture, the Guaranty or the Note Purchase Agreement, or any representation or warranty of such person set forth in any certificate, statement, or other instrument delivered pursuant to, or in connection with the entering into of, this Indenture, the Guaranty, the Note Purchase Agreement or any instrument included in the Trust Estate, shall prove to be incorrect or misleading in any material respect as of the time when the same shall have been made; or

(c) if default shall be made by the Company in the performance of any provision of the first or third sentence of Section 3.08(a), subparagraphs (i) and (ii) of Section 3.09(a), Section 3.09(b), Section 3.19, the last clause of Section 3.20(a), Section 3.20(b), Section 5.02, or Section 5.03; or

(d) if default shall be made in the performance of any other provision of the Notes or this Indenture to be performed by the Company, and such failure to perform shall have continued for a period of 15 days after the Company's receipt of written notice of such default, provided that if and so long as the Company is proceeding with due diligence to cure such failure, such period shall be extended for such additional period as is required to permit the Company, proceeding with due diligence, to cure such default, but in no event shall such additional period exceed 90 days; or

(e) if by order of a court or agency of competent jurisdiction, a custodian, a receiver, trustee or liquidator (or other similar official) of the Company or DDI, or of all or substantially all of their respective businesses or assets, or of the Trust Estate or any portion thereof shall be appointed in any Proceeding by any federal or state officer or agency,

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and such order shall not be vacated or set aside or stayed within 30 days after the entry thereof, or if the Company or DDI shall consent to such appointment; or

(f) if the Company or DDI shall file a petition in bankruptcy or for reorganization or for an arrangement pursuant to the Bankruptcy Code or any similar federal or state law, now or hereafter in effect, or shall commit any act of bankruptcy or in contemplation of insolvency as defined in any such law, or shall be adjudicated a bankrupt or become or be declared insolvent, or shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay debts generally as they become due, or shall be dissolved or shall suspend payment of its obligations, or shall take any corporate action in furtherance of any of the foregoing; or if a petition or an answer shall be filed proposing the adjudication of the Company as a bankrupt or its reorganization under the Bankruptcy Code or any similar federal or state law, now or hereafter in effect, and (1) the Company shall consent to the filing thereof, or (2) such petition or answer shall be approved by a court of competent jurisdiction and the order approving the same shall not be vacated or set aside or stayed within 60 days after the entry thereof; or

(g) if the estate or interest of the Company in any of the Properties shall be levied upon or attached in any Proceeding and such process shall not be vacated or discharged within 60 days after such levy or attachment; or

(h) if final judgment or judgments for the payment of money aggregating in excess of \$250,000 not covered by insurance is or are outstanding against the Company or DDI, and any one of such judgments has been outstanding for more than 60 days from the date of its entry and has not been discharged in full or stayed; or

(i) if any event should occur which renders the Guaranty unenforceable or if DDI shall default in the performance of any of its duties or obligations under the Guaranty, including, without limitation, its obligation to furnish financial and business information to the Trustees and the holders of the Notes in accordance with paragraph 10 of the Guaranty; or

(j) if the Company or DDI shall fail to make any payment on any Debt as and when the same shall become due and payable whether at maturity, by declaration or otherwise, and such failure shall have continued for more than any applicable period of grace; and

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(k) if the Company shall cease to be a wholly-owned subsidiary of DDI and its successors and assigns.

Section 7.02. Remedies. (a) If an Event of Default hereunder shall have occurred and be continuing, the Trustee may, and upon the request of the holders of not less than 25% in unpaid principal amount of the Notes shall, by notice to the Company, declare (i) the entire unpaid principal amount of the Notes (if not then due and payable), (ii) all interest accrued and unpaid thereon, (iii) to the extent not prohibited by law, the Make Whole Amount, and (iv) all other sums required to be paid by the Company pursuant to this Indenture, to be forthwith due and payable, and upon any such declaration, the amounts referred to in clauses (i) through (iv) of this Section 7.02(a) shall become and be forthwith due and payable, subject, however, to the provisions of Section 7.08 hereof.

(b) If an Event of Default hereunder shall have occurred and be continuing, the Trustees, with or without entry, personally or by their agents or attorneys, may, and upon the request of the holders of a majority in unpaid principal amount of the Notes shall (subject to the limitation stated in Section 7.12 hereof and subject to the proviso contained in the first sentence of Section 7.14 hereof), do one or more of the following:

(i) sell, to the extent not prohibited by law, all and singular the Trust Estate and all estate, right, title, interest, claim and demand therein, and right of redemption thereof, at one or more public or private sales, as an entirety or otherwise, and at such time and place and upon such terms as the Trustee may fix and specify in the notice of sale to be given to the Company or as may be required by law; or

(ii) institute Proceedings for the complete or partial foreclosure of this Indenture under the provisions of the laws of the jurisdiction or jurisdictions in which the Trust Estate or any portion thereof is located, or any other applicable provision of law; or

(iii) take any action which is appropriate to enforce the rights and remedies of the holders of the Notes and the Trustees under any instrument included in the Trust Estate, to the extent not prohibited thereby or by law; or

(iv) take all steps to protect and enforce the rights and remedies of the holders of the Notes and the Trustees whether by Proceedings (for the specific performance of any provision of the Notes or this Indenture, or in aid of the exercise of any right or remedy

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herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy) or otherwise as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce the same.

(c) Subject to the limitation stated in Section 7.12 hereof, if an Event of Default hereunder shall have occurred and be continuing and if pursuant to the provisions of any applicable law the Trustees shall be empowered to do so, the Trustees personally, or by their agents or attorneys, may, and upon the request of the holders of a majority in unpaid principal amount of the Notes shall, enter into and upon all or any part of the Property, and may exclude the Company, and its agents and attorneys therefrom; and, at the expense of the Trust Estate, the Trustees may use, operate, manage and control such Property and conduct the business thereof, either personally or by their agents or attorneys, may maintain and restore such Property and may insure and reinsure the same, as may seem to them to be advisable, and may make all necessary or proper repairs, renewals and replacements, and useful alterations, additions, betterments and improvements thereto and thereon as to them may seem advisable; and in every such case the Trustees shall have the right to manage and operate such Property and to carry on the business thereof and exercise all rights and powers of the Company with respect thereto in the name of the Company or otherwise as the Trustee shall deem best; and the Trustees shall be entitled to collect and receive all earnings, revenues, rents, issues, profits and income of such Property, and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and for taxes, assessments, insurance and prior or other proper charges upon such Property or any part thereof, as well as reasonable compensation for the services of the Trustees and for all attorneys, agents and other persons by them properly engaged and employed, the Trustee shall apply the moneys arising as aforesaid as follows:

(1) in case an Event of Default hereunder of the character described in Section 7.01(a) hereof shall not have occurred, first, to the payment of principal of, premium, if any, and interest on the Notes when and as the same shall become payable and, second, to the payment of any other sums required to be paid by the Company under this Indenture; or

(2) in case an Event of Default hereunder of the character described in Section 7.01(a) hereof shall have occurred, whether at maturity, on acceleration, or otherwise, in the order of priorities and amounts set forth

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in Section 7.03(e).

Section 7.03 Sale of Trust Estate; Application of Proceeds. (a) Any sale of the Trust Estate or any portions thereof shall be hereinafter referred to as a sale made under or by virtue of this Article VII, whether made under the power of sale granted herein or under or by virtue of Proceedings or of a judgment or decree of foreclosure and sale. The Trustees may conduct any number of sales under or by virtue of this Article VII from time to time. The power of sale hereunder shall not be exhausted by any one or more such sales as to any portion of the Trust Estate remaining unsold, but shall continue unimpaired until all of the Trust Estate shall have been sold or the Notes and all indebtedness of the Company hereunder shall have been paid in full. To the extent not prohibited by law, the Trustees may postpone any sale by public announcement at the time and place of such sale, and from time to time thereafter may further postpone such sale by public announcement made at the time and place of sale fixed by the preceding postponement.

(b) Upon the completion of any sale or sales made by the Trustees under or by virtue of this Article VII, the Trustees shall execute and deliver to the accepted purchaser or purchasers an appropriate instrument or instruments which shall effectively transfer all of the Trustees' estate, right, title, interest, claim and demand in and to the Trust Estate or portions thereof so sold. The Trustees are hereby irrevocably appointed the attorneys-in-fact of the Company, in its name and stead or in the names of the Trustees, to make all appropriate transfers and deliveries of the Trust Estate or any portions thereof so sold and, for that purpose, the Trustees may execute all appropriate instruments of transfer, and may substitute one or more persons with like power, the Company hereby ratifying and confirming all that said attorney or attorneys or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Company, if so requested by the Trustees, shall ratify and confirm, or cause to be ratified or confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered to the Trustees or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Trustees, for the purpose, and as may be designated in such request. Any sale or sales made under or by virtue of this Article VII, to the extent not prohibited by law, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Company in, to and under the Trust Estate or any portions thereof so sold, and shall be a perpetual bar both at law and in equity against the Company and its successors and assigns, and against any and all persons claiming or who may claim the same, or any part thereof from,

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through or under the Company or its successors or assigns.

(c) The receipt of the Trustee for the purchase money paid as a result of any such sale shall be a sufficient discharge therefor to any purchaser of the Trust Estate or any portion thereof sold as aforesaid; and no such purchaser or his representatives, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money upon or for any trust or purpose of this Indenture, or shall be answerable in any manner whatsoever for any loss, misapplication or non-application of any such purchase money or any part thereof, nor shall any such purchaser be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

(d) In the event of any sale made under or by virtue of this Article VII the entire unpaid principal of the Notes (if not then due and payable), all interest accrued and unpaid thereon and all other sums required to be paid by the Company pursuant to this Indenture, shall, anything in the Notes or in this Indenture contained to the contrary notwithstanding, become forthwith due and payable.

