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AND WHEN RECORDED MAIL TO:

Skadden, Arps, Slate, Meagher & Flom  
919 Third Avenue  
New York, New York 10022

Attention: Harvey R. Uris, Esq.

BLANKET INDENTURE OF MORTGAGE, DEED OF TRUST, DEED TO SECURE  
DEBT, SECURITY AGREEMENT, FIXTURE FILING, FINANCING STATEMENT  
AND ASSIGNMENT OF RENTS AND LEASES

Cover Sheet

Dated as of May 18, 1993

Borrower: Parties listed on Schedule 1 attached hereto

Borrower's Notice Address: Olympia & York Tower  
1995 Bryan Street, Suite 3550  
Dallas, Texas 75201

Attention: Contract Finance Department

Agent: Lehman Commercial Paper Inc.

Agent's Notice Address: 200 Vesey Street  
New York, New York 10280  
Attention: Contract Finance Department

Maturity Date: May 18, 1996

COOK COUNTY, ILLINOIS  
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BLANKET INDENTURE OF MORTGAGE, DEED OF TRUST, DEED TO SECURE DEBT, SECURITY AGREEMENT, FIXTURE FILING, FINANCING STATEMENT AND ASSIGNMENT OF RENTS AND LEASES (the "Indenture"), dated as of May 18, 1993, made by the parties listed on Schedule 1 attached hereto and made a part hereof, each a limited partnership duly organized and existing under the laws of the State of Delaware, with a principal office in the locations set forth on Schedule 1 (each, a "Borrower" and collectively, the "Borrowers"), as mortgagors of interests in real property under this Indenture as a mortgage in the States listed on Schedule 2 attached hereto (the "Mortgage States"), as grantors of real property under this Indenture as a deed to secure debt in the State of Georgia, as trustors of the trusts hereinafter created under this Indenture as a deed of trust in the States listed on Schedule 3 attached hereto (the "Deed of Trust States") and as debtors with respect to the security interests in personal property hereby created, in favor of LEHMAN COMMERCIAL PAPER INC., having its principal office at 200 Vesey Street, New York, New York 10285 (the "Agent"), as mortgagor of interests in real property under this Indenture as a mortgage in the Mortgage States, as grantee of real property under this Indenture as a deed to secure debt in the State of Georgia, as beneficiary of the trusts hereinafter created under this Indenture as a deed of trust in the Deed of Trust States, and as secured party with respect to security interests in personal property hereby created, and as collateral agent for the Lenders pursuant to the Intercreditor Agreement, if applicable, and the Loan Agreement (each as hereinafter defined) and the person or persons or entity identified as "Trustee" on the cover page hereof (herein together with his or its successors and assigns, the "Trustee");

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W I T N E S S E T H:

GRANT AND CONVEYANCE

For good and valuable consideration and to secure the payment of (i) an indebtedness payable to the Lenders in the principal sum of up to Seven Hundred Eighty-Five Million Dollars (\$785,000,000) lawful money of the United States, to be paid according to a certain blanket promissory note or notes dated as of the date hereof, jointly made by each Borrower in said principal sum and by this reference made a part hereof (said promissory note or notes, as the same may hereafter be amend-

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ed, modified, consolidated, substituted, replaced or extended, the "Notes"), together with all other obligations and liabilities due or to become due thereunder to the holders thereof, (ii) all amounts, sums and expenses incurred or paid hereunder by Agent or any Trustee or payable by the Borrowers to Agent according to the terms hereof, (iii) the payment and performance of all other covenants, obligations and liabilities of the Borrowers under the Notes, this Indenture and any other instrument evidencing, guaranteeing, securing or executed in connection with the loan evidenced by the Notes, including, without limitation, the Loan Documents (as hereinafter defined), together with all interest, prepayment fees and charges of a similar nature on said indebtedness described in clauses (i)-(iii), and all Protective Advances (hereinafter defined) and other obligations, liabilities, amounts, sums and expenses evidenced by the Loan Documents or relating to the Loans or this Indenture, together with interest thereon to the extent herein provided (all of the foregoing, collectively, the "Indebtedness"), each Borrower has executed and delivered these presents, and has warranted, granted, bargained, sold, conveyed, transferred, pledged, assigned, remised, released, mortgaged, set over and confirmed, and granted a security interest to Agent (or to the Trustee, with respect to Property located in the Deed of Trust States) in, and by these presents does warrant, grant, bargain, sell, convey, transfer, pledge, assign, remise, release, mortgage, set over and confirm, and grant a security interest to Agent (or to the Trustee, with respect to Property located in the Deed of Trust States) in, all of its right, title and interest, claim and demand in, to and under the following described property in each case, whether now owned or existing or hereafter acquired or arising, and wherever located (collectively, the "Property").

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FIRST

Real Property Assets

(1) All those parcels of real property described in Exhibit A hereto (which includes parcels of Real Property (as defined in the Asset Purchase Agreement)) and all parcels of real property hereafter acquired by the Borrowers (the "Land").

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(ii) All of the leases of real property described in Exhibit A hereto (which includes parcels of Real Property (as defined in the Asset Purchase Agreement)) and all leases of real property entered into after the date hereof by the Borrowers as tenant or lessee, together with all amendments and modifications thereto and rights acquired by Borrower thereunder, but excepting only the last day of the effective term under each such lease (the "Leaseholds").

(iii) All buildings, foundations, structures, fixtures and other improvements and replacements and additions thereto now or hereafter located on the Land or on land covered by Leaseholds (the "Improvements").

(iv) All streets and roads, opened or proposed, abutting the Land and land covered by the Leaseholds, all strips and gores within or adjoining the Land and land covered by the Leaseholds, the air space and right to use the air space above the Land and land covered by the Leaseholds, all rights of ingress and egress to and from the Land and land covered by the Leaseholds, all easements, rights of way, reversions, remainders, hereditaments, and appurtenances now or hereafter affecting the Land, the land covered by the Leaseholds or the Improvements, all royalties and rights and privileges appertaining to the use and enjoyment of the Land, the land covered by the Leaseholds or the Improvements, including all air, lateral support, alley, drainage, water, oil, gas and mineral rights, all options to purchase or lease, and all other interests, estates or claims, in law or in equity, which the Borrower now has or hereafter may acquire in or with respect to the Land, the land covered by the Leaseholds or the Improvements (the "Appurtenances");

Collectively, Land, Leaseholds, Improvements and Appurtenances may hereinafter sometimes be referred to individually as a "Real Property Asset" or collectively as the "Real Property Assets";

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(v) All equipment, fittings, furniture, furnishings, appliances, apparatus, and machinery in which the Borrower now or hereafter has a possessory or title interest and now or hereafter installed in all Real Property Assets and all building materials, supplies and equipment now or hereafter delivered to all Real Property Assets and intended to be installed therein; all fixtures, other goods and personal property of whatever kind and nature now contained on or in or hereafter placed on or in all Real Property Assets and used or to be used in connection with the letting or operation thereof, in which the Borrower now has or hereafter may acquire a possessory or title interest and all renewals or replacements of any of the foregoing property or articles in substitution thereof (the "Equipment").

(vi) All inventory, including all products, goods, materials and supplies (the "Inventory").

(vii) All right, title and interest of the Borrower, as landlord, lessor or licensor, in and under all leases, lettings, tenancies and licenses of all Real Property Assets or any part thereof now or hereafter entered into and all amendments, extensions, renewals and guaranties thereto, and security therefor, and all moneys payable thereunder (the "Tenant Leases").

(viii) All rents, income, issues, profits, security deposits and other payments to which the Borrower may now or hereafter be entitled from all Real Property Assets, the Equipment or the Intangibles or under or in connection with the Tenant Leases (the "Property Income").

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## SECOND

### Accounts

All accounts as defined in the Uniform Commercial Code.

## THIRD

### Material Commercial Agreements

(i) All agreements relating to the provision of real or personal property to or for the benefit of the Borrower; (ii) any agreement relating to the sale of real or personal property or services by the Borrower; or (iii) any collective bargaining agreement covering any number of employees of the Borrower; or (iv) any other agreement which Agent in its sole discretion determines is material to the Borrower or to the Property or any portion thereof, and as to which Agent notifies the Borrower that such determination has been made.

## FOURTH

### Intangibles

All United States patents and patent applications; all inventions, processes, production methods, proprietary information, know-how and trade secrets; all United States trademarks (whether registered or unregistered), trademark applications, trade names, service marks, copyrights and the like owned or used by the Borrower and good will relating to the same; and all licenses or other agreements granted by or to the Borrower with respect to any of the foregoing; in each case whether owned or used or granted on the effective date or thereafter; all amounts owing to the Borrower as open account indebtedness representing moneys advanced by the Borrower to any Person; any and all other rights, claims and causes of action of the Borrower against any Person and the benefits of any and all collateral or other security given by any such Person in connection therewith; all information, customer lists,

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Identification of suppliers, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, manuals, catalogs, research data, computer and automatic machinery software and automatic machinery software and programs, and the like pertaining to operations by the Borrower; all information relating to sales by the Borrower; all accounting information pertaining to the Borrower's operations in, on or about any of the Property and all media in which or on which any of the information or knowledge or data or records relating to such operations or the Property may be recorded or stored and all computer programs used for the compilation or printout of such information, knowledge, records or data; all licenses, consents, permits, variances, certifications and approvals of governmental agencies now or hereafter held by the Borrower pertaining to operations now or hereafter conducted by the Borrower to the extent that the granting of a security interest therein and the transfer of title thereto does not and will not result in violation of any applicable law, and to the extent that the same are legally transferable, and all causes of action, claims and warranties now or hereafter owned or acquired by the Borrower (all of the foregoing being hereinafter collectively called the "Intangibles").

