



**TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR COVENANTS AND AGREES AS FOLLOWS:**

(1) **Payment of Principal and Interest.** Mortgagor shall pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges provided in the Note and all other sums secured by this instrument.

(2) **Funds for Taxes, Insurance and Other Charges.** Lender shall require Mortgagor to pay to Lender on the day monthly installments of principal and/or interest on the Note or on another day designated in writing by Lender, until the Note is paid in full, a sum (herein "Funds") equal to the sum of: (a) a year's worth of (i) a year's worth of water and sewer rates and taxes and assessments which may be levied on the Property; (b) the yearly ground rents, if any; (c) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Lender may require pursuant to paragraph 5 hereof; (d) the yearly premium installments for mortgage insurance, if any; and (e) if this instrument is on a leasehold, the yearly fixed rents, if any, under the ground lease, all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Any waiver by Lender of a requirement that Mortgagor pay such Funds may be revoked by Lender, in Lender's sole discretion, at any time upon notice in writing to Mortgagor. Lender may require Mortgagor to pay to Lender, in advance, such sums for other taxes, charges, premiums, assessments and impositions relating to Mortgagor or the Property payment of which Lender reasonably shall deem necessary to protect any of the liens or security interests of Lender covered by this instrument ("Other Impositions"). Unless otherwise provided by applicable law, Lender may require Funds for Other Impositions to be paid to Lender by Mortgagor in a lump sum or in periodic installments, at Lender's option.

The Funds shall be held by Lender or, at Lender's option, in another institution(s) the deposits or accounts of which are insured or guaranteed by a Federal or state agency. Lender shall apply the Funds to pay said rates, rents, taxes, assessments, insurance premiums, rents and other impositions as they become due, provided that Mortgagor is not in breach of any covenant or agreement of Mortgagor in this instrument. Lender shall make no charge for so holding and applying the Funds, analyzing said account or for verifying and compiling said assessments and bills, unless Lender pays Mortgagor interest, earnings or profits on the Funds and applicable law permits Lender to make such a charge. Mortgagor and Lender may agree in writing at the time of execution of this instrument that interest on the Funds shall be paid to Mortgagor, and unless such agreement is made or applicable law requires payment of interest, earnings or profits on the Funds to be paid, Lender shall not be required to pay Mortgagor any interest, earnings or profits on the Funds. Lender shall give to Mortgagor, without charge, an annual accounting of the Funds in Lender's usual format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are hereby pledged as additional security for the indebtedness secured by this instrument.

If the amount of the Funds held by Lender at the time of the annual accounting thereof shall exceed the amount deemed necessary by Lender to provide for the payment of water and sewer rates, taxes, assessments, insurance premiums, rents and Other Impositions, as they fall due, such excess shall be refunded to Mortgagor following such audit. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender to pay water and sewer rates, taxes, assessments, insurance premiums, rents and Other Impositions, as they fall due, Mortgagor shall pay to Lender any amount necessary to make up the deficiency within thirty days after written notice from Lender to Mortgagor requesting payment thereof.

Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this instrument, Lender may apply, in any amount and in any order as Lender shall determine, in Lender's sole discretion, any Funds held by Lender at the time of application: (i) to pay rates, rents, taxes, assessments, insurance premiums and Other Impositions which then are due; or (ii) as a credit against any indebtedness secured by this instrument. Upon payment in full of all sums secured by this instrument, Lender shall promptly refund to Mortgagor any unapplied Funds held by Lender.

(3) **Application of Payments.** Unless applicable law requires otherwise, all payments received by Lender from Mortgagor under the Note or this instrument shall be applied by Lender in the following order of priority: (a) amounts payable to Lender by Mortgagor under paragraph 2 hereof; (b) interest payable on the Note; (c) principal of the Note; (d) interest payable on advances made pursuant to paragraph 8 hereof; (e) principal of advances made pursuant to paragraph 8 hereof; (f) interest payable on any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the amounts of interest payable on the Future Advances in such order as Lender, in Lender's sole discretion, may determine; (g) principal of any Future Advance, provided that if more than one Future Advance is outstanding, Lender may apply payments received among the principal balances of the Future Advances in such order as Lender, in Lender's sole discretion, may determine; and (h) any other sums secured by this instrument in such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

(4) **Charges; Liens.** Mortgagor shall pay all water and sewer rates, rents, taxes, assessments, premiums, and other impositions attributable to the Property at Lender's option, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Mortgagor making payment, when due directly to the appropriate payee thereof, or in such other manner as Lender may designate in writing. When required to do so by Lender, Mortgagor shall promptly furnish to Lender all notices of amounts due under this paragraph 4, and in the event Mortgagor shall make payment directly, Mortgagor shall promptly furnish to Lender receipts evidencing such payments. Mortgagor shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this instrument, and Mortgagor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property.

(5) **Hazard Insurance.** Mortgagor shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Lender (and, if this instrument is on a leasehold, the ground lease) shall require including, among other things, flood, earthquake, tornado or similar environmental damage, and in such amounts and for such periods as Lender shall require. All premiums on insurance policies shall be paid, at Lender's option, in the manner provided under paragraph 2 hereof, or by Mortgagor making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgagee loss payable clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies, and when requested by Lender, Mortgagor shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Mortgagor shall deliver to Lender a renewal policy in form satisfactory to Lender. If this instrument is on a leasehold, Mortgagor shall furnish Lender a duplicate of all policies, renewal notices, renewal policies and receipts of paid premiums if, by virtue of the ground lease, the originals thereof may not be supplied by Mortgagor to Lender.

In the event of any loss covered by any such policies, Mortgagor shall give immediate written notice to the insurance carrier and to Lender. Mortgagor hereby authorizes and empowers Lender as attorney-in-fact for Mortgagor to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 5 shall require Lender to incur any expense or take any action thereunder. Mortgagor further authorizes Lender, at Lender's option: (a) to hold the balance of such proceeds to be used to reimburse Mortgagor for the cost of reconstruction or repair of the Property; or (b) to apply the balance of such proceeds to the payment of the sums secured by this instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof (subject, however, to the rights of the lessor under the ground lease if this instrument is on a leasehold).