(e) The purchase money, proceeds or avails of any sale made under or by virtue of this Article VII, together with any other sums which then may be held by the Trustees under this Indenture as part of the Trust Estate or the proceeds thereof, whether under the provisions of this Article VII or otherwise, shall be applied by the Trustee as follows:

First: To the payment of the costs and expenses of any such sale, and of any Proceeding wherein the same may be made, all compensation of the Trustees provided for herein and of all expenses, liabilities and advances made or incurred by the Trustees under this Indenture (including, without limitation, the reasonable compensation and expenses and disbursements of its counsel and of such agents, representatives and experts not regularly in the employ of the Trustee as it shall employ in connection with the exercise and performance of its powers and duties hereunder), together with, unless prohibited by applicable law, interest at the rate of 10.45% per annum (or at the highest rate permitted by applicable law, whichever is less) on all advances made by the Trustee, and all taxes or assessments, except any taxes, assessments or other charges subject to which the Trust Estate or any portion thereof shall have been sold. The Trustees hereby expressly waive their rights to the amount, if any, fixed by law as compensation for any such sale.

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Second: To the payment of the whole amount then due and unpaid upon the Notes for principal, premium, if any, and interest and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the Notes, then ratably (after giving effect to any concurrent payment or distribution on account of any thereof) according to the aggregate of such unpaid principal, premium, if any, and interest, without preference, priority or distinction as between any Notes or as between principal, premium, if any, or interest; such payment to be made upon presentation of the several Notes, and the notation thereon of the payment, if partially paid, or the surrender and cancellation thereof, if fully paid.

Third: To the payment of any other sums required to be paid by the Company pursuant to any provision of this Indenture or of the Notes.

Fourth: To the payment of the surplus, if any, to the Company or such other person or persons entitled thereto.

(f) Upon any public sale made under or by virtue of this Article VII, to the extent permitted by applicable law, the Trustees or an independent agent, on behalf of the holders of Notes, may bid for and acquire the Trust Estate or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of the Company secured by this Indenture the net proceeds of sale, after deducting therefrom the expenses of the sale and the costs of the Proceedings and any other sums which the Trustees are authorized to deduct under this Indenture. The person making such sale shall accept such settlement without requiring the production of any of the Notes and without such production there shall be deemed credited thereon the pro rata share of the net proceeds of sale ascertained and established as aforesaid. The Trustees or such independent agent, upon so acquiring the Trust Estate or any portion thereof, shall be entitled to hold, lease, rent, operate, manage, sell or otherwise deal in and with the same in any manner not prohibited by applicable law. To the extent that applicable law shall require a different procedure than that provided for in this Section 7.03(f), the Trustees or such independent agent shall proceed in a manner not prohibited by applicable law.

(g) Upon any public sale under or by virtue of this Article VII, any purchaser which is the holder of any of the Notes shall be entitled to use and apply any of such Notes, and the amount of interest accrued thereon, for or in settlement or payment of the purchase price, or any part thereof, of the property purchased, by presenting such Notes in order that

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there may be credited thereon the sums payable out of the net proceeds of such sale to the holder of such Notes as his ratable share of such net proceeds, after the deduction of all costs, expenses, compensations, and other charges to be paid therefrom as herein provided; and thereupon such purchaser shall be credited on account of such price payable by him with the portion of such net proceeds that shall be applicable to the payment of, and that shall have been credited upon, the Notes so presented on account of principal and interest and other sums payable thereon; and if the portion so payable in respect of the principal of such Notes and interest and other sums payable thereon shall be less than the amount for which the Company may be liable thereon, then the receipt, endorsed thereon under the direction of any person authorized to receive payment of the purchase price, for the amount to be so allowed or credited thereon, shall constitute such partial payment and settlement and shall be conclusive proof of the amount thereon. At any such sale any holder of Notes may bid for and purchase the property sold and may make payment therefor as aforesaid, and upon compliance with the terms of sale may hold, retain and dispose of such property without further accountability.

Section 7.04. Recovery of Judgment. (a) In case an Event of Default hereunder of the character described in Section 7.01(a) hereof shall have occurred and be continuing, then, upon demand of the Trustee, the Company will pay to the Trustee for the benefit of the holders of the Notes the whole amount which then shall have become due and payable on all the Notes for principal, premium, if any, and interest, and the sums required to be paid by the Company pursuant to any provision of this Indenture, and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Trustees, their agents, and counsel, and any expenses and liabilities incurred by the Trustees hereunder. In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustees shall be entitled and empowered to institute such Proceedings as may be advised by counsel for the collection of the sums so due and unpaid, to prosecute such Proceedings to judgment or final decree, and to enforce any such judgment or final decree against the Company and collect moneys adjudged or decreed to be payable out of the property of the Company wherever situated, as well as out of the Trust Estate, in any manner not prohibited by law.

(b) The Trustees shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any Proceedings for the enforcement of this Indenture; and the right of the Trustees to recover such judgment shall not be affected by any entry or sale hereunder,

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or by the exercise of any other right or remedy for the enforcement of the provisions of this Indenture, or by the foreclosure of the lien hereof; and in case of any sale of the Trust Estate or any portion thereof, and of the application of the proceeds of sale, as in this Indenture provided, to the payment of the indebtedness hereby secured, the Trustees shall be entitled to enforce payment of and to receive all amounts then remaining due and unpaid upon any and all of the Notes then outstanding for the equal and ratable benefit of the holders thereof, and upon all other payments, charges and costs due under this Indenture, and shall be entitled to recover judgment for any portion of the indebtedness remaining unpaid, with interest.

(c) No recovery of any judgment by the Trustees, and no levy of an execution under any judgment upon the Trust Estate or any portion thereof or upon any other property of the Company shall affect, in any manner or to any extent, the lien of this Indenture upon the Trust Estate or any portion thereof, or any rights or remedies of the Trustees hereunder, or any rights or remedies of the holders of the Notes, but such lien and such rights and remedies shall continue unimpaired as before.

(d) Any moneys thus collected by the Trustees under this Section 7.04 shall be applied by the Trustee in accordance with the provisions of Section 7.07(e) hereof.

Section 7.05. Confession of Judgment; Receivers. If an Event of Default hereunder shall have occurred and be continuing, then immediately upon the commencement of any Proceeding by the Trustees to obtain judgment for the principal of, premium, if any, or interest on the Notes and other sums required to be paid by the Company pursuant to any provision of this Indenture, or of any other nature in aid of the enforcement of the Notes or of this Indenture, the Company will, to the extent that it lawfully may, (a) waive the issuance and service of process and enter its voluntary appearance in such Proceeding, (b) consent to the entry of a judgment for the principal of, premium, if any, and interest on the Notes and other sums, and for the lawful costs, expenses and compensation of the Trustees and of their agents or attorneys, and for such other relief as the Trustees may be entitled to hereunder, and (c) if required by the Trustees, consent to the appointment of a receiver or receivers of the Trust Estate and the earnings, revenues, rents, issues, profits and income thereof. If an Event of Default hereunder shall have occurred and be continuing, or upon the filing of a bill in equity to foreclose this Indenture or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other Proceeding to enforce any right or

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remedy of the Trustees or of the holders of the Notes, the Trustees shall be entitled, as a matter of right, if the Trustees shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of the security of the Trust Estate, forthwith, either before or after declaring the entire unpaid principal of the Notes, premium, if any, and the interest accrued and unpaid thereon to be due and payable, to the appointment of such a receiver or receivers. Any receiver or receivers so appointed shall have such powers as the court making the appointment shall confer, which may comprise any or all of the rights and remedies which the Trustees are authorized to exercise by the provisions of Section 7.02(b) or 7.02(c) hereof, and shall have the right to incur such obligations and to issue such certificates therefor as the court shall authorize.

Section 7.06. Retention of Possession.

Notwithstanding the appointment of any custodian, receiver, trustee or liquidator (or other similar official) of the Company, or of its property, or of the Trust Estate or any portion thereof, the Trustees shall, subject to the limitation stated in Section 7.12 hereof, be entitled to retain possession and control of all property now or hereafter Granted to or held by the Trustees under or pursuant to the provisions of this Indenture.

Section 7.07. Suits by Trustees. All rights of action under this Indenture or under any of the Notes may be enforced by the Trustees without the possession of any of the Notes and without the production thereof at any Proceeding relative thereto. Any such Proceeding instituted by the Trustees shall be brought in their names and as trustees of an express trust (subject to the provisions of Section 8.02 and 8.06 hereof), and any recovery of judgment shall, subject to the rights of the Trustees, be for the equal and ratable benefit of the holders of the Notes.