## FIFTH

### Pledged Partnership Interests

All limited and general partnership interests in any partnership (each, a "Partnership") including, without limitation, those Partnerships listed on Exhibit B hereto, together with (i) all Borrower's interest in the capital of each Partnership and in all profits and distributions to which Borrower shall at any time be entitled in respect of each Pledged Partnership Interest; (ii) all other payments, if any, due or to become due to Borrower in respect of each Pledged Partnership Interest, under or arising out of the applicable partnership agreement, whether as contractual obligations, damages,

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insurance proceeds, condemnation awards or otherwise; (iii) all of Borrower's claims, rights, powers, privileges, authority, options, security interests, liens and remedies, if any, under or arising out of the applicable partnership agreement or the ownership of the Pledged Partnership Interest; (iv) all present and future claims, if any, of Borrower against each Partnership under or arising out of the applicable partnership agreement for monies loaned or advanced, for services rendered or otherwise; and (v) to the extent permitted by applicable law, all of Borrower's rights, if any, in the applicable Partnership, pursuant to the applicable partnership agreement or at law, to exercise and enforce every right, power, remedy, authority, option and privilege of the Borrower relating to the Pledged Partnership Interest, including any power to terminate, cancel or modify the applicable partnership agreement, to execute any instruments and to take any and all other action on behalf of and in the name of Borrower in respect of the applicable Pledged Partnership Interest and the applicable Partnership, to make determinations, to exercise any election (including, but not limited to, election of remedies) or option or to give or receive any notice, consent, amendment, waiver or approval, together with full power and authority to demand, receive, enforce or collect any of the foregoing or any property of the Partnership, to enforce or execute any checks, or other instruments or orders, to file any claims and to take any action in connection with any of the foregoing.

## SIXTH

### Loans

All loans owned by Borrower, including, without limitation, any transactions that provide Borrower with a return based on cash flow or appreciation (collectively, "Loans"); together with the promissory note or notes, or other evidence of indebtedness with respect to such Loans, as the same may be extended, amended,

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supplemented, restated, endorsed or modified, together with all documents, agreements or instruments relating to such Loans (collectively referred to as "Collateral Documents"), including without limitation, the notes described in this paragraph, any loan agreement, participation agreement, reimbursement agreement, pledge agreement, guaranty, equity participation agreement, mortgage, deed of trust or other security instrument, and all amendments and modifications thereto, creating a lien upon real property or the leasehold interest described therein, including fixtures (collectively, "Mortgages"); any assignment, reinstatement, extension, endorsement or modification of any of the foregoing. The term "Loans" includes any Interim Mortgage Loans and Interim Partnership Loans (each as defined in the Asset Purchase Agreement) made by the Borrower to certain of the Sellers with respect to certain Assets (as hereinafter defined), together with Interim Notes, Interim Mortgages, Interim Partnership Notes and Interim Partnership Interest Pledge Agreements, listed on Exhibit C hereto.

## SEVENTH

### Guaranty Obligations

All documents, agreements, instruments, including, without limitation, any letter of credit agreement, reimbursement agreement or other agreement evidencing any obligation to reimburse Borrower, in connection with all obligations of Borrower to advance funds to a third party ("Guaranty Obligations"), together with any Collateral Documents relating to any such obligation.

## EIGHTH

### Corporate Stock Interest

All of Borrower's ownership interest in and to any common, preferred, convertible or any other kind of corporate stock in any corporations, together with the right to receive all dividends (whether cash dividends or stock divi-

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dence) paid with respect to the stock, the right to all distributions in connection with any winding up or liquidation and all voting rights in connection with the stock.

## NINTH

### Bonds

All bonds (the "Bonds") owned by Borrower.

## TENTH

### Contract Rights

All contracts, agreements, assignments, instruments or commitments including, without limitation, any assignment of a claim in bankruptcy (the "Bankruptcy Claims"), any lease, agreement for borrowed money and other evidences of indebtedness, reciprocal easement agreement, operating agreement, guaranty agreements, stand-by agreement, funding commitment, commitment to extend credit, letter of credit, buy-sell agreement (including without limitation, each Borrower's interest in the Asset Purchase Agreement), tri-party agreement (including, without limitation, the Custodial Agreement), credit enhancement, purchase or repurchase agreement, partnership agreement, shareholder agreement, service agreement, confidentiality agreement, distributor agreement, franchise agreement, sale representation commission agreement, property management agreement (including, without limitation, each Borrower's interest in the Servicing Transfer Agreement and Servicing Agreement), hotel license agreement, equipment lease, purchase order or sales order (collectively, the "Contract Rights").

## ELEVENTH

### Transfer Restricted Assets

All contract rights arising under the Asset Purchase Agreement with respect to Transfer

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Restricted Assets (as defined therein), a list of which is set forth on Exhibit D hereto, including, without limitation, each Borrower's right to record a memorandum of contract with respect to its interest in all Transfer Restricted Assets which are Real Property Assets or a UCC-1 Financing Statement with respect to its interest in all Transfer Restricted Assets which are other Collateral.

## TWELFTH

### Proceeds

All reversions, remainders, rates, issues, rents, profits, revenues and other income, and products and proceeds of the Property (including, without limitation, proceeds of all insurance policies relating to any of the Property) now or hereafter subjected to the Lien of this Indenture (collectively, the "Proceeds").

The Equipment, Inventory, Tenant Leases, Property Income, Accounts, Material Commercial Agreements, Pledged Partnership Interests, Loans, Collateral Documents, Guaranty Obligations, Corporate Stock Interests, Bonds, Contract Rights, Transfer Restricted Assets, Intangibles and Proceeds are hereinafter sometimes collectively referred to as the "Collateral." The "Property" consists of all Real Property Assets and Collateral.

## THIRTEENTH

### Property Hereafter Subjected Hereto

Any and all property of every name and nature which from time to time after the date hereof, by delivery or by writing of any kind for the purposes hereof, shall have been conveyed, mortgaged, pledged, assigned or transferred by the Borrower or by anyone on its behalf or with its consent to Agent or to the Trustees, or any of them, who are hereby authorized to receive at any and all times any property as and for

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additional security for the payment of the Indebtedness secured under this Indenture and to hold and apply such property subject to and in accordance with this Indenture, including, without limitation, any Asset acquired by Borrower upon the transfer of title to any Transfer Restricted Asset or any Asset for which Borrower currently holds an Interim Mortgage or Interim Partnership Interest Pledge (as such terms are defined in the Asset Purchase Agreement).

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UNTO Agent, as mortgagee, its successors and assigns to its use, benefit and behoof, forever, the Property in the Mortgage States.

WITH MORTGAGE COVENANTS and with all POWERS OF SALE and other STATUTORY RIGHTS AND COVENANTS in the Mortgage States

TO HAVE AND TO HOLD the Property, with all the privileges and appurtenances to the same belonging, and with the possession and right of possession thereof, unto Agent and its successors and assigns forever;

AND

UNTO Agent, as grantee, its successors and assigns, the Property in the State of Georgia

TO HAVE AND TO HOLD the Property in the State of Georgia hereby granted with all and singular the rights, members and appurtenances thereto appertaining, to the use, benefit and behoof of Agent, forever, in FEE SIMPLE,

AND

UNTO the Trustee, as trustee for the benefit of Agent, to the successors of said trustee in the trust created by this Indenture, and to its or their respective successors and assigns forever, in trust, the Property located in the Deed of Trust States

TO HAVE AND TO HOLD the Property located in the Deed of Trust States, with all the privileges and appurtenances to the same belonging, and with the possession and right of possession thereof, unto the Trustees for the benefit

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of Agent, to its and their successors in the trust created by this Indenture, and to its and their respective assigns forever, in trust, however, upon the terms and conditions set forth herein,

SUBJECT, HOWEVER, to exceptions and reservations and matters herein recited, and to Permitted Liens (as defined in Section 1.02 hereof).

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Borrower or its successors and assigns shall pay or cause to be paid the Indebtedness (or otherwise comply with the provisions of the Loan Agreement regarding release and/or substitution of collateral) and shall perform or cause to be performed its obligations all at the times and in the manner stipulated in the Loan Documents and if all and singular the covenants and promises in the Loan Documents are duly kept, performed and observed, then after the last such event this Indenture and the estate and rights hereby granted shall thereupon cease and be void; otherwise they shall remain and be in full force and effect;

AND IT IS HEREBY COVENANTED, DECLARED AND AGREED by the Borrower that the Indebtedness and the Loan Documents are to be secured and that the Property is to be held, subject to the further covenants, conditions, uses and trusts herein set forth for the benefit of the Agent, its successors and assigns and those who shall hold, from time to time, the Notes.