If the insurance proceeds are held by Lender to reimburse Mortgagor for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amounts of such installments. If Lender acquires title to the Property by foreclosure or otherwise, Lender thereupon shall also be deemed to have acquired exclusively all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon and in and to any insurance proceeds resulting from, or which may be payable as a consequence of, any damage to the Property prior to such sale or acquisition.

(6) **Preservation and Maintenance of Property; Leaseholds.** Mortgagor: (a) shall not commit waste or permit any physical deterioration of the Property; (b) shall not abandon the Property; (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the cost of such restoration or repair; (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair; (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property; (f) shall provide for professional management of the Property by a rental property manager satisfactory to Lender pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing; (g) shall generally operate and maintain the Property in a manner to ensure maximum rentals; and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this instrument or the rights or powers of Lender. Neither Mortgagor nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

If this instrument is on a leasehold, Mortgagor: (i) shall comply with the provisions of the ground lease; (ii) shall give immediate written notice to Lender of any default by the lessor under the ground lease or of any notice received by Mortgagor from such lessor of any default under the ground lease by Mortgagor; (iii) shall exercise any option to renew or extend the ground lease and give written confirmation thereof to Lender within thirty days after such option becomes exercisable; (iv) shall give immediate written notice to Lender of the commencement of any remedial proceedings under the ground lease by any party thereto and, if required by Lender, shall permit Lender as Mortgagor's attorney-in-fact to control and act for Mortgagor in any such remedial proceedings and; (v) shall within thirty days after request by Lender obtain from the lessor under the ground lease and deliver to Lender the lessor's estoppel certificate required thereunder, if any. Mortgagor hereby expressly transfers and assigns to Lender the benefit of all covenants contained in the ground lease, whether or not such covenants run with the land, but Lender shall have no liability with respect to such covenants nor any other covenants contained in the ground lease.

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Mortgagee shall not surrender the leasehold estate and interest herein conveyed nor terminate or cancel the ground lease creating said estate and interest, and Mortgagee shall not, without the express written consent of Lender, alter or amend said ground lease. Mortgagee and Lender agree that there shall not be a merger of the ground lease, or if the leasehold estate created hereby, with the fee estate covered by the ground lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, and without further action be agreed so as to become a lien on such fee estate.

(7) **Use of Property.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Mortgagee shall not allow changes in the use for which all or any part of the Property was intended at the time this instrument was executed. Mortgagee shall not initiate or acquire in a change in the zoning classification of the Property without Lender's prior written consent.

(8) **Protection of Lender's Security.** If Mortgagee fails to perform the covenants and agreements contained in this instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, involuntary, building code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender at Lender's option may make such appearance, discharge such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to: (a) disbursement of a portion of the proceeds of the ground lease or other assets to protect the same as security for the indebtedness secured by this instrument; (b) procurement of satisfactory insurance as provided in paragraph 5 hereof; and (c) if this instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Mortgagee and the curing of any default of Mortgagee in the terms and conditions of the ground lease.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness secured by this instrument. Unless Mortgagee and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate as adjusted from time to time in accordance with the terms of the Note, compounded monthly, unless collection of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagee under applicable law. Mortgagee hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by any advances made by Lender hereunder. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

(9) **Books and Records.** Mortgagee shall keep and maintain at all times at Mortgagee's address as provided in the Note, or such other place as Lender may approve in writing, complete and accurate books of accounts and records, in accordance with generally accepted accounting principles, consistently applied, adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, budgets, change orders, leases and other instruments which affect the Property. Such books, records, contracts, budgets, change orders, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Within seven days of Lender's request, Mortgagee shall furnish to Lender a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Mortgagee and, if Lender shall require, time upon Lender's request, a public accountancy certified by Mortgagee or Mortgagee's beneficiary, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid, in addition to the foregoing, at each calendar year. All financial statements and other documents and records pursuant to this paragraph 9 shall be provided at Lender's request. Mortgagee shall furnish such financial statements and other documents and records within 120 days following the close of each calendar year.

(10) **Condemnation.** Mortgagee shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect or by eminent domain or otherwise, of the Property, or part thereof, and Mortgagee shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Mortgagee authorizes Lender, at Lender's option, as attorney-in-fact for Mortgagee, to commence, appear in and prosecute, in Lender's or Mortgagee's name, any action or proceeding relating to any such condemnation or other taking of the Property, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any such condemnation or other taking of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender subject to the terms of this instrument as a leasehold, to the rights of the lessor under the ground lease. Mortgagee authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to Mortgagee. Unless Mortgagee and Lender otherwise agree in writing, any application or proceeds to principal shall not extend or postpone the date of the monthly installments referred to in paragraph 1, and 2 hereof or change the amount of such installments. Mortgagee agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

(11) **Lien Not Released.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Mortgagee, Mortgagee's successors or assigns or of any junior lien holder or guarantors, without liability on Lender's part and notwithstanding Mortgagee's breach of any covenant or agreement of Mortgagee, reduce the payments thereon, release any other persons secondarily or otherwise liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment in or out of said indebtedness, release from the lien of this instrument any part of the Property, take or release other or additional security, receive any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, joint in any extension or additional agreement, and agree in writing with Mortgagee to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any action taken by Lender pursuant to the terms of this paragraph 11 shall not affect the obligations of Mortgagee or Mortgagee's successors or assigns to pay the sums secured by this instrument and to observe the covenants of Mortgagee or Mortgagee's successors or assigns to pay the sums secured by this instrument and to observe the covenants of Mortgagee or Mortgagee's successors or assigns to pay the sums secured by this instrument, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not inure to the benefit of any person, partnership or other entity. Mortgagee shall pay Lender's reasonable service charges, together with such title insurance premiums and attorney's fees as may be incurred, at Lender's option, for any such action if taken at Mortgagee's request. Waiver by Lender of any right granted to Lender under this instrument or of any provision of this instrument as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment or performance on behalf of Mortgagee that Mortgagee was obligated hereunder but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of all sums so secured or to require prompt performance of all other acts required hereunder, or to declare a default for failure so to pay.