Section 7.08. Waiver of Defaults. The Trustees, upon the request of the holders of not less than 66 2/3% in unpaid principal amount of the Notes, shall waive any Default or Event of Default hereunder and its consequences (including, without limitation, any acceleration declared pursuant to Section 7.02(a) hereof, which declaration and acceleration shall, by virtue of such waiver, be deemed rescinded and annulled), unless such waiver would be prohibited by this Section 7.08. Without the consent of the holders of 100% in unpaid principal amount of the Notes, no waiver shall be made pursuant to this Section 7.08: (a) unless and until the Company shall have wholly cured each such Default and Event of Default hereunder other than the Default or Event of Default so to be waived and shall have made provision satisfactory to the Trustees for the

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payment of all payments and prepayments of the principal of, premium, if any, and interest on the Notes and all other amounts which would then be due hereunder or upon the Notes if the Default or Event of Default so to be waived had not occurred, together with provision for the payment of all expenses of the Trustees in connection with such Default or Event of Default and waiver; or (b) which would permit the creation of any lien on the Trust Estate or any portion thereof equal or prior to the lien of this Indenture or would deprive any holder of the benefit of a lien upon the Trust Estate or any portion thereof; or (c) which would waive the due observance or performance of the provisions of Sections 3.01, 3.03, 3.04, 3.05, 3.06, 3.08, 3.09, 3.10, 3.13-3.19, 3.20(a) or 3.20(b) hereof. In case of any such waiver, or in case any Proceeding taken on account of any such Default or Event of Default shall have been discontinued or abandoned or determined adversely to the Trustees, then in every such case the Company, the Trustees and the holders of the Notes shall be restored to their former positions and rights hereunder, respectively. No such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 7.09. Actions by Holders. None of the holders of the Notes shall have any right to institute any Proceeding growing out of any provision of this Indenture, or for the foreclosure or enforcement of this Indenture, unless and until (a) an Event of Default hereunder shall have occurred and be continuing, (b) the Trustees have notice of the occurrence of such Event of Default as provided in Section 8.01(k) hereof, (c) the holders of not less than 25% in unpaid principal amount of the Notes shall have requested the Trustees to institute such Proceeding in the Trustees' own names and as trustees of an express trust, (d) the Trustees shall have been offered security and indemnity satisfactory to them against the costs, expenses and liabilities to be incurred therein or thereby, and (e) the Trustee shall have neglected or refused to institute any such Proceeding for 30 days after receipt of such notification, request and offer of indemnity. Such notification, request, offer of indemnity and refusal or neglect shall be conditions precedent to the institution by any of the holders of the Notes of any such Proceeding; and the holders of the Notes from time to time outstanding, by their purchase or acceptance of any thereof, mutually agree with each other and with the Trustees that none of the holders of the Notes shall have any right in any manner whatever to affect, disturb or prejudice the rights or remedies of any of the other holders of the Notes, or to enforce any right or remedy hereunder, except in the manner herein provided, and for the equal and ratable benefit of all of the holders of the Notes. Nothing in this Indenture or in the Notes contained shall affect the obligation of the Company, which is absolute and

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unconditional, to pay the principal of, premium, if any, and interest on the Notes in the manner and at the time and place therein respectively expressed, or shall affect the right of the holders of the Notes, by a Proceeding upon the promise to pay therein contained, to enforce such payment without reference to or without consent of the Trustees or any other of the holders of the Notes.

Section 7.10. Remedies Cumulative. No right or remedy herein conferred upon or reserved to the Trustees or the holders of the Notes is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing, upon the occurrence of an Event of Default hereunder. The failure of the Trustees or of any of the holders of the Notes to insist at any time upon the strict observance or performance of any of the provisions of this Indenture, or to exercise any right or remedy provided for in this Indenture, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof. Every right and remedy given by this Indenture to the Trustees or to the holders of the Notes may be exercised from time to time and as often as may be deemed expedient by the Trustees or by the holders of the Notes, as the case may be. The Trustees may execute the power of sale provided for herein and exercise the other rights and remedies conferred upon or reserved to the Trustees without giving bond or taking oath.

Section 7.11. Waiver of Rights. To the extent that it lawfully may, the Company agrees that it will not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium law, which may affect observance or performance of the provisions of this Indenture or the Notes; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Trust Estate or any portion thereof prior to any sale or sales thereof which may be made under or by virtue of this Article VII; nor after any such sale or sales, claim or exercise any right, under any applicable present or future law or otherwise, to redeem the Trust Estate or any portion thereof so sold; and the Company to the extent that it lawfully may, expressly waives all benefit or advantage of any such laws, and covenants not to hinder, delay or impede the exercise of any right or remedy herein permitted to be exercised by the Trustees, but to suffer and permit the exercise of every such right or remedy as though no such law or laws were in effect. The Company for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Trust Estate and any other security for the Notes or any thereof marshaled upon any foreclosure.

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Section 7.12. Lessees' Possession and Quiet Enjoyment. The remedies afforded to the Trustees and the holders of the Notes under this Indenture are subject to the limitation that the Trustees and such holders shall not disturb the possession and quiet enjoyment of any of the Properties or any portion thereof by a Lessee under a Lease of a Dunkin' Donuts Shop, so long as Lessee is not in default thereunder, and provided that in the event the interest of the Company in the Properties shall be transferred to and owned by the Trustees or such holders or any other person by reason of foreclosure or other proceedings brought by the Trustees or the holders, by deed in lieu of foreclosure, or by any other manner, such Lessee attorns to the Trustees, the holders, or such other person under all of the terms, covenants and conditions of such Lease, and such Lessee agrees with the Trustees, the holders or such other person that they or it shall not be (i) liable for any action or omission of any prior landlord, including the Company, under such Lease, (ii) bound by any prepayments of rent or additional rent made by the Lessee for a period in excess of 60 days, (iii) subject to any offsets or defenses which such Lessee may have against any prior landlord, including the Company or (iv) bound by any modification, waiver or amendment of any term or provision of such Lease made without the prior consent of the holders of not less than 66 2/3% in unpaid principal amount of the Notes, except as otherwise permitted under this Indenture.

Section 7.13. Notices of Defaults. Within a reasonable time after obtaining actual knowledge of any Default or Event of Default hereunder the Trustee shall give notice thereof to the holders of the Notes, unless such Default or Event of Default shall have been wholly cured before the giving of such notice. In the event the Trustee shall have given such notice of a Default or Event of Default hereunder and such Default or Event of Default is subsequently wholly cured or waived pursuant to Section 7.08 hereof, the Trustee shall give notice to such effect to the holders of the Notes.

Section 7.14. Direction of Remedies. The holders of a majority in unpaid principal amount of the Notes shall have the right, by an instrument or instruments delivered to the Trustee, to direct the time, method, manner and place of conducting any and all Proceedings for the enforcement of this Indenture or the Notes or of exercising any other right or remedy under this Indenture; provided that such determination shall not be otherwise than in accordance with law and the provisions of this Indenture, and the Trustees shall have the right to decline to follow any such direction if the Trustee in good faith shall, by a Trust Committee of the Trustee, determine that the Proceeding so directed would be unjustly

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prejudicial to the holders of Notes not joining in such direction. If no such instrument has been received from the holders of the Notes, the Trustees may proceed as the Trustees shall determine.

Section 7.15. Trustees as Attorney-in-Fact. The Trustees are hereby irrevocably appointed (and the successive holders of the Notes from time to time outstanding, by the purchase or acceptance of any thereof, agree to and confirm such appointment) the attorney-in-fact of the respective holders of the Notes from time to time outstanding, with authority to make or file, irrespective of whether the Notes or any of them are in default as to payment of principal or interest, in the respective names of the holders of the Notes, or on behalf of all holders of the Notes as a class, any proof of debt, amendment to proof of debt, petition or document; to execute any other papers and documents and to do and perform any and all acts and things for and on behalf of the respective holders of the Notes, or on behalf of all such holders as a class, as the Trustees may deem necessary or advisable, in order to have the respective claims of the holders of the Notes against the Company allowed in any Proceeding to which the Company shall be a party; and, except to the extent that any of the holders of the Notes shall have filed individual claims in any such Proceeding on their own behalf, to receive payment of or on account of such claim, and any custodian, receiver, trustee or liquidator (or other similar official) is hereby authorized to make such payments to the Trustee. The Trustees shall have full power of substitution and delegation in respect of any such powers. Neither the foregoing nor any other provision of this Indenture shall authorize the Trustees to accept or consent to any plan of reorganization on behalf of any of the holders of the Notes or in any such Proceeding to waive or change in any way any right or remedy of any of the holders of the Notes even though the Trustees may otherwise be entitled so to do under any present or future law.

ARTICLE VIII

THE TRUSTEES

Section 8.01. Rights and Obligations of Trustees.

(a) The Trustees accept the trusts hereunder and agree to perform the duties herein required of them, but only upon the terms and conditions hereof, including this Section 8.01. The Trustees shall have the full and complete right, power and authority at any and all times and from time to time, to do any and all things not inconsistent with the express provisions of this Indenture, which the Trustee may deem advisable in order to enforce the provisions of this Indenture or to take any

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action with respect to an Event of Default hereunder, or to institute, appear in or defend any Proceeding with respect thereto, or to protect the interests of the holders of the Notes, provided that prior to the occurrence of an Event of Default hereunder and after such Event of Default may be wholly cured or waived, as provided herein, the Trustees shall be responsible for the performance of such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustees, or either of them, their duties and obligations being determined solely by the express provisions of this Indenture, and provided, further, that after the occurrence of an Event of Default hereunder, and until such time as such Event of Default may be wholly cured or waived, as provided herein, the Trustees shall be responsible for exercising such of the rights and powers as are vested in them by this Indenture and for using the same degree of skill and care in their exercise as an ordinary prudent man would use or exercise under the circumstances in the conduct of his own affairs. The Trustees shall not be answerable or accountable under any circumstances, except for their own bad faith, wilful misconduct or negligence, and the Company agrees to indemnify and save harmless the Trustees from and against any liability and damage which they may incur or sustain, in good faith and without negligence, in the exercise and performance of any of their duties, rights or remedies hereunder. The Trustees shall be under no obligation to take any action to protect, preserve or enforce any rights or interests in the Trust Estate or to take any action towards the execution or enforcement of the trusts hereunder or otherwise hereunder, whether on their own motion or on the request of any other person which, in their opinion, shall be likely to involve expense or liability, unless one or more of the holders of the Notes, from time to time, shall offer and furnish indemnity, deemed reasonable by the Trustee, against liability and expense to the Trustees. The Trustees, in their individual or any other capacity, may become holders or pledgees of Notes, with the same rights which they would have if they were not Trustees hereunder.