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ARTICLE ONE

DEFINITIONS AND CONSTRUCTIONS; ACQUISITION OF ASSETS

SECTION 1.01. Interpretations. Unless the context otherwise specifies or requires, the terms defined in this Article One shall, for all purposes of this Indenture and of all indentures supplemental hereto hereafter entered into in accordance with the provisions hereof, have the meanings herein specified, the following definitions to be equally applicable to both the singular and plural forms of any of the terms herein defined. References herein to "the Borrower" or "Borrower" shall be equally applicable to each Borrower individually for itself and with respect to its Property, and to the Borrowers, collectively. The references herein to contracts or other instruments defined in this Article One shall mean, unless the context otherwise requires, such contracts or other instruments as amended, supplemented or otherwise modified from time to time in accordance with their terms and the terms hereof. References by number in this Indenture to any Article or Section shall be construed as referring to the Articles and Sections contained in this Indenture, unless otherwise stated. The words "heroby", "herein", "hereof", "hereto" and "hereunder" and any compounds thereof shall be construed as referring to this Indenture generally, and not merely to the particular Article, Section or subdivision in which they occur, unless otherwise required by the context.

SECTION 1.02. Defined Terms. As used in this Indenture, the terms set forth below shall have the following meanings:

"Accounts" shall have the meaning specified in the Grant and Conveyance.

"Acquisition" shall mean the purchase by the Borrower of the Property.

"Advance" shall have the meaning set forth in the Loan Agreement.

"Affiliate" shall have the meaning set forth in the Loan Agreement.

"Agent" shall have the meaning set forth in the opening paragraph of this Indenture and shall include the

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successors and assigns of the party so designated in the opening paragraph hereof, and any substitute agent appointed in accordance with the Intercreditor Agreement.

"Appurtenances" shall have the meaning specified in the Grant and Conveyance.

"Asset Purchase Agreement" shall mean that certain Asset Purchase Agreement, dated as of April 7, 1993, among LW Real Estate Investment, L.P., as purchaser, and Westinghouse Electric Corporation, as seller, as the same may be supplemented, amended or otherwise modified from time to time in accordance with the terms thereof.

"Assets" shall have the meaning set forth in Section 1.05 hereof.

"Bankruptcy Proceeding" shall mean any proceeding, motion, petition or filing under the Federal Bankruptcy Code (as defined in the Loan Agreement).

"Bonds" shall have the meaning set forth in the Grant and Conveyance.

"Borrower" shall mean collectively and individually, as the case may be, each party identified on Schedule 1 annexed hereto and made a part hereof and defined as Borrower in the preamble of this Indenture, any subsequent owner of the Property (or any portion thereof) which continues to be encumbered hereby, and its or their respective heirs, executors, legal representatives, successors and assigns.

"Business Day" shall have the meaning set forth in the Loan Agreement.

"Calendar Week" shall mean any consecutive seven-day period commencing on a Monday and terminating with the following Sunday.

"Cash Collateral Agreement" shall mean that certain Cash Collateral Account Security, Pledge and Assignment Agreement, dated as of the date hereof, among the Borrower and Agent.

"Collateral" shall have the meaning specified in the Grant and Conveyance.

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"Collateral Documents" shall have the meaning specified in the Grant and Conveyance.

"Collateral Property" shall mean, with respect to each Loan or each Guaranty Obligation obtained by the Borrower, the property or rights evidenced by the Collateral Documents, and each and every document or account or security evidencing or securing such Loan or Guaranty Obligation, including, without limitation, any security agreement, UCC Financing Statement, regulatory agreement, assignment of rents, pledge agreement, guaranty (including, but not limited to, a personal or corporate guaranty), indemnification agreement, assignment of management agreement, assignment of stock or partnership units, title insurance policies, tax and insurance escrows, cash collateral or similar account held for the benefit of Borrower, letters of credit, certificates of deposit or deposits or escrows of any kind, fire and casualty insurance policies, flood hazard insurance policies, other insurance policies and other documents, agreement or instruments under which legal rights or obligations are created or exist, if any, provided to Borrower or a predecessor in interest to secure such Loan or Guaranty Obligation and held by Borrower, and any assignment, reinstatement, extension, endorsement or modification related thereto.

"Contract Rights" shall have the meaning specified in the Grant and Conveyance.

"Corporate Stock Interest" shall have the meaning specified in the Grant and Conveyance.

"Custodian" shall mean Mellon Bank, N.A., and any successors thereto under the Custodial Agreement.

"Custodial Agreement" shall mean that certain Custodial Agreement, dated as of the date hereof, by and among the Master Partnership, Borrower, Mellon Bank, N.A., and Agent.

"Custodial Documents" shall have the meaning set forth in the Custodial Agreement.

"Default" shall mean any event, act or condition that with notice or lapse of time or both would constitute an Event of Default.

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"Default Rate" shall have the meaning set forth in the Loan Agreement.

"Environmental Law" shall have the meaning set forth in the Loan Agreement.

"Equipment" shall have the meaning specified in the Grant and Conveyance.

"Event of Default" shall have the meaning specified in Section 7.01 hereof.

"GAAP" shall mean United States generally accepted accounting principles as in effect from time to time during the term of this Agreement.

"Global Business Plan" shall mean the business plan adopted by the Borrower pursuant to its Partnership Agreement as same may be amended from time to time.

"Guaranty Obligations" shall have the meaning set forth in the Grant and Conveyance.

"Impositions" shall mean all taxes of every kind and nature levied upon or assessed in respect of any Real Property Asset or Partnership Real Property, sewer rents, charges for water, for setting or repairing meters and for all other utilities serving a Real Property Asset or Partnership Real Property, and assessments, levies, inspection and license fees and all other charges imposed upon or assessed against the Property or any portion thereof (including the Property Income) or any Collateral Property, and any stamp or other taxes which might be required to be paid with respect to any of the Loan Documents, any of which might, if unpaid, result in a lien on the Property or any portion thereof, or any Collateral Property regardless of to whom assessed.

"Improvements" shall have the meaning specified in the Grant and Conveyance.

"Indebtedness" shall have the meaning specified in the Grant and Conveyance.

"Intangibles" shall have the meaning specified in the Grant and Conveyance.

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"Intercreditor Agreement" shall have the meaning set forth in the Section 11.15 hereto.

"Interim Servicer" shall mean, with respect to each Borrower, as applicable, the party named as the Servicer in the Servicing Transfer Agreement to which Borrower is a party.

"Inventory" shall have the meaning specified in the Grant and Conveyance.

"Land" shall have the meaning specified in the Grant and Conveyance.

"Leaseholds" shall have the meaning specified in the Grant and Conveyance.

"Lenders" shall mean those entities which are parties, from time to time, to the Intercreditor Agreement.

"Lien" shall have the meaning set forth in the Loan Agreement.

"LCPI" shall mean Lehman Commercial Paper Inc.

"Loan" shall have the meaning set forth in the Grant and Conveyance.

"Loan Agreement" shall mean that certain Loan Agreement, dated the date hereof, between Agent, as agent on behalf of the lenders parties thereto, the Borrowers, collectively as borrowers and the Master Partnership.

"Loan Documents" shall mean the Notes, this Indenture, the Loan Agreement, the Cash Collateral Agreement and any other instrument evidencing, guaranteeing, securing or executed in connection with the loan evidenced by the Notes.

"Master Partnership" shall mean LW Real Estate Investments, L.P.

"Material Adverse Effect" shall have the meaning set forth in the Loan Agreement.

"Materials of Environmental Concern" shall have the meaning set forth in the Loan Agreement.

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"Net Proceeds" shall mean (i) (x) the purchase price (at foreclosure or otherwise) actually received by Agent with respect to one (1) or more Assets which comprise the Property as a result of the exercise by Agent of its rights, powers, privileges and other remedies after the occurrence of an Event of Default, or (y) in the event that Agent (or Agent's nominee) is the purchaser at foreclosure of one or more of such Assets (constituting all or any portion of the Property) by credit bid, then the purchase price received by Agent shall be the amount actually received by Agent upon its ultimate disposition of Asset or Assets so acquired by credit bid, in either case less (ii) all costs and expenses, including, without limitation, all attorneys' fees and disbursements and any brokerage fees, if applicable, incurred by Agent in connection with the exercise of such remedies, provided that such costs and expenses shall not be deducted from such purchase price to the extent such amounts previously have been added to the Indebtedness in accordance with the terms of this Indenture or applicable law. Prior to the ultimate disposition by Agent of any Asset purchased by Agent by credit bid, all operating income derived from, and operating expenses incurred with respect to, such Asset or Assets (constituting all or any portion of the Property) shall be for the account of the Borrowers for the purpose of determining the amount of Indebtedness.

"Noteholder" shall mean any holder, from time to time, of any of the Notes.

"Notes" shall have the meaning set forth in the Grant and Conveyance.

"Partnership Agreement" shall mean the Agreement of limited partnership of the Borrower.