(12) **Escrow/Deposit/Collection.** Mortgagee shall, within ten days of a written request from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this instrument and any right of set-off, counterclaim, or other defense which exists against such sums and the obligations of this instrument.

(13) **Uniform Commercial Code Security Agreement.** This instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagee hereby grants Lender a security interest in said items. Mortgagee agrees that Lender may file this instrument, or a reproduction thereof, in the appropriate records or in a public office for Uniform Commercial Code filings as a financing statement for any of the items specified above as part of the Property. Any reproduction of this instrument or of any other security agreement or financing statement shall be sufficient as a financing statement in addition, Mortgagee agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as Lender may require to perfect a security interest with respect to said items. Mortgagee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements for financing statements Lender may reasonably require. Without the prior written consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall pay when due all sums secured by this instrument. Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may invoke the remedies provided in paragraph 21 of this instrument as to such items, in exercising any of said remedies. Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 21 of this instrument. As used in this paragraph 13, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

(14) **Lease of the Property.** As used in this paragraph 14, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

(15) **Uniform Commercial Code Security Agreement.** This instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagee hereby grants Lender a security interest in said items. Mortgagee agrees that Lender may file this instrument, or a reproduction thereof, in the appropriate records or in a public office for Uniform Commercial Code filings as a financing statement for any of the items specified above as part of the Property. Any reproduction of this instrument or of any other security agreement or financing statement shall be sufficient as a financing statement in addition, Mortgagee agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as Lender may require to perfect a security interest with respect to said items. Mortgagee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements for financing statements Lender may reasonably require. Without the prior written consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall pay when due all sums secured by this instrument. Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may invoke the remedies provided in paragraph 21 of this instrument as to such items, in exercising any of said remedies. Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 21 of this instrument. As used in this paragraph 15, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

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Mortgagee shall not surrender the leasehold estate and interest herein conveyed nor terminate or cancel the ground lease creating said estate and interest, and Mortgagee shall not, without the express written consent of Lender, alter or amend said ground lease. Mortgagee and Lender agree that there shall not be a merger of the ground lease, or if the leasehold estate created hereby, with the fee estate covered by the ground lease by reason of said leasehold estate or said fee estate, or any part of either, coming into common ownership, and without further action be agreed so as to become a lien on such fee estate.

(7) **Use of Property.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Mortgagee shall not allow changes in the use for which all or any part of the Property was intended at the time this instrument was executed. Mortgagee shall not initiate or acquire in a change in the zoning classification of the Property without Lender's prior written consent.

(8) **Protection of Lender's Security.** If Mortgagee fails to perform the covenants and agreements contained in this instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, involuntary, building code enforcement, or arrangements or proceedings involving a bankruptcy or decedent, then Lender at Lender's option may make such appearance, discharge such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to: (a) disbursement of a portion of the proceeds of the ground lease or other assets to protect the same as security for the indebtedness secured by this instrument; (b) procurement of satisfactory insurance as provided in paragraph 5 hereof; and (c) if this instrument is on a leasehold, exercise of any option to renew or extend the ground lease on behalf of Mortgagee and the curing of any default of Mortgagee in the terms and conditions of the ground lease.

Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness secured by this instrument. Unless Mortgagee and Lender agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate as adjusted from time to time in accordance with the terms of the Note, compounded monthly, unless collection of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagee under applicable law. Mortgagee hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by any advances made by Lender hereunder. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

(9) **Books and Records.** Mortgagee shall keep and maintain at all times at Mortgagee's address as provided in the Note, or such other place as Lender may approve in writing, complete and accurate books of accounts and records, in accordance with generally accepted accounting principles, consistently applied, adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, budgets, change orders, leases and other instruments which affect the Property. Such books, records, contracts, budgets, change orders, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Within seven days of Lender's request, Mortgagee shall furnish to Lender a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by Mortgagee and, if Lender shall require, time upon Lender's request, a public accountancy certified by Mortgagee or Mortgagee's beneficiary, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid, in addition to the foregoing, at each calendar year. All financial statements and other documents and records pursuant to this paragraph 9 shall be provided at Lender's request. Mortgagee shall furnish such financial statements and other documents and records within 120 days following the close of each calendar year.

(10) **Condemnation.** Mortgagee shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect or by eminent domain or otherwise, of the Property, or part thereof, and Mortgagee shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Mortgagee authorizes Lender, at Lender's option, as attorney-in-fact for Mortgagee, to commence, appear in and prosecute, in Lender's or Mortgagee's name, any action or proceeding relating to any such condemnation or other taking of the Property, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any such condemnation or other taking of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender subject to the terms of this instrument as a leasehold, to the rights of the lessor under the ground lease. Mortgagee authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to Mortgagee. Unless Mortgagee and Lender otherwise agree in writing, any application or proceeds to principal shall not extend or postpone the date of the monthly installments referred to in paragraph 1, and 2 hereof or change the amount of such installments. Mortgagee agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

(11) **Lien Not Released.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Mortgagee, Mortgagee's successors or assigns or of any junior lien holder or guarantors, without liability on Lender's part and notwithstanding Mortgagee's breach of any covenant or agreement of Mortgagee, reduce the payments thereon, release any other persons secondarily or otherwise liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment in or out of said indebtedness, release from the lien of this instrument any part of the Property, take or release other or additional security, receive any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, joint in any extension or additional agreement, and agree in writing with Mortgagee to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any action taken by Lender pursuant to the terms of this paragraph 11 shall not affect the obligations of Mortgagee or Mortgagee's successors or assigns to pay the sums secured by this instrument and to observe the covenants of Mortgagee or Mortgagee's successors or assigns to pay the sums secured by this instrument, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not inure to the benefit of any person, partnership or other entity. Mortgagee shall pay Lender's reasonable service charges, together with such title insurance premiums and attorney's fees as may be incurred, at Lender's option, for any such action if taken at Mortgagee's request. Waiver by Lender of any right granted to Lender under this instrument or of any provision of this instrument as to any transaction or occurrence shall not be deemed a waiver as to any future transaction or occurrence. By accepting payment of any sum secured hereby after its due date or by making any payment or performance on behalf of Mortgagee that Mortgagee was obligated hereunder but failed to make or perform, or by adding any payment so made by Lender to the indebtedness secured hereby, Lender does not waive its right to require prompt payment when due of all sums so secured or to require prompt performance of all other acts required hereunder, or to declare a default for failure so to pay.