(b) The Trustees shall receive compensation from the Company at the rates agreed with the Company for all services rendered by them under this Indenture prior to an Event of Default hereunder and after such Event of Default may be wholly cured or waived as provided herein for receiving and disbursing moneys payable pursuant to the Guaranty or any instruments included in the Trust Estate, issuing checks for the payments on the Notes and for prepaying the Notes. The Trustees shall be entitled to receive reasonable compensation from the Company for any services, other than those referred to in the preceding sentence, which they may render under this Indenture prior to an Event of Default hereunder and after such Event of Default

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may be wholly cured or waived as provided herein and to be reimbursed for all reasonable expenses (including the reasonable compensation and the expenses and disbursements of their counsel and of such agents, representatives and experts, not regularly in the employ of the Trustee, as they shall employ in connection with the exercise and performance of their powers and duties hereunder) incurred by them under this Indenture prior to an Event of Default hereunder and after such Event of Default may be wholly cured or waived as provided herein; provided that no commission shall be paid for the collection of any and all moneys in respect of the Trust Estate or for disbursing the same pursuant to the provisions hereof prior to an Event of Default hereunder and after such Event of Default may be wholly cured or waived as provided herein. Any such compensation shall not be limited by any provision of law in regard to the compensation of trustees of an express trust and shall be increased by the amount of any general excise tax or similar tax thereon paid by the Trustees.

(c) The Trustees shall be entitled to reasonable compensation for their services and reimbursement for all reasonable expenses (including the reasonable compensation and the expenses and disbursements of their counsel and of such agents, representatives and experts, not regularly in the employ of the Trustee, as they shall employ in connection with the exercise and performance of their powers and duties hereunder) incurred by them in taking any action upon an Event of Default hereunder and until such time as such Event of Default may be wholly cured or waived as provided herein, or in instituting, appearing in or defending any Proceeding with respect thereto and for all other expenses incurred by them hereunder, and for all taxes which may be assessed against the Trustees as such or against any funds on deposit with the Trustee which the Trustees might be required or permitted by law to deduct from such deposit and pay, and for all statutory penalties or other payments which the Trustees may be required to pay or make. For such compensation, disbursements, expenses, taxes, penalties and other payments, and for the compensation referred to in Section 8.01(b) hereof and the indemnity by the Company referred to in Section 8.01(a) hereof, the Trustees shall be secured under this Indenture prior to the Notes. Any such compensation shall not be limited by any provision of law in regard to the compensation of trustees of an express trust.

(d) The Trustees shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, note or other document or paper reasonably believed by them to be genuine. In the administration of the trusts hereunder, the Trustees may act directly or through their agents or attorneys

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and shall not be responsible for the act or neglect of agents or attorneys appointed by them with due care and may, at the expense of the Company, consult with counsel, appraisers, engineers, accountants and other skilled persons to be reasonably selected and employed by them, and the Trustees shall not be liable for anything done, suffered or omitted in good faith by them in accordance with the advice of any thereof.

(e) The recitals and statements contained in this Indenture, in any instruments included in the Trust Estate and in the Notes (except for the Trustee's certificate of authentication on the Notes) shall be taken as statements by the party or parties thereto (other than the Trustees), and shall not be considered as made by, or as imposing any obligation or liability upon, the Trustees, nor shall the Trustees be held responsible for the value of the Trust Estate or for the legality or validity of this Indenture or the Notes, any instruments included in the Trust Estate, any supplemental indenture or any instrument of further assurance. No representation or warranty respecting the rights or remedies of the holders of the Notes, the Company's estate, right, title, interest, claim and demand in, to or under any instruments or other property included in the Trust Estate, the condition of the Trust Estate or the sufficiency of the security for the Notes afforded by the Trust Estate, is made or implied by the Trustees' execution of this Indenture or the Trustee's authentication and delivery of any Note.

(f) Whenever in the administration of the trusts hereunder the Trustees shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the Company purporting to be signed by an Executive Officer thereof and delivered to the Trustee, and such certificate shall be full warrant to the Trustees or any other person for any action taken, suffered or omitted by them or it on the faith thereof but in their or its discretion the Trustees or such other person may accept, in lieu thereof, other evidence of such fact or matter or may require such further or additional evidence as to them or it may seem reasonable.

(g) It shall not be the duty of the Trustees to see to any filing, registration, recording, refiling, reregistration or re-recording required by this Indenture to be effected by the Company or otherwise required or permitted by any applicable law, or to the payment of any fees, charges or taxes in connection therewith or to give any notice thereof, or to see to the payment of or be under any duty in respect of any

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tax or assessment or other governmental charge which may be levied or assessed on the Trust Estate or any portion thereof or against the Company. The Trustees shall be under no obligation to see to the payment or discharge of any lien (other than the lien of this Indenture, and then only to the extent herein provided) upon the Trust Estate, or to see to the payment of the principal of, premium, if any, or interest on any obligation secured by any such lien or to the delivery or transfer to them of any property released from any such lien, or to give notice to or make demand upon any person for the delivery of any such property.

(n) The Trustees shall not be under any duty to check or verify any amortization schedules with respect to any of the Notes, or any financial or other statements or reports, furnished pursuant to any provision hereof or of the Note Purchase Agreement or of any instrument included in the Trust Estate, or to check or verify any of such statements or reports or compare them with those previously or subsequently furnished, and shall be under no other duty in respect of the same, except to file the same, and permit the inspection of the same at reasonable times by the holders of the Notes.

(i) The Trustees shall not be concerned with or accountable to anyone for the use or application of any property or the proceeds thereof which shall be released from the lien hereof in accordance with the provisions of this Indenture.

(j) In accepting the trusts hereunder and the Trust Estate, whether moneys, bonds, obligations, time deposits, certificates of deposit, franchises, rights, interests, securities, mortgages, deeds of trust, deeds to secure debt, acts of mortgage, security instruments, notes, leases, subleases, ground leases, assignments, assumptions, undertakings, agreements, contracts, easements, licenses, permits or any other property, real or personal, or whatever it may be, and whether under this Indenture or some indenture supplemental hereto or any instrument included in the Trust Estate, the Trustees act solely as Trustees hereunder and not in their individual capacities, and all persons, other than the Company and the holders of the Notes, having any claim against the Trustees arising by reason thereof, shall look only to the Trust Estate for payment or satisfaction thereof.

(k) The Trustees shall not be required to ascertain or inquire as to the observance or performance of any of the provisions hereof or of any instrument included in the Trust Estate to be observed or performed by the Company or any party to such instrument. The Trustees shall not be required to take notice or be deemed to have notice or knowledge of any Default

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or Event of Default under any instrument included in the Trust Estate or of any Default or Event of Default hereunder (except (i) default in the payment of moneys to the Trustees required to be paid on or before a specified date, (ii) default in the payment of moneys to the Trustees within a specified time after receipt by the Trustee of a notice or certificate which was in fact received, and (iii) default in the delivery of any certificate or opinion expressly required to be delivered to the Trustee by any provision hereof), unless the Trustee shall receive from the Company, or any of the holders of the Notes, notice stating that the same has occurred and is continuing, and specifying the same, and in the absence of such notice the Trustees may conclusively assume that the same does not exist, except as aforesaid. Every provision contained in this Indenture or any instrument at any time included in the Trust Estate wherein it is provided that the duty of either of the Trustees to take action or omit to take action or to permit or to refuse to permit the Company or any party to such instrument to do any act or thing depends on the occurrence and continuance of a Default or an Event of Default hereunder, or a default, or an event of default as defined in any such instrument, shall be subject to the provisions of this Section 8.01(k).

(l) The Trustees shall not be obligated at any time to accept any property, other than property of the character referred to in the Granting Clauses and intended to become part of the Trust Estate, or to cause or permit the transfer thereof to be made to the Trustees if the Trustee shall determine in good faith that such action would subject the Trustees to the risk of any personal liability or expense. The Trustees shall not be under any duty to examine or pass upon the validity or genuineness of, or the title to, any instrument or other property at any time included in the Trust Estate, and the Trustees shall be entitled to assume that any such instrument or other property is valid and genuine and is owned by the putative owner thereof and that the conveyance, assignment or other transfer thereof to the Trustees is legal, valid and binding and enforceable in accordance with its terms. The Trustees shall hold, deal with, apply and release the Trust Estate or any portion thereof or interest therein in accordance with the provisions of this Indenture.

(m) In case default shall be made in the payment of any moneys due under or pursuant to the provisions of or otherwise in respect of, or in the due performance of any provision of, the Guaranty or any instrument included in the Trust Estate, then and in every such case (without prejudice to any right to claim a Default or Event of Default under this Indenture or to assert any right consequent thereon), the Trustees may, and upon the request of the holders of not less

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than 66 2/3% in unpaid principal amount of the Notes shall, cause proper Proceedings to be instituted and prosecuted in a court of competent jurisdiction, or take any other action, to enforce such payment, collect the amounts due and/or enforce the performance of such provisions, subject, however, to the provisions of Sections 7.02 and 7.08 hereof and to the proviso to the first sentence of Section 7.14 hereof.