"Partnership Real Property" shall mean any real property which is owned or a ground lease which is held by any partnership, all of the partnership interests of which are Pledged Partnership Interests hereunder or in respect of which Borrower makes an Interim Partnership Loan which is subject to the Lien hereof.

"Permitted Investments" shall have the meaning set forth in the Partnership Agreement.

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"Permitted Liens" shall have the meaning set forth in the Loan Agreement.

"Person" shall mean any person, individual, firm, corporation, partnership, joint venture, association, joint-stock company, trust or other enterprise or any government or political subdivision or agency, department or instrumentality thereof.

"Plan" shall have the meaning set forth in the Loan Agreement.

"Pledged Partnership Interests" shall have the meaning set forth in the Grant and Conveyance.

"Pledged Securities" shall mean, collectively, Bonds and Corporate Stock Interests.

"Proceeds" shall have the meaning specified in the Grant and Conveyance.

"Property" shall have the meaning specified in the Grant and Conveyance.

"Property Income" shall have the meaning specified in the Grant and Conveyance.

"Protective Advance" shall mean all sums, amounts, or expenses advanced or paid and all costs and expenses incurred (including reasonable attorneys' fees and disbursements), together with interest thereon at the Default Rate from the time of payment to the time of repayment, by any Trustee or Agent, as provided or permitted in this Indenture or in any other Loan Document, to comply with the obligations and covenants of the Borrower or to ensure compliance by the Borrower with its obligations and covenants herein or in any other Loan Document. If the Borrower shall fail to make any payment or bear any expense required herein or in a Loan Document (other than principal and interest on the Notes), Agent or any Trustee may (but shall not be obligated to) pay the same as a Protective Advance. So long as no Default exists, neither Agent nor any Trustee shall make any Protective Advance with respect to any item that is then contested in good faith by Borrower in accordance with the Loan Documents.

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"Related Loan Parties" shall mean, with respect to any Borrower, the general partner of such Borrower and the Master Partnership.

"Responsible Officer" shall mean the chief executive officer, the chief operating officer, the chief financial officer or the chief accounting officer of the corporate general partner of the Borrower.

"Seller" shall mean each Person from whom the Borrower acquired the Property or any portion thereof.

"Servicer" shall mean the party named as such in the Servicing Agreement, to be entered into by LW-SP2, L.P. after the date hereof, and any successors thereto under the Servicing Agreement.

"Servicing Agreement" shall have the meaning set forth in the Loan Agreement.

"Servicing Transfer Agreement" shall have the meaning set forth in the Loan Agreement.

"Sub-Partnerships" shall mean LW-SSP5, L.P. and LW-SSP7, L.P., and a reference to a "Borrower" in respect of its "Sub-Partnerships" or any similar reference shall mean LW-SP2, L.P., which owns all the outstanding limited partnership interests of such Sub-Partnerships.

"Transfer Restricted Asset" shall have the meaning set forth in the Grant and Conveyance.

"Trustee" shall have the meaning set forth in the opening paragraph of this Indenture.

"Uniform Commercial Code" shall mean the version of the Uniform Commercial Code as in force in each jurisdiction in which Property is located. Unless otherwise defined herein, terms used in Article 9 of the Uniform Commercial Code are used herein as therein defined.

SECTION 1.03. Certain Words and Phrases Defined. The words referred to in this Section, wherever used in this Indenture, unless the context otherwise requires, shall have the constructions hereinafter specified:

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"accountant" means a firm of certified public accountants engaged in an accounting and auditing business, satisfactory to Agent.

"corporation" shall include an association, joint stock company, business trust, general and limited partnership or other similar organization.

"counsel" means a person or firm engaged in the practice of law, satisfactory to Agent who, with the consent of Agent, may be a person or firm regularly retained or employed by the Borrower or by any Trustee.

"engineer" means an individual, a co-partnership or a corporation engaged in an architectural, engineering or appraisal business or otherwise qualified to pass upon architectural, engineering or appraisal matters satisfactory to Agent, who, with the consent of Agent, may be a person or firm regularly retained or employed by the Borrower.

"governmental body" shall include any federal, state, regional, municipal or other governmental department, commission, board, bureau, agency, or other instrumentality.

"independent", when applied to any accountant, counsel or engineer means such a person satisfactory to Agent who may be selected and paid by the Borrower but who (1) is in fact independent of the Borrower and/or the Agent and the Lenders, (2) does not have any substantial interest, direct or indirect, in the Borrower or any Affiliate of the Borrower, (3) is not connected with the Borrower or any Affiliate of the Borrower as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions, and (4) if an accountant is of recognized national standing, provided that Agent shall have the right to disapprove of any independent accountant, counsel or engineer selected by the Borrower, and to require the designation by the Borrower of another independent accountant, counsel, or engineer satisfactory to them. Agent need not make any investigation as to the independence of any accountant, counsel or engineer, but may rely on the representation of such accountant, counsel or engineer that he is in fact independent.

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"order" shall include any order, writ, injunction, decree, judgment, award, determination, direction or demand issued by a governmental authority having jurisdiction over the subject matter of such order.

"shares" of any corporation, unless otherwise specified, shall include any and all shares of capital stock of such corporation of any class or other shares, interests, participations, equity interests, partnership interests or other equivalents (however designated) in the capital of such corporation.

"trust estate" is synonymous with "Property".

"written" or "in writing" shall mean and include printing, typewriting or any electronic means of communication, capable of being legibly reproduced at the point of reception such as telecopier, telex or telegraph.

SECTION 1.04. Applications and Certificates of the Borrower. The terms "application of the Borrower" and "certificate of the Borrower" mean, respectively, a written application or a certificate signed in the name of the Borrower by a Responsible Officer addressed and delivered to Agent pursuant to a specified Section or Sections of this Indenture. The term "officer's certificate" means a certificate signed by a Responsible Officer.

SECTION 1.05. Acquisition of Assets; Loan Agreement.

(a) Assets. Pursuant to the terms and provisions of the Asset Purchase Agreement, certain assets (the "Assets"), including, without limitation, mortgage loans, real estate, stock in corporations, general and limited partnership interests, pledges of interests and participations in the foregoing, certain bonds relating to real estate transactions and other or similar or related assets, will be acquired by Borrower or any of its Sub-Partnerships from time to time from Westinghouse Electric Corporation and/or certain of its subsidiaries. The Assets acquired on the date hereof (the "Initial Closing Date") consist of the Loans, Guaranty Obligations, Real Property Interests, Partnership Interests, Corporate Stock Interests, Bonds, Contract Rights and Transfer Restricted Assets. The term "Property" as used

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in this Indenture shall include all of the foregoing categories of Assets, and shall additionally include each Borrower's interest in the Asset Purchase Agreement.

(b) Delivery of Asset Related Documents. Prior to the date hereof, certain of the documents, agreements and other instruments required to be delivered to Borrower pursuant to Section 2.3 of the Asset Purchase Agreement, including without limitation, certain of the Collateral Documents have been delivered to Mellon Bank, N.A. as custodian pursuant to the Custodial Agreement, which delivery evidenced the transfer of ownership of the Assets to Borrower and the bailment for the benefit of the Agent and the Lenders pursuant to the provisions of such Custodial Agreement. Additional documentation, including the balance of the Asset File (as defined in the Asset Purchase Agreement) and balance of the Collateral Documents that are not Custodial Documents (as defined in the Custodial Agreement) have been delivered to the Interim Servicer or the Servicer, as the case may be, or if none, to the Borrower, in accordance with the Loan Agreement.

(c) Loan to Borrowers, Subsequent Advances. Pursuant to the provisions of the Loan Agreement, each Lender shall make Advances, from time to time, on the Initial Closing Date and on each Subsequent Closing Date (as defined in the Asset Purchase Agreement) which together constitute a single loan to Borrower, the proceeds of which shall be used by Borrower to acquire the Assets. All Borrowers shall be jointly and severally liable for the repayment of all Advances, and all of the Property of each Borrower shall secure all Advances. The Loan to Borrower is cross-collateralized with the Property of each Borrower. The parties have agreed that upon acquisition of additional Assets with the proceeds of Advances made by Lenders, this Indenture will be modified such that the Lien hereof shall be spread over such additional Assets acquired (including any Interim Mortgage Loan or Interim Partnership Loan made by any Borrower to any Seller) on any Subsequent Closing Date and that the term "Property" as used herein shall thereafter include such additional Assets.

Borrower acknowledges that pursuant to the Loan Agreement and the Intercreditor Agreement, if applicable, each Lender shall be severally obligated to make one or more Advances to Borrower under the Loan Agreement, each

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of which Advance shall be evidenced by additional Notes to be jointly and severally executed by the Borrowers at the time of each Advance, in an aggregate amount equal to each Lender's Pro Rata Share of up to the Total Loan Commitment (as such terms are defined in the Loan Agreement). Borrower agrees, at the request of Agent, to re-execute any substitute or replacement Notes in the amount of each Lender's Pro Rata Share of the Total Loan Commitment, to replace the Note or Notes executed by Borrower on the date hereof or on any Subsequent Closing Date. Each Note executed by Borrower shall be payable to the order of Agent for the account of each Lender. Each Lender is the beneficiary of its Pro-Rata Share of the security in the Property (including the Collateral) created pursuant to this Indenture, on a pari-passu basis, and shall have the ability to pledge or hypothecate its Pro Rata Share of the Notes and this Indenture in connection with such Lender's financing of Advances to be made to Borrower.