(12) **Escrow/Deposit/Collection.** Mortgagee shall, within ten days of a written request from Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this instrument and any right of set-off, counterclaim, or other defense which exists against such sums and the obligations of this instrument.

(13) **Uniform Commercial Code Security Agreement.** This instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagee hereby grants Lender a security interest in said items. Mortgagee agrees that Lender may file this instrument, or a reproduction thereof, in the appropriate records or in a public office for Uniform Commercial Code filings as a financing statement for any of the items specified above as part of the Property. Any reproduction of this instrument or of any other security agreement or financing statement shall be sufficient as a financing statement in addition, Mortgagee agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as Lender may require to perfect a security interest with respect to said items. Mortgagee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements for financing statements Lender may reasonably require. Without the prior written consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall pay when due all sums secured by this instrument. Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may invoke the remedies provided in paragraph 21 of this instrument as to such items, in exercising any of said remedies. Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 21 of this instrument. As used in this paragraph 13, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

(14) **Lease of the Property.** As used in this paragraph 14, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

(15) **Uniform Commercial Code Security Agreement.** This instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Mortgagee hereby grants Lender a security interest in said items. Mortgagee agrees that Lender may file this instrument, or a reproduction thereof, in the appropriate records or in a public office for Uniform Commercial Code filings as a financing statement for any of the items specified above as part of the Property. Any reproduction of this instrument or of any other security agreement or financing statement shall be sufficient as a financing statement in addition, Mortgagee agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this instrument in such form as Lender may require to perfect a security interest with respect to said items. Mortgagee shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements for financing statements Lender may reasonably require. Without the prior written consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacement and additions thereto. Upon Mortgagee's breach of any covenant or agreement of Mortgagee or consent of Lender, Mortgagee shall pay when due all sums secured by this instrument. Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may invoke the remedies provided in paragraph 21 of this instrument as to such items, in exercising any of said remedies. Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 21 of this instrument. As used in this paragraph 15, the word "lease" shall mean "sublease" if this instrument is on a leasehold, and "sublease" if this instrument is on a leasehold, and all leases of the Property or any part thereof. Mortgagee shall comply with and observe Mortgagee's obligations as landlord under all leases of the Property or any part thereof. Mortgagee shall furnish Lender with executed copies of all leases now existing or hereafter existing or hereafter made of all or any part of the Property, and all leases of the Property or any part of the Property which are subordinate to this instrument. (b) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (c) that the tenant agrees to be effectuated upon Lender's acquisition of title to the Property; (d) that the tenant shall not be terminated by foreclosure; and (e) that Lender may, at Lender's option, accept or reject such assignments. Mortgagee shall not terminate or consent to the termination of any lease of the Property or any part of the Property without the prior written consent of Lender, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this instrument. If Mortgagee becomes aware that any tenant proposes to do, or is doing, or is doing, any act or thing which may give rise to any right of set-off against Lender, Mortgagee shall, in addition to the remedies provided in paragraph 21 of this instrument, promptly notify Lender thereof and shall have a set-off against the tenant who shall have acquired such right to set-off. If Lender is a secured party under this instrument, Lender shall have a set-off against the tenant who shall have acquired such right to set-off.

Upon Lender's request, Mortgagor shall assign to Lender, by written instrument, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Mortgagor to Lender of any leases of the Property, Lender shall have all of the rights and powers possessed by Mortgagor prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

(17) **Construction Loan Provisions.** Mortgagor agrees to comply with the covenants and conditions of the construction loan agreement, if any, which is hereby incorporated by reference in and made a part of this Instrument. All advances made by Lender pursuant to the construction loan agreement shall be indebtedness of Mortgagor secured by this instrument, and such advances may be obligatory as provided in the construction loan agreement. All sums disbursed by Lender prior to completion of the improvements to protect the security of this instrument up to the principal amount of the Note shall be treated as disbursements pursuant to the construction loan agreement. All such sums shall bear interest in accordance with the provisions of the Note and the construction loan agreement.

From time to time as Lender deems necessary to protect Lender's interests, Mortgagor shall, upon request of Lender, execute and deliver to Lender, in such form as Lender shall direct, assignments of any and all rights or claims which relate to the construction of the Property and which Mortgagor may have against any party supplying or who has supplied labor, materials or services in connection with construction of the Property. In case of breach by Mortgagor of the covenants and conditions of the construction loan agreement, Lender, at Lender's option, with or without entry upon the Property, (a) may invoke any of the rights or remedies provided in the construction loan agreement; (b) may accelerate the sums secured by this instrument and invoke those remedies provided in paragraph 21 hereof; or (c) may do both. If, after the commencement of amortization of the Note, the Note and this instrument are sold by Lender, from and after such sale the construction loan agreement shall cease to be a part of this instrument and Mortgagor shall not assert any right of set-off, counterclaim or other claim or defense arising out of or in connection with the construction loan agreement against the obligations of the Note and this instrument.