(n) The Trustees shall, upon the request of all of the holders of the Notes, give their consent to, or take, any action or change under, in or in respect of the Trust Estate, any instrument or other property included in the Trust Estate or any property subject or intended to be subject to any instrument included in the Trust Estate; provided that the Trustees may decline to follow any such request if (i) the Trustee shall be advised by counsel that such consent or such action or change may not lawfully be made or taken, or (ii) the Trustee shall determine in good faith that such consent or such action or change would subject the Trustees to the risk of any personal liability or expense, unless any of the holders of the Notes can and do indemnify and hold the Trustees harmless from and against such liability or expense.

(o) On demand of the Trustee, the Company forthwith will pay or satisfactorily provide for all reasonable expenditures incurred by the Trustees under this Indenture.

(p) The Trustees shall, before taking any action under Section 8.01(n), be entitled to receive at least 10 days' prior notice of the action to be taken and of the form of the instruments involved, and an opinion of counsel, in form and substance satisfactory to the Trustee, stating the legal effect of such action, the steps necessary to be taken to consummate the same and that such action will not materially and adversely impair the security for the Notes or the rights of the holders of the Notes in contravention of the provisions hereof, and such opinion shall be full protection to the Trustees for any action taken or omitted to be taken by the Trustees in reliance thereon. In the case of any instrument or instruments included in the Trust Estate and in the case of any releases and related instruments, the Trustees shall be entitled to receive and rely on an opinion of counsel, in form and substance satisfactory to the Trustee, as conclusive evidence that such supplemental instrument or instruments or releases and related instruments may be entered into or consented to by the parties thereto (and by any person whose consent thereto or execution thereof is required) pursuant to and in compliance with the requirements of this Indenture.

Section 8.02. The Individual Trustee. The Individual Trustee shall act as and be such upon the following terms and conditions:

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(a) The Notes shall be authenticated and delivered solely by the Trustee.

(b) Subject to the provisions of Section 8.06 hereof, all rights, powers, duties and obligations conferred or imposed upon the Trustees shall be conferred or imposed solely upon and solely exercised and performed by the Trustee except as expressly provided otherwise in this Indenture and except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights, powers, duties and obligations shall be exercised and performed by the Individual Trustee.

(c) No power granted by this Indenture to, or which this Indenture provides may be exercised by, the Individual Trustee shall be exercised by the Individual Trustee except jointly with, or with the consent of, the Trustee, anything herein contained to the contrary notwithstanding. The Individual Trustee may at any time by an instrument constitute the Trustee his agent or attorney-in-fact, with full power and authority, to the extent not prohibited by law, to do any and all acts and things and exercise any and all discretion authorized or permitted by him, for and on his behalf and in his name.

Section 8.03. Resignation of Trustee. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee pursuant to Section 8.04(b). The Trustee may resign and be discharged of the trusts hereunder, by giving notice of such resignation to the Company and the holders of the Notes, specifying the date when such resignation shall take effect. The Trustee may be removed at any time by an instrument or instruments signed by the holders of a majority in unpaid principal amount of the Notes, or by their attorneys-in-fact thereunto duly authorized.

Section 8.04. Successor Trustee. (a) If at any time the Trustee shall resign or be removed or otherwise become incapable of acting, or if the Trustee shall be taken under the control of any public officer or officers or of a receiver appointed by a court, then (except as hereinafter provided), a successor or successors may be appointed by the holders of a majority in unpaid principal amount of the Notes, by an instrument or instruments signed by such holders or by their attorneys-in-fact thereunto duly authorized; provided that the Company, by an instrument executed pursuant to resolutions adopted by its Board of Directors, may appoint a successor trustee to act until a successor trustee shall be appointed by

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the holders of the Notes as hereinabove provided. After any such appointment by the Company, it shall give notice thereof to the holders of the Notes; but any new trustee so appointed by the Company shall immediately and without further act be superseded by a trustee appointed by the holders of the Notes as hereinabove provided.

(b) Any successor to the Trustee shall execute, acknowledge and deliver to its predecessor and to the Company an instrument accepting such appointment hereunder, and thereupon such successor trustee, without any further act or instrument, shall become the Trustee and be vested with all the estates, properties, rights, remedies and trusts of its predecessor in the trusts hereunder with like effect as if originally named as Trustee herein; but nevertheless on the request of the Company or of the successor trustee, such predecessor shall execute and deliver an instrument transferring to such successor trustee, upon the trusts hereby created, all the estates, properties, rights, remedies and trusts of such predecessor and shall duly assign, transfer, deliver and pay over to the successor trustee any moneys and other property subject to the lien of this Indenture and held by such predecessor. Should any act or instrument from the Company be required by any successor trustee for more fully and certainly vesting in and confirming to such successor trustee such estates, properties, rights, remedies, and trusts, then on request any and all such acts and instruments shall be done, made, executed, acknowledged and delivered by the Company.

(c) Any successor to the Trustee, however constituted, shall be a bank or trust company organized and existing under the laws of the United States or any state thereof and having capital funds as of the date of appointment of such successor (as shown by its most recent financial statement distributed to its shareholders) aggregating at least \$100,000,000, if there shall be such a bank or trust company willing and legally qualified to accept and perform the trusts hereunder and the duties mentioned herein upon reasonable or customary terms.

(d) Any corporation into which the Trustee may be merged or with which it may be consolidated, or any corporation resulting from any merger or consolidation or conversion to which the Trustee shall be a party, shall be the successor to the Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 8.05. Resignation and Removal of Individual Trustee. (a) No resignation or removal of the Individual

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Trustee and no appointment of a successor to the Individual Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor to the Individual Trustee pursuant to Section 8.05(c). The Individual Trustee may resign and be discharged of the trusts hereunder, by giving notice of such resignation to the Company and to the Trustee, specifying the date when such resignation shall take effect. The Individual Trustee may be removed at any time by an instrument or instruments signed by the holders of a majority in unpaid principal amount of the Notes, or by their attorneys-in-fact thereunto duly authorized, or by the Trustee.

(b) If at any time the Individual Trustee shall die, resign or be removed or otherwise become incapable of acting, or if for any reason the office of Individual Trustee shall become vacant, a successor to the Individual Trustee shall forthwith be appointed by the Trustee or, if the Trustee shall fail to make such appointment within 60 days after the occurrence of such death, resignation, removal, incapacity or vacancy, by the holders of a majority in unpaid principal amount of the Notes, by an instrument signed by the Trustee or by such holders, as the case may be.

(c) Any person appointed as a successor to the Individual Trustee shall execute, acknowledge and deliver to his predecessor, to the Trustee and to the Company an instrument accepting such appointment hereunder, and thereupon such person, without any further act or instrument, shall become the Individual Trustee and be vested with all the estates, property, rights, remedies, and trusts of his predecessor in the trusts hereunder with like effect as if originally named as Individual Trustee herein, but nevertheless on the request of the Company or of the Trustee or of the successor to the Individual Trustee, such predecessor shall execute and deliver an instrument transferring to the successor to the Individual Trustee, upon the trusts hereunder, all the estates, properties, rights, remedies and trusts of such predecessor and shall duly assign, transfer, deliver and pay over to the successor to the Individual Trustee any moneys and other property subject to the lien of this Indenture and held by such predecessor. Should any act or instrument from the Company or from the Trustee be required by any successor to the Individual Trustee for more fully and certainly vesting in and confirming to such successor to the Individual Trustee such estate, property, rights, remedies and trusts, then on request any and all such acts and instruments shall be done, made, executed, acknowledged and delivered by the Company or the Trustee.

Section 8.06. Separate and Co-Trustees. (a) If at any time or times, for the purpose of conforming to any legal

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requirements, restrictions or conditions in any state or jurisdiction in which the Trust Estate or any portion thereof may be located, the Trustee or the holders of at least 25% in unpaid principal amount of the Notes shall deem it necessary or prudent in the interest of the holders of the Notes so to do, the Trustee or the holders of at least 25% in unpaid principal amount of the Notes shall have the power, by an instrument executed by the Trustee or by such holders, to appoint one or more persons approved by the Trustee or by such holders either to act as separate trustee or trustees, or co-trustee or co-trustees jointly with the Trustee and the Individual Trustee of any or all of the property subject to the lien of this Indenture; and the person or persons so appointed shall be such separate trustee or separate trustees or co-trustee or co-trustees with such rights and remedies as shall be specified in such instrument to be executed as aforesaid, to the extent not prohibited by law. If the Trustee or the holders of at least 25% in unpaid principal amount of the Notes shall request the Company to do so, the Company shall for such purpose join with the Trustee or such holders in the execution, delivery and performance of any instrument necessary or proper to appoint such separate trustee or trustees or co-trustee or co-trustees, but the Trustee or the holders of at least 25% in unpaid principal amount of the Notes shall have the power to make such appointment by its or their sole action without making such request of the Company.