ARTICLE TWO

SECURITY AGREEMENT

ASSIGNMENT OF TENANT LEASES AND PROPERTY INCOME

SECTION 2.01. Warranties, Representations and Covenants of the Borrower. Each Borrower covenants, warrants, represents and agrees with and to Trustees and Agent as follows with respect to its Collateral:

(a) This Indenture constitutes a security agreement under the Uniform Commercial Code and serves as a fixture filing in accordance with the Uniform Commercial Code. This Indenture creates a security interest in favor of Agent as secured party under the Uniform Commercial Code with respect to all property (specifically including the Collateral) included in the Property which is covered by the Uniform Commercial Code. The mention of any portion of the Property in a financing statement filed in the records normally pertaining to personal property shall not derogate from or impair in any manner the intention of the Borrower, the Trustees and Agent, and the parties hereby declare that all items of collateral described in this Indenture are part of the Real Property Assets encumbered hereby to the fullest extent permitted by law, regardless of whether any such item is physically attached to the Improvements or whether serial numbers are used for the better identification

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of certain items. Specifically, the mention in any such financing statement of (i) the rights in or the Proceeds of any policy of insurance, (ii) any condemnation Proceeds, (iii) the Borrower's interest in any Leaseholds, Tenant Leases or Property Income, or (iv) any other item included in the Property, shall not be construed to alter, impair or impugn any rights of Agent as determined by this Indenture or the priority of Agent's lien upon and security interest in the Property. Any such mention shall be for the protection of Agent in the event that notice of Agent's priority of interest as to any portion of the Property is required to be filed in accordance with the Uniform Commercial Code to be effective against or take priority over the interest of any particular class of persons, including the federal government or any subdivision or instrumentality thereof.

(b) Each Borrower shall notify Agent of, and shall defend the Collateral against, all claims and demands of all persons at any time claiming the same or any interest therein.

(c) Except as otherwise provided in this Indenture, the Loan Agreement or other Loan Documents, or as otherwise contemplated by the Servicing Transfer Agreement or Servicing Agreement, as applicable, the Borrower shall not lease, sell, convey or in any manner transfer the Collateral or any portion thereof or interest thereon, without the prior written consent of Agent.

(d) The Collateral is not used or bought for personal, family or household purposes.

(e) The Equipment and Inventory shall be kept on or at the Real Property Assets, and the Borrower shall not remove such Collateral from the Real Property Assets without the prior written consent of Agent, except such portions or items of such Collateral as are consumed or worn out in ordinary usage, all of which shall be promptly replaced by the Borrower with items of equal or greater value as required by the Loan Agreement, or as otherwise contemplated by the Servicing Transfer Agreement or Servicing Agreement, as applicable.

(f) In the event of any change in name, identity or structure of any Borrower, such Borrower shall promptly notify Agent thereof and promptly after

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request shall execute, file and record such Uniform Commercial Code forms as are necessary to maintain the priority of Agent's lien upon and security interest in the Collateral, and shall pay all expenses and fees (including, without limitation, reasonable attorneys' fees and disbursements) in connection with the filing and recording thereof. If Agent shall require the filing or recording of additional Uniform Commercial Code forms or continuation statements, the Borrower shall, promptly after request, execute, file and record such Uniform Commercial Code forms or continuation statements as Agent shall deem necessary, and shall pay all expenses and fees (including, without limitation, reasonable attorneys' fees and disbursements) in connection with the filing and recording thereof.

(g) The Borrower hereby irrevocably appoints Agent as its attorney-in-fact, coupled with an interest, to file with the appropriate public office on its behalf any financing or other statements signed only by Agent, as secured party, in connection with the Collateral covered by this Indenture.

SECTION 2.02. Financing Statements. A CARBON, PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS INDENTURE OR ANY FINANCING STATEMENT RELATING TO THIS INDENTURE SHALL BE SUFFICIENT AS A FINANCING STATEMENT.

SECTION 2.03. Addresses. The mailing address of each Borrower and the address of Agent from which information concerning the security interest granted hereby may be obtained are set forth in the opening paragraph of this Indenture. The Borrower maintains its sole place of business or its chief executive office at the address shown in said paragraph, and the Borrower shall immediately notify Agent in writing of any change in said place of business or chief executive office.

SECTION 2.04. Assignment of Tenant Leases and Property Income. Each Borrower hereby absolutely and unconditionally assigns and transfers to Agent the Tenant Leases and the Property Income. The Borrower shall not otherwise assign, transfer or encumber in any manner the Tenant Leases or the Property Income or any portion thereof except in accordance with the Servicing Transfer Agreement or Servicing Agreement, as applicable, Loan Agreement and other Loan Documents. The Borrower shall have a license to collect and use the Property Income as

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the same becomes due and payable so long as no default has occurred, but may not collect any Property Income more than 30 days in advance of the date the same becomes due. The assignment in this Section shall constitute an absolute and present assignment of the Tenant Leases and the Property Income, and not an assignment for security, and the existence or exercise of the Borrower's conditional license to collect Property Income shall not operate to subordinate this assignment to any subsequent assignment. The exercise by Agent of any of its rights or remedies under this Section shall not be deemed or construed to make Agent a mortgagee-in-possession.

## ARTICLE THREE

### GRANT OF LICENSES, LICENSING AGREEMENT

#### SECTION 3.01. Agent and Trustees' License.

The Borrower hereby grants to Agent and to the Trustees, as the case may require, an irrevocable, non-exclusive license with respect to all intangibles, patents, trademarks, inventions, processes, production methods, trade secrets, proprietary information, know-how, data, plans, blueprints, specifications, designs, drawings, recorded knowledge, surveys, engineering reports, test reports, catalogues, research data, computer and automated machinery software and programs, licenses to use any of the foregoing, accounting information, licenses, consents, permits, variances, certificates and approvals of governmental agencies, now or hereafter acquired by the Borrower, and wherever the same may be located, to the extent the same are used in connection with the operations of the Borrower and the Property, including in such license reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout thereof. All of the licensed items described in this Section 3.01 may be used by Agent or by any Trustee, as the case may be, after the occurrence of a Default or an Event of Default without payment of royalty or other compensation to the Borrower. The license hereby granted may be assigned or sublicensed in whole or in part to any Person or Persons if such Event of Default shall have occurred and be continuing or to any Person or Persons who purchase or lease any part of the Property after the occurrence of a Default or an Event of Default. If any Property is sold or leased to more than one Person, the license granted in this Section 3.01 is assignable or may

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be sublicensed to each such Person and his assigns or sublicensees only to the extent necessary for each such Person or his assigns or sublicensees to use the purchased or leased Property for purposes or operations for which it was generally used by the Borrower at the location where that portion of the Property is located. The license granted in this Section 3.01 includes a conveyance of the right to practice at each facility which is included in the Property all operations now or hereafter conducted by the Borrower at such facility. Except as contemplated by the Servicing Transfer Agreement or Servicing Agreement, as applicable, and the other Loan Documents, the Borrower may not assign or transfer, absolutely or for security, any of the property, rights or assets described in this Section 3.01 without the consent of Agent.

**SECTION 3.02. No Assumption of Obligations.**  
Nothing herein contained shall be deemed to constitute or require assumption of any obligations or liabilities under the Leasehold or Material Commercial Agreements by Agent, by any Trustee or by any Person receiving rights therein upon the occurrence of an Event of Default, all such obligations and liabilities being and remaining with the Borrower.

## ARTICLE FOUR

### COVENANTS, REPRESENTATIONS, WARRANTIES AND AGREEMENTS OF THE BORROWER

Each Borrower, for itself, its successors and assigns, represents and warrants, covenants and agrees, as the case may be, that:

**SECTION 4.01. Payments and Performance by The Borrower; Representations.**

(a) The Borrower shall punctually pay the Indebtedness in lawful money of the United States or America and shall punctually perform its obligations, all at the times and in the manner provided in the Loan Documents.

(b) All representations, warranties and statements made by it or on its behalf in the Loan Documents are true, complete and correct in all material respects as of the date made.

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## SECTION 4.02. The Property.

(a) On the date hereof, the Borrower hereby granted, mortgaged, assigned or pledged, and has and will continue to have good right, full power and lawful authority to grant, bargain, sell, alien, remise, release, convey, mortgage, warrant, confirm, pledge, assign, transfer and set over and grant a security interest in the Property (including the Collateral) in the manner and form hereby done or intended, free and clear of all Liens and encumbrances except Permitted Liens; the Borrower will forever warrant and defend the title to same and the validity, enforceability and priority of the Lien of this Indenture to Agent, the Lenders and to the Trustees against the claims of all Persons whomsoever, and subject to the provisions of the Servicing Transfer Agreement or Servicing Agreement, as applicable, and other Loan Documents, the Borrower will maintain and preserve the Lien of this Indenture and its enforceability and priority so long as the Indebtedness or any part thereof is outstanding.

