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(5) **Mortgagee's Interest in and Use of Deposits.** In the event of a default in any of the provisions contained in this mortgage or in the Note, the Mortgagee may at the option, without being required to do so, apply any moneys at the time on deposit pursuant to paragraph 6 hereof, as any one or more of the same may be applicable, on any of Mortgagee's obligations herein or in the Note contained, in such order and manner as the Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagee or to the then owner or owners of the mortgaged premises. Such deposits are hereby pledged as additional security for the indebtedness hereunder and shall be held in trust to be irrevocably applied by the Mortgagee for the purposes for which made hereunder and shall not be subject to the direction or control of the Mortgagee, provided, however, that the Mortgagee shall not be liable for any claim for any moneys applied to the payment of taxes, assessments, water and sewer charges and insurance premiums any amount so deposited unless Mortgagee, who is not in default hereunder, shall have requested Mortgagee in writing not less than thirty (30) days prior to the date thereof to make application of such funds to the payment of the partner's taxes, assessments or insurance premiums for days prior to the date thereof to make application of such funds to the payment of the partner's taxes, assessments or insurance premiums for such amount and premium, and of the amount necessary to be paid in satisfaction thereof. Mortgagee will pay to Mortgagee, immediately and without demand, all sums of money advanced by Mortgagee pursuant to this paragraph, together with interest on each such advance at the rate set forth in the Note, and all such sums and interest thereon shall be recouped hereby.

8. **Adjustment of Losses with Insurer and Application of Proceeds of Insurance.** In case of loss, the Mortgagee (or after entry of decree of foreclosure, purchaser at the sale, or the decree creditor, as the case may be) is hereby authorized either (a) to settle, collect, compromise and adjust, in its discretion any claim under such insurance policies without the consent of Mortgagee, or (b) to allow Mortgagee to agree with the insurance company or companies on the amount to be paid upon the loss. In either case Mortgagee is authorized to collect and accept for any such insurance money. Mortgagee agrees to sign, upon demand by Mortgagee, all receipts, vouchers and releases required of him by the company. If (a) Mortgagee is obligated to restore or replace the damaged buildings or improvements under the terms of any lease or leases which are or may be prior to the lien of this Mortgage, (b) the said damage or restoration does not result in cancellation or termination of such lease, (c) the insurers do not deny liability as to the insured, and (d) each policy is not sufficient to restore or replace the damaged or destroyed buildings or improvements in the judgment of Mortgagee, such insurers, and (e) each policy is not sufficient to pay the amount of any expenses incurred in the collection thereof, shall be used to reimburse Mortgagee for the cost of rebuilding or restoration of buildings and improvements of said premises. In all other cases, such insurance proceeds may, at the option of Mortgagee, either be applied in reduction of the indebtedness secured hereby, whether due or not, or be held by the Mortgagee and used to reimburse Mortgagee for the cost of the rebuilding or restoration of buildings or improvements on said premises. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. In the event Mortgagee is entitled to reimbursement out of insurance proceeds, such proceeds shall be made available, from time to time, upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificate, engineer's report, contractor's sworn statements and other evidence of cost and of payment as the Mortgagee may require by a written request and approval, and if the estimated cost of the work exceeds ten percent (10%) of the original principal amount of the indebtedness secured hereby, with all pins and specifications for such rebuilding or restoration as the Mortgagee may reasonably require and approve. No payment made prior to the end and completion of the work shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the amount of said proceeds remaining in the hands of the Mortgagee shall be at least sufficient to pay for the cost of completion of the work free and clear of liens.

In the case of loss after foreclosure proceedings have been instituted, the proceeds of any such insurance policy or policies, if not applied as aforesaid in rebuilding or restoring the buildings or improvements, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if he shall then be entitled to the same or as directed in any such proceedings. In case of the foreclosure of this mortgage, the court may direct. In case of the foreclosure of this mortgage, the court may provide that the mortgagee's clause attached to each of said insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss deductible to each insurance policy and a new loss clause to be attached thereto, making the loss thereunder payable to such redeemer. In the event of foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagee, to assign all and all insurance policies to the purchaser at the sale, or to take such other steps as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

9. **Stamp, Transfer or Government Tax.** If, by the laws of the United States of America, or of any state having jurisdiction over the Mortgagee or the premises, any tax is due or becomes due in respect of the issuance of the Note or this mortgage or the recording thereof, the Mortgagee covenants and agrees to pay such tax in the manner required by any such law. The Mortgagee further covenants to hold harmless and agrees to indemnify the Mortgagee, the successor or assignee, against any liability incurred by reason of the imposition of any such tax.