(18) **Assignment of Rents; Appointment of Receiver; Lender in Possession.** As part of the consideration for the loan evidenced by the Note, Mortgagor hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Mortgagor hereby authorizes Lender or Lender's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Mortgagor of the breach by Mortgagor of any covenant or agreement of Mortgagor in this instrument, Mortgagor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Mortgagor, to apply the rents and revenues so collected to the sums secured by this instrument in the order provided in paragraph 3 hereof with the balance, so long as no such breach has occurred, to the account of Mortgagor, it being intended by Mortgagor and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Mortgagor of the breach by Mortgagor of any covenant or agreement of Mortgagor in this instrument, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph 18 as the same become due and payable, including, but not limited to, rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Mortgagor as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Mortgagor of the breach by Mortgagor shall contain a statement that Lender exercises its rights to such rents. Mortgagor agrees that commencing upon delivery of such written notice of Mortgagor's breach by Lender to Mortgagor, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Mortgagor.

Mortgagor hereby covenants that Mortgagor has not executed any prior assignment of said rents, that Mortgagor has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph 18, and that at the time of execution of this instrument there has been no anticipation or prepayment of any of the rents of the Property for more than two months prior to the due dates of such rents. Mortgagor covenants that Mortgagor will not hereafter collect or accept payment of any rents of the Property more than two months prior to the due dates of such rents. Mortgagor further covenants that Mortgagor will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon breach of any covenant or agreement in this instrument, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take possession and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof and the conducting thereon of any business or businesses then being conducted by Mortgagor including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property or the conducting of such businesses thereon, all on such terms as are deemed best to protect the security of this instrument. In the event Lender elects to seek the appointment of a receiver for the property upon Mortgagor's breach of any covenant or agreement of Mortgagor in this instrument, Mortgagor hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Mortgagor of the breach by Mortgagor of any covenant or agreement of Mortgagor in this instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Mortgagor as lessor or landlord of the Property and then to the sums secured by this instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Mortgagor, anyone claiming under or through Mortgagor or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 18.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Mortgagor to Lender secured by this instrument pursuant to paragraph 8 hereof. Unless Lender and Mortgagor agree in writing to other terms of payment, such amounts shall be immediately due and payable by Mortgagor and shall bear interest from the date of disbursement at the rate as adjusted from time to time in accordance with the terms of the Note, compounded monthly, unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Mortgagor under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this instrument ceases to secure the indebtedness held by Lender.

(19) **Acceleration in Case of Insolvency.** Notwithstanding anything in this Mortgage or the Note to the contrary, if Mortgagor or the owner of the beneficial interest of Mortgagor shall voluntarily file a petition under the Federal Bankruptcy Act, as such Act may from time to time be amended, or under any similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or organizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if said Mortgagor or owner shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation under a bankruptcy or insolvency act within a reasonably prompt time after such filing or if said Mortgagor or owner shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for either of them or their property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if said Mortgagor or owner shall make an assignment for the benefit of their respective creditors, or if there is an attachment, execution or other judicial seizure of any portion of their respective assets and such seizure is not discharged within ten days, then Lender may, at Lender's option, declare all indebtedness due under this Mortgage and the Note secured hereby to be immediately due and payable without prior notice, and Lender may invoke any remedies permitted by Paragraph 18 of this Mortgage. Any attorneys' fees and other expenses incurred by Lender in connection with such bankruptcy or any of the other aforesaid events shall be additional indebtedness of Mortgagor secured by this Mortgage and payable on demand.

(20) **Transfers of the Property or Beneficial Interests in Mortgagor.** On sale or transfer of: (a) all or any part of the Property, or any interest therein; or (b) beneficial interests in Mortgagor (if Mortgagor is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may, at Lender's option, declare all of the sums secured by this instrument to be immediately due and payable, and Lender may invoke any remedies permitted by paragraph 21 of this instrument. This option shall not apply in case of:

- (i) transfers by devise or descent or by operation of law upon the death of a joint tenant;
- (ii) the grant of a leasehold interest in a part of the Property of three years or less, including all renewal options, (or such longer lease term as Lender may permit by prior written approval) not containing an option to purchase (except any interest in the ground lease, if this instrument is on a leasehold);
- (iii) sales or transfers of beneficial interest in Mortgagor provided that such sales or transfers, together with any prior sales or transfers of beneficial interests in Mortgagor, but excluding sales or transfers under subparagraphs (i) and (ii) above, do not result in more than 25% of the beneficial interests in Mortgagor having been sold or transferred since commencement of amortization of the Note; and
- (iv) sales or transfers of fixtures or any personal property pursuant to the replacement thereof with property of the same kind and quality.

(21) **Acceleration; Remedies.** Upon Mortgagor's breach of any covenant or agreement of Mortgagor in this instrument or the Note, including, but not limited to, the covenants to pay when due any sums secured by this instrument, Lender, at Lender's option, may declare all of the sums secured by this instrument to be immediately due and payable without further demand.

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(34) Future Advances. Upon request of Mortgagor, Lender, at Lender's option prior to the maturity of this Mortgage, may make Future Advances to Mortgagor. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, not including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus

NONE

(35) General Provisions. (a) This Mortgage applies to, inures to the benefit of, and binds, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. (b) The term "Lender" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Lender herein. (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this Mortgage and shall not be used in construing it.

IN WITNESS WHEREOF, MORTGAGOR has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized

LOAN NO. 1109040-4

*Robert Svoboda*  
ROBERT SVOBODA  
*Leonard Lanni*  
LEONARD LANNI

X *Irene Lanni*  
IRENE LANNI\*

State of Illinois

COOK

County ss:

I, John G. Stanek

a notary public in and for said county and state, do hereby certify that

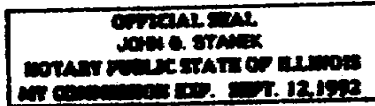
Robert Svoboda and Leonard Lanni MARRIED TO IRENE LANNI

personally known to me to be the same person(s) whose name(s) DIVORCED AND NOT SINCE REMARRIED ARE subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that THEY signed and delivered the same instrument as THEIR free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 19th day of December, 1989