(b) Prior to the date hereof, the Borrower has deposited with the Custodian (on behalf of Agent pursuant to the Custodial Agreement) all Custodial Documents (including, without limitation, all Bonds, certificates related to Corporate Stock Interests, original notes) and all other instruments required to be delivered to the Custodian pursuant to the Custodial Agreement to perfect Agent's security interest in the Collateral and, thereafter, all such instruments relating to Assets acquired by it from time to time shall be deposited with the Custodian within one Business Day after acquisition.

(c) All of the Assets, which hereafter may be acquired or constructed by the Borrower, immediately upon the acquisition or construction thereof by the Borrower and without any further conveyance or assignment shall become and shall be subject to the Lien of this Indenture to the extent permitted by applicable law as fully and completely as though now owned by the Borrower and specifically described herein.

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## SECTION 4.03. Authorization, Acquisition, Information.

(a) The execution and delivery of this Indenture, the Notes and the other Loan Documents have been duly authorized and there is no provision in the Borrower's organizational documents, as the same may have been amended, requiring further consent for such action by any other person or entity.

(b) The Borrower is duly organized, validly existing and in good standing under laws of the state of its formation.

(c) The Borrower has all necessary franchises, licenses, authorizations, registrations, permits and approvals and full power and authority to own, encumber, mortgage, grant security interests in and operate the Property, and carry on its business as now conducted in each jurisdiction where the Borrower conducts its business.

(d) The execution and delivery of and performance of its obligations under the Loan Documents (i) will not result in the Borrower's being in default under any provision of its organizational documents, as the same may have been amended, any court order, any order of any governmental body or any mortgage or any agreement to which it is a party or by which it or the Property or any of it is bound and (ii) do not require the consent of or any filing with any governmental body or any other Person.

(e) All due partnership action has been taken to make and constitute the Loan Documents, and the Loan Documents constitute, legal, valid and binding obligations enforceable in accordance with their respective terms, subject to the application of bankruptcy and other laws affecting the rights of creditors generally.

(f) On the date hereof, (i) the acquisition of the Property has been consummated in accordance with the terms of the Asset Purchase Agreement and all applicable laws (including, to the extent applicable, any bulk sales law), (ii) the Asset Purchase Agreement is in full force and effect and no term or provision thereof has been amended, modified or waived without the prior written consent of Agent, and (iii) all actions pursuant

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to or in furtherance of the acquisition of such Property have been and will be taken in compliance with all applicable laws.

SECTION 4.04. Recording, Rerecording. The Borrower will cause, at its cost and expense, and will pay for, all such action to be taken, including the recording and filing and rerecording and refiling of this Indenture and other Loan Documents and any and all supplemental indentures and instruments of conveyance, transfer, assignment or further assurance (including financing and continuation statements under the Uniform Commercial Code), as may be required by law in order fully to preserve and protect the rights of Agent and the Trustees hereunder in respect of the Lien of this Indenture as a mortgage, deed of trust and deed to secure debt on real estate and interests therein, and buildings, structures and equipment, installed thereon, and as a security interest in any personal property included within the Property described in this Indenture or any supplemental indenture or other instrument.

SECTION 4.05. Payment of Mortgage Taxes. The Borrower shall pay any and all taxes, charges, filing, registration and recording fees, excises and levies imposed upon any Trustee or Agent by reason of their respective interests in, or measured by amounts payable under, the Note, this Indenture or any other Loan Document (other than their income, franchise and doing business taxes), and shall pay all stamp taxes and other taxes required to be paid on the Notes or any other Loan Documents.

SECTION 4.06. Maintenance of Property. The Borrower will enforce all obligations of the Interim Servicer or Servicer under the Servicing Transfer Agreement or Servicing Agreement, as applicable, and under the Collateral Documents such that, subject to the provisions thereof, all things necessary to (i) preserve and keep in good repair, working order and condition the Real Property Assets and Partnership Real Property, (ii) comply with all present and future laws, orders and regulations of any governmental body claiming jurisdiction over the Real Property Assets and Partnership Real Property (except for such orders which are being contested in good faith and for which Borrower has provided a bond or indemnity in favor of Agent pending full performance of such order), (iii) comply with all present and future orders and re-

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quirements of any governmental body claiming jurisdiction over the Real Property Assets and Partnership Real Property and (iv) comply with all present and future provisions of leases or Leaseholds, Material Commercial Agreements, and Tenant Leases shall be performed to the extent required by the Servicing Transfer Agreement or Servicing Agreement, as applicable, or Collateral Documents, as applicable, so that at all times the efficiency of the Property of the Borrower hereby mortgaged shall be fully preserved and maintained.

The Borrower will at all reasonable times permit Agent and its agents to enter upon the Real Property Assets and Partnership Real Property and all parts thereof for the purpose of investigating and inspecting the condition thereof, and shall enforce its rights under the Collateral Documents to so enter and inspect the Collateral Property. Whenever Agent shall so request in a written notice to the Borrower, but not more frequently than once every year, the Borrower shall appoint an independent engineer to make an inspection of the Improvements and Equipment located at the Real Property Assets and Partnership Real Property.

**SECTION 4.07. Insurance, Restoration.** The Borrower agrees to enforce all requirements of the Servicing Transfer Agreement or Servicing Agreement, as applicable, regarding maintenance of property and liability insurance for the Real Property Assets and Partnership Real Property, and shall cause Interim Servicer or Servicer to comply with all applicable provisions of the Collateral Documents regarding the restoration of Collateral Property.

(a) All insurance policies obtained for Real Property Assets and Partnership Real Property pursuant to the Servicing Transfer Agreement or Servicing Agreement, as applicable, shall be endorsed to name Agent and, where applicable the Trustees, as insured thereunder, as their interest may appear, with loss payable to Agent, without contribution, under a long-form, non-contributory mortgagee clause, or otherwise endorsed as Agent may reasonably require. Without limiting the foregoing, each policy shall provide that such policy may not be cancelled or materially changed except upon 30 days prior written notice of intention of non-renewal, cancellation or material change to Agent, and that no act or thing done by the Borrower, Agent or any Trustee shall

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invalidate the insurance policy as against Agent. If the Borrower fails to cause Interim Servicer or Servicer, as the case may be, to maintain and pay for insurance in compliance with the Servicing Transfer Agreement or Servicing Agreement, as applicable, Agent may (but shall not be obligated to) obtain such insurance and pay the premium therefor and the Borrower shall reimburse Agent on demand for all such Protective Advances.

(b) In the event of any damage to or destruction of any Real Property Asset or Partnership Real Property, the Borrower shall give prompt written notice to Agent and shall promptly either commence and diligently continue to completion the repair, restoration and rebuilding of such Real Property Asset and any Equipment located thereat so damaged or destroyed, which work shall be performed and insurance Proceeds distributed, in full compliance with all legal requirements and with the provisions set forth on Exhibit E hereto, or cause all insurance Proceeds to be deposited into the Central Account (as provided herein), subject to the provisions of the Servicing Transfer Agreement or Servicing Agreement, as applicable. Such repair, restoration and rebuilding of such Real Property Asset are sometimes hereinafter collectively referred to as the "Work." If any insurance Proceeds are not used for the completion of Work, they shall be deposited into the Central Account (as defined in the Loan Agreement), to be applied in accordance with the provisions of Section 5.06 of the Loan Agreement and the Cash Collateral Agreement.

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**SECTION 4.08. Books and Records.** Agent and its agents shall have the right to inspect and make copies of the Borrower's books and records with respect to the Property and the business conducted thereon at all reasonable times. Without limiting the generality of the foregoing, the Borrower agrees that Agent and its representatives shall have the right at any time and from time to time to call (i) at the Borrower's place or places of business where its records concerning the Accounts are kept and examine or cause to be examined such records and make extracts therefrom or copies thereof and (ii) at any location where Inventory shall be kept, and examine or cause to be examined the Inventory kept there and the records concerning such Inventory and make extracts from such records or copies thereof.

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## SECTION 4.09. Material Commercial Agreements.

Prior to the date hereof and thereafter from time to time, the Borrower has made and will make available to Custodian on behalf of Agent a counterpart original or copy of each Material Commercial Agreement (or, if a Material Commercial Agreement consists of multiple purchase orders, the form of purchase order). The Borrower shall use and shall cause Interim Servicer or Servicer, as the case may be, to use reasonable efforts to cause all Material Commercial Agreements hereafter entered into to contain no restriction upon its assignability. All sums due to Borrower under any Material Commercial Agreement shall be deposited into the Central Account, to be applied in accordance with the provisions of Section 5.06 of the Loan Agreement and the Cash Collateral Agreement.