10. **Payment Privilege.** At such time as the Mortgagee is not in default either under the terms of the Note or under the terms of this mortgage, the Mortgagee shall have such privilege of making payments on the principal of the Note (in addition to the required payments) as may be provided in the Note, and in accordance with the terms and conditions, if any, set forth in the Note.

11. **Effect of Exemptions of Time.** If the payment of said indebtedness or any part thereof be exempted or waived or if any part of the security be released, all portions now or at any time hereafter made payable, or interest in said premises, shall be held to accrue to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of accrual to such extension, variation or release, being by the Mortgagee, notwithstanding such extension, variation or release.

12. **Effect of Changes in Law Regarding Taxation.** In the event of any law of the state in which the premises are located declaring from the value of land for the purpose of taxation any lien hereon, or imposing upon the Mortgagee, the payment of the whole or any part of the taxes or assessments or charges or liens hereon required to be paid by Mortgagee, or changing in any way laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this Mortgagee or the debt secured hereby or the holder thereof, the Mortgagee, upon demand by the Mortgagee, shall pay any such taxes or assessments, or reimburse the Mortgagee hereof, provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unwise for the Mortgagee to make such payment or (b) the making of such payment might result in the imposition of interest in excess of the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagee, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the date of giving of such notice.

13. **Mortgagee's Performance of Obligated Acts.** In case of default, then, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagee in any form and manner deemed expedient by Mortgagee, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchases, discharges, compromise or settle any tax or claim thereon, or redeem or mature any tax sale or forfeiture affecting said premises or contract any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the rate of interest then applicable to the indebtedness secured by this Mortgage. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagee.

14. **Mortgagee's Release on Tax and Insurance Bills, Etc.** Mortgagee in making any payment is hereby authorized: (a) to pay any taxes, assessments and insurance premiums, according to any bill, statement or estimate procured from the appropriate public office or vendor without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, insurance premium, sale, forfeiture, tax lien or title or claim thereof; or (b) to purchase, discharge, compromise or settle any other prior lien, without inquiry as to the validity or amount of any claim for lien which may be asserted.

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The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases, and the Mortgagee shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under and lease or under or by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms,

Although it is the intention of the parties that the assignment contained in this paragraph shall not be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a default hereunder.

Nothing herein contained shall be construed as constituting a mortgage in the absence of the taking of actual possession of the premises by the Mortgagee pursuant to paragraph 20 hereof. In the exercise of the power herein granted to the Mortgagee, no liability shall be assumed or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagee.

The Mortgagee (hereinafter referred to as "Mortgagee") agrees to assign and transfer to the Mortgagee all future leases upon all or any part of the premises hereinafter described and to execute and deliver, at the request of the Mortgagee, all such further assignments and assignments in the premises as the Mortgagee shall from time to time require.

Although it is the intention of the parties that the assignment contained in this paragraph shall not be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that the Mortgagee shall not exercise any of the rights or powers conferred upon it by this paragraph until a default hereunder.

Nothing herein contained shall be construed as constituting a mortgage in the absence of the taking of actual possession of the premises by the Mortgagee pursuant to paragraph 20 hereof. In the exercise of the power herein granted to the Mortgagee, no liability shall be assumed or enforced against the Mortgagee, all such liability being expressly waived and released by Mortgagee.

The Mortgagee represents and agrees that no rent has been or will be paid by any person in possession of any portion of the above described premises for more than one month in advance and that the payment of none of the rents to become due under the lease or any other premises has been or will be waived, reduced, released, disallowed, or otherwise discharged or compromised by the Mortgagee. The Mortgagee waives any rights of set-off against any person in possession of any portion of the above described premises. If any lease provided for the abatement of rent during repair of the premises damaged hereunder by reason of fire or other casualty, the Mortgagee shall furnish to the Mortgagee a certificate of insurance, the policy to be in amount and form and written by such insurance company as shall be satisfactory to the Mortgagee. Mortgagee agrees that it will not assign any of the rents or profits of said premises, except to a purchaser or grantee of the premises.