(b) Every separate trustee, co-trustee and successor trustee, other than any trustee which may be appointed as successor to the Trustee, shall, to the extent not prohibited by law, be appointed subject to the following provisions and conditions, namely:

(i) the rights and remedies conferred or imposed upon any such separate trustee or co-trustee pursuant to this Section 8.06 shall be conferred or imposed upon and exercised or performed by the Trustee and such separate trustee or co-trustee jointly, as shall be provided in the instrument appointing such separate trustee or co-trustee, except to the extent that under any law of any jurisdiction in which any particular act or acts are to be performed the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights and remedies shall be exercised and performed by such separate trustee or co-trustee;

(ii) all rights and remedies conferred upon the Trustees in respect of the custody of securities and all moneys received, deposited or otherwise held under or pursuant to any provision of this Indenture shall be exercised solely by the Trustee; and

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(iii) the Trustee may at any time by an instrument accept the resignation of or remove any separate trustee or co-trustee appointed under this Section 8.06 or otherwise, and upon the request of the Trustee the Company shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments necessary or proper to make effective such resignation or removal, but the Trustee shall have the power to accept such resignation or to remove any such separate trustee or co-trustee by its sole action without making such request of the Company. A successor to a separate trustee or co-trustee so removed or who has so resigned may be appointed in the manner provided in this Section 8.06.

(c) Any notice, request or other writing by or on behalf of any or all of the holders of the Notes or the Company given to the Trustee shall be deemed to have been given to all of the then separate trustees or co-trustees, including the Individual Trustee, as effectively as if given to each of them. Every instrument appointing any separate trustees or co-trustees shall refer to this Indenture and the conditions in this Article VIII expressed, and, upon the acceptance by such separate trustee or trustees or co-trustee or co-trustees, it or they shall be vested with the estates or property specified in such instrument either jointly with the Trustees, or separately, as may be provided therein, subject to all the provisions of this Indenture; and every such instrument shall be filed with the Trustee. Any separate trustee or trustees or any co-trustee or co-trustees may, at any time, by an instrument constitute the Trustee its or their agent or attorney-in-fact, with full power and authority, to the extent not prohibited by law, to do any and all acts and things and exercise any and all discretion authorized or permitted by it or them, for and on behalf of it or them, and in its or their name. In case any separate trustee or trustees or co-trustees, or a successor to any of them, shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, remedies and trusts of such separate trustee or co-trustee, so far as not prohibited by law, shall vest in and be exercised by the Trustee, without the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 8.07. Additional Provisions. (a) No Trustee hereunder shall be personally liable by reason of any act or omission of any other trustee hereunder except to the extent required by law.

(b) All moneys received, deposited or otherwise held by the Trustees under or pursuant to any provision of this Indenture shall be held in trust for the purposes for which

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they were paid, but except as otherwise provided for herein need not be segregated in any manner from any other moneys except to the extent required by law, and may be deposited by the Trustees under such general conditions as may be prescribed by law in the general banking department, if any, of the Trustee, and the Trustees shall not be liable for any interest thereon other than such interest as the Trustee may agree in writing so to pay.

(c) No provision of this Indenture, any supplemental indenture or any instrument included in the Trust Estate shall be deemed to impose any duty or obligation on the Trustee to perform any act or acts in the execution of the trusts hereunder, or exercise any right or remedy conferred or imposed on it, in any jurisdiction in which under any present or future law it shall be illegal, or in which the Trustee shall be unqualified or incompetent, to perform any such act or acts or to exercise any such right or remedy, or if such performance or exercise would constitute doing business by the Trustee in such jurisdiction, but any such act or acts and the exercise of any such right or remedy in any such jurisdiction shall be performed and exercised by the Individual Trustee, or by any separate trustee or co-trustee appointed as provided in Section 8.06 hereof.

ARTICLE IX

SUPPLEMENTAL INDENTURES

Section 9.01. Supplements without Consent. Without the consent of any of the holders of the Notes, the Company, when authorized by a resolution of its Board of Directors, and the Trustees from time to time and at any time may enter into an indenture or indentures supplemental hereto, which indenture or indentures shall form a part hereof, when required or permitted by any of the provisions of this Indenture or for any one or more or all of the following purposes:

(a) to correct or amplify the description of any Property subject to the lien of this Indenture or intended so to be; to add property to or release it from the Trust Estate, as permitted or required by the provisions of this Indenture or the Note Purchase Agreement; and to Grant or otherwise transfer to the Trustees additional property in trust for the purposes herein provided;

(b) to add to the agreements of the Company in this Indenture other agreements thereafter to be observed or performed by or on behalf of the Company, or to surrender any right or remedy herein reserved to or conferred upon the Company; and

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(c) to cure any ambiguity, or to cure, correct or supplement any inconsistent provision contained in this Indenture or in the Notes.

Upon the receipt by the Trustee of a Certified Resolution of the Company, authorizing the execution of any such supplemental indenture by the Company, the Trustees shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustees' own rights, duties or immunities under this Indenture or otherwise, in which case the Trustees may, in their sole discretion, enter into such supplemental indenture.

Section 9.02. Supplements with Consent. In addition to any supplemental indenture entered into pursuant to the provisions of Section 9.01 hereof, with the consent of the holders of not less than 66 2/3% in unpaid principal amount of the Notes, the Company, when authorized by a resolution of its Board of Directors, and the Trustees from time to time and at any time may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture; provided that without the consent of the holders of 100% in unpaid principal amount of the Notes no such supplemental indenture shall (a) impair or affect the right of any holder to receive payments or prepayments of the principal of, premium, if any, and interest on the Note or Notes registered in the name of such holder, as therein and herein provided, or (b) permit the creation of any lien on the Trust Estate equal or prior to the lien of this Indenture or deprive any holder of the benefit of a lien on the Trust Estate, or (c) reduce the aforesaid percentages of unpaid principal amount of the Notes, the holders of which are required to consent to any such supplemental indenture, or reduce the percentages of unpaid principal amount of the Notes required to effectuate a waiver under Section 7.06 hereof, or (d) amend or modify Sections 3.01, 3.03, 3.04, 3.05, 3.06, 3.08, 3.09, 3.10, 3.13-3.19, 3.20(a) or 3.20(b) hereof. Upon the receipt by the Trustee of a Certified Resolution of the Company, authorizing the execution of any such supplemental indenture by the Company, and upon the filing with the Trustee of evidence of the consent of the holders of the Notes, as aforesaid, the Trustees shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustees' own rights, duties or immunities under this Indenture or otherwise, in which case the Trustees may, in their sole discretion, enter into such supplemental indenture.

Section 9.03. Delivery of Supplements. Within 30 days after the date of execution and delivery by the Company

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and the Trustees of any supplemental indenture pursuant to this Article IX, the Company shall send such number of conformed copies of such supplemental indenture to the respective holders of the Notes as such holders may request (or, if no request is received, at least one such copy per holder), in the manner provided for in the case of notices. Any failure of the Company to send such conformed copies of such supplemental indenture shall not affect the validity thereof. The Trustees shall be entitled to receive an opinion of counsel, in form and substance satisfactory to them, to the effect that any supplemental indenture executed pursuant to the provisions of this Article IX will not materially and adversely impair the security for the Notes or the rights of the holders of the Notes in contravention of the provisions hereof. The Trustees may rely upon such opinion as conclusive evidence that such supplemental indenture complies with the requirements of this Article IX. The Trustees shall not be required to join in the execution of any supplemental indenture pursuant to this Article IX unless it shall have received such opinion of counsel.

Section 9.04. Exchange or Marking of Notes. (a)

After the execution and delivery of any supplemental indenture pursuant to this Article IX, the Company or the Trustee may, in the sole discretion of either, require that (i) the Notes then outstanding or Notes thereafter issued pursuant to an Exchange Provision, or both, bear a legend or other notation in form approved by the Trustee as to any matter provided for in such supplemental indenture, or (ii) New Notes, modified so as to conform, in the opinion of the Trustee and the Board of Directors of the Company, to any modification of this Indenture effected by any such supplemental indenture, be issued in exchange for the Notes then outstanding.

(b) Any legend or notation required pursuant to this Section 9.04 may be stamped, typed or printed on the Notes or on stickers to be affixed to the Notes, as the Trustee shall determine. The Trustee may (i) upon at least 30 days' notice to the holders of the Notes, require presentation of the Notes at the Corporate Trust Office for the purpose of placing any such legend or notation thereon, or (ii) send stickers bearing such legend or notation to the holders of the Notes, in which event the holders of the Notes shall promptly affix such stickers to the Notes or cause the same to be done.

(c) Upon at least 30 days' notice from the Company that an exchange of Notes is required pursuant to this Section 9.04, each of the holders of the Notes shall surrender the Old Notes held by such holder for cancellation at the Corporate Trust Office. Upon each such surrender, a New Note or Notes in such modified form but otherwise of the same tenor as such Old

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Note or Notes, executed by the Company and payable to the holder surrendering such Old Note or Notes in the original principal amount or amounts of such Old Notes or Notes, shall be authenticated and delivered by the Trustee to such holder in exchange for such Old Note or Notes.

(d) The Company shall pay or cause to be paid all charges, expenses and taxes in connection with any action taken pursuant to this Section 9.04, including, without limitation, the cost of preparing any such legend or notation or New Notes and the cost of transmitting the Notes to and from the principal offices of the holders thereof.

ARTICLE X

DISCHARGE OF INDENTURE

Section 10.01. Discharge or Payment of Notes. If and when the Notes shall have become due and payable (whether by lapse of time or by acceleration or by the exercise of the privilege of prepayment), and there shall have been paid the full amount due on the Notes for principal, premium, if any, and interest, and if there shall have been paid all other sums payable hereunder by the Company pursuant to the provisions of this Indenture, then and in that case, upon the request of the Company, this Indenture and all agreements herein contained shall cease and terminate and, at the cost and expense of the Company, the Trustees shall execute and deliver such instruments as shall be reasonably requested by the Company to satisfy and discharge the lien hereof and to transfer to the Company or such other person or persons entitled thereto the instruments and any other property included in the Trust Estate and not sold under or by virtue of Article VII hereof. For such purpose, Notes which are not deemed to be outstanding shall be deemed to be paid. At the time of the delivery by the Trustees of any such instruments of satisfaction, cancellation or discharge, the Trustee shall hold in trust, for the benefit of any of the holders of the Notes which have not received payment for the Notes registered in their names, the moneys on deposit with it for the payment of such Notes. Such satisfaction, cancellation or discharge of this Indenture shall not be effected unless the Trustee shall have received an opinion of counsel, in form and substance satisfactory to the Trustee, to the effect that in the opinion of such counsel all conditions precedent to such satisfaction, cancellation or discharge prescribed by this Article X have been complied with.