My commission expires: 9-12-92

*John G. Stanek*  
Notary Public



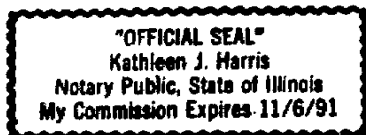
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STATE OF ILLINOIS, .....County ss:

*The undersigned*, a Notary Public in and for said county and state, do hereby certify that IRENE LANNI MARRIED TO LEONARD LANNI, personally known to me to be the same person(s) whose name (s) IS subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that SHE signed and delivered the said instrument as HER free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 14th day of December, 1989

My Commission expires: 11-6-91



*Kathleen J. Harris*  
Notary Public

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(a) When the indebtedness hereby secured shall become due whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereon, in any suit to foreclose the lien hereon, there shall be allowed and included as additional indebtedness in the order of foreclosure or sale all expenses and costs which may be paid or incurred by or on behalf of the Lender for reasonable attorney's fees, appraisers' fees, outlays for documents and expert evidence, stenographer's charges, publication cost and costs of procuring all abstracts of title or commitments for title insurance. Such fees, charges and costs may be estimated as to items to be expended either entry of the order of foreclosure or sale as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such condition of the title to or the value of such property. All expenses and costs of the nature mentioned in the paragraph shall be paid by the mortgagor as much additional indebtedness secured hereby as shall be immediately due and payable while interest thereon at the rate specified in the Note secured hereby. Such expenditures and expenses shall include expenditures made in connection with (a) any proceeding to which Lender shall be a party, either as plaintiff, claimant or defendant by reason of this mortgage or any indebtedness hereby secured; (b) preparation for the defense of any suit for foreclosure hereon after accrual of such right to foreclose whether or not actually commenced; (c) preparation for the defense of any threatened suit or proceeding which might affect the property or the security hereon, whether or not actually commenced; (d) any efforts for the collection of any part due indebtedness secured hereby. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in this paragraph; second, all other items which under the terms hereof constitute indebtedness secured by this mortgage; third, any surplus to mortgagee, its successors or assigns, as their rights may appear.

(b) Upon or at any time after the filing of a complaint to foreclose the mortgage the court in which such complaint is filed may appoint Lender as mortgagee in possession or may appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, regard to the solvency or insolvency at the time of application of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the value of the Property or whether the same shall be then occupied as a homestead or not. Such receiver or mortgagee in possession shall have power to collect the rent, issues and profits of the Property during the pendency of such foreclosure suit, as well as during any further times when mortgagee, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole or said period. The court from time to time may authorize the receiver or mortgagee in possession to apply the net income held by either of them in payment in whole or in part of the indebtedness and other sums secured hereby, or in payment of any tax, special assessment or other lien which may be or become a lien hereon or superior to an order foreclosing this mortgage, provided such application is made prior to foreclosure sale. In case of a judicial sale, the Property, or so much thereof as may then be affected by this mortgage, may be sold in one parcel.

(22) Remedies Cumulative. Each remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, and may be exercised concurrently, independently or successively in any order whatsoever. Every power or remedy hereby given to Mortgagee or to Lender, which either of them may pursue in connection with the sale hereof, shall be deemed to be exercised by them, and either of them may pursue in connection with the sale hereof, either before, contemporaneously with, or after the sale is made hereon, and on any default of Mortgagee, Lender may, at its option, offset against any indebtedness owed hereunder to it by Mortgagee the whole or any part of any indebtedness owing by it to Mortgagee, and the Lender is hereby authorized and empowered at its option, without further obligation to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness secured hereby of the Mortgagee to the Lender, any and all sums of money belonging to Mortgagee which the Lender may have in its possession or under its control including, without limitation, the generally of the foregoing, any unapplied funds held by Lender. No offset by Lender hereunder shall relieve Mortgagee from paying installments on the obligation secured hereby as they become due.

(23) Notice. Except for any notice required under applicable law to be given in another manner, all notices and other communications required or permitted under this instrument shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, and if mailed shall be deemed received on the third business day after deposit in the mail in the continental United States, postage prepaid, addressed to the party to receive such notice at the address set forth above. Notice of change of address shall be given by written notice to the other party to this instrument.

(24) Successors and Assigns. All covenants, conditions, terms and provisions of this instrument shall bind the mortgagor and his heirs, assigns, personal representatives, successors and assigns, and the rights hereunder shall be binding on the mortgagor, his heirs, assigns, personal representatives, successors and assigns. The covenants and agreements herein contained shall bind and be binding on the mortgagor, his heirs, assigns, personal representatives, successors and assigns, and the provisions of paragraph 20 hereof, all covenants, conditions, terms and provisions of this instrument shall be binding on the mortgagor, his heirs, assigns, personal representatives, successors and assigns, and shall be construed and governed by the laws of the United States and the rules and regulations promulgated thereunder, including the federal laws, rules and regulations for federal savings and loan associations. If any paragraph, clause or provision of this mortgage or the note or any other notes or obligations secured by this mortgage is determined by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this mortgage or the note or other notes secured by this mortgage.

(25) Waiver of State of Limitations. Time is of the essence for all of Mortgagee's obligations hereunder, and to the extent permitted by law, Mortgagee waives all present or future statutes of limitation with respect to any debt, demand or obligation secured hereunder in any action or proceeding for the purpose of enforcing this instrument or any right or remedy hereunder.

(26) Injury to Property. All causes of action of Mortgagee, whether accrued before or after the date of this instrument for damages or injury to the Property or any part thereof, or in connection with the transaction financed hereunder, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender within, after deducting therefrom all the expenses, including reasonable attorney's fees, may apply such proceeds to the sums secured by this instrument or to any deficiency under this instrument or may release any more so received by it or any part thereof as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Mortgagee agrees to execute any reasonable assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall request.

(27) Offsets. No indebtedness secured by this instrument shall be deemed to have been offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counterclaim or offset, whether liquidated or unliquidated, which Mortgagee now or hereafter may have or may claim to have against Lender, and, in respect to the indebtedness now or hereafter secured hereby, Mortgagee waives to the fullest extent permitted by law, the benefits of any applicable law, regulation or procedure which substantially provides that where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in the answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the time of filing his answer be barred by the applicable statute of limitations.