(9) Assignment of Leases and Liabilities. The Mortgagee does hereby sell, assign and transfer unto the Mortgagee, or its assigns, all the rents, issues and profits now due and which may hereafter become due under or by virtue of any lease, whether written or verbal, or any other agreement for the use or occupancy of the premises or any part thereof, which may hereafter be hereafter made or agreed to, or which may be made or agreed to by the Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all of such leases and agreements, and all of the rents, issues and profits thereunder, and the Mortgagee does hereby appoint the Mortgagee as its true and lawful attorney in its name and said (a) to receive, collect and hold the rents, issues and profits of said premises in its name and said (b) to receive, collect and hold the rents, issues and profits of any part of said premises in its name and said (c) to execute and deliver, at the request of the Mortgagee, all such further assignments and assignments in the premises as the Mortgagee shall from time to time require.

(10) Appointment of Receiver. Upon, or at any time after the thing of a complaint to foreclose this Mortgagee, the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagee at the time of appointment for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not and the Mortgagee hereunder or any holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and in case of a sale and a deficiency, during the full statutory period of redemption, whether there be a redemption or not, as well as during any further time when Mortgagee, 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 granted in such cases for the protection of Mortgagee and its assigns, and the Mortgagee, the court may appoint as receiver Mortgagee or any other person whom it deems fit.

(11) Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the premises 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 the preceding paragraph; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the Note; fourth any overplus to Mortgagee, its assigns or assigns, or their rights may appear.

(12) Foreclosure Expenses and Judgment. When the indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the indebtedness or part thereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, and other expenses, including the cost of obtaining title insurance, and the Mortgagee shall be entitled to be reimbursed for the same. The Mortgagee shall be entitled to be reimbursed for the same. The Mortgagee shall be entitled to be reimbursed for the same. The Mortgagee shall be entitled to be reimbursed for the same.

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THIS MORTGAGE is executed by the undersigned, not personally but as trustee as stated in the exercise of the power and authority conferred upon and vested in it as such Trustee and said (Corporation) (Association) hereby warrants that it possesses full power and authority to execute this mortgage, and it is expressly understood and agreed that nothing herein or in the Note contained shall be construed as creating any liability on the part of the Mortgagor or on said (Corporation) (Association) personally to pay the Note or any interest thereon, or any indebtedness accruing hereunder, or to perform any covenant, condition, or implied herein contained (it being understood and agreed that each of the provisions hereof, except the warranty heretofore contained in this execution clause, shall constitute a condition and not a covenant or agreement, regardless of whether every person now or hereafter claiming any right or security hereunder, and that so far as the Mortgagor and its successors and said (Corporation) (Association) personally are concerned, the legal holder or holder of the Note and the owner or owners of any indebtedness accruing hereunder shall look solely to any one or more of: (1) the premises hereby conveyed and the rents, issues and profits thereof, for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in the Note provided; (2) any other security given to secure said indebtedness; or (3) the personal liability of the guarantor, co-signor, surety or endorser, if any.

31. **Capitalization**. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

32. **Binding on Successors and Assigns**. The lien of this Mortgage and all of the provisions and conditions contained herein shall extend to and be binding upon all successors and assigns of the Mortgagor. The word "Mortgagor" when used herein shall include the successors and assigns of the Mortgagor named herein, and the holder or holders, from time to time, of the Note secured hereby.

33. **Continuance of Rights**. Each right, power and remedy conferred upon the Mortgagor is cumulative of every other right or remedy of the Mortgagor, whether herein or by law conferred, and may be enforced concurrently therewith.

30. **Furnishing of Financial Statements to Mortgagee**. Upon request, Mortgagee shall furnish to Mortgagee, a semi-annual operating statement of income and expense of the mortgaged premises signed and certified by the Mortgagor's beneficiary or beneficiaries.

29. **Mortgagee's Lien for Service Charges and Expenses**. A lien in favor of Mortgagee shall exist in favor of Mortgagee for any taxes, charges, interest, application and loan commitment issued in connection with this transaction.

28. **Waiver of Surety Rights**. Mortgagee shall not and will not apply for or obtain a bond or other security for or in connection with this transaction.

27. **Waiver of Defenses**. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interfering same in an action at law upon the Note hereby secured.

26. **Waiver of Surety Rights**. Mortgagee shall not and will not apply for or obtain a bond or other security for or in connection with this transaction.

25. **Assignment of Rights**. Mortgagee shall not and will not assign or otherwise dispose of any right or interest in this mortgage or in the Note secured hereby.

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