Section 10.02. Unclaimed Funds. At the expiration of six years following the date of the establishment, pursuant to Section 10.01 hereof, of the trust on moneys deposited for

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payment of the principal of, premium, if any, and interest on the Notes, as the case may be, such trust shall automatically cease and terminate and any moneys deposited for such purposes then remaining on deposit with the Trustee unclaimed by the holder or holders entitled thereto shall be repaid to or upon the order of the Company by the Trustee on demand made after such date; and any holder or holders entitled to receive such moneys shall thereafter look only to the Company for the payment thereof; provided that the Trustee before being required to make any such repayment may, at the expense of the Company, cause to be published at least once but not more than three times in a daily newspaper of general circulation in the city in which the Corporate Trust Office is located, a notice to the effect that said moneys have not been applied for the purpose for which they were deposited, that said trust has terminated, and that after a date named therein, which shall be not less than 10 days after the date of first publication of said notice, any unclaimed balance of said moneys then remaining in the hands of the Trustee will be returned to the Company.

ARTICLE XI

MISCELLANEOUS

Section 11.01. Instruments in Writing; Execution. Any notice, request, demand, direction, consent, approval, order, waiver, acceptance, appointment or other instrument or communication under or pursuant to this Indenture shall be in writing and shall be signed or executed by each person giving or making the same or by an attorney appointed in writing by such person. Proof of the execution of any such writing, including any writing appointing any such attorney, shall be sufficient for any purpose of this Indenture if the fact and date of such execution be proved by (i) the certificate of a notary public, or other officer authorized to take acknowledgments of deeds to be recorded in the jurisdiction in which he purports to act, that the person signing such instrument or writing acknowledged to him the execution thereof, or (ii) an affidavit of a witness of such execution. Any such writing, and any other action, by any of the holders of the Notes shall bind every future holder of the same Note or Notes and every holder of every Note or Notes issued in exchange or substitution therefor, in respect of anything done or suffered to be done by the Trustees or the Company pursuant to such writing or action.

Section 11.02. Limitation of Rights of Others. Nothing in this Indenture expressed or implied is intended or shall be construed to give to any person other than the

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Company, the Trustees and the holders of the Notes any legal or equitable right, remedy or claim under or in respect of the Notes, this Indenture or any provision therein or herein contained, and such provisions are and shall be held to be for the sole and exclusive benefit of the Company, the Trustees and the holders of the Notes, as the case may be.

Section 11.03. Illegal Provision. In case any one or more of the provisions contained in this Indenture or in the Notes or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein and any other application thereof shall not in any way be affected or impaired thereby.

Section 11.04. Notices. Any notice to or demand upon the Trustee or the Individual Trustee may be given or made at the Corporate Trust Office. Any notice to or demand upon the Company shall be deemed to have been sufficiently given or made for all purposes, if sent by prepaid United States registered mail, return receipt requested, addressed as follows:

Box 317
Randolph, Massachusetts 02368

Attention: Treasurer

or at such other address as may be filed in writing by the Company with the Trustee. Whenever, pursuant to any provisions of this Indenture any notice or other instrument is required to be given, delivered or sent to the holders of any Notes or the Purchaser, such requirements shall be satisfied if such notice or other instrument shall be given or sent by prepaid United States first class mail within the period, if any, prescribed therefor, to such holders of Notes at their respective addresses, specified in the Register or to the Purchaser at its address for the receipt of notices as provided in the Note Purchase Agreement. If any notice or other instrument or communication is sent otherwise than as specified in the preceding provisions of this Section 11.04 the same shall not be validly given or made until it is in fact received by the person to whom it is to be sent.

Section 11.05. Waiver of Notice. Whenever in this Indenture the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice, either before or after the time established for the giving of such notice.

Section 11.06. Maximum Interest Payable. No

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provision of this Indenture or of the Notes shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein or in the Notes provided for, or shall be adjudicated to be so provided for herein or in the Notes, neither the Company nor its successors or assigns shall be obligated to pay such interest in excess of the maximum permitted by law, and the right to demand the payment of any such excess shall be and hereby is waived and this Section 11.06 shall control any provision of this Indenture or the Notes which is inconsistent with this Section 11.06.

Section 11.07. Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be deemed an original, and such counterparts shall together constitute but one and the same Indenture. It shall not be necessary in making proof of this Indenture to produce or account for more than one such counterpart signed by the party against which enforcement of this Indenture is sought.

Section 11.08. Successors and Assigns. All of the provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the Company and the Trustees, to the same extent as if each such successor and assign were in each case named as a party to this Indenture.

Section 11.09. Governing Law. Except as otherwise provided in the last sentence of this Section 11.09, the law of the Commonwealth of Massachusetts shall govern the respective rights and duties of the Company and each holder of any of the Notes with respect to this Indenture, the Notes and the transactions between the Company and the holders of the Notes contemplated by this Indenture and the Notes, and this Indenture and the Notes shall be governed by and construed and enforced in accordance with the law (including the conflict of laws rules) of the Commonwealth of Massachusetts. The remedies available to the Trustee upon the occurrence of a default under this Indenture with respect to a particular Property shall be governed by the law of the state in which such Property is located.

Section 11.10. Headings. The table of contents preceding this Indenture and the headings to the various Articles and Sections of this Indenture have been inserted for convenient reference only and shall not modify, define, limit or expand the express provisions of this Indenture.

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Section 11.11 State Law Provisions. Notwithstanding anything to the contrary contained in this Indenture, and in furtherance of the last sentence of Section 11.09 above, the following provisions are hereby added to the Indenture and shall apply respectively only as to those Properties located in the particular state set forth immediately before each provision of provisions. In the event that there is any conflict between the provisions herein contained as it applies to any such Properties in any particular state and any other terms and conditions of this Indenture, the provisions herein contained shall govern.

1. Connecticut

For all purposes hereof, this Indenture shall be deemed to include the following:

MORTGAGOR ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS MORTGAGE IS A PART IS A COMMERCIAL TRANSACTION, AND TO THE EXTENT ALLOWED UNDER CONNECTICUT GENERAL STATUTES SECTIONS 52-278a TO 52-278m, INCLUSIVE, OR BY OTHER APPLICABLE LAW HEREBY WAIVES ITS RIGHT TO NOTICE AND HEARING WITH RESPECT TO ANY PREJUDGMENT REMEDY WHICH MORTGAGEE OR ITS SUCCESSORS OR ASSIGNS MAY DESIRE TO USE.

2. Florida

None.

3. Georgia

a. For purposes hereof on page 1, line one, after "Trust" before "dated" insert the following:

"(it being intended by the parties hereto that regardless of the term used to describe this instrument, this instrument shall act as a deed and not as a mortgage pursuant to the laws of the State of Georgia)"

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b. For purposes hereof on page 2, in the fifth line from the top of the page, after "forever," insert the following:

"in fee simple,"

c. For purposes hereof on page 4, line one, delete "IN TRUST, NEVERTHELESS," and insert in lieu thereof the following:

"UPON THE TERMS AND TRUSTS HEREIN SET FORTH,"

d. For purposes hereof on page 4, second paragraph, after the sentence beginning "IT IS HEREBY" and ending "Indenture," insert the following sentence as a separate paragraph:

"This instrument is a deed passing legal title pursuant to the laws of the State of Georgia governing loan or security deeds and is not a mortgage; and is made and intended to secure the payment of the indebtedness of the Company evidenced by 9.45% Notes in accordance with the terms thereof, together with any and all other debts now owing or which may hereafter be owing under the terms of this Indenture or on the 9.45% Notes and any and all renewals and extensions or other indebtedness, either in whole or in part."

e. For purposes hereof on page 9, in the definition of "Lien," delete the final period and add the following:

"and any transfer of legal title to secure an indebtedness pursuant to the laws of the State of Georgia governing loan or security deeds."

f. For purposes hereof on page 9, in the definition of "lien of this Indenture," delete the final period and add the following:

"and shall expressly include and mean the transfer of legal title to any of the Property to the Trustees pursuant hereto."

g. For purposes hereof on page 21, in Section 2.10, following "This Indenture" and before "creates" insert "transfers legal title in the Property to the Trustees and".

h. For purposes hereof on page 23, at the end of subparagraph (a) following "to and under the Trust Estate." insert the following:

"The Company will execute and deliver to the Trustees, from time to time, upon demand, any further

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instrument or instruments, including, but not limited to, security deeds, security agreements, financing statements, assignments and renewal and substitution notes, so as to reaffirm, to correct or to perfect the evidence of the obligation hereby secured and the legal security title of the Trustees to all or any part of the Property."

i. For purposes hereby on page 32, insert Section 3.21 as follows:

"Section 3.21. Use of the Property.