(28) Representation or Misrepresentation. Mortgagee or his assignee, or any other person named in this instrument, shall be deemed to have made the representations and disclosures in order to induce Lender to make the loan evidenced by the Note or notes which this instrument secures, and in the event that Mortgagee or his assignee or any other person named in this instrument, or failed to disclose any material fact. Lender, at its option and without prior notice, shall have the right to any material misrepresentations or failed to disclose any material fact. Lender, at its option and without prior notice, shall have the right to declare the indebtedness secured by this instrument, respectively of the maturity date specified in the Note or notes, immediately due and payable.

(29) Statement of Obligation. Lender may collect a fee of \$50.00 or such greater maximum amount as is allowed by law for furnishing any statement of obligation or any other statement regarding the condition of or balance owing under the Note secured by this instrument.

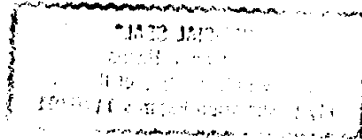
(30) Waiver of Marshalling. Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided hereon. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided hereon. Mortgagee, any party who consents to the instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided hereon.

(31) Waiver of Homestead. Mortgagee hereby waives all right of homestead exemption in or relating to such Property.

(32) Adjustable Mortgage Loan Provisions. The Note which this mortgage secures is an adjustable mortgage loan on which the interest rate may be adjusted from time to time in accordance with a monthly increase or decrease in an index all as provided in said Note. From time to time the monthly installment payments due under said Note may not be sufficient to pay all interest due in which case unpaid interest will be added to principal. In no case shall the unpaid interest added to the principal exceed one hundred and fifty percent (150%) of the original principal indebtedness. Mortgagee agrees that at Lender's request it shall provide to Lender additional title insurance to the full amount of the outstanding principal indebtedness due hereunder if the principal indebtedness has increased by reason of negative amortization as provided in the Note.

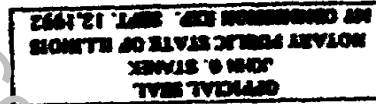
89604076

\*SIGNING STRICTLY FOR THE SOLE PURPOSE OF WAIVING MY HOMESTEAD RIGHTS IN THE PROPERTY LOCATED AT 6300-08 West Cermak Road and 2136-42 South Highland Avenue, Berwyn, IL



STATE OF ILLINOIS, County ss: Cook  
I, the undersigned, a Notary Public in and for said county and state, do hereby certify that IRENE LANNI, MARIE TO LEONARD, personally known to me to be the same person(s) whose name (s) is subscribed to the foregoing instrument, appeared before me

89664076



My commission expires: 9-12-92

89664076

Notary Public

John G. Stavek  
December 19 89

Given under my hand and official seal, this 19th day of December, 1989

me this day in person, and acknowledged that they personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me and delivered the same instrument as THEIR free and voluntary act for the uses and purposes therein set forth. IRENE LANNI, MARIE TO LEONARD, ROBERT SVOBODA and LEONARD LANNI, MARIE TO LEONARD

a notary public in and for said county and state, do hereby certify that County ss: Cook

State of Illinois  
John G. Stavek  
Cook

IRENE LANNI  
X  
Marie To Leonard

ROBERT SVOBODA  
LEONARD LANNI  
Marie To Leonard

LOAN NO. 1109040-4

IN WITNESS WHEREOF, MORTGAGOR has executed this instrument or has caused the same to be executed by its representatives thereunto duly authorized.  
(3d) Future Advances. Upon request of Mortgagor, Lender, at Lender's option prior to release of this Mortgage, may make Future Advances to Mortgagor. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus NONE  
(3b) General Provisions. (a) This Mortgage applies to, inures to the benefit of, and binds, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. (b) The term "Lender" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Lender herein. (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this Mortgage and shall not be used in construing it.  
(3a) Future Advances. Upon request of Mortgagor, Lender, at Lender's option prior to release of this Mortgage, may make Future Advances to Mortgagor. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby. At no time shall the principal amount of the indebtedness secured by this Mortgage, including sums advanced in accordance herewith to protect the security of this Mortgage, exceed the original amount of the Note plus NONE



# UNOFFICIAL COPY

(a) When the indebtedness hereby secured shall become due whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the order of foreclosure or sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographer's charges, publication cost and costs of procuring all abstracts of title or commitments for title insurance. Such fees, charges and costs may be estimated as to items to be expended after entry of the order of foreclosure or sale as Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of such property. All expenditures and expenses of the nature mentioned in this paragraph shall become so much additional indebtedness secured hereby and shall be immediately due and payable with interest thereon at the rate specified in the Note secured hereby. Such expenditures and expenses shall include expenditures made in connection with: (a) any proceeding to which Lender shall be a party, either as plaintiff, claimant or defendant, by reason of this Mortgage or any indebtedness hereby secured; (b) preparation for the commencement of any suit for foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; (c) preparations for the defense of any threatened suit or proceeding which might affect the property or the security hereof, whether or not actually commenced; (d) any efforts for collection of any past due indebtedness secured hereby. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in this paragraph; second, all other items which under the terms hereof constitute indebtedness secured by this Mortgage; third, any surplus to Mortgagee, its successors or assigns, as their rights may appear.

(b) Upon or at any time after the filing of a complaint to foreclose this Mortgage the court in which such complaint is filed may appoint Lender as mortgagee in possession or may appoint a receiver of the Property. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency at the time of application of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the Property or whether the same shall be then occupied as a homestead or not. Such receiver or mortgagee in possession shall have power to collect the rents, issues and profits of the Property during the pendency of such foreclosure suit, as well as during any further times when Mortgagee, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of said period. The court from time to time may authorize the receiver or Mortgagee in possession to apply the net income held by either of them in payment in whole or in part of the indebtedness and other sums secured hereby, or in payment of any tax, special assessment or other lien which may be or become superior to the lien hereof or superior to an order foreclosing this Mortgage, provided such application is made prior to foreclosure sale. In case of a judicial sale, the Property, or so much thereof as may then be affected by this Mortgage, may be sold in one parcel.