Unless an Event of Default shall have occurred and be continuing and subject to the provisions of the foregoing paragraph, Article Seven hereof and the Servicing Transfer Agreement or Servicing Agreement, as applicable, the Borrower shall be entitled to receive and dispose of all goods and services deliverable under, any of the Material Commercial Agreements subject to the Lien hereof and to require and enforce the performance of any and all such Material Commercial Agreements, without further consent of or action by Agent, but Agent shall, if the Borrower shall so request in an application of the Borrower delivered to Agent, deliver to the Borrower suitable orders in favor of the Borrower or its nominee for the delivery of all goods and services and the performance of all acts and things under such Material Commercial Agreements. Such orders shall be expressed to be revocable by Agent whenever an Event of Default shall have occurred. Whenever an Event of Default shall have occurred, Agent or the Trustees, or any of them, as the case may be, or any receiver or trustee in bankruptcy or other person who shall rightfully be in possession of the trust estate, may collect for the benefit of Agent all sums due under the Material Commercial Agreements, which shall be deposited into the Central Account to be applied by Agent in reduction of the Indebtedness in accordance with the provisions of the Loan Agreement, and may receive and dispose of all goods and services deliverable under, and require and enforce the performance of, any and all such Material Commercial Agreements. Any party to any Material Commercial Agreements subject to the Lien hereof may, until such party shall have received written notice to the contrary, conclusively assume that the

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Borrower is entitled to perform and to accept performance of such contract, including the receipt of any goods and services deliverable under any Material Commercial Agreement (except for the receipt of all sums due under any Material Commercial Agreement which shall be treated as provided above).

SECTION 4.10. Condemnation. The Borrower shall notify Agent immediately of the commencement or threat of any proceedings for the condemnation or taking of any Real Property Assets or any portion thereof. Borrower shall cause the Interim Servicer or Servicer, as the case may be, to either cause the affected Real Property Asset to be restored and condemnation proceeds shall be distributed, each in accordance with the provisions of Exhibit E hereto, or to deposit all Proceeds of condemnation insurance into the Central Account, in accordance with the provisions of the Servicing Transfer Agreement or Servicing Agreement, as applicable. All Proceeds of any condemnation or purchase in lieu thereof of any Real Property Asset or any portion thereof, which Proceeds are not used by the Interim Servicer or Servicer, as the case may be, for any repair, restoration or rebuilding work after such event are hereby assigned to the Agent and shall be deposited into the Central Account to be applied in accordance with the provisions of Section 5.06 of the Loan Agreement and the Cash Collateral Agreement.

SECTION 4.11. Impositions.

(a) Subject to the provisions of the Servicing Transfer Agreement or Servicing Agreement, as applicable, the Borrower shall pay and discharge, or cause to be paid and discharged, all Impositions prior to delinquency and shall furnish to Agent validated receipts or other evidence satisfactory to Agent showing the payment of such Impositions within 20 days after the same would otherwise have become delinquent. The Borrower's obligation to pay Impositions pursuant to this Indenture shall include, to the extent permitted by applicable law, taxes resulting from future changes in law which impose upon any Trustee or Agent an obligation to pay any property taxes or other Impositions or which otherwise adversely affect any Trustee's or Agent's interests. Should the Borrower default in the payment of any Impositions, Agent may (but shall not be obligated to) pay such Impositions or any portion thereof and the Borrower shall reimburse Agent for all such Protective Advances.

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(b) The Borrower shall not be required to pay, discharge or remove any Imposition so long as the Borrower contests in good faith such Imposition or the validity, applicability or amount thereof by an appropriate legal proceeding which operates to prevent the collection of such amounts and the sale of the Property or any portion thereof. Any such contest shall be prosecuted with due diligence, and the Borrower shall promptly pay the amount of such imposition as finally determined, together with all interest and penalties payable in connection therewith. Notwithstanding any provision of this Section to the contrary, the Borrower shall pay any Imposition which it might otherwise be entitled to contest if, in the reasonable opinion of Agent, any Property is in jeopardy or in danger of being forfeited or foreclosed. If the Borrower refuses to pay any such Imposition, in violation of the Servicing Transfer Agreement or Servicing Agreement, as applicable, and this Indenture, Agent may (but shall not be obligated to) make such payment as a Protective Advance and the Borrower shall reimburse Agent therefor.

SECTION 4.12. Liens and Claims. Subject to and in accordance with the Partnership Agreement and Servicing Agreement, the Borrower shall pay or cause to be paid when due all payments and charges due under or in connection with any Liens (other than Permitted Liens) encumbering the Real Property Assets or Partnership Real Property or any portion thereof, all rents and charges under any Leaseholds and Tenant Leases forming a part of the Real Property Assets or Partnership Real Property, and all claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in or permit the creation of a Lien on the Real Property Assets or Partnership Real Property or any portion thereof, and shall cause the prompt (but in no event later than 30 days after imposition), full and unconditional discharge of all Liens imposed on or against the Property or any portion thereof. The Borrower shall do or cause to be done, at the sole cost of the Borrower, everything necessary to fully preserve the initial priority of the Lien of this Indenture. If the Borrower fails to make any such payment or if a Lien attaches to the Real Property Assets or Partnership Real Property or any portion thereof, and, in either case, such Lien is not bonded or discharged so as to prevent the enforcement thereof, Agent may (but shall not be obligated to) make such payment or discharge such lien as a Protective Advance and the Bor-

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power shall reimburse Agent therefor. Nothing herein shall be construed as the express consent of Agent to the imposition of any Lien with respect to the Property.

SECTION 4.13. Litigation, Appearance. Agent and, to the extent authorized by Agent, any Trustee may, after notice to the Borrower, (a) appear in and defend any action or proceeding, in the name and on behalf of any Trustee, Agent or the Borrower, in which such Trustee or Agent is named or which Agent, in its sole discretion, determines may have a Material Adverse Effect; and (b) institute any action or proceeding which Agent, in its sole discretion, determines should be instituted to protect the interest or rights of Agent or Trustees in the Property or under this Indenture or any other Loan Document. The Borrower agrees to bear and shall pay or reimburse Trustee and Agent for all Protective Advances relating to or incurred by any Trustee or Agent in connection with any such action or proceeding.

SECTION 4.14. Protective Advances.

(a) The Borrower agrees to bear and shall pay or reimburse Trustee and Agent, as the case may be, for all Protective Advances. No Protective Advance by the Trustee of Agent shall be deemed to relieve the Borrower of the consequences of any default hereunder.

(b) All Protective Advances made at any time by any Trustee or Agent pursuant to the provisions of this Indenture or the other Loan Documents or under applicable law shall be secured by this Indenture as part of the Indebtedness, with equal rank and priority. All such Protective Advances shall be payable by the Borrower on demand.

SECTION 4.15. Indemnification. The Borrower shall indemnify and hold the Trustee and Agent and their respective directors, officers, employees and agents harmless from and against and reimburse them for all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses (including reasonable attorneys' fees and disbursements and amounts paid in settlement) which may be imposed upon, asserted against, or incurred or paid by any of them (a) by reason of, on account of or in connection with any act or occurrence relating to the Real Property Assets or Partnership Real

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Property or any bodily injury, death, other personal injury or property damage occurring in, upon or in the vicinity of any Real Property Assets or Partnership Real Property through any cause whatsoever, (b) as a result of the failure of the Borrower to perform any of its obligations under any of the Loan Documents, or (c) on account of any transaction otherwise arising out of or in any way connected with the Real Property Assets or Partnership Real Property, this Indenture (including, without limitation, arising from the acts of Agent in exercising its rights hereunder upon an Event of Default) or the Indebtedness. The foregoing Section shall, however, be subject to the limitations on the Borrower's liability provided for in the Loan Agreement and in Section 10.02, and applied as written with the exception that references therein to "indemnity" shall mean and refer only to any environmental indemnity, remedies available under any Environmental Laws, and any other specific indemnity provided for in a Loan Document other than this Indenture.

**SECTION 4.16. Prohibition Against Conveyances and Encumbrances.** Except in accordance with the provisions of the Loan Agreement, or the incurrence of Permitted Liens, the Borrower shall not and shall not permit others to convey, assign, sell, mortgage, encumber, pledge, hypothecate, grant a security interest in, grant options with respect to, or otherwise dispose of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration or of record) all or any portion of any legal or beneficial interest (a) in all or any portion of the Property or (b) in the Borrower (or any trust of which the Borrower is a trustee).

**SECTION 4.17. Environmental Matters; Indemnity.**

(a) The Borrower shall indemnify and hold Trustees and Agent and their respective directors, officers, employees and agents harmless from and against any and all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses (including reasonable attorneys' fees) directly or indirectly arising out of or attributable to the installation, use, generation, manufacture, production, storage, release, threatened release, discharge, disposal or presence of Materials of Environmental Concern on, under or about any

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Real Property Assets or Partnership Real Property or any portion thereof including (i) the costs of any required or necessary repair, cleanup or detoxification, and (ii) the costs of the preparation and implementation of any closure, remedial or other required plans. This indemnity shall survive the satisfaction, release or extinguishment of the Lien of this Indenture including any extinguishment of such Lien by foreclosure or deed in lieu thereof.

**SECTION 4.18. Environmental Matters; Inspection.**

(a) Agent shall have the right at all reasonable times to enter upon and inspect all or any portion of any Real Property Asset or Partnership Real Property, provided that such inspections shall not unreasonably interfere with the operation of any Real Property Asset or Partnership Real Property. Agent may select an independent engineer to conduct and prepare reports of such inspection. The inspection rights granted to Agent in this Section shall be in addition to, and not in limitation of, any other inspection rights granted to Agent in this Indenture, and shall expressly include the right to conduct soil borings and other customary environmental tests, assessments and audits.