(a) The Company represents and warrants to the Trustees that neither the Property nor any part thereof is to be used as a dwelling place at the time this Indenture is entered into and accordingly, the notice requirements of Official Code of Ga. Ann. §44-14-162.2 shall not be applicable to any exercise of the power of sale contained in this Indenture.

(b) The interest of the Trustees under this Indenture and the liability and obligation of the Company for the payment of any and all amounts pursuant to this Indenture arises from a "commercial transaction" within the meaning of Official Code of Ga. Ann. §44-14-262(1). Accordingly, pursuant to Official Code of Ga. Ann. §44-14-263, the Company waives any and all rights which the Company may have prior to seizure by the Trustees of any interest in personal property of the Company which constitutes part of the property whether such seizure is by writ or possession or otherwise."

j. For purposes hereof on page 48, insert subsection 7.03(h) as follows:

"In addition to and notwithstanding any remedies provided by this Indenture, upon the occurrence of any Event of Default hereunder and declaration of the amounts owed pursuant to this Indenture as due and payable pursuant to Section 7.02(a) of this Indenture, regardless of maturity, and, in that event, the entire amount so declared shall become due, payable and collectible; and thereupon, the Trustees may, and upon the request of the holders of the majority in unpaid principal amount of the Notes shall, (subject to the limitations stated in Section 7.12 hereof and subject to the proviso contained in the first sentence of Section 7.14 hereof), sell and dispose of the Property, or any part thereof, at public auction, at the usual place for conducting sales in the courthouse in the county where the Property, or any part thereof, may be, to the highest bidder for cash, first advertising the time, terms and place of such sale by publishing a notice thereof once a week

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for four consecutive weeks immediately proceeding such sale (but without regard to the number of days) in a newspaper in which sheriff's advertisements are published in said county, all other notice being hereby waived by the Company; and the Trustees may thereupon execute and deliver to the purchaser at said sale a sufficient conveyance of the Property in fee simple, which conveyance may contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends, and said recital shall be presumptive evidence that all preliminary acts prerequisite to said sale and deed were in all things duly complied with; and the Trustees, their agents, representatives, successors or assigns may bid and purchase at such sale; and any holder of any of the Notes may bid and purchase at such sale pursuant to the provisions of Section 7.03(g); and the Company hereby constitutes and appoints the Trustees or their assigns, agents or attorneys in fact to make such recitals, sale and conveyance, and all of the acts of such attorney in fact are hereby ratified; and the Company agrees that such recitals shall be binding and conclusive upon the Company and that the conveyance to be made by the Trustees, or their assigns (and in the event of a deed in lieu of foreclosure, then as to such conveyance), shall be effectual to bar all right, title and interest, equity of redemption, including all statutory redemption, homestead, dower, courtesy and all other exemptions of the Company, or its successors in interest, in and to the Property; and the Trustees, or their assigns, shall collect the proceeds of such sale, together with any other sums which then may be held by the Trustees under this Indenture as part of the Trust Estate or the proceeds thereof, whether under the provisions of this Article VII or otherwise, which shall be applied by the Trustees in accordance with Section 7.03(e), and in the event of deficiency, the Company shall immediately upon demand from the Trustees pay over to the Trustees, or their nominee, such deficiency. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are in addition to any and all other remedies which the Trustees may have at law or in equity."

07.19.12

k. For purposes hereof on page 69, Section 10.01, line 10, delete "cease and terminate" and insert in lieu thereof "be cancelled and surrendered".

4. Illinois

a. For the purposes hereof, on page 52 add the following to Section 7.11:

To the extent that it lawfully may, the Company waives its rights to reinstatement and redemption under the

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Illinois Mortgage Foreclosure Law (Ill. Rev. Stat. ch. 110, Article XV, para. 15-1101-1706 (1987)).

5. Massachusetts

For all purposes hereof, this Indenture of Mortgage and Deed of Trust shall be deemed to be a Mortgage Deed pursuant to Massachusetts General Laws ("M.G.L.") Chapter 183, Section 18, and the Grant made herein to the Trustees shall have been made with MORTGAGE COVENANTS and upon the STATUTORY CONDITION, as such terms are defined in M.G.L. ch. 183, Sections 19 and 20 respectively, which Sections are incorporated herein by reference. All covenants and conditions contained herein shall be construed as affording to the Trustee rights additional to, and separate from, the rights conferred by the STATUTORY CONDITION. In the event of any breach of the STATUTORY CONDITION or if there is an Event of Default, in addition to such other remedies provided for herein, the Trustees shall have the STATUTORY POWER OF SALE, as defined in M.G.L. ch. 183, Section 21, which is incorporated herein by reference.

6. Michigan

a. For the purposes hereof, on page 43 subsection 7.02(b)(i) of the Indenture is replaced with the following:

(i) by written notice to the Company, declare the entire unpaid indebtedness secured by this Indenture immediately due and payable and foreclose the interest of the Company in the Property and sell, release and convey the Property at public sale, and execute and deliver to the purchasers at such sale good and sufficient deed of conveyance, all in accordance with chapter 32 of the Michigan Revised Judicature Act, as amended. The Trustee shall apply the procedures of any such sale in accordance with Section 7.03 of this Indenture. In an event of a public sale, the Property, at the option of the Trustees, may be sold as one parcel. IN THE EVENT OF SALE OF THE PROPERTY UNDER THE PROCEDURE FOR FORECLOSURE OF A MORTGAGE BY ADVERTISEMENT AS PROVIDED UNDER CHAPTER 32, ACT 236 OF THE PUBLIC ACTS OF MICHIGAN OF 1961, AS AMENDED, THE COMPANY HEREBY WAIVES ANY RIGHT TO ANY NOTICE OTHER THAN THAT PROVIDED FOR ANY ACT CITED ABOVE, OR TO ANY JUDICIAL HEARING PRIOR TO SUCH SALE; or

7. New Hampshire

For all purposes hereof, this Indenture shall be deemed to include the following:

a. This Mortgage is upon the STATUTORY CONDITIONS

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and upon the further condition that all covenants and agreements of the Mortgagor in the Note, this Mortgage, and all other instruments executed in connection therewith and in all other mortgages, debts and obligations of or from the Mortgagor to the Mortgagee, now existing, shall be kept and fully performed, and upon any breach of the same Mortgagee shall have the STATUTORY POWER OF SALE and any other powers given by statute or any of the loan documents.

8. New Jersey

For the purposes hereof, this Indenture shall be deemed to include the following:

The Company hereby acknowledges receipt of a true copy of this Indenture.

9. New York

For all purposes hereof, this Indenture (which does not cover real property principally improved or to be improved by one or more structures containing in the aggregate not more than six residential dwelling units, each having their own separate cooking facilities) shall be deemed to include the following:

a. The Company shall, in compliance with Section 13 of the Lien Law of the State of New York, receive the principal amount of the Notes and shall hold the right to receive the same as a trust fund to be applied first for the purpose of paying the cost of the improvement and shall apply the same first to the payment of the cost of the improvement before using any part for any other purpose.

b. In the event of a sale or other disposition of any Property located in the State of New York, or an interest in an entity having an interest in any such Property, including a sale pursuant to a judgment of foreclosure or a transfer in lieu thereof, or any other transaction with respect to such Property which would, for purposes of the New York State Tax on Gains Derived From Certain Real Property Transfers, N.Y. Tax Law Sections 1440-1449 ("Gains Tax"), be deemed a "transfer of real property", as that term is used in N.Y. Tax Law Section 1440.7 (collectively, "Taxable Transfers"), the Company shall pay any Gains Tax and other then applicable tax that may be due as a result thereof. The Company shall fully and accurately complete and execute all forms and documents with respect to any Taxable Transfer which the Trustee may reasonably require, and shall deliver such forms and documents to the Trustee at least 30 days prior to the scheduled date of such Taxable Transfer. If the Company fails to pay any Gains Tax or any

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such other tax liability and the Trustee pays all or any part thereof, the Company shall on demand reimburse the Trustee for the amount of such payment, and the Trustee shall be subrogated to the position of the Department of Taxation and Finance or other appropriate taxing authority, as the case may be, with respect to the Company to the extent of such payment.

c. Notwithstanding anything to the contrary contained herein, this Indenture secures only (a) payment of the principal of the Notes, to the maximum extent of \$_____, and accrued interest on the Notes and (b) all other amounts advanced by the Trustee or the holders of the Notes after an Event of Default has occurred and is continuing pursuant to the terms hereof, only to the extent that such amounts shall constitute payment of (i) taxes, charges or assessments which may be imposed by law upon the Property; (ii) premiums on insurance policies covering the Property; (iii) expenses incurred in upholding the lien of this Indenture, including, but not limited to, the expenses of any litigation to prosecute or defend the rights and remedies created by this Indenture; or (iv) any amount, cost or charge to which the Trustee or any holder of any of the Notes become subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority.

10. Pennsylvania

a. For the purposes hereof, on page 1 of the Indenture the phrase "NOW, THEREFORE, THIS INDENTURE WITNESSETH:" is replaced with the phrase "NOW, THEREFORE, INTENDING TO BE LEGALLY BOUND, THIS INDENTURE WITNESSETH:".

b. For the purposes hereof, the address of the within named Trustees is:

One Federal Street, Boston, Massachusetts 02211.

11. Virginia

For the purposes hereof, on page 7 the definition of "Grant" is replaced with the following:

Means grant, bargain, sell, give, warrant, alien, remise, release, convey, assign, transfer, mortgage, pledge, deposit, set over and confirm, with general warranty and English covenants of title, and create a security interest under the Uniform Commercial Code.

For all purposes hereof, this Indenture shall be deemed to include the following:

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