(22) **Remedies Cumulative.** Each remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, and may be exercised concurrently, independently or successively in any order whatsoever. Every power or remedy hereby given to Mortgagee or to Lender or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursuant inconsistent remedies. If Lender holds any additional security for any obligation secured hereby, Lender may enforce the sale thereof at Lender's option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Mortgagee, Lender may, at its option, offset against any indebtedness owed hereunder to it by Mortgagee the whole or any part of any indebtedness owing by it to Mortgagee, and the Lender is hereby authorized and empowered at its option, without any further obligation to do, and without affecting the obligations hereof, to apply towards the payment of any indebtedness secured hereby of the Mortgagee to the Lender, any and all sums of money belonging to Mortgagee which the Lender may have in its possession or under its control, including, without limiting the generality of the foregoing, any unapplied Funds held by Lender. No offset by Lender hereunder shall relieve Mortgagee from paying installments on the obligation secured hereby as they become due.

(23) **Notice.** Except for any notice required under applicable law to be given in another manner, all notices and other communications required or permitted under this instrument shall be in writing and shall be personally delivered or sent by registered or certified mail, return receipt requested, and if mailed shall be deemed received on the third business day after deposit in the mail in the continental United States, postage prepaid, addressed to the party to receive such notice at the address set forth above. Notice of change of address shall be given by written notice in the manner set forth in this paragraph 23.

(24) **Successors and Assigns, Joint and Several Liability; Agents; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Mortgagee, subject to the provisions of paragraph 20 hereof. All covenants and agreements of Mortgagee shall be joint and several in exercising any rights hereunder or taking any action provided herein. Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

(25) **Governing Law; Severability.** The loan secured by this Mortgage is made pursuant to, and shall be construed and governed by, the laws of the United States and the rules and regulations promulgated thereunder, including the federal laws, rules and regulations for federal savings and loan associations. If any paragraph, clause or provision of this Mortgage or the note or any other notes or obligations secured by this Mortgage is determined by a court of competent jurisdiction to be void, invalid or unenforceable, such decision shall affect only those paragraphs, clauses or provisions so determined and shall not affect the remaining paragraphs, clauses and provisions of this Mortgage or the note or other notes secured by this Mortgage.

(26) **Waiver of Statute of Limitations.** Time is of the essence for all of Mortgagee's obligations hereunder, and to the extent permitted by law, Mortgagee waives all present or future statutes of limitation with respect to any debt, demand or obligation secured hereunder in any action or proceeding for the purpose of enforcing this instrument or any rights or remedies hereunder.

(27) **Injury to Property.** All causes of action of Mortgagee, whether accrued before or after the date of this instrument for damages or injury to the Property or any part thereof, or in connection with the transaction financed in whole or in part by the funds loaned to Mortgagee by Lender, or in connection with or affecting the Property, or any part thereof, including causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, are, at Lender's option, assigned to Lender, and the proceeds thereof shall be paid to Lender who, after deducting therefrom all its expenses, including reasonable attorneys' fees, may apply such proceeds to the sums secured by this instrument or to any deficiency under this instrument or may release any monies so received by it or any part thereof as Lender may elect. Lender may, at its option, appear in and prosecute in its own name any action or proceeding to enforce any such cause of action and may make any compromise or settlement thereof. Mortgagee agrees to execute any further assignments and other instruments as from time to time may be necessary to effectuate the foregoing provisions and as Lender shall require.

(28) **Offsets.** No indebtedness secured by this instrument shall be deemed to have been offset or compensated by all or part of any claim, cause of action, counterclaim or part of any claim, cause of action, counterclaim or crossclaim, whether liquidated or unliquidated, which Mortgagee now or hereafter may have or may claim to have against Lender, and, in respect to the indebtedness now or hereafter secured hereby, Mortgagee waives to the fullest extent permitted by law, the benefits of any applicable law, regulation or procedure which substantially provides that where cross-demands for money have existed between persons at any point in time when neither demand was barred by the applicable statute of limitations, and an action is thereafter commenced by one such person, the other person may assert in his answer the defense of payment in that the two demands are compensated so far as they equal each other, notwithstanding that an independent action asserting his claim would at the time of filing his answer be barred by the applicable statute of limitations.

(29) **Misrepresentation or Nondisclosure.** Mortgagee has made certain written representations and disclosures in order to induce Lender to make the loan evidenced by the Note or notes which this instrument secures, and in the event that Mortgagee has made any material misrepresentations or failed to disclose any material fact, Lender, at its option and without prior notice, shall have the right to declare the indebtedness secured by this instrument, irrespective of the maturity date specified in the Note or notes, immediately due and payable.

(30) **Statement of Obligation.** Lender may collect a fee of \$50.00 or such greater maximum amount as is allowed by law for furnishing any statement of obligation or any other statement regarding the condition of or balance owing under the Note secured by this instrument.

(31) **Waiver of Marshaling.** Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagee, any party who consents to this instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshaling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

(32) **Waiver of Homestead.** Mortgagee hereby waives all right of homestead exemption in or relating to such Property.

(33) **Adjustable Mortgage Loan Provisions.** The Note which this Mortgage secures is an adjustable mortgage loan on which the interest rate may be adjusted from time to time in accordance with a monthly increase or decrease in an index as provided in said Note. From time to time the monthly installment payments due under said Note may not be sufficient to pay all interest due in which case unpaid interest will be added to principal. In no case shall the unpaid interest added to the principal exceed one hundred and fifty percent (150%) of the original principal indebtedness. Mortgagee agrees that at Lender's request it shall provide to Lender additional title insurance to the full amount of the outstanding principal indebtedness due hereunder if the principal indebtedness has increased by reason of negative amortization as provided in the Note.

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