(b) The Borrower agrees to bear and shall pay or reimburse Agent for all Protective Advances relating to or incurred by Agent in connection with the inspections and reports described in this Section in the following situations:

(i) Agent has reasonable grounds to believe, at the time any such inspection is ordered, that there exists a violation of an Environmental Law or that Materials of Environmental Concern are present on, under or about any Real Property Asset or Partnership Real Property or is migrating to or from adjoining property, except under conditions not expressly prohibited by applicable Environmental Laws or any Loan Document;

(ii) if any such inspection reveals a violation of an Environmental Law or that Materials of Environmental Concern are present on, under or about any Real Property

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Asset or Partnership Real Property or is migrating to or from adjoining property, except under conditions not expressly prohibited by applicable Environmental Laws or any Loan Document; or

(iii) if a default exists at the time any such inspection is ordered.

## ARTICLE FIVE

### POSSESSION AND USE OF PROPERTY AND RELEASE OF PROPERTY

SECTION 5.01. Disposal of Property, Borrower's Business Plan. Pursuant to the provisions of the Partnership Agreement, the Custodial Agreement and Servicing Transfer Agreement or Servicing Agreement, as applicable, and provided that Borrower fully complies with the provisions of Section 2.17 of the Loan Agreement, and all other Loan Documents and subject to the provisions of this Indenture, as part of Borrowers' overall Global Business Plan for the Assets, each Borrower intends, and shall be permitted to:

(1) remain in possession and retain exclusive control of the Property (except Permitted Investments) with power freely and without hindrance on the part of Agent or the Trustees, or any of them, as the case may be, to operate, manage, develop, use and enjoy the Property and all rights on the effective date of this Indenture or thereafter constituting part of the Property, and to utilize, deal with and operate its properties and to receive and use the rents, revenues, royalties, issues, earnings, income, profits and products of the Property, subject to the Lien of this Indenture;

(2) deal in, sell, use or dispose of its Inventory and, to the extent permitted by the Cash Collateral Agreement, collect Accounts in the ordinary course of business;

(3) to the extent permitted by the Loan Documents, add to and repair any and all Improvements and repair, replace or change the location of any and all Equipment or discontinue or abandon the

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operation or use of any Equipment, the operation or use of which is no longer necessary or desirable in the conduct of its business;

(4) modify or agree to any modification of any franchise, license, permit, right or privilege or any easement or right of way grant over any of the Property, or surrender and cancel any thereof if it is no longer necessary or desirable in connection with the operation of the business of the Borrower;

(5) modify, amend, supplement, cancel or replace any of the Material Commercial Agreements subject to the Lien hereof;

(6) grant or convey any rights of way or easements over or in respect of any portion of the Land that constitute Permitted Liens under clause (v) of the definition of such term;

(7) modify, amend, supplement or otherwise restructure any Asset subject to the Lien hereof (including, without limitation, by institution of foreclosure proceedings with respect to any Asset); and

(8) dispose of any other portion of the Property in accordance with Borrower's Global Business Plan and provided Borrower fully complies with the provisions of Section 2.17 of the Loan Agreement.

#### SECTION 5.02. Condemnation, Release of Lien.

If any of any Real Property Asset shall be taken by condemnation, or if any governmental body shall at any time exercise any right which it may have to purchase any part of such property, or if the Borrower shall be required to dispose of any Real Property Asset or portion thereof by a valid order of any court or governmental body, and in accordance with the provisions of the Servicing Transfer Agreement or Servicing Agreement, as applicable (or as otherwise approved by Agent) the Proceeds thereof are not used to repair, restore or rebuild the affected Real Property Asset, Agent shall, or shall cause the appropriate Trustee to, as applicable law requires, release such property so taken, purchased or disposed of when and only when Agent shall have received:

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(a) an application of the Borrower requesting such release and stating that such property has been taken by condemnation or has been purchased by a governmental body in the exercise of a right which it had to purchase the same, or is being disposed of pursuant to a valid order of a court or governmental body requiring the disposition of such property, as the case may be, and further certifying the amount of any cash and the fair value and general nature of any other consideration received by the Borrower as the Proceeds of such property;

(b) in case any such property is being disposed of pursuant to an order as aforesaid, a certificate of an independent real estate appraiser or such other qualified person acceptable to Agent, stating in his opinion the fair value, as of a date not more than thirty days prior to the date of such certificate, of the property to be released and provided further that such fair value may be expressly stated to have been determined in light of the fact that the disposition of such property by the Borrower is pursuant to an order as aforesaid and that therefore the Borrower may not be a willing seller; and

(c) an amount of cash equal to any Proceeds of such property, which shall be deposited into the Central Account to be applied in accordance with the provisions of Section 5.06 of the Loan Agreement and the Cash Collateral Agreement.

SECTION 5.03. Partial Release of Lien Upon Disposition of Assets. At any time and from time to time, the Lenders shall release their Lien on any portion of the Property (including the Collateral) ("Released Collateral") in accordance with and subject to the provisions of Section 7.17 of the Loan Agreement. Any such release shall be effective simultaneously with the consummation of the transaction for which the release is required, provided that in respect of each item of Released Collateral, the Borrower provides Agent, in substitution for such Released Collateral, with a perfected Lien in (i) property or legal interests in property that constitutes a modification of the Released Collateral, (ii) all legal interests in the same property held by the Borrower that are different from the legal interests held by the Borrower in the Released Collateral, including, without limitation, a direct ownership interest in the real property that had secured an Interim Mortgage Loan

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or the partnership interests that had Secured an Interim Partnership Loan released by the Borrower, and (iii) all the cash proceeds, other property and legal interests in property received by the Borrower in exchange for such Released Collateral, including, without limitation, a cash payment received by the Borrower in satisfaction of a mortgage loan released by it or all ownership interests in any entity received by Borrower in exchange for its contribution of Collateral to such entity. The parties hereto intend that the Borrower shall modify and restructure the Assets with the goal of converting the Assets into cash as promptly as practicable and that the Lenders shall release the Lien on Released Collateral if the Borrower provides the Lenders with a substitute Lien on all interests in the Released Collateral that it retains or obtains and all cash and other property in any form whatsoever that it obtains in respect of the Released Collateral. Unless a Default shall have happened and be continuing at the time of the Borrower's request therefor (or if a Default shall have happened and be continuing at the time of such request and Agent shall by notice to the Borrower so permit), upon Borrower's full compliance with the provisions of Section 5.18 of the Loan Agreement, Agent shall release and, where required by law, shall cause the appropriate Trustee to release said Released Collateral from the Lien of this Indenture.

## ARTICLE SIX

### CONCERNING PLEDGED SECURITIES, LOANS, PLEDGED PARTNERSHIP INTERESTS AND BANKRUPTCY CLAIMS

#### SECTION 6.01. Pledged Securities and Loans.

(a) Delivery to Agent. All Pledged Securities, Collateral Documents and Custodial Documents shall be delivered to the Custodian on behalf of Agent pursuant to the provisions of the Custodial Agreement and shall be held by and in the custody of the Custodian on behalf of Agent subject to the terms and provisions of this Indenture and the Custodial Agreement. The Pledged Securities and Custodial Documents which may at any time be delivered to Agent under the terms of this Indenture and the Custodial Agreement shall be in bearer form or endorsed in blank for transfer or accompanied by proper

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instruments of assignment and transfer duly executed by all registered owners thereof.

(b) Voting Rights. Unless an Event of Default exists, the Borrower shall have the right to vote, at any and all meetings of stockholders or security holders of any companies whose securities are pledged hereunder for all purposes not contrary to its covenants herein contained or otherwise inconsistent with the provisions or purposes hereof, any of the Pledged Securities, and Agent shall give, upon the application of the Borrower signed on its behalf by a Responsible Officer, a proxy or power of attorney to vote such Pledged Securities to any person or persons selected by the Borrower for such purpose or purposes as may be specified in such application, and every such proxy or power of attorney may be limited so as to provide that the powers thereby conferred do not include any power to vote for or to authorize or consent to any act or thing inconsistent with the covenants and provisions and purposes of this Indenture.

(c) Transfer Upon Default. If an Event of Default exists, Agent may cause the Pledged Securities to be transferred into its own name or that of its nominee or nominees, and thereafter and while and so long as such Event of Default shall continue, Agent shall be entitled to exercise all the rights appurtenant to the ownership of said Pledged Securities, including the voting power thereof. In voting such Pledged Securities, Agent shall incur no personal liability or responsibility by reason of any error of judgment or of law or of any matter or thing done or omitted to be done under this Indenture or in the management of the affairs of any company whose securities are pledged hereunder or otherwise, except for its own wilful misconduct.

(d) Corporate Changes. In the event that any corporation whose securities are pledged hereunder shall take any proceedings to change the number of shares of its authorized stock, or to issue in exchange for the securities pledged hereunder any other stock of the same or other class or classes and/or other securities, or issue any greater or lesser number of shares in exchange for the securities pledged hereunder or shall change or readjust its outstanding capital stock or indebtedness, then and in any such event, upon receipt of an application of the Borrower so requesting, Agent is

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